

**MINUTES OF THE MEETING OF THE
BOARD OF DIRECTORS OF
UNION SANITARY DISTRICT/UNION SANITARY DISTRICT FINANCING
AUTHORITY
September 12, 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 Lathi 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: Anjali Lathi, President
Manny Fernandez, Vice President
Jennifer Toy, Secretary
Tom Handley, Director
Pat Kite, 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
Raymond Chau, Technical Services Manager
Curtis Bosick, Enhanced Treatment and Site Upgrade Assistant Program Manager
Marcus Lee, Treatment & Disposal Services Coach
Matt Lubina, Collection Services MTV Coach
Chris Pachmayer, FMC Electrical & Technology Coach
Gus Carrillo, Enhanced Treatment and Site Upgrade Assistant Engineer
Jason Yeates, Organizational Performance Coordinator II
Ric Pipkin, Enhanced Treatment and Site Upgrade Program Manager
Alisa Gordon, Human Resources Manager
Trieu Nguyen, IT Administrator
Sharon Anderson, Administrative Specialist

APPROVE MINUTES OF THE UNION SANITARY DISTRICT BOARD MEETING OF AUGUST 22, 2022

It was moved by Secretary Toy, seconded by Vice President Fernandez, to Approve the Minutes of the Board Meeting of August 22, 2022, with edits. 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 AUGUST 23, 2022

It was moved by Vice President Fernandez, seconded by Director Handley, to Approve the Minutes of the Special Board Meeting of August 23, 2022. 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 AUGUST 25, 2022

It was moved by Director Handley, seconded by Secretary Toy, to Approve the Minutes of the Special Board Meeting of August 25, 2022. Motion carried with the following vote:

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

FOURTH QUARTER FISCAL YEAR 2022 DISTRICT-WIDE BALANCED SCORECARD MEASURES

This item was reviewed by the Legal/Community Affairs Committee. Organizational Performance Coordinator Yeates 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.

AUTHORIZE THE GENERAL MANAGER TO EXECUTE CERTAIN DOCUMENTS WITH ZOVICH CONSTRUCTION AND THE BAY AREA AIR QUALITY MANAGEMENT DISTRICT FOR THE CLEAN AIR CHARGE! PROGRAM AND THE ENHANCED TREATMENT AND SITE UPGRADE PROGRAM PHASE 1A CAMPUS BUILDING PROJECT

This item was reviewed by the Engineering and Information Technology Committee. The construction contract for the Campus Project to Zovich Construction was awarded on June 13, 2022, in the amount of \$76,375,000.00. The Project includes electrical vehicle charging stations as well as a small photovoltaic solar panel system over the main entrance to the Campus Building. In March 2022 staff applied to the BAAQMD Charge! Program for a grant for the charging stations. On July 28, 2022, BAAQMD proposed a grant of \$103,000. The amount of the grant is increased by a maximum of \$4,000 if the electric vehicle charging project includes a solar power generation component. BAAQMD requires that procurement and installation not commence until after the attached TFCA funding agreement is executed. Change Order No. 2 with Zovich construction removes the chargers and the building main entrance solar power generation facility from the Campus Building Project for a credit of \$250,000.00. Change Order No. 3 adds the Union Sanitary District's Electric Vehicle Charging Station Project scope into the contract conditioned upon execution of the agreement with BAAQMD. Staff recommended the Board authorize the General Manager to execute Contract Change Order No. 2 with Zovich Construction (Zovich) for a credit of \$250,000.00 and; authorize the General Manager to execute a Transportation Fund for Clean Air (TFCA) Funding Agreement with the Bay Area Air Quality Management District (BAAQMD) for the Union Sanitary District's Electric Vehicle Charging Station Project and; conditionally authorize the General Manager to execute Contract Change Order No. 3 with Zovich for \$250,000.00 to add the Union Sanitary District's Electric Vehicle Charging Station Project to the Enhanced Treatment and Site Upgrade Program Phase 1A Campus Building Project (Project) contingent upon the BAAQMD executing a TFCA funding agreement for the Union Sanitary District's Electric Vehicle Charging Station Project.

It was moved by Director Handley, seconded by Secretary Toy, to Authorize the General Manager to Execute Contract Change Order No. 2 with Zovich Construction (Zovich) for a Credit of \$250,000.00 for Removing the Electric Vehicle Charging Stations and Building Main Entrance PV System for the Enhanced Treatment and Site Upgrade Program Phase 1A Campus Building Project (Project). Motion carried with the following vote:

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

It was moved by Vice President Fernandez, seconded by Secretary Toy, to Authorize the General Manager to Execute a Transportation Fund for Clean Air (TFCA) Funding Agreement with the Bay Area Air Quality Management District (BAAQMD) For the Union Sanitary District's Electric Vehicle Charging Station Project. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None
 ABSTAIN: None
 ABSENT: None

It was moved by Director Kite, seconded by Director Handley, to Conditionally Authorize the General Manager to Execute Contract Change Order No. 3 with Zovich for \$250,000.00 to Add the Union Sanitary District's Electric Vehicle Charging Station Project to the Enhanced Treatment and Site Upgrade Program Phase 1A Campus Building Project (Project) Contingent Upon the BAAQMD Executing a TFCA Funding Agreement for the Union Sanitary District's Electric Vehicle Charging Station Project. Motion carried with the following vote:

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

CONSIDER A RESOLUTION DECLARING AN EMERGENCY AND AUTHORIZING THE EMERGENCY EXPENDITURE OF FUNDS FOR THE REPAIR OF TWO SEWER LINES IN THE CITY OF FREMONT DAMAGED BY FIBER OPTIC LINE INSTALLATION

This item was reviewed by the Engineering and Information Technology Committee. Collection Services Manager Rodrigues stated that two gravity sewer mains in the City of Fremont have been damaged by a private third-party contractor installing 5G fiber optic lines. Staff has been working with the contractor and its insurance company to seek reimbursement to complete the repair. Although ongoing, discussions up to this point have not resulted in a resolution. Given the upcoming wet weather season and time required to complete the work, it is necessary for the District to proceed with the repair. The damaged sewer mains create enough risk to the District that staff is recommending an emergency be declared to expedite the necessary repairs. The District's Purchasing Policy and California Public Contract Code (PCC) Section 20806 allow for emergency contracting. Staff recommended the Board adopt a Resolution declaring an emergency and authorizing the emergency expenditure of funds for the repair of two sewer lines in the City of Fremont damaged by fiber optic line installation.

It was moved by Director Handley, seconded by Vice President Fernandez, to Adopt Resolution 2982 Declaring an Emergency and Authorizing the Emergency Expenditure of Funds for the Repair of Two Sewer Lines in the City of Fremont Damaged by Fiber Optic Line Installation. Motion carried with the following vote:

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

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RESOLUTION NO. 2982

DECLARING AN EMERGENCY AND AUTHORIZING THE EMERGENCY EXPENDITURE OF FUNDS FOR THE REPAIR OF TWO SEWER LINES IN THE CITY OF FREMONT DAMAGED BY FIBER OPTIC LINE INSTALLATION

WHEREAS, two gravity sewer mains in the City of Fremont located at (1) the intersection of Paseo Padre Parkway and Washington Blvd; and (2) the intersection of Fremont Blvd. and Clipper Court, have been damaged by a private third-party contractor installing 5G fiber optic lines in City's right-of-way; and

WHEREAS, the District has not been able to reach resolution with the contractor and its insurance company regarding the completion of the repair and reimbursement to the District; and

WHEREAS, given the upcoming wet weather season and time required to complete the work, it is necessary for the District to expeditiously proceed with the repair, while concurrently working toward resolution of the reimbursement of funding from the contractor; and

WHEREAS, the damaged sewer mains in their current condition create risk to the District and must be repaired; and

WHEREAS, compliance with competitive bidding procedures typically takes a number of months and would not allow prompt action to be taken to complete the repair, as required to safeguard the public and District facilities; and

WHEREAS, the District's Purchasing Policy and California Public Contract Code (PCC) Section 20806 allow for emergency contracting without competitive bidding in accordance with the requirements of PCC Section 22050; and

WHEREAS, the California Environmental Quality Act establishes a statutory exemption for emergency repairs to public service facilities necessary to maintain service, and other specific actions necessary to prevent or mitigate an emergency; and

WHEREAS, the damage involves a clear and imminent threat, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, and essential public services.

**NOW, THEREFORE, BE IT RESOLVED, BY THE UNION SANITARY
DISTRICT BOARD OF DIRECTORS, BASED ON THE STAFF REPORT AND ORAL
AND WRITTEN TESTIMONY, 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 finds and declares, pursuant to Public Contract Code section 22050(a), that based on substantial evidence presented before the Board, the emergency will not permit a delay resulting from competitive solicitation for bids for the repair of the District's damaged sewer mains, and that this action is necessary to respond to the emergency.

3. The Board authorizes staff to continue to proceed with the repair or replacement of the two sewer mains in Fremont located at (1) the intersection of Paseo Padre Parkway and Washington Blvd; and (2) the intersection of Fremont Blvd. and Clipper Court, and procurement of the necessary equipment, services and supplies for that purpose without giving notice for bids to let contracts.

4. The Board will review the status of the emergency at each subsequent meeting of the Board of Directors and vote to authorize continuation of this resolution until the emergency action is completed.


PASSED, APPROVED, AND ADOPTED by at least a four-fifths vote, at a regular meeting of the Board of Directors on this 12th day of September, 2022.

AYES: Fernandez, Handley, Kite, Lathi, Toy

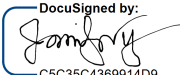
NOES: None

ABSENT: None

ABSTAIN: None

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ANJALI LATHI
President, Board of Directors
UNION SANITARY DISTRICT

Attest:

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JENNIFER TOY
Secretary, Board of Directors
UNION SANITARY DISTRICT

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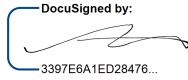
Anjali Lathi

alathi@unionsanitary.ca.gov

Union Sanitary District

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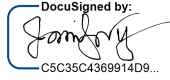
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Jennifer Toy

jtoy@unionsanitary.ca.gov

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REVIEW AND CONSIDER APPROVAL OF POLICY 3030 BOARDMEMBER BUSINESS AND TRAVEL EXPENSE

This item was reviewed by the Budget & Finance Committee. Business Services Manager/CFO Carlson stated that the proposed policy contained minor administrative updates and clarifications. Staff recommended the Board approve Policy 3030 Boardmember Business and Travel Expense.

It was moved by Director Kite, seconded by Vice President Fernandez, to Approve Policy 3030 Boardmember Business and Travel Expense. Motion carried with the following vote:

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

REVIEW AND CONSIDER APPROVAL OF POLICY 2755, PROCUREMENT POLICY

This item was reviewed by the Budget & Finance Committee. Business Services Manager/CFO Carlson proposed an update to Procurement Policy 2755 granting purchasing authority to the Senior Accounting and Financial Analyst of up to \$10,000. Staff recommended the Board approve Procurement Policy 2755 granting purchasing authority to the Senior Accounting and Financial Analyst of up to \$10,000.

It was moved by Director Handley, seconded by President Lathi, to Approve the Update to Procurement Policy 2755 Granting Purchasing Authority of Up to \$10,000 to the Senior Accounting and Financial Analyst. Motion carried with the following vote:

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

COVID-19 UPDATE AND CONSIDER ADOPTION OF A RESOLUTION AUTHORIZING THE USE OF TELECONFERENCE MEETINGS IN COMPLIANCE WITH AB 361

General Manager Eldredge provided an update regarding COVID-19 impacts on District operations and coordination efforts. 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 provided an update on the status of the COVID-19 Emergency Order. Staff recommended the Board adopt a resolution authorizing the use of teleconference meetings in compliance with AB 361.

It was moved by Vice President Fernandez, seconded by Director Kite, to Adopt Resolution No. 2983 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. 2983

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, 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, on March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency in response to COVID-19, which remains in effect; and

WHEREAS, the Board has adopted resolutions authorizing the use of teleconference meetings in compliance with AB 361 since October 25, 2021; 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 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. Pursuant to the requirements of Government Code Section 54953(e)(3), the District Board makes the following findings:

- (a) The state of emergency continues to exist;
- (b) The District Board has considered the circumstances of the continuing state of emergency;
- (c) Holding meetings in person will present imminent risks to the health and safety of attendees; and
- (d) The District Board will continue to meet by teleconference in accordance with Government Code section 54953(e).

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

4. The District Board will reconsider at least 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.

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.

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Board of Directors on this 12th day of September, 2022.

AYES: Fernandez, Handley, Kite, Lathi, Toy

NOES: None

ABSENT: None

ABSTAIN: None

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ANJALI LATHI

President, Board of Directors
UNION SANITARY DISTRICT

Attest:

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JENNIFER TOY

Secretary, Board of Directors
UNION SANITARY DISTRICT

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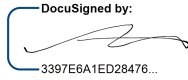
Anjali Lathi

alathi@unionsanitary.ca.gov

Union Sanitary District

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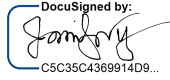
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Jennifer Toy

jtoy@unionsanitary.ca.gov

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INFORMATION ITEMS:

Annual Report to Union City Fiscal Year 2022

This item was reviewed by the Legislative Committee. Treatment and Disposal Services Manager Lopez stated Union City Use Permit UP-4-95 requires the District to annually submit a report to the City Manager. The purpose of the report is to provide an update on the District's operational statistics, and other District activities, per the Union City Conditional Use Permit.

Check Register

There were no questions regarding the check register.

COMMITTEE MEETING REPORTS:

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

GENERAL MANAGER'S REPORT:

- The ETSU time-lapse videos for the campus and aeration basin are on the District website under the ETSU tab.
- General Manager Eldredge will give a presentation to the Fremont Rotary Club on October 19, 2022, at 1:00PM.
- The District continues a busy period of recruitment and remains encouraged by the number of applications and qualified applicants responding to job postings.
- In response to the heat wave, Cal ISO and the Governor's Office requested water and wastewater agencies to move off the grid and use emergency generators from late afternoon until evening. With short notice, staff was able to confirm compliance and coordinate with a host of other entities to make this happen.

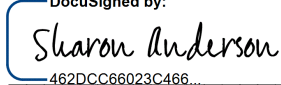
OTHER BUSINESS:

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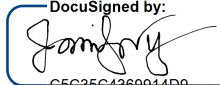
ADJOURNMENT:

The meeting was adjourned at 4:39 p.m. to the next Regular Board Meeting to be held virtually on Monday, September 26, 2022, at 4:00 p.m.

SUBMITTED:

DocuSigned by:

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SHARON ANDERSON
ADMINISTRATIVE SPECIALIST

ATTEST:

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JENNIFER TOY
SECRETARY

APPROVED:

DocuSigned by:

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ANJALI LATHI
PRESIDENT

Adopted this 26th day of September 2022

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Holder: Regina McEvoy

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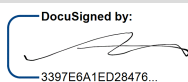
Location: DocuSign

Signer Events

Anjali Lathi

alathi@unionsanitary.ca.gov

Union Sanitary District

Security Level: Email, Account Authentication
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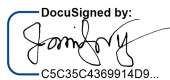
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Jennifer Toy

jtoy@unionsanitary.ca.gov

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Sharon Anderson

sharona@unionsanitary.ca.gov

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Sent: 9/28/2022 1:51:01 PM

Viewed: 9/28/2022 2:07:59 PM

Signed: 9/28/2022 2:08:33 PM

Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp**

Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/28/2022 1:51:02 PM
Certified Delivered	Security Checked	9/28/2022 2:07:59 PM
Signing Complete	Security Checked	9/28/2022 2:08:33 PM
Completed	Security Checked	10/2/2022 11:22:45 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		