



AGENDA

NOTICE OF REGULAR MEETING

TIME: 6 p.m.

PLACE: Shannon Community Center, Ambrose Hall
11600 Shannon Avenue, Dublin, CA 94568

DATE: Tuesday, March 5, 2019

Our mission is to provide reliable and sustainable water, recycled water, and wastewater services in a safe, efficient, and environmentally responsible manner.

1. CALL TO ORDER
2. PLEDGE TO THE FLAG
3. ROLL CALL – Members: Duarte, Halket, Johnson, Misheloff, Vonheeder-Leopold
4. SPECIAL ANNOUNCEMENTS/ACTIVITIES
 - New Employee Introductions
5. PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC)

At this time those in the audience are encouraged to address the Board on any item of interest that is within the subject matter jurisdiction of the Board and not already included on tonight's agenda. Comments should not exceed five minutes. Speaker cards are available from the District Secretary and should be completed and returned to the Secretary prior to addressing the Board. The President of the Board will recognize each speaker, at which time the speaker should proceed to the lectern, introduce him/herself, and then proceed with his/her comment.
6. REPORTS
 - 6.A. Reports by Staff
 - Event Calendar
 - Correspondence to and from the Board
 - 6.B. Joint Powers Authority and Committee Reports

Special LAVWMA – February 20, 2019
DSRSD/Zone 7 Water Agency Liaison – February 26, 2019
 - 6.C. Agenda Management (consider order of items)
7. CONSENT CALENDAR

Matters listed under this item are considered routine and will be enacted by one Motion, in the form listed below. There will be no separate discussion of these items unless requested by a Member of the Board or the public prior to the time the Board votes on the Motion to adopt.

 - 7.A. Approve Special Meeting Minutes of February 19, 2019
Recommended Action: Approve by Motion
 - 7.B. Affirm No Changes to the Acceptance of Gifts and Gratuity, Drug Free Workplace, Inspections for Prohibited Materials and District Property, Relations, Salary Plan, and Workplace Violence Policies
Recommended Action: Approve by Motion

8. BOARD BUSINESS

8.A. Receive a Briefing on the California Public Employees' Retirement System (CalPERS) Actuarial Report for DSRSD and Evaluation on the Pay-down of the Unfunded Actuarial Liability and Provide Direction on Future Unfunded Actuarial Obligations

Recommended Action: Receive Presentation and Discuss

8.B. Approve Budget Increase to the Capital Improvement Program Two-Year Budget for Fiscal Years Ending 2018 and 2019 for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004), Award Construction Agreement to Anderson Pacific Engineering Construction, Inc., Authorize a Construction Change Order Contingency, and Authorize Execution of Task Order No. 3 with West Yost and Associates for Engineering Services during Construction

Recommended Action: Approve by Resolutions (2) and Authorize by Motion

8.C. Discuss Tri-Valley Water Reliability Projects and Provide Direction

Recommended Action: Discuss and Provide Direction

8.D. Approve Continuation of Emergency Action Procurement by General Manager for Repair of the District Office and Find that the Need for the District Office Flooding Emergency Still Exists

Recommended Action: Approve by Motion

9. BOARD MEMBER ITEMS

- Submittal of Written Reports for Day of Service Events Attended by Directors
- Request New Agenda Item(s) Be Placed on a Future Board or Committee Agenda

10. CLOSED SESSION

10.A. Conference with Labor Negotiators Pursuant to Government Code Section 54957.6

Agency Negotiators: Dan McIntyre, General Manager

Carol Atwood, Administrative Services Manager

Employee Organizations: 1. Stationary Engineers, Local 39

2. Mid-Management Employees' Bargaining Unit

3. Professional Employees' Bargaining Unit

4. Confidential Employees' Bargaining Unit

Additional Attendees: Carl P. A. Nelson, General Counsel

Genevieve Ng, Sloan Sakai Yeung & Wong LLP

10.B. Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)

Name of Case: Dublin Unified School District

10.C. Public Employee Performance Evaluation Pursuant to Government Code Section 54957

Title: General Manager

11. REPORT FROM CLOSED SESSION

12. ADJOURNMENT

DUBLIN SAN RAMON SERVICES DISTRICT
MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS

February 19, 2019

1. **CALL TO ORDER**

A special meeting of the Board of Directors was called to order at 6:03 p.m. by Vice President Duarte.

2. **PLEDGE TO THE FLAG**

3. **ROLL CALL**

Boardmembers present at start of meeting:

Vice President Edward R. Duarte, Director Ann Marie Johnson, Director Richard M. Halket, and Director Georgean M. Vonheeder-Leopold.

District staff present: Dan McIntyre, General Manager; Carol Atwood, Administrative Services Manager/Treasurer; Judy Zavadil, Engineering Services Manager/District Engineer; Jeff Carson, Operations Manager; Carl P.A. Nelson, General Counsel; and Vivian Chiu, Administrative Analyst I.

President Misheloff entered the meeting at 6:05 p.m. during Item 4. Special Announcements/Activities. Vice President Duarte passed the gavel to President Misheloff to conduct the rest of the meeting.

4. **SPECIAL ANNOUNCEMENTS/ACTIVITIES**

New Employee Introductions:

Robert Thompson, Construction Inspector I

Kiki Bian, Accountant II

Jason Ching, Associate Civil Engineer – Subject Matter Expert

5. **PUBLIC COMMENT (MEETING OPEN TO THE PUBLIC)** – 6:07 p.m. No public comment was received.

6. **REPORTS**

6.A. **Reports by General Manager and Staff**

- Event Calendar – General Manager McIntyre reported on the following:
 - Director Vonheeder-Leopold will give the “State of the District” presentation at the Zone 7 Water Agency Board meeting on Wednesday, February 20.
 - Directors Duarte, Johnson, and Vonheeder-Leopold, and a few staff will be attending the San Ramon State of the City Address to be delivered by Mayor Bill Clarkson on Wednesday, February 20.
 - A Special LAVWMA Board meeting is scheduled for Wednesday, February 20.
 - A celebration honoring retired Director Pat Howard will be held Thursday, February 21, and will include christening of the District’s dredge the “USS Howard,” followed by dinner.

- A Zone 7 Liaison Committee meeting is scheduled for Tuesday, February 26, for primarily a meet and greet to discuss water supply reliability.
- Directors Duarte and Johnson, and a few senior staff will be attending the Pleasanton State of the City Address on Tuesday, February 26.
- Correspondence to and from the Board on an Item not on the Agenda

Date	Format	From	To	Subject	Response
2/8/19	Email	Ms. Debi Davis (Dublin Resident)	DSRSD Board (City of Dublin, various DSRSD staff)	Water Quality	Email from Communications staff
2/19/19	Letter (to be mailed if no concerns from the Board)	Directors Duarte and Vonheeder-Leopold	Assemblymember Rebecca Bauer-Kahan	Meeting Last Friday	N/A

6.B. Joint Powers Authority and Committee Reports – None

6.C. Agenda Management (consider order of items) – No changes were made.

7. CONSENT CALENDAR

Director Halket MOVED for approval of the items on the Consent Calendar. Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

7.A. Special Meeting Minutes of February 5, 2019 – Approved

7.B. Accept the Following Regular and Recurring Reports: Warrant List and Quarterly Financial Reports – Approved

8. BOARD BUSINESS

8.A. Public Hearing: Receive Presentation on the Transition Process from an At-Large to a Division-Based Election System, Receive Input from the Community Regarding Boundaries and Composition of Divisions to Be Established for Division-Based Elections Pursuant to Elections Code Section 10010, and Provide Direction

General Manager McIntyre reviewed the item for the Board. He commented that this is the second of four required public hearings the District will hold to transition from at-large to area-based elections, that the public has an opportunity tonight to provide input on potential divisions, and that the Board has an opportunity to provide guidelines and directions on criteria for the District's independent demographer to consider in drafting the division maps. The draft maps will be posted in advance of the third public hearing on March 19. He introduced the District's independent demographer, Mr. Michael Wagaman of Wagaman Strategies, and noted that the District's special counsel is also in attendance to answer any legal process questions.

Mr. Wagaman proceeded to give a presentation to the Board, staff, and members of the public in attendance. Copies of the slide presentation were provided. He explained the purpose of tonight's public hearing is to identify the communities of interests and prioritize the criteria for division boundaries, and noted that his role is to facilitate rather than drive the divisioning process. He reviewed the public input process, the transition process timeline, the phases leading up to implementation of area-based elections, the limitations of the current census data, and the legal standards. He then switched to a mapping software to show the population distributions by map layers.

President Misheloff declared the Public Hearing open. She inquired if there were any comments from the public or questions for Mr. Wagaman.

Speaker: Mr. Scott Rafferty (Attorney representing Bay Area Voting Rights Initiative; issued demand letter to the District) – Mr. Rafferty suggested making the creation of one to two Asian-majority districts a priority, considering the high concentration of Asians in East Dublin and Dougherty Valley. He also suggested the Board consider county lines, types of service areas, and common interests. Mr. Rafferty later expressed support for blended service areas and complimented the Board's careful thinking.

Speaker: Mr. Robert Spicer (Dublin Resident) – Mr. Spicer suggested the Board consider the District's different services and usages when drafting the division maps.

The Board of Directors asked questions and discussed possible criteria, including county lines, service areas, geography, and natural borders such as existing communities and thoroughfares. The Board expressed difficulties developing areas without accurate population figures. Director Johnson suggested consideration of a blended customer base map crossing county lines and the Latino population. She stated for the record that she is opposed to the customer base map based on county lines and segregated by utility service categories.

Mr. Wagaman clarified for the record that he always starts with race-neutral criteria and checks them against the California Voting Rights Act criteria to avoid using race as a predominate factor. He summarized the Board's direction: to draw at least one map that prioritizes county lines and at least one map that prioritizes having as many service districts as possible covering at least two of the service areas. The Board then discussed commercial versus residential areas, prison population, and build-out of Dougherty Valley for criteria considerations.

Director Halket MOVED to close the Public Hearing. Director Johnson SECONDED the MOTION, which CARRIED with FIVE AYES.

President Misheloff declared the Public Hearing closed.

8.B. Receive Presentation on Water Distribution System Improvements

General Manager McIntyre noted that this item provides context for the next two items on the agenda.

Water/Wastewater Systems Operations and Maintenance Supervisor Dan Martin reviewed the item for the Board with a presentation. He provided copies of the slide presentation to the Board. Mr. Martin reviewed the four key factors in water quality management and the methods for enhancing water quality. He described nitrification control using dead-end flushing. He covered the development process of the flushing program, the implementation details, the results, and the impacts to the District repair resources and budget. The Board and staff discussed the proposed Valve and Blow-off Replacement project. Mr. Martin noted that his next presentation to the Board relates to water age improvements. He thanked the senior managers for hiring him and acknowledged the Field Operations Division staff, most in attendance, for successfully handling the recent changes. Director Vonheeder-Leopold remarked that the employees are the heart and soul of the District.

The Board took a break at the conclusion of Item 8.B., from 7:36 to 7:48 p.m.

8.C. Approve an Amendment to the Capital Improvement Program (CIP) Ten-Year Plan and the CIP Two-Year Budget to Add the Valve and Blow-Off Replacement Project (CIP 19-W004)

Engineering Services Manager Zavadil stated that funding for the project comes from approved CIP budget set aside for unanticipated projects.

Director Halket MOVED to adopt Resolution No. 7-19, approving an Amendment to the Capital Improvement Program (CIP) Ten-Year Plan and the CIP Two-Year Budget to Add the Valve and Blow-Off Replacement Project (CIP 19-W004). Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

8.D. Approve a Budget Adjustment for Water Distribution Operations for Fiscal Year Ending 2019

Administrative Services Manager Atwood reviewed the item for the Board.

Vice President Duarte MOVED to adopt Resolution No. 8-19, approving a Budget Adjustment for Water Distribution Operations for Fiscal Year Ending 2019. Director Vonheeder-Leopold SECONDED the MOTION, which CARRIED with FIVE AYES.

8.E. Receive a Briefing on District Office Flood Insurance Claim

Human Resources and Risk Supervisor Michelle Gallardo introduced Mr. Seth Cole of Alliant Insurance to answer questions concerning the District's claim. Mr. Cole explained the claim process, the adjustment process, and the advancement of funds to cover costs. He responded to the questions from the Board and staff regarding redirecting funds and processing bids, and clarified the District cannot profit from the loss. The Board thanked Mr. Cole.

8.F. Approve an Amendment to the Capital Improvement Program (CIP) Ten-Year Plan and the CIP Two-Year Budget to Add the District Office Renovation Project (CIP 19-A005)

General Manager McIntyre reviewed the item for the Board. He and Engineering Services Manager Zavadil briefly explained the funding sources and the CIP facilities program.

Director Vonheeder-Leopold MOVED to adopt Resolution No. 9-19, approving an Amendment to the Capital Improvement Program (CIP) Ten-Year Plan and the CIP Two-Year Budget to Add the District Office Renovation Project (CIP 19-A005). Director Johnson SECONDED the MOTION, which CARRIED with FIVE AYES.

8.G. Approve Continuation of Emergency Action Procurement by General Manager for Repair of the District Office and Find that the Need for the District Office Flooding Emergency Still Exists

Director Johnson inquired about placing this recurring item under Consent Calendar. General Manager McIntyre explained the item is placed under Board Business to allow an opportunity for public testimony.

Director Johnson MOVED to Approve Continuation of Emergency Action Procurement by General Manager for Repair of the District Office and Find that the Need for the District Office Flooding Emergency Still Exists. Vice President Duarte SECONDED the MOTION, which CARRIED with FIVE AYES.

8.H. Receive Annual Briefing Related to District Governance (Brown Act, California Public Records Act, and Conflict of Interest)

District General Counsel Nelson addressed the Board and gave verbal updates on the Ralph M. Brown Act, the Public Records Act, the Political Reform Act, Government Code Section 1090 et seq., the Fair Political Practices Commission (FPPC) regulations, and SB 998 (Dodd). Mr. Nelson provided a handout containing the pertinent updates. The only Brown Act update was AB 2257 (Maienschein), enacted in 2016 for effect January 1, 2019, requiring local agencies to prominently display agendas on their primary internet website homepage. Public Records Act (PRA) updates included the requirement for independent special districts to maintain a website, right of the requestor (instead of the plaintiff) to receive attorney's fees for litigating the disclosure of public records, and other provisions not applicable to the District. Political Reform Act updates included a clean-up of disclaimer rules relating to the definition and formatting of advertisements, authorization of the FPPC to have primary responsibility in carrying out local campaign finance and governmental ethic laws for any local jurisdiction by agreement, modification to the electronic media advertisement disclaimer requirements, and revisions regarding online processing of campaign statements for operation after the Secretary of State certifies a system. There were no changes to Government Code Section 1090, et seq., which imposes severe penalties for participating in a decision when an official has an interest in a contract. The FPPC regulations included an amendment to clarify when an official's interest in a business entity is also an interest in that business entity's parent, subsidiary, or otherwise related business entity; numerous revisions pertaining to campaign statements; and new regulations including a

prohibition of contributions using cryptocurrency. Lastly, SB 998 (Dodd) adds new requirements relating to the termination of residential water service. Mr. Nelson concluded his updates by noting future bills and their possible impacts.

9. BOARDMEMBER ITEMS

- Submittal of Written Reports for Day of Service Events Attended by Directors

Director Vonheeder-Leopold submitted written reports to Administrative Analyst I Chiu. She reported she attended the California Association of Sanitation Agencies (CASA) Board of Directors teleconference meeting on February 11. She provided contact names for anyone interested in serving on the CASA Board. She attended a meet and greet with Assemblymember Rebecca Bauer-Kahan on February 15 at her San Ramon office. She attended an Alameda County Special Districts Association (ACSDA) Chapter Board meeting on February 19 at the Castro Valley Sanitary District. She noted ACSDA confirmed a joint meeting with the Contra Costa Special Districts Association Chapter on July 15 and an annual meeting on March 28. She summarized the activities and discussions at the meetings.

- Request New Agenda Item(s) Be Placed on a Future Board or Committee Agenda – None

10. CLOSED SESSION

At 8:22 p.m. the Board went into Closed Session.

10.A. Conference with Labor Negotiators – Pursuant to Government Code Section 54957.6

Agency Negotiator: Dan McIntyre, General Manager

Carol Atwood, Administrative Services Manager

Employee Organizations: 1. Stationary Engineers, Local 39

2. Mid-Management Employees' Bargaining Unit

3. Professional Employees' Bargaining Unit

4. Confidential Employees' Bargaining Unit

Additional attendees: Carl P.A. Nelson, General Counsel

Genevieve Ng, Sloan Sakai Yeung & Wong LLP

10.B. Conference with Legal Counsel – Anticipated Litigation

Significant Exposure to Litigation Pursuant to Government Code Section 54956.9(d)(2):

One Potential Case

10.C. Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(d)(1)

Name of Case: Dublin Unified School District

11. REPORT FROM CLOSED SESSION

At 8:43 p.m. the Board came out of Closed Session. President Misheloff announced that there was no reportable action.

12. ADJOURNMENT

President Misheloff adjourned the meeting at 8:43 p.m.

Submitted by,

Vivian Chiu, MMC
Administrative Analyst I

FOR: Nicole Genzale, CMC
Executive Services Supervisor/District Secretary



TITLE: Affirm No Changes to the Acceptance of Gifts and Gratuity, Drug Free Workplace, Inspections for Prohibited Materials and District Property, Relations, Salary Plan, and Workplace Violence Policies

RECOMMENDATION:

Staff recommends the Board of Directors approve, by Motion, affirmation of no changes to the Acceptance of Gifts and Gratuity, Drug Free Workplace, Inspections for Prohibited Materials and District Property, Relations, Salary Plan, and Workplace Violence policies.

SUMMARY:

The Board of Directors has 61 adopted District policies in the areas of Board Business, General, Operations, Finance Policies, Purchasing, Service, and Personnel Policies. By long-standing practice, the Board reviews each policy once every four years to determine its applicability and continuing usefulness. This ensures that all policies are reviewed at least one time during each Boardmember's term of office. Additionally, it serves as an opportunity for each Boardmember in the first term of office to become acquainted with all the Board policies.

Staff recently completed a review of six Personnel policies scheduled for review in 2019 in accordance with the District's strategic plan initiatives. Staff determined that no changes were found to be needed or applicable at this time for the following Personnel policies:

- Acceptance of Gifts and Gratuity
- Drug Free Workplace
- Inspections for Prohibited Materials and District Property
- Relations
- Salary Plan
- Workplace Violence

A copy of each Personnel policy with no change ("Status Quo") being recommended is attached for review.

Originating Department: Administrative Services	Contact: M. Gallardo	Legal Review: Not Required
Cost: \$0	Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input type="checkbox"/> Staff Report <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	<p>Attachment 1 – Acceptance of Gifts and Gratuity policy Attachment 2 – Drug Free Workplace policy Attachment 3 – Inspections for Prohibited Materials and District Property policy Attachment 4 – Relations policy Attachment 5 – Salary Plan policy Attachment 6 – Workplace Violence policy</p>	



Policy No.: P700-15-1	Type of Policy: Personnel
Policy Title: Acceptance of Gifts and Gratuity	
Policy Description: Prohibits acceptance of gifts and gratuities in excess of established limits in instances where the Fair Political Practices Commission procedures do not apply.	
Approval Date: 9/20/2011	Last Review Date: 2015 <u>2019</u>
Approval Resolution No.: 51-11	Next Review Date: 2019 <u>2023</u>
Rescinded Resolution No.: 59-07	Rescinded Resolution Date: 12/18/2007

It is the policy of the Board of Directors of Dublin San Ramon Services District:

An employee may not receive a gift or gratuity from any individual, organization, or vendor doing business with the District without prior approval from the employee's supervisor. Under no circumstances is a gift or gratuity's estimated aggregate value to be more than one hundred (\$100) dollars. Under no circumstances shall a monetary gift or gratuity be accepted.

For the purpose of this policy, a gift or gratuity is defined as an item or service given or provided to an individual. Gifts and gratuities shall include, but are not limited to meals, food, refreshments, alcoholic beverages, tickets to events, trips, services or the use of equipment or property.

If an employee receives approval to accept a gift or gratuity, the employee shall be encouraged to present and share it with the entire department or group.

In addition, all designated employees required to comply with the California Fair Political Practices Commission shall be further limited to acceptance of gifts, honoraria, and loans in compliance with applicable government codes.

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
September 20, 2011	
Reviewed by Committee or Board:	Date:
Board	June 16, 2015
Board	March 5, 2019



Policy No.:	P700-15-3	Type of Policy:	Personnel
Policy Title: Drug Free Workplace			
Policy Description: Identifies Dublin San Ramon Services District as a Drug Free Workplace.			
Approval Date:	9/20/2011	Last Review Date:	20152019
Approval Resolution No.:	52-11	Next Review Date:	20192023
Rescinded Resolution No.:	72-07	Rescinded Resolution Date:	12/18/2007

It is the policy of the Board of Directors of Dublin San Ramon Services District:

A. All Employees

Dublin San Ramon Services District is committed to protecting the health, well-being, and safety of all employees and others in the workplace from the hazards caused by misuse of drugs or alcohol. Because of the importance of this commitment and the addictive and secretive nature of substance abuse, accomplishing this goal will require the full support of all levels of management and supervision, as well as that of each employee. In furtherance of this goal, and in accordance with State and Federal requirements, the General Manager shall develop comprehensive rules in furtherance of this policy.

The District's Drug Free Workplace policy is applicable to all employees, interns, temporary employees, agents, contractors, and elected officials.

B. Employees Subject to Department of Transportation Regulations

In addition to the District's Drug Free Workplace policy, it is District policy to comply with all requirements pursuant to Regulations issued by the U.S. Department of Transportation. Employees required to possess a Class A or Class B commercial vehicle driver's license by the State of California Department of Motor Vehicles are required to comply with both the terms of the District's Drug Free Workplace policy and the terms of the personnel rules adopted pursuant to Department of Transportation regulations. A copy of the Department of Transportation regulations may be obtained from Human Resources.

The General Manager may provide for exceptions to this policy related to the minimal use of alcoholic beverages for ceremonial purposes (toasts, etc.).

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted
by the Board of Directors.
Status Quo Chronology:

Date Adopted:

Policy No.: P700-15-3

Policy Title: Drug Free Workplace

September 20, 2011	
Reviewed by Committee or Board:	Date:
Board	June 16, 2015
<u>Board</u>	<u>March 5, 2019</u>



Policy

Policy No.: <u>P700-15-4</u>	Type of Policy: Personnel
Policy Title: Inspections for Prohibited Materials and District Property	
Policy Description: The right to inspect and search for prohibited materials and for District property while on District premises in accordance with applicable law.	
Approval Date: 12/18/2007	Last Review Date: <u>20152019</u>
Approval Resolution No.: 61-07	Next Review Date: <u>20192023</u>
Rescinded Resolution No.: 13-97	Rescinded Resolution Date: 2/18/1997

It is the policy of the Board of Directors of Dublin San Ramon Services District:

The District is committed to the maintenance of a workplace free of drugs, alcohol, and other harmful materials which is vital to the health and safety of its employees and to the protection of public services. The District also must protect against the unauthorized removal of District property and to assure its access at all times to District property, records, documents, and files. For these reasons, the District reserves the right to inspect and search for prohibited materials and for District property while on District premises in accordance with applicable law. This policy applies to all employees.

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
December 18, 2007	
Reviewed by Committee or Board:	Date:
Personnel	May 5, 2011
Board	June 16, 2015
Board	<u>March 5, 2019</u>



Policy

Policy No.: P700-15-7	Type of Policy: Personnel
Policy Title: Relations	
Policy Description: Appointment of classified staff with direct relation to an elected official of the District.	
Approval Date: 12/18/2007	Last Review Date: 20152019
Approval Resolution No.: 62-07	Next Review Date: 20192023
Rescinded Resolution No.: 13-97	Rescinded Resolution Date: 2/18/1997

It is the policy of the Board of Directors of Dublin San Ramon Services District:

No person shall be appointed to the District's classified service who is related to an elected official of the District. This policy does not affect those individuals employed by the District at the time an official is elected to office; however, any such individual shall notify the General Manager upon the election of any relative to the Board of Directors.

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
December 18, 2007	
Reviewed by Committee or Board:	Date:
Personnel	May 5, 2011
Board	June 16, 2015
Board	March 5, 2019



Policy

Policy No.: P700-15-8	Type of Policy: Personnel
Policy Title: Salary Plan	
Policy Description: Identifying salary plan covering all classes of position in District employment.	
Approval Date: 11/15/2011	Last Review Date: 2015 <u>2019</u>
Approval Resolution No.: 70-11	Next Review Date: 2019 <u>2023</u>
Rescinded Resolution No.: 77-07	Rescinded Resolution Date: 12/18/2007

It is the policy of the Board of Directors of Dublin San Ramon Services District:

The General Manager shall develop and recommend for Board approval a salary plan covering all classes of positions in District employment. This salary plan shall identify the monthly flat rate of pay or salary range for each class, the effective date of that salary, and the date(s) indicating when the salary was previously revised.

A new appointee shall receive the minimum salary for the class to which the position is allocated. Occasionally, the qualifications of the candidate may dictate that a higher starting salary within the range is justified. Approval for any appointment above the minimum salary range requires approval from the General Manager. In no event may the General Manager establish the salary for a new appointee at a rate that is excess of the maximum salary for the class, as indicated in the salary plan that is approved by the Board.

Whenever a new or revised salary plan is adopted, the new or revised plan shall supersede any prior salary plan adopted by the District. The District shall maintain a record of all salary plans that were superseded for a period of at least five years.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
November 15, 2011	
Reviewed by Committee or Board:	Date:
Board	June 16, 2015
Board	March 5, 2019



Policy No.: P700-15-12	Type of Policy: Personnel
Policy Title: Workplace Violence	
Policy Description: Provide a safe work environment for all employees; regular, part-time, limited-term, intern, temporary, and contract, and elected officials.	
Approval Date: 12/18/2007	Last Review Date: 2015 <u>2019</u>
Approval Resolution No.: 76-07	Next Review Date: 2019 <u>2023</u>
Rescinded Resolution No.: N/A	Rescinded Resolution Date: N/A

It is the policy of the Board of Directors of Dublin San Ramon Services District:

The District is committed to providing a safe work environment that is free of violence and the threat of violence. The District's Workplace Violence policy applies to all regular, part-time, limited-term, temporary and contract employees, interns and elected officials.

The General Manager shall develop comprehensive rules in furtherance of this policy.

Policy is current and no changes need to be adopted by the Board of Directors. <u>Status Quo Chronology:</u>	
Date Adopted:	
December 18, 2007	
Reviewed by Committee or Board:	Date:
Personnel	Sept 8, 2011
Board	June 16, 2015
Board	<u>March 5, 2019</u>



TITLE: Receive a Briefing on the California Public Employees' Retirement System (CalPERS) Actuarial Report for DSRSD and Evaluation on the Pay-down of the Unfunded Actuarial Liability and Provide Direction on Future Unfunded Actuarial Obligations

RECOMMENDATION:

Staff recommends the Board of Directors receive a briefing on the CalPERS Actuarial Report for DSRSD and an evaluation on the pay-down of the District's Unfunded Actuarial Liability (UAL) and provide direction on Future Unfunded Actuarial Obligations.

SUMMARY:

The District contracts with CalPERS to provide pension fund administration. Every year CalPERS completes an actuarial valuation of pension plans to determine, as of the valuation date, the employer's Normal Cost (NC) and Unfunded Actuarial Liability (UAL).

The District is currently budgeted to pay \$632,621 for FYE 2019 towards its existing UAL of \$10.2 million. The District's required annual UAL contribution is expected to increase gradually to \$1.4 million in the years ahead. Staff is recommending increasing voluntary payments to \$1.3 million annually starting in FYE 2020, which could save approximately \$2.2 million in interest costs over time.

If the Board accepts staff recommendations, an increase in CalPERS contribution will be reflected in the draft operating budget for FYE 2020 and FYE 2021, which the Board will review in May.

See the attached staff report for a complete overview of the Unfunded Actuarial Liability and staff recommendations.

Originating Department: Administrative Services	Contact: H. Chen/C. Atwood	Legal Review: Not Required
Cost: \$0	Funding Source: N/A	
Attachments: <input type="checkbox"/> None <input checked="" type="checkbox"/> Staff Report <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	<p>Attachment 1 – 30 year Amortization Schedule and Alternatives – Classic Attachment 2 – 30 year Amortization Schedule and Alternatives - PEPRA</p>	

STAFF REPORT



District Board of Directors
March 5, 2019

Receive a Briefing on the California Public Employees' Retirement System (CalPERS) Actuarial Report for DSRSD and Evaluation on the Pay-down of the Unfunded Actuarial Liability and Provide Direction on Future Unfunded Actuarial Obligations

BACKGROUND

As a key benefit for employees, DSRSD contracts with the California Public Employees Retirement System to provide a defined benefit pension. Public pensions are funded from three sources:

- Contributions by employers
- Contributions by employees
- Investment earnings from the CalPERS portfolio

For each agency and for each employee, the actual percentage for how a retirement pension is funded is different. The CalPERS website gives a statewide average, for illustrative purposes only, of how these three resources fund retirement pensions:

• Employer contributions:	28%
• Employee contributions:	13%
• Investment earnings:	59%

Normal Cost

For each contracted agency, CalPERS annually prepares an actuarial valuation report to determine how much funding is necessary to fund the pension obligation of the service credit that will be earned that fiscal year. This is known as the "normal cost". The valuation report is based on assumptions regarding longevity of staff, estimated final value of pension benefits, and assumed CalPERS investment returns over many years to determine this "normal cost". The normal cost is calculated as a percentage of payroll and is paid as part of the payroll reporting process. For FYE 2019, the percentage of salary is 12.212%, of which 2% (for classic employees) is paid by employees under the terms of negotiated labor memoranda of understanding and personal services agreements. If all the assumptions prove to be accurate, then the amount paid to CalPERS in that year will fully fund the pension obligation for that year of service for all eligible Districts employees. If the estimates and assumptions are accurate every year (over many years), then the pension fund will fully funded at the 100% level.

However, if the investment returns on CalPERS investments are lower than projected, the value of pensions are greater than projected, or if there are other adverse deviations from assumptions, then there will be a shortfall in the pension fund. In this case, an Unfunded Actuarial Liability is created, which the public agency is required to address through an amortization schedule over a period of 20-30 years. The UAL is discussed later in this report.

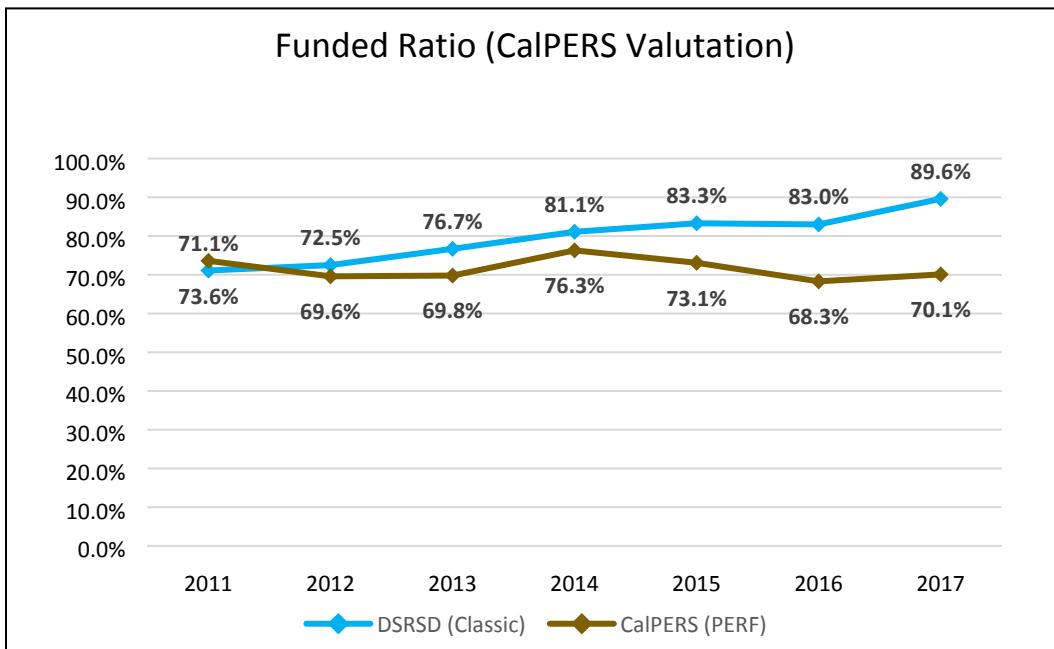
The calculation of the normal cost for each year has an additional level of complexity, because of changes mandated by the Public Employees' Pension Reform Act of 2012, which established a reduced pension formula for new employees not already enrolled in the CalPERS program. Because of the different formula, the required District contribution formula is less for this group of employees. It is also based on the percentage of payroll (6.842% for FYE 2019). The 2012 Act is often referred to by its acronym "PEPRA", and employees who are included in the new program are sometimes referred to as "second tier" beneficiaries. Twenty –two (22) of the District's current employees are enrolled in the PEPRA pension program. The remaining District employees who are enrolled in the original CalPERS program are referred to as "Classic members" or as "first tier" beneficiaries.

The combined FYE 2019 obligation for the District's "classic" normal contributions and "PEPRA" normal contributions is \$1.4 million (based on estimated payroll of \$13.4 million from last year's valuation report). As noted before, this is based on the District paying 10.212% of salary for "classic employees" and 6.842% of salary for "PEPRA" employees. In addition to the District's contribution, classic employee contributions are 10% of salary and PEPRA employees are paying 6.25% of salary.

Unfunded Actuarial Liability (UAL)

If all previous calculations for the annual "normal cost" have been accurate going back to the time when CalPERS pensions were first offered, then the District's pension plan would be fully funded (100% funded). However, because of uncertainty about investment returns, CalPERS has made a number of actuarial changes in recent years. One of the most significant assumption changes is that investment returns (discount rate) will be lower in the future. CalPERS phased in a lower discount rate from 7.50% to 7.0% over three years beginning with the June 30, 2016 actuarial valuation. As assumed investment returns are being lowered, less investment income is expected, which requires local agencies to make up the difference. The larger contributions from the local agencies provides payment towards the UAL to assure sufficient funding is set aside to meet long-term pension obligations. Other factors that affect the UAL calculations such as actual investment returns, earned pension benefit levels, amortization periods, and retiree longevity also have varied from original assumptions. The Unfunded Actuarial Liability is currently amortized over a 20-30 year period, but CalPERS has adopted a new amortization schedule effective June 30, 2019, which will shorten this period to 20 years and revised the 5-year ramp-up and ramp-downs.

The changing assumptions and actual investment performance discussed above results in the District being less than 100% funded over the years. Fortunately, the District has made extra payments in recent years, actual investment returns have been reasonably good, and the funded ratio has continued to improve. Following is a graph showing the funded ratio for the "Classic Members" that comprise a majority of the District's employees, and account for over 99% of the District's UAL. For comparison, the funded ratio for the average public agency in California is approximately 70%. DSRSD has been significantly above this average level for the past few years.



The District's current UAL is \$10.2 million as of July 1, 2017 (Classic: \$10,213,006; PEPRA: \$12,529). This liability arises from services provided in previous years for current employees, separated employees, and retired employees. Per the actuarial valuation report, the minimum FYE 2020 UAL payment for classic employees is \$697,249, and is projected to increase to \$1.4 million by FYE 2025. With interest, total payments are anticipated to be \$21.0 million.

For FYE 2019, the amount the District budgeted for annual payment of the Unfunded Actuarial Liability is \$632,621. The actual contribution will be \$491,436. Thus, it can be seen that the current level of District annual contribution will not be high enough to meet the future obligations that are currently projected to increase to \$1.4 million in five years.

DISCUSSION

The District has made additional payments towards the Unfunded Actuarial Liability in 2015, 2016, and 2017. This has been a primary driver for the District's funded ratio to rise from 81.1% to 89.6% over that time. In order to save on interest costs, as well as to better reflect likely on-going obligations, it may be prudent to make additional contributions above the District's minimum UAL payment that is required by the actuarial valuation report. Per the alternative amortization schedules in the valuation report, if the District pursued an accelerated 15 year amortization schedule, approximately \$2.3 million of interest could be saved compared to the current amortization schedule. Without making any permanent commitments, the District could provide additional contributions to 'pay down' the Unfunded Actuarial Liability early. An approximate level of funding to work towards this target would be an annual contribution of \$1.3 million per year, beginning in FYE 2020, and sustained thereafter for a 15 year period.

Staff is requesting direction from the Board of Directors on what level of funding to include in the proposed budget for FYE 2020 and FYE 2021 to help 'pay down' the Unfunded Actuarial Liability. The Board is anticipated to review the next two year operating budget in May. Staff recommends that for the next two year budget, the number be increased to \$1.3 million. The resulting increase above currently budgeted baseline levels is \$667,379. The proposed increase will be allocated to the District's various funds, and have an impact on those funds as follows:

Fund	Description	% of payroll	% of cost
200 Local Wastewater Operations	12.91%	\$ 86,159	
220 Local Wastewater Expansion	2.54%	16,951	
300 Regional Wastewater Operations	46.41%	309,731	
320 Regional Wastewater Expansion	0.49%	3,270	
600 Water Operations	34.08%	227,443	
620 Water Expansion	3.57%	23,825	
	100.00%	\$ 667,379	

Next Steps

In September of each year, CalPERS issues an annual actuarial valuation report, which provides an update on the outstanding Unfunded Actuarial Liability and an estimate of updated “normal costs” for the upcoming fiscal year. Staff recommends that a review of the Unfunded Actuarial Liability be completed by the Board in the late Fall of each year.

The Board could also set targets for the CalPERS funding level. For example, the Board could adopt a policy that the funding level be increased to a minimum of 95% over 10 years, and never decline below the 90% level. Various policy options, along with the resulting impacts, could be presented for the Board’s consideration this fall.

RECOMMENDATION

Staff recommends that the Board direct staff to:

- Contribute the required amortized Unfunded Actuarial Liability payment in FYE 2019;
- Increase the Unfunded Actuarial Liability payment in FYE 2020 and FYE 2021 to the \$1.3 million level, and reflect this in the draft operating budget;
- Bring a report in the late fall to the Board regarding the Unfunded Actuarial Liability level, and options for establishing a District funding policy.

Amortization Schedule and Alternatives

Date	Current Amortization Schedule		15 Year Amortization		Alternate Schedules		10 Year Amortization	
	Balance	Payment	Balance	Payment	Balance	Payment	Balance	Payment
6/30/2019	11,171,007	697,249	11,171,007	1,015,790	11,171,007	1,385,421		
6/30/2020	11,258,823	798,194	10,928,937	1,044,994	10,546,141	1,425,251		
6/30/2021	11,248,465	923,155	10,639,073	1,075,037	9,834,724	1,466,227		
6/30/2022	11,107,945	1,060,234	10,297,080	1,105,945	9,029,293	1,508,381		
6/30/2023	10,815,276	1,077,520	9,898,284	1,137,741	8,121,813	1,551,747		
6/30/2024	10,483,487	1,108,498	9,437,648	1,170,451	7,103,630	1,596,360		
6/30/2025	10,095,562	1,140,368	8,909,740	1,204,101	5,965,428	1,642,256		
6/30/2026	9,646,507	1,173,153	8,308,710	1,238,719	4,697,176	1,689,470		
6/30/2027	9,130,943	1,206,881	7,628,255	1,274,332	3,288,079	1,738,043		
6/30/2028	8,543,071	1,241,579	6,861,585	1,310,969	1,726,520	1,788,011		
6/30/2029	7,876,645	1,277,275	6,001,389	1,348,660				
6/30/2030	7,124,936	1,313,996	5,039,797	1,387,434				
6/30/2031	6,280,698	1,351,774	3,968,334	1,427,322				
6/30/2032	5,336,131	1,273,374	2,777,881	1,468,358				
6/30/2033	4,404,274	1,189,350	1,458,623	1,510,573				
6/30/2034	3,491,875	1,047,869						
6/30/2035	2,659,846	836,632						
6/30/2036	1,986,256	612,382						
6/30/2037	1,496,067	509,663						
6/30/2038	1,076,717	400,531						
6/30/2039	739,983	344,127						
6/30/2040	437,248	354,021						
6/30/2041	102,318	105,963						
6/30/2042								
6/30/2043								
6/30/2044								
6/30/2045								
6/30/2046								
6/30/2047								
6/30/2048								
Totals	21,043,787		18,720,424		15,791,168			
Interest Paid	9,872,780		7,549,418		4,620,162			
Estimated Savings			2,323,363		5,252,619			

* This schedule does not reflect the impact of adopted discount rate changes that will become effective beyond June 30, 2017. For Projected Employer Contributions, please see page 5.

Amortization Schedule and Alternatives

Date	Current Amortization Schedule		15 Year Amortization		10 Year Amortization		<u>Alternate Schedules</u>
	Balance	Payment	Balance	Payment	Balance	Payment	
6/30/2019	26,783	1,616	26,783	2,435	26,783	3,322	
6/30/2020	27,051	2,125	26,203	2,505	25,285	3,417	
6/30/2021	26,812	2,662	25,508	2,577	23,579	3,515	
6/30/2022	25,999	2,263	24,688	2,652	21,648	3,616	
6/30/2023	25,540	2,518	23,732	2,728	19,473	3,720	
6/30/2024	24,784	2,590	22,627	2,806	17,031	3,827	
6/30/2025	23,898	2,665	21,362	2,887	14,302	3,937	
6/30/2026	22,871	2,742	19,921	2,970	11,262	4,051	
6/30/2027	21,690	2,820	18,289	3,055	7,883	4,167	
6/30/2028	20,342	2,901	16,451	3,143	4,139	4,287	
6/30/2029	18,812	2,985	14,389	3,234			
6/30/2030	17,085	3,071	12,083	3,326			
6/30/2031	15,143	3,159	9,514	3,422			
6/30/2032	12,970	3,250	6,660	3,520			
6/30/2033	10,545	3,343	3,497	3,622			
6/30/2034	7,847	3,177					
6/30/2035	5,126	2,563					
6/30/2036	2,843	1,910					
6/30/2037	1,071	1,109					
6/30/2038							
6/30/2039							
6/30/2040							
6/30/2041							
6/30/2042							
6/30/2043							
6/30/2044							
6/30/2045							
6/30/2046							
6/30/2047							
6/30/2048							
Totals	49,469		44,883		37,860		
Interest Paid	22,686		18,100		11,077		
Estimated Savings			4,586		11,609		

* This schedule does not reflect the impact of adopted discount rate changes that will become effective beyond June 30, 2017. For Projected Employer Contributions, please see page 5.



TITLE: Approve Budget Increase to the Capital Improvement Program Two-Year Budget for Fiscal Years Ending 2018 and 2019 for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004), Award Construction Agreement to Anderson Pacific Engineering Construction, Inc., Authorize a Construction Change Order Contingency, and Authorize Execution of Task Order No. 3 with West Yost and Associates for Engineering Services during Construction

RECOMMENDATION:

Staff recommends the Board of Directors approve, by two (2) separate Resolutions the following actions:

1. A budget increase to the Capital Improvement Program Two-Year Budget for Fiscal Years Ending 2018 and 2019 to increase the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) budget by \$9,000,000, from \$10,000,000 to \$19,000,000,
2. Award a construction agreement for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) to Anderson Pacific Engineering Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$12,997,750, and
3. Authorize a construction change order contingency not to exceed \$975,000.

Staff also recommends the Board of Directors authorize, by Motion, the execution of Task Order No. 3 with West Yost and Associates, for engineering services during construction for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) in an amount not to exceed \$997,000.

SUMMARY:

The Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) (Project) will improve primary treatment capacity at the wastewater treatment plant (Plant). Currently, there are three grit tanks that feed into four primary sedimentation basins at the Plant. The Wastewater Treatment Plant and Biosolids Master Plan (Master Plan) dated September 2017, indicated that the primary sedimentation basins are undersized for the current average dry weather flow. Insufficient primary treatment capacity overburdens the aeration basins and secondary clarifiers leading to higher energy costs and difficulties in controlling the secondary effluent water quality. The Master Plan recommended reviewing the existing grit and primary tanks performance to determine the capacity needed to treat current and future flows.

Testing completed during design revealed that the existing grit tanks received greater loads than is typical at most treatment plants and that the grit removal rate is below industry standard. The testing also confirmed that the existing primaries were performing poorly, and that in addition to the primaries expansion, modifications to internal mechanisms and launders would improve overall performance. Several collaborative meetings were held between District staff and West Yost Associates (WYA), and the consensus for improving primary treatment capacity were to: (1) expand the primaries by adding one new deeper primary tank (tank #5), (2) demolish and deepen the oldest existing primary tank (tank #1), (3) update and modify the interior mechanisms and launders of existing primary tanks #2-4, and (4) add a new grit tank #4. The changes will provide a higher efficiency removal rate to the primaries, improve overall grit removal, assist in better influent flow split, increase capacity of the grit tanks and primaries needed for ultimate build out, reduce solids washout during a large storm event, and provide a smaller construction footprint that would avoid encroaching on the adjacent access road and storage basin. This will be the largest capital project to be built by the District since the Stage IV Wastewater Treatment Plant Expansion in 2000.

Additional information on the recommended award of the project construction contract, project budget adjustment, and requested change order contingency as well as the recommended task order for engineering services during construction is provided in the staff report.

Originating Department: Engineering Services	Contact: S. Delight	Legal Review: Not Required
Cost: \$12,997,750 – Construction Contract \$997,000 – Engineering Services during Construction	Funding Source: Regional Wastewater Replacement (Fund 310) - 15% Regional Wastewater Expansion (Fund 320) - 85%	
Attachments: <input type="checkbox"/> None <input checked="" type="checkbox"/> Staff Report <input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input checked="" type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input checked="" type="checkbox"/> Other (see list on right)	Attachment 1 – Bid Results	25 of 52

STAFF REPORT



District Board of Directors
March 5, 2019

Approve Budget Increase to the Capital Improvement Program Two-Year Budget for Fiscal Years Ending 2018 and 2019 for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004), Award Construction Agreement to Anderson Pacific Engineering Construction, Inc., Authorize a Construction Change Order Contingency, and Authorize Execution of Task Order No. 3 with West Yost and Associates for Engineering Services during Construction

DISCUSSION

The Primary Sedimentation Expansion and Improvements (CIP 17-P004) (Project) will improve primary treatment capacity at the wastewater treatment plant (Plant). Currently, there are three grit tanks that feed into four primary sedimentation basins at the Plant. The Wastewater Treatment Plant and Biosolids Master Plan (Master Plan) dated September 2017, indicated that the primary sedimentation basins are undersized for the current average dry weather flow. Insufficient primary treatment capacity overburdens the aeration basins and secondary clarifiers leading to higher energy costs and difficulties in controlling the secondary effluent water quality. The Master Plan recommended reviewing the existing grit and primary tanks performance to determine the capacity needed to treat current and future flows.

Testing completed during design revealed that the existing grit tanks received greater loads than is typical at most treatment plants and the grit removal rate is below industry standard. The testing also confirmed that the existing primaries were performing poorly, and that in addition to the primaries expansion, modifications to internal mechanisms and launders would improve overall performance. Several collaborative meetings were held between District staff and West Yost Associates (WYA), and the consensus for improving primary treatment capacity was to: (1) expand the primaries by adding one new deeper primary tank (tank #5), (2) demolish and deepen the oldest existing primary tank (tank #1), (3) update and modify the interior mechanisms and launders of existing primary tanks #2-4, and (4) add a new grit tank #4. The changes will provide a higher efficiency removal rate to the primaries, improve overall grit removal, assist in better influent flow split, increase capacity of the grit tanks and primaries needed for ultimate build out, reduce solids washout during a large storm event, and would provide a smaller construction footprint that would avoid encroaching on the adjacent access road and storage basin. This will be the largest capital project to be built by the District since the Stage IV Wastewater Treatment Plant Expansion in 2000. A photo of the primary sedimentation basins is provided below. The basin shown in the right side of the photo will be replaced and an additional new basin will be constructed adjacent to it.



Budget Increase

Given the expansion of the project scope described above, the total project cost is now estimated to be \$19 million as opposed to the original budget of \$10 million. Throughout the design process, staff anticipated the increase in cost. In June 2018, staff briefed the Board on the revised project scope and indicated the budget would need to be adjusted but suggested adjusting the budget at project award when the project costs would be more accurate.

The project funding is split with 85% funded from the Regional Wastewater Expansion Fund and 15% from the Regional Wastewater Replacement Fund. In anticipation of the increased project cost, staff used an estimated total project cost of \$21 million in the recent Regional Capacity Fee Study to assure the capacity fees would cover the Regional Wastewater Expansion Fund component of the project cost. The Regional Wastewater Expansion and Replacement Funds are projected to have sufficient funding for the expanded project scope. As of the end of the second quarter of FYE 2019, the Regional Expansion Fund (320) had a working capital of \$52.8 million. The Regional Replacement and Improvement Fund (310) had a working capital of \$27.2 million.

Award Construction Agreement and Approve Change Order Contingency

Staff recommends the Board award the construction contract for the Project to Anderson Pacific Engineering Construction, Inc. The bid period for the Project began on December 18, 2018 and four bids were received on February 12, 2019. The engineer's construction cost estimate for the base bid was \$17,000,000. The apparent low bid was received from Anderson Pacific Engineering Construction, Inc. in the amount of \$12,997,750. The next two low bids were within 2.6% of the lowest bid. The low bid provided by Anderson Pacific Engineering Construction, Inc. contained no irregularities. The contract time for the Project is 925 calendar days and is estimated to be completed by the end of October 2021.

Because the Project location is adjacent to numerous existing utilities and process piping, and involves deep excavations and complex shoring, staff requests the Board authorize a construction change order contingency of \$975,000, approximately 7.5% of the bid amount.

Task Order for Engineering Services during Construction

West Yost and Associates (WYA), the firm that designed the Project, provided a proposal for engineering services during construction. As the engineer of record for the Project, they are responsible for confirming that materials and products proposed for use on the Project conform to the Project documents. WYA has provided a detailed scope of work for the three year duration of the Project. Staff recommends the Board authorize the General Manager to execute Task Order No. 3 with WYA for engineering services during construction for the Project in an amount not to exceed \$997,000.

California Environmental Quality Act

Staff has evaluated the proposed project and concluded that this project falls within the analysis contained in the Dublin San Ramon Services District Wastewater Treatment Plant Improvements Project Initial Study/Mitigated Negative Declaration adopted by the District board on August 17, 1999 by Resolution #53-99 to cover improvements to the Plant. The 1999 CEQA document evaluated treatment of an estimated 17 million gallons per day of wastewater. The actual amount of wastewater necessary for 2035 build out is less than the amount predicted in the Initial Study/ Mitigated Negative Declaration prepared in 1999; therefore, the proposed project would not increase capacity of treated wastewater. The District also concluded that compliance with CEQA for the Primary Clarifier Replacement and Expansion project is most appropriately accomplished through the preparation of a Notice of Determination per CEQA guideline 15075 (a). The Notice of Determination was filed on October 4, 2018.

Recommendation:

Staff recommends the Board of Directors approve, by two (2) separate Resolutions the following actions:

1. A budget increase to the Capital Improvement Program Two-Year Budget for Fiscal Years Ending 2018 and 2019 to increase the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) budget by \$9,000,000, from \$10,000,000 to \$19,000,000,
2. Award a construction agreement for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) to Anderson Pacific Engineering Construction, Inc., the lowest responsive, responsible bidder, in the amount of \$12,997,750, and
3. Authorize a construction change order contingency not to exceed \$975,000.

Staff also recommends the Board of Directors authorize, by Motion, the execution of Task Order No. 3 with West Yost and Associates, for engineering services during construction for the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) in an amount not to exceed \$997,000.



**Dublin San Ramon
Services District**

Water, wastewater, recycled water

**Results of Bid Opening for
Primary Sedimentation Expansion and Improvements (CIP 17-P004)
Tuesday, February 12, 2019 @ 2 p.m.**

Engineer's Estimate:	\$ 17,000,000
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No.	Name of Bidder, City, State	Bid Amount
1	Anderson Pacific Engineering Construction, Inc., Santa Clara, CA	\$ 12,997,750
2	GSE Construction Company, Inc., Livermore, CA	\$ 13,238,200
3	Mountain Cascade Inc., Livermore, CA	\$ 13,337,200
4	Myers and Sons Construction, LLC, Sacramento, CA	\$ 14,345,500

Contractor/Subcontractor	Contractor License No.	Location	Trade	Amount of Work to be Performed
Anderson Pacific Engineering Construction, Inc.				
James Long Construction Service	821827	Sacramento, CA	HVAC	\$ 181,000
Mission City Rebar	273978	Livermore, CA	Rebar	\$ 421,000
WC Maloney	718243	Stockton, CA	Demolition	\$ 165,000
Murphy Industrial Coating	310594	Signal Hill, CA	Painting & Concrete Repairs	\$ 724,850
GSE Construction Company, Inc.				
MCR	273978	Livermore, CA	Rebar	\$ 421,554
W.C. Maloney Inc.	718243	Stockton, CA	Demo	\$ 165,000
Murphy Industrial Coatings	310594	Tracy, CA	Coating	\$ 731,844
Blue Iron	1009464	CA	Shoring	\$ 115,000
James Long Construction	821827	Sacramento, CA	HVAC	\$ 172,000
Central Sierra Electric	434207	Jackson, CA	Electrical	\$ 2,000,000
Mountain Cascade Inc.				
WC Maloney	718243	Stockton, CA	Demolition	\$ 165,000
Rand W Concrete Contractors Inc.	306552	San Carlos, CA	Concrete	\$ 1,175,000
Mission City Rebar Inc.	273978	Pleasanton, CA	Rebar	\$ 406,349
Foundation Constructors Inc.	270761A	Oakley, CA	Sheet Pile Installation	\$ 106,550
James Long Construction	821827	Sacramento, CA	HVAC	\$ 190,000
Murphy Industrial Coatings	310594	Signal Hill, CA	Paintings and Coatings	\$ 731,844
Central Sierra Electric	434207	Jackson, CA	Electrical	\$ 2,347,000
Myers and Sons Construction, LLC				
James Long Construction Services, Inc.	821827	Sacramento, CA	HVAC & FRP	\$ 181,000
Blue Iron	1009464	CA	Sheet Pile	\$ 75,000
Duran & Venables	375068	Milpitas, CA	AC Paving & Slurry Seal	\$ 68,900
CMC Commercial Metals	778010	Tracy, CA	Rebar	\$ 436,028
Murphy Industrial Coating	310594	Signal Hill, CA	Painting	\$ 731,884
Central Sierra Electric	434207	Jackson, CA	Electrical	\$ 2,347,000

RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT APPROVING AN ADJUSTMENT TO THE CAPITAL IMPROVEMENT PROGRAM TWO-YEAR BUDGET FOR FISCAL YEARS ENDING 2018 AND 2019 TO INCREASE THE PROJECT BUDGET FOR THE PRIMARY SEDIMENTATION EXPANSION AND IMPROVEMENTS PROJECT (CIP 17-P004)

WHEREAS, the Board of Directors adopted the current Capital Improvement Program (CIP) Two-Year Budget for Fiscal Years Ending 2018 and 2019 ("CIP Budget") on June 6, 2017, authorizing project and fund budgets to meet the District's capital infrastructure needs; and

WHEREAS, the CIP Budget included the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) ("Project") with a budget of \$10,000,000; and

WHEREAS, in June 2018, staff presented to the Board that the engineer's estimate for the Project was greater than what was in the approved budget and informed the Board that a formal budget adjustment would be requested at construction contract award; and

WHEREAS, staff recommends adjusting the CIP Budget by increasing the Project budget by \$9,000,000, from \$10,000,000 to \$19,000,000.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT, a public agency located in the Counties of Alameda and Contra Costa, California, that the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) project budget increase from \$10,000,000 to \$19,000,000 is hereby approved and incorporated into the CIP Two-Year Budget for Fiscal Years Ending 2018 and 2019 in accordance with the project description sheet (Exhibit A).

ADOPTED by the Board of Directors of Dublin San Ramon Services District, a public agency in the State of California, Counties of Alameda and Contra Costa, at its regular meeting held on the 5th day of March, 2019, and passed by the following vote:

AYES:

NOES:

ABSENT:

Madelyne A. Misheloff, President

ATTEST: _____
Nicole Genzale, District Secretary

DSRSD CIP 10-Year Plan for FYEs 2018 through 2027

CATEGORY: RESOURCE RECOVERY FACILITIES

Regional Wastewater Expansion (Fund 320)

CIP No. 17-P004 Primary Sedimentation Expansion and Improvements

Funding Allocation: 85% 320 15% 310

Project Manager: Jackie Yee

Status: Continuing Project

Project Summary:

This project will construct one new primary sedimentation tank and partially demolish and replace one of the existing primary sedimentation tanks at the Regional Wastewater Treatment Facility (RWTF). The project will also add an additional grit tank, replace internal mechanisms in the three remaining primary sedimentation tanks, and replace the motor control center. The primary treatment capacity is undersized for the facility's current average dry weather flow. Insufficient primary treatment capacity overburdens the aeration basins and secondary clarifiers leading to higher energy costs and more difficulties in controlling the secondary effluent water quality. The additional primary sedimentation tank will provide the treatment capacity needed for current and buildout flows.

CEQA: Initial Study/Mitigated Negative Declaration

Reference: 2017 WWTP and Biosolids Master Plan

Fund Allocation Basis: Based on ratio of WWTP flow at which project was estimated to be required to WWTP buildout flow per the 2007 WWTP Master Plan Update

10-Year Cash Flow and Estimated Project Cost:

Prior	FYE 18	FYE 19	FYE 20	FYE 21	FYE 22	FYE 23	FYE 24	FYE 25	FYE 26	FYE 27	Future
29,371	887,633	1,422,996	7,330,000	7,330,000	2,000,000	0	0	0	0	0	0

Total Estimated Project Cost **\$19,000,000**

Current Adopted Budget **\$10,000,000**

Increase/(Decrease) **\$9,000,000**



RESOLUTION NO. _____

RESOLUTION OF THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT APPROVING AN AGREEMENT WITH ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC. FOR CONSTRUCTION OF THE PRIMARY SEDIMENTATION EXPANSION AND IMPROVEMENTS PROJECT (CIP 17-P004)

WHEREAS, the Board of Directors adopted the current Capital Improvement Program (CIP) Two-Year Budget for Fiscal Years Ending 2018 and 2019 ("CIP Budget") on June 6, 2017, authorizing project and fund budgets to meet the District's capital infrastructure needs; and

WHEREAS, the CIP Budget included the Primary Sedimentation Expansion and Improvements Project (CIP 17-P004) ("Project") in order to serve current and future customers; and

WHEREAS, the Project will improve operational reliability and efficiency of the regional wastewater treatment plant; and

WHEREAS, on December 18, 2018, the District Secretary advertised for bids in accordance with the District's Purchasing policy for the Project, resulting in four bids received for the performance of said work; and

WHEREAS, Anderson Pacific Engineering Construction, Inc. is the lowest responsive, responsible bidder, and it is the intention and desire of this Board to accept said bid of Twelve Million Nine Hundred Ninety-Seven Thousand Seven Hundred Fifty Dollars (\$12,997,750); and

WHEREAS, staff has evaluated the proposed project and concluded that this Project falls within the analysis contained in the Dublin San Ramon Services District Wastewater Treatment Plant Improvements Project Initial Study/Mitigated Negative Declaration adopted by the District Board on August 17, 1999, by Resolution No. 53-99 to cover improvements to the wastewater treatment plant; and

WHEREAS, a Notice of Determination per California Environmental Quality Act (CEQA) guideline 15075 (a) was filed on October 4, 2018.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF DUBLIN SAN RAMON SERVICES DISTRICT, a public agency located in the Counties of Alameda and Contra Costa, California, as follows:

1. The bid of Anderson Pacific Engineering Construction, Inc. in the amount of \$12,997,750 is hereby selected for said work.
2. That certain agreement titled "Agreement for the Construction of the Primary Sedimentation Expansion and Improvements (CIP 17-P004)" (Exhibit A), by and between Dublin San Ramon

Res. No. _____

Services District, a California public agency, and Anderson Pacific Engineering Construction, Inc. is hereby approved, and the General Manager and District Secretary are hereby authorized and directed to execute, and to attest thereto respectfully, said agreement for and on behalf of the Dublin San Ramon Services District.

3. The General Manager is authorized to approve construction change orders for the Project in an amount not to exceed \$975,000.
4. The District Secretary is hereby authorized and directed to return to all unsuccessful bidders, and to the successful bidder upon execution by it of the aforementioned agreement, all securities guaranteeing execution of the Agreement upon award.

ADOPTED by the Board of Directors of Dublin San Ramon Services District, a public agency in the State of California, Counties of Alameda and Contra Costa, at its regular meeting held on the 5th day of March, 2019, and passed by the following vote:

AYES:

NOES:

ABSENT:

Madelyne A. Misheloff, President

ATTEST: _____
Nicole Genzale, District Secretary

SECTION 00500

AGREEMENT FOR THE CONSTRUCTION OF

PRIMARY SEDIMENTATION EXPANSION AND IMPROVEMENTS (CIP 17-P004)

THIS AGREEMENT, made and concluded, in duplicate, this _____ day of _____, 20____, between the Dublin San Ramon Services District ("District"), Dublin, California, and **Anderson Pacific Engineering Construction, Inc., 1390 Norman Avenue, Santa Clara, CA 95054, (408) 970-9900** ("Contractor").

WITNESSETH:

1. That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the District, and under the conditions expressed in the two bonds, bearing even date with these presents, and hereunto annexed, the Contractor agrees with the District, at his/her own proper cost and expense, to do all the work and furnish all the materials necessary to construct and complete in good workmanlike and substantial manner the project entitled: **Primary Sedimentation Expansion and Improvements (CIP 17-P004)** in strict conformity with the Contract Documents (collectively defined in Section 01090-2.0), prepared therefor, which said plans and specifications are hereby specially referred to and by said reference made a part hereof.
2. Now, therefore, in consideration of the mutual covenants and agreements of the parties herein contained and to be performed, the Contractor hereby agrees to complete the work in accordance with the terms and conditions stipulated in the Contract Documents for the sum of **Twelve Million Nine Hundred Ninety-Seven Thousand Seven Hundred Fifty Dollars (\$12,997,750)** computed in accordance with Contractor's accepted proposal dated **February 12, 2019** which accepted proposal is incorporated herein by reference thereto as if herein fully set forth. Compensation shall be based upon any lump sum bid items plus the unit prices stated in the Bid Schedule times the actual quantities or units of work and materials performed or furnished. The further terms, conditions, and covenants of this Agreement are set forth in the Contract Documents, each of which is by this reference made a part hereof. Payments are to be made to the Contractor in accordance with the provisions of the Contract Documents in legally executed and regularly issued warrants of the District, drawn on the appropriate fund or funds as required by law and order of the District thereof.
3. The District hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.
4. The Contractor and any subcontractor performing or contracting any work shall comply with all applicable provisions of the California Labor Code for all workers, laborers and mechanics of all crafts, classifications or types, including, but not limited to the following:

(a) The Contractor shall comply with all applicable provisions of Section 1810 to 1815, inclusive, of the California Labor Code relating to working hours. The Contractor shall, as a penalty to the District, forfeit the sum of twenty-five dollars (\$25) for each worker employed in the execution of the Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week, unless such worker receives compensation for all hours worked in excess of eight (8) hours at not less than 1-1/2 times the basic rate of pay.

(b) Pursuant to the provision of California Labor Code, Sections 1770 et. seq., the Contractor and any subcontractor under him shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Pursuant to the provisions of California Labor Code Section 1773.2, the Contractor is hereby advised that copies of the prevailing rate of per diem wages and a general prevailing rate for holidays, Saturdays and Sundays and overtime work in the locality in which the work is to be performed for each craft, classification, or type of worker required to execute the Contract, are on file in the office of the District, which copies shall be made available to any interested party on request. The Contractor shall post a copy of said prevailing rate of per diem wages at each job site.

(c) As required by Section 1773.1 of the California Labor Code, the Contractor shall pay travel and subsistence payments to each worker needed to execute the Work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with this Section.

(d) To establish such travel and subsistence payments, the representative of any craft, classification, or type of workman needed to execute the contracts shall file with the Department of Industrial Relations fully executed copies of collective bargaining agreements for the particular craft, classification or type of work involved. Such agreements shall be filed within ten (10) days after their execution and thereafter shall establish such travel and subsistence payments whenever filed thirty (30) days prior to the call for bids.

(e) The Contractor shall comply with the provisions of Section 1775 of the California Labor Code and shall, as a penalty to the District, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages for each craft, classification, or type of worker needed to execute the Contract. The Contractor shall pay each worker an amount equal to the difference between the prevailing wage rates and the amount paid worker for each calendar day or portion thereof for which a worker was paid less than the prevailing wage rate.

(f) As required under the provisions of Section 1776 of the California Labor Code, Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Said payroll shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in Paragraph 4(f), herein, shall be made available for inspection or furnished upon request to the District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in Paragraph 4(f), herein, shall be made available upon request by the public for inspection or for copies thereof; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to subparagraph 4(f)(2) herein, the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal offices of the Contractor.

The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

Each Contractor shall file a certified copy of the records, enumerated in Paragraph 4(f) with the entity that requested the records within ten (10) days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the Contractor awarded the Contract or performing the Contract shall not be marked or obliterated. The Contractor shall inform the District of the location of the records enumerated under Paragraph 4(f) including the street address, city and county, and shall, within five (5) working days, provide a notice of change of location and address. The Contractor shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects the Contractor must comply with this Paragraph 4(f). In the event that the Contractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or the District, forfeit twenty-five dollars (\$25.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Responsibility for compliance with Paragraph 4(f) lies with the Contractor.

(g) The Contractor and any subcontractors shall, when they employ any person in any apprenticeable craft or trade, apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the construction site for a certificate approving the Contractor or subcontractor under the apprenticeship standards for

the employment and training of apprentices in the area or industry affected; and shall comply with all other requirements of Section 1777.5 of the California Labor Code. The responsibility of compliance with California Labor Code Section 1777.5 during the performance of this Contract rests with the Contractor. Pursuant to California Labor Code Section 1777.7, in the event the Contractor willfully fails to comply with the provisions of California Labor Code Section 1777.5, the Contractor shall be denied the right to bid on any public works contract for up to three (3) years from the date noncompliance is determined and be assessed civil penalties.

(h) In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860), and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the California Labor Code, the Contractor is required to secure the payment of compensation to its employees and for that purpose obtain and keep in effect adequate Workers' Compensation Insurance. If the Contractor, in the sole discretion of the District satisfies the District of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, the Contractor may so act, and in such case, the insurance required by this paragraph need not be provided.

The Contractor is advised of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and shall comply with such provisions and have Employer's Liability Limits of \$1,000,000 per accident before commencing the performance of the Work of this Contract.

The Notice to Proceed with the Work under this Contract will not be issued, and the Contractor shall not commence work, until the Contractor submits written evidence that it has obtained full Workers' Compensation Insurance coverage for all persons whom it employs or may employ in carrying out the Work under this Contract. This insurance shall be in accordance with the requirements of the most current and applicable state Workers' Compensation Insurance Laws. In accordance with the provisions of Section 1861 of the California Labor Code, the Contractor in signing this Agreement certifies to the District as true the following statement: "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the Work of this Contract."

A subcontractor is not allowed to commence work on the project until verification of Workers' Compensation Insurance coverage has been obtained and verified by the Contractor and submitted to the Construction Manager for the District's review and records.

(i) In accordance with the provisions of Section 1727 of the California Labor Code, the District, before making payment to the Contractor of money due under a contract for public works, shall withhold and retain therefrom all wages and penalties which have been forfeited pursuant to any stipulation in the Contract, and the terms of Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). But no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Standards Enforcement or by the District.

5. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this Agreement and the Bid Proposal of said Contractor, then this Agreement shall control, and nothing herein contained shall be considered as an acceptance of the said terms of said Proposal conflicting herewith.

6. The Contractor agrees to provide and maintain insurance coverage, and to indemnify and save harmless the parties named and in the manner set forth in Section 00800-2.0, **LIABILITY & INSURANCE**.

The duty of Contractor to indemnify and save harmless, as set forth herein, shall include a duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein shall be construed to require Contractor to indemnify against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

7. The Contractor shall diligently prosecute the Work so that it shall be substantially completed within the time specified in Section 00800-1.1, Time Allowed for Completion.

8. Except as otherwise may be provided in other provisions of the Contract Documents, Contractor hereby expressly guarantees for one (1) full year from the date of the Substantial Completion of the Work under this Agreement and acceptance thereof by the District, to repair or replace any part of the Work performed hereunder which constitutes a defect resulting from the use of inferior or defective materials, equipment or workmanship. If, within said period, any repairs or replacements in connection with the Work are, in the opinion of the District, rendered necessary as the result of the use of inferior or defective materials, equipment or workmanship, Contractor agrees, upon receipt of notice from District, and without expense to District, to promptly repair or replace such material or workmanship and/or correct any and all defects therein. If Contractor, after such notice, fails to proceed promptly to comply with the terms of this guarantee, District may perform the work necessary to effectuate such correction and recover the cost thereof from the Contractor and/or its sureties.

In special circumstances where a particular item of work or equipment is placed in continuous service before Substantial Completion of the Work, the correction period for that item may start to run from an earlier date. This date shall be agreed upon by the Contractor and District on or before the item is placed in continuous service.

Any and all other special guarantees which may be applicable to definite parts of the Work under this Agreement shall be considered as an additional guarantee and shall not reduce or limit the guarantee as provided by Contractor pursuant to this paragraph during the first year of the life of such guarantee.

9. The Contractor shall provide, on the execution of this Agreement, a good and sufficient corporate surety bond in the penal sum of one hundred percent (100%) of amount bid, which bond shall be on the form provided by the District in Section 00610, **BOND OF FAITHFUL PERFORMANCE**, and be conditioned upon the faithful performance of all work required to be performed by the Contractor under this Agreement. Said bond shall be liable for any and all penalties and obligations which may be incurred by Contractor under this Agreement. The corporate surety bond shall be issued by a corporate surety approved by the District's counsel. The corporate surety shall be authorized to conduct business in California. At its discretion, the District may request that a certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner of the State of California

be submitted by the Surety to the District. At its discretion, the District may also require the insurer to provide copies of its most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10 (commencing with Section 900) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

10. In addition to the bond required under Paragraph 9, hereof, Contractor shall furnish a good and sufficient corporate surety bond in the penal sum of one hundred percent (100%) of amount of Bid, which bond shall be on the form provided by the District in Section 00620, **PAYMENT BOND**, and conform strictly with the provisions of Chapter 7, Title 15, Part 4, Division 3, of the Civil Code of the State of California, and all amendments thereto. The corporate surety bond shall be issued by a corporate surety approved by the District's counsel. The corporate Surety shall be authorized to conduct business in California. At its discretion, the District may request that a certified copy of the certificate of authority of the insurer issued by the Insurance Commissioner of the State of California be submitted by the Surety to the District. At its discretion, the District may also require the insurer to provide copies of its most recent annual statement and quarterly statement filed with the Department of Insurance pursuant to Article 10 (commencing with Section 900) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

11. The Contractor may substitute securities for the amounts retained by the District to ensure performance of the work in accordance with the provisions of Section 22300 of the Public Contract Code.

12. Contractor covenants that Contractor is licensed in accordance with the provisions of the Contractors' License Law of California as provided in Section 00010, **NOTICE INVITING BIDS**.

13. The Contractor shall be provided the time period specified in Section 01340-2.0, **MATERIAL AND EQUIPMENT SUBSTITUTIONS**, for submission of data substantiating a request for a substitution of an "or equal" item.

14. As required by Section 6705 of the California Labor Code and in addition thereto, whenever work under the Contract involves the excavation of any trench or trenches five (5) feet or more in depth, the Contractor shall submit in advance of excavations, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders of the Division of Industrial Safety in Title 8, Subchapter 4, Article 6, California Code of Regulations, the plan shall be prepared by a registered civil or structural engineer employed by the Contractor, and all costs therefore shall be included in the price named in the Contract for completion of the Work as set forth in the Contract Documents. Nothing in this Section shall be deemed to allow the use of a shoring, sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this Section shall be construed to impose tort liability on the District, the Design Consultant, Construction Manager nor any of their agents, consultants, or employees. The District's review of the Contractor's excavation plan is only for general conformance to the California Construction Safety Orders.

Prior to commencing any excavation, the Contractor shall designate in writing to the Construction Manager the "competent person(s)" with the authority and responsibilities designated in the Construction Safety Orders.

15. In accordance with Section 7104 of the Public Contract Code, whenever any work involves digging trenches or other excavations that extend deeper than four (4) feet below the surface, the provisions of Section 00700-7.2, Differing Site Conditions, shall apply.

16. In accordance with Section 7103.5 of the Public Contract Code, the Contractor and subcontractors shall conform to the following requirements. In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act [Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code], arising from purchases of goods, materials or services pursuant to this Contract or the subcontract. Such assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the parties.

17. In accordance with Section 4552 of the Government Code, the Contractor shall conform to the following requirements. In submitting a Bid to the District, the Contractor offers and agrees that if the Bid is accepted, it will assign to the District all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act [Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code], arising from purchase of goods, materials, or services by the Contractor for sale to the District pursuant to the Bid. Such assignment shall be made and become effective at the time the Authority tenders final payment to the Contractor.

18. Pursuant to Public Contract Code Section 7100, the acceptance by the Contractor of an undisputed payment made under the terms of the Contract shall operate as, and shall be, a release to the District, and their duly authorized agents, from all claim of and/or liability to the Contractor arising by virtue of the contract related to those amounts. Disputed contract claims in stated amounts may be specifically excluded by the Contractor from the operation of the release.

19. In accordance with California Business and Professions Code Section 7030, the Contractor is required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years of the date of the alleged violation. Any questions concerning the Contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date first set forth above.

CONTRACTOR

By: _____

Title: _____

Dublin San Ramon Services District

By: _____
Daniel McIntyre, General Manager

ATTEST:

Nicole Genzale, District Secretary

*** END OF SECTION ***

00500-8

West Yost Associates
Task Order No. 3 to Agreement No. A17-15 dated 7/11/2017
Agreement Expiry Date: 12/31/2020

Issue Date: 3/5/2019
Project Name and Number: Primary Sedimentation Expansion and Improvements (17-P004)
Task Title: Engineering Services During Construction
Project Manager Name and Signature: Steve Delight _____
Source of Funds: Regional Wastewater Expansion (Fund 320)
Account Number: 17-P004.conmgt.cip
Authorization Amount: \$997,000.00
Original PO Amount: \$0.00
Increase PO Amount: \$0.00
New PO Amount: \$0.00
Purchase Order Number: TBD
Return Purchase Order to: Evita Schnupp
Compensation Method: Time and materials as per Agreement
Completion Date: 9/30/2022
Insurance Requirements: As per Agreement; no special requirements
Work Product: See Attachment "A"
Digital Drawings, if applicable: Digital files shall be in AutoCAD 2010 or higher drawing format. Drawing units shall be decimal with a precision of 0.00. Angles shall be in decimal degrees with a precision of 0. All objects and entities in layers shall be colored by layer. All layers shall be named in English. Abbreviations are acceptable. All submitted map drawings shall use the Global Coordinate system of USA, California, NAD 83 California State Planes, Zone III, U. S. foot.
Scope of Work: See Attachment "A"
Economic Disclosure: Not Required
Recommended by: Judy Zavadil (_____)

Accepted by: _____

Jeffrey D. Pelz, Vice President
West Yost Associates

Date

Authorized by: _____

Daniel McIntyre, General Manager
Dublin San Ramon Services District

Date



Attachment A

February 13, 2019

SENT VIA: EMAIL

Steven Delight, P.E.
Senior Engineer
Dublin San Ramon Services District
7051 Dublin Boulevard
Dublin, CA 94568

SUBJECT: Primary Sedimentation Expansion and Improvement Project (CIP 17-P004)

Dear Steve:

Please find attached a detailed scope of work and fee proposal for engineering services during the construction of the Dublin San Ramon Services District (DSRSD) Wastewater Treatment Plant (WWTP) Primary Sedimentation and Improvement Project (Project).

Please contact me at 916-306-2214 if you have any questions or require additional information.

Sincerely,

WEST YOST ASSOCIATES

A blue ink signature of Jeff Pelz.

Jeff Pelz
Principal-In-Charge

A blue ink signature of Dave Anderson.

Dave Anderson
Project Manager

Attachments: Attachment A. Scope of Work and Fee Proposal

ATTACHMENT A

DSRSD Primary Expansion and Improvement Project Design Services During Construction Scope of Work & Fee Proposal



SCOPE OF SERVICES & FEE PROPOSAL - DESIGN OF PRIMARY SEDIMENTATION EXPANSION AND IMPROVEMENTS

Task 4. Design Services During Construction Phase

This task will involve providing design engineering support during the construction phase of this project. Subtasks are as follows:

Subtask 4.1. Submittal Review

West Yost Associates (WYA) will review Contractor submittals (e.g. shop drawings, product data, samples, operations and maintenance (O&M) manuals, etc.) for conformance with the design concepts and general compliance with the Contract Documents. This task will also include development and maintenance of a submittal log. Submittal reviews will be provided on the West Yost standard review response form.

The budget assumes West Yost will provide responses to up to 160 submittals, including re-submittals; the submittal review process will be conducted in PDF format; and the process will be coordinated by the District's Construction Manager. A list of anticipated submittals is provided in Table 1 below.

Table 1. Anticipated Submittals

Specification Division	Assumed Number of Submittals
Division 02 – Site Work	7
Division 03 – Concrete	18
Division 05 – Metals	3
Division 06 – Wood & Plastics	6
Division 07 – Thermal & Moisture Protection	2
Division 08 – Doors & Windows	1
Division 09 – Finishes	2
Division 10 – Specialties	1
Division 11 – Equipment	28
Division 13 – Special Construction	30
Division 15 – Mechanical	33
Division 16 – Electrical	27

Subtask 4.1 Deliverables: West Yost will provide one (1) electronic copy of submittal review form and related materials for each submittal.

Subtask 4.2. Respond to Requests for Information (RFIs)

The design team will provide written responses to up to 170 RFIs from the Contractor. It is assumed that the RFI process will be conducted in PDF format and the process will be coordinated by the District's Construction Manager. A list of anticipated RFIs is provided in Table 2 below.

Table 2. Anticipated RFIs	
Specification Division	Assumed Number of RFIs
Division 02 – Site Work	16
Division 03 – Concrete	19
Division 05 – Metals	28
Division 06 – Wood & Plastics	4
Division 07 – Thermal & Moisture Protection	20
Division 08 – Doors & Windows	0
Division 09 – Finishes	4
Division 10 – Specialties	0
Division 11 – Equipment	36
Division 13 – Special Construction	3
Division 15 – Mechanical	10
Division 16 – Electrical	30

Subtask 4.2 Deliverables: West Yost will provide one (1) electronic copy of RFI response form and related materials for each RFI.

Subtask 4.3. Change Order Support

When requested by the Construction Manager, West Yost and our design subconsultants will issue design clarifications and provide new or amended contract documents for inclusion in a change order when necessary. The budget for this task includes 400 hours for engineering, drafting, QA/QC, and administrative activities associated with change order support.

Subtask 4.3 Deliverables: West Yost will provide one (1) electronic copy of design clarification memoranda and amended contract documents for each change order.

Subtask 4.4. Attend Meetings

The design team will periodically attend meetings with District staff, the Construction Manager, and Contractor's representatives. In addition, at the Construction Manager's request, West Yost and subconsultant representatives will visit the project site to provide advice and assistance, or to answer any questions that may arise concerning design intent.

The anticipated meetings are summarized in Table 3 below. As shown some meetings are assumed to be teleconferences and some meetings are assumed to be in-person meetings. The fee proposal includes one (1) hour of preparation, two (2) hours for attendance, four (4) hours for travel, and one (1) hour of debriefing per staff member for each in-person meeting. Teleconferences are

assumed to require 0.5 hours of preparation, one (1) hour of attendance, and 0.5 hours of debriefing for each staff member attending the meeting.

Table 3. Anticipated Progress Meetings					
Meeting Description	Meeting Type	Frequency	Meeting Length	Total Number	Staff per Meeting
Kickoff Meeting	In-Person	Once	2 hr	1	3
Regular Progress Meetings	Phone Call	Bi-Weekly	1 hr	70	2
	In-Person	Bi-Monthly	2 hr	16	2
As-Needed Site Visits	In-Person	As-Needed	2 hr	18	2

Subtask 4.4 Deliverables: No separate deliverable will be prepared for this task.

Subtask 4.5. Prepare Record Drawings

Upon completion of the project, the design team will produce formal project record drawings. This task will be performed using information provided from the Contractor's working record drawings. It is assumed that the design team will receive a single, consolidated set of redlined drawings that includes markups from both the Contractor and Construction Management team. A final set of record drawings will be submitted within 45 business days after receipt of the consolidated set of markups.

Subtask 4.5 Deliverables: West Yost will provide One (1) electronic copy of Record Drawings in PDF format and One (1) full size (22" x 34") hard copy of Record Drawings

Subtask 4.6. Update Electronic Operations and Maintenance Manual

The design team will provide information necessary to update the sections of the District's existing electronic operations manual that are applicable to the project area. This information provided by the design team will include equipment and process information summarized on tables, diagrams, and/or photographs, provided in pdf format. Narrative descriptions of procedures for start-up, shutdown, normal operations, and emergency operations of the major equipment will be provided by the Contractor and equipment manufacturers through the submittal process. These materials will be provided to the District for inclusion into the electronic operations manual. The budget for this includes updates to up to eleven (11) sections of the existing electronic operations manual.

Subtask 4.6 Deliverables: No separate deliverable will be prepared for this task.

Subtask 4.7 Project Management (During Construction)

This task includes continued project management during construction including assignment and management of staff; management of work products, management of budget and schedule;

quality assurance and control; correspondence with the District or others; and preparation of regular progress reports and invoices to the District.

Contingency for Additional Meeting Attendance

Due to the anticipated 31-month construction period and complexity of this project, it is difficult to predict the number of onsite meetings the design staff will attend. Therefore, our estimated fee includes contingency of \$35,000, which will be authorized only upon written notification from the District.

ESTIMATED FEE

Services will be performed on a time and materials basis in accordance with design team's standard rates at the time the services are performed. The estimated fees for each task and subtask are shown in Table 3. We will not exceed the Total Estimated Fee without prior authorization from District.

Table 3. Estimated Fee by Task and Subtask		
Task or Subtask No.	Task	Estimated Fee, dollars
4 – Design Services During Construction Phase		
4.1	Submittal Review	247,090
4.2	Respond to Requests for Information	179,631
4.3	Change Order Support	86,911
4.4	Attend Progress Meetings	197,607
4.5	Prepare Record Drawings	59,154
4.6	Update Electronic O&M Manual	73,808
4.7	Project Management	117,612
Design Services During Construction (w/o contingency)		961,813
	Contingency for Additional Meeting Attendance	35,000
Design Services During Construction (w/ contingency)		996,813

ANTICIPATED SCHEDULE

It is anticipated that services will be performed in accordance with Table 2.

Table 2. Anticipated Project Milestones	
Milestone	Approximate Completion Date
Bid Opening	February 12, 2019
Award	March, 2019
Notice to Proceed	April 2019
Substantial Completion	October 2021
Final Completion	November 2021



TITLE: Discuss Tri-Valley Water Reliability Projects and Provide Direction

RECOMMENDATION:

Staff recommends the Board of Directors discuss the status of Tri-Valley water reliability projects and provide direction.

SUMMARY:

On February 26, a DSRSD/Zone 7 Water Agency (Zone 7) Liaison Committee meeting was held and attended by Vice President Duarte and Director Johnson. The last time a liaison committee meeting was held with Zone 7 was December of 2011. The main topic of this meeting was the Tri-Valley's long-term water supply reliability.

The following general topics were discussed at the February 26 liaison committee meeting:

- More than one major project would probably be needed to meet the Tri-Valley's long-term water supply needs.
- It will take considerable time to work through various project options and to implement one or more projects. Some of the project options are beyond the control of the Tri-Valley.
- Answers to key questions about potable reuse need to be presented at the April 24 Tri-Valley Water Liaison Committee meeting, in order to lay groundwork to justify proceeding with the next phase of joint study.
- We need to communicate more effectively with the community on our long-term water supply challenges.
- Perhaps the agencies could coordinate even more closely on a revitalized communications and outreach program.
- A follow-up liaison committee meeting should be scheduled for the fall, and the City of Dublin should be included, if at all possible.

Approximately two-thirds of DSRSD's water supply is conveyed through the State Water Project. The vulnerability of the State Water Project has become apparent since 2008, and was underscored by the Great Drought of 2014. In response, in 2015 the DSRSD Board adopted a Water Supply, Storage, Conveyance, Quality, and Conservation policy that mandates that no more than 40% of the District's water supply comes from any one source and that 60% of the District's water supply come from local sources (such as the Lake Del Valle watershed and the Dublin San Ramon Services District East Bay Municipal Utilities District Recycled Water Authority (DERWA) recycled water system). A quadrennial review by the Board of this 2015 policy is planned for fall of 2019.

Zone 7 is concurrently exploring a number of water supply options to bolster the Tri-Valley's water supply, including the California WaterFix, Sites Reservoir, Los Vaqueros Expansion (and Bethany Transfer Pipeline), Regional Potable Reuse, Regional Desalination, and water transfers.

The status of the California WaterFix is currently in flux, given the change of administration in the Governor's Office. At his first State of the State address on February 12, Governor Newsom stated: *"I do not support the WaterFix as currently configured . . . Meaning, I do not support the twin tunnels. We can build, however, on the important work that's already been done. That's why I do support a single tunnel."*

The next opportunity to discuss Tri-Valley water reliability will be at the scheduled Tri-Valley Water Liaison Committee meeting on April 24. One of the specific topics to be discussed at that meeting is whether or not the agencies of the Tri-Valley will proceed with a master plan or additional technical studies on a Regional Potable Reuse Project.

Originating Department: Office of the General Manager	Contact: D. McIntyre	Legal Review: Not Required
Cost: \$0	Funding Source: N/A	
Attachments: <input checked="" type="checkbox"/> None <input type="checkbox"/> Staff Report <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input type="checkbox"/> Other (see list on right)		49 of 52



TITLE: Approve Continuation of Emergency Action Procurement by General Manager for Repair of the District Office and Find that the Need for the District Office Flooding Emergency Still Exists

RECOMMENDATION:

Staff recommends the Board of Directors approve, by Motion, a continuation of the Emergency Action as declared in Board Resolution No. 53-18 and find that there exists a need for continuing the District Office flooding emergency which the Board last confirmed on February 19, 2019.

SUMMARY:

On Sunday, November 11, 2018, the District Office flooded due to a leak in the fire service line. The General Manager, as the District's Emergency Manager per the District's Emergency Response Plan policy, immediately proclaimed a District State of Emergency to reduce potential further property damage due to water exposure and to minimize the time to restore core business operations.

The District Office is closed for restoration and repair. Staff is requesting the Board of Directors find that there still exists a need for continuing the State of Emergency reflected by Board Resolution No. 53-18. Expedited action, including the emergency procurement of equipment, furnishings, services, supplies, and repairs, is necessary to bring about re-occupancy of the District Office by staff at the earliest opportunity, in order to restore normal operations and core services. Delay in restoration and repair will have an unacceptable adverse impact on the services provided by the District.

Further detail on the emergency and the current state of restoration is reflected in the attached staff report.

Originating Department: Engineering Services	Contact: J. Zavadil	Legal Review: Yes
Cost: \$0	Funding Source: Insurance Claim	
Attachments: <input type="checkbox"/> None <input checked="" type="checkbox"/> Staff Report <input type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Task Order <input type="checkbox"/> Proclamation <input type="checkbox"/> Other (see list on right)	50 of 52	

STAFF REPORT



District Board of Directors
March 5, 2019

Approve Continuation of Emergency Action Procurement by General Manager for Repair of the District Office and Find that the Need for the District Office Flooding Emergency Still Exists

BACKGROUND

On Sunday, November 11, 2018, the District Office flooded due to a leak in the fire service line. The General Manager, as the District's Emergency Manager per the District's Emergency Response Plan policy, immediately proclaimed a District State of Emergency to reduce potential further property damage due to water exposure and to minimize the time to restore core business operations. As the Emergency Manager, the General Manager is charged with managing all emergency operations and making decisions to allocate resources and expend funds as necessary to meet the needs of the emergency.

Per the District's Purchasing policy, in case of an emergency and in accordance with Public Contract Code Section 22050, the General Manager may let contracts for any amount without giving notice for bids for repair or replacement of a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services, and supplies for those purposes. On November 20, 2018, the Board of Directors adopted Resolution No. 53-18 approving emergency action procurement by the General Manager for restoration of the District Office. Per the Public Contract Code, at every regularly scheduled meeting after the initial emergency action, the Board is to review and determine by a four-fifths vote, that there is a need to continue the emergency action.

DISCUSSION

RESTORATION UPDATE

Overaa Construction is in the process of removing the floor slab and the effected walls in the southeast area of the building that was lifted by water under the slab. Staff has submitted plans for the replacement of the slab to the City of Dublin for permitting.

Staff met with the City of Dublin regarding completing the restoration and the District Office Renovation Project (CIP 19-A005) through a change order with the City of Dublin's contractor for the Police Building as a task order under the Tri-Valley Intergovernmental Reciprocal Services Master Agreement. Staff also discussed the required drawings and specifications for project permitting. Staff has determined that due to potential issues with contract responsibilities and the timing of the project that it would be better for the district if the construction was completed under the emergency action procurement process.

Staff has also issued a task order with ID Architecture for drawings and specifications for the restoration and the District Office Renovation Project.

NEED FOR CONTINUING EMERGENCY

The District Office is closed until further notice. Displaced District Office staff have been assigned to the Regional Wastewater Treatment Facility, the Field Operations Facility, the utility building behind the District Office, and Dublin City Hall. District administrative operations and customer service have been hampered in the following ways:

- The Board's customary meeting place for Board meetings is unavailable for use, inconveniencing the public who might wish to attend Board meetings;
- Customer service functions related to "in-person" bill payment have been suspended, because the Field Operations Facility where the Customer Services & Billing Division has been temporarily relocated to cannot accommodate in-person payment of water and sewer bills. Thus, one form of payment (in-person) is not available to the District's customers;
- There is minimal meeting space for staff for internal meetings, to meet with developer representatives and contractors, and to confer with other agency personnel;
- Work units in the Engineering Department, the Administrative Services Department, the Executive Services Division, and the Communications Division are located in inefficient and inconvenient locations at the Field Operations Facility, the Regional Wastewater Treatment Plant, and Dublin City Hall. The convenience of working in close proximity, with adequate work space, is hampered. Natural work efficiencies are degraded because of location of staff in scattered and inadequate work facilities;
- Many supervisory staff have lost use of their individual offices for confidential meetings pertaining to performance management, coaching, and recruiting;
- Through relocation of some District staff to the Field Operations Facility Training Room, space for large group training activities has been lost. Moreover, meeting space for regional meetings has been lost (neither the Boardroom nor the Field Operations Facility Training Room are available).

Based on the above consequences of the District Office being closed for restoration and repair, staff is requesting the Board of Directors find that there still exists a need for continuing the State of Emergency reflected by Board Resolution No. 53-18. Expedited action, including the emergency procurement of equipment, furnishings, services, supplies, and repairs, is necessary to bring about re-occupancy of the District Office by staff at the earliest opportunity, in order to restore normal operations and core services. Delay in restoration and repair will have an unacceptable adverse impact on the services provided by the District.

RECOMMENDATION

Staff recommends the Board of Directors approve, by Motion, a continuation of the State of Emergency as declared by Board Resolution No. 53-18 and find that there exists a need for continuing the District Office flooding emergency which the Board confirmed at the previous regularly scheduled meeting on February 19, 2019. A four-fifths vote by the Board of Directors is required to continue the State of Emergency.