



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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

Notice of Location Change

**REGULAR CLOSED SESSION
and
REGULAR BUSINESS MEETINGS
Tuesday, March 9, 2021
Virtual**

Notice is hereby given that due to COVID-19 and in accordance with the most recent Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, the Regular Closed Session Meeting scheduled for 11:00 a.m., and the Regular Business Meeting scheduled for 1:15 p.m., **will be conducted via webinar and teleconference only**. In compliance with said orders, a physical location will not be provided for these meetings. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

Dated: March 4, 2021



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
REGULAR CLOSED SESSION**

Tuesday, March 9, 2021

11:00 a.m.

****Virtual****

Location

Due to COVID-19 and in accordance with the most recent Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, **this meeting will be conducted by webinar and teleconference only.** In compliance with said orders, a physical location will not be provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

Board members will participate by webinar or teleconference

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

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. Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2): one matter.
2. Conference with Labor Negotiators Gregory Ramirez and Jeff Bailey from the Industrial Employers Distributors Association; Clifford C. Chan, General Manager; Sophia D. Skoda, Director of Finance; Laura A. Acosta, Manager of Human Resources; and Niger M. Edwards, Manager of Employee Relations, pursuant to Government Code Section 54957.6: Employee Organizations International Union of Operating Engineers, Local 39; American Federation of State, County and Municipal Employees, Locals 444 and 2019; and International Federation of Professional & Technical Engineers, Local 21.

(The Board will discuss Closed Session agenda items via webinar or teleconference.)

REGULAR BUSINESS MEETING

1:15 p.m.
****Virtual****

Location

Due to COVID-19 and in accordance with the most recent Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, **this meeting will be conducted by webinar and teleconference only.** In compliance with said orders, a physical location will not be provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

Board members will participate by webinar or teleconference

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

ROLL CALL:

BOARD OF DIRECTORS:

- Pledge of Allegiance

PRESENTATION:

- California Association of Sanitation Agencies for the 2020 Outstanding Capital Project for the Main Wastewater Treatment Plant Primary Sedimentation Tanks and Channel Rehabilitation – Phase 5 Project

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 14 recommendations, including 1 resolution.)

1. Approve the Special Meeting and Regular Meeting Minutes of February 23, 2021.
2. File correspondence with the Board.
3. Award a contract to the lowest responsive/responsible bidder, Agilent Technologies, Inc., for supplying an Inductively Coupled Plasma Optical Emission Spectroscopy instrument for a total cost, after the addition of taxes, not to exceed \$128,515 under Request for Quotation No. 2102.
4. Authorize a direct award contract to Trace3, LLC, for supplying computer data storage equipment and maintenance for the Administration Building Data Center for three years, beginning on or after March 9, 2021, for a total cost, after the addition of taxes, not to exceed \$565,000 under the State of California cooperative purchasing agreement.

CONSENT CALENDAR: (Continued)

5. Authorize an agreement beginning on or after March 9, 2021 with All County Flooring in an amount not to exceed \$3,544,500 for replacement of carpet and other flooring in the District's Administration Building.
6. Authorize an agreement beginning on or after March 9, 2021 with The Brattle Group, Inc., in an amount not to exceed \$200,000 for confidential consulting services.
7. Authorize an agreement beginning on or after March 9, 2021 with Keller Canyon Landfill Company for \$300,000 annually for three years with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$1,500,000 for non-hazardous trench soils disposal.
8. Authorize an agreement beginning on or after March 9, 2021 with Mott MacDonald Group, Inc., in an amount not to exceed \$1,943,678 for engineering design services for the Water Treatment Plant Effluent Meter, Large Customer Meter, Rate Control Station, and Regulator Improvements Design Project.
9. Authorize an agreement beginning on or after March 9, 2021 with Woodard & Curran, Inc., in an amount not to exceed \$2,278,146 for site studies and preparation of an Environmental Impact Report for the Quarry Site Trench Soils Restoration Project, pursuant to the California Environmental Quality Act.
10. Approve an amendment to the lease agreement between the District and Bizon Group, Inc., dba Conexwest (Lessee) for leased premises located within the District's West End property located at Engineer Road and Wake Avenue in Oakland to:
 - 10a. Increase the leased premises by 10,520 square feet to a total of approximately 4.25 acres.
 - 10b. Authorize Lessee to conduct paving and drainage design work to determine construction costs for necessary improvements at the leased premises in exchange for commensurate rent abatement in an amount not-to-exceed \$75,000.
 - 10c. Add two (2) five-year renewal options to the original lease agreement.
11. Authorize a Memorandum of Understanding with Contra Costa Water District (CCWD) to undertake a study to analyze whether and under which conditions the District could provide temporary water conveyance services to CCWD during construction and subsequent refill of the expanded Los Vaqueros Reservoir without resulting in unacceptable adverse impacts to the District or its customers, prior commitments, or capital project or operational needs.
12. Approve the Water Supply Assessment requested by the City of Berkeley for the Ashby and North Berkeley BART Station Transit-Oriented Development Zoning Standards Project pursuant to California Water Code, Sections 10910-10915.

CONSENT CALENDAR: (Continued)

13. Authorize actions related to specialized legal services.
 - 13.1. Authorize the Office of General Counsel to continue the employment of the law firm of Ellison, Schneider, Harris & Donlan, LLP, for specialized legal services related to water and energy law and litigation matters.
 - 13.2. Authorize the Office of General Counsel to continue the employment of the law firm of Hanson Bridgett, LLP, for specialized legal services related to construction, public contracts and procurement, claims, intellectual property and technology matters, tax, public pension law, labor and employment, and litigation matters.
14. Adopt a resolution authorizing the District's application to the California Natural Resources Agency for Proposition 68 grant funds from the Protecting California's Rivers, Streams, and Watersheds Program for the Mokelumne River Spawning Gravel Enhancement and Floodplain Creation Project. (Resolution)

DETERMINATION AND DISCUSSION:

15. Legislative Update:
 - Receive Legislative Report No. 03-21 and consider a position on the following bills: AB 818 (Bloom) Solid Waste: Premoistened Nonwoven Disposable Wipes; SB 810 (Committee on Governance and Finance) Validations; SB 811 (Committee on Governance and Finance) Validations; and SB 812 (Committee on Governance and Finance) Validations; and receive information on: AB 361 (R. Rivas) Open Meetings: Local Agencies: Teleconferences; and State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19)
 - Update on Legislative Issues of Interest to EBMUD
16. General Manager's Report:
 - Water Supply Update
 - Coronavirus Update
 - Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan Update
 - Monthly Report – February 2021

REPORTS AND DIRECTOR COMMENTS:

17. Committee Reports:
 - Finance/Administration
 - Planning
 - Legislative/Human Resources
18. Other Items for Future Consideration.
19. Director Comments.

ADJOURNMENT:

The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, March 23, 2021.

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, and can be viewed on our website at www.ebmud.com.

BOARD CALENDAR

Date	Meeting	Time/Location	Topics
Tuesday, March 9	Planning Committee	9:00 a.m. Virtual	<ul style="list-style-type: none"> • Satellite Recycled Water Projects Update • Private Sewer Lateral Program Update • Wastewater Pump Station M Update • Water Quality Program Annual Update – 2020 • Regulatory Compliance Semi-Annual Report – September 2020 through February 2021
	Legislative/Human Resources Committee	10:30 a.m. Virtual	<ul style="list-style-type: none"> • Legislative Update
	Board of Directors	11:00 a.m. Virtual 1:15 p.m. Virtual	<ul style="list-style-type: none"> • Closed Session • Regular Meeting
Tuesday, March 23	Finance/Administration Committee	TBD Virtual	
	FY22 and FY23 Budget Workshop #2	TBD Virtual	
	Board of Directors	11:00 a.m. Virtual 1:15 p.m. Virtual	<ul style="list-style-type: none"> • Closed Session • Regular Meeting
Wednesday, March 31	Cèsar Chavez Day		<i>District Offices Closed</i>
Tuesday, April 13	Planning Committee	TBD Virtual	
	Legislative/Human Resources Committee	TBD Virtual	
	FY22 and FY23 Budget Workshop #3	TBD Virtual	
	Board of Directors	11:00 a.m. Virtual 1:15 p.m. Virtual	<ul style="list-style-type: none"> • Closed Session • Regular Meeting

2021 Board Committee Members

Finance/Administration	Patterson {Chair}, Coleman, Katz
Legislative/Human Resources	Coleman {Chair}, McIntosh, Patterson
Planning	Young {Chair}, McIntosh, Mellon
Sustainability/Energy	Young {Chair}, Katz, Mellon



Closed Session and Regular Business Meetings
Tuesday, March 9, 2021
11:00 a.m. and 1:15 p.m.

EBMUD public Board meetings will be conducted via Zoom.
Please note that Board meetings are recorded, live-streamed, and posted on the District's website.

Please visit this page beforehand to familiarize yourself with Zoom.
<https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting>

Online

<https://ebmud.zoom.us/j/97065086667?pwd=eUdZSGh5SG82akZiRDF2UDg2b0IyUT09>

Webinar ID: 970 6508 6667

Passcode: 238500

By Phone

Telephone: 1 669 900 6833

Webinar ID: 970 6508 6667

Passcode: 238500

International numbers available: [https://ebmud.zoom.us/u/adMXn1VnPp](https://ebmud.zoom.us/j/97065086667)

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.

If you wish to provide public comment please:

- 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
- The Secretary will call each speaker in the order received
- 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
- Each speaker is allotted 3 minutes to speak; the Board President has the discretion to amend this time based on the number of speakers
- The Secretary will keep track of time and inform each speaker when his/her allotted time has concluded

To observe the public portion of the 11:00 a.m. Closed Session Meeting and the entirety of the 1:15 p.m. Regular Business Meeting, please visit: <https://www.ebmud.com/about-us/board-directors/board-meetings/>

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MINUTES

Tuesday, February 23, 2021

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

Special Meeting

President Doug A. Linney called to order the Special Meeting of the Board of Directors at 9:02 a.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Director of Water and Natural Resources Michael T. Tognolini, Manager of Water Supply Improvements Linda H. Hu Engineering, Manager Lena L. Tam, Manager of Water Conservation Alice E. Towey, Supervisor of Water Conservation Charles M. Bohlig, Senior Civil Engineer Florence T. Wedington, Senior Civil Engineer Hasan M. Abdullah, Senior Civil Engineer Bradley M. Ledesma, Special Assistant to the General Manager Kelly A. Zito, Assistant to the General Manager Janetta M. Johnson, and Secretary of the District Rischa S. Cole.

PUBLIC COMMENT

There was no public comment.

DISCUSSION

- Filed with the Board was a presentation entitled, "Long-Term Water Supply Workshop," dated February 23, 2021.

General Manager Clifford C. Chan introduced the workshop and announced the key topics to be discussed. Director of Water and Natural Resources Michael T. Tognolini reviewed the workshop agenda, highlighted the workshop goals and objectives, and introduced the presenters.

Manager of Water Supply Improvements Linda H. Hu discussed the key water supply challenges facing the District including drought, climate change, new laws and regulations, increased threats from wildfires, the global pandemic, and extreme rainfall. She reviewed data showing the

variability in the District's Mokelumne River water supply and explained how higher temperatures resulting from climate change will impact runoff and rain and snow levels in the Mokelumne River watershed. Data from the Palmer Drought Severity Index shows droughts are getting more severe and frequent and data from Cal Fire indicates that risk of fire in the Mokelumne River watershed is increasing. She highlighted some of the new state and federal laws and regulations that will impact District operations and said the District will need to continue to protect its long-term water supplies from these actions and from legal challenges.

Engineering Manager Lena L. Tam presented an overview of the District's Urban Water Management Plan (UWMP). She reviewed the plan's purpose, major plan elements, entities that use the plan, and proposed plan revisions. The District is required to update, adopt and submit a completed UWMP to the Department of Water Resources every five years. The UWMP was last updated in 2015; staff is currently preparing the 2020 update which will reflect refinements to water supply system modeling; integrate uncertainties and long-term planning; update need-for-water analysis; update recycled water and conservation goals through 2050; include information quantifying climate change impacts, as well as demand and supply assessments; and will comply with new state regulations on drought contingency planning. The UWMP incorporates the District's drought contingency plan and Drought Management Program (DMP) guidelines. Ms. Tam said based on lessons learned from the 2014-2016 drought, staff recommends modifying the thresholds in the DMP guidelines to provide flexibility in balancing customer rationing with delivery of the CVP water supplies. The revised guidelines would initiate delivery of CVP water supplies at slightly higher storage thresholds than the previous DMP and clarify the sequencing of customer demand reduction prior to implementing mandatory rationing, based on the severity of the water supply shortage. She reviewed the timeline for updating the UWMP noting it will be available for public review in spring 2021 and scheduled for Board consideration in June 2021. If approved, the UWMP 2020 will be submitted to the Department of Water Resources in July 2021.

Manager of Water Conservation Alice E. Towey presented an update on the Water Conservation Strategic Plan (WCSP) which is being updated for 2021. She highlighted the Plan program drivers including drought, climate change, demand hardening, emerging regulations, changing communication tools and customer expectations, and equity in providing tools to assist all customers with conserving water. The water conservation goal in the Water Supply Management Plan 2040 is 62 million gallons per day (MGD); the WCSP 2021 update establishes a new water conservation goal of 70 MGD by 2050. Ms. Towey provided an overview of the following WCSP key initiatives and future directions for: water management services; education and outreach; regulations and legislation that drive water conservation; conservation incentives including programs to better assist customers with installing landscape designs for long-term savings and collaboration with community partners on programs for low-income customers to conserve water; research and development with a current focus on Automated Metering Infrastructure and potential future focus on water use behavior and landscape water efficiency, metering and measurement inflection technology, and leak detection; and supply side conservation. She discussed implementation strategies comprised of marketing and outreach, partnerships, grant funding, and technology leveraging.

Supervisor of Water Conservation Charles M. Bohlig presented an update on the state's long-term framework to make conservation a California way of life which was introduced in 2017. This framework is defined by Senate Bill 606, Assembly Bill 1668 and Senate Bill 555. EBMUD staff has been participating in the working groups responsible for developing legislation for efficiency standards since the state began to develop standards in 2018. The standards are expected to be

finalized and adopted in 2022 and in 2023, the suppliers will calculate the water user objectives. Required reporting on efficiency objectives is expected to begin in 2025. When combined, the four water use objectives will identify annual objectives for residential and commercial users. He detailed each water use objective and the response/action timelines for the District and state agencies. He highlighted water loss reporting activities under Senate Bill 555 and said reported the State Water Resources Control Board (SWRCB) released new draft regulation in December 2020. Peer review is underway and he said the District is opposed to portions of the new draft regulation. The District's water loss performance standard is scheduled to be adopted by the SWRCB by July 2021.

Senior Civil Engineer Florence T. Wedington presented an overview on recycled water projects. She highlighted the results of the residential recycled water fill station pilot conducted at the Main Wastewater Treatment Plant which ran for three months and was for employees only. Based on the pilot results, staff is seeking approval from the SWRCB to operate the fill station during drought years and is working on a regional proposal for recycled water use to allow Bay Area participants to transport recycled water from one service area to another. The District conducted a water quality study for the East Bayshore Recycled Water program in 2019 which found high ammonia and high salt levels during drought impacts users and hinders the ability to increase the program's customer base. In 2020, the District started a water improvements pilot to address the study findings with final recommendations expected in spring 2022. By implementing recommendations from the pilot, the District will be able to improve the program's water quality, increase the customer base, and protect irrigation customers from high ammonia and salt levels during a drought. The District is currently working in San Ramon to complete recycled water retrofits at the Canyon Lakes and Crow Canyon Country Club golf courses. Staff is also working with DERWA to update its original supply and sales agreement to more accurately address current conditions and DERWA is exploring including Pleasanton as a partner in the DSRSD/EBMUD Joint Powers Agreement. There is a multi-phase capital improvements project underway at the North Richmond Water Reclamation Plant and Richmond Advanced Recycled Expansion (RARE) Water Project at Chevron's Refinery to replace aging infrastructure. These improvements will increase reliability at the North Richmond Water Reclamation Plant and improve regulatory compliance at RARE. Over the years, the District has been coordinating with Phillips 66 in Rodeo to provide recycled water for some of their operations. Phillips 66 recently announced they would be changing their business model and converting from processing crude oil to generating renewable energy using fats, oil, and grease. The new process will reduce potable water usage and the project is expected to be implemented by the end of 2023. Phillips 66 has expressed interest in using recycled water for the new process and the District will continue coordinating with them to accommodate their new business model. The District is currently working with Diablo Country Club, Rossmoor, and Sequoyah Country Club on installing customer-funded satellite recycled water projects at their sites. Ms. Wedington said staff will provide an update on these projects at the March 9, 2021 Planning Committee meeting.

Senior Civil Engineer Hasan Abdullah M. presented an update on the District's work with Placer County Water Agency, Sycamore Mutual Water Company, Yuba Water Agency and the U.S. Bureau of Reclamation (USBR) to develop the District's long-term water transfer program. Staff is working with the USBR to secure a long-term Warren Act contract for the use of the Folsom South Canal and expect to secure the contract in late 2022. He discussed the short-term interim agreements the District currently have in place; and work with Sycamore Mutual Water Company, Yuba County Water Agency, and The Nature Conservancy, which owns water rights in Mill Creek, on other water transfer projects. Next, Mr. Abdullah described the water futures market and water futures contracts trading. This information was previously discussed at the January 12, 2021 Planning Committee

meeting. The NASDAQ Veles California Water Index (ticker symbol: NQH20) was launched on October 31, 2018 and began trading through the CME Group (Chicago Mercantile Exchange, Chicago Board of Trade, New York Mercantile Exchange, The Commodity Exchange) on December 7, 2020. He pointed out that water futures trading is not seeking to privatize the water market, but is seeking to provide a vehicle for either hedging or financial speculation based on future water price swings, which is dependent on the weather. While it is too early to determine the full operational or financial impacts on the District or California's water market, staff will monitor the water futures market to better understand potential long-term impacts to the District.

Senior Civil Engineer Bradley M. Ledesma presented updates on the District's potential participation in the Contra Costa Water District's (CCWD) Los Vaqueros Reservoir Expansion (LVE) project; development of the Groundwater Sustainability Plan (GSP) for the East Bay Plains Subbasin as required by the Sustainable Groundwater Management Act; and key accomplishments and upcoming activities for the Demonstration Recharge, Extraction, and Aquifer Management (DREAM) project. The District is evaluating potential participation in the proposed LVE project which would expand Los Vaqueros Reservoir from 160 thousand acre-feet (TAF) to 275 TAF and provide supplemental water supply to the District during droughts and emergencies. Mr. Ledesma reviewed potential project partners, estimated costs, estimated District costs, and the near-term project schedule. Over the next two years, the District will be negotiating a complex set of agreements regarding project participation and is in discussions with CCWD on entering a memorandum of understanding (MOU) to undertake a study to analyze whether and under which conditions the District could provide temporary water conveyance services to CCWD during construction and subsequent refill of the expanded Los Vaqueros Reservoir. The MOU will be presented for Board consideration on March 9. The GSP for the East Bay Plains Subbasin is due to the State Department of Water Resources by the end of January 2022. The GSP will develop a new groundwater model to evaluate future groundwater scenarios and help establish management standards and guidelines. Once the GSP is completed, the District will begin implementation with annual reports and five-year plan updates, coordinate with other groundwater users, and provide oversight and enforcement of the groundwater standards. He reviewed outreach efforts and the makeup of the three stakeholder groups involved with reviewing the GSP development as well as the schedule for future Board updates and actions. The DREAM project is a pilot study in San Joaquin County that is testing groundwater banking. In 2020, the District completed designs for the extraction facilities for the project. The project consists of a one-time, demonstration conjunctive use groundwater replenishment project involving 1,000 acre-feet (AF) of surface water provided by EBMUD. The North San Joaquin Water Conservation District South System surface water distribution facility will be rehabilitated and used to convey the surface water to farmlands currently pumping groundwater. In exchange for providing surface water, EBMUD would receive up to 500 AF of groundwater extracted from an existing well for export to EBMUD customers. Construction on the extraction facilities started in October 2020 and startup testing is expected to begin in October 2021. Groundwater level and quality monitoring will continue and once construction is completed, depending on hydrology, staff plans to test the extraction site.

Manager of Water Supply Improvements Linda H. Hu ended the workshop with a summary of the District's key strategies for ensuring a reliable and high-quality water supply for the future.

The Board thanked staff for the presentation and Director Katz, Director Mellon, Director Young and President Linney expressed concerns with the information presented on the water futures market. Staff responded to Board questions regarding the available number of hard- and soft-cover copies of the District's *Plants and Landscapes for Summer-Dry Climates* book; staff conducting

water conservation outreach at recreation areas after the pandemic; rebates for flow meters and flume devices; partnering with non-governmental organizations that focus on promoting water smart landscaping; water savings data from the Automated Metering Infrastructure pilot study with University of California, Davis; the state's indoor water use targets; additional locations for residential fill stations in the west-of-hills portion of the service area; the regulating agencies for the water futures market; potential impacts to District finances from increased water conservation goals; methods for increasing customer participation in the services available on the District's website; and methods to collect customer email addresses.

The Board requested the following:

- Advocate for stricter thresholds for the State's indoor water use targets in the Long-Term Framework
- Identify other west-of-hills locations for residential fill stations
- Track developments in the water futures market and provide an update to the Board at a future meeting
- Conduct outreach to stakeholders and other interested parties with information on the District's long-term water supply efforts
- Evaluate the potential impact to District finances and customer bills as a result of the District's water conservation and water supply goals
- Provide rationale for changes to the Drought Management Program guidelines
- Conduct outreach for customers to update their contact information including emails
- Review and consider updates to the navigation and search features on the District's website
- Consider requesting the assistance of retirees if the District updates its *Plants and Landscapes for Summer-Dry Climates* book
- Consider conducting water conservation outreach at recreation areas (post-COVID)
- Partner with outside groups and non-governmental organizations on water-wise landscaping (post-COVID)

ADJOURNMENT

President Linney adjourned the Special Meeting at 11:03 a.m.

SUBMITTED BY:

Rischa S. Cole, Secretary of the District

APPROVED: March 9, 2021

Doug A. Linney, President of the Board

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MINUTES

Tuesday, February 23, 2021

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

Regular Closed Session Meeting

President Doug A. Linney called to order the Regular Closed Session Meeting of the Board of Directors at 11:07 a.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, William B. Patterson, Marguerite Young, and President Doug A. Linney were present at roll call. All Directors participated remotely.

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Attorney Lourdes Matthew (Items 1a and 2), Manager of Human Resources Laura A. Acosta (Items 1a and 2), Director of Operations and Maintenance David A. Briggs (Item 1a), Director of Finance Sophia D. Skoda (Item 2), Manager of Employee Relations Niger M. Edwards (Item 2), and Industrial Employers Distributors Association representatives Gregory Ramirez and Jeff Bailey (Item 2).

PUBLIC COMMENT

There was no public comment.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Linney announced the closed session agenda and the Board convened for discussion (remotely).

Regular Business Meeting

President Linney called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. He announced that due to COVID-19 and in accordance with the latest Alameda County Health Order, and with the Governor's Executive Order N-29-20 which suspends portions of the Brown Act, this meeting will be conducted remotely. In compliance with said orders, a physical location was not provided for this meeting. These measures will only apply during the period in which state or local public health officials have imposed or recommended social distancing.

ROLL CALL

Directors John A. Coleman, Andy Katz, Lesa R. McIntosh, Frank Mellon, Marguerite Young, William B. Patterson, and President Doug A. Linney were present at roll call. All Directors participated remotely. Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, and Secretary of the District Rischa S. Cole.

BOARD OF DIRECTORS

President Linney 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

- Items 9 and 10 were pulled from the Consent Calendar for discussion.
 - Motion by Director Coleman, seconded by Director Mellon, to approve the recommended actions for Items 1-8 on the Consent Calendar carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 030-21** – Approved the Special Meeting Minutes and the Regular Meeting Minutes of February 9, 202
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Coronavirus Update,” dated February 23, 2021; **2)** Presentation entitled, “2021 Preliminary Water Supply Availability and Deficiency Report,” dated February 23, 2021; and **3)** Speakers’ Bureau and Outreach Record CY21, dated February 19, 2021.
 3. **Motion No. 031-21** – Awarded a contract to the lowest responsive/responsible bidder, International Corrosion Control, for supplying zinc anodes for one year, beginning on or after March 1, 2021, with four options to renew for additional one-year periods for a total cost, after the addition of taxes, including option years, not to exceed \$1,519,252.35 under Request for Quotation No. 2103.
 4. **Motion No. 032-21** – Authorized an agreement beginning on or after February 23, 2021 with the City of Oakland in an amount not to exceed \$350,000 for the Leimert Bridge Pipeline – Contract Services for Pipeline Improvements.

5. **Motion No. 033-21** – Authorized an agreement beginning on or after February 23, 2021 with Woodard & Curran, Inc. in an amount not to exceed \$2,246,768 for specialized consulting services for the condition assessment and design of the Main Wastewater Treatment Plant Oxygen Plant Rehabilitation under SD-428.
6. **Motion No. 034-21** – Authorized an amendment to the contract previously awarded under Board Motion No. 193-00 with Western Area Power Administration to extend the contract term to December 31, 2054 for the purchase of federal hydropower under the Base Resource Contract.
7. **Motion No. 035-21** – Authorized the Office of General Counsel to continue the employment of the law firm of Liebert Cassidy Whitmore for specialized legal services related to labor and employment matters in an additional amount not to exceed \$150,000.
8. **Motion No. 036-21** – Approved the January 2021 Monthly Investment Transactions Report.
9. **Resolution No. 35214-21** – Appointing Maria Lourdes Matthew to the position of Assistant General Counsel (*effective March 1, 2021*).
 - Director Mellon pulled Item 9 to congratulate Ms. Matthew on her appointment. Ms. Matthew thanked the Board and said it is an honor and a privilege to work at the District.
 - Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 9 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).
10. **Resolution No. 35215-21** – Appointing Jonathan D. Salmon to the position of Assistant General Counsel (*effective March 1, 2021*).
 - Director Mellon pulled Item 10 to congratulate Mr. Salmon on his appointment. Mr. Salmon also thanked the Board and said he is looking forward to continue serving the District in his new role.
 - Motion by Director Mellon, seconded by Director Patterson, to approve the recommended action for Item 10 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, McIntosh, Mellon, Patterson, Young, and Linney); NOES (None); ABSTAIN (None); ABSENT (None).

DETERMINATION AND DISCUSSION

11. **General Manager's Report.**

Preliminary Water Supply Availability and Deficiency Report

Director of Operations and Maintenance David A. Briggs presented the water supply update and the Preliminary Water Supply Availability and Deficiency Report. For the water supply update he reviewed gross water production; East Bay and Mokelumne precipitation through February 17; snow depth at Caples Lake which was 92% of average as of February 17; state water supply projections based on data for February 18; and current storage at Pardee, Camanche and East Bay reservoirs. He said current total system storage is 555,8400 acre-feet or 96% of average and 72%

of capacity and provided an overview of projected District total system storage for 2021. For the Preliminary Water Supply Availability and Deficiency Report, he reviewed the Drought Management Program guidelines from the District's 2015 Urban Water Management Plan and potential water supply options for Board consideration if dry conditions continue. Some options include demand reduction (wise water use) and purchasing supplemental supplies from the Central Valley Project, Placer County Water Agency, or Contra Costa Water District. The Final Water Supply Availability and Deficiency Report will be presented to the Board on April 27. Mr. Briggs responded to Board questions regarding the amount of precipitation or rainfall needed in the District's watershed to reduce the need to require customer rationing.

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented an update on state regulations and guidance. As of today, all District counties remain in the Purple Tier (most restrictive), but he noted that most pandemic-related health metrics continue to improve. There have been no significant changes to District safety protocols and no significant impacts are expected to District operations. He reviewed the status of the state's vaccination efforts and policies and said while the District's vaccination plan has not changed, staff will begin focusing on promoting and facilitating vaccinations for employees. Human Resources staff is currently tracking employee vaccination rates and management is recommending employees be required to confidentially disclose their vaccination status which can help inform the District's Safe Return to Workplace Plan. Management will reach out to the unions and employees on the vaccination plan and on finalizing details in The Safe Return to Workplace Plan. Mr. Briggs said the plan will be implemented incrementally and comply with state and local orders, laws and regulations. In conclusion, he provided an update on the number of employees and contractors that have tested positive for the coronavirus, the number of staff in quarantine, and on the pilot testing program which concluded on February 11. The District began using a contractor on an as-needed basis to support its COVID-19 employee hotline. Mr. Briggs and General Manager Chan responded to Board questions on when the Board would resume in-person meetings.

REPORTS AND DIRECTOR COMMENTS

Committee Reports.

- Filed with the Board were the Minutes for the February 9, 2021 Legislative/Human Resources Committee meeting.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day (remotely) and received an update on the Fiscal Year 2021 Semi-Annual Budget Performance Report; the January 2021 Monthly Investment Transactions Report; the Semi-Annual Internal Audit Report; and the Invitation to Apply for a Water Infrastructure Finance and Innovation Act Loan.

Other Items for Future Consideration.

None.

Director Comments.

Director Coleman reported attending the East Bay Economic Development Alliance – Land Use and Infrastructure meeting (remotely) on February 10; the East Bay Leadership Council – Water Task Force meeting (remotely) and ACWA Federal Affairs Committee meeting (remotely) on February 16; and the East Bay Leadership Council Board meeting (remotely) on February 19. He reported on plans to attend the ACWA Washington D.C. program (remotely) on February 24.

- Directors Katz, McIntosh, Mellon, Patterson, and Young and President Linney had no report.

ADJOURNMENT

President Linney adjourned the meeting at 1:56 p.m.

SUBMITTED BY:

Rischa S. Cole, Secretary of the District

APPROVED: March 9, 2021

Doug A. Linney, President of the Board

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AGENDA NO. 3.
MEETING DATE March 9, 2021

TITLE PURCHASE OF LABORATORY REPLACEMENT INSTRUMENT FOR TRACE METALS ANALYSES

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input checked="" type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Award a contract to the lowest responsive/responsible bidder, Agilent Technologies, Inc., for supplying an Inductively Coupled Plasma Optical Emission Spectroscopy (ICP-OES) instrument for a total cost, after the addition of taxes, not to exceed \$128,515 under Request for Quotation No. 2102.

SUMMARY

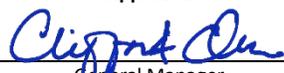
The District’s Laboratory supports water and wastewater systems’ operations by performing a range of analyses for regulatory compliance, process control, hazardous waste characterization, and special projects. The trace metal analyses are currently conducted on an aging ICP-OES instrument that does not consistently meet detection limits and quality control requirements stipulated by the U.S. Environmental Protection Agency. The proposed ICP-OES instrument will improve the Laboratory’s ability to efficiently analyze diverse sample types while reducing operating and maintenance costs, improving data quality and reliability, and achieving required detection limits.

DISCUSSION

The existing ICP-OES used for analysis of trace metals was purchased in 2008. The instrument has high operating and maintenance costs, and the software is outdated which limits analytical flexibility and inefficiently processes the data required for reporting. The manufacturer discontinued full support of this instrument model in 2020; the instrument software will not be upgraded, replacement parts are limited, and vendor service and support will soon end.

The new ICP-OES will improve data quality for drinking water, wastewater, and hazardous waste sample analyses and includes automated features which will increase efficiency. The instrument can achieve regulated detection limits and incorporates upgraded technology. The ICP-OES is expected to decrease operating costs, such as labor, consumables, and repair and maintenance costs.

This purchase supports the District's Water Quality and Environmental Protection Strategic Plan goal by ensuring regulatory compliance data is reported as required.

Funds Available: FY21, CIP#2011852; Page 87	Budget Coding: 934/7999/2014346	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Wastewater	Eileen M. White	 General Manager
Attachment(s): P-35; P-61		

VENDOR SELECTION

A request for quotations was posted on the District's website and sent to 100 resource organizations. Four quotations were received. Agilent Technologies, Inc. was the lowest responsive/responsible bidder.

SUSTAINABILITY

Economic

Funding for this purchase is available in the FY21 adopted capital budget for the General Wastewater Project. Replacing this equipment will reduce maintenance costs and increase reliability.

Environmental

This purchase will help the District meet its environmental compliance reporting requirements for the water and wastewater systems.

ALTERNATIVES

Do not replace the instrument. This alternative is not recommended because the District's Laboratory would not be able to reliably perform trace analyses of regulated metals in drinking water, wastewater, and solid waste samples by the requested deadlines.

Reject all quotes and issue another request for quotations. The alternative is not recommended because the District engaged in a fair and competitive process and obtained a quote that contains reasonable pricing.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE <i>Materials and Supplies - RFQ No.: 2102</i> Purchase of Laboratory Replacement Instrument for Trace Metals Analysis							DATE: February 1, 2021						
CONTRACTOR: Agilent Technologies, Inc. Santa Clara, CA 95051					PERCENTAGE OF CONTRACT DOLLARS								
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP			White Men		Contracting Objectives		Participation				
\$128,515 *		Publicly Held		-	White Women		25%		0.0%				
		Ethnicity	Gender		Ethnic Minorities		2%		0.0%				
					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: Agilent Technologies, Inc.		\$128,515	Publicly Held							100.0%			
SUBS: None													
TOTAL		\$128,515					0.0%	0.0%	0.0%	0.0%	100.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)													
		White Men		White Women		Ethnic Minorities		Total Employees					
No. of Employees:		2,101		1,254		1,680		5,035					
Percent of Total Employees:		41.7%		24.9%		33.4%							
MSA Labor Market %:		39.0%		33.7%		27.3%							
MSA Labor Market Location:		Total USA											
COMMENTS													
<i>Contract Equity Participation - Zero Contract Equity participation since firm is Publicly Held.</i>													
*Total not to exceed: \$128,515													
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: Purchase of Laboratory Replacement Instrument for Trace Metals Analysis		Ethnic Minority Percentages From U.S. Census Data									
			B	H	A/PI	AI/AN	TOTAL				
Materials and Supplies - RFQ No.: 2120		DATE: 2/1/2021	National	10.5	10.7	3.7	0.7	27.3			
			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	PHC	Company Wide	285	411	875	13	1,584	31.5%	27.3%		
Agilent Technologies, Inc. Dave Nickerson 5301 Stevens Creek Blvd. Santa Clara, CA 95051 512-332-8297		Manager/Prof	77	167	612	4	860	29.8%			
		Technical/Sales	58	113	151	4	326	23.5%			
		Clerical/Skilled	51	71	29	4	155	39.9%			
		Semi/Unskilled	99	60	83	1	243	65.5%			
		Bay Area	0	0	0	0	0	0.0%			39.9%
		AA Plan on File: NA	Date of last contract with District: NA								
		Co. Wide MSA: Total USA	# Employees-Co. Wide: 5,035				Bay Area: 0				
P	WM	Company Wide	63	136	175	6	380	23.9%	27.3%		
Thermo Electron North America LLC Donna Gaulard 1400 Northpoint Pkwy. West Palm Beach, FL 33407 760-918-3874		Manager/Prof	40	72	140	4	256	22.1%			
		Technical/Sales	15	58	30	1	104	31.2%			
		Clerical/Skilled	8	6	5	1	20	20.0%			
		Semi/Unskilled	0	0	0	0	0	0.0%			
		Bay Area	0	0	0	0	0	0.0%			39.9%
		Co. Wide MSA: Total USA	# Employees-Co. Wide: 1,592				Bay Area: 0				
P	PHC	Company Wide	INFORMATION NOT PROVIDED								
Spectro Analytical Instruments Jennifer Mehner 9 McKee Drive Manwah, NJ 07430 201-642-3000		Manager/Prof									
		Technical/Sales									
		Clerical/Skilled									
		Semi/Unskilled									
		Bay Area									
		Co. Wide MSA:									
P	WM	Company Wide	88	128	144	7	367	22.5%	27.3%		
PerkinElmer Health Sciences, Inc. Joel Goldberg 710 Bridgeport Avenue Shelton, CT 06484 800-762-4000		Manager/Prof	32	87	122	5	246	20.7%			
		Technical/Sales	17	17	21	2	57	21.9%			
		Clerical/Skilled	25	16	0	0	41	31.5%			
		Semi/Unskilled	14	8	1	0	23	41.1%			
		Bay Area	0	0	0	0	0	0.0%			39.9%
		Co. Wide MSA: Total USA	# Employees-Co. Wide: 1,632				Bay Area: 33				

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 March 9, 2021

TITLE DATA STORAGE INFRASTRUCTURE PARTIAL REFRESH

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input checked="" type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize a direct award contract to Trace3, LLC, for supplying computer data storage equipment and maintenance for the Administration Building Data Center for three years, beginning on or after March 9, 2021, for a total cost, after the addition of taxes, not to exceed \$565,000 under the State of California cooperative purchasing agreement.

SUMMARY

The updated computer data storage equipment will replace existing infrastructure components that have reached the end-of-life for manufacturer support. Refreshing this equipment is necessary for continued manufacturer support and to protect business data core to District operations, customer service, and disaster preparedness.

DISCUSSION

The District’s data storage infrastructure was deployed in phases from 2010 through 2017, progressively replacing legacy storage systems as they reached end-of-life status while accommodating growing business data storage requirements. Manufacturer support will cease on a portion of this infrastructure beginning April 2021. This contract will provide purchase, installation, and three years of maintenance of two infrastructure controllers and disks; support renewal for four controllers and two switches for three years; extended maintenance on other controllers, switches, and disks; and online training units on newer components for recently hired technical support staff.

This item supports the District’s Long-Term Financial Stability Strategic Plan goal.

VENDOR SELECTION

Trace3, LLC. is an authorized vendor for NetApp products under this National Association of State Procurement Officers (NASPO) California procurement agreement and is recommended for a direct award.

Funds Available: FY21	Budget Coding: 252/8547/5247	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Information Systems	Andrew J. Levine	 General Manager
Attachment(s): P-35; P-61		

Under Public Contract Code Section 10298, agencies such as EBMUD are specifically allowed to purchase directly from State of California contracts or through state-authorized participating agreements, without pursuing separate competitive bidding. Leveraging the NASPO ValuePoint Cooperative Purchasing Program Master Agreement No. MNWNC-121, California Participating Addendum No. 7-15-70-34-006 for NetApp products provides the District with favorable pre-negotiated pricing and time and labor expense savings.

SUSTAINABILITY

Economic

Funding for this purchase is available in the FY21 adopted operating budget.

Environmental

NetApp computer equipment has earned U.S. Environmental Protection Agency Energy Star certification with reduced power consumption to help meet green information technology objectives.

ALTERNATIVES

Select an alternative data storage product. This alternative is not recommended because of the expense required to remove and replace complex technology infrastructure.

Formally bid the procurement of NetApp products. This alternative is not recommended as the District would not be able to receive a lower bid resulting from volume pricing available through State of California cooperative purchasing agreements.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE <i>Materials and Supplies</i> Data Storage Infrastructure Partial Refresh - Three Year Contract						DATE: March 1, 2021						
CONTRACTOR: Trace3, LLC. Irvine, CA 92618				Direct Award / State Contract		PERCENTAGE OF CONTRACT DOLLARS						
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		Contracting Objectives		Participation				
\$565,000.00 *		White	Men	White Women		25%		100.0%				
		Ethnicity	Gender	Ethnic Minorities		2%		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: Trace3, LLC.		\$565,000	White	X		100.0%						
SUBS: None												
TOTAL		\$565,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		449		147		135		731				
Percent of Total Employees:		61.4%		20.1%		18.5%						
MSA Labor Market %:		39.0%		33.7%		27.3%						
MSA Labor Market Location:		Total USA										
COMMENTS												
<i>Contract Equity Participation - 100% White Men participation.</i>												
*Total not to exceed: \$565,000												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AGENDA NO. 5.
MEETING DATE March 9, 2021

TITLE ADMINISTRATION BUILDING CARPET REPLACEMENT

TYPE	<input type="checkbox"/> Construction	<input checked="" type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize an agreement beginning on or after March 9, 2021 with All County Flooring in an amount not to exceed \$3,544,500 for replacement of carpet and other flooring in the District’s Administration Building.

SUMMARY

This agreement provides for replacement of carpet in the District’s Administration Building (AB) with the exception of the Board Room. In addition to carpet replacement, hard flooring in two hallways will be replaced with new flooring. Re-carpeting in the Board Room will be accomplished under a separate project in Fiscal Year 2022 in combination with other improvements.

DISCUSSION

The existing flooring in the AB was installed when the building was constructed 30 years ago. The flooring requires replacement to maintain the health, safety, and wellness of occupants and visitors, and to comply with Americans with Disabilities Act (ADA) requirements. The carpet has far exceeded its normal expected life of 15 years. Replacing the carpet will sustain indoor air quality and reduce tripping hazards. Services under this agreement include moving furniture and raising cubicle partitions, removal of existing carpet/flooring and residual adhesive, installing new carpet/flooring, and returning furniture into workspaces. The project is expected to be completed in October 2021. This project supports the District’s Long-Term Infrastructure Investment Strategic Plan goal.

SERVICE PROVIDER SELECTION

Public Contract Code Section 10298 specifically allows agencies such as the District to purchase directly from State of California competitively awarded contracts without separate competitive bidding, thereby allowing agencies to recognize the economies of scale garnered by the State. The State of California awarded a contract to All County Flooring under California Department of General Services contract number 4-20-00-0134A. District staff reviewed the contractor’s qualifications, experience, and pricing, and determined contracting with All County Flooring is in the best interest of the District.

Funds Available: FY21, CIP# 2001419	Budget Coding: WSC/566/7999/2014568	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Maintenance and Construction	Michael R. Ambrose	 General Manager
Attachment(s): P-35; P-61		

Administration Building Carpet Replacement

March 9, 2021

Page 2

Work under this agreement is subject to the payment of current prevailing wages according to determinations for each craft as established by the Director of the Department of Industrial Relations of the State of California. The service provider, All County Flooring, is licensed to perform work in California and is not on the State Department of Industrial Relations (DIR) debarment list. All County Flooring and its listed subcontractors are properly registered with the State DIR.

SUSTAINABILITY

Economic

Funding for this work is available in the FY21 adopted capital budget for the Building Facilities Improvements Project.

Social

This type of work is not performed by District forces and consequently union notification was not required.

The selected contractor is a certified Small Business Enterprise and a Minority-owned Business Enterprise.

Environmental

Material for the new carpet will meet all indoor quality standards. The service provider will remove the existing carpet and transport the material to a recycling center.

ALTERNATIVES

Perform the work with District forces. This alternative is not recommended because District forces do not have the expertise to complete this project.

Defer carpet replacement. This alternative is not recommended because the flooring has far exceeded its useful life and may impact future indoor air quality and/or contribute to tripping hazards or potential ADA violations in the future.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE General Services Agreement Administration Building Carpet Replacement						DATE: February 4, 2021						
CONTRACTOR: All County Flooring Benicia, CA				State Contract / Small Business		PERCENTAGE OF CONTRACT DOLLARS						
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		Contracting Objectives		Participation				
\$3,544,500 *		White	Men	White Women		25%		100.0%				
		Ethnicity	Gender	Ethnic Minorities		6%		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: All County Flooring		\$3,544,500	White	X		100.0%						
SUBS: None												
TOTAL		\$3,544,500				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
			White Men		White Women		Ethnic Minorities		Total Employees			
No. of Employees:			11		0		16		27			
Percent of Total Employees:			40.7%		0.0%		59.3%					
MSA Labor Market %:			32.3%		27.8%		39.9%					
MSA Labor Market Location:			9 Bay Area Counties									
COMMENTS												
Contract Equity Participation - 100% White Men participation.												
*Total not to exceed: \$3,544,500												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AGENDA NO. 6.
MEETING DATE March 9, 2021

**TITLE CONSULTING AGREEMENT FOR ANALYTIC SERVICES RELATING TO THE
ECONOMIC IMPACTS RESULTING FROM REDUCED WATER SUPPLIES**

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input checked="" type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize an agreement beginning on or after March 9, 2021 with The Brattle Group, Inc. in an amount not to exceed \$200,000 for confidential consulting services.

SUMMARY

The Brattle Group, Inc. will provide confidential consulting services involving economic analysis relating to reduction in water supplies to the East San Francisco Bay Area.

DISCUSSION

The District wishes to obtain an analysis of the economic impacts resulting from reductions in water supply to its service area in the East San Francisco Bay Area. The Brattle Group, Inc. has performed such analysis for other water agencies. The work product will help the District understand and quantify the economic impacts of prolonged droughts and potential reductions to its water supply.

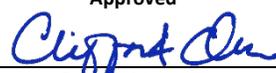
Under this agreement, The Brattle Group, Inc. would perform confidential, specialized consulting work at the direction of the District. Further detail on the nature of services to be provided by The Brattle Group, Inc. is set forth in a separate confidential attorney-client privileged memorandum to the Board.

This agreement supports the District’s Long-Term Water Supply Strategic Plan goal.

SUSTAINABILITY

Economic

Funding for this work is included in the FY21 adopted operating budget.

Funds Available: FY21	Budget Coding: WSO-443-1010236-5231	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Water and Natural Resources	Michael T. Tognolini	 General Manager
Attachments: P-035; P-061		

Consulting Agreement for Analytic Services Relating to the Economic Impacts Resulting from Reduced Water Supplies
March 9, 2021
Page 2

Environmental

The project is exempt from the requirements of the California Environmental Quality Act because it involves a study to be conducted and does not involve any change to existing facilities or operations.

ALTERNATIVE

Do not authorize the recommended agreement. This alternative is not recommended as these services will help protect the District's water resources.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement Consulting Agreement for Services Relating to the San Francisco Bay / Sacramento-San Joaquin Delta Estuary Water Quality Control Plan Update	DATE: February 10, 2021
--	---------------------------------------

CONTRACTOR:	PERCENTAGE OF CONTRACT DOLLARS				
The Brattle Group, Inc. Boston, MA 02108	Direct Award	Availability Group	Contracting Objectives	Participation	
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	100.0%
	Ethnicity	Gender	White Women	6%	0.0%
\$200,000	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: The Brattle Group, Inc.	\$200,000	White	X		100.0%						
SUBS: None											
TOTAL		\$200,000			100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	125	89	83	297
Percent of Total Employees:	42.1%	30.0%	27.9%	
MSA Labor Market %:	39.0%	33.7%	27.3%	
MSA Labor Market Location:	Total USA			

COMMENTS

Contract Equity Participation - 100.0% White Men participation.

*Total not to exceed: \$200,000

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	NA	



AGENDA NO. 7.
MEETING DATE March 9, 2021

TITLE NON-HAZARDOUS TRENCH SOILS DISPOSAL

TYPE	<input type="checkbox"/> Construction	<input checked="" type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize an agreement beginning on or after March 9, 2021 with Keller Canyon Landfill Company for \$300,000 annually for three years with two options to renew for additional one-year periods for a total amount, including option years, not to exceed \$1,500,000 for non-hazardous trench soils disposal.

SUMMARY

The District has various practices to manage excavated soils in its service area as part of the Trench Soils Master Plan. Under this program, inert, contaminant-free soils are temporarily stockpiled at District-owned storage sites. Non-hazardous trench soils, containing contaminants below hazardous waste thresholds, are disposed at non-District owned Class II or Class III landfills. This proposed direct award gives the District a permanent disposal option for non-hazardous trench soils at a Class II facility that optimizes location, cost, and disposal capabilities.

DISCUSSION

The District temporarily stockpiles inert, contaminant-free trench soils at District-owned disposal sites. The District’s non-hazardous trench soil, containing contaminants below hazardous waste thresholds, will be managed under this agreement. Using an offsite disposal location for this soil reduces disposal costs, eliminates potential water quality concerns associated with long-term stockpiling of soils in the District’s local watershed, and reduces monitoring and permitting requirements. This agreement ensures use of appropriately licensed disposal facilities. Excavated soils categorized as hazardous are directly transported by a licensed waste hauler to separate landfills. This agreement supports the District’s Water Quality and Environmental Protection and Long-Term Infrastructure Investment Strategic Plan goals.

SERVICE PROVIDER SELECTION

Direct award to Keller Canyon Landfill Company is recommended because the Keller Canyon landfill is the closest available landfill for this type of soil. Transporting soils to this site minimizes hauling costs and transit time. Accordingly, no requests for proposals were sent out for this agreement.

Funds Available: FY21	Budget Coding: WSG/785/5742/5377	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Operations and Maintenance	David A. Briggs	 General Manager
Attachment(s): P-35; P-61		

SUSTAINABILITY

Economic

The FY21 adopted operating budget includes funding for the first year of this multi-year agreement. Funding for the additional years will be considered as part of the associated budget development process.

Social

This type of work is not performed by District forces and consequently union notification was not required.

Environmental

This approach eliminates potential water quality concerns associated with stockpiling non-hazardous trench soils in the District's local watershed and reduces monitoring and permitting requirements. The District's trench soils material is also put to beneficial use as daily cover at the Keller Canyon Landfill.

ALTERNATIVES

Do not approve this action. This alternative is not recommended because negotiating disposal services on a case-by-case basis would greatly increase administrative and disposal costs.

Seek competitive bids. This alternative is not recommended because cost savings offered by other contractors are unlikely due to higher transport costs.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE General Services Agreement Non-Hazardous Trench Soils Disposal - Three-Year Contract with 2 One-Year Renewal Options							DATE: December 15, 2020					
CONTRACTOR: Keller Canyon Landfill Company Pittsburg, CA 94565				Sole Source / Local Business		PERCENTAGE OF CONTRACT DOLLARS						
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		Contracting Objectives		Participation				
\$300,000 /yr.*		Ethnicity	Gender	White Women		25%		100.0%				
		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: Keller Canyon Landfill Company		\$300,000	White	X		100.0%						
SUBS: None												
TOTAL		\$300,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		12		2		11		25				
Percent of Total Employees:		48.0%		8.0%		44.0%						
MSA Labor Market %:		33.3%		28.2%		38.5%						
MSA Labor Market Location:		Contra Costa										
COMMENTS												
Contract Equity Participation - 100% White Men participation.												
*Total contract amount: \$1,500,000												
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended				
NA				NA								



AGENDA NO. 8.
MEETING DATE March 9, 2021

TITLE WATER TREATMENT PLANT EFFLUENT METER, LARGE CUSTOMER METER, RATE CONTROL STATION, AND REGULATOR IMPROVEMENTS DESIGN PROJECT

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input checked="" type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize an agreement beginning on or after March 9, 2021 with Mott MacDonald Group, Inc. (Mott MacDonald) in an amount not to exceed \$1,943,678 for engineering design services for the Water Treatment Plant (WTP) Effluent Meter, Large Customer Meter (LCM), Rate Control Station (RCS), and Regulator Improvements Design Project (Project).

SUMMARY

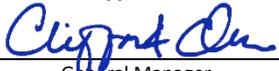
Mott MacDonald will provide engineering design services for WTP effluent meters and LCMs to improve the data quality for the District’s annual water loss audit required by California Senate Bill 555 (SB 555) and for rehabilitation of high priority RCSs and regulators to improve their safety and operational reliability. The Board under Board Motion No. 045-20 authorized an agreement for the planning phase of the WTP effluent meters and LCMs. The Project was discussed at the November 10, 2020 Long-Term Infrastructure Investment Workshop.

DISCUSSION

SB 555 requires utilities to perform annual water loss audits and meet proposed water loss performance standards beginning January 1, 2028. The State Water Resources Control Board will use the audit information to determine District compliance with the standard. The facilities designed as part of this project will improve the quality of the data and provide the District with a more accurate understanding of its water losses for purposes of compliance with SB 555.

Mott MacDonald will provide engineering design services for three WTP effluent meters, six LCMs, rehabilitation of one RCS and six regulators, and for a new RCS. The scope of work also includes the preparation of engineering design drawings, specifications, and guides which will be used by District staff as reference documents for future RCS and regulator projects.

This project supports the District’s Long-Term Infrastructure Investment Strategic Plan goal.

Funds Available: FY21, CIP# 2012651; Page #77	Budget Coding: 790/7999/5231/2013585:25	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Engineering and Construction	Olujimi O. Yoloye	 General Manager
Attachment(s): P-35; P-61		

CONSULTANT SELECTION

A request for proposals was posted on the District's website and sent to 64 firms with expertise in water infrastructure design. One proposal was received. Mott MacDonald was selected based on their qualifications, experience, and comprehensive approach to completing the project.

SUSTAINABILITY

Economic

Funding for this item is included in the FY21 adopted capital budget for the Water Loss Control project.

Social

Locals 2019 and 21 were notified of this agreement on November 18, 2019. Local 2019's initial questions and concerns were addressed at a meeting on December 3, 2019. Local 21 did not raise any specific issues related to this agreement. Local 2019 and 21 were re-notified on January 12, 2021 about changes in the scope and budget for this agreement. Local 2019's concerns were addressed at a meeting on February 2, 2021 and resolved. Local 21 did not raise any specific issues related to the changes in the scope and budget.

Environmental

Installation of the types of facilities to be designed under this agreement is typically exempt from the requirements of the California Environmental Quality Act (CEQA), and completion of the consultant's design work is required to inform CEQA compliance for the project. Project approval would only be considered following completion of any CEQA review determined to be necessary based upon the consultant's design work.

ALTERNATIVES

Select another consultant to perform the work. This alternative is not recommended because Mott MacDonald was the only consultant that submitted a proposal, and Mott MacDonald's proposal was thorough and reasonable, and their project team is experienced and capable of performing the work.

Perform the work with District staff. This alternative is not recommended because District staff does not have the resources to design the WTP effluent meter and LCM facilities within the timeframe required to comply with SB 555. Similarly, District staff are committed to other high priority projects and do not have the resources available to design the rehabilitation improvements for the RCS and regulators.

Do not complete the work. This alternative is not recommended because the WTP effluent meter and LCM improvements are needed for more accurate water loss audit data and water loss control planning related to SB 555, and because the RCS and regulator improvements are needed to improve safety and reliability.



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement WTP Effluent Meter, Large Customer Meter, Rate Control Station, and Regulator Improvements Design Project	DATE: February 16, 2021
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CONTRACTOR:			PERCENTAGE OF CONTRACT DOLLARS		
Mott MacDonald Group, Inc. San Ramon, CA 94583		Local Business / Sole Proposer	Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	0.0%
\$1,943,678	Ethnicity	Gender	White Women	6%	9.0%
	Foreign Owned	-	Ethnic Minorities	25%	14.5%

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: Mott MacDonald Group, Inc.	\$1,488,678	Foreign	X								76.6%
SUBS: Anderson Pine Corporation	\$281,000	Black	X					14.5%			
V & A Consulting Engineers, Inc.	\$174,000	White		X			9.0%				
TOTAL	\$1,943,678				0.0%	9.0%	14.5%	0.0%	0.0%	0.0%	76.6%

CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	1,157	327	396	1,880
Percent of Total Employees:	61.5%	17.4%	21.1%	
MSA Labor Market %:	39.0%	33.7%	27.3%	
MSA Labor Market Location:	Total USA			

COMMENTS

Contract Equity Participation - 76.6% Foreign Owned participayion, 9.0% White Women participation, and 14.5% Ethnic Minority participation.

*Total not to exceed: \$1,943,678

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	YES	



AGENDA NO. 9.
MEETING DATE March 9, 2021

TITLE QUARRY SITE TRENCH SOILS RESTORATION PROJECT

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input checked="" type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize an agreement beginning on or after March 9, 2021 with Woodard & Curran, Inc. in an amount not to exceed \$2,278,146 for site studies and preparation of an Environmental Impact Report (EIR) for the Quarry Site Trench Soils Restoration Project (Project), pursuant to the California Environmental Quality Act (CEQA).

SUMMARY

The work involves completion of site studies, including constructability and phasing analysis to determine the viability of the Quarry Site Property (Property) in unincorporated Alameda County for disposal of District trench soils and site restoration. If the Property is deemed a viable site, work also includes preparation of a comprehensive EIR to identify and assess Project-specific environmental impacts and determine necessary mitigation measures.

DISCUSSION

On September 10, 2019, the Board authorized under Motion No. 151-19, a three-year option agreement in the amount of \$150,000 with the San Leandro Rock Company (SLRC), owners of the Property, to assess the viability of purchasing the Property for permanent trench soils storage. The Property is located between Lake Chabot Regional Park and the City of San Leandro at 13575 Lake Chabot Road as shown on the attached Location Map. The Property consists of two privately-owned parcels totaling approximately 58 acres. The three-year option allows the District time to complete an analysis of any potential impacts under CEQA and obtain any necessary permits prior to committing to the purchase of the Property. In October 2020, negotiations with SLRC culminated in a signed option agreement.

The District currently transports pipeline trench soils to three different District-owned and maintained storage sites (Briones Reservoir in Orinda, Miller Road in Castro Valley, and Amador Reservoir in San Ramon) for temporary storage. When the storage sites reach capacity, periodic clearing and transporting of the soils to a final re-use or disposal sites is required. Assuming a future pipeline replacement rate of 40 miles per year, the storage sites would reach capacity and require clearing every five years.

Funds Available: FY21, CIP #000652; Page 48	Budget Coding: 522/2013519:13/5231	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Engineering and Construction	Olujimi O. Yoloje	 General Manager
Attachment(s): P-35; P-61; Location Map		

In contrast, it would take approximately 25 to 35 years to fill the Property. Acquisition of the Property would provide a long-term economical and sustainable solution for management of District trench soils.

The Property is adjacent to both District-owned watershed lands and East Bay Regional Park District (EBRPD) lands. As the site is filled with trench soils, the site could be restored to its natural state and managed in perpetuity as park land that would benefit wildlife and provide permanent recreational open space benefitting communities in the District's service area, including an opportunity to provide linkages between existing trails in the EBRPD's Lake Chabot Regional Park and the neighboring community.

This Project supports the District's Long-Term Infrastructure Investment Strategic Plan goal.

CONSULTANT SELECTION

A request for proposals was posted on the District's website and sent to 93 firms, including 20 minority-owned firms with expertise in preparation of CEQA documents or geology and geotechnical services. Four firms submitted proposals and a short-list of two firms was established. Woodard & Curran, Inc. was selected based on their expertise in District operational objectives and understanding of District trench soils operations; the firm also has an experienced team with knowledge of potential environmental impacts and community concerns.

SUSTAINABILITY

Economic

Funding for this work is available in the FY21 adopted capital budget for the Trench Soils Storage Sites project.

Social

Locals 2019 and 21 were notified of this agreement on September 29, 2019. Local 2019 issues were addressed at a meeting on November 5, 2019 and resolved. Local 21 did not raise any specific issues related to this agreement.

Environmental

The District will solicit input from local agencies and the community while preparing the constructability and phasing analysis and EIR. As part of the Project, the District will implement feasible mitigation measures to reduce environmental impacts to the community.

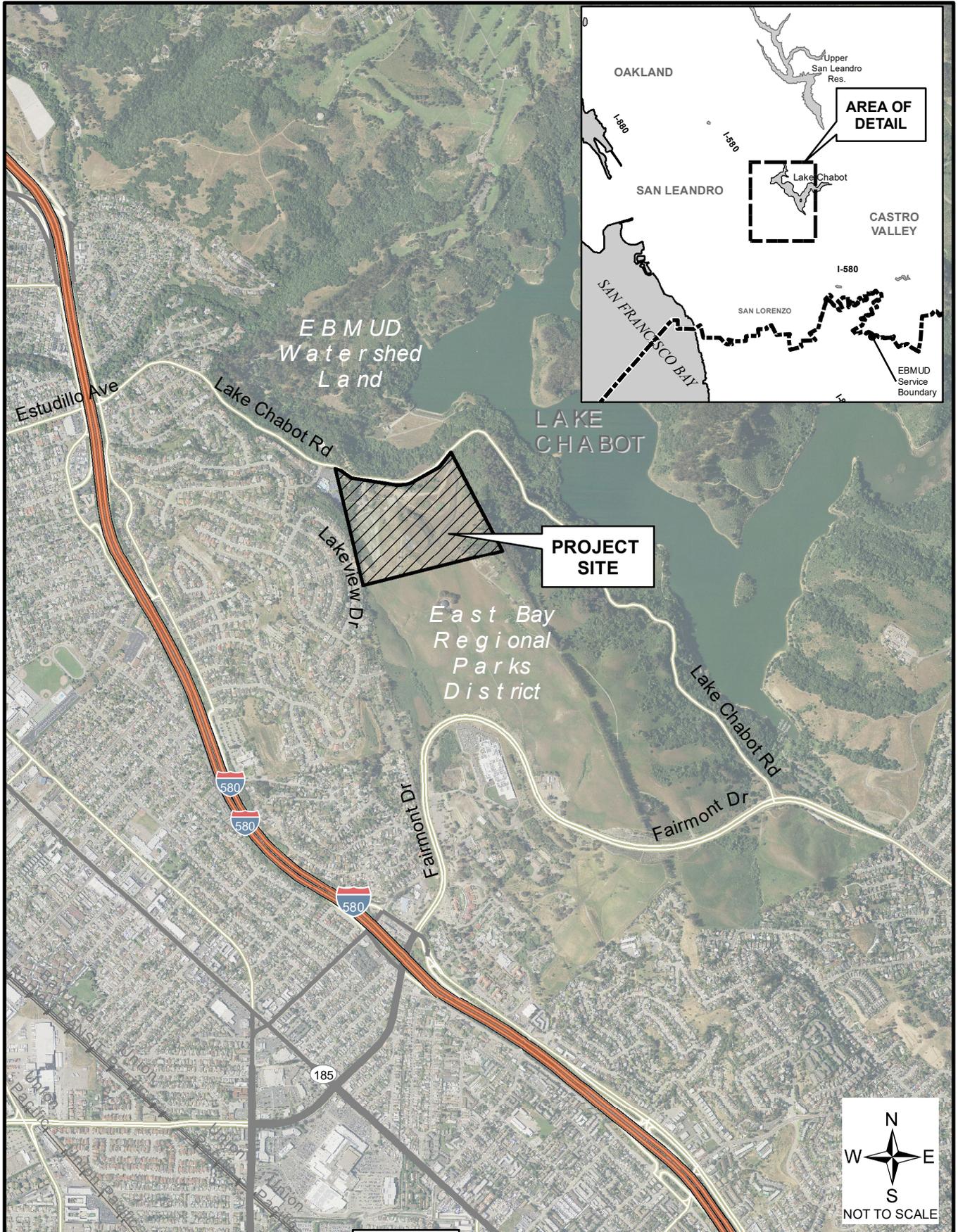
ALTERNATIVES

Do not perform the work. This alternative is not recommended because the work is needed to investigate and develop a long-term economical solution for management of District trench soils.

Perform the work with District forces. This alternative is not recommended because District staff does not have the expertise to complete the work for this large, specialized quarry restoration and EIR project.

Quarry Site Trench Soils Restoration Project

LOCATION MAP



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CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement Quarry Site Trench Soils Restoration Project	DATE: February 8, 2021
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CONTRACTOR:	PERCENTAGE OF CONTRACT DOLLARS				
Woodard & Curran, Inc. Walnut Creek, CA 94596	Local Business	Availability Group	Contracting Objectives	Participation	
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	71.9%
	Ethnicity	Gender	White Women	6%	18.4%
\$2,278,146 *	White	Men	Ethnic Minorities	25%	9.7%

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:											
Woodard & Curran, Inc.	\$1,084,114	White	X		47.6%						
SUBS:											
Terraphase Engineering Inc.	\$488,943	White	X		21.5%						
Royston, Hanamoto, Alley & Abey (RHAA)	\$301,027	White		X	13.2%						
CHS Consulting Inc. dba CHS Consulting Group	\$89,829	Asian	X			3.9%					
Ninyo & Moore Geotechnical and Environment Sciences Consultants	\$132,112	Hispanic	X			5.8%					
Insignia Environmental	\$117,341	White		X	5.2%						
Wilson Ihrig	\$33,651	White	X		1.5%						
Basin Research Associates, Inc.	\$31,129	White	X		1.4%						
TOTAL		\$2,278,146			71.9%	18.4%	9.7%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	497	300	74	871
Percent of Total Employees:	57.1%	34.4%	8.5%	
MSA Labor Market %:	39.0%	33.7%	27.3%	
MSA Labor Market Location:	Total USA			

COMMENTS

Contract Equity Participation - 71.9% White Men participation, 18.4% White Women participation, and 9.7% Ethnic Minority participation.

*Total not to exceed: \$2,278,146

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	YES	



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

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

Title:		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
Quarry Site Trench Soils Restoration Project		National	10.5	10.7	3.7	0.7	27.3		
Professional Services Agreement		DATE:							
		2/8/2021							
		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	Company Wide	10	25	31	1	67	7.7%	27.3%
Woodard & Curran, Inc. Xavier Irias 2175 N. California Blvd., Suite 315 Walnut Creek, CA 94596 <i>(Local Office)</i> 925-627-4100		Manager/Prof	5	21	26	1	53	7.2%	
		Technical/Sales	0	0	2	0	2	13.3%	
		Clerical/Skilled	5	4	3	0	12	10.0%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	1	4	11	0	16	28.6%	
		Co. Wide MSA:	Total USA		# Employees-Co. Wide: 871		Bay Area: 56		
S	WM: L/SBE	Company Wide	10	25	31	1	67	7.7%	27.3%
Terraphase Engineering Inc. Arnab Chakrabarti 1404 Franklin Street, Suite 600 Oakland, CA 94612 510-645-1850		Manager/Prof	5	21	26	1	53	7.2%	
		Technical/Sales	0	0	2	0	2	13.3%	
		Clerical/Skilled	5	4	3	0	12	10.0%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	1	4	11	0	16	28.6%	
		Co. Wide MSA:	Total USA		# Employees-Co. Wide: 871		Bay Area: 56		
S	WW: SBE	Company Wide	1	1	7	1	10	35.7%	44.0%
Royston, Hanamoto, Alley & Abey (RHAA) Barbara Lundburg 225 Miller Avenue Mill Valley, CA 94941 415-383-7900		Manager/Prof	0	0	3	1	4	30.8%	
		Technical/Sales	1	1	4	0	6	66.7%	
		Clerical/Skilled	0	0	0	0	0	0.0%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	1	1	7	1	10	35.7%	
		Co. Wide MSA:	San Francisco		# Employees-Co. Wide: 28		Bay Area: 28		
S	EMM: A/PI - L/SBE	Company Wide	1	0	6	0	7	46.7%	39.9%
CHS Consulting Inc. dba CHS Consulting Group Millicent Williams 1617 Clay Street Oakland, CA 94612 510-272-9597		Manager/Prof	0	0	4	0	4	40.0%	
		Technical/Sales	0	0	2	0	2	66.7%	
		Clerical/Skilled	1	0	0	0	1	50.0%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	1	0	6	0	7	46.7%	
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide: 15		Bay Area: 15		
S	EMM: H - L/SBE	Company Wide	20	62	42	1	125	25.0%	48.4%
Ninyo & Moore Geotechnical and Environment Sciences Consultants Peter Connolly 2020 Challenger Drive, Suite103 Alameda, CA 94501 510-343-3000		Manager/Prof	3	14	14	0	31	16.2%	
		Technical/Sales	11	44	17	1	73	29.6%	
		Clerical/Skilled	6	4	11	0	21	33.9%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	1	3	4	0	8	20.5%	
		Co. Wide MSA:	California		# Employees-Co. Wide: 500		Bay Area: 39		
S	WW	Company Wide	1	0	2	1	4	7.1%	52.1%
Insignia Environmental Alex McGraw 258 High Street Palo Alto, CA 94301 650-321-6787 ext.322		Manager/Prof	0	0	2	1	3	8.1%	
		Technical/Sales	1	0	0	0	1	5.9%	
		Clerical/Skilled	0	0	0	0	0	0.0%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	0	0	0	0	0	0.0%	
		Co. Wide MSA:	Santa Clara		# Employees-Co. Wide: 56		Bay Area: 0		

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)



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

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

Title:		Ethnic Minority Percentages From U.S. Census Data								
			B	H	A/PI	AI/AN	TOTAL			
Quarry Site Trench Soils Restoration Project			10.5	10.7	3.7	0.7	27.3			
Professional Services Agreement		DATE:								
		2/8/2021	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 %	
S	WM: LBE	Company Wide	1	2	2	0	5	22.7%	48.4%	
Wilson Ihrig Derek Watry 6001 Shellmound Street, Suite 400 Emeryville, CA 94608 510-658-6719		Manager/Prof	0	1	2	0	3	16.7%		
		Technical/Sales	0	0	0	0	0	0.0%		
		Clerical/Skilled	1	1	0	0	2	50.0%		
		Semi/Unskilled	0	0	0	0	0	0.0%		
		Bay Area	1	2	2	0	5	33.3%		39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide: 22		Bay Area: 15			
S	WM: L/SBE	Company Wide	0	6	0	0	6	100.0%	53.9%	
Basin Research Associates, Inc. Colin Busby 1933 Davis Street, Suite 215 San Leandro, CA 94577 510-430-8441		Manager/Prof	0	5	0	0	5	100.0%		
		Technical/Sales	0	1	0	0	1	100.0%		
		Clerical/Skilled	0	0	0	0	0	0.0%		
		Semi/Unskilled	0	0	0	0	0	0.0%		
		Bay Area	0	6	0	0	6	100.0%		39.9%
		Co. Wide MSA:	Alameda		# Employees-Co. Wide: 6		Bay Area: 6			
P	WM: SBE	Company Wide	1	8	4	0	13	12.6%	48.4%	
WRA, Inc Frances Lin 2169 E. Francisco Blvd., G San Rafael, CA 94901 415-656-7411		Manager/Prof	0	3	1	0	4	10.8%		
		Technical/Sales	0	4	2	0	6	10.2%		
		Clerical/Skilled	1	1	1	0	3	42.9%		
		Semi/Unskilled	0	0	0	0	0	0.0%		
		Bay Area	1	7	4	0	12	13.8%		39.9%
		Co. Wide MSA:	California		# Employees-Co. Wide: 103		Bay Area: 87			

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)

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AGENDA NO. 10 a-c.
MEETING DATE March 9, 2021

TITLE AMENDMENT TO THE WEST END PROPERTY LEASE – PROPERTY 599

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input checked="" type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Approve an amendment to the lease agreement between the District and Bizon Group, Inc. dba Conexwest (Lessee) for leased premises located within the District’s West End property located at Engineer Road and Wake Avenue (Property) in Oakland to:

- a. Increase the leased premises by 10,520 square feet to a total of approximately 4.25 acres;
- b. Authorize Lessee to conduct paving and drainage design work to determine construction costs for necessary improvements at the leased premises in exchange for commensurate rent abatement in an amount not-to-exceed \$75,000; and
- c. Add two (2) five-year renewal options to the original lease agreement.

SUMMARY

On March 25, 2019, the District entered into a lease agreement with the Lessee for approximately four acres of land within the Property including use of the existing warehouse building. The Lessee is in the shipping storage container business and has operated at the site since the start of the lease. Upon occupancy, the existing site drainage was inadequate to support the Lessee’s operations, resulting in muddy and unsafe conditions during the winter months. The District has worked with the Lessee to implement short-term solutions to mitigate these unsafe conditions, but a permanent solution is necessary to fix the drainage problems and repave the site.

DISCUSSION

The Property is a 15.9-acre parcel purchased in 2007 from the United States Government. The Property is located at Engineer Road and Wake Avenue in Oakland, adjacent to the District’s Main Wastewater Treatment Plant. A portion of the 15.9-acre parcel currently leased, and those leased premises are located at the western most portion of the Property and contains a 10,880 square foot unoccupied warehouse structure. In 2019, the District entered into a five-year lease with the Lessee as there was no immediate plan to utilize this portion of the Property. The base rent for the original lease is \$50,500 monthly or \$606,000 annually, with subsequent escalations of three percent annually.

Funds Available: FY21	Budget Coding: 326	Contract Equity Forms? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Customer and Community Services	Andrew L. Lee	 General Manager
Attachment(s): Map of Lease Property		

After occupancy, the Lessee discovered the site drainage and pavement were inadequate to support its operation, which includes the use of heavy equipment. During heavy rains, standing water creates muddy conditions throughout the entire leased area. The District has worked with the Lessee to implement temporary measures; however, a permanent solution is needed to fix the drainage issues and repave the site. To implement a permanent solution, the Lessee agreed to redesign the drainage system and repave the leased premises. The Lessee will pay all site improvements in exchange for commensurate reduction in rent. The District will review and approve all site improvement work to be performed by the Lessee. It is anticipated that all site improvements will be completed prior to winter 2021.

In order for the Lessee to perform the improvement work, an amendment to the original lease agreement was negotiated to include steps to fund, design, and construct these improvements. Under the amendment, the Lessee will pay a not-to-exceed \$75,000 design cost upfront, for which they will receive commensurate rent abatement through the lease term. The design work by the Lessee's consultant will assist the District in obtaining a construction estimate for the improvements. Once the construction costs are determined, a separate amendment will be brought to the Board for consideration. These improvements will require no out-of-pocket investment from the District.

The original lease agreement authorized under Board Motion No. 049-19 consisted of a five-year land lease for approximately four acres of land with an option to extend for an additional five years or less at the District's discretion. This amendment would increase the footprint of the leased premises by 10,520 square feet to a total of approximately 4.25 acres. The additional lease area would increase the rent by \$34,000 annually including a three percent annual escalation. The amendment also includes two additional five-year renewal options, which could increase the total estimated lease value by \$7.4 million if these options are exercised. It is estimated the increased lease value would more than offset the improvement costs.

SUSTAINABILITY

Economic

By increasing the overall leased premises, the District could receive an additional \$330,000 in rent over the remainder of the lease term and the first five-year renewal option. With two additional five-year renewal options, the total estimated lease value would be \$12.6 million, if all three renewal options are exercised. The additional rent would offset the \$75,000 in design and construction costs.

Environmental

The anticipated site improvement work and the use of the additional square footage are consistent with the Main Wastewater Treatment Plant Land Use Master Plan Environmental Impact Report (LUMP EIR) (SCH No. 2009112073). The LUMP EIR was certified under Board Resolution No. 33834-11 on June 28, 2011. On March 12, 2019 the Board considered a subsequent addendum in support of a lease with the Lessee, determined that no further environmental review was required under the California Environmental Quality Act (CEQA), and authorized execution of the lease. In this addendum, the District described the proposed change in use of the land from a biodiesel production facility to a shipping container facility which concluded no CEQA triggers requiring additional environmental review were met. The site improvements anticipated in the amendment are consistent with the use described in the addendum because the improvements will not result in a change in use or operations of the site, or construction of

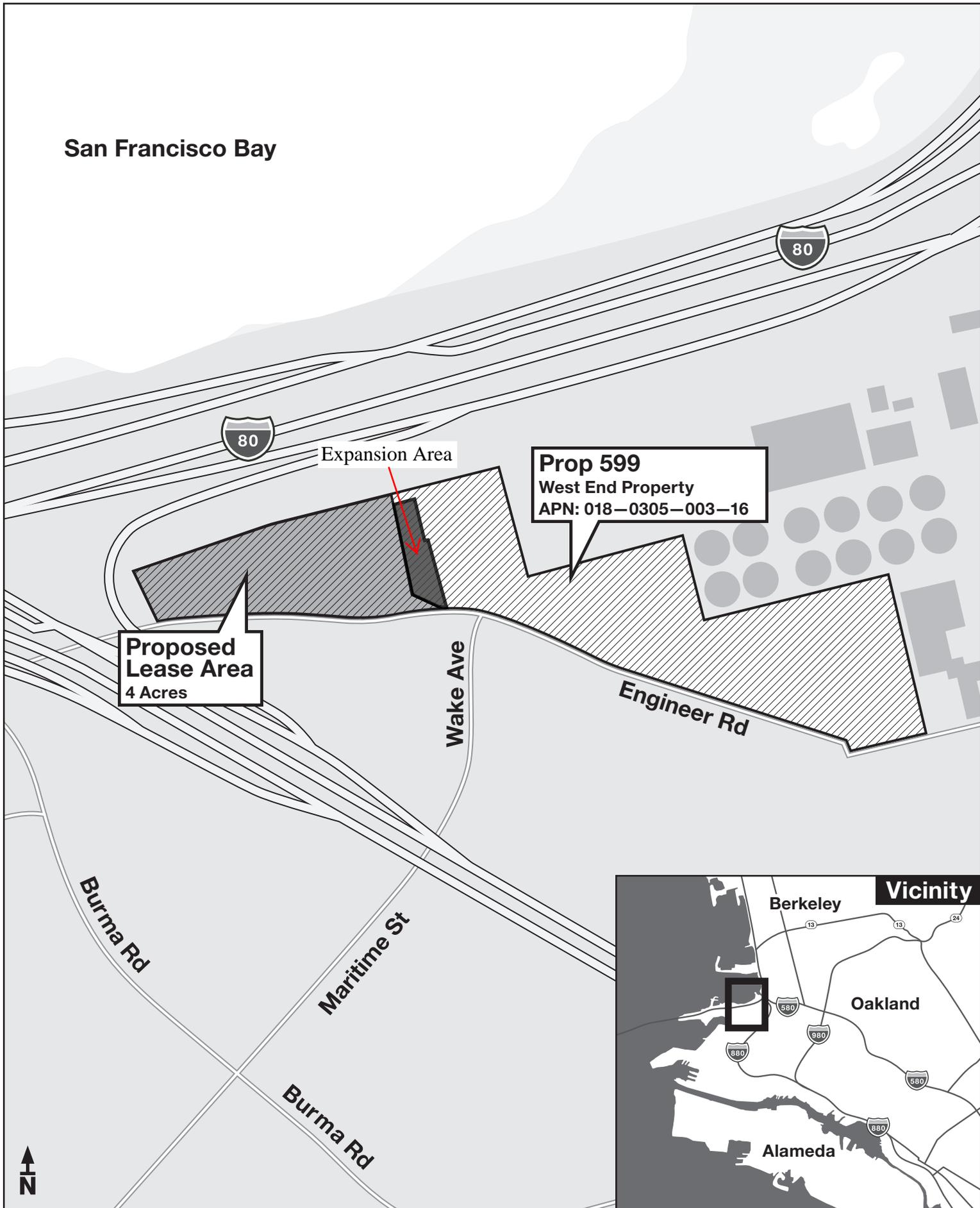
new facilities. The construction will entail only repaving of already paved surfaces and improvements to the existing drainage system to address unsafe conditions. The lease requires the Lessee to comply with applicable environmental documentation. The District will ensure that all applicable mitigation measures from the LUMP EIR are implemented by the Lessee.

ALTERNATIVES

Do not execute the amendment. This alternative is not recommended as it would result in a loss of revenue and leave the condition of the leased premises in a poor condition.

Complete the improvement work with District forces. This alternative is not recommended as the District does not have adequate resources to design and repave the 4.25 acres of leased premises by winter 2021.

Lease of a Portion of District's West End Property





AGENDA NO. 11.
MEETING DATE March 9, 2021

TITLE MEMORANDUM OF UNDERSTANDING WITH CONTRA COSTA WATER DISTRICT TO STUDY TEMPORARY WATER CONVEYANCE FOR THE LOS VAQUEROS RESERVOIR EXPANSION

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input checked="" type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize a Memorandum of Understanding (MOU) with Contra Costa Water District (CCWD) to undertake a study to analyze whether and under which conditions the District could provide temporary water conveyance services to CCWD during construction and subsequent refill of the expanded Los Vaqueros Reservoir without resulting in unacceptable adverse impacts to the District or its customers, prior commitments, or capital project or operational needs.

SUMMARY

During construction and subsequent refilling of the proposed Los Vaqueros Reservoir Expansion (LVE), CCWD may need assistance conveying water supplies secured by CCWD to provide water supply and water quality benefits normally provided by Los Vaqueros Reservoir. The proposed MOU describes District and CCWD commitments to analyze whether and under which conditions the District could convey CCWD’s water to its service area. The MOU refers to this potential water conveyance as “Backstop Water Service.” If CCWD and the District each independently determine the District can provide Backstop Water Service under specified circumstances without resulting in adverse impacts unacceptable to the District, then the MOU includes a process to develop a separate agreement specifying the conditions under which the District would provide Backstop Water Service. This MOU was discussed at the October 13, 2020 Planning Committee and the February 23, 2021 Long-Term Water Supply Workshop.

DISCUSSION

The District is evaluating potential participation in CCWD’s proposed LVE project, along with Alameda County Water District, Grassland Water District, San Francisco Public Utilities Commission, San Luis & Delta-Mendota Water Authority, Santa Clara Valley Water District, and Zone 7 Water Agency. The Project would expand Los Vaqueros Reservoir from 160 thousand acre-feet (TAF) to 275 TAF and provide supplemental water supply to the District during droughts and emergencies.

Funds Available: FY21	Budget Coding: 455-WSC-2013296-7999-5101	Contract Equity Forms? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Originating Department Water and Natural Resources	Department Director or Manager Michael T. Tognolini	Approved  General Manager
Attachment(s): N/A		

As part of this MOU, the District and CCWD will work together to:

1. Identify conditions under which the District can convey CCWD's water supplies through District facilities during construction and refill the enlarged Los Vaqueros Reservoir without adverse impacts to the District or its customers, prior commitments, capital project or operational needs.
2. Estimate the costs for the District to provide such water conveyance service, including the cost of any new conveyance facilities. The MOU provides that District costs incurred to provide water conveyance service to CCWD would be reimbursed by the proposed Los Vaqueros Reservoir Joint Powers Authority (JPA) and/or CCWD.

Staff estimates the District may expend up to \$120,000 in staff time and other internal resources to perform the analysis outlined in the MOU. Costs incurred to perform the study will not be directly reimbursed by CCWD but tracked as in-kind services for potential future reimbursement pursuant to the existing Multiparty Agreement among the agencies participating in the LVE project.

The MOU provides that CCWD is exclusively responsible to provide or secure the water to be conveyed by the District, including all necessary water rights and contractual rights. CCWD would likely ask the District to convey a portion of the water available to CCWD under CCWD's Central Valley Project contract or existing Los Vaqueros water right to CCWD's service area through facilities owned by the District, the Freeport Regional Water Project, and the United States Bureau of Reclamation. The MOU would express the District's intent to work together to develop a water rights change petition or application to facilitate conveyance of the Los Vaqueros water right water at the Freeport point of diversion, although the District would reserve its right to protest or decline to support any such water rights proceeding if the District determines the proposed use of the District's facilities would result in unacceptable impacts.

The District would not provide water conveyance service under this MOU. Instead, it expresses the intent of the District and CCWD to analyze the option of the District providing such service, describes how that analysis will be conducted, and ensures the District's right to determine for itself whether and to what extent it could convey water to CCWD without resulting in impacts unacceptable to the District. Pending the outcome of the analysis, a future agreement setting forth specific terms and conditions of water conveyance service would need to be negotiated with CCWD and the JPA that would be presented to the Board for consideration.

This MOU supports the District's Long-Term Water Supply Strategic Plan goal.

SUSTAINABILITY

Economic

Funding for this work is available in the FY21 adopted capital budget for the Supplemental Supply and Regional Planning project.

Social

The LVE project, if implemented, supports development of long-term supplemental water supplies for the District in dry years and promotes regional collaboration and partnerships.

Environmental

The MOU is not subject to the environmental review requirements of the California Environmental Quality Act (CEQA). It is an agreement to work together in good faith to perform a technical analysis and does not commit either party to take any action that might cause a physical change in the environment. As such, it is a type of “organizational or administrative activity that will not result in direct or indirect physical changes in the environment” and therefore, is not a “project” under CEQA. (CEQA Guidelines section 15378(b)(5)). The MOU is also exempt from CEQA review as “basic data collection, research, experimental management, and resource evaluation activities which do not result in serious or major disturbance to an environmental resource.” (CEQA Guidelines section 15306).

ALTERNATIVE

Do not authorize staff to execute the MOU. This alternative is not recommended because the LVE project has the potential to help the District meet its long-term water supply needs. If the MOU is not executed, CCWD may be required to secure other assistance that could make participation in the LVE project for the District more expensive.

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AGENDA NO. 12.
MEETING DATE March 9, 2021

TITLE WATER SUPPLY ASSESSMENT FOR THE ASHBY AND NORTH BERKELEY BART STATION TRANSIT-ORIENTED DEVELOPMENT ZONING STANDARDS PROJECT

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grant	<input checked="" type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Approve the Water Supply Assessment (WSA) requested by the City of Berkeley (City) for the Ashby and North Berkeley BART Station Transit-Oriented Development (TOD) Zoning Standards Project (Project) pursuant to California Water Code, Sections 10910-10915.

SUMMARY

The Project includes three proposed development sites located within or adjacent to the Ashby and North Berkeley BART stations. The Ashby BART Station includes two proposed development sites within the existing 4.4-acre transit station and the 1.9-acre surface parking lot. The existing 4.4-acre transit station site is located west of the Ed Roberts Campus and bounded by Ashby Avenue (California State Route 13) to the north; Martin Luther King Jr. Way to the west; and Adeline Street to the east. The existing 1.9-acre surface parking lot is located immediately east of the Ed Roberts Campus and bounded by Tremont Street to the east; Woolsey Street to the south; and residential houses to the north (see Attachment A, Exhibit 1). At build-out, the areas within or adjacent to the Ashby BART locations will include development of up to 1,200 residential dwelling units and 100,000 square feet of non-residential space. The North Berkeley BART station includes one proposed development site located at the existing 8.1-acre transit station and parking lot. The site is located west of Ohlone Park and bounded by Sacramento Street to the east; Acton Street to the west; Virginia Street to the north; and Delaware Street to the south (see Attachment A, Exhibit 2). At build-out, the areas within the North Berkeley BART location include development of up to 1,200 residential dwelling units and 25,000 square feet of non-residential space.

The existing land uses consist of landscaped parking lots and BART transit facilities with a historical water use of approximately 14,000 gallons per day (GPD). The projected water use at Project build-out is approximately 440,000 GPD. This demand is accounted for in the District's Urban Water Management Plan (UWMP) 2015. Approval of the WSA by the Board of Directors is required prior to its submittal to the City. The WSA is described in the attached letter (Attachment B) and, upon Board approval, will be sent to the City.

Funds Available: N/A	Budget Coding: N/A	Contract Equity Forms? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Engineering and Construction	Olujimi O. Yoloje	 General Manager
Attachment(s): Location Maps; District's Response to WSA Request		

DISCUSSION

On January 4, 2021, the City submitted a formal request for a consultation between the District and the City regarding preparation of a WSA for the Project, pursuant to California Environmental Quality Act Guidelines, Section 15155, and California Water Code, Sections 10910-10915. The Project, for which an Environmental Impact Report is being prepared, meets the threshold requirement for an assessment of water supply availability based on the amount of water this Project would require, which is greater than the amount of water required by a 500-dwelling-unit project. The City is required to consult with the public water supplier to determine whether the water demand associated with the Project was included in its last UWMP and to assess whether its 20-year water supply (available during normal, single-dry and multiple-dry water years) will meet the water demand associated with the Project.

The UWMP 2015 concludes that the District has, and will have, adequate water supplies to serve existing and projected demands within the Ultimate Service Boundary during normal and wet years but that deficits are projected for drought years. During multi-year droughts, the District may require significant customer water use reductions and may also need to acquire supplemental supplies to meet customer demand. The UWMP 2015 includes Drought Management Program (DMP) Guidelines that establish the level of water use restrictions the District may implement under varying conditions. Under the DMP Guidelines, water use restrictions may be determined based upon either projected end-of-September Total System Storage (TSS) or water use restriction mandates from the State Water Resources Control Board. When state-mandated water use restrictions exceed the reductions that would otherwise be called for based upon the end-of-September TSS, the District's water use reduction requirements may be guided by the applicable state mandates. Under either scenario, while the District strives to keep water use reductions at or below 15 percent, if the drought is severe, mandatory water use reductions could exceed 15 percent.

The Project will be subject to the same drought restrictions that apply to all District customers. In addition, the proposed Project will be subject to District regulations aimed at encouraging efficient water use, such as Sections 29 and 31 of the District's Regulations Governing Water Service. Section 29, "Water Use Restrictions," promotes efficient water use by District customers and prohibits certain uses of potable water. Section 31, "Water Efficiency Requirements," identifies the types of water efficiency requirements (i.e., maximum flow rates for flow control devices) for water service.

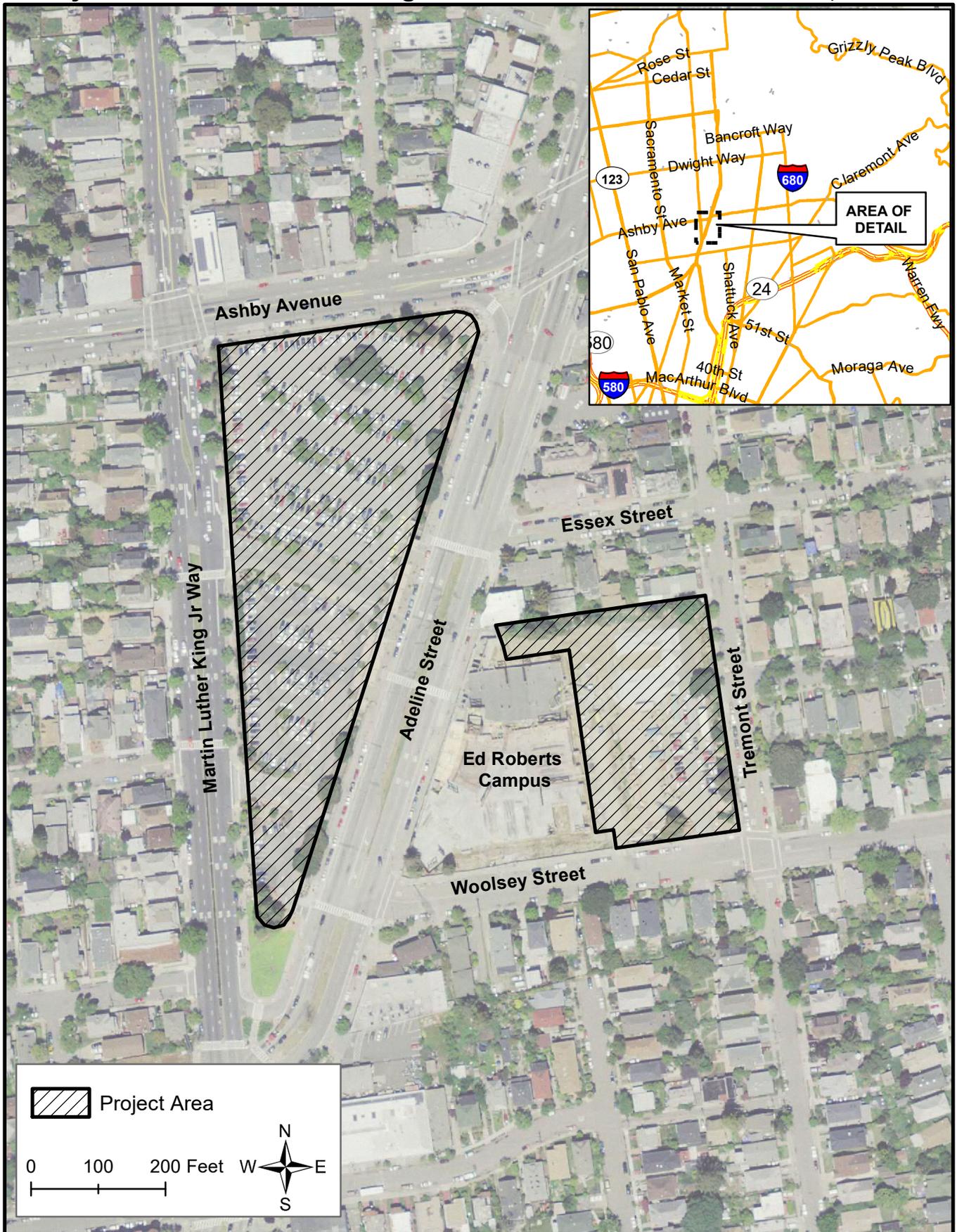
The WSA letter requests the City comply with the California Code of Regulations concerning water-efficient landscapes and District water service regulations, including compliance with Sections 29 and 31, described above, in force at the time the application is made. The District also requests a meeting to discuss water conservation opportunities in the Project area, which will identify timely opportunities to maximize water conservation and identify District programs, as well as state and federal best management practices applicable to the Project.

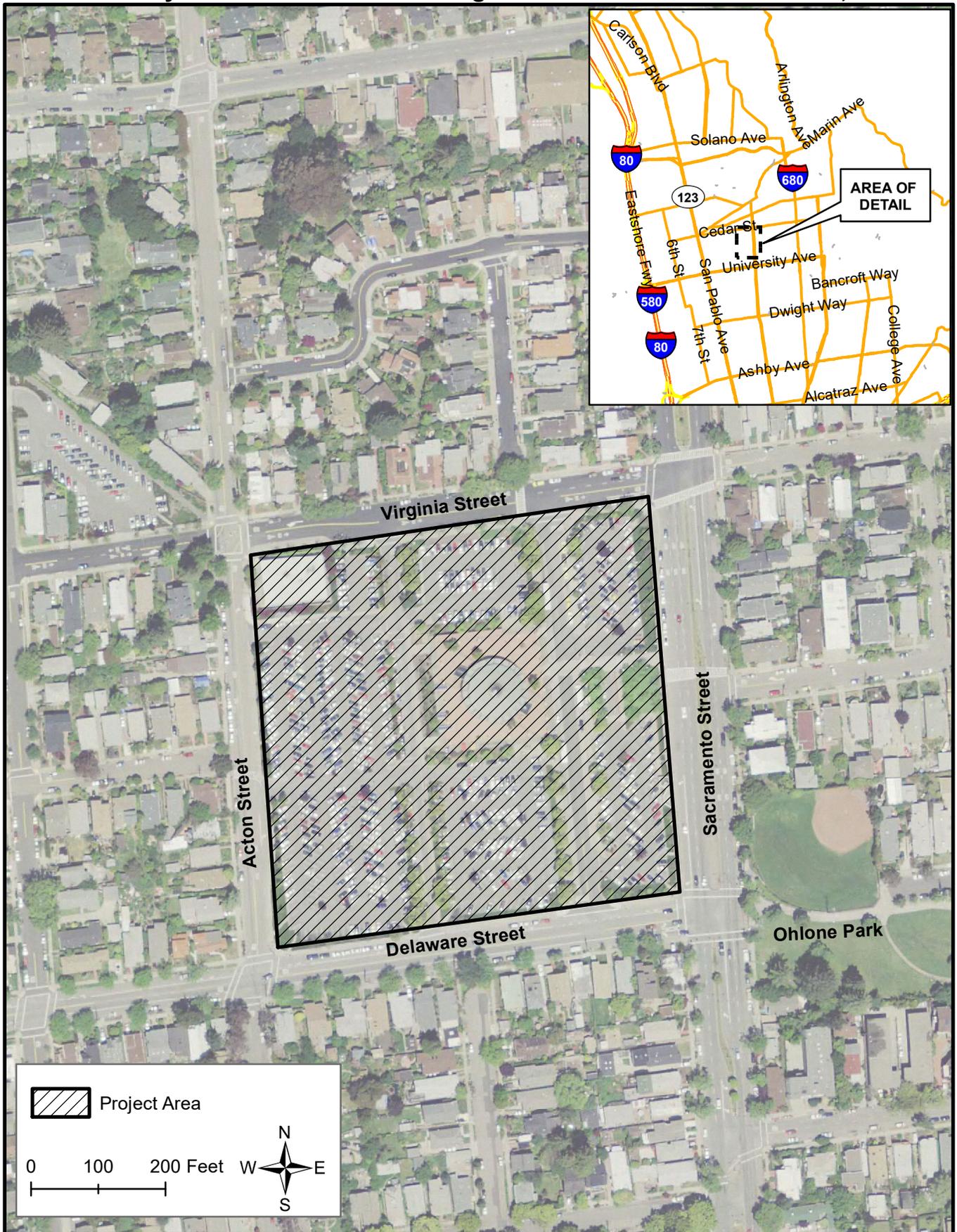
The Project is not currently a candidate for recycled water; however, future recycled water pipeline expansions toward the City could potentially serve a portion of the Project boundaries. Recycled water is appropriate for outdoor landscape irrigation, and the District is evaluating options of recycled water for in-building, non-potable use. As the District further plans its recycled water program, the feasibility of providing recycled water to the Project may change. The District encourages the City and its developers to continue to coordinate closely with the District during the planning of the Project to further explore the options and requirements relating to recycled water use.

ALTERNATIVE

Do not submit a response. This alternative is not recommended because this assessment has been prepared pursuant to California Water Code, Sections 10910-10915 and is consistent with the law and the District's past WSAs.

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March 9, 2021

Justin Horner, Associate Planner
City of Berkeley
Department of Planning & Development
1947 Center Street, 2nd Floor
Berkeley, CA 94704

Re: Water Supply Assessment – Ashby and North Berkeley BART Station Transit-Oriented Development Zoning Standards Project

Dear Mr. Horner:

This letter is in response to your request made on January 4, 2021, for water agency consultation (Enclosure 1) concerning the Water Supply Assessment (WSA) for the Ashby and North Berkeley BART Station Transit-Oriented Development Zoning Standards Project (Project), located in the City of Berkeley (City), which is within East Bay Municipal Utility District's (EBMUD's) Ultimate Service Boundary. EBMUD appreciates the opportunity to provide this response.

Pursuant to Sections 10910-10915 of the California Water Code, the Project meets the threshold requirement for an assessment of water supply availability based on the amount of water this Project would require, which is greater than the amount of water required by a 500-dwelling-unit project.

Please note this WSA addresses the issue of water supply only and is not a guarantee of service; future water service is subject to the rates and regulations in effect at that time.

Project Demand

The water demand for the Project is accounted for in EBMUD's water demand projections, as published in EBMUD's Urban Water Management Plan (UWMP) 2015 (Enclosure 2). EBMUD's water demand projections account for anticipated future water demands within EBMUD's service boundaries and for variations in demand-attributed changes in development patterns. The existing land uses consist of parking spaces and transit BART stations with historical water use of approximately 14,000 gallons per day (GPD). The projected water use at Project build-out is approximately 440,000 GPD.

EBMUD's demand projections indicate both densification and land use changes in a few existing land use classifications, including commercial and residential land use areas. These changes increase demand for EBMUD water. EBMUD's UWMP 2015 projects water demands over time, accounting for estimated variations in demand usage minus

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conservation and recycled supply sources, as noted in the UWMP 2015, Table 4-1, Mid-Cycle Demand Projections (Table 1). Typically, EBMUD prepares a full demand study every ten years; the most recent version, the 2050 Demand Study, was completed in 2020. For planning purposes, water demands are estimated in five-year increments, but it is recognized that actual incremental amounts may occur stepwise in shorter time increments. An increase in usage by one customer in a particular customer class does not require a strict gallon-for-gallon increase in conservation by other customers in that class, as, in actuality, the amount of potable demand, conservation and recycled water use EBMUD-wide will vary somewhat. In 2014, EBMUD prepared the Mid-Cycle Demand Assessment (MCDA) in order to assess any significant effects on metered water consumption caused by the 2008-2010 drought, and the economic downturn that affected growth in the Bay Area. As part of the MCDA, EBMUD reviewed recently updated city and county general plans for significant changes since the 2040 Demand Study, and held meetings with representatives from the cities of Alameda, Oakland, Richmond and San Ramon. The MCDA concluded that, while the cities and counties might reach their build-out goals later than originally anticipated, they would still reach these goals by 2040. Accordingly, the MCDA validated the 2040 Demand Study, as demands are expected to gradually increase back to 2040 projected levels as development and water use return to pre-drought and pre-recession conditions. EBMUD completed a comprehensive demand study in 2020 with a long-term horizon of 2050. As part of the demand study, EBMUD reached out to each city and county in the service area to ask about projected development and future land-use changes. The study results will be incorporated into the UWMP 2020.

Table 1
Mid-Cycle Demand Projections (UWMP 2015, Table 4-1)

AVERAGE ANNUAL DEMAND (MGD)	MID-CYCLE DEMAND PROJECTIONS					
	2015	2020	2025	2030	2035	2040
PROJECTED TOTAL DEMAND	232	267	276	290	304	312
CONSERVATION ¹	-33	-39	-44	-51	-57	-62
NON-POTABLE WATER ^{1,2}	-9	-11	-14	-17	-18	-20
PLANNING LEVEL OF DEMAND	190	217	218	222	229	230

1 See Chapters 6 and 7 for more discussion of water recycling and conservation, respectively.
2 Non-potable water includes recycled water and raw water projects.

Project Area

The Project includes three proposed development sites located within or adjacent to the Ashby BART and North Berkeley BART Stations. The Ashby BART Station includes two proposed development sites within the existing 4.4-acre transit station and the 1.9-acre surface parking lot. The existing 4.4-acre transit station site is located west of the Ed Roberts Campus and bounded by Ashby Avenue (California State Route 13) to the north; Martin Luther King Jr. Way to the west; and Adeline Street to the east. The existing 1.9-acre surface parking lot is located immediately east of the Ed Roberts Campus and

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bounded by Tremont Street to the east; Woolsey Street to the south; and residential houses to the north. At build-out, the areas of the Ashby BART locations will include the development of up to 1,200 residential dwelling units and 100,000 square feet of non-residential space. The North Berkeley BART station includes one proposed development site located at the existing 8.1-acre transit station and parking lot. The site is located west of Ohlone Park and bounded by Sacramento Street to the east; Acton Street to the west; Virginia Street to the north; and Delaware Street to the south. At build-out, the areas of the North Berkeley BART location will include development of up to 1,200 residential dwelling units and 25,000 square feet of non-residential space. The total Project area consists of 14.4 acres. At build-out, the Project will include the combined development of up to 2,400 residential dwelling units and 125,000 square feet of non-residential space.

EBMUD Water Demand Projections

Since the 1970s, water demand within EBMUD's service area has ranged from 200 to 220 million gallons per day (MGD) in non-drought years. Section 4.1 of the UWMP 2015 outlines past and current EBMUD water demand, including Figure 4-1 which shows historic water use (including metered and unmetered demands) within EBMUD's service area, along with the number of customer accounts. The 2040 water demand forecast of 312 MGD for EBMUD's service area can be reduced to 230 MGD with the successful implementation of water recycling and conservation programs, as outlined in the UWMP 2015. Current demand is lower than estimated in the MCDA as a result of the recent multi-year drought. This is because the planning level of demand may differ from the actual demand in any given year due to water use reductions that typically occur during droughts. After droughts, a rebound effect is expected wherein demand rises back to projected levels. Thus, the MCDA still reflects a reasonable expectation for demand in year 2040, as the demands are expected to gradually increase back to 2040 projected demand levels as development and water use return to pre-drought and pre-recession conditions. The proposed Project's future development and operations will not change EBMUD's 2040 demand projection.

EBMUD Water Supply, Water Rights and the UWMP 2015

EBMUD has water right permits and licenses that allow for delivery of up to a maximum of 325 MGD from the Mokelumne River, subject to the availability of Mokelumne River runoff and the senior water rights of other users. EBMUD's position in the hierarchy of Mokelumne River water users is determined by a variety of agreements between Mokelumne River water right holders and the terms of the appropriative water right permits and licenses.

Conditions that could, depending on hydrology, restrict EBMUD's ability to receive its full entitlement include:

- Upstream water use by senior water right holders.

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- Downstream water use by riparian and senior appropriators and other downstream obligations, including protection of public trust resources.
- Variability in precipitation and runoff.

During prolonged droughts, the Mokelumne River supply cannot meet EBMUD's projected customer demands. To address this, EBMUD has completed construction of the Freeport Regional Water Facility and the Bayside Groundwater Project Phase 1, which are discussed below in the Supplemental Water Supply and Demand Management section of this assessment. EBMUD has obtained and continues to seek supplemental supplies.

The UWMP 2015, adopted on June 28, 2016 by EBMUD's Board of Directors under Resolution No. 34092-16, is a long-range planning document used to assess current and projected water usage, water supply planning, and conservation and recycling efforts. EBMUD's water supply sources are discussed in Section 1.5.1 of the UWMP 2015. EBMUD's main water supply is the Mokelumne River, and EBMUD has rights to receive up to 325 MGD of water from this source subject to the availability of runoff, senior water rights of other users, and downstream fishery flow requirements. EBMUD also has a Long-Term Renewal Contract (Contract No. 14-06-200-5183A-LTR1) with the United States (U.S.) Bureau of Reclamation to receive water from the Central Valley Project (CVP) through the Freeport Regional Water Facility in years when EBMUD's water supplies are relatively low (for more details, see Section 3.3.2 of the UWMP 2015). During some dry years, EBMUD may purchase water transfers to help meet customer demands. Section 5.1 of the UWMP 2015 discusses EBMUD's water transfer program.

EBMUD maintains a biennial budget and five-year capital improvement program to optimize investments and maximize drinking water quality, and the reliability, safety, flexibility, and overall efficiency of the water supply system. EBMUD's most recently adopted budget, which includes capital expenditures for the delivery of water supplies to its customers, can be found at <http://www.ebmud.com/about-us/investors/budget-and-rates/>.

EBMUD complies with applicable local, state, and federal regulations in the operation of its water supply system. Figure 1-4 of the UWMP 2015 illustrates the numerous local, state, and federal agencies that may regulate EBMUD's facilities and operations.

A summary of EBMUD's demand and supply projections, in five-year increments, for a 25-year planning horizon is provided in UWMP 2015, Table 4-5, Preliminary EBMUD Baseline Supply and Demand Analysis (Table 2).

EBMUD's evaluation of water supply availability accounts for the diversions of both upstream and downstream water right holders and fishery releases on the Mokelumne River. Fishery releases are based on the requirements of a 1998 Joint Settlement Agreement (JSA) between EBMUD, U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife. The JSA requires EBMUD to make minimum flow

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releases from its reservoirs to the lower Mokelumne River to protect and enhance the fishery resources and ecosystem of the river. As this water is released downriver, it is, therefore, not available for use by EBMUD's customers.

Table 2
Preliminary EBMUD Baseline Supply and Demand Analysis
(UWMP 2015, Table 4-5)

SUPPLY AND DEMAND COMPARISON - NORMAL YEAR (MGD)		2015	2020	2025	2030	2035	2040
	MOKELUMNE SYSTEM	>190	>217	>218	>222	>229	>230
	DEMAND TOTALS	190	217	218	222	229	230
	DIFFERENCE	0	0	0	0	0	0
DRY YEAR RESULTS FROM EBMUDSIM (MGD)		2015	2020	2025	2030	2035	2040
SINGLE DRY YEAR OR FIRST YEAR OF MULTI-YEAR DROUGHT	MOKELUMNE SYSTEM	145	169	170	173	179	179
	CVP SUPPLIES²	36	35	35	35	35	35
	BAYSIDE³	0	0	0	0	0	0
	SUPPLY TOTALS	181	204	205	209	214	215
	PLANNING LEVEL DEMAND¹	190	217	218	222	229	230
	RATIONING⁴	5%	6%	6%	6%	7%	7%
	DEMAND TOTALS	180	203	204	208	213	214
	NEED FOR WATER (TAF)⁵	0	0	0	0	0	0
SECOND YEAR	MOKELUMNE SYSTEM	81	103	103	107	112	113
	CVP SUPPLIES²	71	71	71	71	71	71
	BAYSIDE³	0	0	0	0	0	0
	SUPPLY TOTALS	152	174	174	178	183	184
	PLANNING LEVEL DEMAND¹	190	217	218	222	229	230
	RATIONING⁴	20%	20%	20%	20%	20%	20%
	DEMAND TOTALS	152	174	175	178	184	185
	NEED FOR WATER (TAF)⁵	0	0	0	0	0	0
THIRD YEAR	MOKELUMNE SYSTEM	111	132	132	125	120	104
	CVP SUPPLIES²	40	40	40	40	40	40
	BAYSIDE³	1	1	1	1	1	1
	SUPPLY TOTALS	152	174	173	166	162	145
	PLANNING LEVEL DEMAND¹	190	217	218	222	229	230
	RATIONING⁴	20%	20%	20%	20%	20%	20%
	DEMAND TOTALS	152	174	174	178	183	184
	NEED FOR WATER (TAF)⁵	0	0	2	13	24	48

1. Planning Level of Demand accounts for projected savings from water recycling and conservation programs as discussed in Chapters 6 and 7 respectively. Customer demand values are based on the Mid Cycle Demand Assessment, October 2014.
2. Projected available CVP supplies are taken according to the Drought Management Program Guidelines discussed in Chapter 3.
3. For the purposes of this modeling effort, it is assumed that the Bayside Groundwater Project would be brought online in the third year of a drought.
4. Rationing reduction goals are determined according to projected system storage levels in the Drought Management Program Guidelines discussed in Chapter 3.
5. Need for Water includes unmet customer demand as well as shortages on the Lower Mokelumne River.

Justin Horner, Associate Planner
March 9, 2021
Page 6

The available supply and demand shown in Table 2 were derived from EBMUD's baseline hydrologic model with the following assumptions:

- Customer demand values are based on the MCDA, and planning-level demands account for projected savings from water recycling and conservation programs.
- EBMUD Drought Planning Sequence assumes water years 1976, 1977 and a modified 1978 hydrology.
- Total system storage is depleted by the end of the third year of the drought.
- EBMUD will implement its Drought Management Program (DMP) when necessary.
- The diversions by Amador and Calaveras Counties upstream of Pardee Reservoir will increase over time, eventually reaching the full extent of their senior rights.
- Releases are made to meet the requirements of senior downstream water right holders and fishery releases, as required by the JSA.
- EBMUD allocation of CVP supply is available the first year of a drought and subsequent drought years, according to the U.S. Bureau of Reclamation's Municipal and Industrial Shortage Policy.
- The Bayside Groundwater Project Phase 1 is available and brought online in the third year of a drought.

The UWMP 2015 concludes that EBMUD has, and will have, adequate water supplies to serve existing and projected demand within the Ultimate Service Boundary during normal and wet years, but that deficits are projected for multi-year droughts. During multi-year droughts, EBMUD may require significant customer water use reductions and may also need to acquire supplemental supplies to meet customer demand.

As discussed under the DMP Guidelines section in Chapter 3 of the UWMP 2015, EBMUD's system storage generally allows EBMUD to continue serving its customers during dry-year events. EBMUD typically imposes water use restrictions based on the projected storage available at the end of September and, based on recent changes to its DMP Guidelines (summarized below), may also implement water use restrictions in response to a State of California mandate. By imposing water use restrictions in the first dry year of potential drought periods, EBMUD attempts to minimize water use restrictions in subsequent years if a drought persists. Throughout dry periods, EBMUD must continue to meet its current and subsequent-year fishery flow release requirements and obligations to downstream agencies.

The UWMP 2015 includes DMP Guidelines that establish the level of water use restrictions EBMUD may implement under varying conditions. Under the DMP Guidelines, water use restrictions may be determined based upon either projected end-of-September Total System Storage (TSS) or water use restriction mandates from the State Water Resources Control Board. When state-mandated water use restrictions exceed the reductions that would otherwise be called for based upon end-of-September TSS,

Justin Horner, Associate Planner
March 9, 2021
Page 7

EBMUD's water use reduction requirements may be guided by the applicable state mandates. Under either scenario, while EBMUD strives to keep water use reductions at or below 15 percent, if the drought is severe, mandatory water use reductions could exceed 15 percent.

Despite water savings from EBMUD's aggressive conservation and recycling programs and water use restrictions called for in the DMP Guidelines, supplemental supplies are still needed in significant, severe, and critical droughts. The proposed Project will be subject to the same drought restrictions that apply to all EBMUD customers. In addition, the proposed Project will be subject to EBMUD's regulations aimed at encouraging efficient water use, such as Sections 29 and 31 of EBMUD's Regulations Governing Water Service. Section 29, "Water Use Restrictions," promotes efficient water use by EBMUD customers and prohibits certain uses of potable water. Section 31, "Water Efficiency Requirements," identifies the types of water efficiency requirements (i.e., maximum flow rates for flow control devices) for water service.

Supplemental Water Supply and Demand Management

The goals of meeting projected water needs and increased water reliability rely on supplemental supplies, improving reliability of existing water supply facilities, water conservation, and recycled water programs.

By 2011, EBMUD completed construction of the Freeport Regional Water Facility and the Bayside Groundwater Project Phase 1 to augment its water supply during drought periods. However, additional supplemental supplies beyond those provided through these facilities will still be needed, as noted above. Chapter 5 of the UWMP 2015 describes potential supplemental water supply projects that could be implemented to meet projected long-term water demands during multi-year drought periods.

The Freeport Regional Water Facility became operational in February 2011. EBMUD's ability to take delivery of CVP water through the Freeport Regional Water Facility is based on its Long Term Renewal Contract (LTRC) with the U.S. Bureau of Reclamation. The LTRC provides for up to 133,000 acre feet of CVP supply in a single dry year, not to exceed a total of 165,000 acre feet in three consecutive dry years. Under the LTRC, the CVP supply is available to EBMUD only in dry years when EBMUD's total stored water supply is forecast to be below 500,000 total acre feet on September 30 of each year.

EBMUD is developing the Bayside Groundwater Project in phases to provide a source of supplemental supply in dry years. Construction of the first phase (Bayside Groundwater Project Phase 1) was completed in 2010, allowing EBMUD to inject treated potable water into a deep aquifer in the South East Bay Plain Groundwater Basin for later extraction, treatment, and use during severe droughts. A permit from the Department of Public Health is required before the groundwater can be extracted and treated for municipal use. As described in Chapter 4 of the UWMP 2015, EBMUD's drought planning calls for using the

Justin Horner, Associate Planner
March 9, 2021
Page 8

Bayside Groundwater Project Phase 1 during the third year of multi-year droughts to provide up to 1 MGD of water to meet customer demands. Additional information on the Bayside Groundwater Project can be found in Section 5.3 and Appendix E of the UWMP 2015.

Chapter 5 of the UWMP 2015 also lists other potential supplemental water projects, including Northern California water transfers, Bayside Groundwater Project Expansion, expansion of Contra Costa Water District's Los Vaqueros Reservoir, and others that could be implemented to meet the projected long-term water supplemental need during multi-year drought periods. The UWMP 2015 identifies a broad mix of projects, with inherent scalability and the ability to adjust implementation schedules for particular components, which will allow EBMUD to pursue the necessary supplemental supplies while minimizing the risks associated with future uncertainties, such as project implementation challenges and global climate change. The Environmental Impact Report that EBMUD certified for the Water Supply Management Program 2040 examined the impacts of pursuing these supplemental supply projects at a program level. Separate project-level environmental documentation will be prepared, as appropriate, for specific components as they are developed in further detail and implemented in accordance with EBMUD's water supply needs.

In addition to pursuing supplemental water supply sources, EBMUD also maximizes resources through continuous improvements in the delivery and transmission of available water supplies and investments in ensuring the safety of its existing water supply facilities. These programs, along with emergency interties and planned water recycling and conservation efforts, would ensure a reliable water supply to meet projected demands for current and future EBMUD customers within the current service area.

Water Conservation and Recycled Water Considerations

The proposed Project presents opportunities to incorporate water conservation measures. Conditions of approval for the implementation of the proposed Project should require that the Project comply with the California Model Water Efficient Landscape Ordinance (Division 2, Title 23, California Code of Regulations, Chapter 2.7, Sections 490 through 495). EBMUD staff would appreciate the opportunity to meet with the City to discuss conservation measures. This meeting will explore early opportunities to expand water conservation via EBMUD's conservation programs and best management practices applicable to the Project.

Conservation strategies will be required to achieve water use reduction goals and restrictions, including compliance with Sections 29 and 31, described above, of EBMUD's Regulations Governing Water Service, and all other legally mandated water conservation requirements.

Justin Horner, Associate Planner
March 9, 2021
Page 9

The Project is not currently a candidate for recycled water; however, future recycled water pipeline expansions toward the City could potentially serve a portion of the Project boundaries. Recycled water is appropriate for outdoor landscape irrigation, and EBMUD is evaluating options of recycled water for in-building, non-potable use. As EBMUD further plans its recycled water program, the feasibility of providing recycled water to the Project may change. EBMUD encourages the City and its developers to continue to coordinate closely with EBMUD during the planning of the Project to further explore the options and requirements relating to recycled water use.

The Project sponsor should contact Jennifer L. McGregor, Senior Civil Engineer, at (510) 287-1030 for further information.

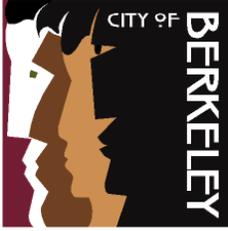
Sincerely,

David J. Rehnstrom
Manager of Water Distribution Planning Division

DJR:JML:btf
sb21_022b_Ashby and North Berkeley BART TOD Standards_WSA_Letter.docx

Enclosures: 1. Letter of Request for Water Supply Assessment dated January 4, 2021
2. EBMUD Urban Water Management Plan 2015

cc: Board of Directors w/o Enclosure 2



January 4, 2021

Sent via e-mail to:
drehnstr@ebmud.com

David Rehnstrom
Water Services Planning
East Bay Municipal Utility District
375 Eleventh Street
Oakland, CA 94607

RE: Request for Water Supply Assessment for the Ashby BART Station and North Berkeley BART Station Transit-Oriented Development Zoning Standards Project

Dear Mr. Rehnstrom:

Pursuant to Section 15155 of the California Environmental Quality Act (CEQA) Guidelines and Sections 10910-10915 of the California Water Code, the City of Berkeley requests that EBMUD prepare a Water Supply Assessment (WSA) to determine if there is adequate water supply to meet projected demand for future development under proposed zoning standards at the Ashby BART Station and North Berkeley BART Station.

California Assembly Bill (AB) 2923, passed in 2018, requires the adoption of TOD zoning standards for BART-owned properties within ½-mile of station entrances in Alameda, Contra Costa and San Francisco counties that establish specific local zoning requirements for height, density, parking, and floor area ratio. The Project includes development of standards that comply with AB 2923 and are guided by additional City policy priorities related to affordable housing, an overall emphasis on social equity, and development without displacement. In 2020, the City of Berkeley began a community planning process to develop zoning/site planning scenarios for the Ashby and North Berkeley BART stations to refine into final zoning standards that comply with AB 2923. These sites are shown in Figure 1 and Figure 2.

An EIR will analyze potential environmental impacts of development that could be encouraged by the land use regulation changes in the proposed Project. At the Ashby BART station, the EIR will evaluate the impact of up to 1,200 dwelling units and 100,000 square feet of non-residential space that would be constructed, distributed between the 4.4-acre station site and the 1.9 acre surface parking lot east of the Ed Roberts campus. At the North Berkeley BART station, the EIR will evaluate the impact of up to 1,200 dwelling units, as well as 25,000 square

Mr. David Rehnstrom

January 4, 2021

Page 2

feet of non-residential space, located on the main 8.1-acre station site. The three auxiliary lots located northwest of the station along the Ohlone Greenway are not anticipated to include any new development. Per the Memorandum of Understanding (MOU) between BART and the City of Berkeley, and due to their location directly above the underground BART right of way, it is anticipated that these lots would include only surface infrastructure enhancements.

City Planning staff and its consultant team led by Rincon Consulting are currently in the process of preparing the EIR for this project. The City anticipates releasing draft EIR for public review in Spring 2021.

The City understands that this WSA request is a required part of the environmental documentation for the project and that EBMUD has up to 90 days to prepare the WSA. The timing of this request coincides with the EIR preparation currently underway.

Please contact me at JHorner@cityofberkeley.info if you have any questions or require additional information. Thank you for your time and assistance on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin Horner", with a stylized flourish at the end.

Justin Horner

Associate Planner

City of Berkeley

Attachments:

1. Water use estimates for the project
2. EBMUD water use factors used to develop the water use estimate

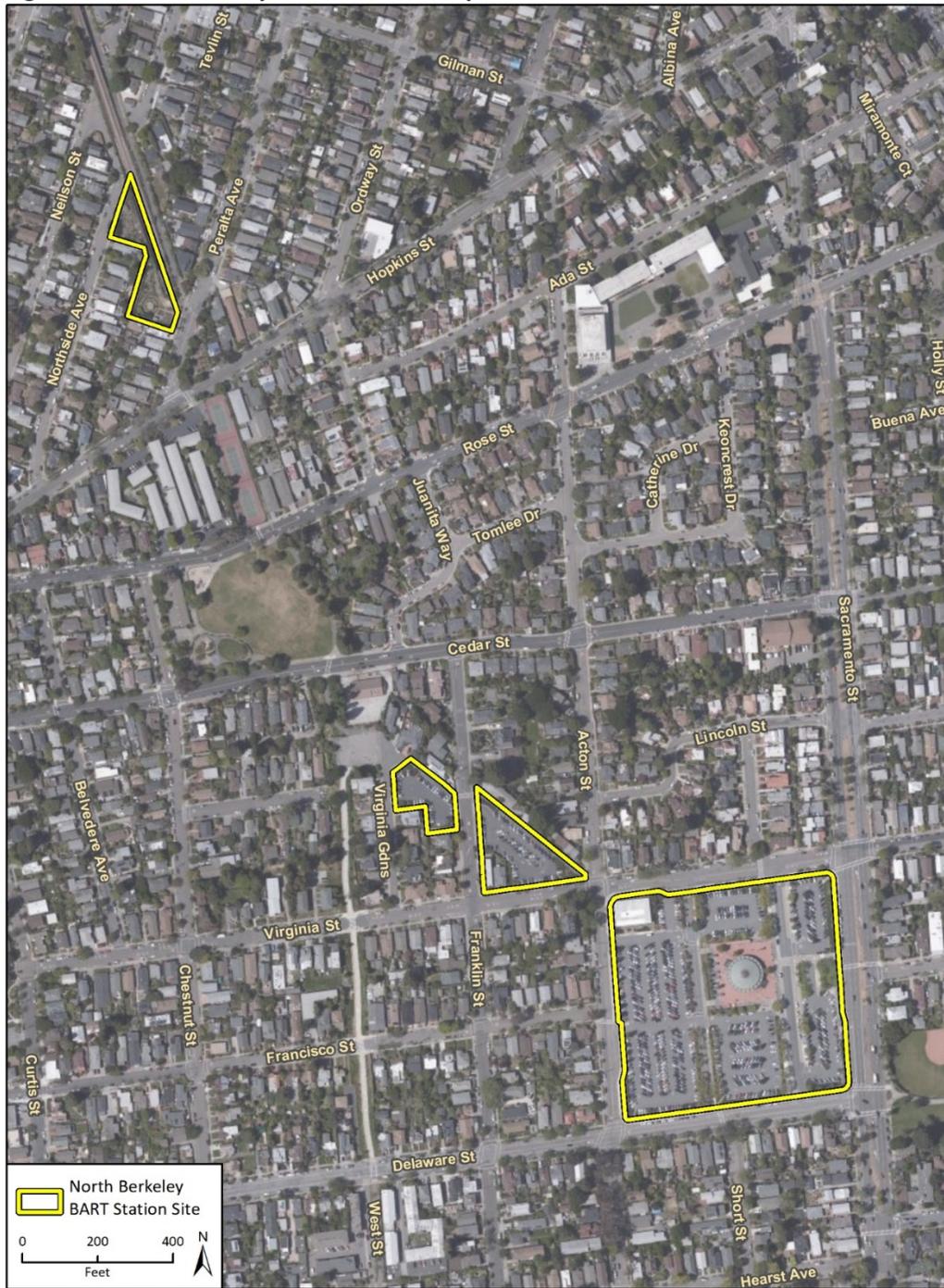
Figure 1 Ashby BART Station Map



Imagery provided by Microsoft Bing and its licensors © 2020.

Fig 2 Project Location_Ashby

Figure 2 North Berkeley BART Station Map



Imagery provided by Microsoft Bing and its licensors © 2020.

Fig 2 Project Location_N Berkeley

Attachment 1: WATER USAGE ESTIMATES

**Proposed 2030 Water Demand Under the
Ashby BART Station and North Berkeley BART Station TOD Development Standards Project**

Use	Quantity	Unit	Typical water demand (gallons per unit)*	Average Daily Water Demand (gpd)
Ashby BART Station (1, 2)				
Residential	3,000	Person	50	150,000
Non-residential (retail)	100,000	SF	0.388	38,800
			<i>Subtotal</i>	<i>188,800</i>
North Berkeley BART Station (3, 4)				
Residential	3,000	Person	50	150,000
Non-residential (retail)	12,500	SF	0.388	4,850
			<i>Subtotal</i>	<i>154,850</i>
			Total	343,650

Notes:

*Flowrate factors are based on reference material provided by EBMUD (see attachment)

50 gpd/person for high-rise apartments

0.173 gpd/sf for general office (-10 years)

0.388 gpd/sf for department store

(1) Assumed 1,200 units at Ashby BART and 2.5 persons per unit = 3,000 people

(2) Assumed 100,000 square feet of non-residential at Ashby BART, all retail (to be conservative)

(3) Assumed 1200 units at North Berkeley BART and 2.5 persons per unit

(4) Assumed 25,000 square feet of non-residential at NB BART, all retail

Attachment 3

WASTEWATER ENGINEERING

Treatment, Disposal,
and Reuse

Third Edition

METCALF & EDDY, INC.

Revised by

George Tchobanoglous

*Professor of Civil Engineering
University of California, Davis*

Franklin L. Burton

*Vice President, Retired
Metcalf & Eddy, Inc.*

McGraw-Hill, Inc.

New York St. Louis San Francisco Auckland Bogotá
Caracas Lisbon London Madrid Mexico City Milan
Montreal New Delhi San Juan Singapore
Sydney Tokyo Toronto

Commercial facilities. The water used by commercial facilities for sanitary purposes will vary widely depending on the type of activity (e.g., an office as compared to a restaurant). Typical water-use values for various types of commercial facilities are reported in Table 2-3. For large commercial water-using facilities such as laundries and car washes, careful estimates of actual water use should be made.

Institutional facilities. Water used by facilities such as hospitals, schools, and rest homes is usually based on some measure of the size of the facility and the type of housing function provided (e.g., per student or per bed). Water use for schools will vary significantly depending on whether the students are housed on campus or are day students. Representative water-use values for institutional facilities are reported in Table 2-4.

TABLE 2-3
Typical rates of water use for commercial facilities^a

User	Unit	Flow, gal/unit · d	
		Range	Typical
Airport	Passenger	3-5	4
Apartment house	Person	100-200	100
Automobile service station	Employee	8-15	13
	Vehicle served	8-15	10
Boarding house	Person	25-50	40
Department store	Toilet room	400-600	550
	Employee	8-13	10
Hotel	Guest	40-60	50
	Employee	8-13	10
Lodging house and tourist home	Guest	30-50	40
Motel	Guest	25-40	35
Motel with kitchen	Guest	25-60	40
Laundry (self-service)	Machine	400-650	550
	Wash	45-55	50
Office	Employee	8-20	15
Public lavatory	User	3-6	5
Restaurant (including toilet)	Conventional	Customer	8-10
	Short-order	Customer	3-8
	Bar and cocktail lounge	Customer	2-4
		Seat	15-25
Shopping center	Parking space	1-3	2
	Employee	8-13	10
Theater	Indoor	Seat	2-4
	Outdoor	Car	3-5

^a Adapted in part from Refs. 7 and 8.

Note: gal × 3.7854 = L

TABLE 2-4
Typical water-

User

Assembly hall
Hospital, medical

Hospital, mental

Prison

Rest home

School, day

With cafeteria, g
and showers

With cafeteria or
Without cafeteria

School, boarding

^a Adapted in part from
Note: gal × 3.7854 = L

Recreati

bowling alleys,
involving water

Industrial (No

pal agencies to i
water-using indu
their own suppl
those involved i
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water use to be
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work to inspect
of both water u

Public Servic

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used for public
system mainte
new water line
flushing of sew
sanitary sewer

TABLE 2-9
 Typical wastewater flowrates from
 residential sources^a

Source	Unit	Flow, gal/unit · d	
		Range	Typical
Apartment:			
High-rise	Person	35-75	50
Low-rise	Person	50-80	65
Hotel	Guest	30-55	45
Individual residence:			
Typical home	Person	45-90	70
Better home	Person	60-100	80
Luxury home	Person	75-150	95
Older home	Person	30-60	45
Summer cottage	Person	25-50	40
Motel:			
With kitchen	Unit	90-180	100
Without kitchen	Unit	75-150	95
Trailer park	Person	30-50	40

^a Adapted in part from Ref. 7.

Note: gal × 3.7854 = L

vary with the region, climate, and type of facility. The actual records of institutions are the best sources of flow data for design purposes.

Recreational Facilities. Wastewater flowrates from many recreational facilities are highly seasonal. Typical data on wastewater flowrates from recreational facilities are presented in Table 2-12.

Sources and Rates of Industrial (Nondomestic) Wastewater Flows

Nondomestic wastewater flowrates from industrial sources vary with the type and size of the facility, the degree of water reuse, and the onsite wastewater treatment methods, if any. Extremely high peak flowrates may be reduced by the use of detention tanks and equalization basins. Typical design values for estimating the flows from industrial areas that have no or little wet-process type industries are 1000 to 1500 gal/acre · d (9 to 14 m³/ha · d) for light industrial developments and 1500 to 3000 gal/acre · d (14 to 28 m³/ha · d) for medium industrial developments. Alternatively, for estimating industrial flowrates where the nature of the industry is known, data such as those reported in Table 2-6 can be used. For industries without internal recycling or reuse programs, it can be assumed that about 85 to 95 percent of the water used in the various operations and processes will become wastewater. For large industries with internal water-reuse programs, separate estimates must be made. Average domestic

Water Supply Planning

David W. Prasifka



Krieger Publishing Company
Malabar, Florida
1994

Table 1-6. Summary of Commercial and Institutional Water Use.

Type of Establishment or Institution	Selected Parameter	Annual Water Use (gpd/unit)		Maximum Day Water Use (gpd/unit)		Peak Hour Water Use (gpd/unit)	
		Expected	Design	Expected	Design	Expected	Design
Primary and secondary schools							
public elementary	gpd/student	5.38	8.67	9.68	13.00	49.10	52.40
public senior high	gpd/student	5.64	9.75				
public junior high	gpd/student	6.63	12.20	19.60	25.20	121.00	127.00
private elementary	gpd/student	2.24	6.09	3.10	6.92	25.70	29.50
private senior high	gpd/student	10.40	18.60	15.70	23.90	38.70	46.90
combined (grades 1-12)	gpd/student	8.49	18.70	16.80	27.00	51.30	61.50
Colleges							
students in residence	gpd/student	106	179	114	187	250	323
nonresident students	gpd/student	15	*	27	*	58	*
Hospitals							
	gpd/bed	346	559	551	764	912	1120
Nursing homes and institutions							
	gpd/bed	113	209	146	222	424	500
Apartments							
high-rise	gpd/occupied unit	218	322	426	530	745	849
garden-type	gpd/occupied unit	213	315	272	374	671	773
Hotels							
	gpd/sq. ft.	0.256	*	0.294	*	0.433	*
Motels							
	gpd/sq. ft.	0.224	0.326	0.461	0.563	1.55	1.65
Office buildings							
general offices (- 10 years)	gpd/sq. ft.	0.093	0.164	0.173	0.244	0.521	0.592
general offices (+ 10 years)	gpd/sq. ft.	0.142	0.273				
medical offices	gpd/sq. ft.	0.618	*	1.660	*	4.970	*
Department stores							
	gpd/sq. ft. of total sales area	0.216	0.483	0.388	0.655	0.958	1.230
Shopping centers							
	gpd/sq. ft. of total sales area	0.160	*	0.232	*	0.412	*
Car washes							
	gpd/sq. ft.	4.78	*	10.3	*	31.5	*
Service stations							
	gpd/sq. ft. of garage & office space	0.251	0.485	0.590	0.824	4.890	5.120
Laundries							
commercial laundries & dry cleaners	gpd/sq. ft.	0.253	0.639	0.326	0.712	1.570	1.960
laundromats	gpd/sq. ft.	2.170	6.390	*	*	*	*
Restaurants							
drive-ins (parking only)	gpd/car space	109.0					
drive-ins (seating & parking)	gpd/seat	40.6					
conventional restaurants	gpd/seat	24.2	55.2	83.4	114	167	198

(continued)

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AGENDA NO. 13.1.
MEETING DATE March 9, 2021

TITLE AUTHORIZE CONTINUED EMPLOYMENT OF ELLISON, SCHNEIDER, HARRIS & DONLAN, LLP, FOR SPECIALIZED LEGAL SERVICES

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input checked="" type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize the Office of General Counsel to continue the employment of the law firm of Ellison, Schneider, Harris & Donlan, LLP, for specialized legal services related to water and energy law and litigation matters in an additional amount not to exceed \$75,000.

DISCUSSION

The law firm of Ellison, Schneider, Harris & Donlan, LLP, specializes in water and energy law, with expertise in water rights, groundwater law and adjudications. The firm currently provides the District with specialized legal assistance on institutional and water rights issues and in related state and federal regulatory proceedings and litigation matters. The firm also specializes in electric power issues and provides assistance with legal issues involving the options and cost-effectiveness of the District’s energy services, and the District’s interests in various energy initiatives and proceedings before the California Public Utilities Commission. Further detail on the nature of services provided by Ellison, Schneider, Harris & Donlan, LLP, is set forth in a separate confidential attorney-client privileged memorandum to the Board.

SUSTAINABILITY

Economic

Funding for this item is available in the FY21 adopted operating budget.

I:\Sec\2021 Board Related Items\030921 Board Agenda Items\OGC - Ellison Schneider Harris Donlan.docx

Funds Available: FY21	Budget Coding: WSO 130 8511 5231	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Office of General Counsel	Craig S. Spencer	 General Manager
Attachment(s): P-035; P-061		

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CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement - Amendment Authorize Continued Employment of Ellison, Schneider, Harris & Donlan, LLP, for Specialized Legal Services	DATE: February 23, 2021
--	---------------------------------------

CONTRACTOR:			PERCENTAGE OF CONTRACT DOLLARS		
Ellison, Schneider, Harris & Donlan, LLP Sacramento, CA 95816	Small Business		Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men	25%	100.0%
	Ethnicity	Gender	White Women	6%	0.0%
\$75,000 *	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: Ellison, Schneider, Harris & Donlan, LLP	\$75,000	White	X		100.0%						
SUBS: None											
TOTAL	\$75,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	8	7	2	17
Percent of Total Employees:	47.1%	41.2%	11.8%	
MSA Labor Market %:	32.7%	30.0%	37.3%	
MSA Labor Market Location:	Sacramento			

COMMENTS

Contract Equity Participation - 100% White Men participation.

*Total not to exceed: \$75,000

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	NA	



AGENDA NO. 13.2
MEETING DATE March 9, 2021

TITLE AUTHORIZE CONTINUED EMPLOYMENT OF HANSON BRIDGETT, LLP, FOR SPECIALIZED LEGAL SERVICES

<u>TYPE</u>	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input checked="" type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
<u>ACTION</u>	<input checked="" type="checkbox"/> MOTION	<input type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

Authorize the Office of General Counsel to continue the employment of the law firm of Hanson Bridgett, LLP, for specialized legal services related to construction, public contracts and procurement, claims, intellectual property and technology matters, tax, public pension law, labor and employment, and litigation matters in an additional amount not to exceed \$175,000.

DISCUSSION

The firm of Hanson Bridgett, LLP, has been retained to assist the Office of General Counsel in matters related to construction, public contracts and procurement, claims, intellectual property and technology matters, tax, public pension law, labor and employment, and litigation matters. The Office of General Counsel is requesting authorization for additional funds for services described in a separate confidential attorney-client privileged memorandum to the Board.

SUSTAINABILITY

Economic

Funding for this item is included in the FY21 adopted operating budget.

I:\Sec\2021 Board Related Items\030921 Board Agenda Items\OGC – Hanson Bridgett LLP.docx

Funds Available: FY21	Budget Coding: WSO 130 8511 5231	Contract Equity Forms? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Office of General Counsel	Craig S. Spencer	 General Manager
Attachment(s): P-035; P-061		

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CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Professional Services Agreement - Amendment Authorize Continued Employment of Hanson Bridgett, LLP for Specialized Legal Services	DATE: February 23, 2021
---	-----------------------------------

CONTRACTOR:	PERCENTAGE OF CONTRACT DOLLARS		
Hanson Bridgett LLP San Francisco, CA 94105	Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE:	White Men	25%	100.0%
	White Women	6%	0.0%
\$175,000 *	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: Hanson Bridgett LLP	\$175,000	White	X		100.0%						
SUBS: None											
TOTAL	\$175,000				100.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	57	86	104	247
Percent of Total Employees:	23.1%	34.8%	42.1%	
MSA Labor Market %:	28.0%	23.6%	48.4%	
MSA Labor Market Location:	California			

COMMENTS

Contract Equity Participation - 100.0% White Men participation.

*Total not to exceed: \$175,000

Workforce Profile & Statement of Nondiscrimination Submitted	Good Faith Outreach Efforts Requirement Satisfied	Award Approval Recommended
NA	NA	4452A_P



AGENDA NO. 14.
MEETING DATE March 9, 2021

TITLE GRANT APPLICATION AND ACCEPTANCE RESOLUTION FOR PROPOSITION 68 FUNDS TO IMPLEMENT MOKELUMNE RIVER SPAWNING AND REARING HABITAT CREATION PROJECT

TYPE	<input type="checkbox"/> Construction	<input type="checkbox"/> General Services	<input type="checkbox"/> Materials & Supplies	<input type="checkbox"/> Professional Services
	<input type="checkbox"/> CEQA	<input checked="" type="checkbox"/> Grants	<input type="checkbox"/> Water Supply Assessment	<input type="checkbox"/> OTHER
ACTION	<input type="checkbox"/> MOTION	<input checked="" type="checkbox"/> RESOLUTION	<input type="checkbox"/> ORDINANCE	

RECOMMENDED ACTION

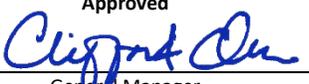
Adopt a resolution authorizing the District’s application to the California Natural Resources Agency for Proposition 68 grant funds from the Protecting California’s Rivers, Streams, and Watersheds Program for the Mokelumne River Spawning Gravel Enhancement and Floodplain Creation Project.

SUMMARY

In October 2020, the California Natural Resources Agency (CNRA) announced its decision to direct almost \$50 million in Proposition 68 grant funding to 15 projects to improve habitat for salmonids and other native fish species, including \$450,000 for floodplain habitat creation, spawning habitat creation, and maintenance of existing spawning habitat on the lower Mokelumne River. CNRA requires submission of a Board-adopted resolution approving the District’s application and appointing District staff responsible for grant administration, including the negotiation and execution of any agreements necessary to complete the funded projects.

DISCUSSION

The District has conducted habitat restoration projects on the lower Mokelumne River since 1990. In an effort to develop additional habitat projects, the District has actively engaged state agencies, including the California Department of Water Resources (DWR) and the California Department of Fish and Wildlife (DFW). As part of these efforts, in 2020 the District proposed habitat restoration actions to improve Mokelumne River salmonid populations. DWR included some of those proposed actions in a suite of 15 projects it recommended for Proposition 68 grant funding, and on October 1, 2020, CNRA announced its decision to fund that suite of projects. As a result, the District is eligible to receive \$450,000 for spawning gravel maintenance and augmentation and flood plain creation projects.

Funds Available: FY21	Budget Coding: 483-4524-5311	Contract Equity Forms? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Originating Department	Department Director or Manager	Approved
Water and Natural Resources	Michael T. Tognolini	 General Manager
Attachment(s): Resolution		

To accept this funding, CNRA requires the District to complete and submit a Project Information Package providing information regarding the projects slated for funding. CNRA also requires submission of a Board-adopted resolution approving the District's application and appointing District staff responsible for grant administration, including the negotiation and execution of any agreements necessary to complete the funded projects. CNRA requires the use of its template for that resolution, without deviation or revision. While a local cost share is not required for this grant program, the District may support the restoration projects by providing staff time and up to \$25,000 per year up to a maximum of \$75,000.

Work under this grant supports the District's Water Quality and Environmental Protection Strategic Plan goal.

SUSTAINABILITY

Economic

Acceptance of this grant will provide a cost-effective means to create up to three acres of floodplain habitat and maintain existing and add additional spawning habitat in the lower Mokelumne River. The FY21 adopted operating budget includes \$25,000 of funding for habitat restoration work. The proposed FY22 and FY23 operating budget includes \$25,000 per year for habitat restoration work.

Social

Accepting the grant will provide a publicly visible collaboration between the District and the CNRA. One requirement of the grant is the posting of public signage to inform the public of the project sponsors, funders, and collaborators.

Environmental

Acceptance of the grant will allow the District to continue to improve the habitat for Chinook salmon and steelhead in the lower Mokelumne River. The work is covered under the 2014 Initial Study and Mitigated Negative Declaration for the Lower Mokelumne River Spawning and Rearing Habitat Improvement Project (State Clearinghouse number 2014062077).

ALTERNATIVE

Do not accept the grant award. This alternative is not recommended because without grant funding, existing and future commitments to habitat restoration projects would require funding directly from the District's capital budget.

RESOLUTION NO. _____

RESOLUTION OF THE EAST BAY MUNICIPAL UTILITY DISTRICT
APPROVING THE APPLICATION FOR GRANT FUNDS FOR THE
PROTECTING CALIFORNIA'S RIVERS, STREAMS AND WATERSHEDS PROGRAM

Introduced by Director _____ ; Seconded by Director _____

WHEREAS, the Legislature and Governor of the State of California have provided funds for the program shown above; and

WHEREAS, the California Natural Resources Agency has been delegated the responsibility for the administration of this grant program and establishing necessary procedures; and

WHEREAS, said procedures established by the California Natural Resources Agency require a resolution certifying the approval of application(s) by the Applicant's governing board before submission of said application(s) to the State of California; and

WHEREAS, the Applicant, if selected, will enter into an agreement with the State of California to carry out the project;

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

1. Approves the filing of an application for the Mokelumne River Spawning Gravel Enhancement and Floodplain Creation Project; and
2. Certifies that Applicant understands the assurances and certification in the application; and
3. Certifies that Applicant or title holder will have sufficient funds to operate and maintain the project consistent with the land tenure requirements or will secure the resources to do so; and
4. Certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code; and
5. If applicable, certifies that the project will comply with any laws and regulations including, but not limited to, the California Environmental Quality Act, legal requirements for building codes, health and safety codes, and disabled access laws and that prior to commencement of construction all applicable permits will have been obtained; and
6. Certifies that Applicant will work towards the State Planning Priorities intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety as included in Government Code section 65041.1; and

7. Appoints the General Manager, or designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the aforementioned project.

ADOPTED this 9th day of March, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: March 4, 2021

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Marlaigne Dumaine, Manager of Legislative Affairs 

SUBJECT: Legislative Report No. 03-21

The following issues are being referred to the Legislative/Human Resources Committee for review and recommendation to the Board of Directors for action, as appropriate, on March 9, 2021.

RECOMMENDED ACTION

Approve positions on the following bills: 1) Support AB 818 (Bloom) Solid waste: premoistened nonwoven disposable wipes; 2) Support SB 810 (Committee on Governance and Finance) Validations; 3) Support SB 811 (Committee on Governance and Finance) Validations; and 4) Support SB 812 (Committee on Governance and Finance) Validations; and receive information on: 1) AB 361 (R. Rivas) Open meetings: local agencies: teleconferences; and 2) State and Federal Government Actions Related to the Coronavirus Disease 2019 (COVID-19).

STATE LEGISLATION

RECOMMENDED POSITION

AB 818 (Bloom)	SOLID WASTE: PREMOISTENED NONWOVEN DISPOSABLE WIPES	SUPPORT
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The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.

AB 818 (Bloom), as introduced on February 16, 2021, would require certain premoistened nonwoven disposable wipes (wet wipes) that are unsuitable for flushing down sewer systems to be clearly and conspicuously labeled to communicate that they should not be flushed. AB 818 is substantially similar to AB 1672 (Bloom) from 2019, which EBMUD supported and which failed to advance out of the legislature.

AB 818 would authorize civil penalties not to exceed \$2,500 per day, up to a maximum of \$100,000, for each violation and allow enforcement actions to be brought by the state Attorney General, a district attorney, a city attorney, or a county counsel.

AB 818 would also establish the California Consumer Education and Outreach program, that among other things, would require the manufacturers of non-flushable wet wipes to do the following: 1) participate in a study coordinated in conjunction with the California Association of Sanitation Agencies for the purpose of understanding consumer behavior regarding flushing of non-flushable wet wipes; 2) conduct a consumer opinion survey to identify baseline consumer behavior and awareness regarding flushing or other disposal of wet wipes; 3) conduct a comprehensive education and outreach program to promote consumer awareness and understanding of and compliance with the label and symbol notice requirements; 4) measure the effectiveness of the consumer education and outreach program; and 5) report annually to the State Water Resources Control Board and specified legislative committees on their activities related to the education and outreach program.

According to the Senate Committee on Environmental Quality, “an increasingly diverse range of disposable products has become available for consumer use. The growth of the market for such products is evidence of their popularity with the public, but their increased use brings with it discussion about their disposal, especially the topic of flushability. For disposable products that address public health and hygiene considerations, consumers often mistakenly use the wastewater system as a preferred means of disposal.”

When items, such as wet wipes, that are not designed for safe disposal in the sewer system are flushed, these items can cause sewer blockages, potentially damage sewer lines, and lead to costly sanitary sewer overflows. These materials can also clog machinery at the wastewater treatment plant, resulting in increased costs for sewage treatment.

For EBMUD, significant amounts of fibrous material have been found when cleaning the digesters at the Main Wastewater Treatment Plant. This material is likely the result of non-flushable materials, such as wet wipes, being flushed into the system. The fibrous material catches grit and retains it in the digesters, causing problems for digester operations.

AB 818 would help reduce the amount of non-flushable wet wipes being disposed into sewer systems, including EBMUD’s wastewater treatment system, by ensuring that non-flushable wet wipes are properly labeled.

With regard to anticipated costs and benefits to EBMUD and its ratepayers, benefits are anticipated in terms of reducing the amount of maintenance required for cleaning pumps and other equipment that is currently required to deal with non-flushable material. Some cost savings could accrue in the form of reduced maintenance and decreased disposal costs. Additional costs are not expected to accrue as a result of AB 818.

EBMUD has previously supported measures intended to reduce the amount of non-flushable wipes that are flushed into the sewer system. In 2019, EBMUD supported AB 1672 (Bloom), which was substantially similar to AB 818. AB 1672 failed to advance out of the legislature.

In 2010, EBMUD supported AB 2256 (Huffman) which would have required products labeled as “flushable” to meet certain criteria. AB 2256 failed to advance out of the legislature.

An official support/opposition list for AB 818 is not currently available.

SB 810, SB 811, SB 812 (Committee on Governance and Finance)	VALIDATIONS	SUPPORT
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SB 810, SB 811, and SB 812 (Committee on Governance and Finance), as introduced on February 23, 2021, would enact the Validating Acts of 2021. The legislature usually enacts three bills known as the Validating Acts each year to retroactively correct procedural errors or omissions that public officials of state agencies, cities, counties, and special districts may make inadvertently.

Banks, pension funds, and other investors will not buy municipal securities unless they are sound investments. Without the enactment of Validating Acts to cure minor errors that could undermine a bond’s legal integrity, bond counsel would be reluctant to certify public agencies’ bonds as good risks because of potential mistakes that could invalidate future payments. Safer bonds mean higher ratings and lower costs.

While the three Validating Acts save California taxpayers millions of dollars by protecting investors from minor procedural mistakes that might otherwise imperil bonds, boundary changes, proceedings, and other official acts, they will not cure fraudulent, illegal, or unconstitutional actions. A Validating Act cannot protect public officials who have acted illegally from prosecution.

With regard to cost benefit to EBMUD, this measure could benefit EBMUD by protecting investors from any minor procedural mistakes in bond issuances or other official acts. These measures are not expected to impose additional cost burdens on EBMUD ratepayers.

EBMUD has historically supported the Validating Acts. Most recently, in 2020, EBMUD’s Board adopted a “support” position on the Validating Acts of 2020, SB 928, SB 929, and SB 930, which were signed into law (Chapter 132, Chapter 133, and Chapter 134 of 2020, respectively).

An official support/opposition list for SB 810, SB 811, and SB 812 is not currently available.

AB 361 **OPEN MEETINGS: LOCAL AGENCIES: INFORMATION**
(R. Rivas) **TELECONFERENCES**

Existing law, the Ralph M. Brown Act (Brown Act), generally requires all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. The Brown Act allows for meetings to occur via teleconference subject to certain requirements, including but not limited to requirements that notice be provided for each teleconference location, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. In addition, the California Emergency Services Act authorizes the governor to proclaim a state of emergency under specified circumstances and authorizes a specified legislative body or an official designated to proclaim a local emergency.

AB 361 (R. Rivas), as introduced on February 1, 2021, is a work in progress sponsored by the California Special Districts Association intended to provide local agencies with flexibility to meet via teleconference during a governor declared state of emergency or a city or county declared local emergency.

On March 4, 2020, Governor Newsom declared a state of emergency due to the COVID-19 pandemic. Subsequently, the governor issued two executive orders that waived certain Brown Act requirements to provide local governments with needed flexibility to conduct meetings via teleconference during the pandemic. The executive orders only apply to the current pandemic and do not address the potential need to meet via teleconference during future emergencies.

The goal of AB 361 is to codify certain provisions of the executive orders to allow local agencies to meet via teleconference during future emergencies while maintaining transparency and public access. Under the circumstances listed below and during an emergency declared by the governor or the applicable city or county, AB 361 would permit a quorum of local agency officials that meet via teleconference to participate from locations outside the local agency's jurisdiction. In addition, local agencies would not be required to post agendas at all teleconference locations or make teleconference locations available to the public. The specific circumstances for which these provisions would apply are:

- the local agency is meeting to declare or ratify a local emergency;
- the local agency is meeting during a proclaimed state of emergency or declared local emergency, and state or local officials have imposed or recommended measures to promote social distancing; and
- the local agency is meeting during a proclaimed state of emergency or declared local emergency and the legislative body of the local agency determines that the attendance of one or more members of the legislative body in person is hindered, or meeting in person would present risks to the health or safety of attendees.

AB 361 would still require local agencies to provide notice of meetings and agendas in advance, as well as provide opportunities for the public to access the meeting and provide public comment, though local agencies would not be required to provide a physical location for attendance or public comment.

In accordance with EBMUD's 2020 and 2021 state legislative initiatives, staff has been pursuing legislation to update the statutory requirements for reaching a board quorum to declare an emergency by eliminating the requirement that a quorum be present in the service area when meeting via teleconference to declare or ratify an emergency. AB 361 includes language that would partially address this initiative. However, the bill's provisions would only apply during an emergency that has been declared by the governor or the applicable city or county and not to emergencies that are intended to or have only been declared by other local agencies, such as special districts.

AB 361 is one of several legislative vehicles that have been introduced in the policy area of open meetings and use of teleconferences. Discussions on the topic are ongoing and the legislative vehicles are expected to evolve.

Next Steps

As this measure and the other measures on this topic evolve, staff will continue to engage with stakeholders and pursue the inclusion of the legislative change to allow the governing bodies of local agencies, including special districts, to meet via teleconference from locations outside the local agency's jurisdiction to declare or ratify an emergency. Staff will bring information back to the Board, as appropriate.

STATE AND FEDERAL GOVERNMENT ACTIONS RELATED TO THE CORONAVIRUS DISEASE 2019 (COVID-19)

INFORMATION

An overview of key state and federal actions taken in response to the COVID-19 pandemic since the February 4, 2021 Legislative Report No. 02-21 is provided below.

State Government Actions

No additional executive orders related to COVID-19 have been issued. However, the legislature and governor have agreed upon the following two COVID-19-related budget actions.

First, in February, the legislature passed and the governor signed a \$7.6 billion COVID-19 economic relief package consisting of six budget trailer bills – AB 81 (Ting), AB 82 (Ting), AB 85 (Committee on Budget), SB 87 (Caballero), SB 88 (Committee on Budget and Fiscal Review), and SB 94 (Skinner). The package of bills went into effect on February 23, 2021, and includes the following provisions:

- direct relief to individuals and families by providing \$600 in one-time payments to households receiving the California Earned Income Tax Credit for 2020, households earning below \$75,000 that were precluded from receiving federal stimulus payments, and households enrolled in CALWORKS, recipients of Supplemental Security Income/State Supplementary Payment assistance, and recipients of Cash Assistance Program for Immigrants assistance;
- fee waivers for restaurants and bars licensed through the Department of Alcohol and Beverage Control, as well as licensed cosmetologists and barbers;
- \$2.1 billion to provide grants of up to \$25,000 to small businesses;
- \$400 million in federal funds to extend child care for essential workers through June of 2022 by providing stipends to state-subsidized child care and preschool providers;
- \$24 million to house agricultural workers who need to quarantine away from their families;
- \$35 million for food banks and diapers;
- \$100 million in financial aid for low-income community college students;
- \$20 million to engage students who have left community college learning or are at risk of leaving;
- \$18 million to support supplemental food assistance to students at the University of California (UC), California State University (CSU), and community colleges, as well as the associated administrative workload in providing the assistance; and
- \$857 million to restore funding cut last year in the current state budget, including restoration of funding reductions to UCs, CSUs, and the judicial branch.

Second, on March 1, 2021, the governor and legislative leaders announced an agreement on a \$6.6 billion budget package to accelerate the safe return to in-person learning across California and help schools immediately expand academic, mental health and social-emotional supports, including over the summer. The legislative package includes \$2 billion to provide incentives for school districts to return to some form of in-person learning beginning with the youngest grades by April 1, and expanding to older grades depending on county tier status. The legislature is expected to vote on, and the governor to sign, the legislative package in the next few days.

Federal Government Actions

On January 27, 2021, the House passed H.R. 1319, the American Rescue Plan Act of 2021, a \$1.9 trillion coronavirus aid package. H.R. 1319 includes an additional \$500 million nationwide for pandemic relief for water and wastewater utility arrearages and rates for low-income households, on top of the \$638 million contained in H.R. 133, signed into law December 27, 2020.

The Senate is expected to take up the bill quickly, with expected passage to President Biden by March 14.

Next Steps

Staff is continuing to pursue funding eligibility for EBMUD under federal COVID-19 relief packages, including the state implementation of the funding allocations, and is engaged in discussions regarding future federal stimulus efforts. Staff will continue to monitor state and federal government actions in response to COVID-19 and engage as warranted. Staff will continue to provide updates to the Board, as appropriate.

CCC:MD:DM/JW

Attachments

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ASSEMBLY BILL

No. 818

Introduced by Assembly Member Bloom

February 16, 2021

An act to add Part 9 (commencing with Section 49650) to Division 30 of, and to repeal Section 49652 of, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 818, as introduced, Bloom. Solid waste: premoistened nonwoven disposable wipes.

The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, generally regulates the disposal, management, and recycling of solid waste.

This bill would require, except as provided, certain premoistened nonwoven disposable wipes manufactured on or after July 1, 2022, to be labeled clearly and conspicuously with the phrase “Do Not Flush” and a related symbol, as specified. The bill would prohibit a covered entity, as defined, from making a representation about the flushable attributes, benefits, performance, or efficacy of those premoistened nonwoven disposable wipes, as provided. The bill would establish enforcement provisions, including authorizing a civil penalty not to exceed \$2,500 per day, up to a maximum of \$100,000 per violation, to be imposed on a covered entity who violates those provisions.

The bill would establish, until January 1, 2027, the California Consumer Education and Outreach Program, under which covered entities would be required, among other things, to participate in a collection study conducted in collaboration with wastewater agencies

for the purpose of gaining understanding of consumer behavior regarding the flushing of premoistened nonwoven disposable wipes and to conduct a comprehensive multimedia education and outreach program in the state. The bill would require covered entities to annually report to specified legislative committees and the State Water Resources Control Board on their activities under the program and would require the state board to post the reports on its internet website.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature in enacting this
2 act to create labeling requirements for premoistened nonwoven
3 disposable wipes that will enable consumers to easily identify
4 which premoistened nonwoven disposable wipes are composed of
5 petrochemical-derived fibers and therefore are not safe to dispose
6 of using sanitary sewer systems, in order to protect public health,
7 the environment, water quality, and public infrastructure used for
8 the collection, transport, and treatment of wastewater.

9 SEC. 2. Part 9 (commencing with Section 49650) is added to
10 Division 30 of the Public Resources Code, to read:

11
12 PART 9. PREMOISTENED NONWOVEN DISPOSABLE
13 WIPES

14
15 49650. For purposes of this part, the following definitions
16 apply:

17 (a) "Covered entity" means the manufacturer of a covered
18 product that is sold in the state or offered for sale in the state.
19 "Covered entity" includes a wholesaler, supplier, or retailer that
20 is responsible for the labeling or packaging of a covered product.

21 (b) "Covered product" means a consumer product sold in the
22 state or offered for sale in the state that is either of the following:

23 (1) A premoistened nonwoven disposable wipe marketed as a
24 baby wipe or diapering wipe.

25 (2) A premoistened nonwoven disposable wipe that is both of
26 the following:

27 (A) Composed entirely of or in part of petrochemical-derived
28 fibers.

1 (B) Likely to be used in a bathroom and has significant potential
2 to be flushed, including baby wipes, bathroom cleaning wipes,
3 toilet cleaning wipes, hard surface cleaning wipes, disinfecting
4 wipes, hand sanitizing wipes, antibacterial wipes, facial and
5 makeup removal wipes, general purpose cleaning wipes, personal
6 care wipes for use on the body, feminine hygiene wipes, adult
7 incontinence wipes, adult hygiene wipes, and body cleansing wipes.

8 (c) “High contrast” means satisfying both of the following
9 conditions:

10 (1) Is provided by either a light symbol on a solid dark
11 background or a dark symbol on a solid light background.

12 (2) Has at least 70 percent contrast between the symbol artwork
13 and background using the following formula:

14 (A) $(B1 - B2) / B1 * 100 = \text{contrast percentage.}$

15 (B) B1 = the light reflectance value of the lighter area and B2
16 = the light reflectance value of the darker area.

17 (d) (1) “Label notice” means the phrase “Do Not Flush” and
18 the size of the label notice shall be equal to at least 2 percent of
19 the surface area of the principal display panel in size.

20 (2) For covered products regulated pursuant to the Federal
21 Hazardous Substances Act (15 U.S.C. Sec. 1261 et seq.) by the
22 United States Consumer Product Safety Commission under Section
23 1500.121 of Title 16 of the Code of Federal Regulations, if the
24 label notice requirements in paragraph (1) would result in a type
25 size larger than first aid instructions pursuant to the Federal
26 Hazardous Substances Act, then the type size for the label notice
27 shall, to the extent permitted by federal law, be equal to or greater
28 than the type size required for the first aid instructions.

29 (3) For covered products required to be registered by the United
30 States Environmental Protection Agency under the Federal
31 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et
32 seq.), if the label notice requirements in paragraph (1) would result
33 in a type size on the principal display panel larger than a warning
34 pursuant to the Federal Insecticide, Fungicide, and Rodenticide
35 Act, then the type size for the label notice shall, to the extent
36 permitted by federal law, be equal to or greater than the type size
37 required for the “keep out of reach of children” statement under
38 the Federal Insecticide, Fungicide, and Rodenticide Act.

1 (e) (1) “Principal display panel” means the side of the product
2 package that is most likely to be displayed, presented, or shown
3 under customary conditions of display for retail sale.

4 (2) In the case of a cylindrical or nearly cylindrical package,
5 the surface area of the principal display panel constitutes 40 percent
6 of the product package as measured by multiplying the height of
7 the container by the circumference.

8 (3) In the case of a flexible film package in which a rectangular
9 prism or nearly rectangular prism stack of wipes is housed within
10 the film, the surface area of the principal display panel is measured
11 by multiplying the length by the width of the side of the package
12 when the flexible packaging film is pressed flat against the stack
13 of wipes on all sides of the stack.

14 (f) “Symbol” means the “Do Not Flush” symbol, or a gender
15 equivalent thereof, as depicted in the INDA/EDANA Code of
16 Practice Second Edition and published within “Guidelines for
17 Assessing the Flushability of Disposable Nonwoven Products,”
18 Edition 4, May 2018. The symbol shall be sized equal to at least
19 2 percent of the surface area of the principal display panel, except
20 as specified in clause (iii) of subparagraph (B) of paragraph (1) of
21 subdivision (a) of Section 49651.

22 49651. (a) Except as provided in subdivisions (b), (c), (d), and
23 (f), a covered product manufactured on or after July 1, 2022, shall
24 be labeled clearly and conspicuously in adherence with the
25 following labeling requirements:

26 (1) In the case of cylindrical or near cylindrical packaging
27 intended to dispense individual wipes, a covered entity shall
28 comply with one of the following options:

29 (A) Place the symbol and label notice on the principal display
30 panel in a location reasonably viewable each time a wipe is
31 dispensed.

32 (B) Place the symbol on the principal display panel, and either
33 the symbol or label notice, or the symbol and label notice in
34 combination, on the flip lid, subject to the following:

35 (i) If the label notice does not appear on the flip lid, the label
36 notice shall be placed on the principal display panel.

37 (ii) The symbol or label notice, or the symbol and label notice
38 in combination, on the flip lid may be embossed, and in that case
39 are not required to comply with paragraph (6).

1 (iii) The symbol or label notice, or the symbol and label notice
2 in combination, on the flip lid shall cover a minimum of 8 percent
3 of the surface area of the flip lid.

4 (2) In the case of flexible film packaging intended to dispense
5 individual wipes, a covered entity shall place the symbol on the
6 principal display panel and dispensing side panel and place the
7 label notice on either the principal display panel or dispensing side
8 panel in a prominent location reasonably visible to the user each
9 time a wipe is dispensed. If the principal display panel is on the
10 dispensing side of the package, two symbols are not required.

11 (3) In the case of refillable tubs or other rigid packaging intended
12 to dispense individual wipes and be reused by the consumer for
13 that purpose, a covered entity shall place the symbol and label
14 notice on the principal display panel in a prominent location
15 reasonably visible to the user each time a wipe is dispensed.

16 (4) In the case of packaging not intended to dispense individual
17 wipes, a covered entity shall place the symbol and label notice on
18 the principal display panel in a prominent and reasonably visible
19 location.

20 (5) A covered entity shall ensure the packaging seams, folds,
21 or other package design elements do not obscure the symbol or
22 the label notice.

23 (6) A covered entity shall ensure the symbol and label notice
24 have sufficiently high contrast with the immediate background of
25 the packaging to render it likely to be seen and read by the ordinary
26 individual under customary conditions of purchase and use.

27 (b) For covered products sold in bulk at retail, both the outer
28 package visible at retail and the individual packages contained
29 within shall comply with the labeling requirements in subdivision
30 (a) applicable to the particular packaging types, except the
31 following:

32 (1) Individual packages contained within the outer package that
33 are not intended to dispense individual wipes and contain no retail
34 labeling.

35 (2) Outer packages that do not obscure the symbol and label
36 notice on individual packages contained within.

37 (c) If a covered product is provided within the same packaging
38 as another consumer product for use in combination with the other
39 product, the outside retail packaging of the other consumer product

1 does not need to comply with the labeling requirements of
2 subdivision (a).

3 (d) If a covered product is provided within the same package
4 as another consumer product for use in combination with the other
5 product and is in a package smaller than three inches by three
6 inches, the covered entity may comply with the requirements of
7 subdivision (a) by placing the symbol and label notice in a
8 prominent location reasonably visible to the user of the covered
9 product.

10 (e) A covered entity, directly or through a corporation,
11 partnership, subsidiary, division, trade name, or association in
12 connection to the manufacturing, labeling, packaging, advertising,
13 promotion, offering for sale, sale, or distribution of a covered
14 product, shall not make any representation, in any manner,
15 expressly or by implication, including through the use of a product
16 name, endorsement, depiction, illustration, trademark, or trade
17 name, about the flushable attributes, flushable benefits, flushable
18 performance, or flushable efficacy of a covered product.

19 (f) (1) If a covered product is required to be registered by the
20 United States Environmental Protection Agency under the Federal
21 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et
22 seq.) and the Department of Pesticide Regulation under Division
23 6 (commencing with Section 11401) of the Food and Agricultural
24 Code, then the covered entity shall submit a label compliant with
25 the labeling requirements of subdivision (a) no later than January
26 1, 2023, to the United States Environmental Protection Agency,
27 and upon its approval, to the Department of Pesticide Regulation.

28 (2) If the United States Environmental Protection Agency or
29 the Department of Pesticide Regulation does not approve a product
30 label that otherwise complies with the labeling requirements of
31 subdivision (a), the covered entity shall use a label with as many
32 of the requirements of this section as the relevant agency has
33 approved.

34 (g) A covered entity may include on a covered product words
35 or phrases in addition to those required for the label notice if the
36 words or phrases are consistent with the purposes of this part.

37 49652. (a) The California Consumer Education and Outreach
38 Program is hereby established. As part of the program, covered
39 entities, in collaboration with other covered entities, shall do all
40 of the following:

- 1 (1) Participate in a collection study conducted in collaboration
2 with wastewater agencies for the purpose of gaining understanding
3 of consumer behavior regarding the flushing of covered products
4 as a key input into the design of a consumer education and outreach
5 program. The collection study shall be jointly coordinated by the
6 California Association of Sanitation Agencies and a group of
7 covered entities.
- 8 (2) Conduct a consumer opinion survey to identify baseline
9 consumer behavior and awareness regarding the flushing or other
10 disposal of covered products.
- 11 (3) Measure effectiveness of the consumer education program
12 on consumer awareness of the symbol and label notice and
13 consumer attitudes about disposal of covered products by
14 conducting a subsequent consumer awareness survey comparing
15 the baseline data provided by the 2022 survey with survey data
16 from subsequent years. The surveys to determine the effectiveness
17 and ongoing success of the consumer education program shall take
18 place annually until December 31, 2026.
- 19 (b) Covered entities, either independently or in collaboration
20 with other covered entities or other organizations, shall conduct a
21 comprehensive multimedia education and outreach program in the
22 state. At a minimum, the education and outreach program shall do
23 both of the following:
- 24 (1) Promote consumer awareness and understanding of and
25 compliance with the symbol and label notice requirements. Covered
26 entities shall provide wastewater agencies with the consumer
27 education messaging for the symbol and the label notice. The
28 wastewater agencies may include the messaging as part of their
29 routine communications with customers within their service area.
- 30 (2) Provide education and outreach in Spanish and English.
- 31 (c) Covered entities shall take reasonable steps to ensure that
32 they do not promote products outside of the scope of this part as
33 part of the education and outreach program.
- 34 (d) Covered entities shall take reasonable steps to ensure that
35 their education and outreach program does not conflict with the
36 programs of other covered entities or groups of covered entities.
- 37 (e) Covered entities, either independently or in collaboration
38 with other covered entities, shall report to the Senate Committee
39 on Environmental Quality, the Assembly Committee on
40 Environmental Safety and Toxic Materials, and the State Water

1 Resources Control Board on their activities under this section on
2 an annual basis. The State Water Resources Control Board shall
3 post the reports on its internet website.

4 (f) The California Consumer Education and Outreach Program
5 shall conclude on December 31, 2026.

6 (g) This section shall remain in effect only until January 1, 2027,
7 and as of that date is repealed.

8 49653. (a) A person who violates Section 49651 may be
9 enjoined in any court of competent jurisdiction.

10 (b) (1) A covered entity who violates Section 49651 may be
11 liable for a civil penalty not to exceed two thousand five hundred
12 dollars (\$2,500) per day, up to a maximum of one hundred
13 thousand dollars (\$100,000) for each violation. That civil penalty
14 may be assessed and recovered in a civil action brought in any
15 court of competent jurisdiction.

16 (2) In assessing the amount of a civil penalty for a violation of
17 Section 49651, the court shall consider all of the following:

18 (A) The nature, circumstances, extent, and gravity of the
19 violation.

20 (B) The violator's past and present efforts to prevent, abate, or
21 clean up conditions posing a threat to the public health or safety
22 or the environment.

23 (C) The violator's ability to pay the proposed penalty.

24 (D) The effect that the proposed penalty would have on the
25 violator and the community as a whole.

26 (E) Whether the violator took good faith measures to comply
27 with this part and when these measures were taken.

28 (F) The deterrent effect that the imposition of the penalty would
29 have on both the violator and the regulated community as a whole.

30 (G) Any other factor that justice may require.

31 (c) Actions may be brought pursuant to this section by the
32 Attorney General in the name of the people of the state, by a district
33 attorney, by a city attorney, by a county counsel, or by a city
34 prosecutor in a city or city and county having a full-time city
35 prosecutor.

36 (d) (1) Civil penalties collected pursuant to this section shall
37 be paid to the office of the city attorney, county counsel, city
38 prosecutor, district attorney, or Attorney General, whichever office
39 brought the action.

1 (2) Moneys collected by the Attorney General pursuant to this
2 subdivision shall be deposited into the Unfair Competition Law
3 Fund established pursuant to Section 17206 of the Business and
4 Professions Code.

5 49654. (a) The provisions of this part are severable. If any
6 provision of this part or its application is held invalid, that
7 invalidity shall not affect other provisions or applications that can
8 be given effect without the invalid provision or application.

9 (b) The Legislature finds and declares that this part addresses
10 a matter of statewide concern rather than a municipal affair as that
11 term is used in Section 5 of Article XI of the California
12 Constitution. Therefore, this part applies to all cities, including
13 charter cities. This part supersedes and preempts all rules,
14 regulations, codes, ordinances, and other laws adopted by a city,
15 county, city and county, municipality, or local agency regarding
16 the labeling of covered products.

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**Introduced by Committee on Governance and Finance (Senators
McGuire (Chair), Durazo, Hertzberg, Nielsen, and Wiener)**

February 23, 2021

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 810, as introduced, Committee on Governance and Finance. Validations.

This bill would enact the First Validating Act of 2021, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 First Validating Act of 2021.
- 3 SEC. 2. As used in this act:
- 4 (a) "Public body" means all of the following:
- 5 (1) The state and all departments, agencies, boards,
- 6 commissions, and authorities of the state. Except as provided in
- 7 paragraph (2), "public body" also means all cities, counties, cities

- 1 and counties, districts, authorities, agencies, boards, commissions,
2 and other entities, whether created by a general statute or a special
3 act, including, but not limited to, the following:
- 4 Agencies, boards, commissions, or entities constituted or
 - 5 provided for under or pursuant to the Joint Exercise of Powers Act
 - 6 (Chapter 5 (commencing with Section 6500) of Division 7 of Title
 - 7 1 of the Government Code).
 - 8 Affordable housing authorities.
 - 9 Air pollution control districts of any kind.
 - 10 Air quality management districts.
 - 11 Airport districts.
 - 12 Assessment districts, benefit assessment districts, and special
 - 13 assessment districts of any public body.
 - 14 Bridge and highway districts.
 - 15 California water districts.
 - 16 Citrus pest control districts.
 - 17 City maintenance districts.
 - 18 Community college districts.
 - 19 Community development commissions in their capacity to act
 - 20 as a housing authority for other community development purposes
 - 21 of the jurisdiction in which the commission operates, except for
 - 22 any action taken with respect to the commission's authority to act
 - 23 as a community redevelopment agency.
 - 24 Community facilities districts.
 - 25 Community rehabilitation districts.
 - 26 Community revitalization and investment authorities.
 - 27 Community services districts.
 - 28 Conservancy districts.
 - 29 Cotton pest abatement districts.
 - 30 County boards of education.
 - 31 County drainage districts.
 - 32 County flood control and water districts.
 - 33 County free library systems.
 - 34 County maintenance districts.
 - 35 County sanitation districts.
 - 36 County service areas.
 - 37 County transportation commissions.
 - 38 County water agencies.
 - 39 County water authorities.
 - 40 County water districts.

- 1 County waterworks districts.
- 2 Department of Water Resources and other agencies acting
- 3 pursuant to Part 3 (commencing with Section 11100) of Division
- 4 6 of the Water Code.
- 5 Distribution districts of any public body.
- 6 Districts acting pursuant to Section 53395.82 of the Government
- 7 Code.
- 8 Drainage districts.
- 9 Enhanced infrastructure financing districts.
- 10 Fire protection districts.
- 11 Flood control and water conservation districts.
- 12 Flood control districts.
- 13 Garbage and refuse disposal districts.
- 14 Garbage disposal districts.
- 15 Geologic hazard abatement districts.
- 16 Harbor districts.
- 17 Harbor improvement districts.
- 18 Harbor, recreation, and conservation districts.
- 19 Health care authorities.
- 20 Highway districts.
- 21 Highway interchange districts.
- 22 Highway lighting districts.
- 23 Housing authorities.
- 24 Improvement districts or improvement areas of any public body.
- 25 Industrial development authorities.
- 26 Infrastructure financing districts.
- 27 Integrated financing districts.
- 28 Irrigation districts.
- 29 Joint highway districts.
- 30 Levee districts.
- 31 Library districts.
- 32 Library districts in unincorporated towns and villages.
- 33 Local agency formation commissions.
- 34 Local health care districts.
- 35 Local health districts.
- 36 Local hospital districts.
- 37 Local transportation authorities or commissions.
- 38 Maintenance districts.
- 39 Memorial districts.
- 40 Metropolitan transportation commissions.

- 1 Metropolitan water districts.
- 2 Mosquito abatement and vector control districts.
- 3 Multifamily improvement districts.
- 4 Municipal improvement districts.
- 5 Municipal utility districts.
- 6 Municipal water districts.
- 7 Nonprofit corporations.
- 8 Nonprofit public benefit corporations.
- 9 Open-space maintenance districts.
- 10 Parking and business improvement areas.
- 11 Parking authorities.
- 12 Parking districts.
- 13 Permanent road divisions.
- 14 Pest abatement districts.
- 15 Police protection districts.
- 16 Port districts.
- 17 Property and business improvement areas.
- 18 Protection districts.
- 19 Public cemetery districts.
- 20 Public utility districts.
- 21 Rapid transit districts.
- 22 Reclamation districts.
- 23 Recreation and park districts.
- 24 Regional justice facility financing agencies.
- 25 Regional park and open-space districts.
- 26 Regional planning districts.
- 27 Regional transportation commissions.
- 28 Resort improvement districts.
- 29 Resource conservation districts.
- 30 River port districts.
- 31 Road maintenance districts.
- 32 Sanitary districts.
- 33 School districts of any kind or class.
- 34 School facilities improvement districts.
- 35 Separation of grade districts.
- 36 Service authorities for freeway emergencies.
- 37 Sewer districts.
- 38 Sewer maintenance districts.
- 39 Small craft harbor districts.
- 40 Special municipal tax districts.

- 1 Stone and pome fruit pest control districts.
- 2 Storm drain maintenance districts.
- 3 Storm drainage districts.
- 4 Storm drainage maintenance districts.
- 5 Stormwater districts.
- 6 Toll tunnel authorities.
- 7 Traffic authorities.
- 8 Transit development boards.
- 9 Transit districts.
- 10 Unified and union school districts' public libraries.
- 11 Vehicle parking districts.
- 12 Water agencies.
- 13 Water authorities.
- 14 Water conservation districts.
- 15 Water districts.
- 16 Water replenishment districts.
- 17 Water storage districts.
- 18 Watermaster districts.
- 19 Wine grape pest and disease control districts.
- 20 Zones, improvement zones, or service zones of any public body.
- 21 (2) Notwithstanding paragraph (1), a "public body" does not
- 22 include any of the following:
 - 23 (A) A community redevelopment agency formed pursuant to
 - 24 the Community Redevelopment Law (Part 1 (commencing with
 - 25 Section 33000) of Division 24 of the Health and Safety Code).
 - 26 (B) A community development commission, with respect to its
 - 27 exercise of the powers of a community redevelopment agency.
 - 28 (C) A joint powers authority that includes a community
 - 29 redevelopment agency or a community development commission
 - 30 as a member, with respect to its exercise of the powers of a
 - 31 community redevelopment agency.
- 32 (3) "Public body" includes both of the following:
 - 33 (A) The successor agency to the Redevelopment Agency of the
 - 34 City and County of San Francisco, solely for the purpose of issuing
 - 35 bonds or incurring other indebtedness pursuant to the provisions
 - 36 of Section 34177.7 of the Health and Safety Code.
 - 37 (B) A successor agency, as defined in subdivision (j) of Section
 - 38 34171 of the Health and Safety Code, solely for the purpose of
 - 39 issuing bonds or incurring other indebtedness pursuant to the
 - 40 provisions of Section 34177.5 of the Health and Safety Code.

1 (b) “Bonds” means all instruments evidencing an indebtedness
 2 of a public body incurred or to be incurred for any public purpose,
 3 all leases, installment purchase agreements, or similar agreements
 4 wherein the obligor is one or more public bodies, all instruments
 5 evidencing the borrowing of money in anticipation of taxes,
 6 revenues, or other income of that body, all instruments payable
 7 from revenues or special funds of those public bodies, all
 8 certificates of participation evidencing interests in the leases,
 9 installment purchase agreements, or similar agreements, and all
 10 instruments funding, refunding, replacing, or amending any thereof
 11 or any indebtedness.

12 (c) “Hereafter” means any time subsequent to the effective date
 13 of this act.

14 (d) “Heretofore” means any time prior to the effective date of
 15 this act.

16 (e) “Now” means the effective date of this act.

17 SEC. 3. All public bodies heretofore organized or existing
 18 under any law, or under color of any law, are hereby declared to
 19 have been legally organized and to be legally functioning as those
 20 public bodies. Every public body, heretofore described, shall have
 21 all the rights, powers, and privileges, and be subject to all the duties
 22 and obligations, of those public bodies regularly formed pursuant
 23 to law.

24 SEC. 4. The boundaries of every public body as heretofore
 25 established, defined, or recorded, or as heretofore actually shown
 26 on maps or plats used by the assessor, are hereby confirmed,
 27 validated, and declared legally established.

28 SEC. 5. All acts and proceedings heretofore taken by any public
 29 body or bodies under any law, or under color of any law, for the
 30 annexation or inclusion of territory into those public bodies or for
 31 the annexation of those public bodies to any other public body or
 32 for the detachment, withdrawal, or exclusion of territory from any
 33 public body or for the consolidation, merger, or dissolution of any
 34 public bodies are hereby confirmed, validated, and declared legally
 35 effective. This shall include all acts and proceedings of the
 36 governing board of any public body and of any person, public
 37 officer, board, or agency heretofore done or taken upon the question
 38 of the annexation or inclusion or of the withdrawal or exclusion
 39 of territory or the consolidation, merger, or dissolution of those
 40 public bodies.

1 SEC. 6. (a) All acts and proceedings heretofore taken by or
2 on behalf of any public body under any law, or under color of any
3 law, for, or in connection with, the authorization, issuance, sale,
4 execution, delivery, or exchange of bonds of any public body for
5 any public purpose are hereby authorized, confirmed, validated,
6 and declared legally effective. This shall include all acts and
7 proceedings of the governing board of public bodies and of any
8 person, public officer, board, or agency heretofore done or taken
9 upon the question of the authorization, issuance, sale, execution,
10 delivery, or exchange of bonds.

11 (b) All bonds of, or relating to, any public body heretofore issued
12 shall be, in the form and manner issued and delivered, the legal,
13 valid, and binding obligations of the public body. All bonds of, or
14 relating to, any public body heretofore awarded and sold to a
15 purchaser and hereafter issued and delivered in accordance with
16 the contract of sale and other proceedings for the award and sale
17 shall be the legal, valid, and binding obligations of the public body.
18 All bonds of, or relating to, any public body heretofore authorized
19 to be issued by ordinance, resolution, order, or other action adopted
20 or taken by or on behalf of the public body and hereafter issued
21 and delivered in accordance with that authorization shall be the
22 legal, valid, and binding obligations of the public body. All bonds
23 of, or relating to, any public body heretofore authorized to be issued
24 at an election and hereafter issued and delivered in accordance
25 with that authorization shall be the legal, valid, and binding
26 obligations of the public body. Whenever an election has heretofore
27 been called for the purpose of submitting to the voters of any public
28 body the question of issuing bonds for any public purpose, those
29 bonds, if hereafter authorized by the required vote and in
30 accordance with the proceedings heretofore taken, and issued and
31 delivered in accordance with that authorization, shall be the legal,
32 valid, and binding obligations of the public body.

33 SEC. 7. (a) This act shall operate to supply legislative
34 authorization as may be necessary to authorize, confirm, and
35 validate any acts and proceedings heretofore taken pursuant to
36 authority the Legislature could have supplied or provided for in
37 the law under which those acts or proceedings were taken.

38 (b) This act shall be limited to the validation of acts and
39 proceedings to the extent that the same can be effectuated under
40 the California Constitution and the United States Constitution.

1 (c) This act shall not operate to authorize, confirm, validate, or
2 legalize any act, proceeding, or other matter being legally contested
3 or inquired into in any legal proceeding now pending and
4 undetermined or that is pending and undetermined during the
5 period of 30 days from and after the effective date of this act.

6 (d) This act shall not operate to authorize, confirm, validate, or
7 legalize any act, proceeding, or other matter that has heretofore
8 been determined in any legal proceeding to be illegal, void, or
9 ineffective.

10 (e) This act shall not operate to authorize, confirm, validate, or
11 legalize a contract between any public body and the United States.

12 SEC. 8. Any action or proceeding contesting the validity of
13 any action or proceeding heretofore taken under any law, or under
14 color of any law, for the formation, organization, or incorporation
15 of any public body, or for any annexation thereto, detachment or
16 exclusion therefrom, or other change of boundaries thereof, or for
17 the consolidation, merger, or dissolution of any public bodies, or
18 for, or in connection with, the authorization, issuance, sale,
19 execution, delivery, or exchange of bonds thereof upon any ground
20 involving any alleged defect or illegality not effectively validated
21 by the prior provisions of this act and not otherwise barred by any
22 statute of limitations or by laches shall be commenced within six
23 months of the effective date of this act, otherwise each and all of
24 those matters shall be held to be valid and in every respect legal
25 and incontestable. This act shall not extend the period allowed for
26 legal action beyond the period that it would be barred by any
27 presently existing valid statute of limitations.

28 SEC. 9. Nothing contained in this act shall be construed to
29 render the creation of any public body, or any change in the
30 boundaries of any public body, effective for purposes of assessment
31 or taxation unless the statement, together with the map or plat,
32 required to be filed pursuant to Chapter 8 (commencing with
33 Section 54900) of Part 1 of Division 2 of Title 5 of the Government
34 Code, is filed within the time and substantially in the manner
35 required by those sections.

36 SEC. 10. This act is an urgency statute necessary for the
37 immediate preservation of the public peace, health, or safety within
38 the meaning of Article IV of the Constitution and shall go into
39 immediate effect. The facts constituting the necessity are:

1 In order to validate the organization, boundaries, acts,
2 proceedings, and bonds of public bodies as soon as possible, it is
3 necessary that this act take immediate effect.

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**Introduced by Committee on Governance and Finance (Senators
McGuire (Chair), Durazo, Hertzberg, Nielsen, and Wiener)**

February 23, 2021

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 811, as introduced, Committee on Governance and Finance. Validations.

This bill would enact the Second Validating Act of 2021, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Second Validating Act of 2021.
- 3 SEC. 2. As used in this act:
- 4 (a) "Public body" means all of the following:
- 5 (1) The state and all departments, agencies, boards,
- 6 commissions, and authorities of the state. Except as provided in
- 7 paragraph (2), "public body" also means all cities, counties, cities

- 1 and counties, districts, authorities, agencies, boards, commissions,
2 and other entities, whether created by a general statute or a special
3 act, including, but not limited to, the following:
- 4 Agencies, boards, commissions, or entities constituted or
 - 5 provided for under or pursuant to the Joint Exercise of Powers Act
 - 6 (Chapter 5 (commencing with Section 6500) of Division 7 of Title
 - 7 1 of the Government Code).
 - 8 Affordable housing authorities.
 - 9 Air pollution control districts of any kind.
 - 10 Air quality management districts.
 - 11 Airport districts.
 - 12 Assessment districts, benefit assessment districts, and special
 - 13 assessment districts of any public body.
 - 14 Bridge and highway districts.
 - 15 California water districts.
 - 16 Citrus pest control districts.
 - 17 City maintenance districts.
 - 18 Community college districts.
 - 19 Community development commissions in their capacity to act
 - 20 as a housing authority for other community development purposes
 - 21 of the jurisdiction in which the commission operates, except for
 - 22 any action taken with respect to the commission's authority to act
 - 23 as a community redevelopment agency.
 - 24 Community facilities districts.
 - 25 Community rehabilitation districts.
 - 26 Community revitalization and investment authorities.
 - 27 Community services districts.
 - 28 Conservancy districts.
 - 29 Cotton pest abatement districts.
 - 30 County boards of education.
 - 31 County drainage districts.
 - 32 County flood control and water districts.
 - 33 County free library systems.
 - 34 County maintenance districts.
 - 35 County sanitation districts.
 - 36 County service areas.
 - 37 County transportation commissions.
 - 38 County water agencies.
 - 39 County water authorities.
 - 40 County water districts.

- 1 County waterworks districts.
- 2 Department of Water Resources and other agencies acting
- 3 pursuant to Part 3 (commencing with Section 11100) of Division
- 4 6 of the Water Code.
- 5 Distribution districts of any public body.
- 6 Districts acting pursuant to Section 53395.82 of the Government
- 7 Code.
- 8 Drainage districts.
- 9 Enhanced infrastructure financing districts.
- 10 Fire protection districts.
- 11 Flood control and water conservation districts.
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- 13 Garbage and refuse disposal districts.
- 14 Garbage disposal districts.
- 15 Geologic hazard abatement districts.
- 16 Harbor districts.
- 17 Harbor improvement districts.
- 18 Harbor, recreation, and conservation districts.
- 19 Health care authorities.
- 20 Highway districts.
- 21 Highway interchange districts.
- 22 Highway lighting districts.
- 23 Housing authorities.
- 24 Improvement districts or improvement areas of any public body.
- 25 Industrial development authorities.
- 26 Infrastructure financing districts.
- 27 Integrated financing districts.
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- 39 Memorial districts.
- 40 Metropolitan transportation commissions.

- 1 Metropolitan water districts.
- 2 Mosquito abatement and vector control districts.
- 3 Multifamily improvement districts.
- 4 Municipal improvement districts.
- 5 Municipal utility districts.
- 6 Municipal water districts.
- 7 Nonprofit corporations.
- 8 Nonprofit public benefit corporations.
- 9 Open-space maintenance districts.
- 10 Parking and business improvement areas.
- 11 Parking authorities.
- 12 Parking districts.
- 13 Permanent road divisions.
- 14 Pest abatement districts.
- 15 Police protection districts.
- 16 Port districts.
- 17 Property and business improvement areas.
- 18 Protection districts.
- 19 Public cemetery districts.
- 20 Public utility districts.
- 21 Rapid transit districts.
- 22 Reclamation districts.
- 23 Recreation and park districts.
- 24 Regional justice facility financing agencies.
- 25 Regional park and open-space districts.
- 26 Regional planning districts.
- 27 Regional transportation commissions.
- 28 Resort improvement districts.
- 29 Resource conservation districts.
- 30 River port districts.
- 31 Road maintenance districts.
- 32 Sanitary districts.
- 33 School districts of any kind or class.
- 34 School facilities improvement districts.
- 35 Separation of grade districts.
- 36 Service authorities for freeway emergencies.
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- 5 Storm water districts.
- 6 Toll tunnel authorities.
- 7 Traffic authorities.
- 8 Transit development boards.
- 9 Transit districts.
- 10 Unified and union school districts’ public libraries.
- 11 Vehicle parking districts.
- 12 Water agencies.
- 13 Water authorities.
- 14 Water conservation districts.
- 15 Water districts.
- 16 Water replenishment districts.
- 17 Water storage districts.
- 18 Watermaster districts.
- 19 Wine grape pest and disease control districts.
- 20 Zones, improvement zones, or service zones of any public body.
- 21 (2) Notwithstanding paragraph (1), a “public body” does not
- 22 include any of the following:
 - 23 (A) A community redevelopment agency formed pursuant to
 - 24 the Community Redevelopment Law (Part 1 (commencing with
 - 25 Section 33000) of Division 24 of the Health and Safety Code).
 - 26 (B) A community development commission, with respect to its
 - 27 exercise of the powers of a community redevelopment agency.
 - 28 (C) A joint powers authority that includes a community
 - 29 redevelopment agency or a community development commission
 - 30 as a member, with respect to its exercise of the powers of a
 - 31 community redevelopment agency.
- 32 (3) “Public body” includes both of the following:
 - 33 (A) The successor agency to the Redevelopment Agency of the
 - 34 City and County of San Francisco, solely for the purpose of issuing
 - 35 bonds or incurring other indebtedness pursuant to the provisions
 - 36 of Section 34177.7 of the Health and Safety Code.
 - 37 (B) A successor agency, as defined in subdivision (j) of Section
 - 38 34171 of the Health and Safety Code, solely for the purpose of
 - 39 issuing bonds or incurring other indebtedness pursuant to the
 - 40 provisions of Section 34177.5 of the Health and Safety Code.

1 (b) “Bonds” means all instruments evidencing an indebtedness
2 of a public body incurred or to be incurred for any public purpose,
3 all leases, installment purchase agreements, or similar agreements
4 wherein the obligor is one or more public bodies, all instruments
5 evidencing the borrowing of money in anticipation of taxes,
6 revenues, or other income of that body, all instruments payable
7 from revenues or special funds of those public bodies, all
8 certificates of participation evidencing interests in the leases,
9 installment purchase agreements, or similar agreements, and all
10 instruments funding, refunding, replacing, or amending any thereof
11 or any indebtedness.

12 (c) “Hereafter” means any time subsequent to the effective date
13 of this act.

14 (d) “Heretofore” means any time prior to the effective date of
15 this act.

16 (e) “Now” means the effective date of this act.

17 SEC. 3. All public bodies heretofore organized or existing
18 under any law, or under color of any law, are hereby declared to
19 have been legally organized and to be legally functioning as those
20 public bodies. Every public body, heretofore described, shall have
21 all the rights, powers, and privileges, and be subject to all the duties
22 and obligations, of those public bodies regularly formed pursuant
23 to law.

24 SEC. 4. The boundaries of every public body as heretofore
25 established, defined, or recorded, or as heretofore actually shown
26 on maps or plats used by the assessor, are hereby confirmed,
27 validated, and declared legally established.

28 SEC. 5. All acts and proceedings heretofore taken by any public
29 body or bodies under any law, or under color of any law, for the
30 annexation or inclusion of territory into those public bodies or for
31 the annexation of those public bodies to any other public body or
32 for the detachment, withdrawal, or exclusion of territory from any
33 public body or for the consolidation, merger, or dissolution of any
34 public bodies are hereby confirmed, validated, and declared legally
35 effective. This shall include all acts and proceedings of the
36 governing board of any public body and of any person, public
37 officer, board, or agency heretofore done or taken upon the question
38 of the annexation or inclusion or of the withdrawal or exclusion
39 of territory or the consolidation, merger, or dissolution of those
40 public bodies.

1 SEC. 6. (a) All acts and proceedings heretofore taken by or
2 on behalf of any public body under any law, or under color of any
3 law, for, or in connection with, the authorization, issuance, sale,
4 execution, delivery, or exchange of bonds of any public body for
5 any public purpose are hereby authorized, confirmed, validated,
6 and declared legally effective. This shall include all acts and
7 proceedings of the governing board of public bodies and of any
8 person, public officer, board, or agency heretofore done or taken
9 upon the question of the authorization, issuance, sale, execution,
10 delivery, or exchange of bonds.

11 (b) All bonds of, or relating to, any public body heretofore issued
12 shall be, in the form and manner issued and delivered, the legal,
13 valid, and binding obligations of the public body. All bonds of, or
14 relating to, any public body heretofore awarded and sold to a
15 purchaser and hereafter issued and delivered in accordance with
16 the contract of sale and other proceedings for the award and sale
17 shall be the legal, valid, and binding obligations of the public body.
18 All bonds of, or relating to, any public body heretofore authorized
19 to be issued by ordinance, resolution, order, or other action adopted
20 or taken by or on behalf of the public body and hereafter issued
21 and delivered in accordance with that authorization shall be the
22 legal, valid, and binding obligations of the public body. All bonds
23 of, or relating to, any public body heretofore authorized to be issued
24 at an election and hereafter issued and delivered in accordance
25 with that authorization shall be the legal, valid, and binding
26 obligations of the public body. Whenever an election has heretofore
27 been called for the purpose of submitting to the voters of any public
28 body the question of issuing bonds for any public purpose, those
29 bonds, if hereafter authorized by the required vote and in
30 accordance with the proceedings heretofore taken, and issued and
31 delivered in accordance with that authorization, shall be the legal,
32 valid, and binding obligations of the public body.

33 SEC. 7. (a) This act shall operate to supply legislative
34 authorization as may be necessary to authorize, confirm, and
35 validate any acts and proceedings heretofore taken pursuant to
36 authority the Legislature could have supplied or provided for in
37 the law under which those acts or proceedings were taken.

38 (b) This act shall be limited to the validation of acts and
39 proceedings to the extent that the same can be effectuated under
40 the California Constitution and the United States Constitution.

1 (c) This act shall not operate to authorize, confirm, validate, or
2 legalize any act, proceeding, or other matter being legally contested
3 or inquired into in any legal proceeding now pending and
4 undetermined or that is pending and undetermined during the
5 period of 30 days from and after the effective date of this act.

6 (d) This act shall not operate to authorize, confirm, validate, or
7 legalize any act, proceeding, or other matter that has heretofore
8 been determined in any legal proceeding to be illegal, void, or
9 ineffective.

10 (e) This act shall not operate to authorize, confirm, validate, or
11 legalize a contract between any public body and the United States.

12 SEC. 8. Any action or proceeding contesting the validity of
13 any action or proceeding heretofore taken under any law, or under
14 color of any law, for the formation, organization, or incorporation
15 of any public body, or for any annexation thereto, detachment or
16 exclusion therefrom, or other change of boundaries thereof, or for
17 the consolidation, merger, or dissolution of any public bodies, or
18 for, or in connection with, the authorization, issuance, sale,
19 execution, delivery, or exchange of bonds thereof upon any ground
20 involving any alleged defect or illegality not effectively validated
21 by the prior provisions of this act and not otherwise barred by any
22 statute of limitations or by laches shall be commenced within six
23 months of the effective date of this act, otherwise each and all of
24 those matters shall be held to be valid and in every respect legal
25 and incontestable. This act shall not extend the period allowed for
26 legal action beyond the period that it would be barred by any
27 presently existing valid statute of limitations.

28 SEC. 9. Nothing contained in this act shall be construed to
29 render the creation of any public body, or any change in the
30 boundaries of any public body, effective for purposes of assessment
31 or taxation unless the statement, together with the map or plat,
32 required to be filed pursuant to Chapter 8 (commencing with
33 Section 54900) of Part 1 of Division 2 of Title 5 of the Government
34 Code, is filed within the time and substantially in the manner
35 required by those sections.

36 SEC. 10. This act shall become operative on September 1,
37 2021.

38 SEC. 11. This act is an urgency statute necessary for the
39 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order to validate the organization, boundaries, acts,
4 proceedings, and bonds of public bodies as soon as possible, it is
5 necessary that this act take immediate effect.

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**Introduced by Committee on Governance and Finance (Senators
McGuire (Chair), Durazo, Hertzberg, Nielsen, and Wiener)**

February 23, 2021

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time in which actions may be commenced.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as introduced, Committee on Governance and Finance. Validations.

This bill would enact the Third Validating Act of 2021, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Third Validating Act of 2021.
- 3 SEC. 2. As used in this act:
- 4 (a) "Public body" means all of the following:
- 5 (1) The state and all departments, agencies, boards,
- 6 commissions, and authorities of the state. Except as provided in
- 7 paragraph (2), "public body" also means all cities, counties, cities
- 8 and counties, districts, authorities, agencies, boards, commissions,
- 9 and other entities, whether created by a general statute or a special
- 10 act, including, but not limited to, the following:

1 Agencies, boards, commissions, or entities constituted or
2 provided for under or pursuant to the Joint Exercise of Powers Act
3 (Chapter 5 (commencing with Section 6500) of Division 7 of Title
4 1 of the Government Code).
5 Affordable housing authorities.
6 Air pollution control districts of any kind.
7 Air quality management districts.
8 Airport districts.
9 Assessment districts, benefit assessment districts, and special
10 assessment districts of any public body.
11 Bridge and highway districts.
12 California water districts.
13 Citrus pest control districts.
14 City maintenance districts.
15 Community college districts.
16 Community development commissions in their capacity to act
17 as a housing authority for other community development purposes
18 of the jurisdiction in which the commission operates, except for
19 any action taken with respect to the commission's authority to act
20 as a community redevelopment agency.
21 Community facilities districts.
22 Community rehabilitation districts.
23 Community revitalization and investment authorities.
24 Community services districts.
25 Conservancy districts.
26 Cotton pest abatement districts.
27 County boards of education.
28 County drainage districts.
29 County flood control and water districts.
30 County free library systems.
31 County maintenance districts.
32 County sanitation districts.
33 County service areas.
34 County transportation commissions.
35 County water agencies.
36 County water authorities.
37 County water districts.
38 County waterworks districts.

- 1 Department of Water Resources and other agencies acting
- 2 pursuant to Part 3 (commencing with Section 11100) of Division
- 3 6 of the Water Code.
- 4 Distribution districts of any public body.
- 5 Districts acting pursuant to Section 53395.82 of the Government
- 6 Code.
- 7 Drainage districts.
- 8 Enhanced infrastructure financing districts.
- 9 Fire protection districts.
- 10 Flood control and water conservation districts.
- 11 Flood control districts.
- 12 Garbage and refuse disposal districts.
- 13 Garbage disposal districts.
- 14 Geologic hazard abatement districts.
- 15 Harbor districts.
- 16 Harbor improvement districts.
- 17 Harbor, recreation, and conservation districts.
- 18 Health care authorities.
- 19 Highway districts.
- 20 Highway interchange districts.
- 21 Highway lighting districts.
- 22 Housing authorities.
- 23 Improvement districts or improvement areas of any public body.
- 24 Industrial development authorities.
- 25 Infrastructure financing districts.
- 26 Integrated financing districts.
- 27 Irrigation districts.
- 28 Joint highway districts.
- 29 Levee districts.
- 30 Library districts.
- 31 Library districts in unincorporated towns and villages.
- 32 Local agency formation commissions.
- 33 Local health care districts.
- 34 Local health districts.
- 35 Local hospital districts.
- 36 Local transportation authorities or commissions.
- 37 Maintenance districts.
- 38 Memorial districts.
- 39 Metropolitan transportation commissions.
- 40 Metropolitan water districts.

- 1 Mosquito abatement and vector control districts.
- 2 Multifamily improvement districts.
- 3 Municipal improvement districts.
- 4 Municipal utility districts.
- 5 Municipal water districts.
- 6 Nonprofit corporations.
- 7 Nonprofit public benefit corporations.
- 8 Open-space maintenance districts.
- 9 Parking and business improvement areas.
- 10 Parking authorities.
- 11 Parking districts.
- 12 Permanent road divisions.
- 13 Pest abatement districts.
- 14 Police protection districts.
- 15 Port districts.
- 16 Property and business improvement areas.
- 17 Protection districts.
- 18 Public cemetery districts.
- 19 Public utility districts.
- 20 Rapid transit districts.
- 21 Reclamation districts.
- 22 Recreation and park districts.
- 23 Regional justice facility financing agencies.
- 24 Regional park and open-space districts.
- 25 Regional planning districts.
- 26 Regional transportation commissions.
- 27 Resort improvement districts.
- 28 Resource conservation districts.
- 29 River port districts.
- 30 Road maintenance districts.
- 31 Sanitary districts.
- 32 School districts of any kind or class.
- 33 School facilities improvement districts.
- 34 Separation of grade districts.
- 35 Service authorities for freeway emergencies.
- 36 Sewer districts.
- 37 Sewer maintenance districts.
- 38 Small craft harbor districts.
- 39 Special municipal tax districts.
- 40 Stone and pome fruit pest control districts.

- 1 Storm drain maintenance districts.
- 2 Storm drainage districts.
- 3 Storm drainage maintenance districts.
- 4 Storm water districts.
- 5 Toll tunnel authorities.
- 6 Traffic authorities.
- 7 Transit development boards.
- 8 Transit districts.
- 9 Unified and union school districts' public libraries.
- 10 Vehicle parking districts.
- 11 Water agencies.
- 12 Water authorities.
- 13 Water conservation districts.
- 14 Water districts.
- 15 Water replenishment districts.
- 16 Water storage districts.
- 17 Watermaster districts.
- 18 Wine grape pest and disease control districts.
- 19 Zones, improvement zones, or service zones of any public body.
- 20 (2) Notwithstanding paragraph (1), a "public body" does not
- 21 include any of the following:
 - 22 (A) A community redevelopment agency formed pursuant to
 - 23 the Community Redevelopment Law (Part 1 (commencing with
 - 24 Section 33000) of Division 24 of the Health and Safety Code).
 - 25 (B) A community development commission, with respect to its
 - 26 exercise of the powers of a community redevelopment agency.
 - 27 (C) A joint powers authority that includes a community
 - 28 redevelopment agency or a community development commission
 - 29 as a member, with respect to its exercise of the powers of a
 - 30 community redevelopment agency.
- 31 (3) "Public body" includes both of the following:
 - 32 (A) The successor agency to the Redevelopment Agency of the
 - 33 City and County of San Francisco, solely for the purpose of issuing
 - 34 bonds or incurring other indebtedness pursuant to the provisions
 - 35 of Section 34177.7 of the Health and Safety Code.
 - 36 (B) A successor agency, as defined in subdivision (j) of Section
 - 37 34171 of the Health and Safety Code, solely for the purpose of
 - 38 issuing bonds or incurring other indebtedness pursuant to the
 - 39 provisions of Section 34177.5 of the Health and Safety Code.

1 (b) “Bonds” means all instruments evidencing an indebtedness
2 of a public body incurred or to be incurred for any public purpose,
3 all leases, installment purchase agreements, or similar agreements
4 wherein the obligor is one or more public bodies, all instruments
5 evidencing the borrowing of money in anticipation of taxes,
6 revenues, or other income of that body, all instruments payable
7 from revenues or special funds of those public bodies, all
8 certificates of participation evidencing interests in the leases,
9 installment purchase agreements, or similar agreements, and all
10 instruments funding, refunding, replacing, or amending any thereof
11 or any indebtedness.

12 (c) “Hereafter” means any time subsequent to the effective date
13 of this act.

14 (d) “Heretofore” means any time prior to the effective date of
15 this act.

16 (e) “Now” means the effective date of this act.

17 SEC. 3. All public bodies heretofore organized or existing
18 under any law, or under color of any law, are hereby declared to
19 have been legally organized and to be legally functioning as those
20 public bodies. Every public body, heretofore described, shall have
21 all the rights, powers, and privileges, and be subject to all the duties
22 and obligations, of those public bodies regularly formed pursuant
23 to law.

24 SEC. 4. The boundaries of every public body as heretofore
25 established, defined, or recorded, or as heretofore actually shown
26 on maps or plats used by the assessor, are hereby confirmed,
27 validated, and declared legally established.

28 SEC. 5. All acts and proceedings heretofore taken by any public
29 body or bodies under any law, or under color of any law, for the
30 annexation or inclusion of territory into those public bodies or for
31 the annexation of those public bodies to any other public body or
32 for the detachment, withdrawal, or exclusion of territory from any
33 public body or for the consolidation, merger, or dissolution of any
34 public bodies are hereby confirmed, validated, and declared legally
35 effective. This shall include all acts and proceedings of the
36 governing board of any public body and of any person, public
37 officer, board, or agency heretofore done or taken upon the question
38 of the annexation or inclusion or of the withdrawal or exclusion
39 of territory or the consolidation, merger, or dissolution of those
40 public bodies.

1 SEC. 6. (a) All acts and proceedings heretofore taken by or
2 on behalf of any public body under any law, or under color of any
3 law, for, or in connection with, the authorization, issuance, sale,
4 execution, delivery, or exchange of bonds of any public body for
5 any public purpose are hereby authorized, confirmed, validated,
6 and declared legally effective. This shall include all acts and
7 proceedings of the governing board of public bodies and of any
8 person, public officer, board, or agency heretofore done or taken
9 upon the question of the authorization, issuance, sale, execution,
10 delivery, or exchange of bonds.

11 (b) All bonds of, or relating to, any public body heretofore issued
12 shall be, in the form and manner issued and delivered, the legal,
13 valid, and binding obligations of the public body. All bonds of, or
14 relating to, any public body heretofore awarded and sold to a
15 purchaser and hereafter issued and delivered in accordance with
16 the contract of sale and other proceedings for the award and sale
17 shall be the legal, valid, and binding obligations of the public body.
18 All bonds of, or relating to, any public body heretofore authorized
19 to be issued by ordinance, resolution, order, or other action adopted
20 or taken by or on behalf of the public body and hereafter issued
21 and delivered in accordance with that authorization shall be the
22 legal, valid, and binding obligations of the public body. All bonds
23 of, or relating to, any public body heretofore authorized to be issued
24 at an election and hereafter issued and delivered in accordance
25 with that authorization shall be the legal, valid, and binding
26 obligations of the public body. Whenever an election has heretofore
27 been called for the purpose of submitting to the voters of any public
28 body the question of issuing bonds for any public purpose, those
29 bonds, if hereafter authorized by the required vote and in
30 accordance with the proceedings heretofore taken, and issued and
31 delivered in accordance with that authorization, shall be the legal,
32 valid, and binding obligations of the public body.

33 SEC. 7. (a) This act shall operate to supply legislative
34 authorization as may be necessary to authorize, confirm, and
35 validate any acts and proceedings heretofore taken pursuant to
36 authority the Legislature could have supplied or provided for in
37 the law under which those acts or proceedings were taken.

38 (b) This act shall be limited to the validation of acts and
39 proceedings to the extent that the same can be effectuated under
40 the California Constitution and the United States Constitution.

1 (c) This act shall not operate to authorize, confirm, validate, or
 2 legalize any act, proceeding, or other matter being legally contested
 3 or inquired into in any legal proceeding now pending and
 4 undetermined or that is pending and undetermined during the
 5 period of 30 days from and after the effective date of this act.

6 (d) This act shall not operate to authorize, confirm, validate, or
 7 legalize any act, proceeding, or other matter that has heretofore
 8 been determined in any legal proceeding to be illegal, void, or
 9 ineffective.

10 (e) This act shall not operate to authorize, confirm, validate, or
 11 legalize a contract between any public body and the United States.

12 SEC. 8. Any action or proceeding contesting the validity of
 13 any action or proceeding heretofore taken under any law, or under
 14 color of any law, for the formation, organization, or incorporation
 15 of any public body, or for any annexation thereto, detachment or
 16 exclusion therefrom, or other change of boundaries thereof, or for
 17 the consolidation, merger, or dissolution of any public bodies, or
 18 for, or in connection with, the authorization, issuance, sale,
 19 execution, delivery, or exchange of bonds thereof upon any ground
 20 involving any alleged defect or illegality not effectively validated
 21 by the prior provisions of this act and not otherwise barred by any
 22 statute of limitations or by laches shall be commenced within six
 23 months of the effective date of this act, otherwise each and all of
 24 those matters shall be held to be valid and in every respect legal
 25 and incontestable. This act shall not extend the period allowed for
 26 legal action beyond the period that it would be barred by any
 27 presently existing valid statute of limitations.

28 SEC. 9. Nothing contained in this act shall be construed to
 29 render the creation of any public body, or any change in the
 30 boundaries of any public body, effective for purposes of assessment
 31 or taxation unless the statement, together with the map or plat,
 32 required to be filed pursuant to Chapter 8 (commencing with
 33 Section 54900) of Part 1 of Division 2 of Title 5 of the Government
 34 Code, is filed within the time and substantially in the manner
 35 required by those sections.

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ASSEMBLY BILL

No. 361

Introduced by Assembly Member Robert Rivas

February 1, 2021

An act to amend Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 361, as introduced, Robert Rivas. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The

act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances, and authorizes a specified legislative body or an official designated to proclaim a local emergency. Existing law allows a local health officer to declare a local public health emergency, which, after 7 days, must be ratified by the county board of supervisors, or city council, as applicable, in order to remain in place.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting for the purpose of declaring or ratifying a local emergency, during a declared state or local emergency, as those terms are defined, when state or local health officials have imposed or recommended measures to promote social distancing, and during a declared local emergency provided the legislative body makes certain determinations by majority vote. The bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, as provided, to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body.

This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54953 of the Government Code is
2 amended to read:

3 54953. (a) All meetings of the legislative body of a local
4 agency shall be open and public, and all persons shall be permitted
5 to attend any meeting of the legislative body of a local agency,
6 except as otherwise provided in this chapter.

7 (b) (1) Notwithstanding any other provision of law, the
8 legislative body of a local agency may use teleconferencing for
9 the benefit of the public and the legislative body of a local agency
10 in connection with any meeting or proceeding authorized by law.
11 The teleconferenced meeting or proceeding shall comply with all
12 *otherwise applicable* requirements of this chapter and all otherwise
13 applicable provisions of law relating to a specific type of meeting
14 or proceeding.

15 (2) Teleconferencing, as authorized by this section, may be used
16 for all purposes in connection with any meeting within the subject
17 matter jurisdiction of the legislative body. All votes taken during
18 a teleconferenced meeting shall be by rollcall.

19 (3) If the legislative body of a local agency elects to use
20 teleconferencing, it shall post agendas at all teleconference
21 locations and conduct teleconference meetings in a manner that
22 protects the statutory and constitutional rights of the parties or the
23 public appearing before the legislative body of a local agency.
24 Each teleconference location shall be identified in the notice and
25 agenda of the meeting or proceeding, and each teleconference
26 location shall be accessible to the public. During the teleconference,
27 at least a quorum of the members of the legislative body shall
28 participate from locations within the boundaries of the territory

1 over which the local agency exercises jurisdiction, except as
2 provided in ~~subdivision (d)~~. *subdivisions (d) and (e)*. The agenda
3 shall provide an opportunity for members of the public to address
4 the legislative body directly pursuant to Section 54954.3 at each
5 teleconference location.

6 (4) For the purposes of this section, “teleconference” means a
7 meeting of a legislative body, the members of which are in different
8 locations, connected by electronic means, through either audio or
9 video, or both. Nothing in this section shall prohibit a local agency
10 from providing the public with additional teleconference locations.

11 (c) (1) No legislative body shall take action by secret ballot,
12 whether preliminary or final.

13 (2) The legislative body of a local agency shall publicly report
14 any action taken and the vote or abstention on that action of each
15 member present for the action.

16 (3) Prior to taking final action, the legislative body shall orally
17 report a summary of a recommendation for a final action on the
18 salaries, salary schedules, or compensation paid in the form of
19 fringe benefits of a local agency executive, as defined in
20 subdivision (d) of Section 3511.1, during the open meeting in
21 which the final action is to be taken. This paragraph shall not affect
22 the public’s right under the California Public Records Act (Chapter
23 3.5 (commencing with Section 6250) of Division 7 of Title 1) to
24 inspect or copy records created or received in the process of
25 developing the recommendation.

26 (d) (1) Notwithstanding the provisions relating to a quorum in
27 paragraph (3) of subdivision (b), if a health authority conducts a
28 teleconference meeting, members who are outside the jurisdiction
29 of the authority may be counted toward the establishment of a
30 quorum when participating in the teleconference if at least 50
31 percent of the number of members that would establish a quorum
32 are present within the boundaries of the territory over which the
33 authority exercises jurisdiction, and the health authority provides
34 a teleconference number, and associated access codes, if any, that
35 allows any person to call in to participate in the meeting and the
36 number and access codes are identified in the notice and agenda
37 of the meeting.

38 (2) Nothing in this subdivision shall be construed as
39 discouraging health authority members from regularly meeting at
40 a common physical site within the jurisdiction of the authority or

1 from using teleconference locations within or near the jurisdiction
2 of the authority. A teleconference meeting for which a quorum is
3 established pursuant to this subdivision shall be subject to all other
4 requirements of this section.

5 (3) For purposes of this subdivision, a health authority means
6 any entity created pursuant to Sections 14018.7, 14087.31,
7 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare
8 and Institutions Code, any joint powers authority created pursuant
9 to Article 1 (commencing with Section 6500) of Chapter 5 of
10 Division 7 for the purpose of contracting pursuant to Section
11 14087.3 of the Welfare and Institutions Code, and any advisory
12 committee to a county sponsored health plan licensed pursuant to
13 Chapter 2.2 (commencing with Section 1340) of Division 2 of the
14 Health and Safety Code if the advisory committee has 12 or more
15 members.

16 (e) (1) *A local agency may use teleconferencing without*
17 *complying with the requirements of paragraph (3) of subdivision*
18 *(b) if the legislative body complies with the requirements of*
19 *paragraph (2) of this subdivision in any of the following*
20 *circumstances:*

21 (A) *The legislative body holds a meeting for the purpose of*
22 *proclaiming or ratifying a local emergency.*

23 (B) *The legislative body holds a meeting during a proclaimed*
24 *state of emergency or declared local emergency, and state or local*
25 *officials have imposed or recommended measures to promote*
26 *social distancing.*

27 (C) *The legislative body holds a meeting during a declared local*
28 *emergency and the legislative body determines by majority vote*
29 *that, as a result of the emergency, the attendance of one or more*
30 *members of the legislative body in person is hindered, or meeting*
31 *in person would present risks to the health or safety of attendees.*

32 (2) *A legislative body that holds a meeting pursuant to this*
33 *subdivision shall do all of the following:*

34 (A) *The legislative body shall give notice of the meeting and*
35 *post agendas as otherwise required by this chapter.*

36 (B) *The legislative body shall allow members of the public to*
37 *access the meeting and the agenda shall provide an opportunity*
38 *for members of the public to address the legislative body directly*
39 *pursuant to Section 54954.3. In each instance in which notice of*
40 *the time of the teleconferenced meeting is otherwise given or the*

1 agenda for the meeting is otherwise posted, the legislative body
2 shall also give notice of the means by which members of the public
3 may access the meeting and offer public comment. This
4 subparagraph shall not be construed to require the legislative
5 body to provide a physical location from which the public may
6 attend or comment.

7 (C) The legislative body shall conduct teleconference meetings
8 in a manner that protects the statutory and constitutional rights
9 of the parties and the public appearing before the legislative body
10 of a local agency.

11 (3) For the purposes of this subdivision, the following definitions
12 shall apply:

13 (A) “State of emergency” means a state of emergency
14 proclaimed pursuant to Section 8625 of the California Emergency
15 Services Act (Article 14 (commencing with Section 8550) of
16 Chapter 7 of Division of Title 2.

17 (B) “Local emergency” means an emergency proclaimed
18 pursuant to Section 8630 of the California Emergency Services
19 Act (Article 14 (commencing with Section 8550) of Chapter 7 of
20 Division 1 of Title 2 as a result of conditions existing in all or a
21 portion of the jurisdiction of the local agency. Local emergency
22 refers only to local emergencies in the jurisdiction in which the
23 legislative body is located.

24 SEC. 2. It is the intent of the Legislature in enacting this act
25 to improve and enhance public access to local agency meetings
26 during the COVID-19 pandemic and future applicable emergencies,
27 by allowing broader access through teleconferencing options
28 consistent with the Governor’s Executive Order No. N-29-20 dated
29 March 17, 2020, permitting expanded use of teleconferencing
30 during the COVID-19 pandemic.

31 SEC. 3. The Legislature finds and declares that Section 1 of
32 this act, which amends Section 54953 of the Government Code,
33 furthers, within the meaning of paragraph (7) of subdivision (b)
34 of Section 3 of Article I of the California Constitution, the purposes
35 of that constitutional section as it relates to the right of public
36 access to the meetings of local public bodies or the writings of
37 local public officials and local agencies. Pursuant to paragraph (7)
38 of subdivision (b) of Section 3 of Article I of the California
39 Constitution, the Legislature makes the following findings:

1 This act is necessary to ensure minimum standards for public
2 participation and notice requirements allowing for greater public
3 participation in teleconference meetings during applicable
4 emergencies.

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ITEM 16

WATER SUPPLY UPDATE

**WILL BE PROVIDED
AS AN ORAL REPORT**

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ITEM 16

CORONAVIRUS UPDATE

**WILL BE PROVIDED
AS AN ORAL REPORT**

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EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: March 9, 2021

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager 

FROM: Laura A. Acosta, Manager of Human Resources 

SUBJECT: Racial Equity and Justice Project and Diversity, Equity, and Inclusion Strategic Plan Update

SUMMARY

This memo provides an update on the District's Racial Equity and Justice (REJ) Project and Diversity, Equity, and Inclusion (DEI) Strategic Plan. This information will be presented at the March 9, 2021 Board of Directors meeting.

DISCUSSION

The REJ Project addresses the eight strategies identified in the District's Board Resolution No. 35190-20. The strategies have been divided into three phases and will be implemented through the development of the DEI Strategic Plan. Staff is also incorporating feedback from the Board and Steering Committee in the Strategic Plan. In addition to ongoing internal work, staff is participating in external discussions to elevate the subjects of racial equity and diversity and inclusion across the water and wastewater industry.

Racial Equity and Justice

Since the February 9, 2021 Board update, staff have completed the following actions as part of the REJ Project:

- **Strategy 1 (Listening to the Voices of Black and African Americans and Other Impacted Individuals)** – Staff provided session two of the Inclusive Listening training to the District's Advocates and Affinity Groups to equip them to co-facilitate listening sessions with their respective groups. Staff is in discussion with the Asian Pacific Employees Association (APEA) and Black Employee Network (BEN) about a joint listening session to discuss local tension between Asian and Black communities.
- **Strategy 6 (Establish Protocols for Responding to Racism Targeted at District Employees)** – This recommendation includes the creation of a Response Team that will be activated in case of a reported event against District staff. The Response Team met and discussed their activation protocols, response planning, employee support resources, and tracking procedures. The next steps for the group include the formal rollout of the program and staff training.

- **Strategies 7 and 8 (Review of District Security Protocols and Engagement of Law Enforcement Agencies)** – Staff have continued efforts to deepen District partnership discussions with law enforcement agencies in support of joint REJ efforts. Staff made a presentation to the Contra Costa County Chiefs of Police and Sheriff’s Office about the District’s current REJ efforts and requested contacts for ongoing liaisons for future work in this area. The District Security Office is maintaining the list of agency contacts.

Diversity, Equity, and Inclusion Strategic Plan

Staff met with The Winters Group to discuss their preliminary findings from their Cultural Audit. Winters will provide their report and recommendations at the April 13, 2021 Board meeting, and data will be made available to all staff directly after that meeting.

The Core Team and the Senior Management Team (SMT) launched the five pilot projects (capital infrastructure investments, community engagement, contracts and procurement, hiring and recruitment, promotion and retention) which will become the foundation of the DEI Strategic Plan. Each project team had their first of three technical assistance meetings with the implementation consultant (OG Racial Equity) to provide guidance on viewing each subject area through a racial equity lens and defining approaches to creating change in the five project areas.

The project teams will focus their efforts on defining the intended outcomes for each project, collection of data to inform actions (including feedback data from The Winters Group), outreach to impacted parties and stakeholders, and development of implementation strategies.

Office of Diversity, Equity, and Development

Staff from Contract Equity, Diversity and Inclusion, and Employee and Organizational Development participated in a team building session to begin the process of identifying opportunities for collaboration and developing a team culture that is committed to building organizational capacity and addressing both internal and external equity issues.

NEXT STEPS

In the next month, staff will work on the following action items:

- Continue implementing recommendations from the Strategy 1 and Strategy 6 Task Forces, including delivery of the Inclusive Listening sessions for all Affinity Groups.
- Continue outreach to law enforcement agencies to discuss police reform and partnership with the District in addressing equity issues.
- Core Team and SMT will continue work on pilot projects.
- The Winters Group will present their Cultural Audit key findings and recommendations at the April 13, 2021 Board meeting.
- Begin the recruitment of the Special Assistant to the GM for the Office of Diversity, Equity, and Development.
- Continue to update and seek direction from the Board.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: March 9, 2021

MEMO TO: Board of Directors

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

SUBJECT: Monthly Report – February 2021

HIGHLIGHTS

In February, District recreation areas opened for the season. The San Pablo Recreation Area and the Pardee Recreation Area opened February 5 and February 12, respectively. The reduced capacity openings follow California Department of Public Health's current COVID-19 guideline restrictions for outdoor recreation including trail use, boating, camping, fishing, and day-use activities.

On February 3, the State Water Resources Control Board approved the District's proposal for an adaptive management flow change. The proposed adaptive management flow change was requested to provide pulse flows for fish attraction in the fall in anticipation of dry year conditions. The change reduces flows below the Joint Settlement Agreement minimums in February and March by 30 cfs to save about 3,100 acre-feet for use in the fall. On February 6, the change was implemented and will continue to the end of March.

WATER SUPPLY

In February, retrofit work continued at Crow Canyon Country Club (CCCC) golf course to convert the irrigation system to recycled water supply. On February 15, approximately 3,500 feet of the recycled water pipe was installed. Staff also continued to coordinate with CCCC's management on their Pacific Gas & Electric power supply upgrades required for pumping recycled water for irrigation.

On February 3, Contra Costa Water District's Board of Directors authorized their staff to execute a Memorandum of Understanding (MOU) with the District to study whether the District can provide Backstop Water Service during construction and subsequent refill of Los Vaqueros Reservoir. EBMUD's Board will be asked to consider the MOU on March 9.

On February 5 and 26, staff met with the California Department of Water Resources (DWR) and U.S. Bureau of Reclamation (USBR), respectively, to present a new approach to transferring water to the North San Joaquin Water Conservation District to complete the Demonstration Recharge Extraction Aquifer Management (DREAM) Project. This approach relies on the water savings/credit resulting from the use of recycled water under California Water Code Section 1010. DWR and USBR did not express significant concerns with

this approach. Staff plans to coordinate with the State Water Resources Control Board to provide an update on the status of the DREAM Project in mid- March 2021.

On February 16, staff attended the East Bay Leadership Council Water and Environment Task Force presentation on the Phillips 66 Refinery Rodeo Renewed Project. The Rodeo Renewed Project will convert the refinery from processing crude oil to producing renewable oil from fat, used cooking oil, and vegetable oils. The project is expected to be online by the end of 2023. Staff will continue to coordinate with Phillips 66 to implement an on-site recycled water facility.

Precipitation. The East Bay precipitation for February was 1.69 inches (36 percent of average) and the season total is 6.58 inches (33 percent of average). The Mokelumne precipitation for February was 3.25 inches (42 percent of average) and the season total is 19.04 inches (56 percent of average).

Water Releases

Camanche Reservoir. The average rate of Camanche release for February was 231 cfs (192 cfs generation, 4 cfs sluice, and 35 cfs through the hatchery), and the average flow below Woodbridge Dam was 217 cfs, both in accordance with the Joint Settlement Agreement "Below Normal" water year criteria.

East Bay Reservoirs. Releases were made from Chabot Reservoir from February 5 to February 28 to support a habitat survey led by staff and a pipeline outage for the Bayfair Pumping Plant and Peralta Regulator Replacements & Peralta, South, and May Pumping Plants Demolition Project under Specification 2136.

Water Storage

Mokelumne reservoirs storage is 96 percent of average. As of February 28, 2021, Pardee was at 560.4 feet or 103 percent of average, and the Camanche was at 210.6 feet or 92 percent of average. Combined Pardee and Camanche reservoir storage was 438,000 acre-feet compared to 468,000 acre-feet last year.

East Bay reservoirs storage is 85 percent of average. As of February 28, 2021, USL was at 438.7 feet or 79 percent of average, San Pablo was at 300.8 feet or 84 percent of average, and Briones was at 563.4 feet or 91 percent of average. Total terminal reservoir storage was 114,000 acre-feet compared to 130,000 acre-feet last year.

Mokelumne Aqueducts and Raw Water Pumping Plants. The average rate of Mokelumne Aqueduct draft for February 2021 was 74 MGD. Walnut Creek, Moraga and Briones Raw Water Pumping Plants remained out of service for the month. Staff plan to exercise the pumps at Clay and Camanche Pumping Plants in March in case Freeport facilities are used to supplement water supply this year.

Water Production. Average rate of gross water production for February:

	February 2021	February 2020	February 2013	Average of FY 2005-2007
East of Hills	27 MGD	33 MGD	33 MGD	29 MGD
West of Hills	100 MGD	108 MGD	110 MGD	125 MGD
Total	127 MGD	141 MGD	143 MGD	154 MGD
Max Day Production	139 MGD (2/26/2021)	160 MGD (2/26/2020)	157 MGD (2/25/2013)	

Note: Data are all from preliminary daily operational reports and are subject to revision

WATER QUALITY AND ENVIRONMENTAL PROTECTION

In February, the District issued a pollution prevention permit to Urban Alchemy for discharge of wastewater from mobile shower/bathroom facilities serving homeless individuals in the East Bay. This permit is similar to an existing permit issued to Lava Mae; both Urban Alchemy and Lava Mae are non-profit organizations that provide services promoting well-being for people experiencing homelessness. There are no fees or charges associated with pollution prevention permits other than standard volumetric wastewater treatment charges.

In February, staff planted approximately 200 trees at fish habitat restoration sites in the Mokelumne River Day Use Area. The trees were planted to help meet floodplain restoration project objectives, mitigation requirements, and conditions of the State Water Resources Control Board erosivity waiver and the Lower Mokelumne River Spawning and Rearing Habitat Improvement Routine Maintenance Agreement with California Department of Fisheries and Wildlife.

In February, low levels of microcystins were detected at Lafayette Reservoir. On February 3, in response to finding approximately twelve dead waterfowl staff conducted an Abraxis field test where constituents were noted, and blue/green algae slicks were visible in the water surrounding the rental boat docks near the Visitors Center. Lafayette Reservoir was moved into “Tier 1 Caution” status. Tier 1 status notices were posted around the reservoir informing the public of harmful blue/green algae and precautionary steps to take when fishing. Lab results detected low levels of microcystins. As of this report, there is very little visible blue/green algae.

In February, seasonal salmonid field monitoring was conducted on the Mokelumne River. The last Chinook salmon passed Woodbridge Irrigation District Dam on January 26, 2021 leaving a total of 4,044 Chinook salmon for the season. Through February 9, 3,362 and 145 naturally-produced juvenile Chinook salmon were observed in the upstream and downstream traps, respectively. Based on trap calibrations, this equates to a production estimate of 55,851 juvenile Chinook salmon at the upstream trap, and an outmigration estimate of 2,610 juvenile Chinook salmon at the downstream trap so far this monitoring season. Staff continued to conduct weekly redd surveys, with a cumulative total of 295 Chinook salmon and 43 steelhead redds observed as of February 10. Because this year’s returns were below average, staff is preparing a report identifying issues that may have contributed to the low returns.

On February 2, the West County Wastewater District (WCWD) issued the District a compliance order in response to recent pH exceedances in the waste stream from the Richmond Advanced Recycled Expansion (RARE) facility at the Chevron Richmond Refinery to WCWD. The compliance order requires the District to install a mixing system in the RARE waste equalization tank; the mixing is expected to prevent future pH exceedances. The District will provide monthly status updates to WCWD on project progress, and WCWD commits that any pH violation occurring during the compliance schedule will incur reduced enforcement actions if the District remains compliant with the schedule. Construction of the improvements must be completed by September 2021 and a final update will be submitted to WCWD by October 2021.

On February 2, staff met with the San Francisco Estuary Institute and Baykeeper to discuss the draft report on “Nature-Based Solutions for Nutrient Removal,” and the constraints and opportunities for the Main Wastewater Treatment Plant (MWWTP). The report provides a regional evaluation of natural systems for nutrient reduction and is a requirement of the 2019 Nutrient Watershed Permit. Due to the limited amount of open space adjacent to the MWWTP, a nature-based solution requiring hundreds of acres is unlikely to be a cost-effective approach for nutrient removal alone. However, staff is continuing to seek partnerships on a multi-benefit solution, such as a horizontal levee for protection against storm surges with rising sea levels and nutrient removal.

On February 4, the District met virtually with the San Francisco Regional Water Quality Control Board (Water Board) as part of the biennial inspection of the District’s compliance with its National Pollutant Discharge Elimination System (NPDES) permit. The Water Board requested additional information and asked questions about the District’s NPDES permit program. Staff demonstrated its online operations and maintenance documentation. On February 17, the Water Board issued The Compliance Evaluation Inspection Report. The report requested the District provide information regarding the planned optimization of its Computerized Maintenance Management System in the 2021 Annual Report due February 2022.

On February 5, a sample from the Orinda Water Treatment Plant (OrWTP) was confirmed to have exceeded the National Pollutant Discharge Elimination System permit effluent limit for the filter backwash discharge to the San Pablo Creek. The OrWTP filter backwash water discharge to San Pablo Creek is a permitted discharge. The measured concentration of dichlorobromomethane (DCBM) exceeded the maximum allowable monthly average in the sample taken on January 25. Staff notified the San Francisco Regional Water Quality Control Board (SFRWQCB) as required and followed up within five working days from the incident with a report sent on February 16. This exceedance triggered accelerated samplings from February 6-8; the discharge was confirmed to be back in compliance on February 9 following the sampling process. OrWTP was drafting heavily from Briones Reservoir due to the low-flow operation associated with the work at Pardee. Water from Briones generally has higher bromide levels than the water from Pardee Reservoir, and therefore is more likely to produce DCBM when chlorinated. Staff is reviewing data and collecting additional samples to determine the cause and take corrective actions. Staff met with the SFRWQCB on February 11 to review the incident and the SFRWQCB is satisfied with the District’s investigation.

The District received no odor complaints from the public in February.

All authorized discharges from the Main Wastewater Treatment Plant were in compliance with the permit limits for the month of February.

INFRASTRUCTURE INVESTMENT

Pardee Chemical Plant Chemical Feed Shafts Project update. In February, this \$4.2 million project reached significant milestones. Installation and commissioning of a new medium voltage power switch for Pardee Center and the Pardee Chemical plant was completed. Drilling for the first new chemical feed shaft was completed and tied into Pardee Tunnel the first week of February. The second shaft was completed late February. The chemical feed shafts are the first of three projects needed to improve corrosion protection of the Mokelumne Aqueduct linings.

Briones Tower Retrofit Project update. On February 3, drawings for this \$10 million project were submitted to the California Division of Safety of Dams (DSOD). The retrofit design includes the installation of steel strips in the upper portion of the tower to provide necessary reinforcement under seismic conditions and includes remote operation of the tower valves to allow emergency draining of the reservoir without the need to physically access the tower. After DSOD's approval, the design is expected to be finalized and advertised for construction by the end of the year.

In February, eight restrooms were demolished along the paved trail at Lafayette Reservoir Recreation Area. As part of an upgrade program, the restrooms are being replaced with modern, serviceable structures that are better suited to handle the volume of visitors to the recreation area. The prefabricated, concrete buildings are designed specifically for parks and recreation areas and are expected to be installed by mid-March.

In February, staff completed two pipeline replacement projects in Oakland. The Golf Links Road area project replaced cast iron pipe with approximately 1,440 feet of 6- and 8-inch structurally-enhanced polyvinyl chloride pipe. The Quigley Street area project replaced cast iron pipe with approximately 7,780 feet of 6-inch structurally-enhanced polyvinyl chloride pipe.

In February, staff completed a pipeline replacement project in the St. Andrews Drive area in El Sobrante. This project replaced cast iron pipe with approximately 2,095 feet of 6- and 8-inch structurally-enhanced polyvinyl chloride pipe.

In February, staff completed a pipeline replacement project in the Lexington Avenue area (Phase I) in El Cerrito. This project replaced cast iron pipe and asbestos cement pipe with approximately 5,600 feet of 6-inch structurally-enhanced polyvinyl chloride pipe and 8-inch mortar-lined zinc coated ductile iron pipe.

In February, staff began two pipeline replacement projects in Oakland. The Walnut Street area project will replace cast iron pipe with approximately 1,800 feet of 4- and 6-inch structurally-enhanced polyvinyl chloride pipe. This project is expected to be completed in April 2021. The Sunnyhills Road area project (Phase II) will replace cast iron pipe with approximately 3,140 feet of 4-, 6- and 8-inch structurally-enhanced polyvinyl chloride pipe. This project is expected to be completed in June 2021.

In February, staff began a pipeline replacement project in the Kingston Way area in Castro Valley. This project will replace asbestos cement pipe and cast iron pipe with approximately 1,000 feet of 6-inch structurally-enhanced polyvinyl chloride pipe. This project is expected to be completed in April 2021.

In February, staff began a pipeline replacement project in the Tara Road area in Orinda. This project will replace asbestos cement pipe, cast iron pipe, and mortar-lined coated steel pipe with approximately 2,200 8-inch structurally-enhanced polyvinyl chloride pipe. This project is expected to be completed in May 2021.

In February, staff began a pipeline replacement project in the Shady Glen Road area in Walnut Creek. This project will replace asbestos cement pipe and mortar-lined coated steel pipe with approximately 5,400 feet of 6- and 8-inch structurally-enhanced polyvinyl chloride pipe. This project is expected to be completed in July 2021.

Construction of the Main Wastewater Treatment Plant Aerated Grit Tanks and Gallery Improvements was completed under SD-399. This \$5 million project included replacement of the main grit screw conveyors and concrete rehabilitation for eight grit tanks, which remove grit at the headworks of the plant to protect downstream equipment. This project significantly improves the reliability of the grit removal equipment.

Mains repaired in February totaled 58. The attached table lists the mains repaired by staff in February, sorted by city and street. The table indicates the source of the leaks in three categories: non-surfacing leaks discovered by leak detection technologies, breaks caused by contractors or other agencies, and all other main breaks. The associated map shows the location of the main repairs.

CUSTOMER AND COMMUNITY SERVICES

In February, the FBI initiated an investigation into the discovery of an improvised explosive device (IED) found at Campo Seco Staging Area. On January 23, staff discovered an IED at the Campo Seco Staging Area and notified Calaveras County Sheriff's Office (CCSO). Staff assisted the CCSO in evacuating and isolating the area. The CCSO's bomb team responded and safely destroyed the device. The CCSO referred the investigation to the FBI.

On February 3, staff met with the City of San Pablo (City) to discuss the Wildcat Pumping Plant Project. Staff provided an overview of the project background, schedule, site plan, conceptual architectural and landscape designs, and the alignment of the new storm drain pipeline. The City provided input into the aesthetics of the new site and inquired about setbacks

to adjacent properties. The City also noted a potential parking-related encumbrance tied to the existing apartment complex to the south and will follow up with staff after reviewing the apartment's permit. Staff will consider the City's input in finalizing the conceptual design and preparation of the Mitigated Negative Declaration.

On February 4, the District held a virtual public meeting for phase 3 of the Westside Pumping Plant Replacement Project in Orinda. This phase includes replacement of pipe between 35 La Encinal to 121 El Toyonal. Approximately 15 people attended.

On February 9, staff conducted a virtual tour of the Main Wastewater Treatment Plant for the public. The tour was translated into American Sign Language for the benefit of a hear-impaired participant. Staff is continually looking for opportunities to make tours accessible and engaging for all. Approximately 25 people attended.

On February 10, staff met with the City of El Cerrito to coordinate construction activities. The two agencies shared information on current and upcoming work.

On February 10, staff presented at the El Sobrante Municipal Advisory Council meeting on the District's upcoming proposed budget and rates. Approximately 40 people attended.

On February 11 and 23, staff met with City of San Leandro (City) and Alameda County (County), respectively, regarding the Quarry Site Trench Soils Restoration Project. Staff provided information on the viability of using the quarry site for trench soils and the concept and timeline for investigating the restoration/reclamation of the site for potential issues and concerns, and preparation of an Environmental Impact Report. Also discussed were agencies assisting the District with outreach to City residents in the project vicinity and potential traffic and noise impacts along truck haul routes to and from the quarry site. Both agencies were interested in the final visual changes and long-term benefits of the site restoration including public access. Staff will continue to work and coordinate with the City and County as the project moves forward.

On February 17, staff met with the City of Piedmont to coordinate construction activities. The two agencies shared information on recently completed and upcoming work.

On February 17, staff met with the City of Oakland (City) regarding the Fontaine Pumping Plant Replacement Project. Staff provided an overview of the project schedule, site plan, landscaping and building architecture, plans for demolishing the existing Fontaine Pumping Plant, and the alignment of the new suction and discharge pipelines. The City provided input regarding the location of security fencing around the new Fontaine Pumping Plant site. Staff will consider the City's input in the preparation of the Mitigated Negative Declaration.

On February 17, staff participated in the California Association of Sanitation Agencies and California Water Environmental Association webinar. Staff along with other panelists discussed using wastewater as a leading indicator for COVID-19 in the community focusing on wastewater-based epidemiology and wastewater surveillance. Approximately 280 people attended.

On February 23, staff met with the City of Emeryville to coordinate construction activities.
 The two agencies shared information on recently completed and upcoming work.

On February 24, staff met with the City of Berkeley to coordinate construction activities.
 The two agencies shared information on current and upcoming work.

Media. KQED’s BayCurious podcast featured Chabot Dam and EBMUD dam safety practices. KPIX, San Francisco Chronicle, and East Bay Times provided the latest information on regional and District water supplies. KTVU reported on a main break in Oakland. The East Bay Times provided recommendations for hiking Rocky Ridge in Moraga.

Upcountry, Calaveras Enterprise noted the closure of Pardee Dam and Sandretto Roads; and the Stockton Record provided an update on fishing on opening day at Pardee Reservoir Recreation Area.

Staff completed an on-site interview with KNTV about the effects of climate change on the District’s wastewater treatment plant and system. Additionally, staff was interviewed by KNTV about the hacking of a water system in Florida and Calaveras Enterprise about the explosive device found at the Campo Seco staging area in January.

Social Media:

Social Platform	Popular Topic	Impression Generation	# Followers	Increase Over Last Month
Twitter	Water Conservation Gardening Webinar	1,300	3,390	23
Facebook	Career Opportunity – Senior Ranger Naturalist	5,900	1,545	20
LinkedIn	California Association of Sanitation Agencies Award Video	1,300	6,108	76
Nextdoor	Update on water operations	Subscribers in 17 cities		

Staff conducted public outreach to neighbors and interested parties on the following projects:

- Acorn, Scenic, Scenic East and Derby Reservoir Project (Blackhawk, Danville, San Ramon)
- Copper Lateral Cathodic Protection Project (Richmond)
- Merle Cluster Pipeline Replacement Project (Oakland)
- Shady Glen Pipeline Cluster (Walnut Creek)
- Sierra Drive Pipeline Cluster (Walnut Creek)
- Sobrante Water Treatment Plant Maintenance and Safety Improvements Project (El Sobrante)
- Sunnyhills Cluster Pipeline Replacement Project Phase 2 and 3 (Oakland)
- Westside Pumping Plant Replacement Project (Orinda)

Contract Equity

On February 24, Western Region Minority Supplier Development Council hosted a virtual *Construction Day Matchmaking*. Staff distributed information on the District’s Contract Equity Program and upcoming contracting opportunities to small diverse businesses through individual one-on-one meetings. Approximately 100 people attended.

Contract Equity staff participated in the following customer events and outreach activities:

- February 2 - University of California Small & Diverse Business Advisory Council Quarterly Meeting – 17 attended
- February 5 - Martin Luther King Jr. Freedom Center, "TRUTH to POWER" - Movie Screening and Discussion (Congresswoman Barbara Lee’s story) – 99 attended
- February 10 - Construction Resource Center, Industry Advisory Committee Meeting – 7 attended
- February 13 - City of Oakland, “Addressing Racial & Gender Disparities in Contracting” Town Hall – 144 attended
- February 19 - Oakland Latino Chamber of Commerce Board Meeting – 15 attended

Water Conservation

In February, staff began serving as a Board member for the California Water Efficiency Partnership (CalWEP). CalWEP is the state’s water conservation and efficiency group which governs the regulations of water conservation efforts and initiatives in California.

On February 18, the District hosted the first of a six-part webinar series on water-wise gardening. The webinar provided an overview of key water-wise gardening principles and resources for residents, including qualification and eligibility for the District’s lawn conversion and irrigation rebates. Approximately 90 people attended.

WORKFORCE PLANNING AND DEVELOPMENT

On February 3, the District hosted a virtual Spotlight Series presentation by the Desert Research Institute (DRI). The presentation pertained to developing an empirically based tool that considers the likelihood for snowmelt from rain-on-snow events in snow-dominated watersheds similar to the Mokelumne River basin. Approximately 50 people attended.

On February 4, the District was issued a Notice of No Violation After Inspection for a serious injury that occurred November 4, 2020 by the Division of Occupational Safety and Health of California (Cal/OSHA). Cal/OSHA stated no violations had been found as a result of the inspection and will contact representatives from Locals 444 and 21 separately to advise them of the inspection outcome. On February 9, the injured employee returned to work on modified duty.

On February 11, the District’s temporary COVID-19 testing program concluded. The program ran for five weeks beginning January 11 in which a total of 1,607 COVID-19 tests were administered. There were 5 positive test results for a positivity rate of 0.31% The program was limited to job classifications which regularly and unavoidably work near others, primarily those in Pipeline Construction and Equipment Division, Distribution Maintenance and Construction Division, and the Equipment Support Section.

Staff participated in events/activities that support the District’s long-term efforts to develop a diverse pipeline of candidates for future workforce needs and expand collaborative relationships with local partner organizations:

- **February 5, staff participated in College Track of Oakland’s Virtual High School Internship Program (VIP) Information Session.** Staff provided an overview of the District’s VIP including duration of the program, project types and application process. Approximately 130 people attended.
- **February 11, staff presented at San Lorenzo Arroyo High School’s engineering class.** Staff provided information on the District’s engineering career pathways, including regular job duties and examples of projects. Approximately 30 people attended.
- **February 26, staff participated in the California State University, Sacramento and the California State University, San Francisco’s Virtual Engineering and Computer Science Fair.** Staff provided information on District engineering and IT career pathways and the benefits of working at the District. Approximately 100 people attended.

Tuition Reimbursement

	February 2021	FY21 Total
# of Employees	14	128
# of Classes	21	177
Total Reimbursed	\$12,549	\$118,167

Employment Information

	January 2021	FY21 Total
Retirements – Regular	3	48
Retirements – Vested	0	8
Hires/Rehires	18	104
Other Separations	2	33

FINANCIAL STABILITY

In February, an additional qualified service provider was added to the agreements for environmental, health and safety training. Trade Tech Pro, LLC meets District standards and has been added to provide electrical training.

In February, three additional qualified vendors were added to the agreements for disposal and recycling of District asphalt, concrete, asphalt grindings, and petromat trench soils. Bee Green Recycling and Supply, Inner City Recycling, and Golden Bear Transfer Station meet District standards and have been added to increase flexibility and ensure vendor availability.

On February 11, the District submitted an amendment to the U.S. Fish and Wildlife Service (USFWS) to add \$160,000 of federal funding to the existing Mokelumne River Riparian Diversion Screening cooperative agreement (F15AC00431). This amendment was in response to the availability of money identified by the USFWS and secures the funds. The additional funds will bring total federal funding for the agreement to \$320,000, which will cover installation of fish protection screens on three private irrigation diversions within the lower Mokelumne River.

On February 16, the District submitted two letters in support of grant applications from the Center for Transportation and the Environment (CTE) and University of California, Riverside (UCR) to the California Energy Commission (CEC) for hydrogen fueling pilots at the Port of Oakland. The CEC grant solicitation has \$20 million available for the “Zero-Emission Drayage Truck and Infrastructure Pilot Project.” Both CTE and UCR are seeking CEC funding to build renewable hydrogen fueling infrastructure on an available parcel of land at the Main Wastewater Treatment Plant. The first phase involves leasing land for the hydrogen fueling station. The second phase could involve providing biogas as a feedstock for onsite hydrogen production. Award announcements are expected by April 2021.

The estimated earned revenue from Mokelumne power sales for February is \$359,753. The District sold renewable power and related Renewable Energy Credits (RECs) to Marin Clean Energy (MCE). A total of \$28,990 was generated from REC sales – all from MCE. Resource Adequacy capacity sales to 3 Phases Renewables, Inc. and East Bay Community Energy earned \$143,147. Earned revenue to date through February is estimated at \$3.3 million or 66 percent of the FY21 budgeted \$5.0 million. Forecasted revenue for FY21 is \$4.8 million.

The estimated earned revenue from the Main Wastewater Treatment Plant Power Generation Station’s surplus power sales for February is \$53,862. The District sold renewable power and related Renewable Energy Credits (RECs) to the Port of Oakland. Sale of RECs generated \$13,428 from the Port of Oakland. Earned revenue for FY21 to date is estimated at \$475,882 or 48 percent of the total FY21 budget of \$1.0 million.

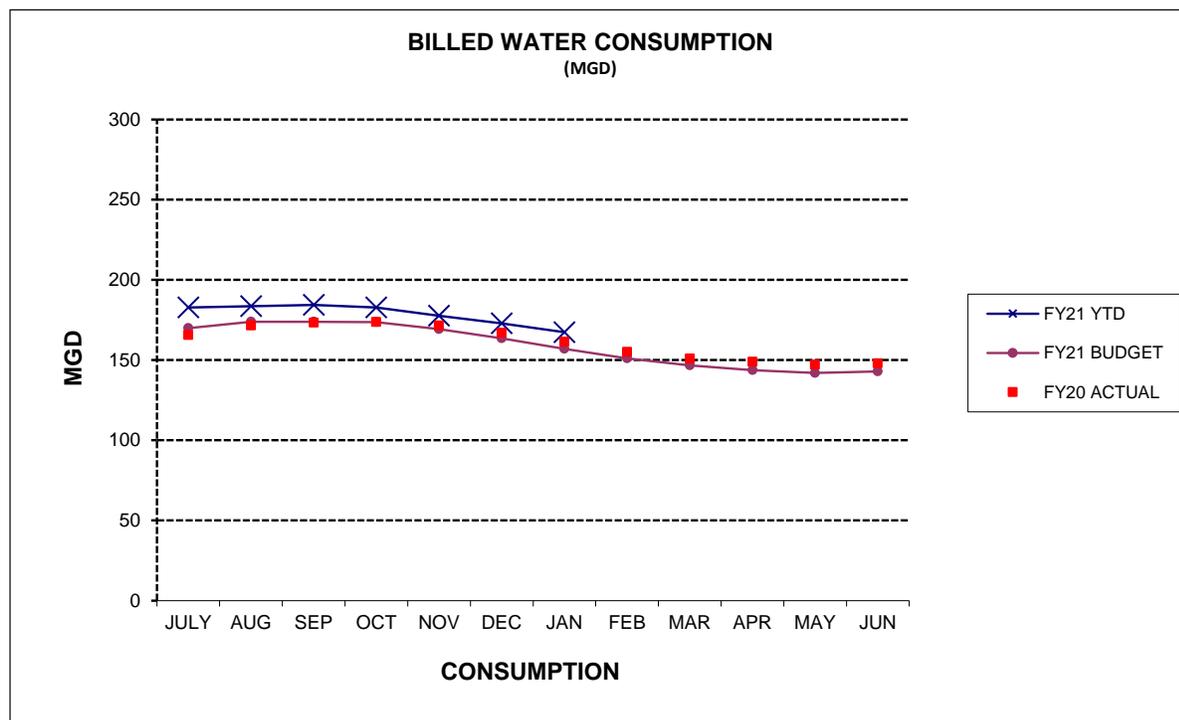
There were no material and supply contracts from \$80,001 to \$100,000 and no general or professional services agreements from \$30,001 up to \$80,000 approved by the General Manager in February 2021.

Water Sales (Consumption)

The following consumption information provides the average water consumption in millions of gallons per day (MGD) for the first seven months of FY21. Budgeted average daily water consumption for FY21 is 143 MGD with higher summer month consumption due to outdoor watering. The table below shows the average billed water consumption information by customer class with a comparison to FY20 data for the same period of time.

Alameda and Contra Costa counties’ public health departments have issued “shelter-in-place” orders since March 17, 2020. While this has limited the activities of businesses, industries, schools and public agencies within the service area, the District has not seen a significant impact from the pandemic on overall water consumption and has rather experienced a shift in usage types as seen below. Staff will continue to monitor billed water sales and water production for changing trends.

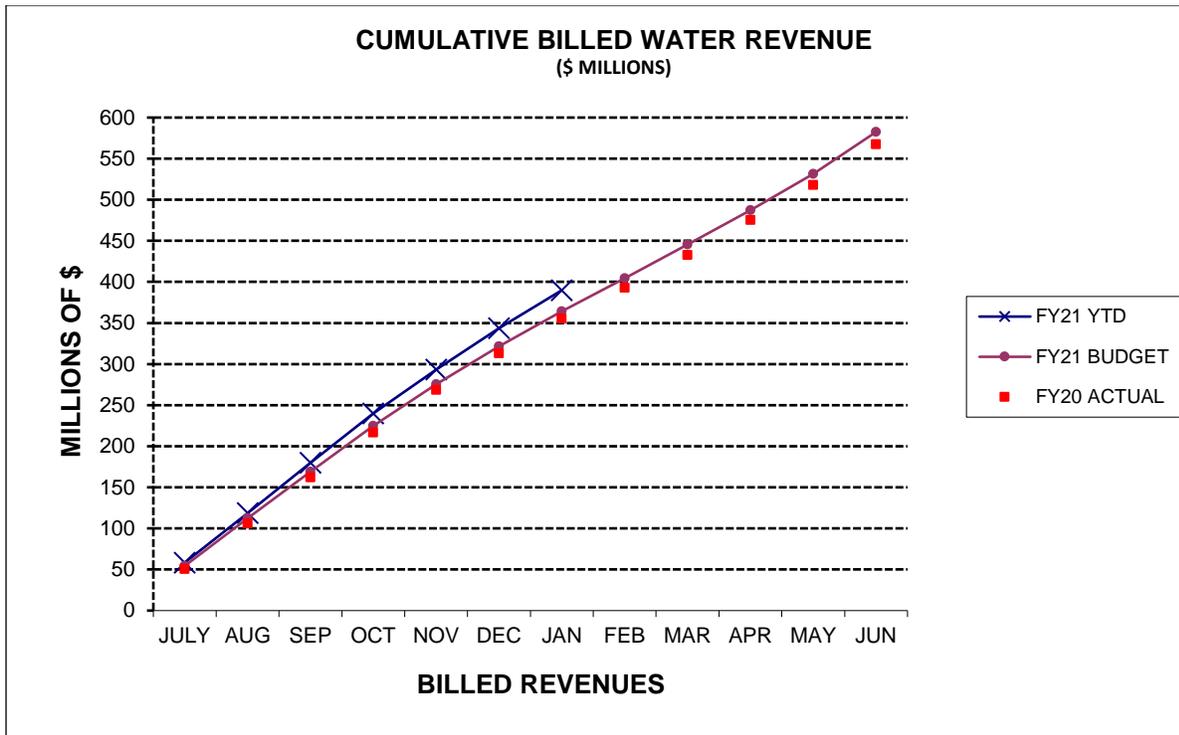
Fiscal Year-to-Date Billed Water Consumption			
Usage Type	FY21 (MGD)	FY20 (MGD)	Year-over-Year (% change)
Residential	90.5	84.2	7.5%
Commercial	51.1	52.8	-3.2%
Industrial	17.8	16.4	8.5%
Public Authority	8.0	7.9	1.3%
Total Billed Water Consumption	167.4	161.3	3.8%



Source: Customer Information System

Water Sales (Revenue)

Water revenues billed through the first seven months of FY21 were \$389.9 million or 9.8% more than the \$355.2 million billed for the same period in FY20. This increase reflects the 6.25% FY21 rate increase and higher water consumption. Total FY21 billed water revenues through January are \$25.9 million, or 7.1%, greater than the budgeted water revenue of \$364.0 million.



Source: Customer Information System

FEBRUARY 2021 MAIN BREAK REPAIRS										
City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
ALAMEDA		9TH	ST	ASBESTOS CEMENT	6.00	1963	9,000	2/19/2021	2/19/2021	Y
ALAMEDA		INDEPENDENCE	DR	STEEL	12.00	1988	8,640	2/14/2021	2/16/2021	Y
ALBANY		SAN PABLO	AVE	CAST IRON	4.00	1938	900	2/3/2021	2/3/2021	Y
ALBANY		SOLANO	AVE	CAST IRON	8.00	1927	8,640	2/18/2021	2/19/2021	Y
BERKELEY		ARLINGTON	AVE	CAST IRON	6.00	1922	2,250	2/2/2021	2/2/2021	Y
BERKELEY		BANCROFT	WAY	CAST IRON	8.00	1934	28,800	2/5/2021	2/8/2021	Y
BERKELEY		DOMINGO	AVE	ASBESTOS CEMENT	6.00	1956	28,800	2/6/2021	2/9/2021	Y
BERKELEY		GRIZZLY PEAK	BL	CAST IRON	6.00	1956	8,640	2/11/2021	2/16/2021	Y
BERKELEY		UNIVERSITY	AVE	CAST IRON	4.00	1946	2,700	2/5/2021	2/5/2021	Y
EL CERRITO		BARRETT	AVE	CAST IRON	6.00	1925	0	2/11/2021	2/17/2021	Y
EL CERRITO		DEVONSHIRE	DR	CAST IRON	6.00	1927	9,000	2/18/2021	2/18/2021	Y
EMERYVILLE		CHRISTIE	AVE	STEEL	8.00	1987	2,700	2/1/2021	2/1/2021	Y
EMERYVILLE		HORTON	ST	STEEL	12.00	2009	180	2/25/2021	2/25/2021	Y
HAYWARD		BLOSSOM	WAY	CAST IRON	4.00	1934	27,000	2/3/2021	2/3/2021	Y
HERCULES		SYCAMORE	AVE	STEEL	12.00	1975	0	1/26/2021	2/10/2021	Y
LAFAYETTE		BROWN	AVE	CAST IRON	6.00	1940	0	2/5/2021	2/18/2021	Y
LAFAYETTE		CAVALLERO	LN	CAST IRON	4.00	1948	1,350	2/24/2021	2/24/2021	Y
LAFAYETTE		FRANCIS	DR	ASBESTOS CEMENT	6.00	1966	7,200	2/13/2021	2/17/2021	Y
LAFAYETTE		HAPPY VALLEY	RD	STEEL	12.00	1956	115,200	1/20/2021	2/4/2021	N
LAFAYETTE		HAPPY VALLEY	RD	STEEL	12.00	1956	0	2/5/2021	2/11/2021	Y
LAFAYETTE		MORAGA	RD	ASBESTOS CEMENT	12.00	1955	18,000	2/7/2021	2/8/2021	Y
LAFAYETTE		ST FRANCIS	DR	ASBESTOS CEMENT	6.00	1969	900	2/4/2021	2/4/2021	Y
MORAGA		CAMINO PERAL		ASBESTOS CEMENT	8.00	1969	90,000	2/5/2021	2/6/2021	Y
MORAGA		SCOFIELD	DR	ASBESTOS CEMENT	4.00	1957	27,000	2/18/2021	2/18/2021	Y
OAKLAND		3RD	AVE	CAST IRON	6.00	1878	18,000	2/2/2021	2/2/2021	Y
OAKLAND		38TH	ST	CAST IRON	4.00	1896	4,500	2/24/2021	2/24/2021	Y
OAKLAND		40TH	AVE	CAST IRON	6.00	1924	9,000	2/26/2021	2/26/2021	Y
OAKLAND		61ST	AVE	CAST IRON	6.00	1927	28,800	2/20/2021	2/21/2021	Y
OAKLAND		76TH	AVE	CAST IRON	4.00	1927	8,640	2/17/2021	2/18/2021	Y

**KPI = turn around time to repair the leak*

FEBRUARY 2021 MAIN BREAK REPAIRS										
City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
OAKLAND		76TH	AVE	CAST IRON	4.00	1927	450	2/24/2021	2/24/2021	Y
OAKLAND		90TH	AVE	CAST IRON	8.00	1950	18,000	2/20/2021	2/20/2021	Y
OAKLAND		91ST	AVE	NON METALLIC / PLASTIC	6.00	1983	5,760	2/1/2021	2/4/2021	Y
OAKLAND		BURDECK	DR	CAST IRON	6.00	1939	2,880	2/4/2021	2/5/2021	Y
OAKLAND		CLAREMONT	AVE	STEEL	6.00	Unknown	0	2/8/2021	2/16/2021	Y
OAKLAND		EVERETT	AVE	CAST IRON	8.00	1962	2,700	2/3/2021	2/3/2021	Y
OAKLAND		FOOTHILL	BL	CAST IRON	4.00	1936	3,600	2/21/2021	2/22/2021	Y
OAKLAND		GEORGIA	ST	CAST IRON	4.00	Unknown	9,000	2/23/2021	2/23/2021	Y
OAKLAND		KEARNEY	AVE	CAST IRON	6.00	1947	1,800	2/6/2021	2/6/2021	Y
OAKLAND		MAGNOLIA	ST	ASBESTOS CEMENT	6.00	1925	2,880	2/25/2021	2/25/2021	Y
OAKLAND		MATHER	ST	CAST IRON	6.00	1934	9,000	2/11/2021	2/11/2021	Y
OAKLAND		NORTON	AVE	CAST IRON	4.00	1940	1,350	2/18/2021	2/18/2021	Y
OAKLAND		REDDING	ST	CAST IRON	6.00	1938	4,500	2/10/2021	2/11/2021	Y
OAKLAND		TRUITT	LN	ASBESTOS CEMENT	6.00	1957	900	2/5/2021	2/5/2021	Y
OAKLAND		WEBSTER	ST	CAST IRON	6.00	1927	13,500	2/23/2021	2/23/2021	Y
ORINDA		CAMINO SOBRANTE		CAST IRON	8.00	1934	21,600	1/21/2021	2/4/2021	N
ORINDA		ICHABOD	LN	CAST IRON	6.00	1951	720	2/3/2021	2/3/2021	Y
ORINDA		LA CUESTA		ASBESTOS CEMENT	8.00	1972	4,500	2/21/2021	2/21/2021	Y
ORINDA		TAHOS	RD	ASBESTOS CEMENT	6.00	1960	4,500	2/5/2021	2/5/2021	Y
ORINDA		TARA	RD	ASBESTOS CEMENT	6.00	1960	1,800	2/19/2021	2/20/2021	Y
ORINDA		VALLECITO	LN	STEEL	6.00	1973	17,280	2/3/2021	2/8/2021	Y
PLEASANT HILL		EL RANCHO	DR	CAST IRON	6.00	1954	8,640	2/5/2021	2/10/2021	Y
RICHMOND	E	RICHMOND	AVE	CAST IRON	8.00	1942	0	2/10/2021	2/11/2021	Y
RICHMOND		SONOMA	ST	CAST IRON	6.00	1951	2,700	2/1/2021	2/1/2021	Y
SAN LEANDRO		BANCROFT	AVE	CAST IRON	6.00	Unknown	0	2/4/2021	2/5/2021	Y
SAN LEANDRO		GARDNER	BL	CAST IRON	6.00	1943	34,560	1/30/2021	2/4/2021	Y
SAN LORENZO		VIA RIVERA		CAST IRON	6.00	1946	0	2/1/2021	2/3/2021	Y
WALNUT CREEK		MAGNOLIA	WAY	ASBESTOS CEMENT	8.00	1954	900	2/5/2021	2/5/2021	Y
WALNUT CREEK		SPRINGBROOK	RD	CAST IRON	6.00	1946	18,000	2/13/2021	2/13/2021	Y

**KPI = turn around time to repair the leak*

FEBRUARY 2021 MAIN BREAK REPAIRS										
City	Pre	Street	Suf	Pipe Material	Pipe Diameter	Year Installed	Est Water Loss (Gal)	Identified On	Completed On	KPI Met?
Total							657,360			

Non-surfacing leaks discovered by leak detection technologies	4
Breaks caused by contractors or other agencies	2
Other main breaks	52
Total water main repairs	58

**KPI = turn around time to repair the leak*

Customer Account Delinquency Information											
February 2021											
(Data collection began September 1, 2017)											
CUSTOMER ASSIST. PROGRAM (CAP) ENROLLMENT	October³	November³	December^{3&6}	January³	February³	Totals					
New CAP Participants	201	171	193	171	140	7,101					
CAP Renewals	171	133	166	154	164	6,648					
CAP Departures	150	166	144	191	120	6,217					
Total Active CAP Participants w/Active Accounts	8,120	8,149	8,237	8,272	8,352						
PAYMENT PLANS	October	November	December	January	February	Totals					
Approved Payment Plans	1,316	1,393	1,544	1,446	1,208	170,836					
Payment Plans Established After Service Interruptions	-	-	-	-	-	1,320					
SERVICE INTERRUPTIONS - RESIDENTIAL	October³	November³	December	January	February	Totals					
15-day Final Collection Notices	16,306	17,206	13,619	12,299	13,134	647,718					
48-hr Service Interruptions Notices	9,042	8,405	9,914	7,506	8,432	351,220					
Service Interruption Orders Created	*	*	*	*	*	82,689					
Service Interruptions Completed (Actual)	*	*	*	*	*	22,712					
CAP Enrolled Service Interruptions	*	*	*	*	*	802					
WATER THEFT	October	November	December	January	February	Totals					
No. of Incidents	-	-	-	-	-	367					
No. of 2nd or 3rd Occurrences	-	-	-	-	-	41					
No. Water Theft Penalties Issued	-	-	-	-	-	227					
No. of Appeals Received	-	-	-	-	-	10					
No. of 1st Appeals Approved	-	-	-	-	-	5					
No. of 1st Appeals Denied	-	-	-	-	-	7					
Multi-Family Liens¹	October	November	December	January	February	Totals					
Liens Filed	138	25	78	164	-	4,451					
Released	-	513	311	-	10	3,348					
Transferred to Alameda Cty.	-	-	-	-	-	1,612					
Transferred to Contra Costa Cty.	-	-	-	-	-	337					
Total/Month	138	538	389	164	10	9,748					
¹ Liens filed monthly represents delinquent accounts 4-6 months in arrears.											
BAD DEBT - WRITE OFFS	October	November	December	January	February	Totals					
Total Referred to Collection Agency	\$ 156,456	\$ 126,908	\$ 167,754	\$ 191,489	TBD ²	\$ 6,482,917					
Write-Off % to Billed Revenue	0.23%	0.21%	0.29%	0.35%	TBD ²						
² Information not available until the 20th of the month is normally one month behind, however due to summer schedule July and August to be updated in September 2020.											
³ 48-hours notices were generated, but not mailed to customers since March 23, 2020. Customers are receiving payment reminders in-lieu of 48-hours notices.											
⁶ CAP data up to December 29, 2020											
*Notes: Effective March 12, 2020, the District suspended "Disconnects Due to Non-Payment" (DNP) to residential customers, withheld mailing 48-hr notices to customers, and began restoring service to all customers shut off as of January 2020. The DNP information will be omitted from this table until the District resumes DNP activities.											
Water Theft Type/City	Alameda	Alamo	Albany	Berkeley	Castro Valley	Crockett	Danville	El Cerrito	El Sobrante	Hayward	Hercules
Meter	2	1	2	12	2	2	1	2	1	6	4
Illegal Connection	-	-	-	-	-	-	-	-	-	-	-
Hydrant	-	-	-	-	-	-	-	-	-	-	-
Total	2	1	2	12	2	2	1	2	1	6	4
Water Theft Type/City	Oakland	Piedmont	Pinole	Richmond	Rodeo	San Lorenzo	San Leandro	San Pablo	San Ramon	Total as of 9/1/2017	
Meter	237	1	5	69	7	1	5	3	2	365	
Illegal Connection	2	-	-	-	-	-	-	-	-	2	
Hydrant	-	-	-	-	-	-	-	-	-	0	
Total	239	1	5	69	7	1	5	3	2	367	

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: March 4, 2021

MEMO TO: Board of Directors

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

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: Finance/Administration Committee Minutes – February 23, 2021

Chair William B. Patterson called to order the Finance/Administration Committee meeting at 8:04 a.m. He announced that in light of the COVID-19 pandemic, the meeting will be conducted pursuant to California Executive Order N-29-20 which suspends certain requirements of the Ralph M. Brown Act and allows Board members and the public to participate remotely while social distancing requirements are in effect. Director John A. Coleman was present at roll call. Director Andy Katz joined the meeting at 8:19 a.m. All Directors participated remotely. Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Director of Finance Sophia D. Skoda, Manager of Budget Jeanne M. Chase, Internal Auditor Supervisor Barry N. Gardin, Treasury Manager Robert L. Hannay, Special Assistant to the General Manager Kelly A. Zito, Assistant to the General Manager Janetta M. Johnson, and Secretary of the District Rischa S. Cole.

Public Comment. None.

Fiscal Year 2021 (FY21) Semi-Annual Budget Performance Report. Manager of Budget Jeanne M. Chase presented the report for the period July 1 through December 31, 2020. She reported total Water System revenues were \$410.0 million (106 percent of the six-month budget), and operating expenses were \$197.2 million (86 percent of the six-month budget). Total Wastewater System revenues were \$75.0 million (104 percent of the six-month budget), and operating expenses were \$46.4 million (96 percent of the six-month budget). She discussed System Capacity Charge (SCC) revenue and said there could be a decrease in revenue during the second half of FY21 since developers were notified the Board is considering a possible decrease in the SCC rates for FY22. She reviewed major capital cash flow expenses and year-end projections for both systems. Water System revenues are projected to be 4 percent above budget and total expenses including cash-funded capital is projected to be above budget. The District does not plan to issue new Water System debt in FY21 so capital spending is projected to be 100 percent cash-funded from a combination of projected positive year-end net revenues and a drawdown of up to \$52 million from available reserves. Wastewater System revenues are projected to be 1 percent above budget and total expenses including cash-funded capital is projected to be less than budget. Ms. Chase and Director of Finance Sophia D. Skoda responded to Committee questions regarding SCC rates and the number of SCC applications received. It was moved by Director Katz, seconded by Director Coleman, and carried (3-0) by roll call vote to accept the report.

Monthly Investment Transactions Report. Director of Finance Sophia D. Skoda provided an overview of the report for January 2021 and reported current interest rate earnings of approximately 0.267 percent. The report will be presented to the Board for consideration at its meeting in the afternoon. The Committee had no questions. It was moved by Director Katz, seconded by Director Coleman, and carried (3-0) by roll call vote to accept the report.

Semi-Annual Internal Audit Report. Internal Auditor Supervisor Barry N. Gardin reviewed the report which covered the status of audits in the FY21 Internal Audit Plan and ongoing activities. Mr. Gardin said that during this reporting period, there were no material findings, control weaknesses, risks, or other significant issues requiring Board action or attention. The FY21 Internal Audit Plan includes follow-up testing, evaluation, and a review of previously completed audits to determine if recommended actions or controls have been implemented and/or followed. Follow-up reviews were performed for the following audits: inspection fees; Memorandum of Understanding compliance; and Inventory Control and Materials Management. Follow-up reviews for the Purchasing and Fleet Administration audits as well as an evaluation and assessment of the Testing and Hiring (Civil Service Compliance) audit will be completed during the fourth quarter of FY21. He provided an update on the Consumption Revenue Finding Resolution audit stating that resolution for all areas, including recommendations for procedural changes is also expected to be completed during the fourth quarter of FY21. Ongoing activities include reviews of audits for the District's Business Classification Code designations; applicant and outside agency invoicing and receivables; and laboratory services. It was moved by Director Coleman, seconded by Director Katz, and carried (3-0) by roll call vote to accept the report.

Invitation to Apply for a Water Infrastructure Finance and Innovation Act (WIFIA) Loan.

Treasury Manager Robert L. Hannay reported that in October 2020, the District submitted a Letter of Interest (LOI) to the U.S. Environmental Protection Agency (EPA) for a WIFIA loan. EPA reviewed the LOI and in January 2021, formally invited the District to submit a loan application for credit assistance up to \$209 million, which represents 49 percent of the District's eligible project costs over the next five years. The District's LOI initially requested \$445 million over 10 years. However, the EPA is limiting the duration of projects covered by a single WIFIA loan to five years. Mr. Hannay reviewed the LOI criteria and submittal process which is the most competitive step for borrowers. If the District enters into a WIFIA loan, it would offset some planned borrowing through revenue bonds. Rates for WIFIA loans are currently around 1-2 percent lower than District revenue bonds. The loan interest rate is based on U.S. Treasury rates and is locked in at loan closing. Staff is working with the EPA to refine the District's project list and will submit the loan application to the EPA this spring. The application process is anticipated to take up to 12 months and staff will update the Finance/Administration Committee as the application process progresses. The Committee requested additional information on the potential range in savings and on the WIFIA loan funding process. It was moved by Director Coleman, seconded by Director Katz, and carried (3-0) by roll call vote to accept the report.

Adjournment. Chair Patterson adjourned the meeting at 8:53 a.m.

CCC/RSC