

November 13, 2008
Fremont, California

The regular monthly meeting of the Board of Directors of ALAMEDA COUNTY WATER DISTRICT was held on January 10, 2008 at the hour of 6:10 P.M. in the Directors' Room of the District Office Building, 43885 South Grimmer Boulevard, Fremont, California.

Present: Directors Gunther (arrived at 6:10 P.M.), Huang (arrived at 6:35 P.M.), Koller, and Weed

Absent: Director Lampert (Excused for illness)

Staff members present: General Manager Paul Piraino, Engineering Manager Robert Shaver, Finance and Administration Manager Will Ligh, Operations Manager Walt Wadlow, Water Resources Planning Manager Eric Cartwright, Financial Services Manager Michael Yee, Sr. Water Resources Engineer Thomas Niesar, Ground Water Resources Well Ordinance Supervisor Michelle Myers, Executive Project Manager Karl Stinson, Attorney Patrick Miyaki and District Secretary Gina Markou.

President John Weed presided.

Director Gunther led in the Salute to the Flag.

◆ SPECIAL PRESENTATION

The Board honored William (Bill) Frantz who was presented with the OMI's Operator's Meritorious Award from the American Water Works Agency California-Nevada Section. This award honors operators who have demonstrated outstanding performance in four primary areas: the operation of water treatment plants in compliance with public health standards; contributions to plant maintenance; treatment of fellow operators and responding to emergencies.

3 – PUBLIC COMMENTS – Ms. Wynn Grich, a resident of Union City, addressed the Board and commented on reports discussing the potential human health effects of fluoridated water supplies.

5 – CONSENT CALENDAR

A motion was made by Director Koller, seconded by Director Gunther to add items 6.1 – 6.3 and 6.9 – 6.11 to the Consent Calendar.

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

A motion was made by Director Gunther, seconded by Director Huang to approve the following items on the Consent Calendar as amended.

5.1 Approval of Minutes – Special Meeting of October 2, and Regular Meeting of October 9, 2008

- 5.2 Ratification of Payment of Audited Demands dated October 3, October 10, October 17, October 24, October 31, and November 7, 2008
- 5.3 Resolution Approving and Authorizing Execution of Contract with Syed Nusrat, Extension of Water Main, Parcel Map 8589 (ACWD #1998-0071)

RESOLUTION NO. 08-061

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
APPROVING AND AUTHORIZING EXECUTION OF CONTRACT
BETWEEN ALAMEDA COUNTY WATER DISTRICT AND SYED NUSRAT
FOR EXTENSION OF WATER MAIN, PARCEL MAP 8589, REF. ACWD
1998-0071

- 6.1 Authorization for Additional Funds for the 2008 High Efficiency Clothes Washer Rebate Program
- 6.2 Resolution Amending Conflict of Interest Code
- 6.3 Resolution Accepting Completion of Installation of WTP2 Solids Handling Filter Press Feed Pumps
- 6.9 Authorization of Purchase Order Amendment for Consultant Services for the Condition Assessment of Asbestos Cement Pipe
- 6.10 Resolution Approving and Authorizing Execution of Agreement with Bay Area Rapid Transit District for the Rearrangement of Facilities
- 6.11 Resolution Approving and Authorizing Execution of Osgood Road Cooperative Agreement with City of Fremont

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6 – ACTION CALENDAR (*Consent Calendar Items are indicated with an asterisk*)

6.1* AUTHORIZATION FOR ADDITIONAL FUNDS FOR THE 2008 HIGH EFFICIENCY CLOTHES WASHER REBATE PROGRAM

ACWD is currently participating in the Bay Area Water Agency High Efficiency Clothes Washer Rebate Program (“Program”), in partnership with Pacific Gas and Electric Company (PG&E). The Program is supported, in part, by a grant through the state Department of Water Resources (DWR). The intent of the Program is to encourage customers to purchase high efficiency clothes washers, as well as encourage manufacturers to develop and market these washers, by providing rebates for the most water-efficient clothes washers available.

The number of rebate applications submitted this year has exceeded ACWD staff expectations, and funding for the Program is almost depleted. Over 1300 rebates have been issued since January 1, 2008. Total expenditures for this year's program are about \$165,000. Of that ACWD has paid \$110,000 and DWR grant funds have covered about \$55,000. An additional \$35,000 in grant funds is available for this Program. Staff proposes to continue the program for purchases made through December 31, 2008, and honor the 90 day application deadline, at an estimated additional cost of \$60,000. This includes approximately 750 additional rebates and program administration fees. Sufficient funds are contained in the FY 08/09 budget to cover the additional costs of this program.

A motion was made by Director Gunther, seconded by Director Huang to authorize an amendment to the Purchase Order with Pacific Gas and Electric Company for an additional \$60,000, for rebates and related fees for the Program, to cover rebates for water efficient washers purchased by customers through the end of the current Program.

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.2* RESOLUTION AMENDING CONFLICT OF INTEREST CODE

California Government Code Section 87306.5 requires every local agency to review its Conflict of Interest Code in each even-numbered year and to amend the Code if necessitated by changed circumstances.

The District last amended its Conflict of Interest Code in 2006 to update the employee classifications covered by the Code in the Appendix of Designated Positions. At this time, the Appendix needs to be updated to incorporate job title changes that have occurred since 2006. The District must transmit the amended Code to the Alameda County Board of Supervisors no later than December 31, 2008.

A motion was made by Director Gunther, seconded by Director Huang, to adopt a resolution amending the District's Conflict of Interest Code.

RESOLUTION NO. 08-062

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
AMENDING THE DISTRICT'S CONFLICT OF INTEREST CODE

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.3* RESOLUTION ACCEPTING COMPLETION OF INSTALLATION OF WTP2 SOLIDS HANDLING FILTER PRESS FEED PUMPS

On December 13, 2007, the Board awarded the construction contract for the Installation of WTP2 Solids Handling Filter Press Feed Pumps to Pacific Mechanical Corporation in the amount of \$65,000. The purpose of the project was to install 2 progressive cavity feed pumps for the filter press, to replace the piston pumps which had reached the end of their useful life. The scope of work included the removal of the existing pumps and concrete pads, installation of new pump pads, and piping modifications.

The installation of the pumps and piping was substantially complete on March 31, 2008. This project was performed on a time and material basis and the final cost of the work was \$53,978.72. There is adequate funding in the budget for this expenditure.

A motion was made by Director Gunther, seconded by Director Huang to adopt a resolution accepting completion of Installation of WTP2 Solids Handling Filter Press Feed Pumps, Job 6338.

RESOLUTION NO. 08-063

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING COMPLETION OF CONTRACT NO. 3552, PACIFIC
MECHANICAL CORPORATION, JOB 6338

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.4 RESOLUTION ACCEPTING COMPLETION OF THE ALAMEDA RESERVOIR WATER QUALITY ENHANCEMENT CONSTRUCTION PROJECT

Mr. Piraino reported that on April 8, 2008, the Board awarded the contract for the Alameda Water Quality Enhancement Construction Project to E. E. Gilbert Construction, Inc. in the amount of \$311,779. The project included the construction of a concrete building to house the chloramination equipment for the Alameda Reservoir. Installation of the chloramination equipment is scheduled to occur this spring and will be done under a separate contract.

The project was substantially completed on September 24, 2008, fourteen days before the required completion date. Two change orders totaling \$18,106 were previously authorized by the Board. The total project cost including all change orders and quantity adjustments for unit price items, is \$329,885.

A motion was made by Director Koller, seconded by Director Gunther, to adopt a resolution accepting the completion of the Alameda Reservoir Water Quality Enhancement Construction Project, Job 6328.

RESOLUTION NO. 08-064

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING COMPLETION OF CONTRACT NO. 3572, E.E. GILBERT
CONSTRUCTION, INC., JOB 6328

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.5 AUTHORIZATION OF CHANGE ORDER NO. 1 AND RESOLUTION ACCEPTING
COMPLETION OF THE MISSION SAN JOSE WATER TREATMENT PLANT
ACCESS ROAD EROSION MITIGATION PROJECT

Mr. Piraino reported that on June 5, 2008, the construction contract for the Mission San Jose Water Treatment Plant Access Road Erosion Mitigation Project was awarded to Bugler Construction, Inc., in the amount of \$369,900. The project includes the installation of a soil nail retaining wall to stabilize the eroded embankment and to provide roadway modifications to route surface run-off into existing drainage facilities.

Change Order No. 1, in the amount of \$2,008.16, has been prepared for additional work to remove and replace soils unsuitable for the subgrade. Staff has reviewed the cost associated with the additional work and has determined that it is fair and reasonable. The total project cost, including the change order, is \$371,908.16. There is adequate funding in the budget for this expenditure. The project was substantially completed on October 15, 2008, thirteen days before the required completion date.

A motion was made by Director Huang, seconded by Director Koller to, 1) approve Change Order No. 1 in the amount of \$2,008.16; and 2) adopt a resolution accepting the completion of the contract for the Mission San Jose Water Treatment Plant Access Road Erosion Mitigation Project, Job 6344.

RESOLUTION NO. 08-065

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING COMPLETION OF CONTRACT NO. 3578, BUGLER
CONSTRUCTION, INC., JOB 6344

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.6 AUTHORIZATION FOR ENGINEERING SURVEY AND REPORT ON GROUNDWATER CONDITIONS IN CONJUNCTION WITH REPLENISHMENT ASSESSMENT

Mr. Piraino reported that the Replenishment Assessment Act requires the Board to order an Engineering Survey and Report on Groundwater Conditions as the first step in the process to establish a replenishment assessment for next fiscal year. This report must be presented to the Board for consideration in February to meet subsequent deadlines set forth by Proposition 218 and the Replenishment Assessment Act.

District staff has historically begun collecting information and preparing data for the report during the month of November so it can be completed in time for submittal to the Board in February.

A motion was made by Director Gunther, seconded by Director Huang, to order an Engineering Survey and Report on Groundwater Conditions.

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.7 AUTHORIZATION OF PURCHASE ORDER AMENDMENTS FOR ENGINEERING SERVICES FOR THE NEWARK DESALINATION FACILITY SUPPLY PIPELINES

Mr. Piraino reported that to increase the Newark Desalination Facility's production capacity from 5 to 10 million gallons per day, a pipeline connecting the facility to two additional Aquifer Reclamation Program (ARP) wells is required. On December 14, 2006, the Board authorized a purchase order to Winzler & Kelly Consulting Engineers (Winzler & Kelly) in the amount of \$355,060 for design services to extend the Newark Desalination Facility supply pipeline to the Farwell and Bellflower ARP sites. On December 13, 2007, the Board authorized a purchase order amendment in the amount of \$49,700 for exploratory work not included in the original scope of services. On October 9, 2008, the Board awarded the construction contract to R.J. Gordon Construction, Inc. of Pleasant Hill, California, in the amount of \$3,756,925.75. Construction is scheduled to begin in December 2008, and is anticipated to require 9 months to complete.

Additional design-related services that were not included in Winzler & Kelly's original scope of work were required to obtain permits from five agencies (Fremont, Newark, San Francisco Public Utilities Commission, Alameda County Flood Control and Water Conservation District, and the State Department of Transportation). Additionally, District staff requested Winzler & Kelly to perform additional hydraulic and geotechnical analysis and to evaluate the use of fusible PVC pipe using directional drilling and bore and jack methods. This additional work was performed for a negotiated amount of \$55,304, and the additional cost was more than offset by decreased construction costs. For example, by satisfactorily addressing one agency's interests, the District was able to avoid 1,000 linear feet of horizontal directional drilling work which resulted in a net construction cost savings of \$440,000.

At the District's request, Winzler & Kelly submitted a cost proposal for construction-related engineering services. The proposed scope of work includes general construction support (i.e., submittal reviews, responses to requests for information from the contractor, design modifications or clarifications, project meetings, and site visits), special construction inspection services during microtunneling and horizontal directional drilling work at multiple sites, and completion of project record drawings. Winzler & Kelly's estimate to perform the work on a time and expense basis is \$106,700. Staff has reviewed this proposal and finds the scope of work and estimated level of effort appropriate for this project.

The total cost for the required additional design and construction-related engineering services is \$162,004.00. There is adequate funding in the budget for this expenditure.

A motion was made by Director Gunther, seconded by Director Koller, to authorize purchase order amendments to Winzler & Kelly Consulting Engineers for: 1) additional design-related engineering services in the amount of \$55,304, Job 6284; and 2) construction-related engineering services in an amount not to exceed \$106,700, Job 6349, for the ARP Wells to Desalination Pipeline, Phase 2 Project.

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.8 AUTHORIZATION OF CHANGE ORDER NO. 3 AND RESOLUTION ACCEPTING COMPLETION OF THE CEDAR 2 AQUIFER RECLAMATION PROGRAM (ARP) WELL INTERTIE PIPELINE PROJECT

Mr. Piraino reported that on April 8, 2008, the construction contract for the Cedar 2 ARP Well Intertie Pipeline project was awarded to R.J. Gordon Construction, Inc. (R.J. Gordon) in the amount of \$390,446. The project included the installation of approximately 975 linear feet of 14-inch diameter, high density polyethylene pipe within the City of Newark to accommodate the scheduled expansion of the Newark Desalination Facility. The Board previously approved contract Change Order Nos. 1 and 2 at the October 2, 2008, Board meeting. All work is now complete.

Change Order No. 3, in the amount of \$10,842.45, is required to complete previously authorized out-of-scope work (Change Order No. 2) to accommodate an Alameda County Public Works Agency's (ACPWA's) box culvert removal project at the intersection of Filbert Street and Central Avenue in the City of Newark. The additional work included: 1) removal of buried concrete at the pipe connection point (\$3,342.45); and 2) placement of fabric and drain rock to stabilize the trench foundation prior to pipeline installation across the channel (\$7,500.00). The District's cost for Change Order No. 3 will be reimbursed fully by ACPWA. The total net project cost to the District, including all change orders, is \$482,656.45.

A motion was made by Director Koller, seconded by Director Gunther to, 1) approve Change Order No. 3 in the amount of \$10,842.45; and 2) adopt a resolution accepting completion of the contract for the Cedar 2 ARP Well Intertie Pipeline Project, Job 6340.

RESOLUTION NO. 08-066

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING COMPLETION OF CONTRACT NO. 3570, R.J. GORDON
CONSTRUCTION, INC., JOB 6340

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.9* AUTHORIZATION OF PURCHASE ORDER AMENDMENT FOR CONSULTANT
SERVICES FOR THE CONDITION ASSESSMENT OF ASBESTOS CEMENT PIPE

In September 2006, the District authorized Exponent, Inc. to begin work on a condition assessment of the District's asbestos cement (AC) pipe on a time and expense basis for an amount not to exceed \$175,750. To date, Exponent has completed approximately 60% of the work.

To complete the condition assessment, additional services are required as follows:

- To perform the pipe testing in accordance with ASTM standards, Exponent needs to hire a subcontractor to cut and polish the AC pipe samples. This specialized work was initially not anticipated by Exponent and, therefore, was not included in the original scope of services. Exponent has requested an additional \$32,000 to cover the cost of this additional sample preparation.
- Exponent will be testing 30 pipe samples in the final phase of the project. This number of samples required for the final phase of the project was determined by a statistical analysis of the results of the first phase and was not known at the start of the project. The original project funding was estimated based on testing of 20 samples in the final phase, a number used for comparison of proposals, at a cost of \$1,800 per sample. Because ten additional samples are required to provide a statistically significant analysis, funding of \$18,000 is requested to cover the cost.
- AC pipe joints are typically push-on type with O-ring elastomers. At the District's request, Exponent submitted a proposal to also evaluate the condition of the O-rings to determine if O-ring life may be a critical factor in predicting the useful life of the AC mains. Exponent's evaluation will include: 1) chemical analysis, 2) literature review, and 3) physical testing. Exponent's anticipated cost for this added scope on a time and expense basis is \$30,000.

Staff has evaluated both the request and the proposal and has determined that the estimated level of effort and cost for the work is appropriate. There is adequate funding in the budget for these expenditures.

A motion was made by Director Gunther, seconded by Director Huang, to authorize an amendment to the existing Exponent purchase order for additional consulting services in the amount of \$80,000 for a total amount not to exceed \$255,750, Job 6253.

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

6.10* RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT WITH BAY AREA RAPID TRANSIT DISTRICT FOR THE REARRANGEMENT OF FACILITIES

The San Francisco Bay Area Rapid Transit District (BART) is planning to extend service to the Warm Springs area of Fremont. Construction of the first phase of this extension, which includes a subway under Stevenson Boulevard and Central Park, is scheduled to begin in the spring of 2009.

To accommodate BART's project, 130 linear feet of 12-inch water main in Stevenson Boulevard needs to be relocated and 110 linear feet of 8-inch pipe needs to be installed to maintain water service to Central Park. BART will pay for all costs associated with the pipeline work. Staff's estimate of the design and construction support-related costs is \$102,000 and the actual construction of the pipelines will be incorporated into BART's construction contract. Accordingly, BART has prepared an agreement to reimburse the District for actual costs associated with the design and construction support components of the required pipeline work (rearrangement of facilities). District staff and legal counsel have reviewed the agreement and determined that the terms are acceptable.

A motion was made by Director Gunther, seconded by Director Huang, to adopt a resolution approving the agreement and authorizing the General Manager to execute an Agreement for the Rearrangement of Facilities between the San Francisco Bay Area Rapid Transit District and the District for the relocation of pipeline facilities, Job 6358.

RESOLUTION NO. 08-067

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
AUTHORIZING THE GENERAL MANAGER TO EXECUTE AN
AGREEMENT WITH BAY AREA RAPID TRANSIT DISTRICT FOR THE
REARRANGEMENT OF FACILITIES

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed

NOES: None

ABSENT: Director Lampert

6.11* RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF OSGOOD ROAD COOPERATION AGREEMENT WITH CITY OF FREMONT

The City of Fremont (the City) is planning improvements to Osgood Road between Washington Boulevard and Grimmer Boulevard. The improvements will involve modifications to, and extensions of, the existing storm drain system, including new storm drain pipelines and drop inlets. As originally proposed, the project would have resulted in conflicts between the new storm drain facilities and the District's existing 24-inch transmission main in Osgood Road. Because the District's facilities conflicted with the proposed right-of-way improvements under the original design, the District would normally have been required to relocate its transmission main to accommodate the City's project. However, relocation of the transmission main would have resulted in costs in excess of \$150,000 to the District, water service outages to customers, and potential impacts to production and storage facilities. As an alternative to relocation of the transmission main, District staff suggested that the City modify its storm drain design to eliminate the conflicts, and the City has agreed to pursue this alternative.

City and District staffs have developed a cooperative agreement under which the District would reimburse the City for its actual incremental additional costs caused by the storm drain design changes. Under the terms of the proposed agreement, the City's construction contract will include separate line items for the additional storm drain elements (total estimated cost is \$79,000) and the District would be required to reimburse the City for its actual costs (up to 50% over the estimated cost) as appropriate. The District would also pay \$15,800 to reimburse the City's additional design and contract administration costs associated with the modified storm drain design, as well as actual costs plus 10% for any District-approved change orders.

The City's project and the proposed agreement have previously been reviewed with the Engineering and Capital Projects Committee. Staff and legal counsel find the terms of the agreement to be fair and reasonable, and the agreement will result in a savings to the District as well as minimize disruption to customers.

A motion was made by Director Gunther, seconded by Director Huang, to adopt a resolution approving the agreement and authorizing the General Manager to execute a Cooperative Agreement with the City of Fremont for cost sharing for storm drain construction in Osgood Road.

RESOLUTION NO. 08-068

**OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
AUTHORIZING THE GENERAL MANAGER TO EXECUTE THE OSGOOD
ROAD COOPERATIVE AGREEMENT WITH THE CITY OF FREMONT**

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

**6.12 RESOLUTION AWARDING CONTRACT FOR VINEYARD HEIGHTS TANK
SEISMIC UPGRADE PROJECT**

Mr. Shaver reported that Vineyard Heights Tank provides 500,000 gallons of emergency and operational distribution system storage for the District's Pressure Zone 4. Improvements to the tank are needed to increase the tank's operational reliability after an earthquake. This project consists of replacing the lower tank shell with thicker steel plate, anchoring the tank, installing flexible inlet/outlet and overflow piping, performing miscellaneous site electrical work and recoating the tank.

Three (3) bids were received and opened on October 24, 2008. The bids ranged from a low of \$768,638 to a high of \$847,450. The engineer's estimate was \$1,076,000.

All bids were checked arithmetically and for compliance with the bidding requirements. The apparent low bidder, Crosno Construction, Inc. of Arroyo Grande, California, does not possess the minimum qualifying experience under its present business name. Due to this irregularity, Crosno Construction, Inc. is non-responsive and its bid should not be considered.

The second low bidder, Paso Robles Tank Inc. of Paso Robles, California submitted a proposal in the amount of \$778,500. This firm has been in the contracting business under its present name for 10 years doing work similar to that required. References were checked and it was confirmed that the contractor has the necessary qualifications and experience to perform the work. There is sufficient funding in the budget for this expenditure.

A motion was made by Director Gunther, seconded by Director Koller, to 1) reject the bid of Crosno Construction, Inc. as non-responsive; and 2) adopt a resolution to award the contract for the Vineyard Heights Tank Seismic Upgrade Project, to Paso Robles Tank Inc., in the amount of \$778,500, which is the total of the unit price and lump sum payment items, Job 6351.

RESOLUTION NO. 08-069

**OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ACCEPTING PROPOSAL OF, AND AWARDING CONTRACT TO PASO ROBLES
TANK INC., FOR JOB 6351**

The motion was passed by the following vote:

AYES: Directors Gunther, Huang, Koller, and Weed
NOES: None
ABSENT: Director Lampert

Director Gunther left the board room at 7:05 P.M. and reentered at 7:07 P.M.

6.13 AUTHORIZATION OF PURCHASE ORDER AMENDMENT FOR PROFESSIONAL SERVICES DURING CONSTRUCTION OF THE VINEYARD HEIGHTS TANK SEISMIC UPGRADE PROJECT

Mr. Piraino reported that on May 15, 2008, the Board authorized Carollo Engineers (Carollo) to perform design services for the Vineyard Heights Tank Seismic Upgrade Project, in the amount not to exceed \$134,759.

At the District's request, Carollo submitted a proposal in the amount of \$60,000 to provide design services during construction which include: 1) shop drawing and submittal reviews; 2) construction meetings and site visits; 3) response to contractor's requests for information; and 4) completion of as-built record drawings. Staff has evaluated Carollo's proposal and has determined that the estimated level of effort and cost for the requested work is appropriate.

There is adequate funding in the budget for this expenditure.

A motion was made by Director Huang, seconded by Director Koller, to authorize a purchase order amendment for professional services during construction for the Vineyard Heights Tank Seismic Upgrade Project to Carollo Engineers in the amount of \$60,000, Job 6351.

The motion was passed by the following vote:

AYES: Directors Huang, Koller, and Weed
NOES: None
ABSENT: Directors Gunther and Lampert

6.14 RESOLUTION ADOPTING THE NOVEMBER 2008 WATER SUPPLY ASSESSMENT FOR THE NEWARK AREA 3 & 4 SPECIFIC PLAN EIR PROJECT

The City of Newark has requested a Water Supply Assessment for the Newark Area 3 & 4 Specific Plan EIR Project ("Project"). The Specific Plan includes an 18-hole golf course, up to 1,400 housing units of mixed density, an elementary school, open space wetland mitigation areas, and three acres of office/public space. Areas 3 and 4 cover approximately 950-acres and are located in southwest Newark, bounded by Mowry Avenue on the north, Cherry Street on the east, Stevenson Boulevard on the south, and salt flats on the west. The Project includes all of Area 4 and approximately 86 acres of Area 3. Most of Area 3 has already been developed and includes the Newark Ohlone Campus, a Technology Park and the Silliman Center. The current schedule anticipates construction to begin in 2010 and completion by 2016; the golf course would be completed by 2012. This Project requires a water supply assessment under the California Water Code Section §10910.

In response to a request by the City of Newark received on August 18, 2008, staff has prepared a water supply assessment for the Newark Area 3 & 4 Specific Plan EIR Project. Most of this Project detail was in place at the time of ACWD's 2004 demand forecast and was therefore included in the 2006-2010 Urban Water Management Plan (UWMP) demand forecast. The only detail change is that the portion of Area 3 included in the Project was previously considered for

R&D Industrial development but will now be developed as additional housing. The assessment estimates the Project water demands to be approximately 1,100 acre feet per year which is consistent with the UWMP demand forecast. Therefore, the Project does not represent a new or additional demand in the ACWD service area beyond what was forecast for the UWMP.

The assessment also provides a comparison of ACWD water supplies and projected future demands, which includes the demands associated with the proposed Project. In order to account for future Delta pumping restrictions, the assessment includes scenarios for State Water Project reliability with and without pumping restrictions recently imposed by a federal court decision (Wanger Decision). Because the Project's demands are consistent with those considered in the UWMP, the Project will not result in increased shortages from that which is already factored into ACWD's planning. However, in order to minimize the additional demands on ACWD's potable water system, the water supply assessment requests the City to include the following elements in the Project description: 1) that the Project be constructed with the latest technology on water conservation measures and; 2) that the Project accommodate a future recycled water source for non-potable water uses for all irrigation purposes, including the proposed golf course. In the interim period before recycled water comes available, groundwater from a local, private well will be used for the irrigation needs of the golf course.

Senior Water Resources Engineer Thomas Niesar provided a detailed overview of the Water Supply Assessment. Discussion ensued and staff responded to questions from the Board.

A motion was made by Director Gunther, seconded by Director Koller, to 1) adopt a Resolution Adopting the November 2008 Water Supply Assessment for the Newark Area 3 & 4 Specific Plan EIR Project and 2) authorize and direct the General Manager to submit the November 2008 Water Supply Assessment for the Newark Area 3 & 4 Specific Plan EIR Project to the City of Newark.

RESOLUTION NO. 08-070

OF BOARD OF DIRECTORS OF ALAMEDA COUNTY WATER DISTRICT
ADOPTING THE NOVEMBER 2008 NEWARK AREA 3 & 4 SPECIFIC PLAN
EIR PROJECT WATER SUPPLY ASSESSMENT

The motion was passed by the following vote:

AYES: Directors Gunther, Koller, and Weed
NOES: None
ABSTAIN: Director Huang
ABSENT: Director Lampert

6.15 REJECTION OF BIDS FOR THE NEWARK BRACKISH WATER DESALINATION
FACILITY

Mr. Shaver reported that the District's Capital Improvement Program (CIP) includes the expansion of the Newark Brackish Water Desalination Facility to increase the production capacity from the current 5 million gallons per day (mgd) to 10 mgd. The project includes the

installation of two 2.5 mgd reverse osmosis (RO) skids; centrifugal and vertical turbine pumps; one cartridge filter vessel; one decarbonator; and modifications to the existing chemical feed equipment, electrical and instrumentation systems.

On October 16, 2008, ten (10) bids were received and opened. The bids ranged from \$8,020,000 to \$9,734,000. The engineer's estimate was \$9,800,000.

All bids were checked arithmetically and for compliance with the bidding requirements. Several of the bids, including the low bid, were non-responsive because one of the identified subcontractors did not meet the minimum experience requirements. The remaining bids all contained minor irregularities that were inconsistent with the proposal requirements, including incomplete information, arithmetic errors, and signatures not properly notarized.

Additionally, staff has identified modifications and enhancements to the design which, if implemented, will ease the overall operation and maintenance of the facility. Examples of enhancements include the installation of access hatches and a catwalk in the chemical storage bays to access equipment. To address the bid irregularities and to allow for the recommended design changes, staff recommends that the Board reject all bids. Staff will then modify the bid documents and re-advertise the project.

Mr. Jeff Naff of Overaa Construction and Mrs. Debbie Dahl-Hanson and Steve Hanson, both of S.D. Electric, Inc., each addressed the Board requesting that the Board not reject all bids stating that 1) the District received competitive bids, thus rebidding is not warranted and 2) S.D. Electric, Inc. possesses the required experience and qualifications as set forth in the bid specifications.

Mr. Shaver explained that the District rarely rejects all bids and that the staff recommendation was based on carefully considering all factors, including the information presented by the contractors present at the Board Meeting. Mr. Miyaki clarified the minimum experience and qualification requirements set forth in the amended bid specifications and explained the rationale for staff's determination that the low bid was non-responsive because the electrical subcontractor did not meet those minimum requirements.

Further discussion ensued and staff responded to questions from the Board.

A motion was made by Director Huang, seconded by Director Koller, to reject all bids received for the Newark Brackish Water Desalination Facility Expansion Project, Job 6350.

Director Gunther left the meeting at 7:33 P.M.

The motion was passed by the following vote:

AYES: Directors Huang, Koller, and Weed
NOES: None
ABSENT: Directors Gunther and Lampert

4 – CLOSED SESSION

President Weed adjourned the meeting to a Closed Session at 7:55 P.M. for a conference on the following item:

- 4.1 Conference with Legal Counsel – Existing Litigation Pursuant to Government Code Section 54956.9(a)
- Solano County Water Agency, Napa County Flood Control and Water Conservation District, City of Yuba and County of Butte v. State of California Department of Water Resources, et al., Sacramento Superior Court No. 34-2008-00016338-CU-BC-GDS

President Weed reconvened the meeting at 8:05 P.M. Mr. Piraino reported that in Closed Session the Board authorized three actions with respect to the above litigation: 1) to intervene in the lawsuit; 2) execute a joint defense agreement; and 3) to execute an agreement for retention of and costs for outside counsel.

6.16 AUTHORIZATION OF AGREEMENT FOR LIMITED LEGISLATIVE ADVOCACY SERVICES RELATED TO DISTRICT-SPONSORED GROUNDWATER PROTECTION LEGISLATION

Mr. Piraino reported that District staff is proposing state legislation that would give the District the direct authority to regulate well construction and destruction activities involving the Niles Cone Groundwater Basin. The services of a legislative advocate are needed to support passage of this legislation in the upcoming legislative session.

The proposed legislation is intended to provide a regional approach to protect the Niles Cone Groundwater Basin by giving the District the authority to adopt regulations to manage and regulate wells, exploratory holes and other excavations that could impact the groundwater basin. The authority for the District to take these actions, which District staff have been performing since the early 1970's, is currently derived from identical ordinances adopted by the three service area cities and a separate ordinance for a portion of the City of Hayward. It would be more efficient for the District to have the direct authority to take these actions, which would also allow the District to streamline the adoption of new regulations and standards as required by evolving technical requirements and field conditions. To that end, legislation was drafted by District Counsel that would provide this authority. A copy of the legislation is included with the Board packet. The proposal has been previously reviewed with the Legal and Legislative Committee, and staff will make a more detailed presentation on the legislation at the Board meeting.

Staff has reviewed the proposed legislation with the three service area cities, as well as with the City of Hayward, and expects to have concurrence on the need for the legislation in the near future. Staff is also discussing the legislation with staff of the legislators representing the District's service area to solicit a sponsor/s for the legislation in the upcoming legislative session that begins in December 2008. The services of a legislative advocate are needed to assist the District in moving this proposal through the legislative process, with the goal of having the Governor sign the legislation by the summer of 2009. This would involve such tasks as:

meeting with committee consultants for the Local Government, Natural Resources and Water and Water Parks and Wildlife committees in both the Senate and Assembly to vet the legislation prior to introduction of the bill; reviewing the bill with the legislative directors of the Department of Water Resources and Resources Agency; working with the author's office and the respective committees in which the bill would be presented during the 2009 legislative session; and coordinating with ACWA State Legislative Staff on the bill.

Staff met with and obtained proposals from three legislative advocacy firms in Sacramento to provide these services, starting in November 2008 and continuing at least until September 2009. One firm proposed to provide a broader range of legislative advocacy services over the two-year legislative session at a significantly higher cost. Of the two firms willing to provide more limited services focusing exclusively on the proposed legislation, the firm of Geyer and Associates is recommended as the firm most able to provide the level of service desired at the most reasonable cost. This firm has been providing legislative advocacy services since 1977, focusing on land use, environmental and development issues, as well as providing representation for water agencies throughout the state, including the Sonoma County Water Agency and Inland Empire Utilities District in Southern California. References on the firm's services in regard to legislative advocacy were very positive. Geyer and Associates has quoted a cost of \$27,500 for these services (at a rate of \$2,500 per month from November 2008 to September 2009), in addition to travel and other out-of-pocket, which are expected to be minimal. The agreement could be terminated with 30-days notice should any problems develop with respect to the legislation that required that it be withdrawn from consideration. It is proposed that the maximum cost for these services be set at \$30,000, inclusive of potential out-of-pocket expenses. Sufficient funds are budgeted for this expenditure.

Ms. Michelle Myers supplemented the staff report with a presentation that 1) provided additional background information about the existing well ordinances and 2) described the intent, provisions, and benefits of the proposed state legislation. Discussion ensued and staff responded to questions from the Board.

A motion was made by Director Koller, seconded by Director Huang, to 1) authorize a purchase order to Geyer and Associates for limited legislative advocacy services relating to District-sponsored groundwater protection legislation, for an amount not to exceed \$30,000; and 2) authorize the General Manager to execute a services agreement with Geyer & Associates.

AYES: Directors Huang, Koller, and Weed
NOES: None
ABSENT: Directors Gunther and Lampert

6.17 PRESENTATION OF ALAMEDA COUNTY WATER DISTRICT AUDIT FOR FY07/08

Mr. Ligh reported that the Board of Directors, on March 10, 2005, authorized execution of a three-year agreement with an option for a two-year extension for financial audit services with the firm of Caporicci & Larson. On December 13, 2007, the Board authorized a two year extension of the agreement. This year's audit is the fourth year of the agreement.

Caporicci & Larson recently completed its audit of the District's financial records for the fiscal year ended June 30, 2008. This audit, which was conducted in accordance with generally accepted auditing standards, included a review of the accounting principles used by the District, as well as a review of various financial transactions and the District's system of internal controls. The auditors have completed their review and noted no areas of material weakness or deficiencies in internal controls or accounting procedures that needed to be reported. The following three documents have been submitted for the Board's review:

- Independent Auditor's Report

This letter states that based upon the auditors review, the District was, as of June 30, 2008, in compliance with the required financial agreements and covenants included in the 1998 and 2003 debt issues.

- Appropriations Limit Schedule and Independent Accountants' Report

This report indicates that no discrepancies were found in the process followed for calculating the annual Appropriations Limit.

- Comprehensive Annual Financial Report

This report provides information on the District's operating and financial activities for the fiscal year ended June 30, 2008. The Introductory Section provides an overview of the District and describes significant events and accomplishments for the last fiscal year. The Financial Section of the report includes an unqualified audit opinion which indicates that the financial statements fairly represent the financial position of the District and that the results of the District's operations are reported in conformity with generally accepted accounting principles. In addition, the Financial Section of the report provides an analysis of the District's financial performance during the previous two fiscal years and presents the District's audited financial statements, including a Statement of Net Assets (balance sheet), Statement of Activities and Changes in Net Assets (income statement) and a Comparative Statement of Cash Flows for the fiscal year ended June 30, 2008. Finally, the Statistical Section of the report provides key historical financial and demographic data.

The auditor reviewed the above reports with the Administrative & Finance Committee on October 28, 2008. A copy of the presentation booklet which the auditor reviewed with the Administrative & Finance Committee was also included with the above audit documents for the Board's review.

A motion was made by Director Huang, seconded by Director Koller, to accept the Audited Financial Statements and accompanying reports for the fiscal year ended June 30, 2008.

The motion was passed by the following vote:

AYES: Directors Huang, Koller, and Weed
NOES: None
ABSENT: Directors Gunther and Lampert

6.18 REVIEW OF PROPOSED RATES AND CHARGES FOR CALENDAR YEAR 2009
AND SETTING PUBLIC HEARING

Mr. Yee reported that annually, the District's revenue requirements are determined by updating the long range Financial Planning Model (FPM). The FPM looks at projected revenues and expenditures over the next twenty-five year period, which is based on the Integrated Resources Plan and Capital Improvement Program. Information from the FPM is primarily utilized to calculate the commodity rate and development charges necessary to operate the District. The District's various other rates and charges are also analyzed periodically and revised to recover the costs of providing the service for which the rate or charge is assessed. The District's rates and charges were last adjusted by the Board of Directors at the January 2008 Board meeting.

DISCUSSION: During the past several months, staff has completed a detailed review of projected revenues, operating expenses and capital expenditures over the next several years. That information has been incorporated into the FPM to determine necessary water rate adjustments.

The FPM is a comprehensive spreadsheet model consisting of both short and long range projections of the District's revenues, operating and maintenance expenses, capital expenditures, and reserves over the next ten years. These projections are derived from other sophisticated planning tools and models, including the District's Integrated Resources Plan (IRP), Capital Improvement Program (CIP), and current year budget. The IRP process evaluates a wide range of water supply and water conservation options as well as land use projections in the District's service area to develop the District's long range water supply strategy necessary to meet projected demands. The CIP includes project schedules and projected costs for production facilities identified in the IRP and other projects to support and maintain system reliability, water quality and environmental compliance. The budget is an important tool to help guide the District in each fiscal year in implementing the necessary projects, programs and activities to achieve the goals identified in the IRP and CIP planning models. These planning models were last reviewed with the Board, respectively, on December 14, 2006 and June 12, 2008. In addition, the models are reviewed and updated annually to ensure the integrity and effective use of these planning tools.

As noted above, the FPM is a complex short and long-range financial planning model that provides projected cash balances on hand at the end of each fiscal year based on anticipated revenues, operating and maintenance expenses, debt obligations and capital expenditures over the next several years. It is sound, responsible and prudent financial planning practice to anticipate both short and long term cash flow needs to ensure that the District is able to meet its obligations to its suppliers and water customers in a reasonable and timely manner. The FPM is a valuable tool that helps the District set its rates in each year to generate sufficient water revenues to meet these short and long term obligations in an orderly manner and to minimize significant rate fluctuations from year to year. Water revenues are the District's primary source of revenue, comprising about 70% of the District's total source of revenues.

Operating expenses include those programs and activities necessary to support and maintain the District's ongoing daily operations. These include costs associated with fuel and power; purchased water from the State Water Project and San Francisco Regional Water System; operations and maintenance of the groundwater basin, water treatment facilities, water quality

analysis, mains, service lines and reservoirs; administrative and related expenses, and debt service. These costs total approximately \$810 million in the 10 year FPM. This includes funding of an Other Post Employment Benefit (OPEB) Trust for retiree health benefits with an initial funding of \$5 million, and subsequent annual required contributions and reimbursements from the trust as projected.

The FPM also includes over \$167 million in major capital projects needed to comply with increasingly stringent public health and environmental standards and to maintain water system reliability. Major projects include treatment plant process improvements and retrofit work, supplemental water supply storage, water production and storage facility improvements, water main and service line replacements, design and construction of the Newark Desalination Facility – Phase 2, Niles-Newark Intertie Pipeline, and various fishery projects along Alameda Creek. However the Seismic Improvement Program (SIP) is not included in these rate calculations, but will be considered as part of the annual CIP update this upcoming spring once staff has determined the appropriate program scope, schedule and timing.

Additional detail will be provided on the projected operating expenses and capital expenditures during the Board meeting on the proposed rate increase.

COMMODITY RATE

It is proposed that the base commodity rate for customers within the District's service area be increased by 6.0% effective February 1, 2009 to help recover the cost of increased operating expenses as well as to help fund capital projects needed to comply with state and federal drinking water regulations and to maintain the reliability of the water system. Among other factors, the District has had to face this year an unusual combination of decreased water demand, drought, economic uncertainty, increased labor related costs, and increased purchased water costs. Staff also proposes a 6.0% increase for those customers who are outside the District's boundaries, and for San Francisco Water Only customers, a 12.0% increase.

The proposed base commodity rates are summarized below.

	<u>Current</u>	<u>Proposed Eff. 2/1/09</u>
Base Commodity Charge (per HCF):		
Inside District	\$ 2.388	\$ 2.531
Outside District	2.745	\$ 2.910
San Francisco Water Service	2.395	\$ 2.682

As with last year, the reason for the proposed February 1 effective date is to allow for adequate time to comply with Proposition 218 notification requirements (discussed below).

BIMONTHLY SERVICE CHARGE

The bimonthly service charge is set to recover certain fixed costs, including meter reading and customer service, meter and service line maintenance and replacement, and partial annual debt service on bonds issued to finance Water Treatment Plant No. 2 capital costs. The bimonthly service charge was last adjusted in January 2006. It is proposed that the bi-monthly service

charge be increased by 6.0% for all meter sizes and customer types. This means that for a 5/8 inch or 3/4 inch meter, the bimonthly charge would be increased from \$10.08 to \$10.68.

COST COMPARISON - AVERAGE WATER BILL

The net effect of the proposed increase to the base commodity rate, and service charge, would increase the total bi-monthly water bill (commodity and service charge) for an average residential customer who uses 25 units of water (approximately 308 gallons per day) by 6.0% or \$4.18 from \$69.78 to \$73.96, which would mean a \$2.09 increase per month, or a little under 7 cents a day. This would place the District’s average residential water bill in the lower third of the 30 other Bay Area agencies surveyed. However, note that this is comparing the District’s proposed 2009 rates with the current 2008 rates of all the other surveyed agencies. A number of these agencies are projecting double-digit increases next year.

PROPOSITION 218 NOTIFICATION

It is proposed that a notification mailing of the proposed rate increase be mailed to all property owners in the District. The mailing mentions both the current and proposed commodity rates, the effect on an average residential customer’s bill, and reasons for the increase. Staff is requesting authorization from the Board to send out the mailings to give property owners 45 days notice before the January 8, 2009 proposed public hearing, which is the amount of notice required by Proposition 218. A separate mailing is also proposed to be sent to those approximately 200 property owners who are either outside the District boundaries or exclusive users of San Francisco water.

DEVELOPMENT RELATED FEES AND CHARGES

The facilities acreage and connections charges are collected from developers and deposited into the Facilities Improvement Fund to pay for the growth related portion of new capital facilities. The Facilities Connection Charge (FCC), Facilities Acreage Charge (FAC), Standard Acreage Charge (SAC), and Front Foot Charges (FFC) are typically set one year in advance to enable developers to budget fee changes well in advance of the effective date. Charges effective January 1, 2009 were previously adopted by the Board on January 10, 2008.

Based on the Financial Planning Model’s latest projection of growth-related capital projects and projected revenue, staff is proposing a 5.0% increase to both the general Facilities Acreage Charge and potable Facilities Connection Charges effective February 1, 2010.

All of the above-proposed changes are shown below.

	Adopted <u>Eff. 1/1/09</u>	Proposed <u>Eff. 2/1/10</u>
Facilities Acreage Charge (General)	\$ 6,329	\$ 6,645

Facilities Connection Charge (Residential Meters)

	<u>Adopted</u> <u>Eff. 1/1/09</u>	<u>Proposed</u> <u>Eff. 2/1/10</u>
Single Family Dwelling Units	\$ 5,546/du	\$ 5,823/du
Multiple Dwelling Units	\$ 4,439/du	\$ 4,661/du

Residential Dormitory Meter Facilities Connection Charge

	<u>Adopted</u> <u>Eff. 1/1/09</u>	<u>Proposed</u> <u>Eff. 2/1/10</u>
	\$ 3,329/unit	\$ 3,495/unit

Facilities Connection Charge (Nonresidential, Municipal and Irrigation Meters)

<u>Meter Size</u>	<u>Adopted</u> <u>Eff. 1/1/09</u>	<u>Proposed</u> <u>Eff. 2/1/10</u>
3/4"	\$7,824	\$8,215
1"	11,829	12,420
1½"	17,335	18,202
2"	21,177	22,236
3"	35,054	36,807
4"	58,220	61,131
6"	85,627	89,908
8"	131,025	137,576

WELL STANDARDS ORDINANCE ADMINISTRATION FEE

The District charges permit fees for the construction or destruction of production wells, monitoring wells, cathodic protection wells and exploratory holes. These fees were last adjusted in 2006. Fees are set to recover the cost of service. This year's increases are based upon a detailed review of the actual labor costs involved in providing the various services. The proposed changes are as follows:

The motion was passed by the following vote:

AYES: Directors Huang, Koller, and Weed

NOES: None

ABSENT: Directors Gunther and Lampert

7 – REPORTS

7.1 BOARD COMMITTEE REPORTS

- Operations & Water Quality Meeting of October 1, 2008: (1) Environmental Engineering in Operations Department
- Engineering & Capital Projects Meeting of October 13, 2008: (1) Alameda Reservoir Water Quality Enhancement Construction Project
- Water Resources Planning Meeting of October 15, 2008: (1) Delta Habitat, Conservation and Conveyance Program Update; (2) Quagga Mussel Update; (3) Alameda Creek Fisheries Update
- Legal & Legislative Meeting of October 21, 2008: (1) Review of State Legislation; (2) Proposed District-Sponsored Legislation-Groundwater Protection Act
- Administrative & Finance Meeting of October 28, 2008: (1) Review of FY 07/08 Financial Audit; (2) Quarterly Review of Claims; (3) Quarterly Review of Investments Portfolio

7.2 OPERATIONAL REPORTS

- Rainfall Report
- Water Production Report
- Quarterly Well Level Report
- Quarterly Projects Review
- Investment Report
- Quarterly Personnel Report

7.3 STAFF REPORTS

- 7.3.1 The Board received a presentation from Mr. Eric Cartwright on SFPUC Water System Improvement Program Environmental Impact Report. Discussion ensued and staff responded to questions from the Board.

7.4 GENERAL MANAGER'S REPORTS - None

8 – DIRECTOR’S COMMENTS AND/OR AGENDA ITEM REQUESTS

- Director Koller commented on the length of the board meeting.
- Director Weed informed the Board that the City of Fremont was able to qualify for a Proposition 50 grant and asked if the District could also benefit from similar grants. Mr. Piraino advised that the City is receiving its grant funding as part of the California River Parkways Program which is primarily for urban stream restoration and public access improvements and, as such, is not applicable to District activities. However, the District has been successful in acquiring Proposition 50 grant funding through other programs, most recently for the Bunting Pond Fish Screen project.

There being no further business to come before the Board, President Weed adjourned the meeting at 9:56 P.M.

Gina Markou, District Secretary

Attest:

John H. Weed, President