MINUTES OF THE MEETING OF THE **BOARD OF DIRECTORS OF** UNION SANITARY DISTRICT/UNION SANITARY DISTRICT FINANCING AUTHORITY **December 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

Tom Handley, Director Pat Kite, Director

ABSENT: Jennifer Toy, Secretary

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

Ric Pipkin, Enhanced Treatment and Site Upgrade Program Manager Chris Pachmayer, Fabrication, Maintenance, and Construction Team Coach

Curtis Bosick, Capital Improvements Projects Team Coach

Alisa Gordon, Human Resources Manager

Trieu Nguyen, IT Administrator

Gus Carrillo, Enhanced Treatment and Site Upgrade Program Coordinator

Karoline Terrazas, Organizational Performance Manager

Regina McEvoy, Executive Assistant to the General Manager/Board Clerk

APPROVE MINUTES OF THE UNION SANITARY DISTRICT BOARD MEETING OF NOVEMBER 14, 2022

It was moved by Director Kite, seconded by Vice President Fernandez, to Approve the Minutes of the Board Meeting of November 14, 2022. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

<u>APPROVE MINUTES OF THE UNION SANITARY DISTRICT SPECIAL BOARD</u> MEETING OF NOVEMBER 15, 2022

It was moved by Director Kite, seconded by Director Handley, to Approve the Minutes of the Special Board Meeting of November 15, 2022. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

OCTOBER 2022 MONTHLY OPERATIONS REPORT

This item was reviewed by the Budget & Finance and Legal/Community Affairs Committees. General Manager Eldredge provided an overview of the Monthly Report, and Business Services Manager/CFO Carlson provided an overview of the financial reports.

WRITTEN COMMUNICATIONS

There were no written communications.

PUBLIC COMMENT

There was no public comment.

CONSIDER CONFIRMING AND DECLARING THE NEED TO CONTINUE THE EMERGENCY ACTION TO REPAIR TWO SEWER LINES IN THE CITY OF FREMONT DAMAGED BY FIBER OPTIC INSTALLATION

This item was reviewed by the Engineering and Information Technology Committee. Collection Services Manager Rodrigues stated that on September 12, 2022, the Board adopted Resolution No. 2982 declaring an emergency and authorizing the expenditure of funds to allow staff to proceed with the expeditious repair of two sewer lines in the City of Fremont. Pursuant to Public Contract Code section 22050, the Board is required to review the status of emergency action at each subsequent meeting until the emergency action is terminated and authorize continuation of the emergency action by a four-fifths vote. Staff recommended the Board adopt a motion by a four-fifths vote declaring a

continuance of emergency and authorizing continued repair of the two sewer lines in the City of Fremont.

It was moved by Director Handley, seconded by Vice President Fernandez, to Adopt a Motion by a Four-Fifths Vote Declaring a Continuance of Emergency and Authorizing Continued 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

NOES: None ABSTAIN: None ABSENT: Toy

CONSIDER APPROVAL OF A SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH JK COMMUNICATION & CONSTRUCTION/KLEVEN CONSTRUCTION, INC., THE HARTFORD, AND HARTFORD UNDERWRITERS INSURANCE COMPANY

This item was reviewed by the Legal/Community Affairs Committee. District Counsel Murphy stated the District was notified in March of 2022 that a contractor, HP Communications and JK Communication & Construction/Kleven Construction, Inc. (JKC), had damaged three separate sewer lines while working in the City of Fremont. The District allowed HP Communications to repair one of the damaged sewer mains due to its shallow depth, but the other two lines required repair by the District. The District negotiated with the contractor and its insurance company to resolve the issue in an effort to complete the work without expending public funds, but were unable to reach a resolution. The District has been completing the work and concurrently filed a complaint to recover damages against MCI Metro Access Transmission Services, LLC dba Verizon Access Transmission Services and MCI Communications Services. Inc., HP Communication, and JKC. After the complaint was filed, JKC's insurance company agreed to pay the District's costs for the repair work. District counsel and JKC's insurance company's counsel negotiated the terms of a Settlement Agreement for the Board's consideration. JKC's insurance company has offered to pay the District a total of \$585,425, which consists of \$575,925 for the District's repair estimate and \$9,500 for District's staff time in managing the damaged sewer mains. In exchange for the payment from the insurance company, the District will release all claims against JCK, Hartford, JUIC. Verizon, and HP Communication will dismiss *Union Sanitary District vs. MCI Metro* Access Transmission Services LLC, et.al; Alameda County Superior Court Case No. 22CV018330. Staff recommended the Board approve and authorize execution of a Settlement Agreement with JK Communication & Construction/Kleven Construction, Inc., The Hartford, and Hartford Underwriters Insurance Company.

It was moved by Director Handley, seconded by Vice President Fernandez, to Approve and Authorize Execution of a Settlement Agreement with JK Communication & Construction/Kleven Construction, Inc., The Hartford, and Hartford Underwriters Insurance Company. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None

ABSTAIN: None ABSENT: Toy

AWARD THE CONTRACT FOR CONSULTING SERVICES FOR THE SCADA UPGRADE PROJECT TO WUNDERLICH-MALEC

This item was reviewed by the Engineering and Information Technology Committee. Information Technology Administrator Nguyen stated the Board recently approved five-year contracts with GE Digital that allow the District the right to use the company's SCADA software and to receive technical support; these contracts do not cover installation, configuration, and customization of SCADA software. The proposed consulting services contract with Wunderlich-Malec would include installation, setup, and configuration of updated SCADA software and systems to the District's specifications. Staff recommended the Board award the consulting services contract for the SCADA Upgrade Project to Wunderlich-Malec in the amount of \$138,100.

It was moved by Director Handley, seconded by Vice President Fernandez, to Award the Consulting Services Contract for the SCADA Upgrade Project to Wunderlich-Malec in the Amount of \$138,100. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

CANCEL AWARD TO KBL ASSOCIATES AND AWARD TO TESCO CONTROLS THE CONTRACT FOR THE SUPPLY OF ELECTRICAL EQUIPMENT FOR THE SWITCHBOARD NO. 3 AND MOTOR CONTROL CENTER NO. 25 REPLACEMENT PROJECT

This item was reviewed by the Engineering and Information Technology Committee. Technical Services Manager Chau stated that on October 24, 2022, the Board awarded the contract for the supply of the electrical equipment to KBL in the amount of \$805,000 for the Switchboard No. 3 and Motor Control Center No. 25 Replacement Project. KBL notified the District, in a letter dated November 7, 2022, that they had ceased operations as of October 31, 2022 due to continually worsening supply chain and inflationary After reviewing the letter and conferring with legal counsel, staff pressures. recommended cancelling the award of contract to KBL and awarding the contact to the second low bidder, Tesco, in the amount of \$841,000. Tesco confirmed in writing they hold open their bid and are prepared to execute a supply contract with the District for the electrical equipment. The submittal process and procurement of the electrical equipment has an estimated lead time of approximately 16 months, and staff anticipate the installation construction contract for the Project will be advertised for bids in January 2024 with a construction duration of approximately 12 months. Staff recommended the Board cancel the contract award to KBL Associates and award to Tesco Controls the contract for the supply of electrical equipment in the amount of \$841,000 for the Switchboard No. 3 and Motor Control Center No. 25 Replacement Project.

It was moved by Vice President Fernandez, seconded by Director Handley, to Cancel the Contract Award to KBL Associates and Award to Tesco Controls the Contract for Supply of Electrical Equipment in the Amount of \$841,000 for the Switchboard No. 3 and Motor Control Center No. 25 Replacement Project. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

AUTHORIZE THE GENERAL MANAGER TO EXECUTE AMENDMENT NO. 1 TO TASK ORDER NO. 1 WITH QUINCY ENGINEERS, INC. FOR THE IRVINGTON BASIN REINFORCED CONCRETE PIPE REHABILITATION PROJECT AND FORCE MAIN CORROSION REPAIRS PROJECT – PHASE 3

This item was reviewed by the Engineering and Information Technology Committee. Technical Services Manager Chau stated that on February 14, 2022, the Board awarded the construction contract for the Irvington Basin Reinforced Concrete Pipe Rehabilitation Project (RCP Project) to Insituform Technologies, LLC in the amount of \$5,290,884. The scope of the Project included the cured-in-place pipe rehabilitation of 7,580 linear feet of trunk sewer mains. During design, some of the construction areas within roadways and intersections were not anticipated to be performed at night. However, as the temporary bypass and traffic control plans were developed, many work areas required setups which resulted in large portions of the construction taking place at night and/or on weekends to minimize impacts to road traffic. Amendment No. 1 to Task Order No. 1 will provide additional construction management and inspection services for the RCP Project and inspection services for the emergency repair of two sewer mains damaged by a fiberoptics contractor in the City of Fremont. Staff recommended the Board authorize the General Manager to execute Amendment No. 1 to Task Order No. 1 with Quincy Engineers, Inc. (who has merged with Consor North America) in the amount of \$117,187 to provide additional construction management services for the Irvington Basin Reinforced Concrete Pipe Rehabilitation Project and Force Main Corrosion Repairs Project – Phase 3.

It was moved by Director Handley, seconded by Director Kite, to Authorize the General Manager to Execute Amendment No. 1 to Task Order No. 1 with Quincy Engineers, Inc. (merged with Consor North America) in the Amount of \$117,187 to Provide Additional Construction Management Services for the Irvington Basin Reinforced Concrete Pipe Rehabilitation Project and Force Main Corrosion Repairs Project – Phase 3. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

CONSIDER A RESOLUTION TO ACCEPT THE CONSTRUCTION OF THE AERATION BLOWER NO. 11 PROJECT FROM WESTERN WATER CONSTRUCTORS, INC.

This item was reviewed by the Engineering and Information Technology Committee. Technical Services Manager Chau stated the Board awarded the construction contract for the Project to Western Water on September 28, 2020, and the Notice to Proceed was issued October 28, 2020. The 327-day project was initially scheduled to be completed September 19, 2021; Contract Change Order No. 1 extended the completion date to December 5, 2021, and Western Water substantially completed all contract work on June 30, 2022. Project completion was delayed due to unforeseen site conditions and the contractor's coordination of the commissioning process for the new aeration blower. Staff recommended the Board consider a resolution to accept the construction of the Aeration Blower No. 11 Project from Western Water Constructors, Inc. and authorize recordation of a Notice of Completion.

It was moved by Director Handley, seconded by Vice President Fernandez, to Adopt Resolution No. 2988 Accepting Construction of the Aeration Blower No. 11 Project Located in the City of Union City, California from Western Water Constructors, Inc. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

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RESOLUTION NO. 2988

ACCEPT CONSTRUCTION OF THE **AERATION BLOWER NO. 11 PROJECT** LOCATED IN THE CITY OF UNION CITY, CALIFORNIA FROM WESTERN WATER CONSTRUCTORS, INC.

RESOLVED, by the Board of Directors of the UNION SANITARY DISTRICT that it hereby accepts the Aeration Blower No. 11 Project from Western Water Constructors, Inc., effective December 12, 2022.

FURTHER RESOLVED: That the Board of Directors of the UNION SANITARY DISTRICT authorize the General Manager/District Engineer, or his designee, to execute and record a "Notice of Completion" for the Project.

On motion duly made and seconded, this resolution was adopted by the following vote on December 12, 2022.

AYES: Fernandez, Handley, Kite, Lathi

NOES: None

Toy ABSENT:

ABSTAIN: None

DocuSigned by:

-3397E6A1ED28476.. ANJALI LATHI

President, Board of Directors

Union Sanitary District

Attest:

JENNIFER TOY

Secretary, Board of Directors

Union Sanitary District

DocuSign

Certificate Of Completion

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REVIEW AND CONSIDER APPROVAL OF PROPOSED REVISIONS TO POLICY NO. 3045, BOARD EDUCATION AND TRAINING BUDGET

General Manager Eldredge stated staff prepared revisions to Policy No. 3045 pursuant to Board direction received at a previous meeting. Proposed revisions to the Policy were outlined in the Board meeting packet. Staff recommended the Board review and consider approval of proposed revisions to Policy No. 3045, Board Education and Training Budget.

It was moved by Vice President Fernandez, seconded by President Lathi, to Approve Proposed Revisions to Policy No. 3045, Board Education and Training Budget. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

REVIEW AND CONSIDER APPROVAL OF POLICY NO. 2020, FINANCIAL AUDIT POLICY

Business Services Manager/CFO Carlson stated California law requires governmental agencies audit their financial records on an annual basis. AB 1345 further stipulates the auditing firm must change every six years unless the firm changes the engagement partner assigned to the audit. The Audit Committee recommended the Policy be updated to require the District change the audit firm every six years. Staff recommended the Board review and consider approval of Policy No. 2020, Financial Audit Policy.

It was moved by Director Handley, seconded by President Lathi, to Approve Policy No. 2020, Financial Audit Policy. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

APPROVE THE AWARD OF A THREE-YEAR CONTRACT TO BADAWI & ASSOCIATES, CPA FOR AUDITING SERVICES FOR FISCAL YEARS 2023 THROUGH 2025 WITH AN OPTION FOR THREE, ONE YEAR EXTENSIONS

Business Services Manager/CFO Carlson stated the District's contract for auditing services expired and a new financial auditor contract will need to be entered for Fiscal Year 2023. The District published a Request for Proposals (RFP) in September of 2022 for firms to perform annual auditing services. Four qualifying proposals were evaluated by District staff according to the scoring criteria in the RFP. Staff met with the Audit Committee on December 1, 2022, to discuss the proposals and the Audit Committee decided to recommend the Board enter into a contract with Badawi & Associates, CPA. The Audit Committee recommended the Board direct staff to enter into a three-year

agreement with the option for three, one-year extensions with Badawi & Associates, CPA for auditing services in an amount not to exceed \$243,929.

It was moved by Vice President Fernandez, seconded by Director Handley, to Direct Staff to Enter into a Three-Year Agreement with the Option for Three One-Year Extensions with Badawi & Associates, CPA for Auditing Services in an Amount Not to Exceed \$243,929. Motion carried with the following vote:

AYES: Fernandez, Handley, Kite, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

COVID-19 UPDATE AND CONSIDER ADOPTION OF 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 Director Kite, seconded by Director Handley, to Adopt Resolution No. 2989 Authorizing the Use of Teleconference Meetings in Compliance with AB 361. Motion carried with the following vote:

AYES: Fernandez, Handley, Lathi

NOES: None ABSTAIN: None ABSENT: Toy

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RESOLUTION NO. 2989

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; and
- (b) The District Board has considered the circumstances of the continuing state of emergency; and
- (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.

On motion duly made and seconded, this resolution was adopted by the following vote on December 12, 2022.

AYES: Fernandez, Handley, Kite, Lathi

NOES: None

ABSENT: Toy

ABSTAIN: None

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DocuSigned by:

ANJALI LATHI

President, Board of Directors Union Sanitary District

Attest:

JENNIFER TOY

DocuSigned by:

Secretary, Board of Directors Union Sanitary District

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Jennifer Toy

jtoy@unionsanitary.ca.gov

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INFORMATION ITEMS:

Fiscal Year 2022 Strategic Performance Annual Report

This item was reviewed by the Legal/Community Affairs Committee. Organizational Performance Manager Terrazas provided an overview of the annual report and responded to Boardmember questions.

Report on the East Bay Discharger's Authority Meeting of October 20, 2022

President Lathi provided an overview of the EBDA meeting minutes included in the Board meeting packet.

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 CASA Winter Conference will be held in Palm Springs January 25 27, 2023, General Manager Eldredge requested the Board notify staff if they wish to be registered to attend.
- The CASA Washington DC Policy Forum will be held in Washington, D.C. February 27 28, 2023, General Manager Eldredge requested the Board notify staff if they wish to be registered to attend.
- The NACWA's 2023 Winter Conference will be held in Sonoma February 13 16, 2023, General Manager Eldredge requested the Board notify staff if they wish to be registered to attend.
- The ETSU Campus Furniture Procurement Board Workshop will be held virtually at 4:00 p.m. on Monday, December 19, 2022.

OTHER BUSINESS:

There was no other business.

ADJOURNMENT:

The meeting was adjourned at 5:13 p.m. to a Board Workshop to be held virtually on Monday, December 19, 2022, at 4:00 p.m.

The Board will then adjourn to the next Regular Board Meeting to be held virtually on Monday, January 9, 2023, at 4:00 p.m.

SUBMITTED:

-Docusigned by: Regina McEvvy

REGINA McEVOY BOARD CLERK ATTEST:

JENNIFER TOY SECRETARY APPROVED:

DocuSigned by:

ANJALI LATHI PRESIDENT

Adopted this 9th day of January 2023

DocuSign

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Jennifer Toy

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Regina McEvoy

reginam@unionsanitary.ca.gov

Assistant to GM

Union Sanitary District

Security Level: Email, Account Authentication

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Envelope Sent	Hashed/Encrypted	1/13/2023 11:27:48 AM
Certified Delivered	Security Checked	1/13/2023 11:27:55 AM
Signing Complete	Security Checked	1/13/2023 11:28:01 AM
Completed	Security Checked	1/17/2023 1:34:35 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		