

MINUTES

Tuesday, November 24, 2020

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

Regular Closed Session Meeting

President Marguerite Young called to order the Regular Closed Session Meeting of the Board of Directors at 11:10 a.m. She 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, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (remotely).

Staff participants included General Manager Clifford C. Chan, General Counsel Craig S. Spencer, Attorney Derek T. McDonald (Item 1a), Attorney Ayriel A. Bland (Item 1a), Manager of Risk Management Vladimir Bessarabov (Item 1a), Attorney Lourdes Matthew (Item 2), and Manager of Human Resources Laura A. Acosta (Item 2).

PUBLIC COMMENT

- Addressing the Board were the following: 1) Justin Young, Chair, AFSCME Local 2019 Contracting Out Committee commented on the costs in the amended agreement for the Orinda Water Treatment Plant Disinfection Improvements Project which is scheduled for Board consideration on December 8, 2020; and 2) Eric Larsen, President, AFSCME Local 444 commented on information contained in the Actuarial Experience Study presented by Segal Consulting at the November 19, 2020 Retirement Board meeting.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

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

Regular Business Meeting

President Young called to order the Regular Business Meeting of the Board of Directors at 1:16 p.m. She 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, Doug Linney, Lesa R. McIntosh, Frank Mellon, William B. Patterson, and President Marguerite Young were present at roll call (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 Young 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

- Item 7 was pulled from the Consent Calendar for discussion.
 - Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-6 and 8-9 on the Consent Calendar carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 214-20** – Approved the Special Meeting Minutes and the Regular Meeting Minutes of November 10, 2020.
 2. The following correspondence was filed with the Board: **1)** Presentation entitled, “Collection Strategy for Delinquent Single-Family Residential Accounts,” dated November 24, 2020; **2)** Presentation entitled, “Coronavirus Update,” dated November 24, 2020; **3)** Presentation entitled, “Water Treatment Plant Chemical Systems Safety Improvements Project Design Agreement Amendment,” dated November 24, 2020; and **4)** Letter (undated) to President Young, members of the Board, and General Manager Chan from George Cleveland, Chief Steward, AFSCME Local 2019 regarding desk audits/job classification studies, abusive manager, disputed \$6 bridge toll, and incident last week at downtown San Leandro BART station.
 3. **Motion No. 215-20** – Awarded a sole source contract to RDP Technologies, Inc. in an amount, after the addition of taxes, not to exceed \$3,059,964 to supply a complete RDP Tekkem™ lime batch slaker system and associated equipment for the Pardee Chemical Plant Improvements Project, beginning on or after November 24, 2020.

4. **Motion No. 216-20** – Authorized an agreement beginning on or after November 24, 2020 with Dynamic Systems, Inc. in an amount, not to exceed \$572,003 for supplying one year of Oracle hardware and software maintenance and support services.
5. **Motion No. 217-20** – Authorized an agreement beginning on or after November 24, 2020 with Security By Design, Inc. in an amount not to exceed \$1,384,375 for five years for design and integration services for the District’s Centralized Security System.
- 6.1.1- **Motion No. 218-20** – Ratified the extension of contract and payment of \$2,261,975 to Solenis
6.1.2 LLC (formerly BASF Corporation) for the continuous supply of polymeric flocculants for the Main Wastewater Treatment Plant’s dewatering process through December 1, 2020; and extended the contract awarded under Board Motion No. 161-15 with Solenis LLC (formerly BASF Corporation) through November 30, 2021 and increased the authorized amount by \$3,576,290, which incorporates the ratified payment of \$2,261,975, for a total amount not to exceed \$7,454,300 for supplying polymeric flocculants to the Main Wastewater Treatment Plant’s dewatering process.
- 6.2.1- **Motion No. 219-20** – Ratified the payment of \$363,000 to Solenis LLC (formerly BASF
6.2.2 Corporation) for the continuous supply of thickening polymeric flocculants for the Main Wastewater Treatment Plant’s thickening process through December 1, 2020; and extended the contract awarded under Board Motion No. 004-16 with Solenis LLC (formerly BASF Corporation) through February 1, 2022 and increased the authorized amount by \$437,219, which incorporates the ratified payment of \$363,000, for a total amount not to exceed \$1,038,429 for supplying polymeric flocculants to the Main Wastewater Treatment Plant’s thickening process.
7. **Authorize a second amendment to the agreement previously amended under Board Motion No. 099-19 with Stantec Consulting Services, Inc. to increase the agreement amount by \$4,283,667 to a total amount not to exceed \$10,472,295 for additional design services under the Water Treatment Plant (WTP) Chemical Systems Safety Improvements Project (CSSIP).**

Director of Engineering and Construction Olujimi O. Yoloye presented an update on the project which will upgrade the chemical systems at five District WTPs (Orinda, Lafayette, Walnut Creek, Sobrante, and Upper San Leandro) and the Briones Disinfection Facility, and will improve facility safety, regulatory, and environmental compliance. Mr. Yoloye explained that as work on the project proceeded, the design proved to be significantly more challenging and complex than anticipated, and has required more engineering effort to prepare the construction contract documents. In addition, several relevant but out-of-scope tasks were identified and need to be added to the project to address specific operational needs. He reviewed the project’s background and timeline; original and current scope; costs for additional scope elements; the planning and design process for the project audit and design agreements; the proposed design workflow for large and complex projects similar to the CSSIP; and proposed next steps. Total design costs are approximately \$9.5 million and constructions costs approximately \$58 million. Staff is seeking Board approval for a second amendment to the agreement to complete the detail design so that the construction contract can be prepared for award by fall 2021. Mr. Yoloye discussed how staff will implement new design processes for upcoming large and complex project such as the CSSIP.

- Addressing the Board was Justin Young, Chair, AFSCME Local 2019 Contracting Out Committee who commented the union opposed the staff recommendation and detailed the reasons for the union's opposition.

There was considerable Board discussion regarding the information presented and Mr. Young's comments. Mr. Yoloye responded to Board questions regarding potential internal resources currently available to perform the work; options to amending the agreement; the agreement terms; impacts to the project if the agreement amendment is delayed; costs for consultant versus staff prepared designs; the District's contracting out process and the timing for engaging the Contracting Out Committee; number of consultant staff working on the project; consultant staff's performance to date; current number of vacant District positions in the classifications needed to perform this work; and the potential to hire staff to complete future project work.

General Manager Clifford C. Chan summarized the Board comments and based on Board requests, advised staff would present information at the Budget Workshop in January 2021 on plans to ensure knowledge retention for staff working with consultants on large, complex infrastructure projects; resource needs, including staffing for large, complex infrastructure projects and potential, corresponding impacts on rates; and a risk matrix for prioritizing and sequencing upcoming capital projects.

- Motion by Director Mellon, seconded by Director Coleman, to approve the recommended actions for Item 7 carried (7-0) by the following roll call vote: AYES (Coleman, Katz, Linney, McIntosh, Mellon, Patterson, and Young); NOES (None); ABSTAIN (None); ABSENT (None).

Motion No. 221-20 – Authorized a second amendment to the agreement previously amended under Board Motion No. 099-19 with Stantec Consulting Services, Inc. to increase the agreement amount by \$4,283,667 to a total amount not to exceed \$10,472,295 for additional design services under the Water Treatment Plant Chemical Systems Safety Improvements Project.

8. **Motion No. 220-20** – Approved the October 2020 Monthly Investment Transactions Report.
9. **Resolution No. 35208-20** – Authorizing a Two-Year Option Agreement for a Potential 20-Year Lease with Oakport Energy Storage, LLC, to Install One or More Battery Energy Storage Systems at a Portion of East Bay Municipal Utility District's Property Located Behind the Oakport Wet Weather Facility in Oakland, California.

DETERMINATION AND DISCUSSION

10. **General Manager's Report.**

Coronavirus Update

Director of Operations and Maintenance David A. Briggs presented an update on the statewide system for monitoring Coronavirus transmission and said to date, the system's framework remains unchanged. Mr. Briggs discussed the latest statistics for Alameda, Contra Costa, San Joaquin, Amador and Calaveras counties as of November 20 and reported District operations have not been impacted by the new state-mandated face covering guidelines or limited stay-at-home order. He said staff is preparing for potential higher infection rates this winter and noted

the District is still maintaining 10-12 weeks of Personal Protective Equipment supplies. He highlighted the number of staff that have tested positive for the virus and Coronavirus-related leave statistics to date. Mr. Briggs responded to Board questions regarding the number of employees that are back to work after testing positive for Coronavirus. The Board requested information on the number of employees that have tested positive for Coronavirus, the number of employees still off work, and the number of employees that have been hospitalized.

Collection Strategy for Delinquent Accounts Update – Flow Restrictors

Manager of Customer and Community Services Andrew L. Lee presented an update on the proposal to incorporate flow restrictors into the District's payment collection process for single-family residential (SFR) customers to address delinquent accounts. This information was previously presented to the Board at its October 27, 2020 Regular meeting. If approved, the District would begin using 0.5 gallons per minute (gpm) flow restrictors following the end of the governor's Executive Order (EO) N-42-20 restricting shutoffs. Mr. Lee reported that since March 2020, approximately 7,000 SFR accounts have reached shutoff status through October 2020. If the District returns to shutoffs following the end of the EO, many of these accounts could lose water service if customers are unable to pay or make arrangements to pay their delinquent bills. He discussed potential impacts to customers, noting that more than 55 percent of the SFR delinquent accounts are in disadvantaged communities; flow restrictor installation costs compared to the District's current shutoff charges; flow and pressure considerations if flow restrictors are implemented; bench test results for 0.4 gpm and 0.5 gpm flow restrictors; retroactive Customer Assistance Program (CAP) discounts; various programs for customers facing challenges paying their water bills; the District's continued work with cities to implement a CAP discount for city sewer service charges; and the framework in place to assist low-income and/or CAP participants with paying fees associated with flow restrictor installations. Mr. Lee clarified that flow restrictors would not be installed on accounts where customers have a medical certification from a licensed primary care provider, provided the customer agrees to make regular payments toward the unpaid balance. He reviewed the District's multi-step notification process for water shutoffs and said if flow restrictors are implemented, the notification process would be updated to include an outbound call to the account holder after a 48-hour notice has been mailed. A flow restrictor would only be installed after all notification steps have taken place. He responded to questions from the October 27 Finance/Administration Committee meeting on whether customers in the process of applying for the CAP can receive a discount on flow restrictor installation charges; resources needed to place multiple outbound calls to account holders prior to installing a flow restrictor; and the District's ability to offer more flexible payment plans. Based on Board feedback, staff will prepare a resolution for Board consideration at the December 8 Regular meeting. He highlighted the draft resolution's proposed principles and actions and said the resolution would authorize staff to develop a plan to incorporate flow restrictors into the District's payment collection process. If the resolution is adopted by the Board, staff will engage community stakeholders and research institutions and present the plan at the February 2021 CAP Workshop.

The Board thanked staff and expressed appreciation for their efforts to develop an alternative approach to address delinquent accounts and water shutoffs. The Board asked staff to begin contacting customers who have reached shutoff status soon after the Board considers the resolution on December 8.

- Director Lesa R. McIntosh left the meeting at 3:08 p.m.

REPORTS AND DIRECTOR COMMENTS

11. Committee Reports.

- Filed with the Board were the November 10, 2020 Planning Committee Minutes.
- Finance/Administration Committee Chair William B. Patterson reported the Committee met earlier in the day (remotely) and received an update on the October 2020 Monthly Investment Transactions Report and the Collection Strategy for Delinquent Accounts – Flow Restrictors.
- DERWA member Frank Mellon reported the DERWA Board met on November 23, 2020 (remotely) and approved the treasurer’s and quarterly investment reports and accepted the independent auditor’s report and financial statement. The Board received an update from the Authority Manager regarding the Joint Powers Authority revision project; Central Contra Costa Sanitary District wastewater diversion project; operations; and the communications program. He also reported that for the 2020 election the Dublin San Ramon Services District transitioned from an at-large election system to an area-based election system with five Divisions. Candidates were appointed to Divisions 1 and 3 and no candidates filed for the Division 5 seat.
- President Young reported the Board met in workshop session earlier in the day (remotely) to receive an update on the District’s current System Capacity Charge (SCC) and preliminary results from the 2020 SCC Study that will be used to update the Fiscal Year 2022 SCC.

12. Other Items for Future Consideration.

None.

13. Director Comments.

- Director Coleman reported attending the DERWA Board meeting (remotely) on November 23 and plans to speak at the WateReuse NorCal Chapter meeting (remotely) on December 4.
- Director Patterson wished everyone a happy Thanksgiving.
- Directors Katz, Linney, and McIntosh and President Young had no report.

ADJOURNMENT

President Young adjourned the meeting at 3:23 p.m.

SUBMITTED BY:



Risha S. Cole, Secretary of the District

APPROVED: December 8, 2020



Marguerite Young, President of the Board