

**MINUTES OF THE MEETING OF THE  
BOARD OF DIRECTORS OF  
UNION SANITARY DISTRICT/UNION SANITARY DISTRICT FINANCING  
AUTHORITY  
January 10, 2022**

**This meeting was held pursuant to Government Code Section 54953 (as amended by AB 361), which authorizes teleconferenced meetings under the Brown Act during a proclaimed state of emergency. The Governor of California proclaimed a State of Emergency related to COVID-19 on March 4, 2020. Consistent with Government Code Section 54953, this meeting was not physically open to the public and all Board Members teleconferenced into the meeting. To maximize public safety while still maintaining transparency and public access, members of the public were able to observe the Board Meeting and provide public comment by sending comments to the Board Clerk.**

**CALL TO ORDER**

President Kite called the meeting to order at 4:00 p.m. The regular meeting time was modified due to the COVID-19 emergency.

**SALUTE TO THE FLAG**

**ROLL CALL**

PRESENT: Pat Kite, President  
Anjali Lathi, Vice President  
Manny Fernandez, Secretary  
Jennifer Toy, Director  
Tom Handley, Director

STAFF: Paul Eldredge, General Manager/District Engineer  
Karen Murphy, District Counsel  
Mark Carlson, Business Services Manager/CFO  
Armando Lopez, Treatment and Disposal Services Manager  
Jose Rodrigues, Collection Services Manager  
Robert Simonich, Fabrication, Maintenance, and Construction Manager  
Raymond Chau, Interim Technical Services Manager  
Gene Boucher, Human Resources Manager  
Ric Pipkin, Enhanced Treatment and Site Upgrade Program Manager  
Rollie Arbolante, Customer Service Team Coach  
Allan Briggs, Interim Capital Improvements Projects Team Coach  
Curtis Bosick, Enhanced Treatment and Site Upgrade Program Coordinator  
Karoline Terrazas, Organizational Performance Manager  
Jason Yeates, Organizational Performance Coordinator  
May Bautista, Administrative Specialist  
Regina McEvoy, Executive Assistant to the General Manager/Board Clerk

VISITORS: Reece Berger, W.M. Lyles Co.  
David Calandro, W.M. Lyles Co.  
Tony Mueller, W.M. Lyles Co.  
Marc Solomon, Hazen and Sawyer

Gary Skrel, Psomas  
Ross Tate, Coombs-Hopkins Company

**APPROVE MINUTES OF THE UNION SANITARY DISTRICT BOARD MEETING OF DECEMBER 13, 2021**

It was moved by Secretary Fernandez, seconded by Director Toy, to Approve the Minutes of the Board Meeting of December 13, 2021. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

**APPROVE MINUTES OF THE UNION SANITARY DISTRICT SPECIAL BOARD MEETING OF DECEMBER 15, 2021**

It was moved by Vice President Lathi, seconded by Director Handley, to Approve the Minutes of the Special Board Meeting of December 15, 2021. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

**APPROVE MINUTES OF THE UNION SANITARY DISTRICT SPECIAL BOARD MEETING OF DECEMBER 16, 2021**

It was moved by Director Handley, seconded by Director Toy, to Approve the Minutes of the Special Board Meeting of December 16, 2021. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

**NOVEMBER 2021 MONTHLY OPERATIONS REPORT**

General Manager Eldredge provided an overview of the Monthly Report, and Business Services Manager/CFO Carlson provided an overview of the financial reports.

**FISCAL YEAR 2022 1<sup>ST</sup> QUARTER DISTRICT-WIDE BALANCED SCORECARD**

This item was reviewed by the Legal/Community Affairs Committee. Organizational Performance Manager Terrazas provided an overview of the Balanced Scorecard included in the Board meeting packet and responded to Board member questions.

**WRITTEN COMMUNICATIONS**

There were no written communications.

## **PUBLIC COMMENT**

There was no public comment.

## **AWARD THE CONSTRUCTION CONTRACT FOR THE ENHANCED TREATMENT AND SITE UPGRADE PROGRAM PHASE 1A AERATION BASINS MODIFICATIONS PROJECT TO W.M. LYLES CO.**

This item was reviewed by the Engineering and Information Technology Committee. Enhanced Treatment and Site Upgrade Program Manager Pipkin stated Phase 1A of the Enhanced Treatment and Site Upgrade (ETSU) Program includes the Aeration Basin Modification Project (AB Mods Project), which will modify existing Aeration Basins 1 through 7, add new Aeration Basin 8, and related blower and lift pump improvements. Phase 1A also includes construction of a new Campus Building (Campus) with related improvements. The AB Mods Project was bid separately from the Campus due to the timing of the projects and the different type of work required for each.

The AB Mods Project was advertised for bids on September 28, 2021. The District received and opened three bids on November 16, 2021. Details of the bids received were included in the Board meeting packet. W.M. Lyles was the apparent low bidder with a total bid amount of \$120,612,553, which was \$34,612,553 above the Engineer's Estimate at the time of the bid opening. Initially, staff was of the opinion that recommending the Board award this contract would be challenging based upon what was known at that time. Staff's opinion has since changed based upon the results of a thorough evaluation; details of which were included in the Board meeting packet. Several options were evaluated and the team concluded based on the competitiveness of the bids received, the risks or increased bid amounts resulting from re-bidding the project in whole or in part, and delays associated with a re-bidding effort that awarding the contract would be the best option to balance District risks and needs that the ETSU Program is intended to address. The timing of the AB Mods Project is crucial for addressing process issues that the plant has been experiencing for some time due to increased solids loadings.

The District recently secured a WIFIA loan from the EPA to fund 49% of total ETSU Program costs at a very favorable rate of 1.9%. The WIFIA loan was recently increased from \$188,758,204 to \$249,660,876 to account for the increased bid amount and anticipated economic conditions. The District recently issued bonds (Series 2021A) in the amount of \$110,000,000 to finance various CIP projects, of which \$80 million has specifically been set aside for the ETSU program. Based upon the District's fiscal model and current rate structure, staff is of the opinion that awarding this contract will not create any short- or long-term impacts to the fiscal model.

The contractor will have 1,350 calendar days to complete the Project from the Notice to Proceed, which puts the estimated substantial completion date in October 2025. Staff reviewed the bid alternates, detailed in the Board meeting packet, based upon their price and associated reduction in scope. Including Bid Alternates A, B, and E, the contract price equates to the total amount of \$121,040,200.90. W.M. Lyles Co. confirmed on December 21, 2021, that they will construct the Project as bid and enter into the construction contract. Staff recommended the Board award the construction contract, including Bid Alternates A, B, and E, for the Enhanced Treatment and Site Upgrade Program Phase 1A Aeration Basins Modifications Project to W.M. Lyles Co. in the amount of \$121,040,200.90.

It was moved by Secretary Fernandez, seconded by Vice President Lathi, to Award the Construction Contract, Including Bid Alternates A, B, and E, for the Enhanced Treatment and Site Upgrade Program Phase 1A Aeration Basins Modifications Project to W.M. Lyles, Co. in the Amount of \$121,040,200.90. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

**AUTHORIZE THE PAYMENT OF PERMIT, INSPECTION, AND OTHER CITY FEES TO THE CITY OF UNION CITY FOR THE ENHANCED TREATMENT AND SITE UPGRADE PHASE 1A CAMPUS BUILDING PROJECT**

This item was reviewed by the Engineering and Information Technology Committee. Enhanced Treatment and Site Upgrade Program Manager Pipkin stated the ETSU Phase 1A Campus Building Project (Project) includes construction of a new campus building that will consolidate the District's existing administration, control/lab, and fabrication, maintenance, and construction buildings. The Project's design consultants submitted a preliminary application to the City of Union City at the City's request on May 26, 2021. On June 10, 2021, the City provided review comments that included direction on the submittals and permits that would be required for the Project. The design consultants submitted plans to the City and applied for permits on July 26, 2021. City and District staff have since discussed permit fees and additional details required by the City to issue the necessary permits. A table showing a breakdown of the fees was included in the Board meeting packet. Payment of the fees will be required prior to the issuance of City permits for the project with the exception of an estimate for fees to be determined during the course of construction by the number of field visits/inspections by the City. Staff recommended the Board authorize the payment of permit, inspection, and other City fees for the Enhanced Treatment and Site Upgrade (ETSU) Phase 1A Campus Building Project in the amount of \$509,705.

It was moved by Director Handley, seconded by Director Toy, to Authorize the Payment of Permit, Inspection, and Other City Fees for the Enhanced Treatment and Site Upgrade (ETSU) Phase 1A Campus Building Project in the Amount of \$509,705. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

**CONSIDER A RESOLUTION APPROVING A LAND LEASE WITH HICKORY ENERGY STORAGE, LLC FOR A PORTION OF THE OLD NEWARK WWTP SITE AND A LAND LEASE WITH IRVINGTON ENERGY STORAGE, LLC FOR A PORTION OF THE IRVINGTON PUMP STATION SITE (CEQA REVIEW: EXEMPT PURSUANT TO CEQA GUIDELINES 15061(B)(3), 15303 AND 15304**

This item was reviewed by the Budget & Finance Committee. General Manager Eldredge stated Heliovaas, a developer and owner of clean power projects, approached the District with the concept of leasing unused District property for the purposes of a utility scale battery electrical storage project. USD staff evaluated each site and concluded the project would benefit USD and that the proposed portions of the property could be leased without any impact on current or future operations. Heliovaas proposed two lease agreements for a portion of USD property to install battery energy storage systems, each of which would be entered into by a single-purpose limited liability company created by Heliovaas. The first would be adjacent to the Irvington Pump Station and the second would be on the site of the Old Newark Treatment Plant with footprints for each approximately 30,000 square feet. Neither site is currently needed for District operations, but the proposed lease agreements provide that they may be terminated if the District determines the property becomes necessary for District use in the future. The battery facilities would interconnect to the PG&E grid and would supply energy and power to energy service providers in the region such as East Bay Community Energy and PG&E. Heliovaas will require approximately two years to determine if a full-scale project will be feasible at each site. During this period Heliovaas shall pay USD \$5,200 per year (escalating at CPI annually). If at the end of the Development Period a project is determined not to be feasible then the applicable lease agreement would expire. Should a full-scale project be installed, each lease agreement allows for a term of 20 years with an option for two 5-year extension periods. A summary of the terms of the lease agreements was included in the Board meeting packet. The lease agreements would provide the option for USD to connect existing back-up power systems to the batteries to use during grid outages or public safety power shut offs. District staff have determined the lease agreements are not subject to the Surplus Lands Act as they do not allow development of the property as the battery storage facilities would not be permanent structures. Further, if the lease agreements would constitute development, the sites could be declared exempt surplus property as the property is being used for "agency's use" under the Surplus Lands Act. District staff will provide the California Department of Housing and Community Development with a copy of the resolution for this item at least 30 days prior to the execution of the lease agreements. Staff recommended the Board adopt a resolution approving a Land Lease with Hickory Energy Storage, LLC for a portion of the Old Newark WWTP Site and a Land Lease with Irvington Energy Storage, LLC for a portion of the Irvington Pump Station Site and Declaring the Sites Exempt Surplus Property.

It was moved by Director Handley, seconded by Director Toy, to Adopt Resolution No. 2946 Approving a Land Lease with Hickory Energy Storage, LLC for a Portion of the Old Newark WWTP Site and a Land Lease with Irvington Energy Storage, LLC for a Portion of the Irvington Pump Station Site and Declaring the Sites Exempt Surplus Property. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None

ABSTAIN: None  
ABSENT: None

**####**

## **RESOLUTION NO. 2946**

### **A RESOLUTION OF THE BOARD OF DIRECTORS APPROVING A LAND LEASE WITH HICKORY ENERGY STORAGE, LLC FOR A PORTION OF THE OLD NEWARK WWTP SITE AND A LAND LEASE WITH IRVINGTON ENERGY STORAGE, LLC FOR A PORTION OF THE IRVINGTON PUMP STATION SITE AND DECLARING THE SITES EXEMPT SURPLUS PROPERTY**

**WHEREAS**, the District owns certain real property on which the existing Irvington Pump station is located and the old Newark Treatment plant is located; and

**WHEREAS**, both sites include areas that are not currently needed for District operations, but that the District is retaining for potential future use (collectively, the "Storage Sites"); and

**WHEREAS**, Heliovaas has proposed entering into a lease agreement for each site to install battery energy storage systems, which will be installed on concrete pads on the Storage Sites and do not require permanent foundations; and

**WHEREAS**, the battery facilities would interconnect to the PG&E grid and supply energy and power to energy service providers in the region such as East Bay Community Energy and PG&E, and the District would have the option to use the facilities for back-up power; and

**WHEREAS**, Heliovaas would create two single-purpose entities to enter into the lease agreements; and

**WHEREAS**, each proposed lease agreement includes the following terms: (a) during a two-year development period the lessee shall pay USD \$5,200 per year (escalating at CPI annually); (b) if at the end of the development period, the installation is determined not to be feasible then the applicable lease agreement would expire; (c) should the installation be deemed feasible, each lease agreement allows for a term of 20 years with two 5-year option periods; and (d) the lease agreements may be terminated if the District determines the property is necessary for District use in the future; and

**WHEREAS**, the disposition of the Storage Sites is exempt under the Surplus Lands Act, Government Code Section 54220 *et seq.* ("SLA"), and if not determined exempt, the Board hereby desires to declare the Storage Sites exempt surplus property under the SLA.

### **NOW, THEREFORE, BE IT RESOLVED BY THE UNION SANITARY DISTRICT BOARD OF DIRECTORS AS FOLLOWS:**

1. The above recitals are true and correct and are material to this Resolution and are incorporated into this Resolution as findings of the District Board.

2. The Board hereby finds that approval of the lease agreements is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines 15061(b)(3), in that it can be seen that approval of the agreements will not have an impact on the environment. The lessees will be required to go through a two-year development

period, which will include any permitting review by other agencies and compliance with regulatory requirements. Further, the lease agreements allow for the installation of a series of small structures with no permanent foundations and are minor alterations of the land with no removal of trees and are thus exempt pursuant to CEQA Guidelines sections 15303 and 15304, respectively.

3. The Board hereby declares that the Storage Sites are exempt from the Surplus Lands Act or exempt surplus land and that the use of the Storage Site will further the express purpose of agency work or operations based on the following findings:

a. The proposed lease agreements are not subject to the SLA as they do not allow development of the Storage Sites. The battery storage facilities are not permanent structures but rather are installations on concrete pads on the sites and are removable. Thus, the lease agreements do not constitute "disposition of surplus land" pursuant to Surplus Lands Act Guidelines ("Guidelines") section 102(h)(1), as they are leases of "land on which no development or demolition will occur."

b. Further, if the lease agreements would constitute development, the Storage Sites are exempt surplus property as the property is being used for "agency's use" under Guidelines section 102(d)(2)(A). Union Sanitary District is a "district" under Guidelines section 102(i) as it is a sanitary (sewer) district. Thus, the District can dispose of property for commercial or industrial uses or for revenue generation if the use "[d]irectly further[s] the express purpose of agency work or operations," which is deemed to be for "agency's use." (Guidelines section 102(d)(2)(A).) The use of the Storage Sites for battery storage is consistent with the District's use and furthers the purpose of District operations. The District will have the option to connect to the battery systems for back-up power. In addition, the battery storage systems will provide overall benefits to the power system, benefitting the District and its ratepayers.

4. The Board hereby authorizes the General Manager to execute a Land Lease with Hickory Energy Storage, LLC, and a Land Lease with Irvington Energy Storage, LLC, in the forms attached to the staff report, with minor revisions that may be approved by the General Manager in consultation with the General Counsel, no earlier than 31 days after the adoption of this resolution.

5. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution. The Board hereby declares that it would have adopted this resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

6. This Resolution shall take effect immediately upon its adoption.



On motion duly made and seconded, this resolution was adopted by the following vote on January 10, 2022:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:

*Pat Kite*

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PAT KITE

President, Board of Directors  
Union Sanitary District

Attest:

DocuSigned by:

*Manny Fernandez*

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MANNY FERNANDEZ

Secretary, Board of Directors  
Union Sanitary District

Certificate Of Completion

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Record Tracking

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Electronic Record and Signature Disclosure		

**CONSIDER A RESOLUTION TO ACCEPT TWO SANITARY SEWER EASEMENTS AND QUITCLAIM A SANITARY SEWER EASEMENT FOR TRACT 8399 – MISSION FALLS, LOCATED AT MISSION FALLS COURT AND MISSION FALLS LANE, IN THE CITY OF FREMONT**

This item was reviewed by the Legal/Community Affairs Committee. Customer Service Team Coach Arbolante stated Century Communities, Inc. will construct a residential development in four villages for Tract 8399, on Mission Falls Court and Mission Falls Lane, in the City of Fremont. The approved development plans require rerouting of an existing public sewer main that resided within a sanitary sewer easement dedicated to the City of Fremont in 1983 via parcel map 3984. The City of Fremont abandoned the sanitary sewer easement as part of the development's tract map approval process. To ensure the District had continued rights to access and maintain the existing sewer main within the development while the replacement sewer main was under construction, the developer granted the District a sanitary sewer easement in 2018. The new sewer main has been constructed and accepted; sewer flow has been rerouted through the new main, and the old sewer main has been abandoned. Therefore, the corresponding easement is no longer needed and can be quitclaimed. The roadways within Tract 8399 do not meet the City of Fremont's street dimensions and structure setback requirements for public streets and were designated as private roadways. A new sanitary sewer easement will be needed for the public sewer main within the private roadways. Century Communities, Inc. constructed the new public and private sewer mains within the private roadways and granted the District a sanitary sewer easement through Parcel G that will provide for access and maintenance to the public sewer main. The homeowner association, Enclave at Mission Falls Community Association, has granted the District a sanitary sewer easement through Parcel F, a non-roadway parcel for storm drainage control. Staff recommended the Board consider a resolution to accept two sanitary sewer easements and quitclaim a sanitary sewer easement for Tract 8399 – Mission Falls, located on Mission Falls Court and Mission Falls Lane, in the City of Fremont.

It was moved by Vice President Lathi, seconded by Director Handley, to Adopt Resolution No. 2947 Accepting Two Sanitary Sewer Easements and Quitclaim an Existing Sanitary Sewer Easement for Tract 8399 – Mission Falls, Located at Mission Falls Court and Mission Falls Lane, in the City of Fremont, California. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

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**RESOLUTION NO. 2947**

**ACCEPT TWO SANITARY SEWER EASEMENTS AND QUITCLAIM AN  
EXISTING SANITARY SEWER EASEMENT FOR TRACT 8399 – MISSION  
FALLS, LOCATED AT MISSION FALLS COURT AND MISSION FALLS LANE,  
IN THE CITY OF FREMONT, CALIFORNIA**

RESOLVED by the Board of Directors of UNION SANITARY DISTRICT, as follows:

1. The Board hereby accepts the Grant of Easement from ENCLAVE AT MISSION FALLS COMMUNITY ASSOCIATION, executed on November 23, 2021, as described in the Grant of Easement for Sanitary Sewer Purposes, and by the legal description and plat map, attached as Exhibit A and B, respectively.
2. The Board hereby accepts the Grant of Easement from CENTURY COMMUNITIES, INC., executed on November 24, 2021, as described in the Grant of Easement for Sanitary Sewer Purposes, and by the legal description and plat map, attached as Exhibit A and B, respectively.
3. The Board hereby quitclaims its interest in the ten- and twenty-foot wide sanitary sewer easement in Adjusted Parcel 4, Certificate of Compliance, DN 2016321237, in the city of Fremont, accepted by the Union Sanitary District Board of Directors by Resolution 2834 on September 10, 2018, and as described in the Quitclaim Deed and by the legal description and plat map, attached as Exhibit A and Exhibit B, respectively.

FURTHER RESOLVED by the Board of Directors of UNION SANITARY DISTRICT that it hereby authorizes the General Manager/District Engineer, or his designee, to attend to the recordation thereof.

On motion duly made and seconded, this resolution was adopted by the following vote on January 10, 2022:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:

*Pat Kite*

7EEF0DB9E7E0480

PAT KITE

President, Board of Directors  
Union Sanitary District

Attest:

DocuSigned by:

*Manny Fernandez*

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MANNY FERNANDEZ

Secretary, Board of Directors  
Union Sanitary District

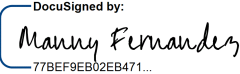
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Union Sanitary District		
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**REVIEW AND CONSIDER APPROVAL OF TECHNICAL SERVICES WORKGROUP  
MANAGER POSITION DESCRIPTION, AND REVISION TO SALARY RANGE**

Human Resources Manager Boucher stated that with the retirement of the Technical Services Workgroup Manager, the District reviewed the job description and salary range for the position. The job description has been updated to reflect the current duties of the position. The District conducted a Market Survey for the position, and based on the results of the survey, the salary range for the position has been lowered by five percent to align the position with the current market. Staff recommended the Board consider and approve the Technical Services Workgroup Manager position description and adjustments to the salary range.

It was moved by Director Toy, seconded by Secretary Fernandez, to Approve the Technical Services Workgroup Manager position description and adjustments to the salary range. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

**CONSIDER ADOPTION OF A RESOLUTION AUTHORIZING THE USE OF  
TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB361**

District Counsel Murphy stated AB 361 requires public agencies to make findings by majority vote within 30 days of the first teleconferenced meeting under AB 361 and every 30 days thereafter that a state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that officials continue to impose or recommend measures to promote social distancing. The District is continuing to hold teleconferenced meetings as allowed under AB 361 due to the ongoing public health threat of COVID-19. The proposed resolution includes findings required by AB 361 to allow the District to hold teleconferenced meetings. Staff recommended the Board adopt a resolution authorizing the use of teleconference meetings in compliance with AB 361.

It was moved by Director Toy, seconded by Director Handley, to Adopt Resolution No. 2948 Authorizing the Use of Teleconference Meetings in Compliance with AB 361. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy  
NOES: None  
ABSTAIN: None  
ABSENT: None

####

## **RESOLUTION NO. 2948**

### **A RESOLUTION OF THE BOARD OF DIRECTORS AUTHORIZING THE USE OF TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361**

**WHEREAS**, the Union Sanitary District is committed to preserving and nurturing public access and participation in meetings of the Board of Directors; and

**WHEREAS**, all meetings of Union Sanitary District's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963); and

**WHEREAS**, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

**WHEREAS**, Government Code 54953(e) permits teleconferencing in the event that a state of emergency is declared by the Governor pursuant to Government Code section 8625, and that either state or local officials have imposed or recommended measures to promote social distancing, or that the legislative body finds that meeting in person would present imminent risks to the health and safety of attendees; and

**WHEREAS**, such conditions now exist in the District; and

**WHEREAS**, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in response to the rapid spread of the highly contagious disease known as COVID-19; and

**WHEREAS**, on August 3, 2021, the Health Officer of the County of Alameda adopted Order No. 21-03 stating that the Delta variant has been circulating in the County, is highly transmissible in indoor settings and requires multi-component prevention strategies to prevent spread, and that hospitalizations are increasing; and

**WHEREAS**, despite ongoing efforts to promote masking and vaccinations, COVID-19 continues to threaten the health and lives of the public, especially with the existence of the Delta variant, which is highly transmissible in indoor settings, and the Omicron variant, which is even more transmissible than the Delta variant with case counts increasing daily; and

**WHEREAS**, the increased risk of contracting COVID-19 associated with being indoors with others has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District; and

**WHEREAS**, on October 25, 2021, the Board adopted Resolution No. 2937, authorizing the use of teleconference meetings in compliance with AB 361; and

**WHEREAS**, on November 8, 2021, the Board adopted Resolution No. 2941, authorizing the use of teleconference meetings in compliance with AB 361; and

**WHEREAS**, on November 15, 2021, the Board adopted Resolution No. 2942, authorizing the use of teleconference meetings in compliance with AB 361; and

**WHEREAS**, on December 13, 2021, the Board adopted Resolution No. 2945, authorizing the use of teleconference meetings in compliance with AB 361; and

**WHEREAS**, the Board now desires to reaffirm and make the findings required to continue holding teleconference meetings in compliance with AB 361 due to the continuing public health threat of COVID-19.

**NOW, THEREFORE, BE IT RESOLVED, BY THE UNION SANITARY DISTRICT BOARD OF DIRECTORS, AS FOLLOWS:**

1. The above recitals are true and correct and are material to this Resolution and are incorporated into this Resolution as findings of the District Board.

2. The Union Sanitary District Board finds and declares that the circumstances set forth in Government Code section 54953(e)(1), exist because the State of Emergency continues to exist and meeting in person would present imminent risks to the health and safety of attendees.

3. Pursuant to the requirements of Government Code Section 54953 (e)(3), the District Board makes the following findings:

(a) The District Board has considered the circumstances of the continuing state of emergency;

(b) The state of emergency continues to directly impact the ability of the members and the public to meet safely in person;

(c) Due to COVID-19, holding meetings in person will present imminent risks to the health and safety to attendees; and

(d) The District Board will continue to meet by teleconference in accordance with Government Code section 54953(e).

4. The aforementioned findings apply to all committees and subcommittees of the District which are classified as legislative bodies pursuant to Government Code Section 54952.

5. The District Board will reconsider every 30 days, the circumstances of the emergency and review whether it continues to directly impact the ability of the members to meet safely in person.

6. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Resolution is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution. The Board hereby declares that it would have adopted this Resolution and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared unconstitutional.

7. This Resolution shall take effect immediately upon its adoption.

On motion duly made and seconded, this resolution was adopted by the following vote on January 10, 2022:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:

*Pat Kite*

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PAT KITE

President, Board of Directors  
Union Sanitary District

Attest:

DocuSigned by:

*Manny Fernandez*

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MANNY FERNANDEZ

Secretary, Board of Directors  
Union Sanitary District

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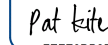
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Pat Kite

pkite@unionsanitary.ca.gov

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## **INFORMATION ITEMS:**

### **Agreement with DCM Consulting for Geotechnical Consulting Services**

This item was reviewed by the Engineering and Information Technology Committee. Customer Service Team Coach Arbolante stated the District entered into a geotechnical consulting services agreement with DCM Consulting, Inc. on December 3, 2021, for a not to exceed amount of \$40,000 and a two-year period. The agreement provides for consulting services on geotechnical engineering issues related to various District projects on an as needed basis. Previously, on February 11, 2019, the District entered into an agreement for \$40,000 for a two-year period. Four task orders and one amendment totaling \$34,983.75 were executed under the agreement. A summary of the task orders and amendment was included in the Board meeting packet. Although the dollar amount of the agreement is within staff's authority, the Board previously requested staff provide informational updates on these agreements.

### **Report on the East Bay Dischargers Authority Meeting of November 18, 2021**

Director Toy provided an overview of the EBDA Meeting minutes included in the Board meeting packet.

### **COVID-19 Update**

General Manager Eldredge provided an update regarding COVID-19 impacts on District operations and coordination efforts.

### **Check Register**

There were no questions regarding the check register.

## **COMMITTEE MEETING REPORTS:**

The Budget & Finance, Legal/Community Affairs, and Engineering and Information Technology Committees met.

## **GENERAL MANAGER'S REPORT:**

- General Manager Eldredge stated the Aeration Basins Modifications Project contract awarded earlier in the meeting was the largest bid awarded by the District to date and was the culmination of work that began in 2015. General Manager Eldredge congratulated staff and expressed gratitude to the Board for their support.
- The California Association of Sanitation Agencies winter conference was canceled due to the current COVID-19 virus surge.
- A Board Workshop to discuss the District's 115 Trust will be held virtually at 4:00 p.m. on Wednesday, January 12, 2022.

## **OTHER BUSINESS:**

There was no other business.

## **ADJOURNMENT:**

The meeting was adjourned at 4:56 p.m. to a Board Workshop to be held virtually on Wednesday, January 12, 2022, at 4:00 p.m.

SUBMITTED:

DocuSigned by:

*Regina McEvoy*

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REGINA McEVOY  
BOARD CLERK

ATTEST:

DocuSigned by:

*Manny Fernandez*

77B5F0EB02EB471...

MANNY FERNANDEZ  
SECRETARY

APPROVED:

DocuSigned by:

*Pat Kite*

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PAT KITE  
PRESIDENT

Adopted this 24<sup>th</sup> day of January 2022



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Regina McEvoy

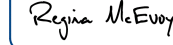
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