



EAST BAY DISCHARGERS AUTHORITY
2651 Grant Avenue
San Lorenzo, CA 94580-1841
(510) 278-5910
FAX (510) 278-6547

A Joint Powers Public Agency

NOTICE: In compliance with AB 361 (2021), the meeting scheduled below will be conducted virtually via Zoom video conferencing.

- Members of the public may participate in the meeting by clicking on the following Zoom link: <https://us02web.zoom.us/j/87948013822>
- You may also participate via telephone by dialing 1(669) 900-6833 and entering Meeting ID number: 879 4801 3822.

COMMISSION MEETING AGENDA

Thursday, November 17, 2022

9:30 A.M.

EAST BAY DISCHARGERS AUTHORITY
2651 Grant Avenue
San Lorenzo, CA 94580

1. Call to Order
2. ~~Pledge of Allegiance~~ (Deferred Due to Remote Meeting)
3. Roll Call
4. Public Forum

CONSENT CALENDAR

- | | |
|--------|---|
| MOTION | 5. Commission Meeting Minutes of October 20, 2022 |
| | 6. List of Disbursements for October 2022 – See Item No. FM4 |
| | 7. Preliminary Treasurer’s Report for October 2022 – See Item No. FM5 |
| | 8. First Quarter Expense Summary, Fiscal Year 2022/2023 – See Item No. FM6 |
| | 9. Resolution Authorizing Remote Teleconference Meetings Pursuant to AB 361 |

REGULAR CALENDAR

- | | |
|-------------|--|
| INFORMATION | 10. General Manager’s Report
(The General Manager will report on EBDA issues.) |
| INFORMATION | 11. Report from the Manager’s Advisory Committee
(The General Manager will report on Manager’s Advisory Committee activities.) |
| INFORMATION | 12. Report from the Financial Management Committee
(The General Manager will report on the meeting.) |
| INFORMATION | 13. Report from the Operations & Maintenance Committee
(The Operations & Maintenance and General Managers will report on the meeting.) |

INFORMATION 14. Report from the Personnel Committee

(The General Manager will report on the meeting.)

INFORMATION 15. Items from the Commission and Staff

(The Commission and staff may address items of general interest.)

16. Adjournment

Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Administration Manager at the EBDA office at (510) 278-5910 or juanita@ebda.org. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.

**The next Commission meeting will be held
Thursday, December 15, 2022 at 9:30 a.m.**

GLOSSARY OF ACRONYMS

ACWA	Association of California Water Agencies	DSRSD	Dublin San Ramon Services District
AQPI	Advanced Quantitative Precipitation Information	DTSC	Department of Toxic Substances Control
AMP	Asset Management Plan	EBDA	East Bay Dischargers Authority
ANPRM	Advanced Notice of Proposed Rulemaking	EBRPD	East Bay Regional Park District
BAAQMD	Bay Area Air Quality Management District	EIS/EIR	Environmental Impact Statement/Report
BACC	Bay Area Chemical Consortium	EPA	United States Environmental Protection Agency
BACWA	Bay Area Clean Water Agencies	FOG	Fats, Oils and Grease
BPA	Basin Plan Amendment	GASB	Government Accounting Standards Board
BCDC	Bay Conservation and Development Commission	HEPS	Hayward Effluent Pump Station
BOD	Biochemical Oxygen Demand	JPA	Joint Powers Agreement
CARB	California Air Resources Board	LAVWMA	Livermore-Amador Valley Water Management Agency
CASA	California Association of Sanitation Agencies	LOCC	League of California Cities
CBOD	Carbonaceous Biochemical Oxygen Demand	MAC	Managers Advisory Committee
CDFA	CA Department of Food & Agriculture	MCC	Motor Control Center
CEC	Compound of Emerging Concern	MCL	Maximum Contaminant Level
CEQA	California Environmental Quality Act	MDF	Marina Dechlorination Facility
CFR	Code of Federal Regulations	MG	Million Gallons
CMMS	Computerized Maintenance Management System	MGD	Million Gallons per Day
COH	City of Hayward	MMP	Mandatory Minimum Penalty
CPUC	California Public Utilities Commission	MOU	Memorandum of Understanding
CSL	City of San Leandro	MSS	Mixed Sea Salt
CTR	California Toxics Rule	N	Nitrogen
CVCWA	Central Valley Clean Water Association	NACWA	National Association of Clean Water Agencies
CVSAN	Castro Valley Sanitary District	NBS	Nature-Based Solutions
CWA	Clean Water Act	NGO	Non-Governmental Organization
CWEA	CA Water Environment Association	NOX	Nitrogen Oxides
DO	Dissolved Oxygen	NPDES	National Pollutant Discharge Elimination System
DPR	Department of Pesticide Regulation	NPS	Non-Point Source

GLOSSARY OF ACRONYMS

O&M	Operations & Maintenance	SSO	Sanitary Sewer Overflow
OLEPS	Oro Loma Effluent Pump Station	SWRCB	State Water Resources Control Board
OLSD	Oro Loma Sanitary District	TDS	Total Dissolved Solids
OMB	Office of Management and Budget	TMDL	Total Maximum Daily Load
P	Phosphorous	TN	Total Nitrogen
PAHs	Polynuclear Aromatic Hydrocarbons	TP	Total Phosphorus
PCBs	Polychlorinated Biphenyls	TRC	Total Residual Chlorine
PLC	Programmable Logic Controller	TSO	Time Schedule Order
PFAS	Per and Polyfluoroalkyl Substances	TSS	Total Suspended Solids
POTW	Publicly Owned Treatment Works	UEPS	Union Effluent Pump Station
PPCPs	Pharmaceutical and Personal Care Products	USD	Union Sanitary District
QA/QC	Quality Assurance / Quality Control	UV	Ultraviolet Treatment
Region IX	Western Region of EPA (CA, AZ, NV & HI)	VFD	Variable Frequency Drive
ReNUWit	Re-Inventing the Nation's Urban Water Infrastructure Engineering Research Center	VOCs	Volatile Organic Compounds
RFP	Request For Proposals	WAS	Waste Activated Sludge
RFQ	Request For Qualifications	WDR	Waste Discharge Requirements
RMP	Regional Monitoring Program	WEF	Water Environment Federation
RO	Reverse Osmosis	WET	Whole Effluent Toxicity or Waste Extraction Test
RWB	Regional Water Board	WIN	Water Infrastructure Network
RWQCB	Regional Water Quality Control Board	WLA	Waste Load Allocation (point sources)
SBS	Sodium Bisulfite	WPCF	Water Pollution Control Facility
SCADA	Supervisory Control and Data Acquisition	WQBEL	Water Quality Based Effluent Limitation
SCAP	Southern California Alliance of POTWs	WQS	Water Quality Standards
SEP	Supplementary Environmental Project	WRDA	Water Resource Development Act
SFEI	San Francisco Estuary Institute	WRF	Water Research Foundation
SLEPS	San Leandro Effluent Pump Station	WWTP	Wastewater Treatment Plant
SRF	State Revolving Fund	WWWIFA	Water and Wastewater Infrastructure Financing Agency
SSMP	Sewer System Management Plan		

CONSENT CALENDAR

Consent calendar items are typically routine in nature and are considered for approval by the Commission with a single action. The Commission may remove items from the Consent Calendar for discussion. Items on the Consent Calendar are deemed to have been read by title. Members of the public who wish to comment on Consent Calendar items may do so during Public Forum.

- Item No. 5 Commission Meeting Minutes of October 20, 2022
- Item No. 6 List of Disbursements for October 2022 – See Item No. FM4
- Item No. 7 Preliminary Treasurer’s Report for October 2022 – See Item No. FM5
- Item No. 8 Resolution Authorizing Remote Teleconference Meetings Pursuant to AB 361

Recommendation

Approve Consent Calendar

ITEM NO. 5 COMMISSION MEETING MINUTES OF OCTOBER 20, 2022

1. Call to Order

Chair Andrews called the telephonic meeting to order in compliance with AB 361 (2021) at 9:33 A.M. on Thursday, October 20, 2022. Dial-in information for the meeting was provided in the agenda for public attendees.

2. Pledge of Allegiance – Deferred

3. Roll Call

Present:	Pauline Russo Cutter	City of San Leandro
	Anjali Lathi	Union Sanitary District
	Rita Duncan	Oro Loma Sanitary District
	Dave Sadoff	Castro Valley Sanitary District
	Sara Lamnin	City of Hayward

Absent: None

Attendees:	Jacqueline Zipkin	East Bay Dischargers Authority
	Howard Cin	East Bay Dischargers Authority
	Juanita Villasenor	East Bay Dischargers Authority
	Bert Manzo	East Bay Dischargers Authority
	Eric Casher	Legal Counsel
	Alex Ameri	City of Hayward
	David Donovan	City of Hayward
	Hayes Morehouse	City of San Leandro
	Jimmy Dang	Oro Loma Sanitary District
	Paul Eldredge	Union Sanitary District
	Roland Williams	Castro Valley Sanitary District

4. Public Forum

No members of the public requested to address the Commission.

C O N S E N T C A L E N D A R

5. Commission Meeting Minutes of September 15, 2022

6. List of Disbursements for September 2022

7. Preliminary Treasurer's Report for September 2022

8. Resolution Authorizing Remote Teleconference Meetings Pursuant to AB 361

Commissioner Lathi moved to approve the consent calendar. The motion was seconded by Commissioner Cutter and carried unanimously 5-0, by roll call vote.

Ayes:	Commissioners Cutter, Lathi, Duncan, Johnson, Chair Andrews
Noes:	None
Absent:	None

Abstain: None

REGULAR CALENDAR

9. General Manager's Report

The General Manager (GM) discussed the Governor's announcement ending of the Public Health Emergency in February 2023, and the potential implications for the Commission's ability to continue meeting remotely under Assembly Bill 361. The GM also provided an update on PFAS (per- and polyfluoroalkyl substances) legislation.

10. Report from the Manager's Advisory Committee (MAC)

The GM reported that the MAC discussed the Authority's Strategic Planning process.

11. Report from the Regulatory Affairs Committee

The GM reported on the October 18 meeting of the Regulatory Affairs Committee, which discussed ongoing negotiations with the Regional Water Quality Control Board on the 2024 Nutrients Watershed Permit renewal, taking into consideration the recent algal bloom in San Francisco Bay.

12. Report from the Financial Management Committee

The GM reported on the October 17 meeting of the Financial Management Committee. The Committee reviewed the Lists of Disbursements and Preliminary Treasurer's Reports for September and recommended approval. The Committee discussed allocation of unspent funds for the fiscal year ending in June 2022 and recommended that each member agency decide whether to receive their allocation as a credit or to have EBDA hold it as their reserve contribution. The Committee also recommended that this approach be captured in the Budget Policy to provide guidance and consistency for future years.

13. Report from the Operations and Maintenance Committee

The Operations and Maintenance (O&M) Manager and GM reported on the October 17 meeting of the Operations and Maintenance Committee. The O&M Manager discussed the status of EBDA facilities and provided an update on the HEPS Pump replacement project, OLEPS Main Electrical Switchboard Upgrade, and the Roof Replacement Project at the EBDA Administration Building, the MDF Sodium Bisulfite (SBS) Storage Building, and OLEPS. The GM provided an update on the Cargill project.

14. Items from Commission and Staff

Chair Lamnin informed the Commission this will likely be her last Commission Meeting and thanked everyone for their service. Commissioner Duncan encouraged everyone to join Oro Loma at the Halloween Celebration on October 29 at 10:00am at the San Lorenzo Village Homes Association. Staff announced the Keep Hayward Clean & Green Clean-up event on Saturday October 20. The Commission and staff recognized the late Farid Ramezanzadeh for his commitment and service to the wastewater community.

15. Adjournment in Memory of Farid Ramezanzadeh

Chair Lamnin adjourned the meeting at 10:14 a.m.

ITEM NO. 9 RESOLUTION AUTHORIZING REMOTE TELECONFERENCE MEETINGS PURSUANT TO AB 361

Recommendation

Adopt the resolution authorizing continued use of remote teleconference meetings pursuant to AB 361.

Background

All meetings of the East Bay Dischargers Authority (EBDA) Commission and EBDA's other legislative bodies are open and public, as required by the Ralph M. Brown Act, Government Code section 54950 *et seq.* Any member of the public may attend, participate, and watch EBDA's legislative bodies conduct their business.

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for an anticipated broader spread of the novel coronavirus disease 2019 ("COVID-19"). On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means in order to slow the spread of COVID-19. As a result of Executive Order N-29-20, staff set up virtual meetings for all Commission meetings and other EBDA legislative bodies. Executive Order N-29-20 expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed AB 361 (2021) which allows for local legislative bodies to continue to conduct meetings via teleconferencing without complying with certain Brown Act provisions under specified conditions and includes a requirement that the Commission make specified findings. AB 361 (2021) took effect October 1, 2021. Pursuant to AB 361, legislative bodies are allowed to continue to meet remotely during a declared State of Emergency if the legislative body finds that meeting in person would present imminent risks to the health or safety of attendees. In addition, remote meetings are also permitted, irrespective of a State of Emergency issued by the State, if local health officials continue to impose or recommend measures to promote social distancing and the legislative body finds that meeting in person would present imminent risks to the health or safety of attendees. AB 361 provides that it will sunset on January 1, 2024.

On November 10, 2021 Governor Newsom issued Executive Order N-21-21, extending the sunset of the State of Emergency through March 31, 2022, in light of the surge in COVID cases due to the novel Omicron variant and to ensure the staffing and resources needed to prevent potential strain on the State's health care delivery system. On February 25, 2022, Governor Newsom issued Executive Order N-04-22, further extending the State of Emergency to an unspecified date. (See Executive Order N-04-22 at ¶ 20, extending Executive Order N-21-21). Most recently, on March 15, 2022, a resolution was put before the senate to declare that the State of Emergency proclaimed by Governor Gavin Newsom on March 4, 2020, is at an end and that the emergency powers granted to the Governor as

a result of that proclamation are hereby terminated. The resolution was denied. To date, the State of Emergency stands.

The Commission adopted resolutions authorizing remote teleconference meetings at its October 2021 through October 2022 Commission Meetings. The resolutions included all of the necessary findings required pursuant to AB 361.

Discussion

In order to continue to hold remote meetings during a proclaimed State of Emergency, the Commission must declare every thirty (30) days that either (i) the State of Emergency continues to directly impact the ability of the members to meet safely in person, or (ii) State or local officials continue to impose or recommend measures to promote social distancing. Thus, the Commission has a standing opportunity to discuss a return to in-person meetings every thirty (30) days.

The conditions that justified the Commission adopting a resolution authorizing teleconference meetings at its October 2022 meeting continue to exist. Health officials continue to recommend measures to slow the spread of COVID-19. Specifically, the Centers for Disease Control and Prevention (“CDC”) continues to recommend physical distancing of at least 6 feet from others outside of the household and masking in all indoor settings in communities of high COVID-19 rates and among persons at high risk for severe illness. The CDC believes the Omicron variant is spread more easily than the original SARS-CoV-2 virus, with breakthrough infections occurring in people who are fully vaccinated.

The proposed resolution includes the necessary findings in order for the Commission and the other legislative bodies of EBDA to continue to hold remote teleconference meetings pursuant to AB 361, provided that

1. The State of Emergency issued by the Governor remains in effect; OR
2. “State or local officials continue to impose or recommend measures to promote social distancing.”

The Governor’s State of Emergency is still in effect. In addition, the Alameda County Public Health Department continues to “impose or recommend measures to promote social distancing.” Currently, Alameda County has not removed physical or social distancing as a COVID-19 prevention strategy.

As noted previously, several bills were passed by the state legislature this session to allow for limited teleconferencing beyond a declared emergency or public health risk, including AB 2449 (Rubio). In addition, the Governor’s announcement that the State of Emergency will sunset at the end of February 2023 will impact EBDA’s ability to conduct meetings remotely. As a result of the termination of the local and state of emergencies, EBDA will no longer be able to rely on COVID-19 as a valid basis to conduct remote meetings under AB 361 after January 1, 2023. Although the State of Emergency does not expire until February 2023, the conditions of AB 2449 go into effect on January 1, 2023.

AB 2449 allows only for limited remote attendance for individual members who are unable to attend for “just cause” or “emergency circumstances,” so long as a quorum of the board meets in a singular physical location. In effect, no more than two Commissioners may appear remotely at any given time. See Item No. P4 for a complete discussion of Brown Act updates.

EAST BAY DISCHARGERS COMMISSION
EAST BAY DISCHARGERS AUTHORITY
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 22-15

INTRODUCED BY _____

**RESOLUTION AUTHORIZING REMOTE TELECONFERENCE MEETINGS
PURSUANT TO AB 361**

WHEREAS, all East Bay Dischargers Authority (“EBDA”) meetings are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch EBDA’s legislative bodies conduct their business; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for an anticipated broader spread of the novel coronavirus disease 2019 (“COVID-19”), and Governor Newsom has continued to confirm the continued existence of the State of Emergency to the present with no expiration date presently set; and

WHEREAS, On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, as a result of Executive Order N-29-20, staff set up virtual meetings for all EBDA Commission meetings and meetings of all EBDA legislative bodies; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, repealed the provisions of Executive Order N-29-20 that allowed local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 (2021) which allows for local legislative bodies and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the EBDA Commission make specified findings. AB 361 (2021) took effect October 1, 2021; and

WHEREAS, AB 361 provides that it will sunset on January 1, 2024; and

WHEREAS, in order for legislative bodies to continue to conduct meetings via teleconferencing pursuant to AB 361 (2021), a proclaimed State of Emergency must exist; and

WHEREAS, AB 361 (2021) further requires that State or local officials have imposed or recommended measures to promote social distancing, or, requires that the legislative body determines that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, AB 361 (2021) allows EBDA to continue to conduct meetings via teleconference upon a finding every thirty (30) days thereafter, that either a declared state of emergency continues to directly impact the ability of the members to meet safely in person, or state or local health officials continue to impose or recommend measures to promote social distancing; and

WHEREAS, such conditions now exist in EBDA's jurisdiction, specifically, Governor Newsom has declared a State of Emergency due to COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") continues to recommend physical distancing of at least 6 feet from others outside of the household and masking in all indoor settings in communities of high COVID-19 rates and among persons at high risk for severe illness; and

WHEREAS, because of COVID-19, the EBDA Commission is concerned about the health and safety of all individuals who intend to attend EBDA Commission meetings and meetings of EBDA's other legislative bodies; and

WHEREAS, the EBDA Commission desires to provide a way for Commissioners, staff, and members of the public to participate in meetings remotely, without having to attend meetings in person; and

WHEREAS, on October 21, 2021, November 18, 2021, December 16, 2021, January 26, 2022, February 17, 2022, March 17, 2022, April 21, 2022, May 19, 2022, June 16, 2022, July 21, 2022, September 15, 2022, and October 20, 2022, the Commission found that the presence of COVID-19 would present imminent risks to the health or safety of attendees, including the legislative bodies and staff, should EBDA's legislative bodies hold in person meetings; and

WHEREAS, the EBDA Commission hereby finds that the presence of COVID-19 and the prevalence of the highly-contagious Omicron variant would present imminent risks to the health or safety of attendees, including the legislative bodies and staff, should EBDA's legislative bodies hold in person meetings; and

WHEREAS, EBDA shall ensure that its meetings comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

NOW, THEREFORE, BE IT RESOLVED that the Commission of the East Bay Dischargers Authority hereby declares as follows:

1. The above recitals are true and correct, and incorporated into this Resolution.

2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Brown Act, the EBDA Commission makes the following findings:

- a) The EBDA Commission has considered the circumstances of the State of Emergency; and
- b) The State of Emergency, as declared by the Governor, continues to directly impact the ability of the EBDA Commission and EBDA's legislative bodies, as well as staff and members of the public, from meeting safely in person; and
- c) The CDC continues to recommend physical distancing of at least six feet due to COVID-19 and as a result of the presence of COVID-19 and the highly-contagious Omicron variant, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies and staff.

3. The EBDA Commission and all of EBDA's other legislative bodies may continue to meet remotely in compliance with AB 361, whether in whole or in part, in order to better ensure the health and safety of the public.

4. The EBDA Commission will revisit the need to conduct meetings remotely at its next monthly meeting.

SAN LORENZO, CALIFORNIA, NOVEMBER 17, 2022, ADOPTED BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSENT:
ABSTAIN:

CHAIR
EAST BAY DISCHARGERS AUTHORITY

ATTEST: _____
GENERAL MANAGER
EAST BAY DISCHARGERS AUTHORITY
EX OFFICIO SECRETARY

ITEM NO. 10 GENERAL MANAGER'S REPORT

The General Manager will discuss items of interest to EBDA.

ITEM NO. 11 REPORT FROM THE MANAGERS ADVISORY COMMITTEE

**MANAGERS ADVISORY COMMITTEE
AGENDA**

**Thursday, November 10, 2022
1:30 P.M.**

Via Zoom

- 1. USD Rebranding Project Lessons Learned**
- 2. Cargill Brine Project**
 - a. Connection CFD Modeling**
 - b. CEQA Update**
 - c. Contracting Update**
 - d. Rate Structure**
 - e. Revenue Sharing**
- 3. FY 2023/2024 COLA Info Sharing**
- 4. EBDA Commission Agenda**
 - Finance
 - O&M
 - Personnel
- 5. EBDA Managers Information Sharing**



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ITEM NO. 12

FINANCIAL MANAGEMENT COMMITTEE AGENDA

Monday, November 14, 2022

11:00 A.M.

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Duncan (Chair); Andrews

- FM1. Call to Order**
- FM2. Roll Call**
- FM3. Public Forum**
- FM4. Disbursements for October 2022**
(The Committee will review the List of Disbursements.)
- FM5. Preliminary Treasurer's Report for October 2022**
(The Committee will review the Preliminary Treasurer's Report.)
- FM6. First Quarter Expense Summary, Fiscal Year 2022/2023**
(The Committee will review the first quarter expenses for FY 2022/2023.)
- FM7. Proposed Budget Policy Revisions**
(The Committee will review and provide feedback on staff's proposed revisions.)
- FM8. Adjournment**

Any member of the public may address the Committee at the commencement of the meeting on any matter within the jurisdiction of the Committee. This should not relate to any item on the agenda. Each person addressing the Committee should limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Committee on any agenda item should do so at the time the item is considered. Oral comments should

Agenda Explanation
East Bay Dischargers Authority
Financial Management Committee
November 14, 2022

be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available and are to be completed prior to speaking.

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<p>The next Financial Management Committee meeting is scheduled on Monday, December 12, 2022 at 11:00 a.m.</p>

ITEM NO. FM4 DISBURSEMENTS FOR OCTOBER 2022

Disbursements for the month of October were a total of \$374,607.87.

Reviewed and Approved by:

Rita Duncan, Chair	Date
Financial Management Committee	

Jacqueline T. Zipkin	Date
Treasurer	

EAST BAY DISCHARGERS AUTHORITY

List of Disbursements

October 2022

Check #	Payment Date	Invoice #	Vendor Name	Description	Invoice Amount	Disbursement Amount
25839	10/18/2022	002925	UNION SANITARY DISTRICT	O&M - AUG	43,588.78	43,588.78
25856	10/31/2022	350433	CITY OF HAYWARD	O&M - QUARTERLY JUL-SEP	40,472.67	40,472.67
25836	10/18/2022	389195	CITY OF SAN LEANDRO	O&M - AUG	33,669.57	33,669.57
25865	10/31/2022	50607544	UNIVAR	SODIUM BISULFITE - DELIVERED 09/30/2022	7,904.39	23,219.14
25865	10/31/2022	50633863	UNIVAR	SODIUM BISULFITE - DELIVERED 10/12/2022	7,492.70	
25865	10/31/2022	50668950	UNIVAR	SODIUM BISULFITE - DELIVERED 10/24/2022	7,822.05	
25837	10/18/2022	6695	ORO LOMA SANITARY DISTRICT	O&M - SEP	21,002.15	21,002.15
25847	10/18/2022	40947	BA MORRISON	MDF SBS BUILDING HEATER INSTALLATION	13,589.00	13,589.00
25863	10/31/2022	198836	MEYERS NAVE	LEGAL SERVICES - BRINE PROJECT	13,277.50	15,570.75
25863	10/31/2022	198836	MEYERS NAVE	LEGAL SERVICES - SEP	2,293.25	
25861	10/31/2022	18416	PACIFIC ECORISK	NPDES TOXICITY TESTING: ACUTE & CHRONIC TOXICITY TESTS	5,412.00	5,412.00
25849	10/18/2022	178625	ENVIRONMENTAL SCIENCE ASSOCIATES	FIRST MILE PROJECT WORK ORDER NO. 1	5,305.00	5,305.00
25846	10/18/2022	EA06-0822	EOA, INC	NPDES PERMIT REISSUANCE ASSISTANCE	4,552.00	4,552.00
25858	10/31/2022	52118	CALCON	ELECTRICAL, INSTRUMENTATION, AND MAINTENANCE SERVICES - OLEPS	1,430.48	4,160.32
25858	10/31/2022	52094	CALCON	ELECTRICAL, INSTRUMENTATION, AND MAINTENANCE SERVICES - HEPS	600.00	
25858	10/31/2022	52082	CALCON	MDF SBS BUILDING HEATING UPGRADE	1,829.84	
25858	10/31/2022	52093	CALCON	ELECTRICAL, INSTRUMENTATION, AND MAINTENANCE SERVICES - OPS CENTER	300.00	
25833	10/18/2022	JUL-SEP 2022	KARL D. ROYER	QUARTERLY HEALTH PREMIUM REIMBURSEMENT	3,681.36	3,681.36
25841	10/18/2022	IN0328920	ALAMEDA COUNTY ENVIRONMENTAL HEALTH	OLEPS CUPA FEE	2,596.00	2,596.00
25843	10/18/2022	FB28088	CAROLLO ENGINEERS	ENGINEERING SERVICES - WORK ORDER NO. 4	2,320.00	2,320.00
25835	10/18/2022	6852217	MISSION SQUARE	DEFERRED COMPENSATION 10/15/2022	2,156.24	2,156.24
25854	10/31/2022	6599453	MISSION SQUARE	DEFERRED COMPENSATION 10/31/2022	2,156.24	2,156.24
25845	10/18/2022	4246044555687627	US BANK	PURCHASING CARD EXPENSES	2,133.76	2,133.76
25838	10/18/2022	52205704	CITY OF HAYWARD	BENEFIT PREMIUMS - OCT	1,449.70	1,449.70
25860	10/31/2022	00013.11-13	LARRY WALKER ASSOCIATES	PROFESSIONAL SERVICES - WORK ORDER NO. 2	1,062.00	1,062.00
25850	10/18/2022	23150937	JOHNSON CONTROLS	MDF ANNUAL FIRE ALARM MONITORING	902.46	902.46
25840	10/18/2022	1000924859	SCIF	WORKERS COMPENSATION	810.00	810.00
25851	10/18/2022	51687	COMPUTER COURAGE	GENERAL WEBSITE UPDATES	371.25	521.25
25851	10/18/2022	51642	COMPUTER COURAGE	WEBSITE HOSTING - OCT	150.00	
25844	10/18/2022	20098927	ZASIO ENTERPRISES, INC	RECORDS MANAGEMENT SOFTWARE ANNUAL RENEWAL	415.00	415.00
25834	10/18/2022	JUL-SEP 2022	CHARLES V. WEIR	QUARTERLY HEALTH PREMIUM REIMBURSEMENT	354.18	354.18
25869	10/31/2022	10110000001	EBMUD	WATER & SEWER, MDF	270.21	270.21
25864	10/31/2022	41097	BA MORRISON	HVAC SERVICE - ADMIN	260.00	260.00
25857	10/31/2022	510-483-0439-716-6	AT&T	TELEPHONE SERVICE - MDF	245.14	245.14
25855	10/31/2022	22-Oct	DAVE SADOFF	COMMISSIONERS COMPENSATION	240.00	240.00
25862	10/31/2022	236222166	ORKIN	PEST CONTROL SERVICES - MDF	217.00	217.00

EAST BAY DISCHARGERS AUTHORITY

List of Disbursements

October 2022

Check #	Payment Date	Invoice #	Vendor Name	Description	Invoice Amount	Disbursement Amount
25852	10/18/2022	CD_000469639	RINGCENTRAL INC	DIGITAL PHONE SERVICE	207.01	207.01
25868	10/31/2022	3603040	CALTRONICS	COPIER USAGE AND MAINTENANCE	165.18	165.18
25867	10/31/2022	701313	CALTEST	LAB TESTING SERVICES	159.60	159.60
25853	10/18/2022	9396	MBC CUSTODIAL SERVICES INC	JANITORIAL SERVICES - SEP	130.00	130.00
25848	10/18/2022	2095645	ALPHA ANALYTICAL LABORATORIES	LAB SAMPLES FOR SKYWEST	85.00	85.00
25866	10/31/2022	2103428	ALPHA ANALYTICAL LABORATORIES	LAB SAMPLES FOR SKYWEST	85.00	85.00
25842	10/18/2022	8817104288	VERIZON WIRELESS	WIRELESS PHONE SERVICES	62.03	62.03
25859	10/31/2022	9917958789	VERIZON WIRELESS	MODEM FOR SCADA	22.02	22.02
TOTAL CHECK PAYMENTS					233,247.76	233,247.76
ELECTRONIC PAYMENTS						
	10/27/2022		PG&E	GAS & ELECTRIC SERVICE	39,286.60	39,286.60
	10/04/2022		PG&E	GAS & ELECTRIC SERVICE	35,969.01	35,969.01
	10/07/2022	100000016905471	CALPERS	HEALTH PREMIUMS - OCT	7,198.00	7,198.00
	10/18/2022	100000016935161	CALPERS	PENSION CONTRIBUTION, CLASSIC 10/1 - 15/2022	4,975.51	4,975.51
	10/04/2022	100000016901924	CALPERS	PENSION CONTRIBUTION, CLASSIC 9/16 - 30/2022	4,975.51	4,975.51
	10/18/2022	100000016935195	CALPERS	PENSION CONTRIBUTION, PEPRA 10/1 - 15/2022	162.45	162.45
	10/04/2022	100000016901965	CALPERS	PENSION CONTRIBUTION, PEPRA 9/16 - 30/2022	162.45	162.45
TOTAL ELECTRONIC PAYMENTS					92,729.53	92,729.53
PAYROLL						
	10/28/2022		ADP, LLC	PAYROLL PERIOD: 10/01-15/2022	25,403.50	25,403.50
	10/13/2022		ADP, LLC	PAYROLL PERIOD: 09/06-30/2022	23,058.88	23,058.88
	10/7/2022		ADP, LLC	PAYROLL FEES, 10/01-15/2022	90.90	90.90
	10/7/2022		ADP, LLC	PAYROLL FEES, 09/16-30/2022	77.30	77.30
TOTAL PAYROLL					48,630.58	48,630.58
TOTAL DISBURSEMENTS					374,607.87	374,607.87

ITEM NO. FM5 PRELIMINARY TREASURER'S REPORT FOR OCTOBER 2022

The beginning cash balance on October 1, 2022 was \$5,274,520.66. Total receipts for the month of September were \$93,713.92 and disbursements totaled \$374,607.87, bringing the cash balance to \$4,993,626.71 at October 31. EBDA's LAIF balance is \$3,782,795.20 and the average monthly effective yield for October was 1.772%.

EBDA currently has a two-pronged investment approach that includes Local Agency Investment Fund (LAIF) and traditional bank accounts.

Approval is recommended.

**EAST BAY DISCHARGERS AUTHORITY
PRELIMINARY
TREASURER'S REPORT
October 31, 2022**

FUND	DESCRIPTION	BEGINNING CASH BALANCE	DEBITS (INCREASE)	CREDITS (DECREASE)	ENDING CASH BALANCE
12	OPERATIONS & MAINTENANCE	1,677,371.24	2,600.00	329,780.32	1,350,190.92
13	PLANNING & SPECIAL STUDIES	406,496.92		9,857.00	396,639.92
14	RECLAMATION O & M (SKYWEST)	81,105.95		1,410.56	79,695.39
15	BRINE ACCEPTANCE	137,268.60	79,945.26	14,339.50	202,874.36
31	RENEWAL & REPLACEMENT	2,972,277.95	11,168.66	19,220.49	2,964,226.12
TOTALS		5,274,520.66	93,713.92	374,607.87	4,993,626.71

Oct-22

11/9/2022

SUPPLEMENTAL TREASURERS REPORT

DATE	TRANSACTION	RECEIPT	DISBURSEMENT CHECKING	DISBURSEMENT PAYROLL	PAYROLL TRANSFER	LAIF TRANSFER	WELLS FARGO CHECKING BALANCE	WELLS FARGO PAYROLL BALANCE	LAIF BALANCE	TOTAL CASH
09/30/22	BALANCE						1,462,866.13	40,027.99	3,771,626.54	5,274,520.66
10/04/22	ELECTRONIC BILL PAY		4,975.51				1,457,890.62	40,027.99	3,771,626.54	5,269,545.15
10/04/22	ELECTRONIC BILL PAY		162.45				1,457,728.17	40,027.99	3,771,626.54	5,269,382.70
10/04/22	ELECTRONIC BILL PAY		35,969.01				1,421,759.16	40,027.99	3,771,626.54	5,233,413.69
10/07/22	ELECTRONIC BILL PAY		7,198.00				1,414,561.16	40,027.99	3,771,626.54	5,226,215.69
10/07/22	PAYROLL FEES			90.90			1,414,561.16	39,937.09	3,771,626.54	5,226,124.79
10/12/22	DEPOSIT	2,100.00					1,416,661.16	39,937.09	3,771,626.54	5,228,224.79
10/13/22	PAYROLL			23,058.88			1,416,661.16	16,878.21	3,771,626.54	5,205,165.91
10/14/22	INTEREST	11,168.66				11,168.66	1,416,661.16	16,878.21	3,782,795.20	5,216,334.57
10/18/22	DISBURSEMENT		139,530.49				1,277,130.67	16,878.21	3,782,795.20	5,076,804.08
10/18/22	DEPOSIT	500.00					1,277,630.67	16,878.21	3,782,795.20	5,077,304.08
10/18/22	ELECTRONIC BILL PAY		4,975.51				1,272,655.16	16,878.21	3,782,795.20	5,072,328.57
10/18/22	ELECTRONIC BILL PAY		162.45				1,272,492.71	16,878.21	3,782,795.20	5,072,166.12
10/21/22	PAYROLL FEES			77.30			1,272,492.71	16,800.91	3,782,795.20	5,072,088.82
10/27/22	PAYROLL TRANSFER				40,000.00		1,232,492.71	56,800.91	3,782,795.20	5,072,088.82
10/27/22	ELECTRONIC BILL PAY		39,286.60				1,193,206.11	56,800.91	3,782,795.20	5,032,802.22
10/27/22	DEPOSIT - CARGILL	79,945.26					1,273,151.37	56,800.91	3,782,795.20	5,112,747.48
10/28/22	PAYROLL			25,403.50			1,273,151.37	31,397.41	3,782,795.20	5,087,343.98
10/31/22	DISBURSEMENT		93,717.27				1,179,434.10	31,397.41	3,782,795.20	4,993,626.71
TOTAL		93,713.92	325,977.29	48,630.58	40,000.00	11,168.66	1,179,434.10	31,397.41	3,782,795.20	4,993,626.71
CURRENT BALANCE							①	②	③	

Reconciliation

① Per Bank Statement @ 10/31/22	\$ 1,282,924.62
Less: Outstanding Checks	103,490.52
	\$ 1,179,434.10
② Per Bank Statement @ 10/31/22	\$ 31,397.41
③ Per LAIF Statement @ 10/31/22	\$ 3,782,795.20

The Supplemental Treasurer's Report is prepared monthly by the General Manager. It also serves as EBDA's cash and investments reconciliation.

ITEM NO. FM6 FIRST QUARTER EXPENSE SUMMARY, FISCAL YEAR 2022/2023

Recommendation

Approve the First Quarter Expense Summary for Fiscal Year 2022/2023.

Background

The First Quarter Expense Summary for FY 2022/2023 is attached for the Committee's review. Expenses are presented by Program and by Account Code. These categories have been grouped to provide an overview of Authority expenses. The tables include discussion of particular items that varied significantly (>10%) from the budget.

Discussion

At the end of the first quarter, EBDA's spending is just slightly over budget, with 27% spent at 25% through the year. Staff notes that certain annual fees (i.e., BACWA dues and Water Research Foundation) were paid in the first quarter, while others (i.e., NPDES Permit Fee, Regional Monitoring Program) had yet to be billed. This led to certain line items appearing over or under budget, but balances out overall for the quarter.

East Bay Dischargers Authority

EXPENSE SUMMARY BY PROGRAM

FY 2022/2023 THROUGH SEPTEMBER 30, 2022 (25% of YEAR)

	YTD Expenses	Budget	Revenues Cargill, Grant, & Skywest	Variance	% of Budget	Explanations for Variance Over 10%
O&M EFFLUENT DISPOSAL						
General Administration	\$305,388	\$1,383,712		(\$1,078,324)	22%	
Outfall & Force mains	\$38,046	\$181,300		(\$143,254)	21%	
Marina Dechlor Facility	\$97,657	\$389,100		(\$291,443)	25%	
Oro Loma Pump Station	\$108,337	\$531,000		(\$422,663)	20%	
Hayward Pump Station	\$36,471	\$173,000		(\$136,529)	21%	
Union Pump Station	\$77,052	\$390,000		(\$312,948)	20%	
Bay & Effluent Monitoring	\$312,708	\$593,450		(\$280,742)	53%	BACWA dues paid for the FY.
TOTAL O&M EFFLUENT DISPOSAL	\$975,659	\$3,641,562		(\$2,665,903)	27%	
SPECIAL PROJECTS						
NPDES Permit Fees	\$0	\$656,019		(\$656,019)	0%	
NPDES Permit Issues	\$4,552	\$20,000		(\$15,448)	23%	
Regional Monitoring Program	\$143,595	\$292,320		(\$148,726)	49%	Dues paid for CY 2022 (i.e. 2 quarters of FY 2022/2023).
Alternative Monitoring and Reporting	\$15,840	\$32,155		(\$16,315)	49%	Dues paid for CY 2022 (i.e. 2 quarters of FY 2022/2023).
Nutrient Surcharge	\$237,125	\$237,114		\$11	100%	Fee paid for the FY.
Water Research Foundation	\$26,282	\$25,580		\$702	103%	Dues paid for the FY.
Transport System Evaluation	\$0	\$7,951		(\$7,951)	0%	Final work has not yet been billed.
AQPI	\$0	\$29,000		(\$29,000)	0%	Radar installation has been delayed.
Strategic Planning	\$0	\$10,000		(\$10,000)	0%	Work has begun, but external funds have not yet been needed.
Nature-Based Solutions Study	\$28,541	\$200,000	\$28,541	(\$200,000)	14%	All costs are reimbursed by EPA grant.
Biosolids Feasibility Study	\$0	\$100,000		(\$100,000)	0%	Work has begun, but external funds have not yet been needed.
Solar Feasibility Study	\$0	\$28,000		(\$28,000)	0%	Work has begun in collaboration with USD, but EBDA has not yet been billed.
Bruce Wolfe Memorial	\$0	\$1,000		(\$1,000)	0%	Contribution will be made later this year.
TOTAL SPECIAL PROJECTS	\$455,935	\$1,639,139	\$28,541	(\$1,211,746)	26%	
TOTAL AGENCY-FUNDED PROGRAMS	\$1,431,593	\$5,280,701	\$28,541	(\$3,877,649)	27%	
WATER RECYCLING						
Skywest Golf Course	\$4,573	\$36,000	\$4,658			Operations spending reduced due to efficiencies, and capital deferred.
TOTAL WATER RECYCLING	\$4,573	\$36,000	\$4,658			
BRINE ACCEPTANCE						
Brine Acceptance	\$229,026		218,913			All work performed is reimbursed by Cargill.
TOTAL BRINE ACCEPTANCE	\$229,026		\$218,913			
TOTAL ALL PROGRAMS	\$1,665,193	\$5,316,701	\$252,113	(\$3,903,621)	27%	

East Bay Dischargers Authority

EXPENSE SUMMARY BY ACCOUNT

FY 2022/2023 THROUGH SEPTEMBER 30, 2022 (25% OF YEAR)

	YTD Expenses	Budget	Revenues Cargill, Grant, & Skywest	Variance	% of Budget	Explanations for Variance Over 10%
4010 - Salary	\$154,569	\$632,367		(\$477,798)	24%	
4020 - Benefits	\$83,878	\$264,959		(\$181,081)	32%	
4030 - Commissioner Compensation	\$4,800	\$45,000		(\$40,200)	11%	Budget assumes maximum number of meetings and several Committees are currently on reduced schedules.
4070 - Insurance	\$27,025	\$75,900		(\$48,875)	36%	Policy premiums paid for the FY.
4080 - Memberships & Subscriptions	\$134,452	\$149,475		(\$15,023)	90%	BACWA & WRF dues paid for the FY.
4100 - Supplies, Variable	\$119,941	\$269,000		(\$149,059)	45%	Sodium bisulfite budget was reduced in expectation of regulatory change that has not yet taken effect. Also, more sodium hypochlorite was required than typical to control bacteria.
4100 - Supplies, Fixed	\$930	\$22,000		(\$21,070)	4%	Office supply needs have been lower than budgeted.
4110 - Contract Services	\$17,206	\$58,611		(\$41,405)	29%	
4120 - Professional Services	\$351,593	\$713,101	\$247,455	(\$608,963)	15%	External support for certain Special Studies (e.g. biosolids) has been deferred while preliminary work proceeds. Also much of the Professional Services costs are for Cargill and the Nature-based Solutions grant project, and are reimbursed.
4140 - Rents & Fees	\$244,458	\$895,413		(\$650,955)	27%	
4141 - NPDES Fines	\$0	\$9,000		(\$9,000)	0%	Reserve funds in case of enforcement.
4150 - Maintenance & Repair	\$140,989	\$833,600	\$4,063	(\$696,674)	16%	
4160 - Monitoring	\$207,233	\$579,475	\$595	(\$372,837)	36%	Regional Monitoring Program fees paid for 2 quarters.
4170 - Travel	\$705	\$18,000		(\$17,295)	4%	Reduced travel due to COVID pandemic.
4190 - Utility, Fixed	\$328	\$1,000		(\$672)	33%	
4191 - Utility, Variable (PG&E)	\$177,085	\$739,800		(\$562,715)	24%	
4200 - Acquisitions & Other	\$0	\$10,000		(\$10,000)	0%	
TOTAL ALL ACCOUNTS	\$1,665,193	\$5,316,701	\$252,113	(\$3,903,621)	27%	

ITEM NO. FM7 PROPOSED BUDGET POLICY REVISIONS

Recommendation

Provide input to staff on proposed policy update.

Background

The Authority's Budget Policy was reviewed and adopted in October 2021. The Policy as written, dealt mainly with budget preparation. For the past several years, as a result of efficient operations and drought conditions, the Authority has spent less than was budgeted. Each year, the Committee has discussed the question of how the surplus funds collected from the Member Agencies should be handled. Last month, the Committee recommended that staff develop policy language for the Committee's consideration that would address the management of surplus funds and obviate the need for annual decision-making.

Discussion

The attached proposed revised Budget Policy includes a new paragraph addressing the fiscal year-end reconciliation process. The proposed language addresses both budget over-run and under-run conditions to provide direction on how the condition is to be handled.

Staff is seeking feedback from the Committee on the proposed language. Based on this direction, staff will bring a revised Budget Policy to the Commission for adoption.

POLICY NUMBER: 1.9

NAME OF POLICY: Finance – Budget

LAST REVISED: ~~10/21/2021~~

PREVIOUSLY REVISED: 10/21/2021~~05/16/13~~

PURPOSE: The budgeting function establishes control and accountability for Authority resources.

POLICY: It is the policy of the Authority to prepare and adopt a budget for the fiscal year to ensure that revenues are sufficient to meet operating and capital expenditures.

The draft budget shall be reviewed by the Managers Advisory Committee (MAC) and Financial Management Committee and approved by the Commission. Adoption of the annual Budget constitutes authority to bill Member Agencies for contributions. It also constitutes approval for expenditures for programs and authorizes the General Manager to make payment for them.

Major budgetary items include:

- Operations – salaries, benefits, chemicals, supplies, maintenance, professional services
- Renewal and Replacement Fund (Capital) Projects – those included on the Commission-approved Project List
- Special Projects – studies and projects outside of normal operations
- Revenues from recycled water, brine, and grants
- Assessment for the Renewal and Replacement Fund

The Annual Budget must be completed and adopted by July 1, in accordance with the Joint Powers Agreement. The annual budget may be amended only upon approval of the Commission. The General Manager, however, has discretion of budget changes by account number.

The General Manager shall report budget-to-actual results to the Commission on at least a quarterly basis. The Member Agencies shall submit timely invoices to the Authority to enable prompt and accurate reporting of Authority expenditures.

At the end of each Fiscal Year, the General Manager shall provide year-end closing statements to each Member Agency and LAVWMA detailing that agency's share of actual expenditures, and comparing that to the amounts budgeted and collected. If an agency's share of actual expenditures exceeded the amount collected, EBDA shall invoice that agency for the additional funds owed. If the agency's share of actual expenditures was less than the amount collected, that agency shall have the option to request that EBDA hold all or a portion of the surplus funds as fulfillment of that agency's reserve contribution under the Emergency Reserves Policy, or that EBDA return the surplus funds to the agency as a credit on their next EBDA invoice. Alternatively, the Commission may consider directing EBDA staff to allocate the surplus funds to pay pension or other post-employment benefits (OPEB) obligations or to other purposes consistent with EBDA's Strategic Plan.



EAST BAY DISCHARGERS AUTHORITY
2651 Grant Avenue
San Lorenzo, CA 94580-1841
(510) 278-5910
FAX (510) 278-6547

A Joint Powers Public Agency

NOTICE: In compliance with AB 361 (2021), the meeting scheduled below will be conducted virtually via Zoom video conferencing.

- Members of the public may participate in the meeting by clicking on the following Zoom link: <https://us02web.zoom.us/j/83944888857>
- You may also participate via telephone by dialing 1(669) 900-6833 and entering Meeting ID number 839 4488 8857.

ITEM NO. 13

OPERATIONS & MAINTENANCE COMMITTEE AGENDA

Monday, November 14, 2022

8:30 A.M.

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Johnson (Chair); Cutter

OM1. Call to Order

OM2. Roll Call

OM3. Public Forum

OM4. EBDA Permit Compliance

(The Committee will be updated on EBDA's NPDES compliance.)

OM5. Status Report

(The Committee will be updated on EBDA's O&M activities.)

OM6. Adjournment

Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, contact Juanita Villasenor at juanita@ebda.org or (510) 278-5910. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Agenda Explanation
East Bay Dischargers Authority
O&M Agenda
November 14, 2022

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.

**The next O&M Committee meeting will be held
Monday, December 12, 2022, at 9:00 a.m.**

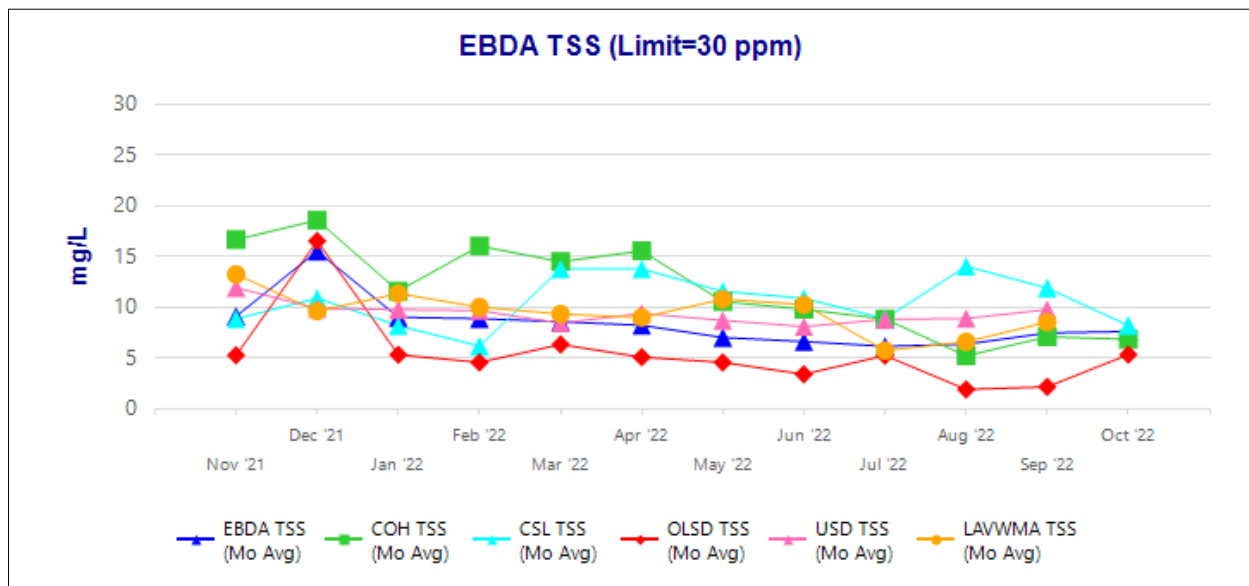
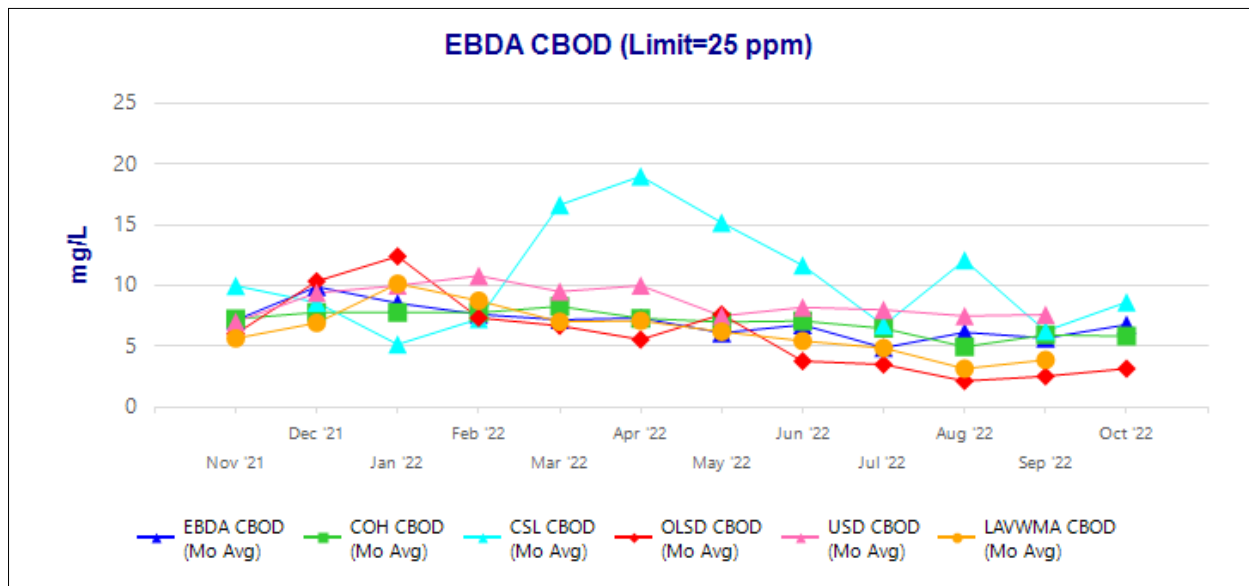
ITEM NO. OM4 EBDA PERMIT COMPLIANCE

Recommendation

For the Committee's information only; no action is required.

Discussion

There were no NPDES permit violations in September, and preliminary data from October are also free of permit exceedances. Member Agency CBOD and TSS performance are shown below. A table with bacterial indicators is also included.



EBDA Bacterial Indicators

Date	FECAL	ENTERO
	MPN/ 100mL	MPN/ 100mL
Limit (90th Percentile)	1100	1100
Limit (Geomean)	500	280
November 2021 Geomean	13	8
December 2021 Geomean	22	8
January 2022 Geomean	4	2
February 2022 Geomean	6	6
March 2022 Geomean	7	4
April 2022 Geomean	2	7
May 2022 Geomean	5	48
June 2022 Geomean	5	57
July 2022 Geomean	20	6
August 2022 Geomean	15	34
9/5/2022	170	19
9/6/2022	1100	8
9/7/2022	NA	34
9/12/2022	4	10
9/13/2022	13	63
9/14/2022	NA	15
9/19/2022	22	51
9/20/2022	350	37
9/26/2022	13	24
9/27/2022	13	115
September 2022 Geomean	43	28
10/3/2022	4	< 2
10/4/2022	33	< 2
10/5/2022	NA	13
10/10/2022	4	4
10/11/2022	17	13
10/17/2022	72	4
10/18/2022	4	2
10/24/2022	17	2
10/25/2022	46	4
10/31/2022	< 2	12
October 2022 Geomean	12	4

ITEM NO. OM5 STATUS REPORT

Union Effluent Pump Station (UEPS)

No change; all equipment is operational.

Hayward Effluent Pump Station (HEPS)

Effluent Pump Replacement Project

The Notice Inviting Bids for this project was advertised on October 4 and 11, 2022. On October 18, 2022, a pre-bid conference was conducted at HEPS, and the bids are due on November 15, 2022.

Oro Loma Effluent Pump Station (OLEPS)

Effluent Pump No. 2 Inlet Gate

In the process of completing preventative maintenance activities at OLEPS, the Effluent Pump No. 2 Inlet Gate got stuck in the closed position when the actuator drive threads failed. OLSD Maintenance staff disassembled the gate actuator, opened the gate using the OLEPS Bridge Crane, and sent the old actuator part out to have a new one custom fabricated. On October 31, 2022, the newly fabricated actuator drive threads were installed, and the Effluent Pump No. 2 Inlet Gate is fully operational.

Emergency Outfall Upgrade

Carollo Engineers (Carollo) completed an evaluation of the OLEPS emergency outfall to determine the outfall's maximum capacity and whether modifications to the outfall weir would increase system detention time and delay or prevent an unanticipated bypass in the event of a catastrophic failure at OLEPS. Carollo recommended that the existing lumber weir be replaced with a permanent concrete weir at an increased elevation. On September 16, 2022, Carollo Engineers completed the drawing and specifications that will be used for construction of the new elevated weir. Staff is in the process of requesting bids for this project from contractors.

Main Electrical Switchboard Upgrade

There are two outstanding items that still need to be addressed prior to completing the OLEPS Main Electrical Switchboard Upgrade Project. Schneider Electric, the project contractor, must fabricate and install new blanks or spacers to cover the space between the new breakers and the front panels. Schneider Electric also needs to issue a credit of approximately \$4,800 to reimburse EBDA for expenses incurred during the June 23, 2022, shutdown that was cancelled due to their oversights.

Skywest Pump Station

Recycled Water Production

During the month of October 2022, the Skywest Recycled Water System operated for two days and produced 1.0 million gallons of recycled water.

Marina Dechlorination Facility (MDF)

No change; all equipment is operational.

Force Main

No change; all equipment is operational.

Operations Center

No change; all equipment is operational.

Miscellaneous Items

Underground Service Alerts

EBDA received twenty-one (21) Underground Service Alert (USA) tickets during the month of October 2022. Seven required an Electronic Positive Response (EPR), eight required calls/emails to the excavators, and three required field verification.

EBDA Vehicle

On September 16, 2022, a Purchase Order was submitted to National Auto Fleet Group for EBDA's new F-150 Truck. On September 26, 2022, staff traded in EBDA's 2008 Ford Ranger for \$9,100. Due to the high trade-in value, it was necessary to trade-in the truck as soon as possible before the trade-in value was reduced. The new F-150 is on order, and EBDA is waiting for an estimated delivery date from Ford.

Special Projects

Roof Replacement Projects

On September 26, 2022, the Agreement with Garland/DBS, Inc. for the roof replacements at the EBDA Administration Building, the MDF Sodium Bisulfite (SBS) Storage Building, and OLEPS was signed. Some of the roofing supplies for all three roofs were delivered to OLEPS during the week of October 31, 2022. The contractor is planning on starting the project when the weather permits.

Cargill Brine Project

Staff is continuing to work with the Authority's CEQA consultant, Ascent Environmental, on preparation of the Environmental Impact Report (EIR) for the project. A draft of the EIR is currently undergoing internal review, and staff expects to release it for public comment in December. Information about the project and the CEQA process are being kept up to date here: <https://ebda.org/projects/cargill-partnership/>.

Staff has begun negotiations with Cargill on a Project Development and Operating Agreement, which would be brought to the Commission for consideration coincident with EIR certification, likely in Spring 2023. A draft technical addendum has been developed that outlines water quality limitations and monitoring requirements to ensure EBDA's continued compliance with our NPDES permit once brine discharge commences. The addendum will also include a corrosion monitoring plan, with triggers for action if accelerating corrosion is observed.

Advanced Quantitative Precipitation Information (AQPI) Project

The regional AQPI project continues to move forward with a goal of improving prediction of rainfall events in the Bay Area. Installation of the radar at Rocky Ridge has faced some additional delays relating to contractor approval by American Tower, who controls the Rocky Ridge site via lease from EBMUD. A new contractor has now been identified, and the team is awaiting American Tower's approval.

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NOTICE: In compliance with AB 361 (2021), the meeting scheduled below will be accessible via Zoom video conferencing.

- Members of the public may participate in the meeting by clicking on the following Zoom link: <https://us02web.zoom.us/j/89150541284>
- You may also participate via telephone by dialing 1(669) 900-6833 and entering Meeting ID number 891 5054 1284.

ITEM NO. 14

PERSONNEL COMMITTEE AGENDA

**Tuesday, November 15, 2022
9:00 a.m.**

**East Bay Dischargers Authority
2651 Grant Avenue, San Lorenzo, CA 94580**

Committee Members: Cutter (Chair), Duncan

- P1. Call to Order**
- P2. Roll Call**
- P3. Public Forum**
- P4. Brown Act Review**
(The Committee will discuss legal counsel's annual review of the Brown Act.)
- P5. Review of Commissioner Compensation Policy and Set Rate for 2023**
(The Committee will review the Policy and discuss rate considerations.)
- P6. Adjournment**

Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact Juanita Villaseñor at juanita@ebda.org or (510) 278-5910. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.

Agenda Explanation
East Bay Dischargers Authority
Personnel Committee
November 15, 2022

In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.

**The next Personnel Committee meeting will be held
Tuesday, January 17, 2023 at 9:00 a.m.**

ITEM NO. P4 BROWN ACT REVIEW

Recommendation

Receive and review the foregoing updates to the Brown Act.

Background

The Ralph M. Brown Act ("Brown Act" or "Act") (Gov. Code section 54950 et seq.), governs the public's rights to attend and participate in meetings of local legislative bodies, and provides procedural requirements for such meetings. The Brown Act is updated from time to time by the State legislature, or Gubernatorial Orders. The Personnel Committee annually reviews the Ralph M. Brown Act for changes that may have an effect on how EBDA conducts its Committee and Commission meetings.

Discussion

As discussed in Item No. 9, modifications to Brown Act requirements have been made over the past several years to accommodate teleconferencing as a public health measure during the COVID-19 pandemic. The Brown Act requires that all meetings of a legislative body of a local agency be open and public and that all persons be permitted to attend and participate. The Act also allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction.

Executive Order N-29-20 ("Order N-29-20"), issued by the Governor on March 17, 2020, allowed local legislative or state bodies to hold public meetings via teleconference without having to provide a physical location from which members of the public may observe the meeting and offer public comment, provided members of the public are allowed to observe and address the meeting telephonically or otherwise electronically. Executive Order N-29-20 expired on September 30, 2021.

On September 16, 2021, Governor Newsom signed AB 361 (2021) which allows for local legislative bodies to continue to conduct meetings via teleconferencing without complying with certain Brown Act provisions under specified conditions and includes a requirement that the Commission make specified findings. AB 361 amended section 54953 of the Government Code and essentially codified portions of the Executive Orders issued by the Governor, which relaxed Brown Act teleconferencing restrictions. AB 361 (2021) took effect October 1, 2021 and is effective until January 1, 2024. Pursuant to AB 361, legislative bodies are allowed to continue to meet remotely during a declared State of Emergency if the legislative body finds that meeting in person would present imminent risks to the health or safety of attendees. Each month, beginning in October 2021, EBDA's Commission has adopted a resolution authorizing the continued use of remote teleconference meetings pursuant to AB 361.

On October 17, 2022, Governor Newsom announced that the COVID-19 State of Emergency will terminate on February 28, 2023. Notably, the County of Alameda aligned with the State's position and immediately terminated its COVID-19 emergency declaration on October 25, 2022. The advance announcement is intended to provide state and local agencies the time needed to prepare to respond to legislation affected by the termination. This includes the termination of the remote meeting rules enacted by AB 361. While the provisions of AB 361 technically remain law through the end of 2023, those provisions require an active state of emergency for their operation. As a result, EBDA will no longer be able to rely on AB 361 after February 28, 2023.

Beginning January 1, 2023, new rules established by AB 2449 allow for remote proceedings even without a state of emergency. However, AB 2449 is intended to allow individual members the opportunity to participate in meetings via teleconference in limited circumstances. Thus, even though the State of Emergency does not expire until the end of February 2023, EBDA will no longer be able to conduct remote meetings after January 1, 2023 unless the conditions under AB 2449 are met.

AB 2449, signed by Governor Newsom in September 2022, allows local legislative bodies to hold teleconferenced meetings without complying with the traditional Brown Act rules. To do so, however, at least a quorum of the members of the legislative body must participate in person from a singular physical location identified on the agenda, which location will be open to the public and within the boundaries of the local agency. The legislative body must also provide either a two-way audiovisual platform or two-way telephonic service and a live webcasting of the meeting to allow the public to remotely hear and visually observe the meeting, and remotely address the legislative body. The agenda must identify and include an opportunity for all persons to attend via a call-in option, internet-based service option, and at the in-person location of the meeting. Additionally, AB 2449's teleconference procedures are limited to a period of no more than three consecutive months or 20% of the regular meetings within a calendar year, or more than two meetings if the legislative body meets fewer than ten times per calendar year.

The individual members of the legislative body are allowed to participate remotely only if either "just cause" or "emergency circumstances" exist as defined by AB 2449. "Just cause" is defined as either: (i) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely; (ii) a contagious illness that prevents a member from attending in person; (iii) a need related to a physical or mental disability as defined by statute; or (iv) travel while on official business of the legislative body or another state or local agency. "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

AB 2449's rules will remain in effect through 2025. In the absence of any future legislation, the traditional Brown Act teleconference rules will return in full effect on January 1, 2026.

In September 2022, Governor Newsom also signed AB 2647 into law, which provides EBDA with authority to make agenda items available via its website. A copy of all agenda items must still be made available to the public in compliance with the Brown Act. Since

EBDA already makes its agenda timely available on the website and office, this new law has no affect as a practical matter.

ITEM NO. P5 REVIEW OF COMMISSIONER COMPENSATION POLICY AND SET RATE FOR 2023

Recommendation

Provide direction to staff.

Background

Per the Sanitary District Act of 1923, Commissioners may receive compensation for each day of service in an amount adopted by the Commission. In December 2020, the Commission adopted the Authority's Commissioner Compensation Policy, which is attached for reference.

In November 2018, the Commission adopted a rate of \$240 per day of service, which has been in effect since January 1, 2019. This compensation rate may be adjusted by up to 5% annually by action of the Commission. Commissioners are currently considered contractors by EBDA and therefore receive 1099 tax forms documenting annual compensation, rather than W-2s.

Discussion

Staff is seeking feedback from the Committee on whether the compensation rate of \$240 per day should be adjusted. Staff is also recommending that beginning January 1, 2023, Commissioners be classified as Authority employees rather than contractors.

Compensation Rate

Staff is seeking input from the Committee on whether the daily Commissioner compensation rate should be adjusted, and/or whether any other changes to the Policy are warranted. The current rate may be increased up to \$252 per day of service. The table below, recently produced by Oro Loma, includes current rates for EBDA's sanitary district members and other local agencies. Note that EBDA's current Policy allows for compensation for up to six meetings per month.

Agency Name	Board Compensation per Meeting	Total District Meetings per Month	Maximum Paid Meetings per Month
West County Wastewater District	\$265.35	4	6
Oro Loma Sanitary District	\$260.00	8	6
EBDA	\$240.00	4	6
Castro Valley Sanitary District	\$230.00	3	6
Union Sanitary District	\$212.10	4	6
Dublin San Ramon Services District	\$195.00	2	10
Central Contra Costa Sanitary District	\$185.00	6	6
Delta Diablo Sanitation District	\$170.00	1	6
Fairfield Suisun Sewer District	\$152.77	2	6

Classification

As noted above, Commissioners are currently classified by the Authority as independent contractors or workers, and therefore receive 1099 tax documentation. Staff is recommending that Commissioners be reclassified as employees receiving W-2s. If

supported by the Committee and Commission, this change would take effect January 1, 2023.

Basis for Classifying Commissioners as Employees

Per the Internal Revenue Service ([IRS](#)), the following facts indicate that an office is a “public office”:

1. The constitution, legislation, or a municipality or other body with authority conferred by the legislature created the office
2. The office was delegated a portion of the powers of a government body
3. Legislative authority or law defined, either directly or indirectly, the powers conferred and the duties to be discharged by the office

This definition, along with EBDA’s Amended and Restated Joint Exercise of Powers Agreement, points to Commissioners being classified as statutory employees. As such, staff and legal counsel believe that the IRS would classify the Commissioners as employees for income and payroll tax withholding purposes (i.e., their income should be reported on a W-2 with income and payroll taxes withheld accordingly).

Further, legal counsel suggests the IRS would treat the EBDA Commissioners as employees because of their status as “public officials.” Internal Revenue Code (IRC) § 3401(c) provides that, for income tax withholding purposes, the term “employee” includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing. Thus, by federal statute, public officers are specifically included within the term “employee” for income tax withholding purposes (and conversely are not “independent contractors” for income tax withholding purposes). Section 31.3401(c)-1(a) of the Employment Tax Regulations clarifies that officers or employees can either be elected or appointed.

Regulations for IRC §1402, addressing the applicability of self-employment tax, indicate that the performance of the functions of a public office does not constitute a trade or business. Therefore, holders of “public office” are not subject to self-employment tax. Generally, all holders of public office that receive payment for their services are excepted from self-employment tax and are presumed to be employees receiving wages.

Implications of Reclassification

As employees, the Authority may be required to provide some form of retirement plan for Commissioners if Social Security taxes are not withheld. EBDA does not currently have a Section 218 Agreement and does not currently withhold Social Security taxes from employee wages. As elected officials, Commissioners are generally not eligible for CalPERS pension benefits. Government Code § 20322 states an “elective officer” is excluded from membership in CalPERS unless they file request in writing with the CalPERS Board of Administration to become a member. Staff is currently evaluating three options: withhold Social Security taxes for Commissioners, require that Commissioners request to join CalPERS, or provide an alternate retirement benefit such as deferred

compensation. Staff will provide a recommendation on this issue at a future meeting.

EBDA does not pay or withhold taxes for Unemployment Insurance (the Authority pays the state if an employee submits a claim) or State Disability Insurance (private 3rd-party short term disability insurance is offered to employees through Hayward). Applicable withholdings if Commissioners are reclassified as employees would therefore be federal and state taxes and Medicare. The current rate for Medicare payroll tax is 2.9%, split 50/50 by the employee and employer. Using the October Commissioner Compensation of \$2,640, the estimated Medicare payroll tax paid by the Authority would be \$38.00 per month, with an annual impact less than \$500.

Other financial impacts to EBDA would be costs for payroll and Worker's Compensation insurance, if deemed applicable. Staff estimates the annual additional payroll cost to be approximately \$200. The cost for providing Worker's Comp for Commissioners is estimated to be \$1600 or less.

As employees, Commissioners could be eligible for other benefits, such as healthcare. However, where eligible, Commissioners are already receiving healthcare benefits through the primary agency they were elected to serve. Therefore, staff recommends clarifying in the Commissioner Compensation Policy and/or Personnel Policy that Commissioners are not eligible for EBDA healthcare benefits.

POLICY NUMBER: 5

NAME OF POLICY: Commissioner Compensation

LAST REVISED: December 17, 2020

PREVIOUSLY REVISED: NA

PURPOSE: The purpose of this Policy is to prescribe the manner in which Authority Commissioners may be compensated and/or reimbursed for actual and necessary expenses related to official business of the Authority as well as for attendance at professional, educational, or vocational meetings.

POLICY: It is the policy of the Authority to provide fair and appropriate compensation for Commissioners performing their official duties.

Per the Sanitary District Act of 1923, Health and Safety Code sections 6400 et seq. Health and Safety Code section 6489(a) provides that board members may receive compensation not to exceed one hundred dollars (\$100) “for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.” Health and Safety Code section 6489(b) provides that the board may adopt by ordinance an increased amount of compensation received by board members above the amount of one hundred dollars (\$100) per day.

On this basis, Commissioners shall be paid per day, not per meeting. Effective January 1, 2019, the current daily compensation rate is \$240 for each day of service (Resolution 18-40). This compensation rate may be adjusted by up to 5% annually by action of the Commission. The Authority shall compensate Commissioners for up to six days of service per month.

The following activities shall be considered Commission service eligible for compensation:

- Attendance at Authority Commission Meetings, Committee Meetings, or other Commission workshops or meetings subject to the Brown Act
- Representing the Authority at meetings or events at the request of Authority staff or Commission

For the events above, Commissioners shall be entitled to the daily service stipend as well as reimbursement for associated travel costs.

For other activities, including conferences, meetings, and professional development, Commissioners shall be compensated by their home agencies. Commissioners may seek exceptions whereby the Authority provides compensation by requesting pre-approval by the Commission. The Commission may consider pre-approving compensation for these and any other activities on a case-by-case basis.

For additional clarity, under Government Code Section 61047, the following activities are ineligible for compensation and therefore the Commission cannot approve them as being eligible for compensation:

- Attendance at meeting of a Standing, Liaison, Ad Hoc, or Advisory Committee of the Board on which the Commissioner does not serve
- Attendance at any meeting solely with Authority staff other than a tour or special training two hours or longer
- Internal Authority events, including groundbreakings, ribbon cuttings, dedications, and anniversary celebrations
- Social gatherings such as retired Commissioner dinners and pre-conference activities and nonpartisan welcoming or retirement events for staff of local agencies and organizations
- Meetings with legislators other than at a public meeting conducted pursuant to the Brown Act
- Any activity for which a Commissioner receives compensation from another agency

ITEM NO. 15 ITEMS FROM THE COMMISSION AND STAFF

The Commission and staff may comment on items of general interest.

ITEM NO. 16 ADJOURNMENT