



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

375 - 11th Street, Oakland, CA 94607

Office of the Secretary: (510) 287-0440

**AGENDA
Tuesday, May 24, 2016**

**REGULAR CLOSED SESSION
11:00 a.m., Board Room**

*(Director Andy Katz will participate by telephone from
Hans-Iwane-Straße 9, Obergeschoss, Bonn, North Rhine-Westphalia 53113, Germany)*

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):
 - a. Pacific Gas & Electric Company
Claim No. 2015-L-071
 - b. One matter.

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

**REGULAR BUSINESS MEETING
1:15 p.m., Board Room**

*(Director Andy Katz will participate by telephone from
Hans-Iwane-Straße 9, Obergeschoss, Bonn, North Rhine-Westphalia 53113, Germany)*

ROLL CALL:

BOARD OF DIRECTORS:

- Pledge of Allegiance

PRESENTATION:

- Government Finance Officers Association FY 16/17 Certificate of Achievement – Excellence in Financial Reporting

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 May 10, 2016.
2. File correspondence with the Board.
3. Award contracts to vendors for supplying automobile and light, medium, and heavy truck tires for District vehicles.
 - 3a. Award contracts to the following vendors: Don's Tire Service; Bridgestone Americas Tire Operations, LLC dba GCR Tires and Service #852; Easy Bay Tire Company; George Oren Tire Specialist, Inc.; Inland Industrial Tire; J & O Commercial Tire; Morgan Tire of Sacramento, Inc.; Theil's Tire Service; and Wingfoot Commercial Tire Systems, LLC dba Goodyear Commercial Tire & Service Centers in a total annual amount, after the addition of taxes, not to exceed \$300,000 for supplying automobile and light, medium, and heavy truck tires for District vehicles for two years, beginning on or after June 1, 2016 with three options to renew for an additional one-year period for a total cost of \$1,500,000.
 - 3b. Authorize additional contracts for supplying automobile and light, medium, and heavy truck tires to the District. These additional contracts may be issued, as needed, in order to increase flexibility and ensure availability to the District. Any subsequent contracts shall meet all District standards and offer the Government and Utility Price Schedules program.
4. Authorize agreements for sweeping services.
 - 4a. Authorize an agreement beginning on or after May 24, 2016 with Statewide Construction Sweeping, Inc. in an amount not to exceed \$310,000 annually for sweeping services for two years with three options to renew for an additional one-year period for a total cost of \$1,550,000.
 - 4b. Authorize additional agreements with sweeping service vendors that meet District standards and offer pricing at or below the range in the proposed agreement above. These additional contracts may be issued, on an as needed basis, in order to increase flexibility and ensure availability of sweeping services to the District.
5. Authorize agreements for hydro-excavation services.
 - 5a. Authorize agreements beginning on or after May 24, 2016 with Diede Construction, Inc. dba Hydro X Services, Inc. and Presidio Systems, Inc. in an estimated total annual amount not to exceed \$100,000 for fully maintained and operated hydro-excavation services for one year with four options to renew for an additional one-year period for a total cost of \$500,000.
 - 5b. Authorize additional agreements for hydro-excavation services with companies that meet District standards and offer pricing at or below the range described in the proposed agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of hydro-excavation services to the District.

CONSENT CALENDAR: (Continued)

6. Authorize agreements for fully maintained and operated backhoe rentals.
 - 6a. Authorize agreements beginning on or after May 24, 2016 with Adam Moreno & Sons, Inc., MJH Excavating, Inc., and Paladin Construction in an amount not to exceed \$200,000 annually, for fully maintained and operated backhoe rentals for three years, with two options to renew for an additional one-year period for a total cost of \$1,000,000.
 - 6b. Authorize additional agreements for fully maintained and operated backhoe rentals with vendors that meet District standards and offer pricing at or below the range in the proposed agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of fully maintained and operated backhoe services to the District.
7. Authorize an agreement with Pacific States Marine Fisheries Commission in an amount not to exceed \$500,000 annually, for the marking, tagging, and recovery program for Chinook salmon and steelhead trout at the Mokelumne River Fish Hatchery, and the recovery and processing of the California ocean fisheries during the period July 1, 2016 to June 30, 2021.
8. Authorize an amendment to Board Motion No. 008-14 dated January 14, 2014 for paving, striping, sealing, concrete repair and other related services.
 - 8a. Authorize an amendment to Board Motion No. 008-14 dated January 14, 2014 beginning on or after May 24, 2016 to increase the initial authorization by an estimated annual amount not to exceed \$1,000,000 for paving, striping, sealing, concrete repair, and other related services through the remainder of the period ending December 31, 2019 for a total increase of \$3,585,000, with the following vendors awarded work under the original Board motion: AJW Construction; American Asphalt Repair; Black Gold Paving & Sealing; Bond Black Top, Inc.; Bruce Enterprises, Inc.; California Pavement Maintenance Company; Carone & Co, Inc.; Cliff Swisher Custom Concrete; Coastal Paving; County Paving Co., Inc.; John W. Hertzog, Contractor; JV Lucas Paving, Inc.; MCE Corporation; MCK Services, Inc.; Morgan-Bonnano Development; O.C. Jones & Sons, Inc.; Pacific General Engineering; Ransome Co.; VSS-International; and public agencies.
 - 8b. Authorize additional agreements for paving, striping, sealing and concrete repair with vendors that meet District standards and offer pricing at or below the range in the amended agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of paving, striping, sealing, and concrete repair backhoe services to the District.

CONSENT CALENDAR: (Continued)

9. Authorize an amendment to Board Motion No. 145-13 dated October 8, 2013 for fully maintained and operated rental of dump trucks.
 - 9a. Authorize an amendment to Board Motion No. 145-13 dated October 8, 2013 to increase the estimated annual amount by \$2,500,000 for fully maintained and operated rental of 10-yard, 20-yard end-dump and transfer trucks, and 20-yard super dump trucks beginning on or after May 24, 2016 for the remainder of the period ending October 31, 2018 for a total increase of \$6,082,000 to the following vendors awarded work under this motion: A.I.P. Trucking; Adam Moreno & Sons, Inc.; D & S Trucking, LLC; De Bibb Trucking; E. M. Blair Trucking; G W Trucking; Haver Transport; Hill Trucking; Inder Trucking; Jackson Transportation; JD Trucking Co., Inc.; Kemp Trucking; Mae Trucking; Roby Trucking; Royal Trucking; S&L Transport; SMG Trucking; Sudden Sam's Trucking Co.; Tom Aikens General Engineering; and V. Dolan Trucking, Inc.
 - 9b. Authorize additional agreements for fully maintained and operated dump truck rental services with vendors that meet District standards and offer pricing at or below the range in the amended agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of fully maintained and operated dump truck rental services to the District.
10. Authorize the purchase of services under an existing agreement with Oracle America, Inc. (Oracle) for one year beginning on or after July 1, 2016 in an amount not to exceed \$272,613 for database software license and maintenance services. The additional \$272,613 will increase the total cost for Oracle's software support service under the agreement to \$1,775,246.
11. Approve the assignment of the Technical Advisory Board Flow Monitoring and Field Services contract to Total Flow, Inc. This contract was previously awarded to E2 Consulting Engineers, Inc. by Board Motion No. 107-11 on September 28, 2011 and amended by Board Motion No. 168-14 on October 20, 2014.
12. Authorize execution of an agreement with San Joaquin County and North San Joaquin Water Conservation District to amend the existing Protest Dismissal Agreement (PDA) between the District and five San Joaquin County parties to (1) extend the deadline from June 30, 2016 to August 10, 2016 regarding San Joaquin County's issuance of the export permit under Section 5.e. of the PDA, and to (2) authorize the General Manager to approve further extensions of the deadline until no later than December 31, 2016.
13. Approve revised Sustainability/Energy Committee assignments.
14. Approve the purchase of a 10,757 square foot parcel of land located at 9601 MacArthur Boulevard, Oakland, CA from Alex Sam in the amount of \$277,000, for the preferred site for the Fontaine Pumping Plant replacement, and condition any future use of the parcel on California Environmental Quality Act compliance. (Resolution)

DETERMINATION AND DISCUSSION:

15. Legislative Update:
 - Receive Legislative Report No. 07-16 and consider positions on the following bills:
AB 2555 (Committee on Water, Parks and Wildlife) Fish and Wildlife; SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers; SB 1043 (Allen) Biogas and Biomethane; and SB 1233 (McGuire) Joint Powers Authorities: Water Bill Savings Act
 - Update on Legislative Issues of Interest to EBMUD
16. Adopt the revised Section 29, “Prohibiting Wasteful Use of Water,” of the EBMUD Regulations Governing Water Service to Customers to define and impose water use prohibitions, restrictions, and enforcement provisions effective July 1, 2016. (Resolution)
17. General Manager’s Report:
 - Drought Water Savings and Customer Response
 - 2016 Critical Drought Action Plan Update

REPORTS AND DIRECTOR COMMENTS:

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

ADJOURNMENT:

- Annual Memorial Presentation

The next Regular Meeting of the Board of Directors will be held at 1:15 p.m. on Tuesday, June 14, 2016 in the Administration Center Board Room, 375 Eleventh Street, Oakland, California.

Disability Notice

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

Document Availability

Materials related to an item on this Agenda that have been submitted to the EBMUD Board of Directors within 72 hours prior to this meeting are available for public inspection in EBMUD’s Office of the Secretary at 375 11th Street, Oakland, California, during normal business hours, and can be viewed on our website at www.ebmud.com.

BOARD CALENDAR

Date	Meeting	Time/Location	Topics
Tuesday, May 24	Finance/Administration Committee Coleman {Chair}, Katz, Patterson Strategic Plan Update and FY16-17 Mid-Cycle Budget and Rates Workshop Board of Directors	8:15 a.m. Training Resource Center 9:00 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Oursan Ridge Conservation Bank Maintenance Support Services District Strategic Plan Update – July 2016 FY16 & FY17 Mid-Cycle Budget Update Closed Session Regular Meeting
Monday, May 30	Memorial Day Holiday		<i>District Offices Closed</i>
Tuesday, June 14	Planning Committee Linney {Chair}, McIntosh, Young Legislative/Human Resources Committee Patterson {Chair}, Coleman, Young Board of Directors	9:15 a.m. Training Resource Center 10:15 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting
Tuesday, June 28	Finance/Administration Committee Coleman {Chair}, Katz, Patterson Board of Directors	10:00 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting
Monday, July 4	Independence Day Holiday		<i>District Offices Closed</i>
Tuesday, July 12	Planning Committee Linney {Chair}, McIntosh, Young Legislative/Human Resources Committee Patterson {Chair}, Coleman, Young Board of Directors	9:15 a.m. Training Resource Center 10:15 a.m. Training Resource Center 11:00 a.m. 1:15 p.m.	<ul style="list-style-type: none"> Closed Session Regular Meeting

MINUTES

Tuesday, May 10, 2016

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

Regular Closed Session Meeting

President Frank Mellon called to order the Regular Closed Session Meeting of the Board of Directors at 11:45 a.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Water and Natural Resources Richard G. Sykes (Item 1), Director of Wastewater Bennett K. Horenstein (Item 1), Assistant General Counsel Frederick S. Etheridge (Item 1), Attorney Jonathan D. Salmon (Item 1), and Attorney Saji T. Pierce (Item 1).

PUBLIC COMMENT

- Addressing the Board was Antonio Martinez, President, IFPTE Local 21, who commented that the District needs to improve its messaging to customers about upcoming rate increases despite achievements in conservation. The message should inform customers that the rates will support many system improvements and should highlight the benefits of the various programs and projects (i.e. more robust system, reliable water supply, etc.). He said this information was missing from the staff presentations at the morning's Water Conservation Workshop.

ANNOUNCEMENT OF CLOSED SESSION AGENDA

President Frank Mellon announced the closed session agenda. The Board convened to Conference Room 8a/b for discussion.

Regular Business Meeting

President Mellon called to order the Regular Business Meeting of the Board of Directors at 1:24 p.m. in the Administration Center Board Room.

ROLL CALL

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

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, and Secretary of the District Lynelle M. Lewis.

BOARD OF DIRECTORS

President Mellon led the Pledge of Allegiance.

ANNOUNCEMENTS FROM CLOSED SESSION

There were no announcements required from closed session.

PUBLIC COMMENT

- Addressing the Board were the following persons: 1) Mike Vukelich, customer, commented that the District's water meter charge is too low and should be increased to \$40 a month; 2) Alesia Stauch, volunteer for the Parks and Recreation Department in Danville, asked the Board to reconsider water restrictions for recreational spray parks because they provide a valuable recreational activity for families in the community; and 3) John Wilson commented on the Water Conservation Workshop presentation about data loggers and leak detection (Slide #32). [In response to Ms. Stauch's comments, the Board suggested that staff provide her with contact information for local, state and federal legislators to discuss water regulations for water spray parks.]

CONSENT CALENDAR

- Motion by Director McIntosh, seconded by Director Coleman, to approve the recommended actions for Items 1-8 on the Consent Calendar, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).
1. **Motion No. 079-16** – Approved the Regular Meeting Minutes of April 26, 2016.
 2. The following correspondence was filed with the Board: 1) Presentation entitled "Water Supply Availability & Deficiency Report" dated May 10, 2016; 2) Presentation entitled "FY17 Proposed Non-Prop 218 Rates, Charges & Regulations" dated May 10, 2016; 3) Presentation entitled "Suspend Drought Surcharge and Declare Stage 0 Drought" dated May 10, 2016; 4) Presentation entitled "Rescission of Drought Actions" dated May 10, 2016; 5) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Amador Ledger (R452), dated April 8, 2016; 6) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Contra Costa Times (Legal No. 0005701442), dated April 8, 2016; 7) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Oakland Tribune (Legal No. 0005701430), dated April 8, 2016; 8) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, The Sacramento Bee (No. 302), dated April 8, 2016; 9) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Calaveras Enterprise, dated April 12, 2016; 10) Proof of

Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, Lodi News-Sentinel (No. 159661), dated April 12, 2016; and 11) Proof of Publication, Public Notice for East Bay Municipal Utility District Urban Water Management Plan 2015, 2015 Contingency Plan, The Record (No. 0001065853), dated April 8, 2016.

3. **Motion No. 080-16** – Awarded a contract to the lowest responsive/responsible bidder, SUEZ Treatment Solutions, Inc., in the total amount, after the addition of taxes, not to exceed \$5,500,000 for supplying six ozone generators, ozone gas destruct units, and ancillary equipment for Sobrante and Upper San Leandro Water Treatment Plants under Request for Quotation No. 1618.
4. **Motion No. 081-16** – Awarded a contract to the lowest responsive/responsible bidder, State Pipe and Supply, Inc. (DBA West Coast Pipe), in the estimated annual amount, after the addition of taxes, of \$1,015,245 for supplying steel pipe consisting of mortar-lined/mortar-coated and mortar-lined/plastic-coated pipe for the District's Oakport Distribution facility for two years, beginning on or after May 16, 2016, with three options to renew for an additional one-year period for a total cost of \$5,076,225 under Request for Quotation No. 1619.
5. **Motion No. 082-16** – Awarded a contract to the lowest responsive/responsible bidder, Give Something Back, Inc., in the estimated annual amount, after the addition of taxes, of \$73,455 for supplying recycled paper for printing the *Customer Pipeline* newsletter for the District's Print Shop for two years, beginning on or after May 16, 2016, with an option to renew for an additional one-year period for a total cost of \$220,365 under Request for Quotation No. 1621.
6. **Motion No. 083-16** – Awarded a contract to the lowest responsive/responsible bidder, Triple S Electric Co., in the amount of \$156,700 for construction of the Main Wastewater Treatment Plant Digester Lighting Project under Specification SD-378.
7. **Motion No. 084-16** – Authorized an amendment to the contract awarded to CH2M Hill Engineers, Inc. under Board Motion No. 048-15 dated April 14, 2015 to extend the term to December 30, 2016, and increase the value by \$165,000, for a total amount not to exceed \$290,000, to develop risk management strategies and implementation plans.
8. **Motion No. 085-16** – Approved the Water Supply Assessment requested by the City of Hayward for the Lincoln Landing Mixed-Use Development Project pursuant to California Water Code, Sections 10910-10915.

PUBLIC HEARING

9. **Public Hearing to Accept Comments on the Draft Urban Water Management Plan 2015 in Compliance with the Urban Water Management Planning Act of the California Water Code.**

President Mellon opened the public hearing at 1:37 p.m. There was no comment. President Mellon closed the public hearing at 1:37 p.m.

DETERMINATION AND DISCUSSION

10. Legislative Update.

Manager of Legislative Affairs Marlaine K. Dumaine reported that activity on federal water legislation should pick up this summer, and at the state level release of the Governor's revised budget is anticipated. Staff will keep the Board apprised on policy-related matters that arise.

11. File a Report and Set a Public Hearing for the Water and Wastewater System Schedule of Rates and Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2017.

Director of Finance Sophia D. Skoda presented an overview of the recommended actions for Item 11. For FY17, staff is proposing to update the fees and charges that are not subject to the requirements of Proposition 218. These include: Water System Account Establishment Charge, Charges for Special Services, System Capacity Charges, Standard Participation Charge and Water Mitigation Fees, Public Records Act Fee Schedule, Real Property Use Application Fees, along with Wastewater Capacity Fees. The proposed changes will be reviewed as a part of the Strategic Plan Update and Mid-cycle Budget workshop scheduled for May 24, 2016. Adoption of the FY17 proposed rates and charges and other fees and regulations is also scheduled for the Board's consideration at its meeting on June 14, 2016. Following a question from the Board regarding the basis for "additional demand," Ms. Skoda said that upcoming reports would provide a reference for the source of customer demand numbers (i.e. biennial budget).

- Motion by Director Patterson, seconded by Director Linney, to approve the recommended actions for Items 11.1 and 11.2, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

11.1. **Motion No. 086-16** – Filed the Report and Recommendation of the General Manager for Revisions to the Water and Wastewater System Schedule of Rates and Charges, and Other Fees Not Subject to Proposition 218, and Regulations for Fiscal Year 2017.

11.2. **Motion No. 087-16** – Set a Public Hearing for Tuesday, June 14, 2016, during the Board's regular meeting to consider the report and recommendation.

12. Consider Actions Relating to the District's Drought Stage and Drought Surcharge.

- Addressing the Board was Heinrich Albert, representing the Sierra Club, who urged the Board to wait until after the State Water Resources Control Board's (SWRCB) decision on water use reduction requirements before considering easing the District's drought level.

Director of Finance Sophia D. Skoda reviewed the proposed recommended actions and alternatives. Staff recommended: 1) Declaring a Stage 0 drought, effective July 1, 2016, based on the "Total System Storage Scenario" contained in the District's Drought Management Program Guidelines; and 2) Suspending the Stage 4 drought surcharge for Fiscal Year 2017, effective June 30, 2016. These recommendations are due to an improved water supply outlook because of increased precipitation and snowpack levels.

There was discussion about use of the rate stabilization fund, drought recovery costs, and lessons learned. There was Board consensus to support the staff recommendations; however, Board members provided the following direction to staff: Use current customer water savings data to determine future demand projections; examine the rate stabilization fund to ensure it is appropriately sized; and review surcharge percentages and drought recovery costs based on experience. Ms. Skoda said that staff is preparing a lessons-learned document that will be shared with the Board).

- Motion by Director Coleman, seconded by Director Patterson, to approve the recommended actions for Items 12.1 and 12.2, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

12.1. **Motion No. 088-16** – Declared a Stage 0 drought, effective July 1, 2016, based on the Total System Storage Scenario contained in the District’s Drought Management Program Guidelines.

12.2. **Motion No. 089-16** – Suspended Stage 4 drought surcharge for Fiscal Year 2017, effective June 30, 2016.

13. **Consider Actions Relating to the District’s Water Shortage Emergency.**

Director of Water and Natural Resources Richard G. Sykes presented the following recommended actions: 1) Rescind District’s Water Shortage Emergency Declaration, effective June 30, 2016; 2) Rescind Section 28 of the EBMUD Regulations Governing Water Service to Customers, which established temporary water use prohibitions and restrictions, effective June 30, 2016; and 3) Rescind District-wide mandatory 20 percent water use reduction goal, effective June 30, 2016. Section 29 of EBMUD’s Regulations, “Prohibiting Wasteful Use of Water,” will remain in effect until the final conservation rules are issued by the SWRCB later in May and staff will return to the Board with recommendations. In response to the public comment about water spray parks, the Board requested that staff seek clarity from the SWRCB on water use guidelines for recirculating decorative water fountains versus water spray parks. There was discussion about how to encourage customers to continue to follow the prohibitions in Sections 28 and 29. The Board commended staff on their work to guide the District through this multi-year drought period.

- Motion by Director McIntosh, seconded by Director Young, to approve the recommended actions for Item 13 with the anticipation that there will be modifications to Section 29, carried (7-0) by the following voice vote: AYES (Coleman, Katz, Linney, McIntosh, Patterson, Young, and Mellon); NOES (None); ABSTAIN (None); ABSENT (None).

Resolution No. 34082-16 – Rescind The Water Shortage Emergency Within The District’s Service Area, Rescind Section 28, “Water Use During Water Shortage Emergency Condition,” And Rescind District-Wide Mandatory Twenty Percent Water Use Reduction Goal (effective June 30, 2016).

14. General Manager's Report.

General Manager Coate reported that staff provided the 2016 Critical Drought Action Plan Update for May and the Monthly Report for April 2016. Director Coleman asked for an update on succession planning for Board members in an emergency declaration, and General Counsel Spencer said an update will be provided at the May 24th meeting. Director Coleman suggested that EBMUD discontinue purchasing nylon bags, which contain micro/plastics, and switch to recycled bags which have less environmental impacts. General Manager Coate said he would relay this information to staff.

REPORTS AND DIRECTOR COMMENTS

15. Committee Reports.

- Filed with the Board were the Sustainability/Energy and Finance/Administration Committee Minutes of April 26, 2016.

16. Other Items for Future Consideration.

None.

17. Director Comments.

- Director Coleman reported attending/participating in the following events: Guest speaker for Boy Scout Troop 243 Eagle Court on April 30 in Lafayette; ACWA Spring Conference on May 4 in Monterey; meeting with San Joaquin County on water issues on May 4 in Monterey; Contra Costa County Mayors' Conference on May 5 in Pleasant Hill; and ACWA teleconference meeting on May 9 in Oakland. He reported on plans to attend/participate in the following upcoming events: East Bay Leadership Council Board of Directors meeting on May 10 in Moraga, and ACWA teleconference meeting on May 23 in Oakland.
- Director Katz had no comment.
- Director Linney had no comment.
- Director McIntosh had no comment.
- Director Patterson reported attending/participating in the following events: ACWA Spring Conference on May 4 in Monterey.
- Director Young reported attending the Upper Mokelumne River Water Authority meeting on April 22 and the Rose Foundation Wild and Scenic Film Festival on April 30 in Oakland. She reported on plans to attend/participate in the Friends of the River Capitol Awards on May 18 in Sacramento.
- President Mellon reported attending/participating in the following events: Chabot Dam Community meeting on April 28 in San Leandro; Danville High School Mountain Biking Club

meeting on April 28 in Danville; and the Town Hall meeting on May 9 in San Leandro. He commented that retiree Jake Dalton passed away this past week.

ADJOURNMENT

President Mellon adjourned the meeting at 2:22 p.m.

SUBMITTED BY:

Lynelle M. Lewis, Secretary of the District

APPROVED: May 24, 2016

Frank Mellon, President of the Board

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MINUTES

Tuesday, May 10, 2016

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

Special Meeting

President Frank Mellon called to order the Special Meeting of the Board of Directors at 9:32 a.m. in the Training Resource Center. The Board met in workshop session to receive an update on the Water Conservation Program.

ROLL CALL

Directors John A. Coleman, Doug Linney, Lesa R. McIntosh, William B. Patterson, Marguerite Young, and Frank Mellon were present at roll call. Director Andy Katz was absent at roll call but arrived at 9:47 a.m.

Staff present included General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Manager of Customer and Community Services Sherri A. Hong, Manager of Water Conservation Richard W. Harris, Operations and Maintenance Department Manager Clifford C. Chan, Special Assistant to the General Manager Alison A. Kastama, Assistant to the General Manager Rischa S. Cole, and Secretary of the District Lynelle M. Lewis.

PUBLIC COMMENT

There was no public comment.

DISCUSSION

- Filed with the Board was a presentation entitled "Water Conservation Workshop" dated May 10, 2016.

General Manager Alexander R. Coate provided an overview of the workshop and introduced staff who provided updates on Water Conservation Program efforts. Manager of Water Conservation Richard W. Harris presented an update on the Water Conservation Master Plan (WCMP) water saving targets, implementation strategies, and conservation trends (past, present, and future). He highlighted advances in technology, areas of future focus, customer incentives, education and outreach efforts, and water management tools. He reported that:

- Water use efficiency and conservation targets have been achieved District-wide due to behavior modifications;
- New conservation initiatives are on the rise as market transformation and codes become mainstream;

- Conservation trends are moving toward more behavior-based (personal) water management tools for customers;
- Opportunities exist to leverage customer engagement, metering, and instrumentation technology; and
- Customer expectations for tools, information and self-services are increasing.

Operations and Maintenance Department Manager Clifford C. Chan presented an overview of factors that contribute to water loss such as meter inaccuracy, unauthorized consumption, data handling errors, and leaks. He also highlighted strategies for reducing losses such as leak detection, improved repair time and quality, pipeline replacement, pressure management and monitoring, District Metered Area technology, and meter replacement.

Next, Manager of Water Conservation Richard W. Harris presented conservation research initiatives and WCMP standards, regulations, and legislation. Upcoming priorities for the Water Conservation Program for FY17-18 include:

- Locking in achieved demand reductions to cost-effectively meet near-term, 2020 and 2040 savings goals;
- Continue to focus on outdoor water efficiency and savings;
- Expand customer water management services (landscape water budgets, Home Water Reports, web self services);
- Adopt District Advanced Metering Infrastructure (AMI) standards and accelerate phased installations for conservation and water loss reductions;
- Replace Water Conservation database; and
- Sunset toilet and clothes washer standard rebates due to code changes (effective January 1, 2017).

Board Discussion

Board members expressed appreciation for the information presented. It requested staff to explore the following and report back to the Board:

- Can we make AMI meter updates a point of sale transaction during a home sale?
- Can we reduce On-Bill Financing interest rates to 2-3 percent versus 4 percent and how can we simplify the administrative process?
- Provide a “last call” for toilet and clothes washer rebates before the phase out.
- Provide an update on conservation tools that will be employed to maintain conservation savings for large single-family residential customers.
- Determine alternate methods to provide Home Water Reports to low-income, senior, non-English speaking, and non-computer using customers.
- Look into partnering with California Emerging Technology Fund which helps low-income and disadvantaged communities obtain internet access.

ADJOURNMENT

President Mellon adjourned the Special Meeting at 11:37 a.m.

SUBMITTED BY:

Lynelle M. Lewis, Secretary of the District

APPROVED: May 24, 2016

Frank Mellon, President of the Board

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AGENDA NO.

3.

MEETING DATE

May 24, 2016

TITLE AUTOMOBILE AND LIGHT, MEDIUM, AND HEAVY TRUCK TIRES☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

- A. Award contracts to the vendors listed below in a total annual amount, after the addition of taxes, not to exceed \$300,000 for supplying automobile and light, medium, and heavy truck tires for District vehicles for two years, beginning on or after June 1, 2016 with three options to renew for an additional one-year period for a total cost of \$1,500,000.

Don's Tire Service
East Bay Tire Company
George Oren Tire Specialist, Inc.
Inland Industrial Tire
J & O Commercial Tire
Morgan Tire of Sacramento, Inc.
Thiel's Tire Service

Bridgestone Americas Tire Operations, LLC
dba GCR Tires & Service #852
Wingfoot Commercial Tire Systems, LLC
dba Goodyear Commercial Tire & Service Centers

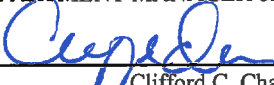

- B. Authorize additional contracts for supplying automobile and light, medium, and heavy truck tires to the District. These additional contracts may be issued, as needed, in order to increase flexibility and ensure availability to the District. Any subsequent contracts shall meet all District standards and offer the Government and Utility Price Schedules program. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.

SUMMARY

The District receives the best prices for tires through the Government and Utility Price Schedules program offered to the federal, state, and local governments. The selected vendors offer pricing under this program.

DISCUSSION

The District receives the best prices for tires through the Government and Utility Price Schedules program offered to the federal, state, and local governments. This pricing is only available through participating authorized dealers and distributors who make no profit on the actual tire sales, but are instead given a

Funds Available FY: VRF		Budget Code: 742/8345/5286
DEPARTMENT SUBMITTING Maintenance and Construction	DEPARTMENT MANAGER or DIRECTOR  Clifford C. Chan	APPROVED  General Manager

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

rebate from the manufacturer. The vendors listed above all participate in the Government and Utility Price Schedules program which includes Michelin, Firestone, Bridgestone, and Goodyear tires. Utilizing vendors within the Government and Utility Price Schedule program allows the District to receive uniform pricing, even for outlying areas such as Pardee and Stockton. The program also allows the use of nearby vendors rather than require tire deliveries to these areas by Bay Area firms.

As the District identifies additional vendors that meet District standards and offer the Government and Utility Price Schedules program, and to increase flexibility and ensure vendor availability, the District will consider awarding contracts to those currently unidentified contractors, pursuant to this recommendation.

VENDOR SELECTION

The District contacted multiple tire manufacturers and requested a list of local participating vendors covering the East Bay and outlying areas. The vendors listed offer pricing under the Government and Utility Price Schedules program.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are included in the Vehicle Replacement Fund.

ALTERNATIVES

Solicit competitive bids through the District's RFQ process. This alternative is not recommended. Tire dealers and distributors cannot offer the same discounts as manufacturers. The result would be higher overall pricing than is otherwise available to the District. In addition, the proposed award offers multiple vendors, multiple products, and multiple locations with no contract maintenance or administrative effort. Awarding a single contract will limit the vendors the District could do business with, restrict product availability, and require staff to administer the contract.

Decentralize tire purchases. This alternative is not recommended. Allowing each District user group to establish contracts with local vendors and coordinate replacements would result in higher overall pricing.

Attachments

P-035 Contract Equity Program Summary
P-061 Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE					DATE:						
Materials & Supplies Automobile and Light, Medium, and Heavy Truck Tires - 2 year contract, with 3 One-Year Renewal Options					April 26, 2016						
CONTRACTOR: Various Firms (See Below)					PERCENTAGE OF CONTRACT DOLLARS						
					Availability Group	Contracting Objectives		Participation			
BID/PROPOSER'S PRICE:	FIRM'S OWNERSHIP		White Men		25%		66.7%				
	Ethnicity	Gender	White Women		2%		33.3%				
\$300,000 / year	See Below		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: Rubber Dust, Inc. dba J & O Commercial Tire	TBD	White	X		11.1%		---	---	---	---	---
Thiel's Tire LLC	TBD	White		X		11.1%	---	---	---	---	---
George Oren Tire Specialist, Inc.	TBD	White	X		11.1%	---	---	---	---	---	---
Don's Tire Service	TBD	White		X		11.1%	---	---	---	---	---
Inland Industrial Tire North, Inc.	TBD	White	X			11.1%	---	---	---	---	---
East Bay Tire Co.	TBD	White	X		11.1%		---	---	---	---	---
Bridgestone Americas Tire Operations, LLC dba GCR Tires and Service	TBD	White	X		11.1%	---	---	---	---	---	---
Wingfoot Commercial Tire Systems dba Goodyear Commercial Tire & Service Centers	TBD	White	X		11.1%	---	---	---	---	---	---
MTS Commercial Tire	TBD	White	X		11.2%		---	---	---	---	---
TOTAL		\$0			66.7%	33.3%	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:	See P-61 Form										
Percent of Total Employees:											
MSA Labor Market %:											
MSA Labor Market Location:											
COMMENTS											
Contract Equity Participation - 66.7% White Men participation, 33.3% White Women participation											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AFFIRMATIVE ACTION SUMMARY (P-061)

(Completed by District)

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

Title: Automobile and Light, Medium, and Heavy Truck Tires - 2 year contract, with 3 One-Year Renewal Options		Ethnic Minority Percentages From U.S. Census Data							
			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
		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		
Materials & Supplies Award		DATE: 4/26/2016							
R=Recmmd P=Prime S=Sub	Composition of Ownership	Number of Ethnic Minority Employees							
Company Name, Owner/Contact Person, Address, and Phone Number			B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %
RP	WM - L/SBE	Company Wide	0	14	2	0	16	61.5%	46.2%
Rubber Dust Inc. dba J&O's Commercial Tire Center Charlie Talbot 2401 Union St. Oakland, CA 94607 510-237-6344		Manager/Prof	0	2	0	0	2	28.6%	
		Technical/Sales	0	12	2	0	14	73.7%	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	0	14	2	0	16	61.5%	
		AA Plan on File:	NA		Date of last contract with District:		7/22/2015		
		Co. Wide MSA:	Alameda/CC Counties		# Employees-Co. Wide:		26 Bay Area: 26		
RP	WW - L/SBE	Company Wide	0	2	0	0	2	50.0%	53.9%
Thiel's Tire LLC Paul Thiel 2973 Whipple Rd. Union City, CA 94587 510-487-8810		Manager/Prof	0	0	0	0	0	0.0%	
		Technical/Sales	0	2	0	0	2	100.0%	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	0	0	0	0	0	0.0%	
		AA Plan on File:	NA		Date of last contract with District:		7/1/2015		
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		4 Bay Area: 4		
RP	WM-L/SBE	Company Wide	1	5	0	0	6	85.7%	53.9%
George Oren Tire Specialist Douglas Anderson 1350 International Blvd. Oakland, CA 94608 510-534-0575		Manager/Prof	1	0	0	0	1	50.0%	
		Technical/Sales	0	5	0	0	5	100.0%	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	1	5	0	0	6	NA	
		AA Plan on File:	NA		Date of last contract with District:		8/10/2015		
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		7 Bay Area: 7		
RP	WW - L/SBE	Company Wide	2	3	1	1	7	43.8%	53.9%
Don's Tire Service, Inc. Linda Frizzie 820 Gilman Street Berkeley, CA 94710 510-526-0338		Manager/Prof	0	0	0	0	0	0.0%	
		Technical/Sales	2	2	1	1	6	66.7%	
		Clerical/Skilled	0	1	0	0	1	50.0%	
		Semi/Unskilled	0	0	0	0	0	0.0%	
		Bay Area	2	3	1	1	7	NA	
		AA Plan on File:	NA		Date of last contract with District:		7/1/2015		
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		16 Bay Area: 16		
RP	WM - L/SBE	Company Wide	0	8	0	0	8	24.2%	46.2%
Inland Industrial Tire North, Inc. Eric Griffin 30900 San Antonio St. Hayward, CA 94544 510-429-2999		Manager/Prof	0	0	0	0	0	0.0%	
		Technical/Sales	0	5	0	0	5	55.6%	
		Clerical/Skilled	0	2	0	0	2	40.0%	
		Semi/Unskilled	0	1	0	0	1	33.3%	
		Bay Area	0	8	0	0	8	24.2%	
		AA Plan on File:	NA		Date of last contract with District:		10/7/2014		
		Co. Wide MSA:	Alameda/CC Counties		# Employees-Co. Wide:		22 Bay Area: 20		
RP	WM	Company Wide	6	56	32	0	94	62.7%	48.4%
East Bay Tire Co. George Peharick 2200 Huntington Dr., Unit C Fairfield, CA 94533 707-437-4700		Manager/Prof	1	5	5	0	11	35.5%	
		Technical/Sales	0	8	6	0	14	51.9%	
		Clerical/Skilled	4	38	14	0	56	74.7%	
		Semi/Unskilled	1	5	7	0	13	76.5%	
		Bay Area	6	36	6	0	48	53.3%	
		AA Plan on File:	NA		Date of last contract with District:		7/21/2015		
		Co. Wide MSA:	California		# Employees-Co. Wide:		150 Bay Area: 90		

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.

[illegible]

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 May 24, 2016

TITLE SWEEPING SERVICES

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTION

- A. Authorize an agreement beginning on or after May 24, 2016 with Statewide Construction Sweeping, Inc. in an amount not to exceed \$310,000 annually for sweeping services for two years with three options to renew for an additional one-year period for a total cost of \$1,550,000.
- B. Authorize additional agreements with sweeping service vendors that meet District standards and offer pricing at or below the range in the proposed agreement above. These additional contracts may be issued, on an as needed basis, in order to increase flexibility and ensure availability of sweeping services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.

In authorizing these agreements, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

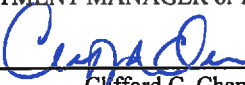

SUMMARY

The District uses sweeping services on an as-needed basis at main breaks, pipeline and paving projects, and District facilities. The District also contracts for industrial-sized sweeping machines with vacuum capability for grinding operations on larger street repair jobs.

DISCUSSION

The District currently owns and operates a small sweeping machine; however, for larger areas, industrial-sized sweeping machines are required. These industrial-sized sweepers can carry larger loads and have the capability to dump the debris box into a dump truck or bin. Various sizes of equipment are needed to accommodate project conditions. Sweeping machine rentals allow the District to utilize the appropriately-sized machine for the job. Rentals are hourly and the rates established by the vendor vary depending on the type of machine.

In 2015, the District spent approximately \$114,000 for sweeping services. With the expansion of the use of pavement grinding for street restoration and the addition of crews to Pipeline, Paving, and Service Yards, it is anticipated that the usage rate of sweeping services will continue to increase. Currently, the

Funds Available: FY16 – FY17		Budget Code: WSC & WSO/5296/5311
DEPARTMENT SUBMITTING <u>Maintenance and Construction</u>	DEPARTMENT MANAGER or DIRECTOR  Clifford C. Chan	APPROVED  General Manager

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

District has only been able to locate one vendor that meets its needs but will continue to add more vendors as they become available.

As the District identifies additional vendors that meet District standards, and to increase flexibility and ensure vendor availability, the District will consider awarding contracts to those currently unidentified contractors, pursuant to this recommendation.

SERVICE PROVIDER SELECTION

The District requested proposals from two vendors who are able to provide equipment rental services. The listed vendor was the only vendor to respond. This vendor is being recommended for the contract.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are included in the FY16 and FY17 budget for sweeping services.

UNION NOTIFICATION

Local 444 was notified of this agreement on April 5, 2016. The District and Local 444 met on April 7, April 26, and May 5, 2016. Local 444 did not raise any specific issues related to this contract.

ALTERNATIVES

Purchase or rent sweeping machines to be operated by District forces. This alternative is not recommended. Buying a sweeper would cost approximately \$250,000 for the unit and does not include the cost of labor to operate. The need for this service is only intermittent and the machines are difficult to rent.

Do not sweep areas prior to paving. This alternative is not recommended as proper surface preparation is required to properly pave areas and sweeping is required as part of the best management practices to minimize debris entering stormwater systems.


Attachments

P-035 Contract Equity Program Summary
P-061 Affirmative Action Summary



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 Sweeping Services - Two Years with Three-One Year Options						DATE: April 12, 2016							
CONTRACTOR: Statewide Construction Sweeping, Inc. Fremont, CA					Local Business/Sole Bidder					PERCENTAGE OF CONTRACT DOLLARS			
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP			Availability Group		Contracting Objectives		Participation				
\$310,000		White		Women	White Men		25%		0.0%				
		Ethnicity		Gender	White Women		6%		100.0%				
		White		Women	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: Statewide Construction Sweeping, Inc.		\$310,000	White		X	---	100.0%	---	---	---	---	---	
SUBS: None						---	---	---	---	---	---	---	
						---	---	---	---	---	---	---	
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						---	---	---	---	---	---	---	
TOTAL		\$310,000				0.0%	100.0%	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:		17		2		15		34					
Percent of Total Employees:		50.0%		5.9%		44.1%							
MSA Labor Market %:		32.3%		27.8%		39.9%							
MSA Labor Market Location:		9 Bay Area Counties											
COMMENTS													
Contract Equity Participation - 100.0% White Women participation.													
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended					
NA				NA									



AGENDA NO. 5.
MEETING DATE May 24, 2016

TITLE HYDRO-EXCAVATION SERVICES

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

- A. Authorize agreements beginning on or after May 24, 2016 with Diede Construction, Inc. dba Hydro X Services, Inc. and Presidio Systems, Inc. in an estimated total annual amount not to exceed \$100,000 for fully maintained and operated (FM&O) hydro-excavation services for one year with four options to renew for an additional one-year period for a total cost of \$500,000.
- B. Authorize additional agreements for hydro-excavation services with companies that meet District standards and offer pricing at or below the range described in the proposed agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of hydro-excavation services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.



In authorizing these agreements, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

SUMMARY

The District uses hydro-excavation services on an as-needed basis to excavate around buried utilities when digging with a backhoe is unsafe and hand digging is inefficient. Regulations have been modified to allow the use of hydro-excavation equipment around buried utilities updating the process from hand digging. Under these agreements, the vendors will furnish FM&O hydro-excavation equipment in various sizes to meet the specific jobsite requirements.

DISCUSSION

Under certain soil conditions and underground utility configurations, soils around utilities must be loosened by hand digging or by using a water jet. A hydro-excavator can be used to loosen soils with the water jet feature and a vacuum to remove loosened materials. Hydro-excavation is typically safer and more efficient than hand digging around utilities. The District currently owns and operates eight hydro-excavators. These services will supplement District staff operating hydro-excavators during peak demand periods and when a variety of different equipment configurations are needed. The services will also be used while two additional District-purchased hydro-excavators are being manufactured and while District-owned equipment is down for servicing and repairs. Rentals are hourly and rates vary depending on the type of machine. Expenditures of this type were approximately \$90,000 in 2015. Rentals will be rotated between vendors depending on availability.

Funds Available: FY16 - FY17		Budget Code: WSC & WSO/VAR-VAR-5296
DEPARTMENT SUBMITTING Maintenance and Construction	DEPARTMENT MANAGER or DIRECTOR  Clifford C. Chan	APPROVED  General Manager

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

As the District identifies additional vendors that meet District standards, and to increase flexibility and ensure vendor availability, the District will consider awarding contracts to those currently unidentified contractors, pursuant to this recommendation.

SERVICE PROVIDER SELECTION

The District requested proposals from two vendors that are able to provide equipment rental services and both listed vendors are those who responded. Both qualified vendors are being recommended for the contracts.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are included in the FY16 and FY17 budget for equipment rentals.

UNION NOTIFICATION

Local 444 was notified of these agreements on May 3, 2016. The District and the Local met on May 5, 2016. Local 444 is opposing having a multi-year agreement for these services. The District has proposed providing annual notifications to the Local 90 days prior to renewing the contracts and regular updates on the use of the services.

ALTERNATIVES

Do not contract out for hydro-excavation services. This alternative is not recommended. The District currently owns four truck-mounted hydro-excavators and four trailer-mounted hydro-excavators, with two additional hydro-excavators on order. This equipment costs approximately \$400,000 per unit and the District needs the flexibility to select appropriate sizes of equipment to accommodate the variety of jobsite conditions and fluctuating workload. As the use of different sized machines is intermittent, it is not cost-effective to own all configurations of hydro-excavators.

Do not proceed with a multi-year contract, contracting for a single year instead. This alternative is not recommended because it takes approximately six months to prepare, review and select proposals for this service, which would not be an effective use of District staff and may result in higher costs. In addition, these multi-year contracts do not obligate the District to continue with the vendor as the District has the option to not extend the contract each year.

Do not utilize hydro-excavation around utilities in place of hand digging or backhoe. This alternative is not recommended as hand digging or utilizing a backhoe is not always the most efficient or safest method to use.

Attachments

P-035 Contract Equity Program Summary
P-061 Affirmative Action Summary



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 Hydro-Excavation Services - One-Year Contract with 4 One-Year Renewal Options						DATE: May 17, 2016					
CONTRACTOR: Various				PERCENTAGE OF CONTRACT DOLLARS							
BID/PROPOSER'S PRICE: \$100,000 /yr*		FIRM'S OWNERSHIP		White Men		25%		50.0%			
		Ethnicity	Gender	White Women		6%		50.0%			
		See Below		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
PRIMES: Diede Construction, Inc. dba Hydro X Services, Inc.	TBD	White	X		---	---	---	---	---	---	
Presidio Systems, Inc.	TBD	White		X	---	---	---	---	---	---	
					---	---	---	---	---	---	
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					---	---	---	---	---	---	
					---	---	---	---	---	---	
					---	---	---	---	---	---	
TOTAL	\$100,000				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:			See P-061 Form								
Percent of Total Employees:											
MSA Labor Market %:											
MSA Labor Market Location:											
COMMENTS											
Contract Equity Participation - 50% White Men participation and 50% White Women participation.											
*Total not to exceed \$500,000											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied			Award Approval Recommended				
NA				NA							



AGENDA NO.
MEETING DATE

6.
May 24, 2016

TITLE BACKHOE RENTAL SERVICES

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

- A. Authorize agreements beginning on or after May 24, 2016 with Adam Moreno & Sons, Inc., MJH Excavating, Inc., and Paladin Construction in an amount not to exceed \$200,000 annually, for fully maintained and operated (FM&O) backhoe rentals for three years, with two options to renew for an additional one-year period for a total cost of \$1,000,000.
- B. Authorize additional agreements for fully maintained and operated backhoe rentals with vendors that meet District standards and offer pricing at or below the range in the proposed agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of fully maintained and operated backhoe services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.



In awarding these contracts, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

SUMMARY

Backhoes are used to excavate street surfaces for the repair and replacement of the District's distribution pipeline systems. The District has 49 backhoes that are scheduled daily to meet construction needs. Emergencies, unplanned work, peaks in workload and responding to unplanned staff absences require additional backhoe services. FM&O backhoe rentals are hourly and attachments such as a hoe ram or sheep's foot are available for an additional fee. Vendors on this list will be assigned work opportunities on a rotational basis to ensure a fair and equitable distribution of the total workload

DISCUSSION

These backhoe services are needed to supplement District crews during peak work load periods, unplanned absences, and emergencies such as applicant work, infrastructure renewal, responding to main breaks, relocating infrastructure as part of street improvement projects, and ongoing polybutylene and corroded copper service replacement programs. All qualified vendors are being recommended for award. As new qualified vendors are identified, they will be put on a waiting list

Funds Available: FY16 – FY17		Budget Code: WSC & WSO/5296/5311
DEPARTMENT SUBMITTING Maintenance and Construction	DEPARTMENT MANAGER or DIRECTOR  Clifford C. Chan	APPROVED  General Manager

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

and added to the active list as demand increases, vendors drop off, and/or vendors are released for poor performance.

The District developed a list of qualified vendors and issued purchase orders to cover job requirements. Vendors were selected from the list and are rotated based on need, availability of the requested equipment, and the cost of the specific equipment required; this process is used to ensure the work is evenly distributed. The District will continue to utilize this rotational system under these new agreements.

As the District identifies additional vendors that meet District standards, and to increase flexibility and ensure vendor availability, the District will also consider awarding contracts to those currently unidentified contractors, pursuant to this recommendation.

SERVICE PROVIDER SELECTION

Requests for proposals were sent to 34 potential vendors and three were responsive. All qualified vendors are being recommended for the contracts.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are available in the FY16 and FY17 budget for backhoe rental services.

UNION NOTIFICATION

Local 444 was notified of this contract in writing on April 5, 2016. The District and the Local met on April 7, April 26, and May 5, 2016. Local 444 is opposing the amount of funding for these contracts due concerns that the District is not filling vacant funded positions that can perform this work. The District has provided Local 444 with a schedule for recruitments for all the associated vacant funded positions. Local 444 is opposing having a multi-year Board authorization for these services. The District has proposed providing annual notifications to the Local 90 days prior to renewing the contracts and regular updates on the use of the services.

ALTERNATIVES

Do not rent FM&O backhoe services. This alternative is not recommended since not renting these services would delay repairs and construction of projects pending availability of District backhoe operators and equipment. Without these resources, customers will experience delays in leak response, service installations, pipeline replacements, applicant work, and District capital projects. The District is working on filling funded positions, yet this process takes time.

Do not proceed with a multi-year contract, contracting for a single year instead. This alternative is not recommended because it takes approximately six months to prepare, review and select proposals for this service, which would not be an effective use of District staff and may result in higher costs. In addition, these multi-year contracts do not obligate the District to continue with the vendor as the District has the option to not extend the contract each year.

Add staff and equipment to eliminate the need for rentals. This alternative is not recommended. The District is working on filling associated funded vacant positions. It is not in the District's best interest to fill additional positions that are not funded as the current need for additional backhoe services is to meet peak demands, allow rental of specialty equipment, or is occasional in nature. These contracts present no obligation on the part of the District to use these services and their use may be adjusted at any time without risk to the District or the need to modify the respective agreements.

Attachments


P-035 Contract Equity Program Summary

P-061 Affirmative Action Summary



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 Backhoe Rental Services - Three Years with Two - One Year Options						DATE: May 17, 2016								
CONTRACTOR: Various Firms (Listed Below)					Local/Small Businesses					PERCENTAGE OF CONTRACT DOLLARS				
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP			Availability Group		Contracting Objectives		Participation					
\$200,000 /yr*		See P-061 Form		NA		White Men		25%		66.0%				
		Ethnicity		Gender		White Women		6%		0.0%				
						Ethnic Minorities		25%		34.0%				
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		
PRIMES:														
Adam Moreno & Sons, Inc.		TBD	Hispanic		X	---	---	34.0%	---	---	---	---		
MJH Excavating, Inc.		TBD	White	X		33.0%	---	---	---	---	---	---		
Paladine Construction		TBD	White	X		33.0%	---	---	---	---	---	---		
						---	---	---	---	---	---	---		
						---	---	---	---	---	---	---		
						---	---	---	---	---	---	---		
						---	---	---	---	---	---	---		
TOTAL		\$200,000				66.0%	0.0%	34.0%	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:				See P-061 Form										
Percent of Total Employees:														
MSA Labor Market %:														
MSA Labor Market Location:														
COMMENTS														
Contract Equity Participation - 66.0% White Men participation and 34.0% Ethnic Minority participation.														
*Total Not to Exceed \$1,000,000.														
Workforce Profile & Statement of Nondiscrimination Submitted						Good Faith Outreach Efforts Requirement Satisfied			Award Approval Recommended					
NA						NA								



AGENDA NO.
MEETING DATE

7.
May 24, 2016

**TITLE CONSTANT FRACTIONAL MARKING, TAGGING, AND RECOVERY PROGRAM
 FOR MOKELUMNE RIVER HATCHERY CHINOOK AND STEELHEAD**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize an agreement with Pacific States Marine Fisheries Commission (PSMFC) in an amount not to exceed \$500,000 annually, for the marking, tagging, and recovery program for Chinook salmon and steelhead trout at the Mokelumne River Fish Hatchery, and the recovery and processing of the California ocean fisheries during the period July 1, 2016 to June 30, 2021.

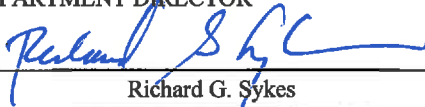
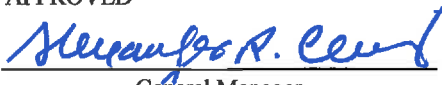
SUMMARY

In 2007, the State of California required marking and tagging on 25 percent of Chinook salmon and all steelhead trout produced at Central Valley hatcheries, including the Mokelumne River Fish Hatchery. Through agreements with the California Department of Fish & Wildlife (CDFW), the District is responsible for implementing the Constant Fractional Marking (CFM) program at the Mokelumne hatchery and has done so through a contract with PSMFC since 2009. Beginning in July 2013, additional funding requirements for the CFM program were imposed on mitigators by CDFW to pay for the recovery and processing of the coded-wire tags in the ocean fisheries, as well as the inland fisheries. These requirements increased the District cost by 100 percent from \$250,000 to \$500,000 annually. EBMUD currently has a five-year agreement with PSMFC, which expires on June 30, 2016. The recommended action provides funding for marking, tagging, recovery, and processing for the next five years.

DISCUSSION

In 2007, the State of California required marking and tagging on 25 percent of Chinook salmon and all steelhead trout produced at Central Valley hatcheries, including the Mokelumne River Fish Hatchery. Marking and tagging of hatchery-produced fish is a long-term effort to monitor and evaluate the salmon and steelhead hatchery programs.

Tags are recovered and read in the private recreational and charter ocean fisheries, and the commercial troll fishery, from Crescent City to Avila Beach ports, and when the fish return inland to fresh water to spawn. Information from the tags is used by biologists to determine straying and survival rates, develop ocean harvest estimates, evaluate restoration activities, and determine the

Funds Available: FY17		Budget Code: WSO/483/1009953/5312
DEPARTMENT SUBMITTING Water and Natural Resources	DEPARTMENT DIRECTOR  Richard G. Sykes	APPROVED  General Manager

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

Constant Fractional Marking, Tagging, and Recovery Program for Mokelumne River Hatchery
Chinook and Steelhead

May 24, 2016

Page 2

interaction between hatchery and naturally-reared fish. The information has been of critical value in management and optimization of the Mokelumne hatchery to reduce straying and increase survival. Moreover, the data gathered has allowed the Lower Mokelumne River Partnership to successfully advocate for adaptive management actions that ultimately improved salmon returns to the Mokelumne River.

CONSULTANT SELECTION

PSMFC is currently under contract with EBMUD, CDFW and other Central Valley mitigators to conduct the CFM program at all hatcheries. PSMFC is an interstate commission formed by the U.S. Congress over 60 years ago to conserve and manage fishery resources in the states of Alaska, Washington, Idaho, Oregon, and California.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds for this work are included in the FY17 operating budget.

ALTERNATIVE

Do not perform the marking/tagging/recovery services. This alternative is not recommended because this work is required by state and federal agencies. In addition, the marking and tagging program information has been instrumental in ensuring a healthy and robust Mokelumne salmon fishery.

Attachments

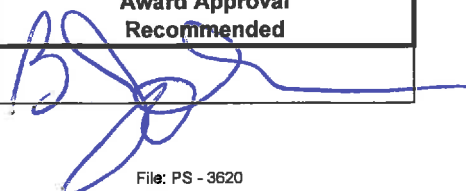
P-035 Contract Equity Program
P-061 Affirmative Action Summary

I:\SEC\2016 Board Related Items\Board Packets 2016\052416 Regular Board Meeting\WNR - PSMFC - Constant Fractional Marking.Doc



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 Constant Fractional Marking, Tagging, and Recovery Program for Mokelumne River Hatchery Chinook and Steelhead						DATE: April 28, 2016					
CONTRACTOR: Pacific States Marine Fisheries Commission Portland, OR						PERCENTAGE OF CONTRACT DOLLARS Direct Award					
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		25%		0.0%			
		Ethnicity	Gender	White Women		6%		0.0%			
\$500,000		Non-Profit		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: Pacific States Marine Fisheries Commission	\$500,000	Non-Profit			---	---	---	---	---	100.0%	---
SUBS: None					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
					---	---	---	---	---	---	---
TOTAL					0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	0.0%
CONTRACTOR'S WORKFORCE PROFILE (From P-025 Form)											
	White Men	White Women	Ethnic Minorities	Total Employees							
No. of Employees:	194	115	54	363							
Percent of Total Employees:	53.4%	31.7%	14.9%								
MSA Labor Market %:	39.0%	33.7%	27.3%								
MSA Labor Market Location:	Total USA										
COMMENTS											
Contract Equity Participation - Zero Contract Equity participation since firm is a non-profit corporation and no subcontract opportunities exist.											
Workforce Profile & Statement of Nondiscrimination Submitted				Good Faith Outreach Efforts Requirement Satisfied				Award Approval Recommended			
NA				NA							



AGENDA NO. 8.
MEETING DATE May 24, 2016

TITLE PAVING, STRIPING, SEALING, CONCRETE REPAIR, AND OTHER RELATED SERVICES AMENDMENT

☒ MOTION _____ ☐ RESOLUTION _____ ☐ ORDINANCE _____

RECOMMENDED ACTIONS

- A. Authorize an amendment to Board Motion No. 008-14 dated January 14, 2014 beginning on or after May 24, 2016 to increase the initial authorization by an estimated annual amount not to exceed \$1,000,000 for paving, striping, sealing, concrete repair, and other related services through the remainder of the period ending December 31, 2019 for a total increase of \$3,585,000. Vendors awarded work under the original Board motion remain the same and are listed below:

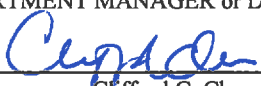

AJW Construction	Carone & Co., Inc.	MCK Services, Inc.
American Asphalt Repair	Cliff Swisher Custom Concrete	Morgan-Bonnano Development
Black Gold Paving & Sealing	Coastal Paving	O.C. Jones & Sons, Inc.
Bond Black Top, Inc.	County Paving Co., Inc.	Pacific General Engineering
Bruce Enterprises, Inc.	John W. Hertzig, Contractor	Ransome Co.
California Pavement	JV Lucas Paving, Inc.	VSS-International
Maintenance Company	MCE Corporation	Public Agencies

- B. Authorize additional agreements for paving, striping, sealing and concrete repair with vendors that meet District standards and offer pricing at or below the range in the amended agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of paving, striping, sealing, and concrete repair backhoe services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.

In awarding these contracts, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

SUMMARY

The District has been utilizing contract paving services since the early 1990s to meet peak workloads. Approximately 98 percent of paving and concrete orders are completed by District forces. In repairing and replacing the pipeline distribution system, the District performs approximately 5,000 street and concrete excavations annually. Restoring these street and concrete excavations in accordance with city

Funds Available: FY16 – FY17		Budget Code: WSC & WSO/5296/5311
DEPARTMENT SUBMITTING Maintenance and Construction	DEPARTMENT MANAGER or DIRECTOR  Clifford C. Chan	APPROVED  General Manager

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

permit requirements includes replacing pavement and related services, such as striping, sealing, and concrete. Contracts with these vendors are required to meet peaks in District workload and continue to meet a surface restoration turnaround time of 30 days mandated by the cities. In addition, District-owned roadways are routinely paved by contractors under this authorization.

DISCUSSION

In January 2014, the Board authorized agreements for paving services in the amount of \$1 million for 5 years based on historic usage experience. In 2014 and 2015, the actual costs totaled \$4.8 million due to non-routine occurrences including a spike in catastrophic main failures, improvements to District watershed facilities, and resolution of meter-related backlog and the associated concrete repairs as part of a backlog cleanup.

Going forward, normal operations are expected to continue and there is a need to replenish the authorization to the \$1,000,000 per year amount for the remainder of the contract period. These contract resources supplement District crews to ensure compliance with the 30-day turnaround time required by cities. The authorized funds are also used to participate in joint paving projects with local agencies. Joint projects include potential cost savings, transfer of responsibility to the infrastructure owner for the long-term pavement performance, and streamlining of contract management. Staff is tracking trends in use and evaluating opportunities to flatten these contract demands through advanced scheduling, planning strategies, and streamlining work processes. At the present time, the District has no internal capability for pavement striping, marking, and slurry seal application work, as the total volume of work has historically been insignificant relative to the overall paving operation.

Vendors will be selected from the list on a rotational basis except in the cases where the estimated cost of the individual job exceeds \$10,000. In those cases, at least three competitive quotes will be obtained from vendors on the qualified list. The job will be given to the vendor with the least-cost quote. Additional vendors may be added as the need arises in order to best utilize vendors working at adjacent jobsites or vendors providing services to the public agency where the work may be located. Vendors performing street work for other entities over District trenches may be used to perform final paving. This type of contract has been effective in the management of the District's workload and providing timely service.

SERVICE PROVIDER SELECTION

Requests for qualifications were sent to 35 vendors; 19 provided the required submittals and met the minimum performance requirements.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are included in the FY16 and FY17 budget for paving, striping, sealing, concrete repair, and other related services.

UNION NOTIFICATION

Local 444 was notified in writing of the original contract on November 14, 2013 and December 18, 2013, and was notified of this amendment in writing on March 16, 2016. The District and the Local met on April 7, April 26, and May 5, 2016. Local 444 is opposing these contracts due to concerns that the District is not filling vacant funded and unfunded positions that can perform this work. The District has provided the Local with a schedule for recruitments for all the associated vacant funded positions. The Local is also opposing having a multi-year Board authorization. The District has proposed providing annual notifications to the Local 90 days prior to renewing the contracts and regular updates on the use of the services.

ALTERNATIVES

Do not contract for paving and concrete services and increase staffing. This alternative is not recommended as these contracts are designed to help the District maintain the permit-required 30 day turnaround times for paving and concrete work during peak demand periods and to meet peak workloads. Staffing up to meet peak period demands is inefficient and would result in excess resources most of the time. The District is working on filling funded vacant positions. Unfunded positions will be reviewed for filling during the next two-year budget.

Do not proceed with a multi-year contract, contracting for a single year instead. This alternative is not recommended because it takes approximately six months to prepare, review, and select proposals for this service, which would not be an effective use of District staff and may result in higher costs. In addition, these multi-year contracts do not obligate the District to continue with the vendor as the District has the option to not extend the contract each year.

Attachments

P-035 CEP Summary

P-061 Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Amendment General Services Agreement Paving, Striping, Sealing, Concrete Repair and Other Related Services	DATE: April 12, 2016
--	--------------------------------

CONTRACTOR: Various Firms (Listed Below)		PERCENTAGE OF CONTRACT DOLLARS		
		Availability Group	Contracting Objectives	Participation
BID/PROPOSER'S PRICE: \$2,000,000 /year*	FIRM'S OWNERSHIP		White Men	25%
	Ethnicity	Gender	White Women	6%
	See P-061 Form	See P-061 Form	Ethnic Minorities	25%
				78.9%
				5.3%
				15.8%

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:											
AJW Construction	TBD	Hispanic	X		—	—	5.3%	—	—	—	—
American Asphalt Repair and Resurfacing	TBD	White	X		5.3%	—	—	—	—	—	—
Black Gold Paving a& Sealing	TBD	White	X		5.3%	—	—	—	—	—	—
Bond Black Top, Inc.	TBD	White		X	—	5.3%	—	—	—	—	—
Bruce Enterprises, Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
California Pavement Maintenance Co., Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
Carone & Co., Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
Cliff Swisher Custom Concrete	TBD	White	X		5.3%	—	—	—	—	—	—
Coastal Paving, Inc.	TBD	Hispanic	X			—	5.3%	—	—	—	—
County Paving Co., Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
John W. Hertzog, Contractor	TBD	White	X		5.3%	—	—	—	—	—	—
JV Lucas Paving, Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
MCE Corporation	TBD	White	X		5.3%	—	—	—	—	—	—
MCK Services, Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
Morgan-Bonnano Development	TBD	White	X		5.3%	—	—	—	—	—	—
O.C. Jones & Sons, Inc.	TBD	White	X		5.3%	—	—	—	—	—	—
Pacific General Engineering	TBD	Hispanic	X		—	—	5.3%	—	—	—	—
Ransome Company	TBD	White	X		5.3%	—	—	—	—	—	—
VSS-International	TBD	White	X		5.3%	—	—	—	—	—	—
Various Public Agencies	TBD	Gov				—		—		—	—
TOTAL	\$2,000,000				78.9%	5.3%	15.8%	0.0%	0.0%	0.0%	0.0%

CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)				
	White Men	White Women	Ethnic Minorities	Total Employees
No. of Employees:	See P-061 Form			
Percent of Total Employees:				
MSA Labor Market %:				
MSA Labor Market Location:				

COMMENTS

Contract Equity Participation - 78.9% White Men participation, 5.3% White Women participation and 15.8% Ethnic Minority participation.

*Annual amount increasing from \$1,000,000 per year to \$2,000,000 for the three remaining years of the five year contract

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							
Paving, Striping, Sealing, Concrete Repair and Other Related Services				B	H	A/PI	AI/AN	TOTAL	
		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	
General Services Agreement		DATE:	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	EMM:H - LBE	Company Wide	-	3	1	-	4	66.7%	47.8%
AJW Construction Alfonso Quintor 966 81st Avenue Oakland, CA 94621 510-568-2300		Manager/Prof	-	2	1	-	3	75.0%	
		Technical/Sales	-	-	-	-	NA		
		Clerical/Skilled	-	-	-	-	NA		
		Semi/Unskilled	-	1	-	-	1	50.0%	
		Bay Area	-	3	1	-	4	66.7%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		6	Bay Area:	6
RP	WM - LBE	Company Wide	-	79	2	-	81	72.3%	39.9%
American Asphalt Repair and Resurfacing Allan A. Henderson 24200 Clawiter Road Hayward, CA 94545 510-723-0280		Manager/Prof	-	1	-	-	1	33.3%	
		Technical/Sales	-	1	-	-	1	11.1%	
		Clerical/Skilled	-	52	2	-	54	77.1%	
		Semi/Unskilled	-	25	-	-	25	83.3%	
		Bay Area	-	79	2	-	81	72.3%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		112	Bay Area:	112
RP	WM - L/SBE	Company Wide	-	-	-	-	0	0.0%	47.4%
Black Gold Paving & Sealing Glenn Dragomanovich 141 Truck Road San Andreas, CA 95219 209-754-4168		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	NA		
		Clerical/Skilled	-	-	-	-	NA		
		Semi/Unskilled	-	-	-	-	0	0.0%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Stockton-Lodi		# Employees-Co. Wide:		6	Bay Area:	6
RP	WW - LBE	Company Wide	-	14	-	-	14	82.4%	53.9%
Bond Blacktop, Inc. Debbie Dillon 27607 Industrial Blvd. Hayward, CA 94587 510-783-9909		Manager/Prof	-	2	-	-	2	66.7%	
		Technical/Sales	-	-	-	-	NA		
		Clerical/Skilled	-	2	-	-	2	50.0%	
		Semi/Unskilled	-	10	-	-	10	100.0%	
		Bay Area	-	14	-	-	14	82.4%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Alameda County		# Employees-Co. Wide:		17	Bay Area:	17
RP	WM	Company Wide	-	2	-	-	2	14.3%	39.9%
Bruce Enterprises Mike Bruce 603 Manuel Drive Novato, CA 94945 707-781-9686		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	NA		
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	2	-	-	2	22.2%	
		Bay Area	-	2	-	-	2	14.3%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		14	Bay Area:	14
RP	WM	Company Wide	-	16	7	-	23	34.3%	31.6%
California Pavement Maintenance Co., Inc. Gordon Rayner 9390 Elder Creek Road Sacramento, CA 95829 916-381-8033		Manager/Prof	-	2	1	-	3	25.0%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	11	5	-	16	41.0%	
		Semi/Unskilled	-	3	1	-	4	44.4%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Sacramento		# Employees-Co. Wide:		67	Bay Area:	67

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							
Paving, Striping, Sealing, Concrete Repair and Other Related Services		National		B	H	A/PI	AI/AN	TOTAL	
		9 Bay Area Counties		10.5	10.7	3.7	0.7	27.3	
General Services Agreement		DATE:	Alameda/CC Counties		5.5	16.2	14.2	0.4	39.9
			4/12/2016	10.7	15.6	15.4	0.5	46.2	
R=Recmmnd 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 - LBE	Company Wide	-	18	-	-	18	32.1%	39.9%
Carone and Company, Inc. Richard Lloyd Carone 5009 Forni Drive, Suite A Concord, CA 94520 925-602-8800		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	2	-	-	2	28.6%	
		Semi/Unskilled	-	16	-	-	16	35.6%	
		Bay Area	-	18	-	-	18	32.1%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		56	Bay Area:	56
RP	WM - L/SBE	Company Wide	-	10	-	-	10	76.9%	39.9%
Cliff Swisher Custom Concrete, Inc. Cliff Swisher 1918 Arbol Grande Ct. Walnut Creek, CA 94595 925-946-0956		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	10	-	-	10	100.0%	
		Bay Area	-	10	-	-	10	76.9%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		13	Bay Area:	13
RP	EMM:H - SBE	Company Wide	-	31	-	-	31	79.5%	39.9%
Coastal Paving, Inc. Anna Jarvis 1295 Norman Avenue Santa Clara, CA 95054 408-988-5559		Manager/Prof	-	1	-	-	1	25.0%	
		Technical/Sales	-	1	-	-	1	33.3%	
		Clerical/Skilled	-	1	-	-	1	25.0%	
		Semi/Unskilled	-	28	-	-	28	100.0%	
		Bay Area	-	31	-	-	31	79.5%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		39	Bay Area:	39
RP	WM	Company Wide	-	2	-	-	2	33.3%	39.9%
County Paving Co., Inc. Steven M. Kaiser 1823 Phillips Lane Antioch, CA 94509 925-756-7454		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	-	2	-	-	2	50.0%	
		Bay Area	-	2	-	-	2	33.3%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		6	Bay Area:	6
RP	WM - L/SBE	Company Wide	-	-	-	-	0	0.0%	47.4%
John W. Hertzig John W. Hertzig 9267 E. Hwy 26 Mokelumne Hill, CA 95245 209-286-1234		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	-	-	-	0	0.0%	
		Bay Area	-	-	-	-	0	0.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Stockton-Lodi		# Employees-Co. Wide:		7	Bay Area:	7
RP	WM - L/SBE	Company Wide	-	10	-	-	10	71.4%	39.9%
J V Lucas Paving, Inc. James Lucas 251 Lafayette Circle, Suite 230 Lafayette, CA 94549 925-283-8027		Manager/Prof	-	1	-	-	1	33.3%	
		Technical/Sales	-	-	-	-	0	0.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	9	-	-	9	100.0%	
		Bay Area	-	10	-	-	10	71.4%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		14	Bay Area:	14



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							
Paving, Striping, Sealing, Concrete Repair and Other Related Services				B	H	A/PI	AI/AN	TOTAL	
		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	
General Services Agreement		DATE:	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 - LBE	Company Wide	5	58	3	-	66	64.1%	39.9%
MCE Corporation Gregory Jay Haney 6515 Trinity Court Dublin, CA 94539 925-803-4111		Manager/Prof	-	-	2	-	2	15.4%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	5	58	1	-	64	74.4%	
		Bay Area	5	58	3	-	66	64.1%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		103	Bay Area:	103
RP	WM - LBE	Company Wide	1	35	-	-	36	61.0%	39.9%
MCK Services, Inc. Mark Hazen 865 Howe Road Martinez, CA 94553 925-957-9200		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	1	15	-	-	16	48.5%	
		Semi/Unskilled	-	20	-	-	20	90.9%	
		Bay Area	1	35	-	-	36	61.0%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		59	Bay Area:	59
RP	WM - LBE	Company Wide	-	4	-	-	4	33.3%	46.2%
Morgan Bonanno Development, Inc. Mike Bonanno 905 Howe Road Martinez, CA 94553 925-820-2558		Manager/Prof	-	-	-	-	0	0.0%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	4	-	-	4	66.7%	
		Bay Area	-	4	-	-	4	33.3%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Alameda/CC Counties		# Employees-Co. Wide:		12	Bay Area:	12
RP	WM - LBE	Company Wide	16	6,055	9	5	6,085	2728.7%	39.9%
O.C. Jones & Sons, Inc. Barbara Jones 1520 Fourth Street Berkeley, CA 94710 510-526-3424		Manager/Prof	1	4	1	-	6	16.2%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	9	26	8	5	48	41.0%	
		Semi/Unskilled	6	6,025	-	-	6,031	8740.6%	
		Bay Area	16	89	9	5	119	53.4%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		223	Bay Area:	223
RP	EMM:H - L/SBE	Company Wide	1	3	-	-	4	66.7%	38.5%
Pacific General Engineering James D. Akridge 31 Garden Court Walnut Creek, CA 94595 925-932-2533		Manager/Prof	-	1	-	-	1	50.0%	
		Technical/Sales	1	-	-	-	1	100.0%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	-	2	-	-	2	100.0%	
		Bay Area	1	3	-	-	4	66.7%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	Contra Costa County		# Employees-Co. Wide:		6	Bay Area:	6
RP	WM - LBE	Company Wide	2	35	-	-	37	80.4%	39.9%
Ransome Company Myles Oberto 1933 Williams Street San Leandro, CA 94577 510-686-9900		Manager/Prof	1	5	-	-	6	66.7%	
		Technical/Sales	-	-	-	-	-	NA	
		Clerical/Skilled	-	-	-	-	-	NA	
		Semi/Unskilled	1	30	-	-	31	83.8%	
		Bay Area	2	35	-	-	37	80.4%	39.9%
		AA Plan on File:	NA		Date of last contract with District:		1/2/2014		
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		46	Bay Area:	46

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			
Paving, Striping, Sealing, Concrete Repair and Other Related Services		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		
General Services Agreement	DATE:	Number of Ethnic Minority Employees							
R=Recmmd P=Prime S=Sub	Composition of Ownership								
Company Name, Owner/Contact Person, Address, and Phone Number		B	H	A/PI	AI/AN	TOTAL	PERCENT	MSA %	
RP	WM	Company Wide	8	57	4	-	69	40.8%	39.9%
VSS International, Inc. Jeff Roberts 3785 Channel Drive West Sacramento, CA 95691 916-373-1500		Manager/Prof	2	4	-	-	6	16.2%	
		Technical/Sales	-	3	2	-	5	35.7%	
		Clerical/Skilled	-	-	-	-	0	0.0%	
		Semi/Unskilled	6	50	2	-	58	55.2%	
		Bay Area	8	57	4	-	69	40.8%	39.9%
AA Plan on File:		NA	Date of last contract with District:				1/2/2014		
Co. Wide MSA:		9 Bay Area Counties	# Employees-Co. Wide:				169	Bay Area:	169
		Company Wide							
		Manager/Prof							
		Technical/Sales							
		Clerical/Skilled							
		Semi/Unskilled							
		Bay Area						39.9%	
Co. Wide MSA:		# Employees-Co. Wide:				Bay Area:			

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.
MEETING DATE

9.

May 24, 2016

TITLE DUMP TRUCK RENTAL SERVICES

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

- A. Authorize an amendment to Board Motion No. 145-13 dated October 8, 2013 to increase the estimated annual amount by \$2,500,000 for fully maintained and operated (FM&O) rental of 10-yard dump trucks, 20-yard end-dump and transfer trucks, and 20-yard super dump trucks beginning on or after May 24, 2016 for the remainder of the period ending October 31, 2018 for a total increase of \$6,082,000. Vendors awarded work under this motion are listed below:

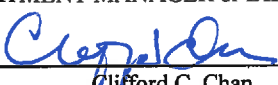

A.I.P. Trucking	Hill Trucking	Royal Trucking
Adam Moreno & Sons, Inc.	Inder Trucking	S&L Transport
D & S Trucking, LLC	Jackson Transportation	SMG Trucking
De Bibb Trucking	JD Trucking Co., Inc.	Sudden Sam's Trucking Co.
E. M. Blair Trucking	Kemp Trucking	Tom Aikens General Engineering
G W Trucking	Mae Trucking	V. Dolan Trucking, Inc.
Haver Transport	Roby Trucking	

- B. Authorize additional agreements for fully maintained and operated dump truck rental services with vendors that meet District standards and offer pricing at or below the range in the amended agreements above. These additional agreements may be issued, on an as needed basis, in order to increase flexibility and ensure availability of fully maintained and operated dump truck rental services to the District. The Board of Directors will be notified of additional qualified vendors by means of the General Manager's monthly report.

In awarding these contracts, the Board of Directors finds that this work cannot be satisfactorily performed under civil service.

SUMMARY

The District uses dump truck services to haul spoils and asphalt for recycling from jobsite locations and/or to haul backfill material and asphalt to jobsite locations. These resources are needed to supplement internal hauling resources during peak workload demands, occasional long-haul projects,

Funds Available: FY16 – FY17		Budget Code: WSO/741/7999/5296/5311
DEPARTMENT SUBMITTING Maintenance and Construction	DEPARTMENT MANAGER or DIRECTOR  Clifford C. Chan	APPROVED  General Manager

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

and backfill planned and unplanned staff absences. In 2015, approximately 72 percent of the dump truck services were completed by District forces.

DISCUSSION

In October 2013, the Board approved a contract for dump truck rentals in the estimated annual amount of \$1,250,000 per year or \$6,250,000 over five years. The District spent an average of \$1,258,000 annually on the rental of dump trucks up until 2013. Since 2013, costs and use have increased to an average of \$2,500,000 per year due to an increase in pipeline and paving production, and the increase of crews under Pipeline Rebuild. Additionally, service yards use FM&O dump trucks for peak periods in addressing work backlogs. As a result, the original estimated contract amount has been reached sooner and the Board is being asked to consider amending the contract to provide services through October 2018 - the remaining contract term. Staff will continue to monitor and manage the need for these rental resources to support District operations, and explore efficiencies and new technologies to reduce the spoils. These contracts present no obligation on the part of the District to use these services and their use may be adjusted at any time.

As the District identifies additional vendors that meet District standards, and to increase flexibility and ensure vendor availability, the District will also consider awarding contracts to those currently unidentified contractors, pursuant to this recommendation.

SERVICE PROVIDER SELECTION

The District conducted a market survey that solicited input from competing companies in the industry as well as large users, such as Caltrans. Based on this information, the District established an hourly rate that it is willing to pay for the service and invited all qualified vendors willing to accept that rate to sign up and participate in the program. The District includes as many vendors as it feels demand will support and creates an active trucker list. Vendors on this list will be assigned work opportunities on a rotational basis to ensure a fair and equitable distribution of the total workload. Vendors awaiting work or new vendors are put on a standby list and will be added to the active list as demand increases, vendors drop off, and/or vendors are released for poor performance.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are included in the FY16 and FY17 budget for renting dump trucks.

UNION NOTIFICATION

Local 444 was notified of this contract amendment in writing on April 28, 2016. In addition, the District and the Local met on April 26, and May 5, 2016. The Local is opposing these contracts due to concerns that the District is not filling vacant funded and unfunded positions that can perform this work, and is also opposing having a multi-year Board authorization. The District has provided the Local with a

schedule for recruitments for all the associated vacant funded positions. The District has proposed providing annual written notifications to the Local 90 days prior to renewing the contracts and regular updates on the use of the services. Staffing levels will be reviewed during the FY18/FY19 budget process and consideration will be given to funding the unfunded positions.

ALTERNATIVES

Do not contract for truck rental services. This alternative is not recommended as these contracts are designed to help the District complete its hauling requirements during peak periods while ensuring that District personnel and related equipment remain fully utilized on a day-to-day basis. Staffing up to meet peak period demands is inefficient and would result in excess resources most of the time. Without these resources, customers will experience delays in leak response, service installations, pipeline replacements, applicant work, and District capital projects. The District is working on filling funded positions, and this process takes time.

Do not proceed with a multi-year contract, contracting for a single year instead. This alternative is not recommended because it takes approximately six months to prepare, review, and select proposals for this service, which would not be an effective use of District staff and may result in higher costs. In addition, these multi-year contracts do not obligate the District to continue with the vendor as the District has the option to not extend the contract each year.

Conduct a competitive bid and award all of this business to the lowest responsible bidder. This alternative is not recommended as no individual company is large enough to address all of the District's requirements. It would also compromise the District's ability to provide opportunities to local Small Business Enterprise companies as only larger companies would be positioned to compete, and this would drive prices higher due to the smaller number of companies that might be considered responsive.

Attachments

P-035 Contract Equity Program Summary
P-061 Affirmative Action Summary



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE Amendment General Services Agreement Dump Truck Rental Services						DATE: May 17, 2016					
CONTRACTOR: See Below					PERCENTAGE OF CONTRACT DOLLARS						
					Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP			White Men		25%		10%		
		Ethnicity	Gender		White Women		6%		6%		
\$2,500,000 /yr*		See Below		See Below	Ethnic Minorities		25%		84%		
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
PRIMES:											
Ira Parish dba A.I.P. Trucking	TBD	Black		X	---	---	---	---	---	---	
Adam Moreno & Sons, Inc.	TBD	Hispanic		X	---	---	---	---	---	---	
D & S Trucking, LLC	TBD	White		X	---	---	---	---	---	---	
De Bibb Trucking	TBD	Black	X		---	---	---	---	---	---	
E. M. Blair Trucking	TBD	Black	X		---	---	---	---	---	---	
Gloria Washington Trucking, Inc.	TBD	Black		X	---	---	---	---	---	---	
Haver Transport	TBD	Asian		X	---	---	---	---	---	---	
Hilli Trucking Co.	TBD	Black	X		---	---	---	---	---	---	
Inder Trucking	TBD	Asian	x		---	---	---	---	---	---	
Jackson Transportation	TBD	Black	X		---	---	---	---	---	---	
JD 4 U Trucking dba JD Trucking	TBD	Black		X	---	---	---	---	---	---	
MAE Trucking	TBD	Black	X		---	---	---	---	---	---	
Roby Trucking	TBD	Asian	X		---	---	---	---	---	---	
Royal Trucking/Maintenance	TBD	Black	X		---	---	---	---	---	---	
S&L Enterprises	TBD	Black	X		---	---	---	---	---	---	
S.M.G. Trucking	TBD	Asian	X		---	---	---	---	---	---	
Sudden Sam's Trucking Co.	TBD	Black	X		---	---	---	---	---	---	
Tom Aikens General Engineering	TBD	White	X		---	---	---	---	---	---	
Uris Kemp Trucking, Inc.	TBD	Black	X		---	---	---	---	---	---	
V. Dolan Trucking, Inc.	TBD	White	X		---	---	---	---	---	---	
TOTAL	\$2,500,000				10.0%	6.0%	84.0%	0.0%	0.0%	0.0%	
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)											
	White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:	See P-61 Form										
Percent of Total Employees:											
MSA Labor Market %:											
MSA Labor Market Location:											
COMMENTS											
Contract Equity Participation - 10% White Men participation, 6% White Women participation and 84% Ethnic Minority participation											
*Annual amount increasing from from \$1,250,000 per year to \$2,500,000 per year.for the two remaining years of the five year contract.											
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:		Ethnic Minority Percentages From U.S. Census Data						
Dump Truck Rental Services			B	H	A/PI	AI/AN	TOTAL	
		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	
General Services Agreement		DATE:	5/17/2016					
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
RP	EMW:B - SBE	Company Wide	2	0	0	0	2	100.0%
Ira Parish dba A.I.P. Trucking Ira Parish P. O. Box 581057 Elk Grove, CA 95124 510-237-6824		Manager/Prof	0	0	0	0	0	NA
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	2	0	0	0	2	100.0%
		Bay Area	2	0	0	0	2	100.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		2 Bay Area: 2	
RP	EMW:H - L/SBE	Company Wide	0	3	0	0	3	75.0%
Adam Moreno & Sons, Inc. Jose Moreno 6460 Tri Lane Richmond, CA 94803 510-222-2873		Manager/Prof	0	2	0	0	2	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	1	0	0	1	50.0%
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	0	3	0	0	3	75.0%
		AA Plan on File:	NA		Date of last contract with District:		7/11/2013	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		4 Bay Area: 4	
RP	WW - L/SBE	Company Wide	0	0	0	0	0	0.0%
D & S Trucking, LLC Susan Jones 8429 Sunnyslope Avenue Castro Valley, CA 94552 510-537-2178		Manager/Prof	0	0	0	0	0	0.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	0	0	0	0	0	0.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		2 Bay Area: 2	
RP	EMM:B - L/SBE	Company Wide	4	5	1	0	10	100.0%
De Bibb Trucking Deartemus Bibb P. O. Box 21512 El Sobrante, CA 94820 510-774-0013		Manager/Prof	1	1	0	0	2	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	3	4	1	0	8	100.0%
		Bay Area	4	5	1	0	10	100.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		10 Bay Area: 10	
RP	EMM:B - L/SBE	Company Wide	1	0	0	0	1	100.0%
E. M. Blair Trucking Ronald B. Blair 2914 Johnson Avenue Richmond, CA 94804 510-772-7312		Manager/Prof	1	0	0	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	1	0	0	0	1	100.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		1 Bay Area: 1	
RP	EMW:B - L/SBE	Company Wide	4	0	0	0	4	100.0%
Gloria Washington Trucking, Inc. Gloria Washington 525 DeCarlo Avenue Richmond, CA 94801 510-236-6766		Manager/Prof	1	0	0	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	3	0	0	0	3	100.0%
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	4	0	0	0	4	100.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		4 Bay Area: 4	

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						
Dump Truck Rental Services			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
General Services Agreement	DATE:	5/17/2016	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
RP	EMW:A - L/SBE	Company Wide	0	0	4	0	4	100.0%
Haver Transport Navneet Bal 1801 Chinquapin Court #C Concord, CA 94519 925-766-4371		Manager/Prof	0	0	1	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	3	0	3	100.0%
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	0	0	4	0	4	100.0%
		AA Plan on File:	NA		Date of last contract with District:		NA	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		4 Bay Area: 4	
RP	EMM:B - L/SBE	Company Wide	1	0	0	0	1	100.0%
Hill Trucking Co. Abraham Hill 3252 Seagrams Court Hayward, CA 94541 510-693-7827		Manager/Prof	1	0	0	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	1	0	0	0	1	100.0%
		AA Plan on File:	NA		Date of last contract with District:		NA	
		Co. Wide MSA:	Alameda Co.		# Employees-Co. Wide:		1 Bay Area: 1	
RP	EMM:A -SBE	Company Wide	0	0	1	0	1	100.0%
Inder Trucking HarinderPal Singh Sidhu 150 Kennison Court Vallejo, CA 94589 925-250-5001		Manager/Prof	0	0	1	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	0	0	1	0	1	100.0%
		AA Plan on File:	NA		Date of last contract with District:		NA	
		Co. Wide MSA:	Solano Co.		# Employees-Co. Wide:		1 Bay Area: 1	
RP	EMM:B - SBE	Company Wide	2	0	0	0	2	100.0%
Jackson Transportation Alfred Jackson 1744 Keesler Circle Suisun City, CA 94585 510-213-2642		Manager/Prof	2	0	0	0	2	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	0	0	0	0	0	NA
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	9 Bay Area Counties		# Employees-Co. Wide:		2 Bay Area: 0	
RP	EMW:B - L/SBE	Company Wide	1	0	0	0	1	100.0%
JD 4 U Trucking Co. dba JD Trucking Co. Gloria J. Davis 312 Hunter Avenue Oakland, CA 94603 510-938-7786		Manager/Prof	1	0	0	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	1	0	0	0	1	100.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		1 Bay Area: 1	
RP	EMM:B - L/SBE	Company Wide	1	0	0	0	1	100.0%
MAE Trucking Kevin Moffett 268 Heron Drive Pittsburg, CA 94565 925-427-9240		Manager/Prof	1	0	0	0	1	100.0%
		Technical/Sales	0	0	0	0	0	NA
		Clerical/Skilled	0	0	0	0	0	NA
		Semi/Unskilled	0	0	0	0	0	NA
		Bay Area	1	0	0	0	1	100.0%
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013	
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		1 Bay Area: 1	

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							
Dump Truck Rental Services			B	H	A/PI	AI/AN	TOTAL		
		National	10.5	10.7	3.7	0.7	27.3		
General Services Agreement		DATE:	9 Bay Area Counties	5.5	16.2	14.2	0.4	39.9	
		5/17/2016	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	EMM:A - SBE	Company Wide	0	0	4	0	4	80.0%	42.9%
Roby Trucking Parmod Kumar 100 Countryview Court Vallejo, CA 94591 707-333-8706		Manager/Prof	0	0	0	0	0	NA	
		Technical/Sales	0	0	0	0	0	NA	
		Clerical/Skilled	0	0	1	0	1	100.0%	
		Semi/Unskilled	0	0	3	0	3	75.0%	
		Bay Area	0	0	4	0	4	80.0%	
		AA Plan on File:	NA		Date of last contract with District:		NA		
		Co. Wide MSA:	Vallejo-Fairfield-Napa		# Employees-Co. Wide:		5		Bay Area: 5
RP	EMM:B - L/SBE	Company Wide	1	0	0	0	1	100.0%	47.8%
Royal Trucking/Maintenance Vaughn Royal 7333 Deerwood Street Oakland, CA 94605 510-455-0642		Manager/Prof	1	0	0	0	1	100.0%	
		Technical/Sales	0	0	0	0	0	NA	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	1	0	0	0	1	100.0%	
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013		
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		1		Bay Area: 1
RP	EMM:B - L/SBE	Company Wide	2	0	0	0	2	100.0%	38.5%
S&L Enterprises Stanley Warren 79 Covington Drive Pittsburg, CA 94565 925-439-1118		Manager/Prof	2	0	0	0	2	100.0%	
		Technical/Sales	0	0	0	0	0	NA	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	2	0	0	0	2	100.0%	
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013		
		Co. Wide MSA:	Alameda Co.		# Employees-Co. Wide:		2		Bay Area: 2
RP	EMM:A - L/SBE	Company Wide	0	0	0	1	1	100.0%	47.8%
S.M.G. Trucking Sapinder Grewal 1610 Lawndale Avenue San Leandro, CA 94579 510-715-7479		Manager/Prof	0	0	0	1	1	100.0%	
		Technical/Sales	0	0	0	0	0	NA	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	0	0	0	1	1	100.0%	
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013		
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		1		Bay Area: 1
RP	EMM:B - L/SBE	Company Wide	1	0	0	0	1	100.0%	47.8%
Sudden Sam's Trucking Co. Samuel Johnson 272 Euclid Avenue #105 Oakland, CA 94610 510-385-8594		Manager/Prof	1	0	0	0	1	100.0%	
		Technical/Sales	0	0	0	0	0	NA	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	1	0	0	0	1	100.0%	
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013		
		Co. Wide MSA:	Oakland		# Employees-Co. Wide:		1		Bay Area: 1
RP	WM - L/SBE	Company Wide	0	0	0	0	0	0.0%	38.5%
Tom Aikens General Engineering Tom Aikens 95 Pastor Lane Knightsen, CA 94548 925-628-6402		Manager/Prof	0	0	0	0	0	0.0%	
		Technical/Sales	0	0	0	0	0	NA	
		Clerical/Skilled	0	0	0	0	0	NA	
		Semi/Unskilled	0	0	0	0	0	NA	
		Bay Area	0	0	0	0	0	0.0%	
		AA Plan on File:	NA		Date of last contract with District:		10/29/2013		
		Co. Wide MSA:	Contra Costa Co.		# Employees-Co. Wide:		1		Bay Area: 1

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.
MEETING DATE

10.
May 24, 2016

TITLE ORACLE DATABASE SOFTWARE LICENSE & MAINTENANCE RENEWAL

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Authorize the purchase of services under an existing agreement with Oracle America, Inc. (Oracle) for one year beginning on or after July 1, 2016 in an amount not to exceed \$272,613 for database software license and maintenance services. The additional \$272,613 will increase the total cost for Oracle's software support service under the agreement to \$1,775,246.

SUMMARY

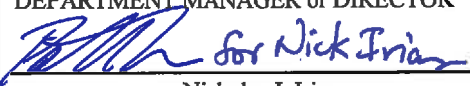
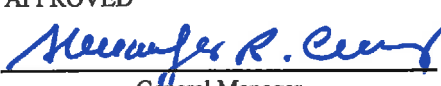
Oracle database software is used extensively by the District and is essential to support Customer, Financial, Human Resources, Work Management and Maximo computer information systems. This software has been in use at the District for the past 26 years to provide a consistent means of storing, updating, and searching for information. Renewing this agreement, without change to product counts and terms and conditions, provides for continued license to use the software as well as periodic updates to the software and remote support to resolve any software problems. This renewal is for Oracle database licenses initially purchased in 2005.

DISCUSSION

Technical support for Oracle is required to ensure that District staff have access to Oracle database experts when resolving complex system administration issues and responding to any potential operational problems. Periodic updates are important to ensure that up-to-date security patches are available, maintain software current with technology, and assure compatibility of the Oracle software with other software products.

VENDOR SELECTION

Oracle is the sole source of Oracle database software, which continues to be the most capable and best supported database product on the market. Oracle is not providing multi-year maintenance contract renewals at this time, and only offers annual renewals.

Funds Available: FY17		Budget Code: WSO/252/8547/5243
DEPARTMENT SUBMITTING Information Systems	DEPARTMENT MANAGER or DIRECTOR  Nicholas J. Irias	APPROVED  General Manager

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

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

Funds are available in the FY17 operating budget.

ALTERNATIVES

Switch to a different database product. This alternative is not recommended because there are no alternative database systems capable of supporting the District's inventory of software applications.

Do not procure support and software update license. This alternative is not recommended because the District requires access to support in order to resolve data management issues and to software updates in order to ensure that any newly discovered security vulnerabilities can be addressed. Without the license for support and software updates the District's information systems could be compromised.

Attachments

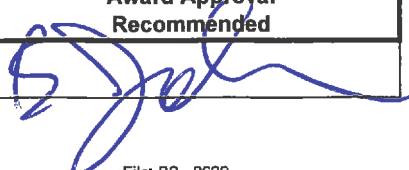
P-035 – Contract Equity Program Summary

P-061 – Affirmative Action Summary



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 Oracle Database Software License & Maintenance Renewal						DATE: May 11, 2016						
CONTRACTOR: Oracle America, Inc. Redwood City, CA				Sole Source				PERCENTAGE OF CONTRACT DOLLARS				
BID/PROPOSER'S PRICE: \$272,613		FIRM'S OWNERSHIP Publicly Held Corporation		Availability Group White Men		Contracting Objectives 25%		Participation 0.0%				
				White Women		6%		0.0%				
				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: Oracle America, Inc.	\$272,613	Publicly Held Corporation	--	--	--	--	--	--	--	100.0%	--	--
SUBS: None			--	--	--	--	--	--	--	--	--	
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TOTAL					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:	22,111	8,704	18,911	49,726								
Percent of Total Employees:	44.5%	17.5%	38.0%									
MSA Labor Market %:	39.0%	33.7%	27.2%									
MSA Labor Market Location:	Total USA											
COMMENTS												
Contract Equity Participation - Zero Contract Equity participation since firm is a publicly held corporation and no subcontract opportunities exist.												
Workforce Profile & Statement of Nondiscrimination Submitted		Good Faith Outreach Efforts Requirement Satisfied		Award Approval Recommended								
NA		NA										



AGENDA NO.
MEETING DATE

11.
May 24, 2016

**TITLE ASSIGNMENT OF TECHNICAL ADVISORY BOARD FLOW MONITORING AND
FIELD SERVICES CONTRACT**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Approve the assignment of the Technical Advisory Board Flow Monitoring and Field Services contract to Total Flow, Inc. This contract was previously awarded to E2 Consulting Engineers, Inc. by Board Motion No. 107-11 on September 28, 2011 and amended by Board Motion No. 168-14 on October 20, 2014.

SUMMARY



In 2011, the District entered into a contract with E2 Consulting Engineers, Inc. to provide wastewater flow monitoring and field services to the Technical Advisory Board, which is a regional collaboration between EBMUD and the cities of Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont, and Stege Sanitary District for inflow and infiltration reduction efforts. EBMUD has traditionally provided administrative support for the execution and management of these contracts. Total Flow, Inc. acquired the division from E2 Consulting Engineers, Inc. that managed this contract and other associated work. As the same division will provide the services under Total Flow, Inc., staff has determined that reassignment will not affect the performance of this contract.

CONTRACT EQUITY PROGRAM EFFORTS

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

FISCAL IMPACT

There is no fiscal impact as a result of this assignment. Total Flow, Inc. will continue to provide the services under the existing contract with E2 Consulting Engineers, Inc.

Funds Available: FY15		Budget Code: 952 / 2228 / 5231	
DEPARTMENT SUBMITTING Wastewater	DEPARTMENT MANAGER or DIRECTOR  Bennett K. Horenstein		APPROVED  General Manager

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

ALTERNATIVE

Do not reassign the contract to Total Flow, Inc. This alternative is not recommended as it would prevent the Technical Advisory Board members from utilizing the recommended consultant, who is well qualified, is providing the same prices as previously accepted, and has performed during the current contract.

Attachments

P-035 – Contract Equity Program Summary

P-061 – Affirmative Action Summary

I:\Sec\2016 Board Related Items\052416 Board Agenda Items\Wastewater\WW - ReassignmentE2Contract_TABFlowMonitoring



CONTRACT EQUITY PROGRAM SUMMARY (P-035)

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

TITLE <i>Professional Services Agreement</i>						DATE: <p>May 13, 2016</p>						
Reassignment of Contract for Technical Advisory Board Flow Monitoring and Field Services												
CONTRACTOR: Total Flow, Inc. Hayward, CA					Small/Local Business					PERCENTAGE OF CONTRACT DOLLARS		
						Availability Group		Contracting Objectives		Participation		
BID/PROPOSER'S PRICE:		FIRM'S OWNERSHIP		White Men		25%		87.2%				
		Ethnicity		Gender		White Women		6%		12.8%		
\$850,000		White		Women		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: Total Flow, Inc.		\$109,000	White		X	—	12.8%	---	---	---	---	---
SUBS: National Plant Services, Inc.		\$524,000	White	X		61.6%	---	---	---	---	---	---
Subtronic Corporation		\$217,000	White	X		25.5%	---	---	---	---	---	---
						---	---	---	---	---	---	---
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						---	---	---	---	---	---	---
TOTAL		\$850,000				87.2%	12.8%	0.0%	0.0%	0.0%	0.0%	0.0%
CONTRACTOR'S WORKFORCES PROFILE (From P-025 Form)												
		White Men		White Women		Ethnic Minorities		Total Employees				
No. of Employees:		3		1		2		6				
Percent of Total Employees:		50.0%		16.7%		33.3%						
MSA Labor Market %:		28.9%		24.6%		46.2%						
MSA Labor Market Location:		Alameda/Contra Costa										
COMMENTS												
Contract Equity Participation - 87.2% White Men and 12.8% White Women.												
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: Reassignment of Contract for Technical Advisory Board Flow Monitoring and Field Services		Ethnic Minority Percentages From U.S. Census Data						
			B	H	A/PI	AI/AN	TOTAL	
		National	10.5	10.7	3.7	0.7	27.3	
Professional Services Agreement		DATE: 5/13/2016	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	WW - L/SBE	Company Wide	1	-	1	-	2	33.3%
Total Flow, Inc. Jodi Blum 23520 Foley St. Unit B Hayward, CA 94542 510-774-9223		Manager/Prof				-	0	0.0%
		Technical/Sales	1		1	-	2	50.0%
		Clerical/Skilled				-	-	0.0%
		Semi/Unskilled	-	-	-	-	-	0.0%
		Bay Area	1	0	1	-	2	100.0%
		AA Plan on File:	NA		Date of last contract with District:		11/30/2015	
		Co. Wide MSA:	Alameda/CC Counties		# Employees-Co. Wide:		6 Bay Area: 2	
S	WM	Company Wide	4	17	1	-	22	71.0%
National Plant Services Inc. 1461 Harbor Ave. Long Beach, CA 90813 562-436-7600		Manager/Prof	-	2	-	-	2	40.0%
		Technical/Sales	-	3	1	-	4	80.0%
		Clerical/Skilled	-	-	-	-	-	NA
		Semi/Unskilled	4	12	-	-	16	76.2%
		Bay Area	4	17	1	-	22	71.0%
		Co. Wide MSA:	Los Angeles		# Employees-Co. Wide:		31 Bay Area: 31	
S	WM-LBE	Company Wide	2	2	1	-	5	23.8%
Subtronic Corporation 5301 Blum Rd., Suite 2 Martinez, CA 94553 925-228-8771		Manager/Prof	-	-	1	-	1	25.0%
		Technical/Sales	2	1	-	-	3	21.4%
		Clerical/Skilled	-	-	-	-	0	0.0%
		Semi/Unskilled	-	1	-	-	1	100.0%
		Bay Area	2	2	1	-	5	23.8%
		Co. Wide MSA:	Contra Costa		# Employees-Co. Wide:		21 Bay Area: 21	
		Company Wide						
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						39.9%
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:	
		Company Wide						
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						39.9%
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:	
		Company Wide						
		Manager/Prof						
		Technical/Sales						
		Clerical/Skilled						
		Semi/Unskilled						
		Bay Area						39.9%
		Co. Wide MSA:			# Employees-Co. Wide:		Bay Area:	

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. 12.
MEETING DATE May 24, 2016

**TITLE AMENDMENT TO PROTEST DISMISSAL AGREEMENT TO EXTEND TIMELINE
FOR ISSUANCE OF GROUNDWATER BANKING DEMONSTRATION PROJECT
EXPORT PERMIT**

☒ MOTION ☐ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

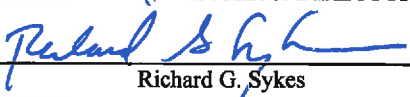

Authorize execution of an agreement with San Joaquin County and North San Joaquin Water Conservation District (NSJWCD) to amend the existing Protest Dismissal Agreement (PDA) between the District and five San Joaquin County parties to (1) extend the deadline from June 30, 2016 to August 10, 2016 regarding San Joaquin County's issuance of the export permit under Section 5.e. of the PDA, and to (2) authorize the General Manager to approve further extensions of the deadline until no later than December 31, 2016.

SUMMARY

On November 25, 2014, the District, NSJWCD, San Joaquin County and three other county entities entered into a PDA which dismissed protests on water rights applications and change petitions, and resolved CEQA challenges. Among other things, the agreement includes a \$4.0 million payment by EBMUD for a Groundwater Banking Demonstration Project (Demo Project) and improvements to the NSJWCD South System to deliver water to the Demo Project. Under terms of the PDA, EBMUD is not obligated to pay any of the funds for the Demo Project if the county does not issue an export permit by June 30, 2016 unless the parties agree to a modification of the relevant PDA term. The PDA allows for the District, San Joaquin County and NSJWCD to extend that permit issuance deadline if needed. The parties have agreed to extend the deadline from June 30, 2016 to August 10, 2016.

DISCUSSION

The county and EBMUD are investigating the feasibility of a Demo Project to show that EBMUD can bank its water from the Mokelumne River and help recharge the San Joaquin County groundwater basin, and then later extract and export a portion of that water out of the county. Amongst other items, the PDA sets forth conditions for EBMUD's funding (\$4.0 million) of the Demo Project. However, Section 5.e. of the PDA provides that EBMUD shall not be obligated to pay any of the \$4.0 million for the Demo Project if the county does not issue a groundwater export permit

Funds Available		Budget Code:
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR	APPROVED
Water and Natural Resources	 Richard G. Sykes	 General Manager

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

Amendment to Protest Dismissal Agreement to Extend Timeline for Issuance of Groundwater
Banking Demonstration Project Export Permit
Board of Directors
May 24, 2016
Page 2

by June 30, 2016 unless the county, EBMUD, and NSJWCD agree to a modification of the relevant PDA term. If the county does not issue the export permit for the Demo Project by June 30, 2016 and there is no agreed upon modification of the relevant PDA term, the PDA stipulates that EBMUD shall pay NSJWCD \$1.75 million on or before July 15, 2016, which funds are to be used by NSJWCD to improve the NSJWCD South System. The Demo Project continues to be an important step towards regional water supply solutions. Consequently, the parties have agreed to extend the deadline from June 30, 2016 to August 10, 2016 to allow sufficient time to work out the details regarding the Demo Project and the export permit.

FISCAL IMPACT

Funds for this work are available in the FY16/17 Capital budget for Water Supply Improvements.

ALTERNATIVE

Do not extend the deadline. This alternative is not recommended due to the significant progress made to date. Failure to extend the deadline will result in the early termination of the Demo Project and prevent implementation of other provisions under the PDA which could potentially benefit EBMUD's future water supply in dry years.

I:\SEC\2016 Board Related Items\Board Packets 2016\052416 Regular Board Meeting\WNR - Extension Of Protest Agreement Deadline.Docx

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: May 19, 2016

MEMO TO: Board of Directors

FROM: Frank Mellon, President 

SUBJECT: Revised Sustainability/Energy Committee Assignments

During the Board's regular meeting on May 24, it is recommended that the Board approve the appointment of Director Marguerite Young as the Chair of the Sustainability/Energy Committee for the remainder of 2016. The overall composition of the Committee will remain the same.

Sustainability/Energy

Director Young, Chair

Director Katz

Director Linney

FM:lml

W:\Board of Directors\Board Committees\OGM - Sustainability Chair Change_051916.doc



AGENDA NO.
MEETING DATE

14.
May 24, 2016

**TITLE PURCHASE PROPERTY FOR THE PREFERRED SITE FOR THE FONTAINE
PUMPING PLANT REPLACEMENT**

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

Approve the purchase of a 10,757 square foot parcel of land located at 9601 MacArthur Boulevard, Oakland, CA from Alex Sam in the amount of \$277,000, for the preferred site for the Fontaine Pumping Plant replacement, and condition any future use of the parcel on California Environmental Quality Act (CEQA) compliance.

SUMMARY

Staff completed a detailed evaluation of alternative pumping plant sites to replace the existing Fontaine Pumping Plant. The evaluation identified the subject property (see attached map) as the preferred location for the replacement pumping plant, and the District is purchasing this property as its preferred site for the project. The District will not approve or consider approving the project until it has complied with CEQA, as explained below. The project level CEQA review is scheduled to be completed in FY17-18. The District is pursuing the property acquisition prior to completing CEQA review to ensure the preferred site is purchased before potential development occurs on the site, which could affect site feasibility and/or result in overall higher project costs.

DISCUSSION

The existing 20 million gallon per day (MGD) Fontaine Pumping Plant, constructed in 1963, is located at 8445 Ney Avenue in the City of Oakland. Fontaine Pumping Plant is a critical facility that provides water to the entire Upper San Leandro Pressure Zone and other upper pressure zones in the winter when the Upper San Leandro Water Treatment Plant (WTP) is offline. The plant also provides a backup water supply in the event of disruption at the Upper San Leandro WTP. The plant is at the end of its useful life and its replacement is necessary as the existing facility is located on an active landslide near the Hayward Fault. Evidence of surface displacements at the site has been observed and the plant's associated suction and discharge pipelines are vulnerable to damage by fault rupture and/or landslide. The obsolete electrical and mechanical equipment in the current pumping facility requires workers to take special precautions and is

Funds Available: FY16-17; CIP 2001475; Page 55		Budget Code: WSC/326/2007351:27
DEPARTMENT SUBMITTING Customer & Comm. Svcs.	DEPARTMENT MANAGER or DIRECTOR <i>Wally C. Will Sharp Acting</i> Sherri A. Hong	APPROVED <i>Michael R. C...</i> General Manager

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

difficult to repair. Subsequent to the Infrastructure Rehabilitation Master Plan for Distribution Pumping Plants 2012 Update, Fontaine Pumping Plant was ranked as a high priority replacement.

Staff analyzed multiple potential sites for the pumping plant taking into account such factors as property availability, parcel size, hydraulics, location to the Hayward fault zone, length of the new pipeline required to connect the pumping plants to existing transmission pipelines, facility and total project costs. With these factors considered, the subject property is the preferred site.

Alex Sam owns the preferred site, 10,757 square foot parcel at 9601 MacArthur Boulevard in the City of Oakland at the corner of 96th Avenue and MacArthur Boulevard. An independent appraiser valued the property at \$277,000. In March 2016 the District presented its offer to the owner and the offer was accepted.

Staff recommends purchasing the property as the preferred site for the project. To ensure CEQA compliance, staff recommends that the Board condition purchase approval by requiring that the District comply with CEQA prior to any future use of the property. Accordingly, the purchase approval resolution to be considered by the Board includes resolving paragraphs requiring staff to complete CEQA review of the project prior to any future use of the property, and declaring that the District retains absolute discretion to modify the project as may be necessary to comply with CEQA, require mitigation measures and/or pursue other feasible alternatives to avoid significant environmental impacts associated with the project, balance project benefits against any significant environmental impacts prior to taking any project approval action, and/or determine not to proceed with the project.

FISCAL IMPACT

Funding for this item is included in the FY16-17 Capital Improvement Program budget under the West of Hills Transmission Project.

ALTERNATIVES

Acquire another site for the Fontaine Pumping Plant replacement. This alternative is not recommended because District staff completed a detailed evaluation of pumping plant alternative sites and determined this to be the preferred site for the Fontaine Pumping Plant replacement.

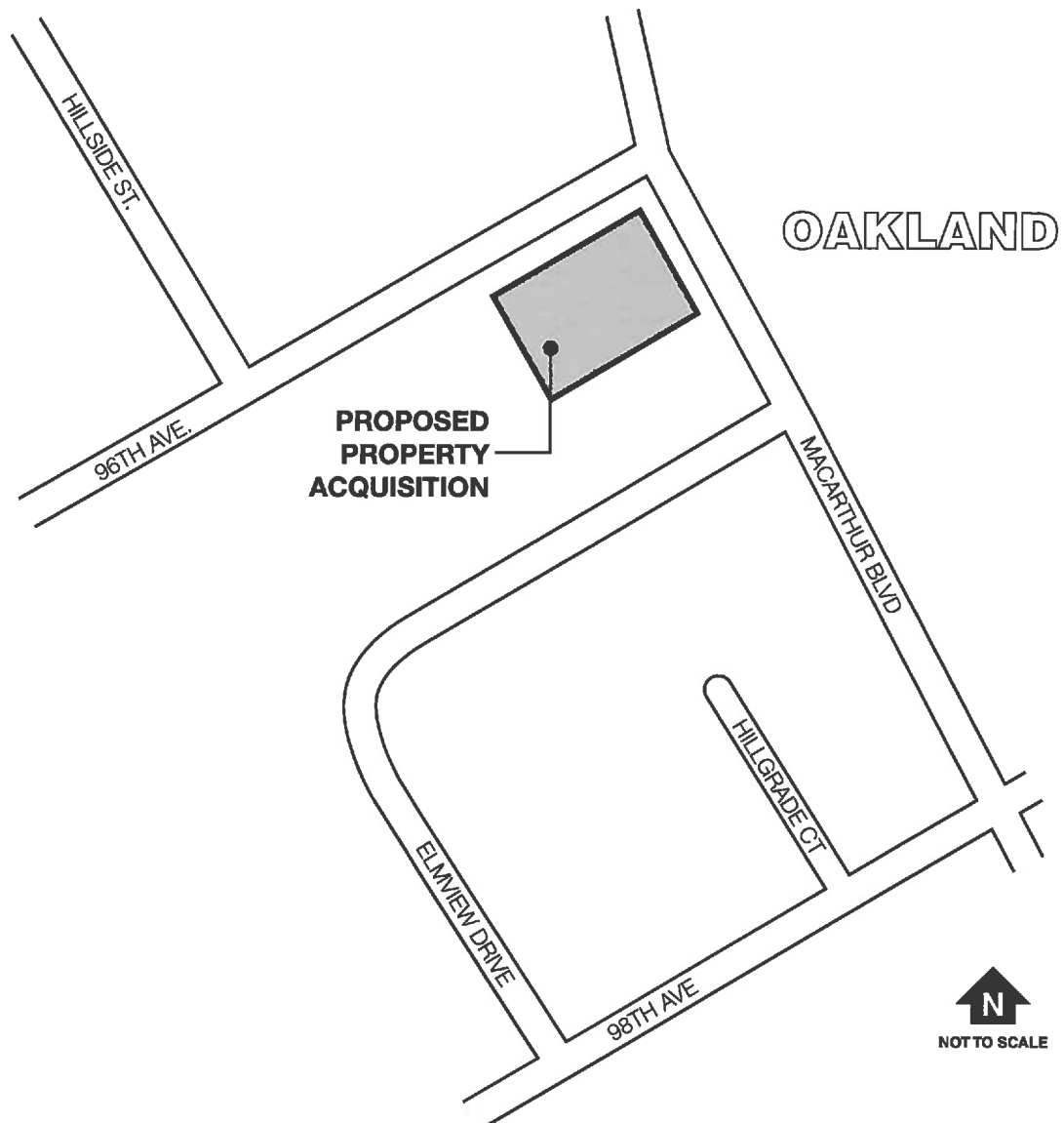
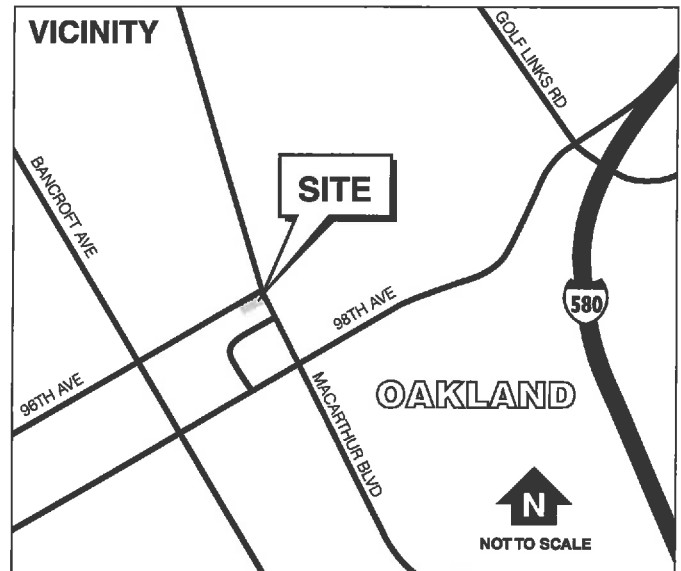
Do not purchase the property. This alternative is not recommended. The existing pumping plant needs to be replaced because it is at the end of its useful service life, is a critical facility and is vulnerable to damage by fault rupture and/or landslide. District staff identified a preferred site for the Fontaine Pumping Plant replacement and recommends purchasing the property at this time to ensure that it is purchased prior to other potential development occurring on the site, which could affect site feasibility and/or result in overall higher project costs.

Attachment

PROPOSED FONTAINE PUMPING PLANT PROPERTY

**9601 MACARTHUR BLVD,
OAKLAND, CA 94605**

ASSESSOR PARCEL NO. 046-5489-001-01
10,757 ± SQUARE FEET



RESOLUTION NO. _____

AUTHORIZING ACQUISITION OF REAL PROPERTY
AT 9601 MACARTHUR BOULEVARD IN OAKLAND, CALIFORNIA, AND
CONDITIONING FUTURE SITE USE ON CEQA COMPLIANCE

Introduced by Director

; Seconded by Director

WHEREAS, Alex Sam owns a 10,757 square foot parcel of land located at 9601 MacArthur Boulevard in Oakland, California, as more particularly described in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, the East Bay Municipal Utility District's (District) existing Fontaine Pumping Plant is a 20 million gallon per day facility located at 8445 Ney Avenue in the City of Oakland, constructed in 1963; and

WHEREAS, the existing Fontaine Pumping Plant is a critical facility that:

1. Provides water to the entire Upper San Leandro Pressure Zone; and
2. Provides water to upper pressure zones in the winter when the Upper San Leandro Water Treatment Plant (WTP) is offline; and
3. Provides a backup supply in the event of disruption at the Upper San Leandro WTP; and

WHEREAS, the existing Fontaine Pumping Plant is at the end of its useful life and in need of replacement, as it is located on an active landslide near the Hayward Fault and contains obsolete equipment; and

WHEREAS, District staff has completed a detailed evaluation of multiple alternative pumping plant sites to replace the existing Fontaine Pumping Plant, and has identified the vacant parcel at 9601 MacArthur Boulevard as the preferred location for the replacement pumping plant; and

WHEREAS, an independent appraiser retained by the District valued the property at 9601 MacArthur Boulevard at \$277,000; and

WHEREAS, in March 2016 the District presented an offer in the amount of \$277,000 to Alex Sam and the offer was accepted, the offer and acceptance being contingent on the approval of the District's Board of Directors; and

WHEREAS, the District is purchasing this property as its preferred site for the Fontaine Pumping Plant Replacement Project (Project);

NOW, THEREFORE, BE IT RESOLVED that upon conveyance of the property to the District, in a form approved by the General Counsel, the proper officials of the District are hereby

authorized and directed to issue payment to Alex Sam for the property in the amount of \$277,000.

BE IT FURTHER RESOLVED that the Manager of Real Estate Services and the Secretary of the District are authorized to execute any and all documents, in a form approved by the General Counsel, prior to, in or after escrow, necessary or appropriate to the close of the transaction.

BE IT FURTHER RESOLVED that the District will not approve or consider approving the Project, including any future use of the site, until it has complied with the California Environmental Quality Act (CEQA). The District retains absolute discretion to modify the Project as may be necessary to comply with CEQA, require mitigation measures and/or pursue other feasible alternatives to avoid significant environmental impacts associated with the Project, balance Project benefits against any significant environmental impacts prior to taking any Project approval action, and/or determine not to proceed with the Project.

ADOPTED this 24th day of May, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

President

ATTEST:

Secretary

APPROVED AS TO FORM AND PROCEDURE:

General Counsel

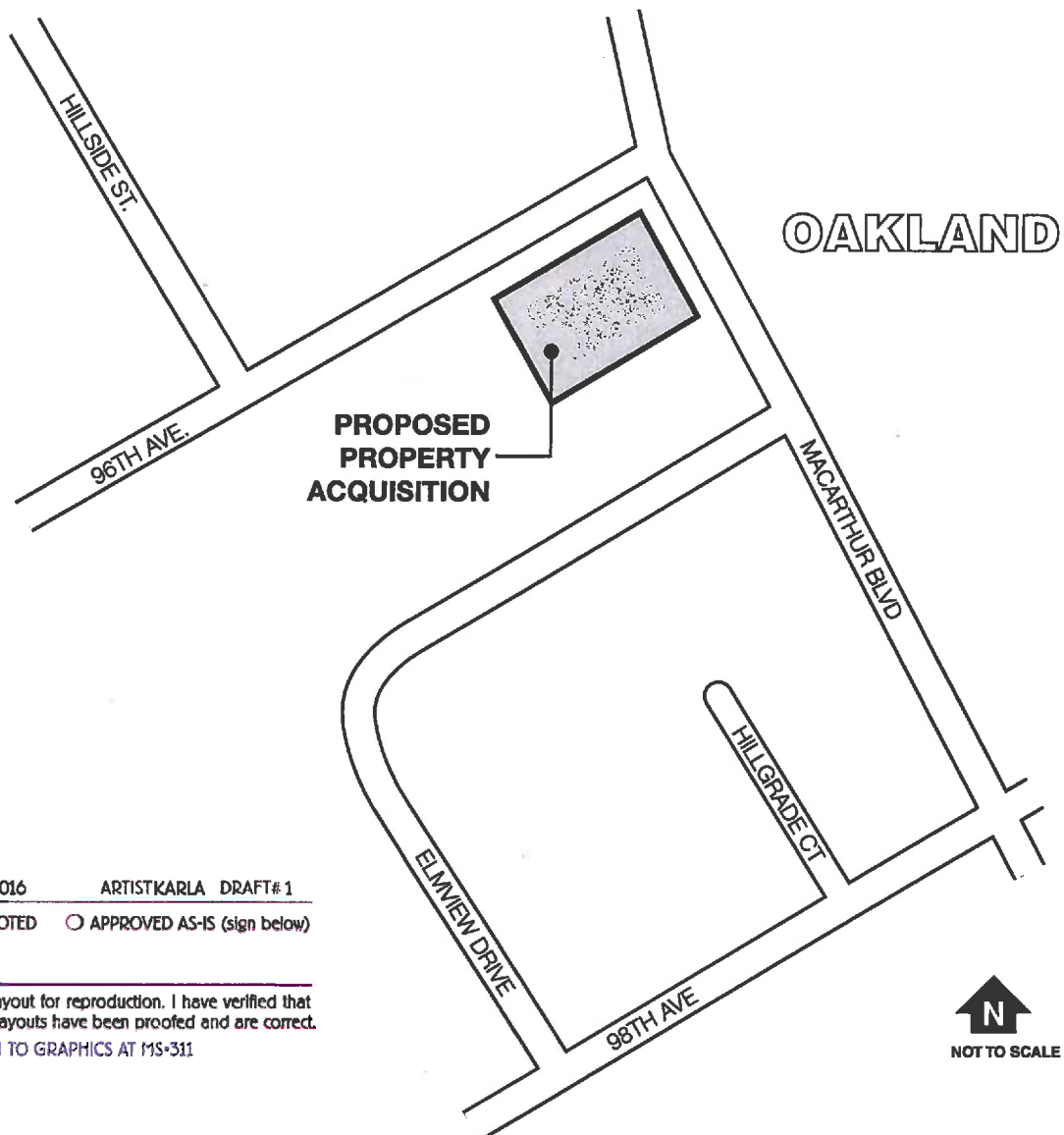
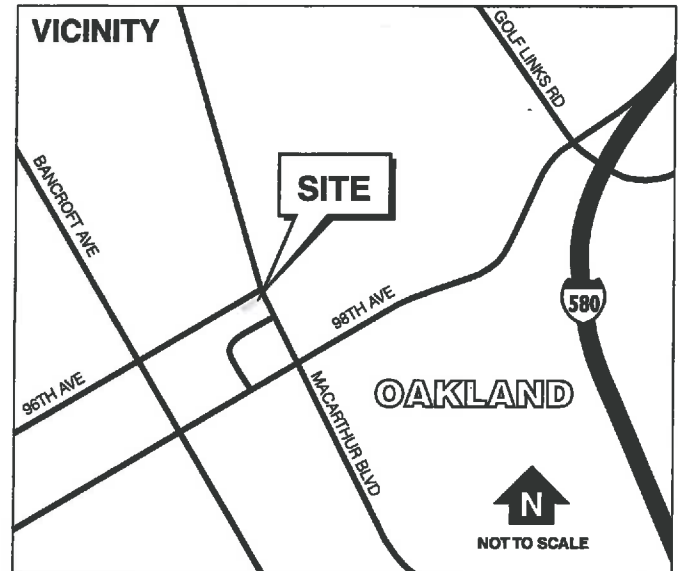
ATTACHMENT

PROPOSED FONTAINE PUMPING PLANT PROPERTY

9601 MACARTHUR BLVD,
OAKLAND, CA 94605

ASSESSOR PARCEL NO. 046-5489-001-01

10,757 ± SQUARE FEET



DATE 11 MAY 2016 ARTIST: KARLA DRAFT# 1

☐ REVISE AS NOTED ☐ APPROVED AS-IS (sign below)

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EXHIBIT A

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: May 19, 2016

MEMO TO: Board of Directors

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

SUBJECT: Legislative Report No. 07-16

The following issues are being referred to the Board of Directors for action, as appropriate.

RECOMMENDED ACTION

Approve positions on the following bills: 1) Support AB 2555 (Committee on Water, Parks, and Wildlife) Fish and Wildlife; 2) Oppose Unless Amended SB 814 (Hill) Drought: Excessive Water Use: Urban Retail Water Suppliers; 3) Support SB 1043 (Allen) Biogas and Biomethane; and 4) Oppose Unless Amended SB 1233 (McGuire) Joint Powers Authorities: Water Bill Savings Act.

STATE LEGISLATION

RECOMMENDED POSITION

AB 2555 FISH AND WILDLIFE
(Committee on
Water, Parks, and Wildlife)

SUPPORT

Existing law authorizes the Department of Fish and Wildlife (DFW) to address the control and eradication of quagga and zebra mussels, also known as dreissenid mussels, from infested water bodies in California. DFW has the authority to inspect, quarantine, and take other necessary actions to prevent the spread of these invasive mussels. Owners or operators of infested water supply facilities are required to develop and implement a control and eradication plan. Current law provides for the imposition of administrative, criminal, or civil liability penalties for the failure to develop and implement the plan, or for the spread of dreissenid mussels from an infested water body. However, these provisions of law sunset, or will be repealed, on January 1, 2017.

AB 2555, as introduced on February 19, 2016, would, among other things, extend the sunset date on the provisions of law governing the control and eradication of quagga and zebra mussels to January 1, 2020, thereby ensuring that programs and efforts to control and eradicate these invasive mussels can continue.

Dreissenid mussels originated in the Ukraine and Black and Caspian Sea drainages and first appeared in North America in the 1980s as a result of transatlantic cargo ship traffic in the Great Lakes region. In January 2007, quagga mussels were found in Lake Mead, the first detection west of the Continental Divide. Subsequent surveys discovered quagga mussels in the Colorado River and Aqueduct, and at least ten reservoirs in Nevada, Arizona, and Southern California, prompting emergency actions by impacted water utilities. In January 2008, zebra mussels were discovered in Northern California in the San Justo Reservoir in San Benito County.

Dreissenid mussels spread in water by clinging to the outer surfaces of boats and other aquatic equipment or by the microscopic mussel larva, known as veligers, drifting or otherwise entering into water bodies. Once a water body becomes infested it is extremely costly to control the infestation and, to date, no reliable method of eradication has been identified.

EBMUD is a leader in helping prevent the spread of dreissenid mussels in California. In 2008, EBMUD sponsored the successful legislation that requires the owners and operators of recreational reservoirs that are not infested with dreissenid mussels to implement a mussel prevention program, AB 2065 (Hancock). EBMUD has also had an aggressive prevention and monitoring program for its water system in place since 2008. The prevention program, in place at all six reservoirs on which recreational boating is allowed, includes a vessel history survey and physical inspection. In addition, a new boat decontamination station has been added at Camanche Reservoir allowing boat owners to pay for a high pressure hot-water scrub to ensure that boats that may have been exposed to quagga or zebra mussels do not have quagga or zebra mussels on them. Boats which fail either the survey or inspection may not be launched into EBMUD reservoirs unless they complete this decontamination process. To date, neither quagga nor zebra mussels have been found within EBMUD's water system.

By extending the sunset provision in existing law, AB 2555 would enable DFW to retain its authority and continue its critical efforts to control and eradicate quagga and zebra mussels and is consistent with EBMUD's efforts to prevent the spread of quagga and zebra mussels to EBMUD reservoirs.

EBMUD has previously supported legislation to address the threat of dreissenid mussels. In 2012, EBMUD supported AB 2443 (Williams) which established a statewide funding mechanism to support quagga and zebra mussel prevention and eradication efforts. AB 2443 was signed into law (Chapter 485 of 2012). In 2011, EBMUD supported SB 215 (Huff) which extended the sunset date from January 1, 2012 to January 1, 2017, to provide the Department of Fish and Game (now DFW) continued authorization to control and eradicate zebra and quagga mussels from mussel-infested waters. SB 215 was signed into law (Chapter 332 of 2011).

There are currently no entities listed in support or opposition to AB 2555.

**SB 814
(Hill)**

**DROUGHT: EXCESSIVE WATER USE:
URBAN RETAIL WATER SUPPLIERS**

**OPPOSE UNLESS
AMENDED**

The California Constitution requires the reasonable and beneficial use of water. Existing law also requires the Department of Water Resources and the State Water Resources Control Board (SWRCB) to take all appropriate proceedings or actions to prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water. In addition, existing law authorizes any public entity to adopt and enforce a water conservation program to reduce the quantity of water used and provides that a violation of a requirement of a water conservation program is a misdemeanor and allows any public entity that supplies water to assess a penalty, up to \$10,000, for a violation of a water conservation ordinance or resolution. Existing law also provides the Governor with the authority to declare a state of emergency throughout the state due to drought conditions. Existing law does not require that water supply conditions be considered in declaring a drought or that all parts of the state must be facing drought conditions, as a statewide emergency due to drought can be declared as long as the as the magnitude of the state of emergency is or is likely to be “beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city.”

SB 814 (Hill) is intended to restrict excessive water use and, as introduced on January 4, 2016, would have required urban retail water sellers (water agencies) to define what excessive use means and fine customers whose water use exceeds that definition.

Subsequent to its introduction, SB 814 was amended March 30, 2016, to address some of the concerns raised by EBMUD including water rights, penalty amount, and water rate structure. The language regarding the public disclosure of information has been deleted from the bill so this issue no longer pertains to the bill. In its current form, SB 814 would require water agencies to identify and restrict excessive water use during a Governor-declared drought state of emergency using one of two methods: (1) by establishing a rate structure that includes block tiers, water budgets, penalties for prohibited use or rate surcharges for excessive water use or (2) by establishing an excessive water use ordinance that sets an excessive water use limit and requires a penalty of up to \$500 per hundred cubic feet of water over the excessive use limit.

There remains one critical issue that has not yet been resolved, when the mandate would apply. Under the current version of the bill, SB 814’s mandate that water agencies establish a method to identify and restrict excessive water use would apply when a governor has declared a state of emergency due to drought conditions, and does not take local conditions into consideration. A governor may issue a statewide emergency drought declaration even when many parts of the state do not have a water shortage. A mandate trigger that ignores local water supply conditions would require a water agency to impose penalties on its customers at a time when local water supply conditions do not warrant local water use restrictions. This mixed messaging would erode ratepayer confidence and hamper the ability of water agencies, such as EBMUD, to effectively encourage and secure additional necessary water use reductions when local water shortage conditions warrant mandatory use restrictions.

EBMUD was one of the first water agencies in California to implement an excessive use program. EBMUD developed and began implementing its excessive use program, using its existing authorities, in mid-2015. EBMUD's program is based on local water supply conditions and establishes an excessive use limit for residential customers based on the drought stage, as determined by the Board. At the April 26, 2016 meeting, the Board suspended implementation of EBMUD's excessive use penalty program as of May 3rd as a result of EBMUD's improved water supply conditions. Under SB 814, EBMUD's Board would have been precluded from suspending implementation of the excessive use penalty program because, despite good local water supply conditions, Governor Brown's statewide drought declaration remains in place.

Though SB 814's objective to restrict excessive water use and penalize excessive users is consistent with EBMUD's objective in implementing its own program, in its current form the bill represents a significant intrusion on local control and would have the unintended consequence of impairing a local water agency's ability to secure additional water use reductions via the imposition of an excessive use ordinance when local water supplies are depleted. It is critical that SB 814 be amended to include local water supply conditions as part of the mandate trigger such that the implementation of an excessive use penalty would be mandated by the state only when a Governor-declared statewide drought emergency and local water shortage conditions warrant mandatory use restrictions. This critical change is consistent with the author's intent to recognize the importance of addressing excessive use during a statewide drought emergency, while it preserves the authority of water agencies to manage their systems and develop local programs that fully account for local conditions. In the absence of this amendment, EBMUD would not be able to effectively implement its own landmark excessive use program.

Such an amendment would also be consistent with the direction of recognizing local control that is embodied in Governor Brown's May 9th executive order regarding water conservation which requires the development of new water use targets tailored to the conditions of each water agency. As the administration continues to adapt its approach to drought, it is critical that lessons learned be reflected when memorializing a given approach, such as SB 814, in statute and including local conditions as part of the mandate trigger would do just that.

There has been no prior legislation on this topic.

The current list of support and opposition to SB 814 is shown below.

Support

California League of Conservation Voters
Clean Water Action
Sierra Club California

Opposition

Association of California Water Agencies
El Dorado Irrigation District

Desert Water Agency
Mesa Water District

SB 1043
(Allen)

BIOGAS AND BIOMETHANE

SUPPORT

Existing law, the California Global Warming Solutions Act of 2006, designates the California Air Resources Board (CARB) as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act also placed into statute the target of reducing the state's greenhouse gas (GHG) emissions to 1990 levels by the year 2020. Existing law authorizes CARB to include the use of market-based incentives to comply with GHG emissions regulations and requires CARB to complete a strategy to reduce emissions of short-lived climate pollutants.

SB 1043 (Allen), as amended on April 25, 2016, would primarily require CARB to consider and, as appropriate, adopt policies to significantly increase the sustainable production and use of biogas, defined in the bill as "gas that is produced from organic waste through anaerobic digestion or eligible noncombustion thermal technologies."

Under SB 1043, any such policy adopted by CARB must be coordinated and consistent with existing state policies to promote renewable fuels and eligible renewable energy resources, reduce life-cycle GHG and short-lived climate pollutant emissions, increase carbon sequestration, divert organic waste from landfills, reduce air and water pollution, reduce wildfires, promote resilient and sustainable forests, and protect environmental quality of natural and working lands. The policy must also provide direct benefits to the state's environment and be protective of public health and safety. SB 1043 also requires CARB to identify barriers to the rapid development and use of biogas, make recommendations to remove those barriers, and identify potential sources of funding to provide incentives for biogas production and use.

According to the author, "California uses more than 2 trillion cubic feet of natural gas per year and that amount is going up. Natural gas from fossil sources is used to generate more than half of the state's electricity, the majority of its home heating and hot water, and a growing share of transportation fuels. Although cleaner and cheaper than other fossil fuels, natural gas is a major source of greenhouse gas emissions, air and water pollution." SB 1043 states that "capturing and using methane (the primary chemical component of biogas) can significantly reduce the emissions of greenhouse gases from fossil fuel use, organic waste, and petroleum-based fertilizers. Increasing the production and use of biogas could reduce emissions of greenhouse gases by tens of millions of metric tons of carbon dioxide equivalent emissions per year. Biogas generated from organic waste can be used to produce the lowest carbon transportation fuel. It can also be used to produce flexible generation renewable power, energy storage, and a low-carbon gas supply for heating, cooling, and other purposes."

EBMUD produces renewable energy at its main wastewater treatment plant through the anaerobic digestion of biodegradable wastes and capture of methane gas. The plant is a net producer of renewable energy, selling energy back to the electrical grid after meeting the plant's power demands. EBMUD continues to consider ways to increase the production of biogas and is looking into additional uses for biogas in the future, including the production and sale of renewable transportation fuel.

By requiring CARB to consider and adopt policies to increase the use and production of biogas as well as to identify barriers to, and potential funding sources to incentivize, the increased production and use of biogas, SB 1043 would promote the increased production and use of biogas and assist the state in achieving its GHG emission reduction goals. SB 1043 is consistent with EBMUD's efforts to increase renewable energy generation pursuant to its energy policy (Policy 7.07) and EBMUD's sustainability efforts, as well as EBMUD's 2016 state legislative initiative regarding promoting healthy forest and watershed initiatives, and could potentially facilitate the development and funding of a biogas project if EBMUD chooses to undertake such a project.

EBMUD has previously supported legislation to encourage the development of renewable energy sources, including biogas projects, and reduction of GHG emissions. In 2015, EBMUD supported AB 577 (Bonilla) to require the State Energy Resources Conservation and Development Commission to develop a grant program for biomethane-related projects that produce biomethane, build or develop collection and purification technology and infrastructure, or upgrade existing biomethane facilities. AB 577 is pending in the legislature. Also in 2015, EBMUD supported SB 687 (Allen) to require CARB to adopt a carbon-based renewable gas standard. SB 687 is pending in the legislature.

The current list of support and opposition to SB 1043 is shown below.

Support

American Biogas Council
Atlas ReFuel
Bioenergy Association of California
City of Fresno
Clean Energy
Climate Resolve
Coalition for Clean Air
CR&R
Environmental Defense Fund
Inland Empire Disposal Association
Kern Refuse Disposal, Inc.
Los Angeles County Waste Management Association
Pacific Forest Trust
Sanitation Districts of Los Angeles County

Solid Waste Association of Orange County
TSS Consultants
Victor Valley Wastewater Reclamation Authority
West Biofuels

Opposition

Agricultural Energy Consumers Association
Agricultural Council of California
Association of California Egg Farmers
California Dairies Inc.
California Farm Bureau Federation
California Forestry Association
California Grain & Feed Association
California Poultry Association
Center for Biological Diversity
Dairy Farmers of American
Dairy Farmers of California
Milk Producers Council
Western United Dairywomen

**SB 1233
(McGuire)**

**JOINT POWERS AUTHORITIES:
WATER BILL SAVINGS ACT**

**OPPOSE UNLESS
AMENDED**

Existing law allows two or more public agencies to exercise their common powers by signing joint powers agreements and by creating a joint powers authority (JPA). Existing law, the Marks-Roos Local Bond Pooling Act of 1985, authorizes JPAs, among other powers, to issue bonds and loan the proceeds to local agencies to finance specified types of projects and programs.

SB 1233 (McGuire), as amended on May 4, 2016, would enact the Water Bill Savings Act and is intended to promote water conservation by allowing for an independent JPA to establish an “on-bill” financing mechanism to assist water agency customers to pay for water efficiency improvements via the customer’s water bill. SB 1233 would primarily do five things: (1) authorize a new or existing JPA to provide funding for a customer of a local water agency to acquire, install, or repair a water efficiency improvement, as defined by the JPA, on the customer’s property; (2) provide that the customer would repay the JPA through a charge, administered by the local water agency, that appears on the customer’s regular water bill; (3) allow, but not require, local water agencies to “opt in” to the program established by the JPA; (4) authorize the JPA to issue bonds for the purpose of providing funds for the water efficiency improvements; and (5) allow a water agency to pledge its revenues to back the JPA’s bonds.

SB 1233 would allow a JPA that proposes to establish an on-bill financing program to include within the program’s geographical area the jurisdiction of a water agency that is not actually a

member of the JPA. While the JPA would not be allowed to provide funding to customers of such a water agency unless it opted in to the JPA's program, the bill would nonetheless allow the JPA's geographical area to include areas within that water agency's jurisdiction without the approval of the water agency.

According to the author, "the upfront costs of installing water efficiency improvements are a barrier that often prevents property owners and low income residents from making the needed improvements. Furthermore, municipal utilities and local governments lack a suitable mechanism to meet the challenge of creating and funding large scale and rapidly deployable programs to facilitate widespread adoption of customer-side water efficiency projects." According to the Senate Governance and Finance Committee, SB 1233 would provide local governments "a new tool to help promote the widespread installation of water efficiency improvements on private property" by allowing JPAs to offer water agency customers competitive financing costs for these improvements by pooling the revenues generated by voluntary water efficiency charges paid by the participating water agency customers.

EBMUD, in partnership with the Bay Area Regional Energy Network, launched an "on-bill" financing pilot program, Pay as You Save or PAYS, in October 2015 to study and evaluate whether "on-bill" financing would advance customer water efficiency improvements. EBMUD's program is one of only three in California that has been initiated to date. Staff is currently finalizing the implementation of the pilot program, including securing customer participants. Depending on the water efficiency improvements that are financed and the length of time needed to repay the cost of those improvements, the pilot program is expected to run for two to five years.

SB 1233's objective, to encourage and promote water conservation and efficient use of water by facilitating a financing mechanism to help water agency customers pay for water efficiency improvements, is consistent with EBMUD's sustainability policy, EBMUD's implementation of its own pilot "on-bill" financing program, and its on-going water conservation efforts. However, in its current form, SB 1233 would allow a JPA to establish a program with a geographical scope that includes the service area of a local water agency without the express authorization of the local water agency.

While the JPA could not provide funding to the water agency's customers without the water agency opting to participate in the program, including the service area of a nonparticipating water agency in the JPA's geographical area could lead the water agency's ratepayers and bonding agencies to believe that the water agency is participating in the JPA's program when it is not. Given that the purpose of the program is to provide water conservation services (which are typically provided by water agencies) and it uniquely relies on direct water agency customer interaction both to receive the service and to pay for the service via the water bill, and that the program can rely on water agency rate revenue to back the JPA bonds, a program area that overlaps with the service area of a nonparticipating water agency would cause confusion among water agency customers and the bond community. At a minimum it would require valuable staff

time to address customer confusion, clarify what conservation programs are being offered, and demonstrate that the agency revenues are not being used to back JPA bonds.

It is critical that the opt-in provisions of the bill be amended to make it clear that a JPA's water efficiency financing program cannot cover the geographical boundaries of a water agency's service area without the express authorization of the water agency. In the absence of this amendment, a local water agency's own on-bill financing program, as well as its broader water conservation program and bond program, could be harmed by the unnecessary confusion that would inevitably arise as a result of this bill. In addition, this confusion could jeopardize EBMUD's implementation of its own program.

The policy objective of SB 1233 to increase options for access to financing for water conservation measures is laudable. However, in its current form the ambiguity that would be created could create harm. Sound public policy dictates that this unnecessary confusion be avoided at the on-set. SB 1233 should be amended to ensure a water agency expressly agrees that it is acceptable to include its service territory in the geographical scope of the JPA's program.

EBMUD has historically taken positions on legislation that encourages water conservation by facilitating the financing of water efficiency improvements. In 2014, EBMUD supported AB 2045 (Rendon) which would have promoted the conservation and efficient use of water and energy in nonresidential buildings by facilitating the creation of a private financing mechanism to assist nonresidential building owners in paying for water and energy efficiency improvements. AB 2045 failed to advance out of the legislature. In 2013, EBMUD supported AB 122 (Rendon) which was substantially similar to AB 2045. AB 122 failed to advance out of the legislature.

The current list of support and opposition to SB 1233 is shown below.

Support

Association of Bay Area Governments
Bay Area Regional Energy Network
California Apartment Association
California Association of Realtors
California Building Industry Association
California Business Properties Association
California Chamber of Commerce
Center for Climate Protection
Mayors Councilmembers' Association of Sonoma County
Nexus eWater, Inc.
School Project for Utility Rate Reduction
Sierra Club California
Sonoma County Water Agency
Sonoma Regional Climate Protection Authority
StopWaste

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Town of Windsor

Opposition
California Land Title Association

ARC:MD:JW

ASSEMBLY BILL

No. 2555

Introduced by Committee on Water, Parks, and Wildlife (Assembly Members Levine (Chair), Dodd, Cristina Garcia, Gomez, Lopez, Mathis, Medina, and Williams)

February 19, 2016

An act to amend Sections 2115.5 and 2301 of, and to amend and repeal Sections 2074.2, 2074.6, 2074.8, and 2075.5 of, the Fish and Game Code, relating to fish and wildlife.

LEGISLATIVE COUNSEL'S DIGEST

AB 2555, as introduced, Committee on Water, Parks, and Wildlife. Fish and wildlife.

(1) The California Endangered Species Act requires the Fish and Game Commission to establish a list of endangered species and a list of threatened species, and requires the department to recommend, and the commission to adopt, criteria for determining if a species is endangered or threatened. Under the act, an interested person may petition the commission to add a species to, or remove a species from, either the list of endangered species or the list of threatened species, and existing law requires the commission to consider the petition at a meeting, as prescribed. Existing law, until January 1, 2017, establishes additional procedures for the review of a petition, including public hearings and public comment.

This bill would extend those procedures indefinitely.

(2) Existing law requires the Department of Fish and Wildlife to develop and implement a recovery strategy pilot program for coho salmon. Existing law repeals the authority for the pilot program on

January 1, 2017, but requires any recovery strategy that has been approved or implemented prior to that date to remain in effect.

The bill would extend these provisions until January 1, 2020.

(3) Existing law generally prohibits a person from possessing, importing, shipping, or transporting in the state, or from placing, planting, or causing to be placed or planted in any water within the state, dreissenid mussels, and authorizes the Director of Fish and Game or his or her designee to engage in various enforcement activities. Existing law provides that a person who violates or resists, delays, obstructs, or interferes with the implementation of these provisions is subject to a penalty, in an amount not to exceed \$1,000, that is imposed administratively by the department. Existing law exempts certain entities from enforcement activities, or from civil or criminal liability, under prescribed circumstances. These provisions are repealed on January 1, 2017.

This bill would extend these provisions to January 1, 2020.

Under existing law, a violation of these provisions is a crime. By extending the operation of these provisions, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 2074.2 of the Fish and Game Code, as
2 amended by Section 3 of Chapter 387 of the Statutes of 2013, is
3 amended to read:

4 2074.2. (a) At the meeting scheduled pursuant to Section 2074,
5 the commission shall hold a public hearing on the petition and
6 shall receive information, written or otherwise, and oral testimony.
7 After the conclusion of oral testimony from the commission and
8 department staff, the petitioner, or any other persons, the
9 commission may close the public hearing and administrative record
10 for the commission's decision pursuant to this section.

1 (b) After the commission closes the public hearing, the
2 administrative record for the commission's decision is closed and
3 it shall not be reopened except as provided in subdivision (c). Once
4 the public hearing is closed, no person shall submit further
5 information to the commission for consideration on that petition
6 and the commission shall not accept any further information for
7 consideration on that petition except as provided in subdivision
8 (c).

9 (c) The administrative record for the commission's decision
10 pursuant to this section shall not be reopened once the commission
11 closes the public hearing unless one of the following occurs prior
12 to the commission's decision:

13 (1) There is a change in state or federal law or regulation that
14 has a direct and significant impact on the commission's
15 determination as to whether the petition provides sufficient
16 information to indicate that the petitioned action may be warranted.

17 (2) The commission determines that it requires further
18 information to evaluate whether the petition provides sufficient
19 information to indicate that the petitioned action may be warranted.
20 If the commission makes that determination during its deliberation,
21 the commission may request, on the record at the scheduled
22 meeting or at a continued meeting, further information on any
23 issue relevant to making its determination as to whether the petition
24 provides sufficient information to indicate that the petitioned action
25 may be warranted. Any request by the commission pursuant to
26 this paragraph shall specify a date by which the information must
27 be submitted to the commission and shall serve to reopen the
28 administrative record for the limited purpose of receiving further
29 information relating to the issues specified by the commission in
30 the request. Commission and department staff, the petitioner, or
31 any other person may submit information in response to a request
32 pursuant to this paragraph. If the commission reopens the record
33 pursuant to this paragraph, it shall provide an opportunity for public
34 comment on the submitted information prior to the issuance of its
35 decision.

36 (d) In its discretion, the commission may either close the public
37 hearing and continue the meeting on the petition for the purpose
38 of deliberation or continue both the public hearing and the meeting
39 on the petition to a subsequent date, which shall be no later than
40 90 days after the meeting scheduled pursuant to Section 2074, and

1 subject to applicable notice and agenda requirements. If the
2 commission closes the public hearing but continues the meeting
3 for the purpose of deliberation, a person shall not submit, and the
4 commission shall not receive, further information relating to the
5 petition except as provided in subdivision (c).

6 (e) At the meeting scheduled pursuant to Section 2074 or at a
7 continued meeting scheduled pursuant to subdivision (d), the
8 commission shall consider the petition, the department's written
9 report, written comments received, and oral testimony provided
10 during the public hearing, and the commission shall make and
11 enter in its record one of the following findings:

12 (1) If the commission finds that the petition does not provide
13 sufficient information to indicate that the petitioned action may
14 be warranted, the commission shall publish a notice of finding that
15 the petition is rejected, including the reasons why the petition is
16 not sufficient.

17 (2) If the commission finds that the petition provides sufficient
18 information to indicate that the petitioned action may be warranted,
19 the commission shall publish a notice of finding that the petition
20 is accepted for consideration. If the accepted petition recommends
21 the addition of a species to either the list of endangered species or
22 the list of threatened species, the commission shall include in the
23 notice that the petitioned species is a candidate species. The
24 commission shall maintain a list of species which are candidate
25 species.

26 (f) The commission shall publish and distribute the findings
27 relating to the petition pursuant to Section 2078.

28 ~~(g) This section shall remain in effect only until January 1, 2017,~~
29 ~~and as of that date is repealed, unless a later enacted statute, that~~
30 ~~is enacted before January 1, 2017, deletes or extends that date.~~

31 SEC. 2. Section 2074.2 of the Fish and Game Code, as added
32 by Section 4 of Chapter 387 of the Statutes of 2013, is repealed.

33 ~~2074.2. (a) At the scheduled meeting, the commission shall~~
34 ~~consider the petition, the department's written report, and~~
35 ~~comments received, and the commission shall make and enter in~~
36 ~~its public record one of the following findings:~~

37 ~~(1) If the commission finds that the petition does not provide~~
38 ~~sufficient information to indicate that the petitioned action may~~
39 ~~be warranted, the commission shall publish a notice of finding that~~

1 the petition is rejected, including the reasons why the petition is
2 not sufficient.

3 ~~(2) If the commission finds that the petition provides sufficient~~
4 ~~information to indicate that the petitioned action may be warranted,~~
5 ~~the commission shall publish a notice of finding that the petition~~
6 ~~is accepted for consideration. If the accepted petition recommends~~
7 ~~the addition of a species to either the list of endangered species or~~
8 ~~the list of threatened species, the commission shall include in the~~
9 ~~notice that the petitioned species is a candidate species. The~~
10 ~~commission shall maintain a list of species which are candidate~~
11 ~~species.~~

12 ~~(b) The commission shall publish and distribute the findings~~
13 ~~relating to the petition pursuant to Section 2078.~~

14 ~~(c) This section shall become operative on January 1, 2017.~~

15 SEC. 3. Section 2074.6 of the Fish and Game Code, as amended
16 by Section 5 of Chapter 387 of the Statutes of 2013, is amended
17 to read:

18 2074.6. ~~(a)~~ The department shall promptly commence a review
19 of the status of the species concerned in the petition. Within 12
20 months of the date of publication of a notice of acceptance of a
21 petition for consideration pursuant to paragraph (2) of subdivision
22 (e) of Section 2074.2, the department shall produce and make
23 publicly available on the department's Internet Web site a final
24 written peer reviewed report, based upon the best scientific
25 information available to the department, which indicates whether
26 the petitioned action is warranted, which includes a preliminary
27 identification of the habitat that may be essential to the continued
28 existence of the species, and which recommends management
29 activities and other recommendations for recovery of the species.
30 Prior to releasing the final written report, the department shall have
31 a draft status review report prepared and independently peer
32 reviewed, and upon receiving the peer reviewers' input, shall
33 evaluate and respond in writing to the independent peer review
34 and shall amend the draft status review report as appropriate. The
35 revised report shall be posted on the department's Internet Web
36 site for a minimum of 30 days for public review prior to the hearing
37 scheduled pursuant to Section 2075. The commission may grant
38 an extension of up to six months if the director determines an
39 extension is necessary to complete independent peer review of the
40 report, and to provide a minimum of 30 days for public review of

1 the peer reviewed report prior to the public hearing specified in
2 Section 2075.

3 ~~(b) This section shall remain in effect only until January 1, 2017,~~
4 ~~and as of that date is repealed, unless a later enacted statute, that~~
5 ~~is enacted before January 1, 2017, deletes or extends that date.~~

6 SEC. 4. Section 2074.6 of the Fish and Game Code, as added
7 by Section 6 of Chapter 387 of the Statutes of 2013, is repealed.

8 ~~2074.6. (a) The department shall promptly commence a review~~
9 ~~of the status of the species concerned in the petition. Within 12~~
10 ~~months of the date of publication of a notice of acceptance of a~~
11 ~~petition for consideration by the commission pursuant to paragraph~~
12 ~~(2) of subdivision (a) of Section 2074.2, the department shall~~
13 ~~provide a written report to the commission, based upon the best~~
14 ~~scientific information available to the department, which indicates~~
15 ~~whether the petitioned action is warranted, which includes a~~
16 ~~preliminary identification of the habitat that may be essential to~~
17 ~~the continued existence of the species, and which recommends~~
18 ~~management activities and other recommendations for recovery~~
19 ~~of the species.~~

20 ~~(b) This section shall become operative on January 1, 2017.~~

21 SEC. 5. Section 2074.8 of the Fish and Game Code, as amended
22 by Section 7 of Chapter 387 of the Statutes of 2013, is amended
23 to read:

24 2074.8. (a) This article does not impose any duty or obligation
25 for, or otherwise require, the commission or the department to
26 undertake independent studies or other assessments of any species
27 when reviewing a petition and its attendant documents and
28 comments. However, the department shall seek independent
29 scientific peer review of the department's status report. The director
30 may approve an extension of time for completion of the status
31 report if necessary for the purposes of obtaining independent peer
32 review pursuant to Section 2074.6.

33 ~~(b) This section shall remain in effect only until January 1, 2017,~~
34 ~~and as of that date is repealed, unless a later enacted statute, that~~
35 ~~is enacted before January 1, 2017, deletes or extends that date.~~

36 SEC. 6. Section 2074.8 of the Fish and Game Code, as added
37 by Section 8 of Chapter 387 of the Statutes of 2013, is repealed.

38 ~~2074.8. (a) This article does not impose any duty or obligation~~
39 ~~for, or otherwise require, the commission or the department to~~
40 ~~undertake independent studies or other assessments of any species~~

1 ~~when reviewing a petition and its attendant documents and~~
2 ~~comments.~~

3 ~~(b) This section shall become operative on January 1, 2017.~~

4 SEC. 7. Section 2075.5 of the Fish and Game Code, as amended
5 by Section 9 of Chapter 387 of the Statutes of 2013, is amended
6 to read:

7 2075.5. (a) At the meeting scheduled pursuant to Section 2075,
8 the commission shall hold a public hearing on the petition and
9 shall receive information, written or otherwise, and oral testimony.
10 After the conclusion of oral testimony from department staff, the
11 petitioner, or any other persons, the commission may close the
12 public hearing and the administrative record for the department's
13 decision pursuant to this section.

14 (b) After the commission closes the public hearing the
15 administrative record for the commission's decision is closed and
16 it shall not be reopened except as provided in subdivision (c). Once
17 the public hearing is closed a person shall not submit further
18 information to the department for consideration on that petition
19 and the commission shall not accept any further information for
20 consideration on that petition except as provided in subdivision
21 (c).

22 (c) The administrative record for the commission's decision
23 pursuant to this section shall not be reopened once the department
24 closes the public hearing unless one of the following occurs prior
25 to the commission's decision:

26 (1) There is a change in state or federal law or regulation that
27 has a direct and significant impact on the commission's
28 determination as to whether the petitioned action is warranted.

29 (2) The commission determines that it requires further
30 information to evaluate whether the petitioned action is warranted.
31 If the commission makes that determination during its deliberation,
32 the commission may request, on the record at the scheduled
33 meeting or at a continued meeting, further information on any
34 issue relevant to making its determination as to whether the
35 petitioned action is warranted. Any request by the commission
36 pursuant to this paragraph shall specify a date by which the
37 information must be submitted to the commission and shall serve
38 to reopen the administrative record for the limited purpose of
39 receiving further information relating to the issues specified by
40 the commission in the request. Commission and department staff,

1 the petitioner, or any other person may submit information in
2 response to a request pursuant to this paragraph.

3 (d) The commission, in its discretion, may either close the public
4 hearing and continue the meeting on the petition for the purpose
5 of deliberation or continue both the public hearing and the meeting
6 on the petition to a subsequent date which is no later than 90 days
7 after the meeting scheduled pursuant to Section 2075, and subject
8 to applicable notice and agenda requirements. If the commission
9 closes the public hearing but continues the meeting for the purpose
10 of deliberation, a person shall not submit, and the commission
11 shall not receive, further information relating to the petition except
12 as provided in subdivision (c).

13 (e) At the meeting scheduled pursuant to Section 2075, or at a
14 continued meeting scheduled pursuant to subdivision (d), the
15 commission shall make one of the following findings:

16 (1) The petitioned action is not warranted, in which case the
17 finding shall be entered in the public records of the commission
18 and the petitioned species shall be removed from the list of
19 candidate species maintained pursuant to Section 2074.2.

20 (2) The petitioned action is warranted, in which case the
21 commission shall publish a notice of that finding and a notice of
22 proposed rulemaking pursuant to Section 11346.4 of the
23 Government Code, to add the species to, or remove the species
24 from, the list of endangered species or the list of threatened species.
25 Further proceedings of the commission on the petitioned action
26 shall be made in accordance with Chapter 3.5 (commencing with
27 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
28 Code.

29 ~~(f) This section shall remain in effect only until January 1, 2017,~~
30 ~~and as of that date is repealed, unless a later enacted statute, that~~
31 ~~is enacted before January 1, 2017, deletes or extends that date.~~

32 SEC. 8. Section 2075.5 of the Fish and Game Code, as added
33 by Section 10 of Chapter 387 of the Statutes of 2013, is repealed.

34 ~~2075.5. (a) At the meeting scheduled pursuant to Section 2075,~~
35 ~~the commission shall make one of the following findings:~~

36 ~~(1) The petitioned action is not warranted, in which case the~~
37 ~~finding shall be entered in the public records of the commission~~
38 ~~and the petitioned species shall be removed from the list of~~
39 ~~candidate species maintained pursuant to Section 2074.2.~~

~~(2) The petitioned action is warranted, in which case the commission shall publish a notice of that finding and a notice of proposed rulemaking pursuant to Section 11346.4 of the Government Code to add the species to, or remove the species from, the list of endangered species or the list of threatened species. Further proceedings of the commission on the petitioned action shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.~~

~~(b) This section shall become operative on January 1, 2017.~~

SEC. 9. Section 2115.5 of the Fish and Game Code is amended to read:

2115.5. This article shall remain in effect only until January 1, ~~2017~~, 2020, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, ~~2017~~, 2020, deletes or extends that date. However, this section does not apply to a recovery strategy that is approved or implemented pursuant to this article on or before January 1, ~~2017~~, 2020, and those recovery strategies, and any permits or memoranda of understanding relating thereto, shall remain effective as if this article had not been repealed.

SEC. 10. Section 2301 of the Fish and Game Code is amended to read:

2301. (a) (1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or his or her designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels. Included as part of this authority to conduct inspections is the authority to temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway in order to conduct inspections.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

1 (C) Impound or quarantine conveyances in locations designated
2 by the department for up to five days or the period of time
3 necessary to ensure that dreissenid mussels can no longer live on
4 or in the conveyance.

5 (D) (i) Conduct inspections of waters of the state and facilities
6 located within waters of the state that may contain dreissenid
7 mussels. If dreissenid mussels are detected or may be present, the
8 director or his or her designee may order the affected waters or
9 facilities closed to conveyances or otherwise restrict access to the
10 affected waters or facilities, and shall order that conveyances
11 removed from, or introduced to, the affected waters or facilities
12 be inspected, quarantined, or disinfected in a manner and for a
13 duration necessary to detect and prevent the spread of dreissenid
14 mussels within the state.

15 (ii) For the purpose of implementing clause (i), the director or
16 his or her designee shall order the closure or quarantine of, or
17 restrict access to, these waters, areas, or facilities in a manner and
18 duration necessary to detect and prevent the spread of dreissenid
19 mussels within the state. No closure, quarantine, or restriction shall
20 be authorized by the director or his or her designee without the
21 concurrence of the Secretary of the Natural Resources Agency. If
22 a closure lasts longer than seven days, the department shall update
23 the operator of the affected facility every 10 days on efforts to
24 address the dreissenid infestation. The department shall provide
25 these updates in writing and also post these updates on the
26 department's Internet Web site in an easily accessible manner.

27 (iii) The department shall develop procedures to ensure proper
28 notification of affected local and federal agencies, and, as
29 appropriate, the Department of Water Resources, the Department
30 of Parks and Recreation, and the State Lands Commission in the
31 event of a decision to close, quarantine, or restrict a facility
32 pursuant to this paragraph. These procedures shall include the
33 reasons for the closure, quarantine, or restriction, and methods for
34 providing updated information to those affected. These procedures
35 shall also include protocols for the posting of the notifications on
36 the department's Internet Web site required by clause (ii).

37 (iv) When deciding the scope, duration, level, and type of
38 restrictions, and specific location of a closure or quarantine, the
39 director shall consult with the agency, entity, owner, or operator
40 with jurisdiction, control, or management responsibility over the

marina, boat launch facility, or other facility, in order to focus the closure or quarantine to specific areas and facilities so as to avoid or minimize disruption of economic or recreational activity in the vicinity.

(b) (1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c) (1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) A public or private agency that operates a water supply system shall cooperate with the department to implement measures to avoid infestation by dreissenid mussels and to control or eradicate any infestation that may occur in a water supply system. If dreissenid mussels are detected, the operator of the water supply system, in cooperation with the department, shall prepare and implement a plan to control or eradicate dreissenid mussels within the system. The approved plan shall contain the following minimum elements:

(A) Methods for delineation of infestation, including both adult mussels and veligers.

(B) Methods for control or eradication of adult mussels and decontamination of water containing larval mussels.

(C) A systematic monitoring program to determine any changes in conditions.

(D) The requirement that the operator of the water supply system permit inspections by the department as well as cooperate with the department to update or revise control or eradication measures in

1 the approved plan to address scientific advances in the methods
2 of controlling or eradicating mussels and veligers.

3 (2) If the operator of water delivery and storage facilities for
4 public water supply purposes has prepared, initiated, and is in
5 compliance with all the elements of an approved plan to control
6 or eradicate dreissenid mussels in accordance with paragraph (1),
7 the requirements of subdivision (a) do not apply to the operation
8 of those water delivery and storage facilities, and the operator is
9 not subject to any civil or criminal liability for the introduction of
10 dreissenid mussel species as a result of those operations. The
11 department may require the operator of a facility to update its plan,
12 and if the plan is not updated or revised as described in
13 subparagraph (D) of paragraph (1), subdivision (a) shall apply to
14 the operation of the water delivery and storage facilities covered
15 by the plan until the operator updates or revises the plan and
16 initiates and complies with all of the elements of the updated or
17 revised plan.

18 (e) Any entity that discovers dreissenid mussels within this state
19 shall immediately report the discovery to the department.

20 (f) (1) In addition to any other penalty provided by law, any
21 person who violates this section, violates any verbal or written
22 order or regulation adopted pursuant to this section, or who resists,
23 delays, obstructs, or interferes with the implementation of this
24 section, is subject to a penalty, in an amount not to exceed one
25 thousand dollars (\$1,000), that is imposed administratively by the
26 department.

27 (2) A penalty shall not be imposed pursuant to paragraph (1)
28 unless the department has adopted regulations specifying the
29 amount of the penalty and the procedure for imposing and
30 appealing the penalty.

31 (g) The department may adopt regulations to carry out this
32 section.

33 (h) Pursuant to Section 818.4 of the Government Code, the
34 department and any other state agency exercising authority under
35 this section shall not be liable with regard to any determination or
36 authorization made pursuant to this section.

37 (i) This section shall remain in effect only until January 1, ~~2017~~,
38 2020, and as of that date is repealed, unless a later enacted statute,
39 that is enacted before January 1, ~~2017~~, 2020, deletes or extends
40 that date.

1 SEC. 11. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

AMENDED IN SENATE MARCH 30, 2016

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 814

Introduced by Senator Hill

January 4, 2016

An act to amend Section 6254.16 of the Government Code, and to add Chapter 3.3 (commencing with Section 365) to Division 1 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 814, as amended, Hill. Drought: excessive water use: urban retail water suppliers.

The California Constitution declares the policy that the water resources of the state be put to beneficial use to the fullest extent of which they are capable, that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use of the waters in the interest of the people and for the public welfare. Existing law requires the Department of Water Resources and the State Water Resources Control Board to take all appropriate proceedings or actions to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water in this state. Existing law authorizes any public entity, as defined, that supplies water at retail or wholesale for the benefit of persons within the service area or area of jurisdiction of the public entity to, by ordinance or resolution, adopt and enforce a water conservation program to reduce the quantity of water used for the purpose of conserving the water supplies of the public entity. Existing law provides that a violation of a requirement of a water conservation program is a misdemeanor punishable by imprisonment

in a county jail for not more than 30 days, or by a fine not exceeding \$1,000, or both.

This bill would declare that excessive water use during a state of emergency based on drought conditions by a residential customer, as specified, is prohibited. This bill would require each urban retail water supplier to establish a method to identify and restrict excessive water use. This bill would authorize as a method to identify and restrict excessive water use the establishment of a rate structure that includes block tiers, water budgets, penalties for prohibited uses, or rate surcharges over and above base rates for excessive water use by residential customers. This bill would authorize as a method to identify and restrict excessive water use the establishment of an excessive water use ordinance, rule, or tariff condition that includes a definition of excessive water use, as prescribed, and would make a violation of this excessive water use ordinance, rule, or tariff condition an infraction punishable by a fine of at least \$500 per 100 cubic feet of water or per 748 gallons used above the excessive water use threshold established by the urban retail water supplier in a billing cycle. By creating a new infraction, this bill would impose a state-mandated local program.

This bill would provide that these provisions apply only during a period for which the Governor has issued a proclamation of a state of emergency based on drought conditions.

~~The California Public Records Act requires that public records, as defined, be open to inspection at all times during the hours of a state or local agency and that every person has a right to inspect any public record, with specified exceptions. Existing law prohibits the act from being construed to require the disclosure of certain information concerning utility customers of local agencies, except that disclosure of the name, utility usage data, and the home address of the utility customer who is the subject of the request and who the local agency has determined has used utility services in a manner inconsistent with applicable local utility usage policies is required to be made available.~~

~~This bill would revise this exception to require, upon request, the disclosure of the name and utility usage data of a utility customer who a local agency determines has used utility services in a manner inconsistent with applicable local utility usage policies, with the home address of the customer being disclosed only with the customer's consent. By increasing the duties of local officials, the bill would impose a state-mandated local program.~~

~~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 if that enactment contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.~~

~~This bill would make legislative findings to that effect.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 ~~SECTION 1. Section 6254.16 of the Government Code is~~
2 ~~amended to read:~~

3 ~~6254.16. Nothing in this chapter shall be construed to require~~
4 ~~the disclosure of the name, credit history, utility usage data, home~~
5 ~~address, or telephone number of utility customers of local agencies,~~
6 ~~except that disclosure of name, utility usage data, and the home~~
7 ~~address of utility customers of local agencies shall be made~~
8 ~~available upon request as follows:~~

9 ~~(a) To an agent or authorized family member of the person to~~
10 ~~whom the information pertains.~~

11 ~~(b) To an officer or employee of another governmental agency~~
12 ~~when necessary for the performance of its official duties.~~

13 ~~(c) Upon court order or the request of a law enforcement agency~~
14 ~~relative to an ongoing investigation.~~

15 ~~(d) Upon determination by the local agency that a utility~~
16 ~~customer has used utility services in a manner inconsistent with~~

1 applicable local utility usage policies, if the home address of the
2 customer is not disclosed without the customer's consent.

3 ~~(c) Upon determination by the local agency that the utility~~
4 ~~customer who is the subject of the request is an elected or appointed~~
5 ~~official with authority to determine the utility usage policies of the~~
6 ~~local agency, provided that the home address of an appointed~~
7 ~~official shall not be disclosed without his or her consent.~~

8 ~~(f) Upon determination by the local agency that the public~~
9 ~~interest in disclosure of the information clearly outweighs the~~
10 ~~public interest in nondisclosure.~~

11 ~~SEC. 2.~~

12 *SECTION 1.* Chapter 3.3 (commencing with Section 365) is
13 added to Division 1 of the Water Code, to read:

14 CHAPTER 3.3. EXCESSIVE RESIDENTIAL WATER USE DURING
15 DROUGHT
16

17
18 365. (a) The Legislature finds and declares that this chapter
19 furthers important state policies of encouraging water conservation
20 and protecting water resources in the interest of the people and for
21 the public welfare.

22 (b) For the purposes of this chapter, "urban retail water supplier"
23 has the same meaning as provided in Section 10608.12.

24 366. (a) Excessive water use during a state of emergency based
25 on drought conditions by a residential customer in a single-family
26 residence or by a customer in a multiunit housing complex in which
27 each unit is individually metered or submetered by the water
28 supplier is prohibited.

29 (b) Each urban retail water supplier shall establish a method to
30 identify and restrict excessive water use, through one of the
31 following options:

32 (1) Establishing a rate structure that includes block tiers, water
33 budgets, penalties for prohibited uses, or rate surcharges over and
34 above base rates for excessive water use by a residential water
35 customer.

36 (2) (A) Establishing an excessive water use ordinance, rule, or
37 tariff condition, or amending an existing ordinance, rule, or tariff
38 condition, that includes a definition of excessive water use by
39 single-family residential customers and customers in multiunit
40 housing complexes in which each unit is individually metered or

1 submetered and may include a process to issue written warnings
2 to a customer and perform a site audit of customer water usage
3 prior to deeming the customer in violation. Excessive water use
4 shall be measured in terms of either gallons or hundreds of cubic
5 feet of water used during the urban retail water supplier's regular
6 billing cycle. In establishing the definition of excessive use, the
7 water supplier may consider factors that include, but are not limited
8 to, all of the following:

- 9 (i) Average daily use.
- 10 (ii) Full-time occupancy of households.
- 11 (iii) Amount of landscaped land on a property.
- 12 (iv) Rate of evapotranspiration.
- 13 (v) Seasonal weather changes.

14 (B) A violation of an excessive use ordinance, rule, or tariff
15 condition established pursuant to subparagraph (A) is an infraction
16 punishable by a fine of up to five hundred dollars (\$500) per
17 hundred cubic feet of water, or per 748 gallons, used above the
18 excessive water use threshold established by the urban retail water
19 supplier in a billing cycle. Any fine imposed pursuant to this
20 subparagraph shall be added to the customer's water bill and is
21 due and payable with that water bill. Each urban retail water
22 supplier shall have a process for nonpayment of the fine, which
23 shall be consistent with the water supplier's existing process for
24 nonpayment of a water bill.

25 (C) A violation of an excessive water use ordinance, rule, or
26 tariff condition where a demonstrable water leak at the residence
27 occurred and a repair to eliminate that leak is underway shall be
28 considered as a basis for granting an appeal and shall be considered
29 for waiver of the charges consistent with the urban retail water
30 supplier's excessive water use ordinance and existing policies for
31 leak adjustments. Other reasonable justifications for excessive
32 water use shall be considered by the urban retail water supplier
33 consistent with clause (i) of subparagraph (D).

34 (D) (i) An urban retail water supplier shall establish a process
35 for the appeal of a fine imposed pursuant to subparagraph (B)
36 whereby the customer may contest the imposition of the fine for
37 excessive water use.

38 (ii) As part of the appeal process, the customer shall be provided
39 with an opportunity to provide evidence of a bona fide reason for
40 the excessive water use, including evidence of a water leak in

1 accordance with subparagraph (C), a medical reason, or any other
2 reasonable justification for the water use, as determined by the
3 urban retail water supplier.

4 367. This chapter applies only during a period for which the
5 Governor has issued a proclamation of a state of emergency under
6 the California Emergency Services Act (Chapter 7 (commencing
7 with Section 8550) of Division 1 of Title 2 of the Government
8 Code) based on drought conditions.

9 ~~SEC. 3. The Legislature finds and declares that Section 1 of~~
10 ~~this act, which amends Section 6254.16 of the Government Code,~~
11 ~~further, within the meaning of paragraph (7) of subdivision (b)~~
12 ~~of Section 3 of Article I of the California Constitution, the purposes~~
13 ~~of that constitutional section as it relates to the right of public~~
14 ~~access to the meetings of local public bodies or the writings of~~
15 ~~local public officials and local agencies. Pursuant to paragraph (7)~~
16 ~~of subdivision (b) of Section 3 of Article I of the California~~
17 ~~Constitution, the Legislature makes the following findings:~~

18 ~~The Legislature finds that it is in the public's interest to be made~~
19 ~~aware of excessive water use during a drought in order to help~~
20 ~~promote water conservation and to protect water resources in the~~
21 ~~interest of the people and for the public welfare.~~

22 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
23 ~~Section 6 of Article XIII B of the California Constitution because~~
24 ~~the costs that may be incurred by a local agency or school district~~
25 ~~under this act would result from a legislative mandate that is within~~
26 ~~the scope of paragraph (7) of subdivision (b) of Section 3 of Article~~
27 ~~I of the California Constitution or because the costs that may be~~
28 ~~incurred by a local agency or school district will be incurred~~
29 ~~because this act creates a new crime or infraction, eliminates a~~
30 ~~crime or infraction, or changes the penalty for a crime or infraction,~~
31 ~~within the meaning of Section 17556 of the Government Code, or~~
32 ~~changes the definition of a crime within the meaning of Section 6~~
33 ~~of Article XIII B of the California Constitution.~~

34 *SEC. 2. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

O

AMENDED IN SENATE APRIL 25, 2016

AMENDED IN SENATE APRIL 7, 2016

AMENDED IN SENATE MARCH 30, 2016

SENATE BILL

No. 1043

Introduced by Senator Allen

(Principal coauthor: Assembly Member Williams)

February 12, 2016

An act to amend Section 25420 of, and to add Section 39735 to, the Health and Safety Code, ~~and to amend Section 40106 of the Public Resources Code~~, relating to biogas.

LEGISLATIVE COUNSEL'S DIGEST

SB 1043, as amended, Allen. ~~Renewable gas; biogas~~ *Biogas* and biomethane.

(1) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this program. The act requires the state board to adopt a statewide greenhouse gas emissions limit, as defined, to be achieved by 2020 equivalent to the statewide greenhouse gas emissions level in 1990. Existing law requires the state board to complete a comprehensive strategy to reduce emissions of short-lived climate pollutants, as defined, in the state.

This bill would require the state board to consider and, as appropriate, adopt policies to significantly increase the sustainable production and use of ~~renewable gas; biogas~~, as defined, and, in so doing, would require

the state board, among other things, to ensure the production and use of ~~renewable gas~~ *biogas* provides direct environmental benefits and identify barriers to the rapid development and use of ~~renewable gas~~ *biogas* and potential sources of funding. The bill would require the state board to develop and adopt a life-cycle accounting method for greenhouse-gas *gases* and emissions of short-lived climate pollutants associated with biogas produced from forest biomass, as specified.

(2) Existing law requires the Office of Environmental Health Hazard Assessment, in consultation with the state board, the Department of Toxic Substances Control, the Department of Resources Recycling and Recovery, and the California Environmental Protection Agency, to compile a list of constituents of concern that could pose risks to human health and that are found in biogas, as defined, at concentrations that significantly exceed the concentrations of those constituents in natural gas. Existing law requires the office to determine the health protective levels for that list, as specified, and requires the state board to identify realistic exposure scenarios and the health risks associated with those scenarios, as specified.

Existing law requires the Public Utilities Commission to adopt, by rule or order, standards for biomethane, as defined, that specify the concentrations of constituents of concern that are reasonably necessary to protect public health and ensure pipeline integrity and safety, as specified, and requirements for monitoring, testing, reporting, and recordkeeping, as specified. Existing law requires a gas corporation to comply with those standards and requirements and requires the commission to require gas corporation tariffs to condition access to common carrier pipelines on the applicable customer meeting those standards and requirements.

This bill would revise the definitions of biogas and biomethane for these purposes.

~~(3) The California Integrated Waste Management Act of 1989, which is administered by the Department of Resources Recycling and Recovery, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan. With certain exceptions, the source reduction and recycling element of that plan is required to divert 50% of all solid waste, through source reduction, recycling, and composting activities. Existing law allows the 50% diversion requirement to include not more than 10% through transformation or "biomass conversion," as defined, if specified conditions are met. Existing law defines "biomass~~

conversion” for purposes of the waste management laws to mean the production of heat, fuels, or electricity by the controlled combustion of, or the use of other noncombustion thermal conversion technologies on, certain listed materials.

~~This bill would revise that definition to add to those listed materials byproducts or residue from composting.~~

~~Existing law specifies that “biomass conversion” does not include the controlled combustion of recyclable pulp or recyclable paper materials, or materials that contain sewage sludge, industrial sludge, medical waste, hazardous waste, or either high-level or low-level radioactive waste.~~

~~This bill would delete from that exclusion the controlled combustion of materials that contain sewage sludge.~~

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. The Legislature finds and declares all of the
2 following:

3 (a) California has enacted numerous policies to reduce emissions
4 of greenhouse gases and to increase the use of renewable energy
5 resources and renewable fuels, including the California Global
6 Warming Solutions Act of 2006 (Division 25.5 (commencing with
7 Section 38500) of the Health and Safety Code), the California
8 Renewables Portfolio Standard Program (Article 16 (commencing
9 with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the
10 Public Utilities Code), the Low Carbon Fuel Standard regulation
11 (Executive Order S-01-07 (January 19, 2007), Sections 95480 to
12 95490, inclusive, of Title 17 of the California Code of Regulations),
13 an energy storage portfolio requirement (Chapter 469 of the
14 Statutes of 2010), emissions goals for 2030 and 2050 (Executive
15 Order B-30-15), and the state’s comprehensive strategy to reduce
16 emissions of short-lived climate pollutants (Section 39730 of the
17 Health and Safety Code).

18 (b) Natural gas, which is used for a wide variety of purposes,
19 including the generation of electricity, heating, cooling, *and*
20 industrial, commercial, residential, and transportation ~~fuel~~, *fuels*,
21 causes more than one-quarter of all emissions of greenhouse gases
22 in California. Methane emissions from a variety of sources,

1 including wastewater treatment facilities, landfills, dairies,
2 agricultural production, and oil and gas, represent up to 15 percent
3 of California's total climate change emissions. Wildfires cause
4 two-thirds of all black carbon emissions, which accounts for
5 approximately 10 percent of California's total climate change
6 emissions.

7 (c) Reducing emissions of methane, black carbon, and other
8 short-lived climate pollutants is the most effective way to
9 immediately slow global warming and reduce the impacts of
10 climate change. Capturing and using methane-~~(renewable gas)~~ *(the*
11 *primary chemical component of biogas)* can significantly reduce
12 emissions of greenhouse gases from fossil fuel use, organic waste,
13 and petroleum-based fertilizers. Increasing the production and use
14 of ~~renewable gas~~ *biogas* could reduce emissions of greenhouse
15 gases by tens of millions of metric tons of carbon dioxide
16 equivalent emissions per year.

17 (d) ~~Renewable gas~~ *Biogas* generated from organic waste can
18 be used to produce the lowest carbon transportation fuel. It can
19 also be used to produce flexible generation renewable power,
20 energy storage, and a low-carbon gas supply for heating, cooling,
21 and other purposes.

22 (e) Using forest biomass collected as part of a sustainable
23 forestry plan can significantly reduce the risks and impacts of
24 catastrophic wildfires, including black carbon emissions and air
25 pollution, impacts on water supply and quality, impacts on utility
26 and other infrastructure, threats to public safety and communities,
27 impacts on fisheries and wildlife, and effects on precipitation.

28 (f) Increasing the use of ~~renewable gas~~ *biogas* in heavy-duty
29 vehicles in California can help protect disadvantaged communities
30 in the state by reducing toxic air contaminants and smog-forming
31 emissions.

32 (g) ~~Renewable gas~~ *Biogas* can provide significant economic
33 benefits to California, including job creation, an instate source of
34 gas, increased energy security, revenue and energy for public
35 agencies, and revenue for dairies, farms, rural forest communities,
36 and other areas.

37 (h) Increasing the use of ~~renewable gas~~ *biogas* will diversify
38 and decarbonize California's gas supply.

39 (i) Increasing the use of ~~renewable gas~~ *biogas* can help
40 California to meet the waste diversion requirements of Section

1 41781.3, Article 1 (commencing with Section 41780) of Chapter
2 6 of Part 2 of, and Chapter 12.9 (commencing with Section
3 42649.8) of Part 3 of, Division 30 of, the Public Resources Code,
4 and *the goals of* the Short-Lived Climate Pollutant Reduction
5 Strategy being developed by the State Air Resources Board
6 pursuant to Section 39730 of the Health and Safety Code by using
7 diverted organic waste to produce ~~renewable gas~~. *biogas*.

8 SEC. 2. Section 25420 of the Health and Safety Code is
9 amended to read:

10 25420. For purposes of this chapter, the following definitions
11 apply:

12 (a) "Biogas" means gas that is produced from organic waste
13 through anaerobic digestion or eligible *noncombustion thermal*
14 conversion technologies, consistent with Section 40106 of the
15 Public Resources Code.

16 (b) "Biomethane" means the methane derived from biogas.

17 (c) "Board" means the State Air Resources Board.

18 (d) "CalRecycle" means the Department of Resources Recycling
19 and Recovery.

20 (e) "Commission" means the Public Utilities Commission.

21 (f) "Common carrier pipeline" means a gas conveyance pipeline
22 located in California that is owned or operated by a utility or gas
23 corporation, excluding a dedicated pipeline.

24 (g) "Dedicated pipeline" means a conveyance of biogas or
25 biomethane that is not part of a common carrier pipeline system
26 and that conveys biogas from a biogas producer to a conditioning
27 facility or an electrical generation facility.

28 (h) "Department" means the Department of Toxic Substances
29 Control.

30 (i) "Gas corporation" has the same meaning as defined in Section
31 222 of the Public Utilities Code and is subject to rate regulation
32 by the commission.

33 (j) "Hazardous waste landfill" means a landfill that is a
34 hazardous waste facility, as defined in Section 25117.1.

35 (k) "Office" means the Office of Environmental Health Hazard
36 Assessment.

37 (l) "Organic waste" means waste of biological origins, including
38 organic waste, as defined in Section 42649.8 of the Public
39 Resources Code; biomass feedstock, consistent with Section 40106
40 of the Public Resources Code; and livestock waste.

1 (m) "Person" means an individual, trust, firm, joint stock
2 company, partnership, association, business concern, limited
3 liability company, or corporation. "Person" also includes any city,
4 county, district, and the state or any department or agency thereof,
5 or the federal government or any department or agency thereof to
6 the extent permitted by law.

7 SEC. 3. Section 39735 is added to the Health and Safety Code,
8 to read:

9 39735. (a) For purposes of this section, the following terms
10 have the following meanings:

11 (1) "Biogas" has the same meaning as defined in Section 25420,
12 except that it does not include gas produced from forest biomass
13 unless it is produced from forest waste remaining after all other
14 reasonable forest products have been produced and it meets one
15 or more of the following conditions:

16 (A) The waste was generated pursuant to the Governor's state
17 of emergency proclamation issued on October 30, 2015.

18 (B) The waste was generated as a result of activities necessary
19 to clear defensible space within 300 feet of a legally permitted
20 structure.

21 (C) The waste was produced pursuant to an approved timber
22 harvest plan, nonindustrial timber management plan, or working
23 forest management plan that will increase the average stand
24 diameter of residual crop trees, and the biogas produced from the
25 waste will provide long-term reductions in greenhouse gas and
26 emissions of short-lived climate pollutants pursuant to the life-cycle
27 accounting method specified in subdivision (c).

28 (D) The waste was generated from fuel reduction or ecological
29 forest restoration thinning activities on national forest land that
30 increase stand heterogeneity, create openings of less than one acre,
31 and increase the average stand diameter of residual trees.

32 ~~(2) "Renewable gas" means biogas or synthetic gas generated~~
33 ~~by an eligible renewable energy resource meeting the requirements~~
34 ~~of the California Renewables Portfolio Standard Program (Article~~
35 ~~16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of~~
36 ~~Division 1 of the Public Utilities Code). For purposes of this~~
37 ~~paragraph, "eligible renewable energy resource" does not include~~
38 ~~organic waste, as defined in subdivision (f) of Section 25420.~~

39 (3)

(2) “Short-lived climate pollutant” has the same meaning as defined in Section 39730.

(b) In order to meet the state’s climate change, low-carbon fuel, renewable energy, landfill diversion, and wildfire reduction goals, the state board shall consider and, as appropriate, adopt policies to significantly increase the sustainable production and use of ~~renewable gas~~ *biogas*. In doing so, the state board shall do all the following:

(1) Ensure that any policy is coordinated and consistent with existing state policies to accomplish the following:

(A) Promote renewable fuels and eligible renewable energy resources, as defined in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(B) Reduce life-cycle emissions of greenhouse gases and short-lived climate pollutants and increase carbon sequestration.

(C) Divert organic waste from landfills, consistent with Section 39730 and other state policies.

(D) Reduce air and water pollution.

(E) Reduce wildfires.

(F) Promote resilient and sustainable forests.

(G) Protect the environmental quality of natural and working lands through sustainable cultivation, use, and application of biological materials.

(2) *Ensure that any adopted biogas policy is protective of public health and safety.*

~~(2)~~

(3) Ensure, in consultation with the Department of Resources Recycling and Recovery, that any policy recognizes that the amount of landfill gas will decline in the future due to increased organic waste diversion to meet the targets of the state board’s strategy to reduce emissions of short-lived climate pollutants and other state organic waste reduction efforts.

~~(3)~~

(4) Ensure that the production and use of ~~renewable gas~~ *biogas* provides direct benefits to the state’s environment by avoiding or reducing the emission of criteria pollutants, avoiding or reducing emissions of short-lived climate pollutants and greenhouse gases within the state, avoiding or reducing emissions that adversely affect the waters of the state, avoiding or reducing nuisances

1 associated with the emission of odors, or helping the state to meet
2 its landfill diversion requirements.

3 (4)

4 (5) Identify barriers to the rapid development and use of
5 ~~renewable gas biogas~~ and make specific recommendations to
6 remove those barriers.

7 (5)

8 (6) Coordinate with the Public Utilities Commission, the State
9 Energy Resources Conservation and Development Commission,
10 publicly owned utilities, the Department of Resources Recycling
11 and Recovery, and the Department of Forestry and Fire Protection.

12 (6)

13 (7) Identify potential sources of funding to provide incentives
14 for ~~renewable gas biogas~~ production and use.

15 (c) The state board shall develop and adopt a life-cycle
16 accounting method for greenhouse gas and emissions of short-lived
17 climate pollutants associated with biogas produced from forest
18 biomass that meets the requirements specified in paragraph (1) of
19 subdivision (a). The method shall include upstream accounting of
20 forest carbon and shall avoid double counting of emission
21 reductions.

22 (d) Nothing in this section is intended to affect standards adopted
23 pursuant to Section 25421 before January 1, 2016, for biomethane
24 that is to be injected into a common carrier pipeline.

25 ~~SEC. 4. Section 40106 of the Public Resources Code is~~
26 ~~amended to read:~~

27 ~~40106. (a) "Biomass conversion" means the production of~~
28 ~~heat, fuels, or electricity by the controlled combustion of, or the~~
29 ~~use of other noncombustion thermal conversion technologies on,~~
30 ~~the following materials, when separated from other solid waste:~~

31 ~~(1) Agricultural crop residues.~~

32 ~~(2) Bark, lawn, yard, and garden clippings.~~

33 ~~(3) Leaves, silvicultural residue, and tree and brush pruning.~~

34 ~~(4) Wood, wood chips, and wood waste.~~

35 ~~(5) Nonrecyclable pulp or nonrecyclable paper materials.~~

36 ~~(6) Byproducts or residue from composting.~~

37 ~~(b) "Biomass conversion" does not include the controlled~~
38 ~~combustion of recyclable pulp or recyclable paper materials, or~~
39 ~~materials that contain industrial sludge, medical waste, hazardous~~
40 ~~waste, or either high-level or low-level radioactive waste.~~

1 ~~(e) For purposes of this section, “nonrecyclable pulp or~~
2 ~~nonrecyclable paper materials” means either of the following, as~~
3 ~~determined by the department:~~
4 ~~(1) Paper products or fibrous materials that cannot be~~
5 ~~technically, feasibly, or legally recycled because of the manner in~~
6 ~~which the product or material has been manufactured, treated,~~
7 ~~coated, or constructed.~~
8 ~~(2) Paper products or fibrous materials that have become soiled~~
9 ~~or contaminated and as a result cannot be technically, feasibly, or~~
10 ~~legally recycled.~~

AMENDED IN SENATE MAY 4, 2016
AMENDED IN SENATE APRIL 14, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1233

Introduced by Senator McGuire
(~~Coauthor: Senator Wolk~~)
(Coauthors: Senators Hertzberg and Wolk)
(Coauthors: Assembly Members Levine and Wood)

February 18, 2016

An act to add Section 6588.8 to, and to repeal and amend Section 6586.7 of, the Government Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 1233, as amended, McGuire. Joint powers authorities: Water Bill Savings Act.

Existing law, the Marks-Roos Local Bond Pooling Act of 1985, authorizes joint powers authorities, among other powers, to issue bonds and loan the proceeds to local agencies to finance specified types of projects and programs.

This bill would enact the Water Bill Savings Act, which would authorize a joint powers authority to provide funding for a customer of a local agency or its publicly owned utility to acquire, install, or repair a water efficiency improvement on the customer's property served by the local agency or its publicly owned utility. The bill would require the customer to repay the authority through an efficiency charge on the customer's water bill to be established and collected by the local agency or its publicly owned utility on behalf of the authority pursuant to a

servicing agreement. The bill would authorize the authority to issue bonds to fund the program. The bill would also make technical changes.

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. The Legislature finds and declares all of the
2 following:

3 (a) Water conservation efforts are indispensable to combating
4 the current and continuing drought conditions faced by the state
5 and advancing the state's greenhouse gas emission reduction goals.

6 (b) The up-front cost of acquiring, installing, and repairing water
7 efficiency improvements is often prohibitive and may prevent
8 customers from using them on residential, commercial, industrial,
9 agricultural, or other real property.

10 (c) Increasing customer water efficiency is a core component
11 of the provision of water utility service.

12 (d) The conservation to be accomplished by efficiency
13 improvements is a core component of water utility service and
14 makes existing water supplies available for all water customers
15 by displacing demand for those supplies. Accordingly, a pledge
16 pursuant to paragraph ~~(4)~~ (5) of subdivision (f) of Section 6588.8
17 of the Government Code of water enterprise revenue as security
18 for bonds an authority has secured with a pledge of, and intends
19 to pay from, efficiency charges is an appropriate use of water
20 enterprise revenues as explained in *Capistrano Taxpayers*
21 *Association, Inc. v. City of San Juan Capistrano* (2015) 235
22 *Cal.App.4th* 1493, 1501-1504.

23 SEC. 2. (a) It is the intent of the Legislature to make water
24 efficiency improvements more affordable and promote the
25 acquisition, installation, and repair of those improvements by
26 allowing local agencies to establish a mechanism by which they
27 may help their water customers to acquire, install, and repair water
28 efficiency improvements on privately owned customer properties.

29 (b) It is the intent of the Legislature that this act authorize the
30 development of a program to be established by a joint powers
31 authority that would provide a water customer with an alternative
32 and voluntary means to acquire, install, or repair water efficiency
33 improvements. It is further the intent of the Legislature that the

1 cost of this voluntarily acquired, installed, or repaired water
2 efficiency improvement be repaid through an efficiency charge
3 added to the water bill associated with the customer property upon
4 which the water efficiency improvement is located.

5 SEC. 3. Section 6586.7 of the Government Code, as added by
6 Section 4 of Chapter 723 of the Statutes of 2000, is repealed.

7 SEC. 4. Section 6586.7 of the Government Code, as added by
8 Section 1 of Chapter 724 of the Statutes of 2000, is amended to
9 read:

10 6586.7. (a) A copy of the resolution adopted by an authority
11 authorizing bonds or any issuance of bonds, or accepting the benefit
12 of any bonds or proceeds of bonds, except bonds issued or
13 authorized pursuant to Article 1 (commencing with Section 6500),
14 or bonds issued for the purposes specified in subdivision (c) of
15 Section 6586.5, shall be sent by certified mail to the Attorney
16 General and the California Debt and Investment Advisory
17 Commission not later than five days after adoption by the authority.

18 (b) This section does not apply to bonds:

19 (1) Specified in subdivision (c) of Section 6586.5.

20 (2) Issued pursuant to the Community Redevelopment Law
21 (Part 1 (commencing with Section 33000) of Division 24 of the
22 Health and Safety Code).

23 (3) To finance transportation facilities and vehicles.

24 (4) To finance a facility that is located within the boundaries of
25 an authority, provided that the authority that issues those bonds
26 consists of any of the following:

27 (A) Local agencies with overlapping boundaries.

28 (B) A county and a local agency or local agencies located
29 entirely within that county.

30 (C) A city and a local agency or local agencies located entirely
31 within that city.

32 (5) To finance a facility for which an authority has received an
33 allocation from the California Debt Limit Allocation Committee.

34 (6) Of an authority that consists of no less than 100 local
35 agencies and the agreement that established that authority requires
36 the governing body of the local agency that is a member of the
37 authority in whose jurisdiction the facility will be located to
38 approve the facility and the issuance of the bonds.

39 (7) Issued pursuant to Section 6588.8.

1 SEC. 5. Section 6588.8 is added to the Government Code, to
2 read:

3 6588.8. (a) This section shall be known and may be cited as
4 the Water Bill Savings Act.

5 (b) For purposes of this section, the following terms have the
6 following meanings:

7 (1) "Customer" means a person or entity that purchases water
8 from a local agency or its publicly owned utility and is billed for
9 the water by the local agency or its publicly owned utility.

10 (2) "Customer property" means residential, commercial,
11 industrial, agricultural, or other real property owned by the
12 customer.

13 (3) "Efficiency charge" means a charge on a customer's water
14 bill that is paid by the customer directly to the local agency or its
15 publicly owned utility in order to pay for an efficiency
16 improvement pursuant to this section.

17 (4) "Efficiency improvement" means a water efficiency
18 improvement, as defined by the authority. *An efficiency*
19 *improvement shall not include living vegetation.*

20 (5) "Financing costs" mean all of the following:

21 (A) An interest and redemption premium payable on a bond.

22 (B) The cost of retiring the principal of a bond, whether at
23 maturity, including acceleration of maturity upon an event of
24 default, or upon redemption, including sinking fund redemption.

25 (C) A cost related to issuing or servicing bonds, including, but
26 not limited to, a servicing fee, trustee fee, legal fee, administrative
27 fee, bond counsel fee, bond placement or underwriting fee,
28 remarketing fee, broker dealer fee, independent manager fee,
29 municipal adviser fee, accounting report fee, engineering report
30 fee, rating agency fee, and payment made under an interest rate
31 swap agreement.

32 (D) A payment or expense associated with a bond insurance
33 policy, financial guaranty, or a contract, agreement, or other credit
34 enhancement for bonds or a contract, agreement, or other financial
35 agreement entered into in connection with a bond.

36 (E) The funding of one or more reserve accounts related to a
37 bond.

38 (6) "Local agency" means a "local government" as defined in
39 subdivision (b) of Section 1 of Article XIII C of the California
40 Constitution.

1 (7) "Publicly owned utility" means a utility furnishing water
2 service to customers that is owned and operated by a local agency
3 or a department or other subdivision of a local agency and includes
4 any successor to the powers and functions of the department or
5 other subdivision.

6 (8) "Servicing agreement" means an agreement between a local
7 agency or its publicly owned utility and the authority for the
8 collection of the efficiency charge, pursuant to which the local
9 agency or its publicly owned utility acts as a servicing agent for
10 purposes of collecting the efficiency charge for the authority.

11 (c) (1) Notwithstanding any other law, if the requirements of
12 paragraphs (2) and (3) are met, an authority may provide funding
13 for a customer of a local agency or its publicly owned utility to
14 acquire, install, or repair an efficiency improvement on a customer
15 property served by the local agency or its publicly owned utility.

16 (2) (A) The authority, by resolution, establishes or extends a
17 program to provide funding for a customer of a local agency or its
18 publicly owned utility to acquire, install, or repair an efficiency
19 improvement on a customer property served by the local agency
20 or its publicly owned utility. The resolution shall do all of the
21 following:

22 (i) Identify the geographic area in the state in which the authority
23 intends to operate the program.

24 (ii) Approve a standardized servicing agreement.

25 (iii) Authorize one or more designated officials of the authority
26 to execute and deliver the servicing agreement on behalf of the
27 authority.

28 (B) The authority acknowledges receipt of the resolution
29 described in subparagraph (C) of paragraph (3).

30 (C) The authority may determine that all proceedings were valid
31 and in conformity with the requirements of this paragraph and that
32 finding shall be final and conclusive.

33 (3) The legislative body of the local agency requests the
34 authority to provide funding for its customers through a program
35 established by the authority pursuant to this section by doing all
36 of the following:

37 (A) The legislative body adopts a resolution declaring its
38 intention to request the authority to establish or extend a program
39 to a customer represented by the legislative body, calling for a
40 public hearing that shall be held at least 30 days later and directing

1 the clerk or secretary of the legislative body to publish a notice of
2 the hearing at least five days before the hearing in a newspaper of
3 general circulation in the boundaries of the local agency. If the
4 local agency wishes to pledge its water enterprise revenue as
5 security for the payment of the principal of, and interest and
6 redemption premium on, bonds issued by the authority in the event
7 that efficiency charges are insufficient for those purposes pursuant
8 to paragraph ~~(4)~~ (5), of subdivision (f), the legislative body shall
9 declare that intention in the resolution.

10 (B) The legislative body conducts the noticed public hearing
11 and, after considering the testimony of any interested person,
12 concludes that the program and the proposed pledge of water
13 enterprise revenue, if applicable, would provide significant public
14 benefits in accordance with the criteria specified in Section 6586.

15 (C) The legislative body adopts a resolution that does all of the
16 following:

17 (i) Authorizes the authority to establish or extend a program
18 pursuant to this section within the boundaries of the local agency.

19 (ii) Declares that the operation of the program by the authority
20 in the local agency's geographic boundaries would provide
21 significant public benefits in accordance with the criteria specified
22 in Section 6586.

23 (iii) Approves the standardized servicing agreement and
24 authorizes one or more designated officials of the local agency to
25 execute and deliver the servicing agreement with the authority.

26 (iv) If applicable, approves the pledge of water enterprise
27 revenue as security for the payment of the principal of, and interest
28 and redemption premium on, bonds issued by the authority in the
29 event that efficiency charges are insufficient for those purposes.

30 (v) If applicable, authorizes execution and delivery of one or
31 more pledge agreements to evidence a pledge.

32 (vi) In the resolution, the legislative body may determine that
33 all proceedings were valid and in conformity with the requirements
34 of this section and that finding shall be final and conclusive.

35 (d) (1) A customer shall repay the authority through an
36 efficiency charge on the customer's water bill *that is* established
37 and collected by the local agency or its publicly owned ~~utility.~~
38 *utility upon verification that the efficiency improvement has been*
39 *installed.* The duty to pay the efficiency charge shall arise from
40 and be evidenced by a written agreement among the ~~customer,~~

1 *customer; the property owner, if different than the customer; the*
2 ~~authority; authority;~~ and the local agency or its publicly owned
3 utility.

4 (2) The written agreement shall include all of the following:

5 (A) An agreement by the customer to pay an efficiency charge
6 for the period and in the amount specified in the agreement unless
7 the efficiency charge is prepaid in the manner set forth in the
8 agreement. The period designated for repayment shall not exceed
9 the estimated useful life of the funded efficiency improvements.

10 (B) A description of the financial calculation, formula, or other
11 method that the authority used to determine the efficiency charge.
12 The efficiency charge may include a component for reasonable
13 administrative expenses incurred by the local agency or its publicly
14 owned utility and the authority in connection with the program
15 and the funding.

16 (C) A description of the efficiency improvement funded with
17 the efficiency charge. A determination in the agreement that an
18 improvement is an efficiency improvement shall be final and
19 conclusive.

20 (D) A representation by the customer that the customer intends
21 to acquire, install, or repair and use the efficiency improvement
22 on the customer's property for the useful life of the efficiency
23 improvement. Any failure ~~by of the efficiency improvement by~~
24 ~~damage, removal, or other fault of the customer to acquire, install,~~
25 ~~or repair and use the efficiency improvement on the customer's~~
26 ~~property for during the useful life of the efficiency improvement~~
27 shall not affect the customer's obligation to pay the efficiency
28 charge as set forth in the agreement.

29 (3) The timely and complete payment of an efficiency charge
30 by a customer that has agreed to pay an efficiency charge may be
31 a condition of receiving water service from the local agency or its
32 publicly owned utility, and a local agency and its publicly owned
33 utility are authorized to use their established collection policies
34 and all rights and remedies provided by law to enforce payment
35 and collection of the efficiency charge. A person liable for an
36 efficiency charge shall not be entitled or authorized to withhold
37 payment, in whole or in part, of the efficiency charge for any
38 reason.

39 (4) A customer's obligation to pay the efficiency charge shall
40 ~~run with title to the customer property on which the efficiency~~

~~improvement is located until remain until the efficiency charge related to the efficiency improvement has been repaid in full. full or the efficiency charge has been transferred to a subsequent customer who assumes responsibility for the remainder of the obligation. A local agency or its publicly owned utility shall record record, no later than 10 days after funding an efficiency improvement, a notice of an the efficiency charge in the records of the county recorder of the county in which the customer's property is located and that notice shall impart notice of the efficiency charge to all persons. Any failure by the local agency or its publicly owned utility to record that notice shall not excuse an owner of the customer property, on which the funded improvement is located, from the obligation to pay the efficiency charge. located. The notice shall be prominently titled "NOTICE OF EFFICIENCY CHARGE" and shall provide contact information for the person or entity authorized to provide a prompt and accurate written statement of the outstanding charges and payoff amounts related to the efficiency charge for which the notice of efficiency charge was recorded.~~

(5) *Within 10 days of full repayment of the outstanding charges related to the recorded notice of the efficiency charge, the entity responsible for the collection and servicing of the charge shall record a notice of the full repayment of the efficiency charge in the records of the county recorder of the county in which the customer's property is located. The notice of the full repayment of the efficiency charge shall include a reference to the recorded notice of the efficiency charge.*

(5)

(6) Because the efficiency charge is a voluntary charge that will be made pursuant to a written agreement between the customer, the authority, and the local agency or its publicly owned utility, the Legislature finds and declares that voluntary efficiency charges under this section are not taxes, assessments, fees, or charges for the purposes of Articles XIII C and XIII D of the California Constitution and therefore the provisions of Articles XIII C and XIII D and Article 4.6 (commencing with Section 53750) of Chapter 4 of Part 1 of Division 2 of Title 5 are not applicable to voluntary efficiency charges levied pursuant to this section. Furthermore, a program established pursuant to this section

1 provides a “water” service, as defined in subdivision (m) of Section
2 53750.

3 (e) (1) The authority and a local agency or its publicly owned
4 utility shall enter into a servicing agreement for the collection of
5 one or more efficiency charges and the local agency or its publicly
6 owned utility shall act as a servicing agent for purposes of
7 collecting the efficiency charge.

8 (2) Moneys collected as an efficiency charge by the local agency
9 or its publicly owned utility, acting as a servicing agent on behalf
10 of the authority, shall be held in trust for the exclusive benefit of
11 the persons entitled to the financing costs to be paid, directly or
12 indirectly, from the efficiency charge and shall not lose their
13 character as revenues of the authority because the local agency or
14 its publicly owned utility possesses them.

15 (3) In the servicing agreement, the local agency or its publicly
16 owned utility shall contract with the authority that the local agency
17 or its publicly owned utility will continue to operate its publicly
18 owned utility system to provide service to its customers, will, as
19 servicer, collect the efficiency charge for the benefit and account
20 of the authority and, if applicable, the beneficiaries of the pledge
21 of the efficiency charge, and will account for and remit these
22 amounts to, or for the account of, the authority.

23 (4) The servicing agreement shall provide that the obligation to
24 pay the efficiency charge shall run with title to the customer
25 property on which the efficiency improvement is located until the
26 authority is fully repaid. When the property is not owner occupied,
27 the servicing agreement shall provide that the obligation to pay
28 the efficiency charge appear in the terms through which the
29 customer leases or licenses the property for occupancy.

30 (5) In the servicing agreement, the local agency or its publicly
31 owned utility may agree that the timely and complete payment of
32 all efficiency charges by a customer that has agreed to pay an
33 efficiency charge shall be a condition of receiving service from
34 the publicly owned utility, and the local agency or its publicly
35 owned utility shall use their established collection policies and all
36 rights and remedies provided by law to enforce payment and
37 collection of the efficiency charge.

38 (6) In the servicing agreement, the local agency or its publicly
39 owned utility shall agree that in the event of default by the local
40 agency or its publicly owned utility in payment of revenues arising

1 with respect to the efficiency charge, the authority, upon the
2 application by the beneficiaries of the authority's pledge described
3 in this section, and without limiting any other remedies available
4 to the beneficiaries by reason of the default, shall order the
5 sequestration and payment to the beneficiaries of revenues arising
6 with respect to the efficiency charge.

7 (f) (1) The authority may issue one or more bonds for the
8 purpose of providing funds for the acquisition, installation, and
9 repair of an efficiency improvement on customer property pursuant
10 to this section.

11 (2) An authority issuing a bond shall include in its preliminary
12 notice and final report for the bonds submitted to the California
13 Debt and Investment Advisory Commission pursuant to Section
14 8855 a statement that the bond is being issued pursuant to this
15 section.

16 (3) *An authority that issues a bond pursuant to this section shall*
17 *establish a debt service reserve fund for the bond to the extent*
18 *required by the purchaser of the bond.*

19 ~~(3)~~

20 (4) (A) The authority may, pursuant to Section 5451, pledge
21 one or more efficiency charges as security for the bonds issued
22 pursuant to this section. Revenue from an efficiency charge shall
23 be deemed special revenue of the authority and shall not constitute
24 revenue of the local agency or its publicly owned utility for any
25 purpose, including without limitation any dedication, commitment,
26 or pledge of revenue, receipts, or other income that the local agency
27 or its publicly owned utility has made or will make for the security
28 of any of its obligations.

29 (B) The validity and relative priority of a pledge created or
30 authorized under this section is not defeated or adversely affected
31 by the commingling of efficiency charge revenue with other
32 moneys collected by a local agency or its publicly owned utility.

33 ~~(4)~~

34 (5) A local agency may pledge water enterprise revenue as
35 security for the payment of the principal of, and interest and
36 redemption premium on, bonds issued by the authority if efficiency
37 charges are insufficient for that purpose, and may execute one or
38 more pledge agreements pursuant to Section 5451 for the benefit
39 of the authority or for the exclusive benefit of the persons entitled
40 to the financing costs to be paid from the efficiency charges.

1 (6) *A local agency that pledges water enterprise revenues as*
2 *security for the payment of the principal of, and interest and*
3 *redemption premium on, a bond issued by the authority shall*
4 *establish a debt service reserve fund for the bond to the extent*
5 *required by the purchaser of the bond.*

6 (g) If a local agency for which bonds have been issued and
7 remain outstanding ceases to operate a water utility, either directly
8 or through its publicly owned utility, references in this section to
9 the local agency or to its publicly owned utility shall be deemed
10 to refer to the entity providing water utility services in lieu of the
11 local agency and that entity shall assume and perform all
12 obligations of the local agency or its publicly owned utility required
13 by this section and the servicing agreement with the authority while
14 the bonds remain outstanding.

15 (h) If the local agency, its publicly owned utility, and the
16 authority have complied with the procedures set forth in this
17 section, they shall not be required to comply with Section 6586.5.

18 (i) The provisions of this section are severable. If any provision
19 of this section or its application is held invalid, that invalidity shall
20 not affect other provisions or applications that can be given effect
21 without the invalid provision or application.



AGENDA NO.

16.

MEETING DATE

May 24, 2016

TITLE ADOPT REVISED REGULATION SECTION 29, "PROHIBITING WASTEFUL USE OF WATER"

☐ MOTION ☒ RESOLUTION ☐ ORDINANCE

RECOMMENDED ACTION

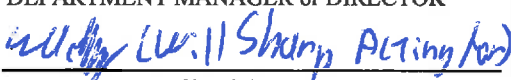

Adopt the revised Section 29, "Prohibiting Wasteful Use of Water," of the EBMUD Regulations Governing Water Service to Customers to define and impose water use prohibitions, restrictions, and enforcement provisions, effective July 1, 2016.

SUMMARY

Given the District's strong water supply projection, the Board approved actions in April and May 2016 suspending implementation of the Excessive Water Use Penalty Ordinance; declaring the District's water supplies sufficient; rescinding the District's Water Shortage Emergency, Section 28, and District-wide 20 percent mandatory water use reduction goal; declaring a Stage 0 drought; and suspending the Stage 4 drought surcharge. On May 18, 2016, the State Water Resources Control Board (SWRCB) declared relaxed statewide drought and conservation mandates and adjusted prohibitions on wasteful practices. Staff is recommending that the Board adopt revisions to Section 29 of the District's Regulations Governing Water Service to Customers (Section 29) to ensure continued wise water use by the District's customers and maintain consistency with the SWRCB's updated emergency regulations.

DISCUSSION

Water Years 2014 and 2015 were two of the driest on record for the State of California and for the District, prompting the District to declare a Water Shortage Emergency in August 2014 and to expand that emergency declaration in April 2015. In 2015, the District also declared a Stage 4 drought under the Drought Management Program Guidelines, secured dry year supplies conveyed through the Freeport Regional Water Project, set a District-wide mandatory water use reduction goal of 20 percent, implemented a Critical Drought Action Plan, adopted the Excessive Water Use Penalty Ordinance, and adopted a revised version of Section 28, "Water Use During Water Shortage Emergency Condition" (Section 28) containing various prohibitions on water use. In 2015, the SWRCB also set a 16 percent mandatory water use reduction target for the District.

Funds Available: FY17		Budget Code:	
DEPARTMENT SUBMITTING	DEPARTMENT MANAGER or DIRECTOR		APPROVED
Customer & Community Services	 Sherri A. Hong		 General Manager

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

Adopt Revised Regulations Section 29, "Prohibiting Wasteful Use of Water"

May 24, 2016

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Water supply conditions at the state and local levels have improved significantly. EBMUD customers have achieved a 24 percent reduction in water use since June 1, 2015, far exceeding the District's mandatory 20 percent water use reduction goal and the SWRCB's 16 percent mandatory water use reduction target for the District. Customers have made robust efforts to achieve these savings and staff will be providing a presentation at the May 24, 2016 Board meeting detailing the achieved water savings.

On April 26, 2016 staff reported to the Board that the end-of-September total system storage is projected to be between 605 and 630 thousand acre feet. Water supply of this level signifies that the District's water supply is sufficient for meeting customer demand. Subsequently on May 10, 2016, due to the improved water supply conditions, the Board rescinded the District's Water Shortage Emergency, District-wide 20 percent mandatory water use reduction goal, and Section 28, declared a Stage 0 drought, and suspended the Stage 4 drought surcharge. The effective date of these changes coincides with the end of FY16, and the beginning of FY17 on July 1, 2016.

On May 9, 2016, the Governor issued an Executive Order that directs the SWRCB to adjust and extend its emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions for many communities across the state. Significant changes include replacing the state developed standards with locally developed conservation standards based upon each agency's specific water supply circumstances. The regulation requires urban water suppliers to self-certify the level of available water supplies assuming three additional dry years, and the level of water use reduction necessary to assure adequate supply over that time. Staff projections based on three additional dry years indicate that the District's water supply is sufficient to meet demand with no anticipated shortfall and no water use reduction.

On May 18, 2016, the SWRCB approved new modified emergency regulations which adjust existing state-mandated emergency water use restrictions effective through January 2017. Staff recommends the Board adopt revisions to Section 29 to promote efficient water use by District customers and to include additional restrictions on wasteful uses of potable water, such as the use of potable water in a fountain or other decorative feature except where the water is not recirculated, hosing off sidewalks or driveways with potable water, applying potable water to outdoor landscaping in a manner that results in runoff to adjacent areas, irrigating during and within 48 hours after measureable rainfall, and the irrigation of ornamental turf on public street medians. Section 29 is effective year-round and imposes restrictions on certain water uses by all District customers to protect the water supply for the greatest public benefit. The proposed revisions are set forth in the attachment to this BD-1 and are consistent with the SWRCB's new emergency regulations. To coincide with the rescission of Section 28, staff recommends that these revisions to Section 29 become effective July 1, 2016.

FISCAL IMPACT

Costs associated with the adoption of the revised Regulation Section 29 are covered within existing FY16/17 budget resources.

Adopt Revised Regulation Section 29, "Prohibiting Wasteful Use of Water"

May 24, 2016

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ALTERNATIVE

Take no action. This alternative is not recommended. Updating Section 29 provides for the continued enforcement of restrictions on water waste, and provides consistency with SWRCB's emergency regulations.

Attachment

I:\SEC\2016 Board Related Items\Board Packets 2016\042616 Board Items\CCS- BD-1 Section 29 Revision



SECTION 29

PROHIBITING WASTEFUL USE OF WATER

A. REGULATIONS AND RESTRICTIONS ON WATER USE

~~It is hereby declared by the Board of Directors that in order to conserve the District's water supply for the greatest public benefit, and to reduce the quantity of water used by the District's customers, that wasteful use of water shall be prohibited. The Board of Directors declares that in order to conserve the District's water supply for the greatest public benefit and to reduce the quantity of water used by the District's customers, the wasteful use of water shall be prohibited.~~
Customers of the District shall observe the following regulations and restrictions on water use: except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency. In addition, customers are asked to comply with the water saving guidelines set forth in this section.

1. The following potable water uses are prohibited: Residential Customers shall:

- a. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, or hardscapes (private and public walkways, roadways, parking lots, or structures) Use water for lawn or gardening watering, or any other irrigation, in a manner that does not result in excessive flooding or runoff in gutters or other waterways, patios, driveways, walkways or streets;
- a.b. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall Use water for washing sidewalks, walkways, driveways, patios, parking lots, tennis courts or other hard surfaced areas in a manner that does not result in excessive runoff or waste;
- c. Using potable water for irrigating ornamental turf on public street medians Use water for washing cars, boats, trailers or other vehicles and machinery, preferably from a hose equipped with a shutoff nozzle, in a manner that does not result in excessive runoff or waste;
- d. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with the irrigation requirements set forth in Section 31 of these Regulations Governing Water Service to Customers or other requirements established by local ordinances and/or state regulations;
- e. The application of potable water to sidewalks and driveways; or applying potable water to other hard surfaces or materials that results in excessive use and runoff d. Reduce other interior or exterior uses of water to minimize or eliminate excessive runoff or waste;



1. The following potable water uses are prohibited (continued):

- f. The use of a hose that dispenses potable water to wash a motor vehicle, boat, trailer, aircraft or other vehicles except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
- g. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;
- h. Use of potable water for construction, street cleaning, soil compaction and dust control is prohibited if a feasible alternative source of water is available. All water use for construction, soil compaction and dust control will require a permit issued by EBMUD, and
- b.i. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.

~~e. Repair leaks wherever feasible.~~

2. All Customers shall:

- a. Reduce other interior or exterior uses of water to minimize or eliminate excessive runoff or waste; and
- b. Repair leaks wherever feasible. Irrigation or plumbing with measureable leaks such that water flows onto adjacent property, non-irrigated areas, or hardscapes (private and public walkways, roadways, parking lots, or structures) shall not be turned on or restored to service until repairs have been completed.

2-3. Nonresidential Customers shall:

- a. Use systems that recycle water where feasible; Single pass cooling systems in new connections, and non-recirculating systems in all new conveyer car wash and commercial laundry systems, ~~and non-recycling decorative water fountains~~ shall be prohibited;
- ~~b. Use water for lawn or garden watering, or any other irrigation, in a manner that does not result in excessive flooding or runoff in gutters or other waterways, patios, driveways, walkways or streets;~~



2.3. Nonresidential Customers shall (continued):

~~e.b.~~ Limit sewer flushing or street washing with District water as much as possible, consistent with public health and safety needs; and

~~d.c.~~ Operators of hotels and motels are required to offer patrons the option of not having their towels and linens washed daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language. ~~c.~~ Use water for washing sidewalks, walkways, driveways, patios, parking lots, tennis courts or other hard-surfaced areas in a manner which does not result in excessive runoff or waste;

~~e.~~ Reduce other interior or exterior water uses to minimize or eliminate excessive runoff or waste; and

~~f.~~ Repair leaks wherever feasible.

4. Water Savings Guidelines

a. Conserve water indoors. Efficient indoor water use is approximately 45 gallons and super-efficient indoor use is approximately 35 gallons per person daily. Most customers can achieve this by shortening showers and using less bath water, running only full loads of laundry and dishes, and keeping a close eye on faucet use. Additionally, customers are encouraged to reduce the use of kitchen garbage disposals through composting or curbside green waste collection and not to use toilets as wastebaskets. Customers may also consider upgrading to more water-efficient plumbing fixtures and appliances. Customers are also encouraged to check and watch for potential indoor and outdoor leaks.

b. Use covers on swimming pools and home spas (hot tubs) and avoid frequent draining, refilling and topping off.

c. Irrigate less outdoors. Most customers can cut outdoor watering without affecting long-term plant health by irrigating before dawn or at dusk, and not on consecutive days. Customers also may want to consider upgrading to more water-efficient irrigation methods and low-water use plants more appropriate and adaptable to the local summer-dry climate.

d. Gyms, spas and similar facilities should request patrons to conserve water while showering and using wash basins.

— All food preparation and eating establishments, including restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased are encouraged to install and use high-efficiency pre-rinse spray nozzles in their kitchens where applicable.



4. Water Savings Guidelines (continued)

a.e. Ensure existing trees remain healthy and do not present a public safety hazard. Trees and other non-turf vegetation within street medians may continue to be watered efficiently.

B. EXCEPTIONS

Consideration of written applications for exceptions regarding the regulations and restrictions on water use set forth in this Section shall be as follows:

1. Written applications for exceptions shall be accepted, and may be granted, by the Customer Services Manager ~~of the Customer Services Division~~.
2. Denials of applications may be appealed in writing to ~~the Manager~~ the Manager of the Customer and Community Services Department General Manager;
3. Grounds for granting such applications are:
 - a. Failure to do so would cause an unnecessary and undue hardship to the Applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or
 - b. Failure to do so would cause a condition affecting the health, sanitation, fire protection or safety of the aApplicant or the public.

C. ENFORCEMENT

1. The District may, after one written warning, order that a special meter reading or readings be made in order to ascertain whether wasteful use of water is occurring. Charges for such a meter reading or readings or for follow-up visits by District staff shall be fixed by the Board from time to time and shall be paid by the customer.
2. In the event that the District observes that excessive or wasteful water use is occurring at a customer's premises, the General Manager or the Manager of Customer and Community Services may, after a written warning to the customer, authorize installation of a flow-restricting device on the service line for any customer observed by District personnel to be willfully violating any of the regulations and restrictions on water use set forth in this section.
3. In the event that a further willful violation is observed by District personnel, the District may discontinue service. Charges for installation of flow-restricting devices or for restoring service may be fixed by the Board from time to time.

RESOLUTION NO. _____

ADOPTING REVISED WATER SYSTEM REGULATIONS, SECTION 29 – PROHIBITING
WASTEFUL USE OF WATER

Introduced by Director

; Seconded by Director

WHEREAS, on August 12, 2014, in response to the severe drought, the Board of Directors (Board) of the East Bay Municipal Utility District (District) adopted Resolution No. 33994-14 declaring a water shortage emergency within the District's service area, and adopting Section 28 of District regulations, entitled "Water Use During Water Shortage Emergency Condition," (Section 28) containing restrictions on water use to conserve the water supply for the greatest public benefit; and

WHEREAS, despite the District's long-running, aggressive water conservation program and its utilization of recycled water supplies, due to the effects of the drought, on April 14, 2015, the District's water supply was determined to be deficient for meeting customer demands in 2015, and the Board declared a Stage 4 critical drought, declared a mandatory District-wide water use reduction goal of 20 percent, and declared the need to use the Freeport Facilities to deliver supplemental supplies to the District's service area; and

WHEREAS, given the continuing extreme and prolonged drought affecting California and the Mokelumne River watershed at the time, and to support the State Water Resources Control Board's (State Board) March 17, 2015 expanded emergency water conservation regulations and the Governor's April 1, 2015 Executive Order regarding the drought, on April 14, 2015, the Board also declared a continuation of the water shortage emergency originally declared on August 12, 2014 and amended Section 28 to add additional restrictions on water use beyond the measures adopted by the Board on August 12, 2014; and

WHEREAS, the District's customers responded to the Board and State Board's call for conservation, achieving a 24 percent reduction in water use since June 1, 2015, far exceeding both anticipated demand reductions associated with the District's response to the drought, and the State Board's 16 percent mandatory water use reduction target for the District; and

WHEREAS, the District also undertook several other efforts in response to the drought including the purchase of dry year water supplies, implementation of a Critical Drought Action Plan, and enforcement of the Excessive Water Use Penalty Ordinance; and

WHEREAS, due to the extraordinary water use reductions achieved by the District's customers, the purchase of 58 thousand acre-feet (TAF) of dry year water supplies by the District, the effects of other District drought response actions, and increased precipitation received during the precipitation season, the District's 2016 end-of-September total system storage is projected to fall between 605 TAF and 630 TAF, which is considered adequate to meet customer demands in the coming year; and

WHEREAS, due to the District's improved water supplies, on April 26, 2016, the Board suspended implementation of the Excessive Water Use Penalty Ordinance; and

WHEREAS, also due to the District's improved water supplies, on May 10, 2016, the Board also rescinded the District's water shortage emergency, Section 28, and the District-wide mandatory 20 percent water use reduction goal effective June 30, 2016, and declared a Stage 0 drought effective July 1, 2016; and

WHEREAS, on May 18, 2016, in response to improved water supply conditions statewide, the State Board modified its emergency drought regulations to ease mandatory water use reduction requirements and also to maintain the applicability of several end-user water conservation requirements; and

WHEREAS, to ensure continued wise use of water by the District's customers following the rescission of Section 28, and to maintain consistency with the State Board's emergency regulations, it is the desire and intention of the Board to update and revise Section 29 of the Regulations Governing Water Service to Customers of The East Bay Municipal Utility District (Water System Regulations), entitled "Prohibiting Wasteful Use of Water;"

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Bay Municipal Utility District that Revised Water System Regulation Section 29, attached hereto as Exhibit A, is hereby adopted.

ADOPTED this 24th day of May, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

President

Secretary

APPROVED AS TO FORM AND PROCEDURE

General Counsel

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SECTION 29

PROHIBITING WASTEFUL USE OF WATER

A. REGULATIONS AND RESTRICTIONS ON WATER USE

The Board of Directors declares that in order to conserve the District's water supply for the greatest public benefit and to reduce the quantity of water used by the District's customers, the wasteful use of water shall be prohibited. Customers of the District shall observe the following regulations and restrictions on water use except where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency. In addition, customers are asked to comply with the water saving guidelines set forth in this section.

1. The following potable water uses are prohibited:

- a. The application of potable water to outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, or hardscapes (private and public walkways, roadways, parking lots, or structures);
- b. The application of potable water to outdoor landscapes during and within 48 hours after measurable rainfall;
- c. Using potable water for irrigating ornamental turf on public street medians;
- d. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with the irrigation requirements set forth in Section 31 of these Regulations Governing Water Service to Customers or other requirements established by local ordinances and/or state regulations.
- e. The application of potable water to sidewalks and driveways; or applying potable water to other hard surfaces or materials that results in excessive use and runoff;
- f. The use of a hose that dispenses potable water to wash a motor vehicle, boat, trailer, aircraft or other vehicles except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;
- g. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system;
- h. Use of potable water for construction, street cleaning, soil compaction and dust control is prohibited if a feasible alternative source of water is available. All water use for construction, soil compaction and dust control will require a permit issued by EBMUD; and

Exhibit A



SECTION 29

PROHIBITING WASTEFUL USE OF WATER (Continued)

- i. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
2. All Customers shall:
 - a. Reduce other interior or exterior uses of water to minimize or eliminate excessive runoff or waste; and
 - b. Repair leaks wherever feasible. Irrigation or plumbing with measureable leaks such that water flows onto adjacent property, non-irrigated areas, or hardscapes (private and public walkways, roadways, parking lots, or structures) shall not be turned on or restored to service until repairs have been completed.
3. Nonresidential Customers shall:
 - a. Use systems that recycle water where feasible; single pass cooling systems in new connections, and non-recirculating systems in all new conveyer car wash and commercial laundry systems shall be prohibited.
 - b. Limit sewer flushing or street washing with potable water as much as possible, consistent with public health and safety needs; and
 - c. Operators of hotels and motels are required to offer patrons the option of not having their towels and linens washed daily. The hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.
4. Water Savings Guidelines
 - a. Conserve water indoors. Efficient indoor water use is approximately 45 gallons and super-efficient indoor use is approximately 35 gallons per person daily. Most customers can achieve this by shortening showers and using less bath water, running only full loads of laundry and dishes, and keeping a close eye on faucet use. Additionally, customers are encouraged to reduce the use of kitchen garbage disposals through composting or curbside green waste collection and not to use toilets as wastebaskets. Customers may also consider upgrading to more water-efficient plumbing fixtures and appliances. Customers are also encouraged to check and watch for potential indoor and outdoor leaks.
 - b. Use covers on swimming pools and home spas (hot tubs) and avoid frequent draining, refilling and topping off.

Exhibit A



SECTION 29

PROHIBITING WASTEFUL USE OF WATER (Continued)

- c. Irrigate less outdoors. Most customers can cut outdoor watering without affecting long-term plant health by irrigating before dawn or at dusk, and not on consecutive days. Customers also may want to consider upgrading to more water-efficient irrigation methods and low-water use plants more appropriate and adaptable to the local summer-dry climate.
- d. Gyms, spas and similar facilities should request patrons to conserve water while showering and using wash basins.
- e. All food preparation and eating establishments, including restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased are encouraged to install and use high-efficiency pre-rinse spray nozzles in their kitchens where applicable.
- f. Ensure existing trees remain healthy and do not present a public safety hazard. Trees and other non-turf vegetation within street medians may continue to be watered efficiently.

B. EXCEPTIONS

Consideration of written applications for exceptions regarding the regulations and restrictions on water use set forth in this Section shall be as follows:

- 1. Written applications for exceptions shall be accepted, and may be granted, by the Customer Services Manager.
- 2. Denials of applications may be appealed in writing to the Manager of the Customer and Community Services Department.
- 3. Grounds for granting such applications are:
 - a. Failure to do so would cause an unnecessary and undue hardship to the applicant, including, but not limited to, adverse economic impacts, such as loss of production or jobs; or
 - b. Failure to do so would cause a condition affecting the health, sanitation, fire protection or safety of the applicant or the public.

Exhibit A



SECTION 29

**PROHIBITING WASTEFUL USE OF WATER
(Continued)**

C. ENFORCEMENT

1. The District may, after one written warning, order that a special meter reading or readings be made in order to ascertain whether wasteful use of water is occurring. Charges for such a meter reading or readings or for follow-up visits by District staff shall be fixed by the Board from time to time and shall be paid by the customer.
2. In the event that the District observes that excessive or wasteful water use is occurring at a customer's premises, the General Manager or the Manager of Customer and Community Services Department may, after a written warning to the customer, authorize installation of a flow-restricting device on the service line for any customer observed by District personnel to be willfully violating any of the regulations and restrictions on water use set forth in this section.
3. In the event that a further willful violation is observed by District personnel, the District may discontinue service. Charges for the installation of flow-restricting devices or restoring service may be fixed by the Board from time to time.

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: May 24, 2016

MEMO TO: Board of Directors

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

FROM: Sherri A. Hong, Manager of Customer and Community Services *(Will Sharp Acting for)*

SUBJECT: Drought Water Savings and Customer Response

INTRODUCTION

This memo outlines customer water savings achieved during the 2014 and 2015 Water Shortage Emergency. Staff will be providing a presentation at the May 24, 2016 Board meeting.

DISCUSSION

Water Use Reduction Goals

On April 14, 2015, the Board of Directors declared a continued Water Shortage Emergency under a Stage 4 critical drought and mandated a water use reduction goal of 20 percent throughout the service area. The District-wide reduction goal was for 2015 use, compared to 2013 use prior to the mandatory drought restrictions. In addition, the Board adopted revisions to District Regulations Section 28, "Water Use During Water Shortage Emergency Condition," which prohibits wasteful water uses and established enforcement provisions to achieve the 20 percent reduction in customer water use.

To help the District achieve its mandatory 20 percent water use reduction goals, customer group savings goals were established to guide conservation outreach:

Table 1. Mandatory Water Use Reduction Goals by Customer Group

Customer Group	Average Annual Water Use Reduction Goal	Seasonal Range
Overall	20%	0 - 40%
Single Family Residential	25%	16 - 35%
Multi-family Residential	16%	12 - 25%
Commercial	13%	9 - 20%
Irrigation	40%	0 - 40%
Institutional	16%	10 - 23%
Industrial & Petroleum	8%	6 - 9%

Customer group water use reduction goals were determined by considering drought management principles and by analyzing historical consumption and the likelihood of various customer groups attaining their water use reduction goals through an array of indoor and outdoor demand management measures along with drought-related mandatory water use restrictions. The key assumptions and data for setting customer goals were based on the following objectives:

- Emphasize reductions in non-essential (discretionary) uses of water;
- Avoid/limit impacts to the economy and the environment; and
- Safeguard water supplies for uses that meet public health and sanitation needs.

Customer Water Savings

Total water demand and savings by customer group for years 2014 and 2015 in comparison to 2013 are indicated below.

Table 2. 2013-15 Water Demand and Savings by Customer Group

Customer Group	2013 Avg. Use (MGD)	2014 Avg. Use (MGD)	2015 Avg. Use (MGD)	2014 % Svgs.	2015 % Svgs.
Single-Family	86	73	59	-15%	-31%
Multi-Family	30	28	25	-7%	-14%
Commercial	14	13	12	-6%	-14%
Irrigation	14	11	8	-22%	-42%
Institutional	8	7	6	-9%	-20%
Industrial & Petroleum ¹	16	15	16	-4%	-1%
Total	167	147	127	-12%	-24%

¹ A reduction in 2015 industrial water savings is partially attributed to an increase in potable water use due to reduced recycled water quality and deliveries as a result of the drought.

All District customer groups contributed to overall water savings with a customer demand reduction in 2015 as compared to 2013 of 24 percent, or approximately 40 million gallons per day (MGD). Most of the savings were related to outdoor use during the summer months. Achieved savings exceeded the District-wide mandated goal of 20 percent and state-mandated goal of 16 percent. As the largest customer group, combined residential water savings totaled approximately 32 MGD or 80 percent of the total savings, likely due to reduced outdoor water use. The single largest percent drop in water use was achieved by irrigation customers at 42 percent for the 2015 calendar year. This was due to aggressive outreach and education to the large irrigators including golf courses and parks and recreation areas.

Super Saver Recognition

To recognize customers who were low water users, in June 2015 the Board adopted a Super Saver program for single family residential (SFR) customers who used less than eight units in a bimonthly billing period during a Stage 3 or 4 drought. Prior to initiating the program it was estimated that approximately 14 percent or 44,400 single family residential accounts would fall into this category. During the warmer summer months 37 percent or approximately 122,000 accounts qualified for the program. During the cool winter months, the number of Super Savers increased significantly and over 46 percent or approximately 153,000 accounts qualified for the program. Super Savers received a bill insert acknowledging and thanking them for their continued stewardship in low water use.

Excessive Water Use Penalty Ordinance

Beginning July 1, 2015, SFR customers using more than 80 units of water in a billing period were subject to an excessive use penalty for the portion of water use above 80 units. During 2015, SFR customers subject to the penalty reduced their overall water use by an average of 27 percent which was consistent with the total combined SFR savings rate of 31 percent. With the threshold set at 80 units of water per bimonthly billing period, it was estimated that approximately 3 percent of single family residential accounts would be subject to the penalty. The actual number of unique accounts that were assessed a penalty totaled more than 5,600 or 1.7 percent of single family residential accounts. The lower number of accounts may have been the result of extensive outreach to customers and ongoing drought media coverage. Several letters were also sent to customers prior to enforcement of the ordinance whose pre-penalty use was above or close to reaching the threshold limit to advise them of the new ordinance. The monthly report count of excessive use penalty violators ranged from a high of 2,875 customers in October 2015 to a low of 254 in March 2016.

Approximately 5,500 (or 94 percent) of excessive use penalty customers received a Home Water Report (HWR). District staff conducted targeted outreach to nearly 700 of the excessive use penalty customers via water waste reports, HWR feedback and questions, and conservation audits and rebates. Efforts to work with this group of high water users to sustain and further increase water use efficiency will continue in 2016.

District Facility Water Savings

At the outset of the water shortage, the District set a goal of reducing District facility water use by 20 percent as compared to 2013. For the period February 2014 through April 2016, annual water savings for 98 metered District facilities totaled 16 million gallons or 24 percent and exceeded our goal. Key District actions included reducing outdoor irrigation, limiting facility and vehicle washing, leak repair and water recycling.

Outreach and Conservation Services

Expanded District outreach and conservation services were important to support customer efforts to save water by educating them on conservation services and programs available to help them succeed. District outreach efforts included robocalls, social media, advertising, community events, billboards, media outreach and workshops to educate customers on the severity of the drought and to advise customers to comply with mandatory outdoor use restrictions and strive for 35 gallons per capita per day for indoor use. District conservation services included expanded customer water use audits, free device distribution, indoor and outdoor conservation rebates, Home Water Reports, and landscape water budgets. Table 3 (attached), provides a summary of conservation activities. Some water conservation highlights for 2014-2015 include:

- Nearly 26,000 rebates, totaling approximately \$2.6 million distributed
- More than 2.3 million square feet of turf removal rebates
- More than 11,300 high-efficiency clotheswasher rebates
- Nearly 7,800 high-efficiency toilet rebates
- More than 6,600 landscape conversion rebates
- Nearly 70,000 households received a Home Water Report
- More than 35,000 landscape water budget reports distributed

NEXT STEPS

Staff will continue to reach out and provide conservation services to assist all customers in reducing their water use as outlined in the Water Conservation Master Plan and discussed during the May 10, 2016 Water Conservation workshop. At the June 14, 2016 Board of Directors meeting, staff will provide a presentation on the proposed outreach and communication initiatives moving forward to relay key conservation messages and encourage customers to continue efforts to use water efficiently.

ARC:SAH:rwh:dlb

Attachment: Table 3. CY2014 and CY2015 Water Conservation Totals

ATTACHMENT

Table 3 – CY2014 and CY2015 Water Conservation Totals

Conservation Program	CY 2014-15 Totals
Customer Outreach Totals (on-site audits, self-survey kits, landscape consultations, high-bill inquiries, new account review, home water reports) - Residential	381,327
<i>Single Family</i>	376,996
<i>Multi Family (number of dwelling units audited)</i>	2,613
<i>CYES Student Surveys</i>	1,718
Customer Outreach Totals (on-site audits, landscape consultations, high bill inquiries, new account review) - Non Residential	35,686
<i>Commercial</i>	428
<i>Industrial</i>	25
<i>Institutional</i>	65
<i>Irrigation and IRIS Water Budget Program</i>	35,168
Devices, Materials and Information Distributed	71,546
<i>Water Saving Devices (showerheads, aerators, dye tabs, toilet bags, hose nozzles)</i>	18,649
<i>Table tents, hotel cards, shower stickers</i>	26,967
<i>School materials and publications</i>	22,200
<i>Plant Books</i>	3,730
Water Waste Response Totals	8,162
<i>Residential</i>	5,448
<i>Commercial</i>	1,193
<i>Institutional</i>	423
<i>Street and Misc</i>	1,098
Rebates Totals (toilets, clotheswashers, irrigation controllers, landscape, etc.)	26,032
Residential Rebates Totals	24,363
<i>High-Efficiency Toilets</i>	6,961
<i>High-Efficiency Washers</i>	11,284
<i>Landscape Conversions (lawn/pool removal, mulch, drip irrigation, high-efficiency sprinkler heads, pressure regulators, submeters, ET controllers)</i>	6,061
<i>Graywater (Laundry-to-Landscape)</i>	57
Non-Residential Rebates Totals	1,669
<i>High-Efficiency Toilets</i>	878
<i>High-Efficiency Washers</i>	89
<i>Landscape Conversions (lawn/pool removal, mulch, drip irrigation, high-efficiency sprinkler heads, pressure regulators, submeters, ET controllers)</i>	567
<i>Customized incentives (process water, on-site reuse, cooling, graywater, submeters. etc.)</i>	135

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: May 24, 2016

MEMO TO: Board of Directors

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

FROM: Alison A. Kastama, Special Assistant to the General Manager *AK*

SUBJECT: 2016 Critical Drought Action Plan Update

SUMMARY

This memo provides a brief update on recent activities related to the Critical Drought Action Plan. Following the Board's May 10th actions to end the District's Water Shortage Emergency and Stage 4 drought, the 2016 Critical Drought Action Plan updates will be phased out with a final update provided for the June 14, 2016 Board meeting. Subsequently, relevant information will be included in the General Manager's monthly report to the Board.

DISCUSSION

Statewide Drought Report. The District submitted its latest monthly report on water production data to the State Water Resources Control Board on April 16, 2016. We reported that:

- EBMUD's April 2016 production was 26 percent lower than April 2013 production.
- On average, residential customers used 59 gallons per capita per day (gpcd) in April 2016, compared to 82 gpcd in April 2013 and 81 gpcd on average in April 2005 through 2007.
- For April 2016, EBMUD has received 166 water waste complaints which is up slightly from 149 in March 2016.
- For the State Water Resources Control Board compliance period of June 2015 to April 2016, customers saved 24 percent surpassing the mandated target of 16 percent.

Customer Outreach. Staff continues to implement the Critical Drought Action Plan, but have begun to adjust customer messaging and outreach in preparation for the June 30 removal of the Water Shortage Emergency, the Stage 4 critical drought, the mandatory 20 percent water use reduction, and the drought surcharge.

The top of bill message will be adjusted to: "Thank you! Customer water savings and healthy water supplies allow an end to the drought emergency. Drought surcharges end 6/30. The drought surcharge will apply to all water use prior to July 1. Use water wisely and visit ebmud.com/watersmart for summer irrigation tips."

Water waste calls are being followed up on and nearly 63,000 customers receive Home Water Reports.

Excessive Use. Following the Board's suspension of the Excessive Water Use Penalty Ordinance, the ninth list of the names, addresses and consumption for customers who violated the Ordinance will be issued on May 26, 2016 to the media. The final list will be issued in June. The number of accounts on the list continues to decrease. Staff continues to reach out to the largest users and especially those who have also been noted as potential water wasters to offer audits, home water reports, and conservation tips to help these water users implement water conserving habits especially during the hotter summer months.

NEXT STEPS

The last list of customers who violated the Excessive Water Use Penalty Ordinance will be released on June 16. Staff will continue to reach out to customers to aid their conservation efforts.

Following the Board's May 10th actions to end the District's Water Shortage Emergency and Stage 4 drought, the 2016 Critical Drought Action Plan updates will be phased out with a final update provided for the June 14, 2016 Board meeting. Staff is preparing a Drought Lessons Learned report, summarizing our drought actions and recommendations for future drought response. The report will be provided to the Board in August 2016.

ARC:AAK

EAST BAY MUNICIPAL UTILITY DISTRICT

DATE: May 19, 2016

MEMO TO: Board of Directors

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

FROM: Lynelle M. Lewis, Secretary of the District *Lynelle*

SUBJECT: Legislative/Human Resources Committee Minutes – May 10, 2016

Director John A. Coleman called to order the Legislative/Human Resources Committee at 9:02 a.m. in the Training Resource Center. Director Marguerite Young was present at roll call and Chair William B. Patterson arrived at 9:05 a.m. Staff present included: General Manager Alexander R. Coate, General Counsel Craig S. Spencer, Director of Engineering and Construction Xavier J. Irias, Associate Civil Engineer Denise V. Cicala, Special Assistant to the General Manager Alison A. Kastama, and Secretary of the District Lynelle M. Lewis.

Public Comment. None.

Electrical Contractor Pre-qualification Pilot Program. Associate Civil Engineer Denise V. Cicala presented an overview of the District's upcoming efforts to implement a pre-qualification pilot program to streamline the District's bid selection process and further improve the quality of its electrical contract work. She said that certain District construction projects require installation of specialized electrical power and control systems and equipment. The pilot will be used on selected capital projects that have complex electrical components (e.g. pumping plant and water treatment plant improvement projects) scheduled for award in fiscal years 2017-2018. When developing the requirements of the pilot program, staff reviewed sample electrical subcontractor pre-qualification documents from other public utilities, solicited input from external stakeholders, and reached out to the National Electrical Contractors Association.

Applications will be issued to contractors in May 2016 on a pilot basis. Contractors will have six weeks to prepare a pre-qualification response, and the District anticipates developing a list of pre-qualified electrical contractors by August 2016. The pre-qualified list will remain available for use on selected projects for up to two years. At that time, effectiveness of the pre-qualification process will be evaluated and another round of applications may be issued depending on the results of the assessment of the pilot. Staff responded to questions about legal challenges and possible expansion to other trades. It was noted that contractors can be added to the pre-qualification list throughout the pilot so as not to exclude anyone who missed the initial pre-qualification process. The Committee supported staff's approach.

Adjournment. Chair Patterson adjourned the meeting at 9:24 a.m.

ARC/LML

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