



NOTICE OF MEETING

**BOARD OF DIRECTORS OF THE
FRESNO METROPOLITAN FLOOD CONTROL DISTRICT**
Wednesday, April 12, 2017 at 6:00 PM
Chambers of the Board of Directors
5469 East Olive Avenue
Fresno, California

AGENDA

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**
2. **REPORT OF THE GENERAL MANAGER**
3. **APPROVAL OF MINUTES: None Submitted**
4. **BUSINESS AND PRESENTATIONS FROM THE FLOOR**
(This is an opportunity for the members of the public to address the Board on any matter related to the District that is not listed on the Agenda.)
5. **ADDITIONS TO THE AGENDA**
(The Board may add an item to the agenda if, upon a two-thirds vote, the Board finds that there is a need for immediate action on the matter and the need came to the attention of the District after the posting of this agenda.)
6. **POTENTIAL CONFLICTS OF INTEREST**
(Any Board Member who has a potential conflict of interest may now identify the item and recuse themselves from discussing and voting on the matter.) (FPPC §87105)
7. **PUBLIC HEARING: None Scheduled**
8. **CONSENT CALENDAR**
(All Consent Calendar items are considered to be routine action items and will be enacted by one motion. There will be no separate discussion of these items unless requested, in which event the item will be removed from the Consent Calendar and considered following approval of the Consent Calendar.)
 - A. Authorization to Sign Basin Use Soccer Agreements, East Fresno Youth Soccer League, Basin "C" (Ashlan & Barton) and Central CA Soccer Alliance, Basins "H" (Del Mar & Mesa); "I" (Bullard & Teilman); "M" (San Jose e/o First); "C" (Ashlan & Barton)
 - B. Rejection of Damage Claim and Authorization to Refer Matter to District's Insurance Carrier, Joint Powers Insurance Authority (JPIA), Rusty Karraker, Drainage Area "BX" (Temperance and Nees)

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- C. Award of Contract "DCE-11", Basin Internal Pipeline, Outfall Structures and Flow Meter, Basin "DCE" (Brawley & Annadale)
- D. Authorization of Direct Connection to FMFCD System, Producer's Dairy Warehouse, Drainage Area "RR" (Thorne and Napa)
- E. Report of Recent State Supreme Court Decision: Private Email Accounts Subject to California Public Records Act
- F. Authorization to Execute Standard Developer Agreement, Tract 6174, Drainage Area "DP" (Southeast of Leonard & Ashlan Avenues), Wilson Premier Homes, Inc.
- G. Report on Drainage Fee Time Payment Agreements (January – March 2017)
- H. Report of Public Concerns, March 2017

9. REGULAR AGENDA ITEMS

- A. Authorization to Extend Administrative Services and Office Space Agreement for the San Joaquin River Conservancy
- B. Review of Spring 2017 State Legislative Activity
- C. Authorization to Request Re-Evaluation of U.S. Army Corps of Engineers Facilities, Redbank and Fancher Creeks Project

10. BOARD REPORTS, WORKSHOPS, CORRESPONDENCE AND REQUESTS FOR FUTURE AGENDA ITEMS

- A. Recommendation from Priorities & Programming Committee, Amendments to Capital Improvement Projects Budget for Fiscal Year 2016-2017
- B. Recommendation from the Policy Committee:
Adoption of Public Records Act Policy

NOTICE OF MEETING: April 12, 2017
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- C. Recommendation from the Policy Committee:
Adoption of Amendments to the District's Employee Handbook and Human Resources Policies and Procedures:
 - a. HR 505 - Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO)
 - b. HR 508 - Mileage and Accountable Reimbursement Plan Expense
 - c. HR 511 - Business Travel and Expense Reimbursement

- D. Recommendation from the Policy Committee:
Rescission of General Administration - Travel Policy

REPORT OF GENERAL COUNSEL

CLOSED SESSION

ADJOURNMENT

NEXT MEETINGS:

- *April 26, 2017 Regular Board Meeting @ 6:00 pm
- *May 10, 2017 Regular Board Meeting @ 6:00 pm
- *May 18, 2017 Priorities & Programming Committee Meeting @ 12:00 pm
- *May 24, 2017 Regular Board Meeting @ 6:00 pm
- *May 25, 2017 Administrative Committee Meeting @ 12:00 pm

ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

A person with a qualifying disability under the Americans With Disabilities Act of 1990 may request the District to provide a disability-related modification or accommodation in order to participate in any public meeting of the District. Such assistance includes appropriate alternative formats for the agendas and agenda packets used for any public meetings of the District. Requests for such assistance and for agendas and agenda packets shall be made in person, by telephone, by facsimile, or written correspondence to the District's Clerk to the Board at (559) 456-3292 at the District office, at least 48 hours before a public District meeting.

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.A.
FROM: Paul Merrill, Finance Manager
SUBJECT: **Authorization to Sign Basin Use Soccer Agreements, East Fresno Youth Soccer League, Basin "C" (Ashlan & Barton) and Central CA Soccer Alliance, Basins "H" (Del Mar & Mesa); "I" (Bullard & Teilman); "M" (San Jose e/o First); "C" (Ashlan & Barton)**

Summary

The East Fresno Youth Soccer League has requested the use of Basin "C" (Ashlan & Barton) for practice and games during the 2017 soccer season. The Central CA Soccer Alliance has requested the use of Basin "H" (Del Mar & Mesa), Basin "I" (Bullard & Teilman), Basin "M" (San Jose e/o First), and Basin "C" (Ashlan & Barton) for practice and games during the 2017 soccer season.

No other organization has requested the use of these four basins. As with past cases of overlapping requests for Basin "C", both organizations would be accommodated by splitting the time available at the basin into two equal portions, with East Fresno Youth Soccer League having access to 50% of the available time and Central CA Soccer Alliance the other 50% of the time. The specific arrangements will be worked out by staff and incorporated into each lessee's use agreement.

Recommendation

It is recommended the Board of Directors authorize staff to execute Basin Use Agreements through October 31, 2017, permitting use of Basins "H", "I", "M" by the Central CA Soccer Alliance and Basin "C" by both Central CA Soccer Alliance and the East Fresno Youth Soccer League.

Discussion

The District's soccer use agreements typically have a start date sometime in April or May, with all such agreements ending on October 31st of that year.

Provisions for termination, insurance requirements, adherence to the District Basin Park Ordinance, and other standard requirements are included in the agreements.

Until there is a resolution of the off-leash dog issue, the soccer organizations will be given keys to open those basins that are currently closed. The league will be required to secure the site when they are not using the basins.

BOARD MEETING: April 12, 2017

AGENDA ITEM NO.: 8.A.

The Central CA use of Basin "M" comes with special conditions. The basin's drainage area and configuration are such that the recreational floor is readily inundated during moderate rain events and can be wet later in the year than most other recreational basins. This being the case, the proposed contract with the Alliance does not provide the Alliance exclusive access to Basin "M" until later in the season (June 1) and propose to end the Alliance's formal use of Basin "M" a month earlier than usual (September 30). This modified schedule will help keep the recreational floor in better condition by focusing the period of intense use when the basin can be expected to be completely dry.

Andy Adams, Accountant II

Attachments

None

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.B.
FROM: Alan Hofmann, General Manager
SUBJECT: **Rejection of Damage Claim and Authorization to Refer Matter to District's Insurance Carrier, Joint Powers Insurance Authority (JPIA), Rusty Karraker, Drainage Area "BX" (Temperance and Nees)**

Summary

The District is in receipt of the attached claim for fence and landscape lighting damage caused by flooding for the following claimant, Rusty Karraker. The incident allegedly occurred on February 12, 2017 following an intense storm cell that moved through the Harlan Ranch area (Shepherd, Temperance, and Freeway 168).

Recommendation

It is recommended the Board of Directors reject the subject claim and refer it to the District's insurance carrier for further action.

Discussion

The claimant, Rusty Karraker, is claiming damages in the amount of \$3,543.50 to his brick and wood fences, as well as to landscape lighting.

The District has an easement across his property for the Alluvial Drain Channel. The claimant's brick and wood fences were placed across the channel. The channel experienced high flows due to an intense storm cell on February 12, 2017.

A copy of the claim has been forwarded to JPIA. If the Board rejects the claim, JPIA will process and investigate the claim.

Mary Feagins, Office Assistant/ Program Assistant

Attachments

None

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.C.
FROM: Peter Sanchez, District Engineer
SUBJECT: **Award of Contract "DCE-11", Basin Internal Pipeline, Outfall Structures and Flow Meter, Basin "DCE" (Brawley & Annadale)**

Summary

Contract "DCE-11" will construct basin internal pipeline, outfall structures and a flow meter within Dry Creek Extension Basin as shown in Exhibit No. 1. The basin internal pipeline and outfall structures will increase the operational efficiency of the basin. The flow meter will enable the District to track the volume of water that is diverted to Dry Creek Extension Basin.

A total of six (6) bids were received on April 5, 2017. A summary of the bids is attached. The lowest proposal was submitted by JT2 Inc., dba Todd Companies in the amount of \$94,275. This amount is 10.2% below the Engineer's Estimate. Approximately 50% of the funding for the project is provided by the Disaster Preparedness and Flood Protection Bond Act of 2006 (Proposition 1E, Round 2 grant). Grant funds will not be disbursed until after the District incurs the project expenses. The District has allocated \$105,000 in the 2016-2017 Budget for the construction of the basin internal pipelines, outfall structures and flow meter.

Recommendation

It is recommended that the Board of Directors award Contract "DCE-11" to JT2 Inc., dba Todd Companies in the amount of \$94,275.

Discussion

The Contractors State License Board requires that the successful bidder be duly licensed prior to award of contract. Staff has verified that the lowest bidder, JT2 Inc., dba Todd Companies is licensed under License Number 788798, and the license does not expire until May 31, 2018.

The Contractor has License Code Class A; General Engineering, which applies to work in the contract. Staff has also verified that the Contractor and subcontractors are registered with the California Department of Industrial Relations.

Ramiro Perez, Engineer III, RCE

Attachments

1. DCE-11 Bid Summary
2. Exhibit No. 1

BOARD MEETING: April 12, 2017

AGENDA ITEM NO.: 8.C.

CONTRACT "DCE-11" STORM DRAIN FACILITIES BID SUMMARY

BID OPENING: April 5, 2017 @2:00 pm

No.	QUANTITY	DESCRIPTION	ENGINEER'S	JT2 Inc		Haydon		Dawson Mauldin		
			ESTIMATE	TOTAL	Todd Companies	Construction Inc.	Construction, Inc.	TOTAL	UNIT	TOTAL
			UNIT		UNIT		UNIT		UNIT	
1.	734 LF	24" Concrete Pipe, in Place and Backfilled	\$ 70.00 / LF	\$ 51,380.00	\$ 50.00 / LF	\$ 36,700.00	\$66.00 / LF	\$ 48,444.00	\$73.00 / LF	\$ 53,582.00
2.	24 LF	24" Reinforced Concrete Pipe, Class III, in Place and Backfilled	\$ 70.00 / LF	\$ 1,680.00	\$ 50.00 / LF	\$ 1,200.00	\$66.00 / LF	\$ 1,584.00	\$73.00 / LF	\$ 1,752.00
3.	2 EA	Type "D" Outfall Structure, in Place and Complete	\$ 9,000.00 / EA	\$ 18,000.00	\$15,000.00 / EA	\$ 30,000.00	\$7,500.00 / EA	\$ 15,000.00	\$9,400.00 / EA	\$ 18,800.00
4.	1 LS	Flow Meter and Appurtenances, in Place and Complete	\$ 26,000.00 / LS	\$ 26,000.00	\$18,000.00 / LS	\$ 18,000.00	\$36,840.00 / LS	\$ 36,840.00	\$34,000.00 / LS	\$ 34,000.00
5.	1 LS	Dust Control	\$ 1,000.00 / LS	\$ 1,000.00	\$ 500.00 / LS	\$ 500.00	\$550.00 / LS	\$ 550.00	\$100.00 / LS	\$ 100.00
6.	1 LS	Worker Protection	\$ 1,000.00 / LS	\$ 1,000.00	\$ 500.00 / LS	\$ 500.00	\$250.00 / LS	\$ 250.00	\$100.00 / LS	\$ 100.00
7.	1 LS	Miscellaneous Facilities & Operations	\$ 5,940.00 / LS	\$ 5,940.00	\$ 7,375.00 / LS	\$ 7,375.00	\$6,575.00 / LS	\$ 6,575.00	\$5,179.30 / LS	\$ 5,179.30
TOTAL, ITEMS 1 THROUGH 7 INCLUSIVE			\$	105,000.00	\$	94,275.00	\$	109,243.00	\$	113,513.30

Low Bid is 10.2% below the Engineer's Estimate

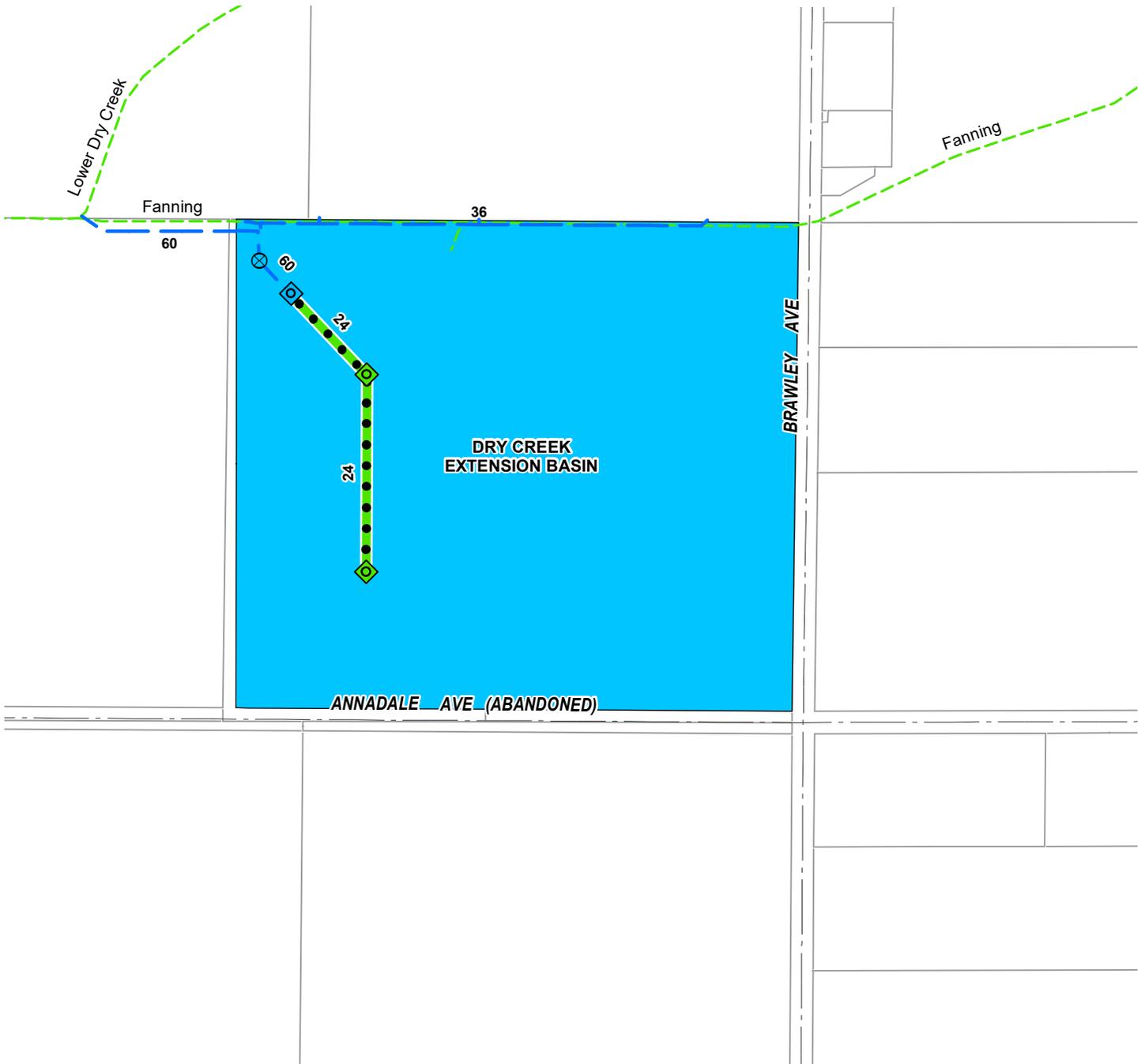
CONTRACT "DCE-11" STORM DRAIN FACILITIES BID SUMMARY

BID OPENING: April 5, 2017 @2:00 pm

No.	QUANTITY	DESCRIPTION	ENGINEER'S ESTIMATE		West Valley Construction Company, Inc		Floyd Johnston Construction Co., Inc		Bill Nelson General, Inc.		
			UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	UNIT	TOTAL	
1.	734	LF	24" Concrete Pipe, in Place and Backfilled	\$ 70.00 / LF	\$ 51,380.00	\$57.50 / LF	\$ 42,205.00	\$69.50 / LF	\$51,013.00	\$80.00 / LF	\$ 58,720.00
2.	24	LF	24" Reinforced Concrete Pipe, Class III, in Place and Backfilled	\$ 70.00 / LF	\$ 1,680.00	\$57.50 / LF	\$ 1,380.00	\$69.50 / LF	\$ 1,668.00	\$80.00 / LF	\$ 1,920.00
3.	2	EA	Type "D" Outfall Structure, in Place and Complete	\$ 9,000.00 / EA	\$ 18,000.00	\$13,650.00 / EA	\$ 27,300.00	\$8,625.00 / EA	\$17,250.00	\$12,000.00 / EA	\$ 24,000.00
4.	1	LS	Flow Meter and Appurtenances, in Place and Complete	\$ 26,000.00 / LS	\$ 26,000.00	\$35,500.00 / LS	\$ 35,500.00	\$38,850.00 / LS	\$38,850.00	\$40,000.00 / LS	\$ 40,000.00
5.	1	LS	Dust Control	\$ 1,000.00 / LS	\$ 1,000.00	\$100.00 / LS	\$ 100.00	\$650.00 / LS	\$ 650.00	\$5,000.00 / LS	\$ 5,000.00
6.	1	LS	Worker Protection	\$ 1,000.00 / LS	\$ 1,000.00	\$500.00 / LS	\$ 500.00	\$2,250.00 / LS	\$ 2,250.00	\$5,000.00 / LS	\$ 5,000.00
7.	1	LS	Miscellaneous Facilities & Operations	\$ 5,940.00 / LS	\$ 5,940.00	\$7,000.00 / LS	\$ 7,000.00	\$9,960.00 / LS	\$ 9,960.00	\$10,000.00 / LS	\$ 10,000.00
TOTAL, ITEMS 1 THROUGH 7 INCLUSIVE					\$ 105,000.00		\$ 113,985.00		\$ 121,641.00		\$ 144,640.00

Low Bid is 10.2% below the Engineer's Estimate

**NOTE: THIS MAP IS SCHEMATIC.
DISTANCES, AMOUNT OF CREDITABLE
FACILITIES, AND LOCATION OF INLET
BOUNDARIES ARE APPROXIMATE.**



LEGEND

-  Facilities To Be Constructed
-  Existing Pump Station (Flow Meter To Be Installed)
-  Existing Facilities
-  FID Irrigation System



1" = 400'

CONTRACT "DCE-11" **BASIN INTERNAL PIPELINE, OUTFALL STRUCTURES AND FLOW METER**

EXHIBIT NO. 1



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

Prepared by: wadet

Date: 4/6/2017

Path: K:\Autocad\DWGS\0EXHIBIT\RURAL\DCE-11.mxd

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.D.
FROM: Peter Sanchez, District Engineer
SUBJECT: **Authorization of Direct Connection to FMFCD System,
Producer's Dairy Warehouse, Drainage Area "RR" (Thorne
and Napa)**

Summary

The California High Speed Train Project (HST) is proposing to install HST tracks within a parking area currently owned by Producers' Dairy. HST intends to relocate a portion of the parking lot to an area currently used by Producer's for temporary storage of storm water (see attached Exhibit No. 1) by backfilling and paving the existing temporary pond area. The site is currently bordered by train tracks on three of its four sides and the existing paving is unable to surface drain to the Master Plan system, thus requiring the private onsite drainage system shown on Exhibit No. 1. The proposed connection of the existing below grade site to the Master Plan system requires Board of Directors authorization.

The Board of Directors must approve the direct connection, as the site does not meet the following policies:

- 1) Limitation on Direct Connections Below Top of Curb Elevations
- 2) Non-Standard Grading and Elevations

Each of these policies is attached for your reference.

Limitation on Direct Connections Below Top of Curb Elevations

Section II, Item E, of this policy requires the Board of Directors to determine if unique and special physical or economic circumstances warrant the direct connection exception and the requisite conditions of approval have been satisfied. Staff directs the Board of Directors attention to Section II, Item G, of the policy regarding a back flow device and positive shut off valve. In this case, if the Board approves the direct connection, staff is recommending the back flow device be required so as not to potentially affect the user with back flow inundation. The need for a positive shut off valve is not recommended for this location as there are no depressed loading dock areas at this location. All of the other requisite conditions would be required and must be satisfied by the developer. The developer has indicated his acceptance of these conditions.

BOARD MEETING: April 12, 2017

AGENDA ITEM NO.: 8.D.

Non-Standard Grading and Elevations

This policy references the policy mentioned above and no additional considerations are necessary.

Recommendation

It is recommended the Board of Directors approve the direct connection with the requisite conditions: 1) installation of an approved back flow prevention device and 2) dedication of a flood easement and release in favor of the District.

Discussion

In accordance with current policy, this direct connection is presented to the Board of Directors for consideration. The potential for backflow flooding, due to the lower elevation, creates the need for a backflow prevention device. The finish floor of the existing building is elevated above the break over and is not affected by any flooding.

A condition of the policy is that a unique and special physical and economic circumstance must warrant this exception. For this development, due to the existing configuration of the warehouse and the parking lot, any adjustment in elevation would require the existing parking lot to be reconstructed and additional fill brought to the site increasing costs.

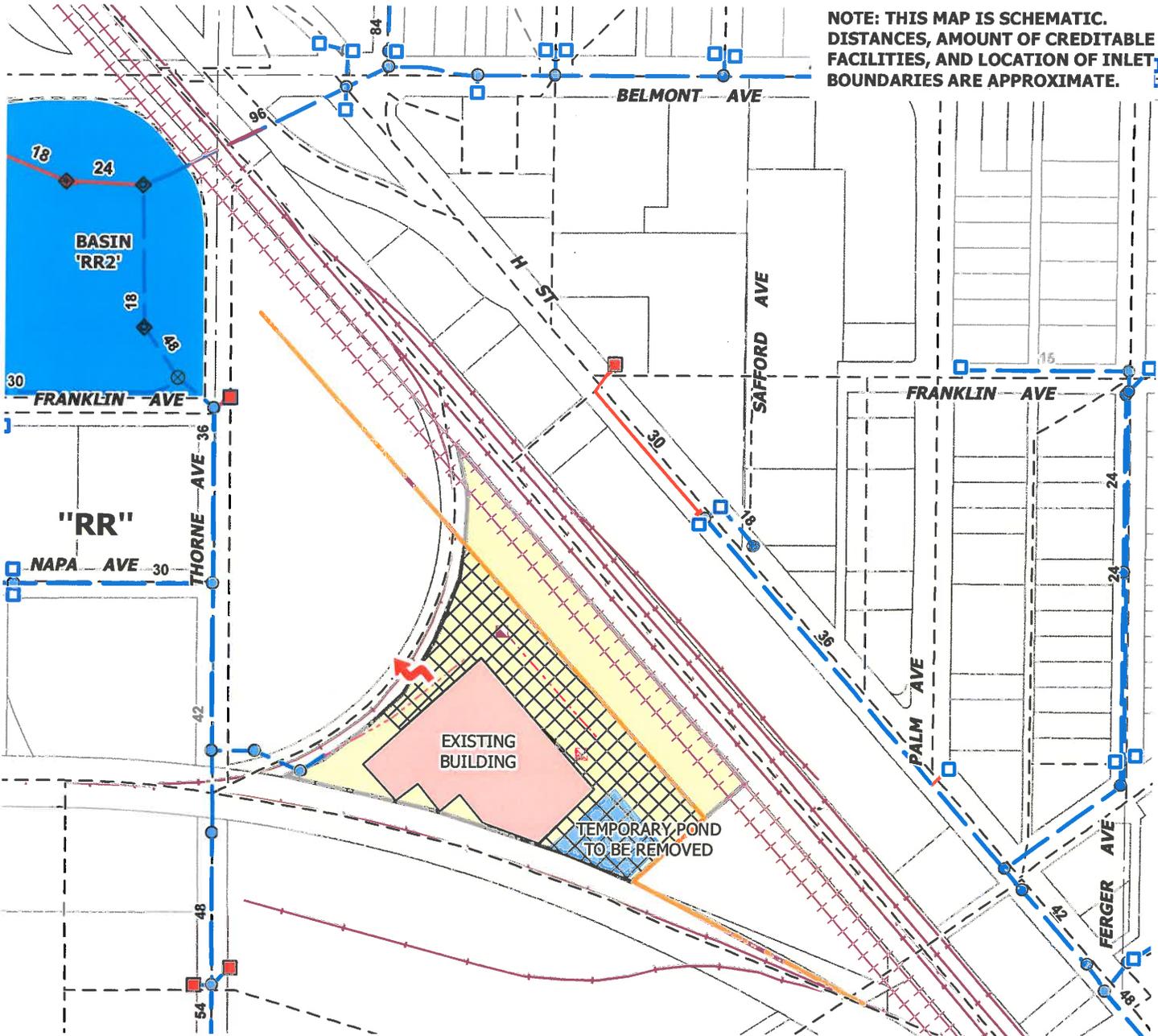
If the Board of Directors approves the project, the flood agreement for “Dedication of Flood Easement Release” between the District and the Developer would be a prerequisite to approve the grading plan. The agreement would include Release and Indemnity for the District from all claims for areas below the break over elevation and would include successors-in-interest.

Mark Will, Engineer III, RCE

Attachments

1. Exhibit No. 1
2. Policy Attachment

NOTE: THIS MAP IS SCHEMATIC. DISTANCES, AMOUNT OF CREDITABLE FACILITIES, AND LOCATION OF INLET BOUNDARIES ARE APPROXIMATE.



LEGEND

- Existing Master Plan Facilities
- Future Master Plan Facilities
- Private Facilities To Be Constructed
- Inlet Boundary
- High Speed Train Right-Of-Way
- High Speed Train Alignment
- Limits of Property
- Approximate Area Of Release And Flood Easement
- Major Storm Breakover



**PRODUCER'S DAIRY
WAREHOUSE
DRAINAGE AREA "RR"**

EXHIBIT NO. 1

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT



POLICY MANUAL

Date Adopted: December 7, 1959

Classification: PIPELINE DESIGN STANDARDS

Date Last Amended: 03/08/82; 05/24/00
03/14/01

Subject: Limitation on Direct Connections
Below Top of Curb Elevations

Approved By:



I. Policy:

Pursuant to consideration of the Koekig and Koekig Report, the economics Report of the Stanford Research Institute, the "Nolte Report," costs and benefits associated with various alternative standards, and the input of impacted agencies and citizens, the Board of Directors adopted as the District pipeline design standard, the modified four year (two year) rainfall event. This standard provides for storm water accumulation to the top of curb at the low inlet during the peak of the two-year rainfall event, with the pipeline system's hydraulic grade line design calculations to include 12" of freeboard below the design event elevation.

Pursuant to action by the Board of Directors on March 8, 1982, the pipeline design standard was modified to add a 20% supplemental capacity in all as yet non-constructed pipelines serving non-commercial, non-industrial areas, and a 10% supplemental capacity in such commercial and industrial area pipelines.

II. Policy Exception: Direct Connections to Pipeline System Below the Top of Curb Elevations

It is the policy of the Board of Directors to permit direct connections to the pipeline system below the top of curb elevations only when the following criteria are satisfied:

- A. The site to be served by such direct connection is designated for and constructed for industrial or open space land use.
- B. The connection permitted subject to this Policy exception shall not create a public health or safety exposure not fully re-mediated by the project design.
- C. The area to be inundated below the top of curb contains no structures, improvements or other assets which would be damaged from inundation associated with normal operation of the pipeline system.
- D. The inundation occurring as a result of such below grade connection shall not exceed a depth which would otherwise require safety fencing pursuant to City and County Ordinances, without approval of said City or County.

<h1>POLICY MANUAL</h1>		Date Adopted: December 7, 1959
Classification: PIPELINE DESIGN STANDARDS	Date Last Amended: 03/08/82; 05/24/00 03/14/01	
Subject: Limitation on Direct Connections Below Top of Curb Elevations	Approved By: 	

- E. The Board of Directors makes a specific determination as to each requested application of this Policy exception that unique and special physical or economic circumstances warrant this exception and that the requisite conditions of approval have been satisfied except as provided in Paragraph 8 hereof.

- F. The owners of the property seeking the exemption shall provide to the District a recorded covenant, attached to the property, granting to District (a) a satisfactory hold harmless and indemnification; (b) an easement covering all areas of potential inundation below the top of curb; and (c) providing to the District a surety to terminate and re-mediate at the owner's sole expense, to the District's basic pipeline standard, the connection constructed pursuant to this Policy exception, when directed to do so by the District or the Regional Water Quality Control Board, or other appropriate governmental authority.

- G. The connections installed below the top-of-curb elevation shall be fitted with a valve acceptable to the District to minimize back flow onto the site; and shall be equipped with a physical control devise acceptable to the District to entrap spills of hazardous materials so as to prevent entry into the pipeline system.

- H. The District Manager or his designee shall have the authority to approve without Board review direct connections determined to be consistent with this Policy and which meet the following criteria: (1) an on-site landscape area in which the maximum elevation depth is no more than eighteen inches below the lowest adjoining street; (2) existing parking lot and drive areas, provided the water depth will not be deeper than one foot as measured relative to the lowest adjoining street; and (3) depressed loading docks, when only the dock ramp drains to the depressed dock, and an automated backflow valve and a manual shut off valve are placed in line between the depressed dock and public drainage system.

POLICY MANUAL

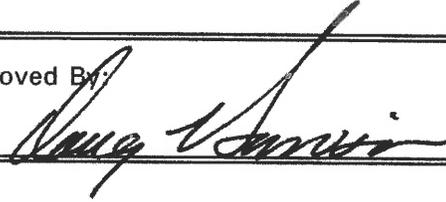
Date Adopted: August 8, 1995

Date Last Amended: 05/24/2000

Classification: ENGINEERING OPERATIONS

Subject: Non-Standard Grading and Elevations

Approved By:



I. Policy:

It is the policy of the District to require the execution of the standard "Agreement for Dedication of Flood Easement and Release," which is attached to this policy statement, prior to approval of grading or improvement plans for any project which does not comply with the District's standards for grading and elevation of buildings.

II. Purpose:

It is the objective to minimize the risk to property and property improvements from flood damages resulting from non-standard grading or elevation of buildings.

III. Standards:

All projects shall be required to comply with grading and elevation standards unless unusual site conditions and significant economic circumstances warrant an exception to the standards, or an exception is granted pursuant to the FMFCD Pipeline Design Standards as amended May 24, 2000, for Limitation on Direct Connections Below Top of Curb Elevations. It is the District's standard that all grading and building elevations comply with the grading standards of the most recent Uniform Building Code and that all properties be graded and elevated above the adjoining streets and in conformance with the adopted Storm Drainage Master Plan. Unusual site conditions and significant economic circumstances which warrant an exception shall only be permitted when approved by the District Engineer, or when determined by the Board of Directors to be consistent with the FMFCD Pipeline Design Standards as amended May 24, 2000, for Limitation on Direct Connections Below Top of Curb Elevations.

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.E.
FROM: Alan Hofmann, General Manager
SUBJECT: **Report of Recent State Supreme Court Decision: Private Email Accounts Subject to California Public Records Act**

Summary

On March 2, 2017, the California Supreme Court (Court) ruled that e-mails and text messages, sent or received on private electronic devices or personal accounts used by public officials and their staffs, were subject to disclosure under the California Public Records Act. The ruling was a unanimous decision by the Court in *City of San Jose v Superior Court of Santa Clara County*.

The decision and some of its implications are discussed in the report provided as Attachment A.

Recommendation

This report is for informational purposes only. No action is required of the Board of Directors unless specific direction is to be given to staff.

Discussion

Please see Attachment A for a discussion on the Court Ruling.

Andrew Remus, Senior Staff Analyst

Attachments

1. Attachment A - Discussion - State Supreme Court Decision on e-Privacy

ATTACHMENT A

Supreme Court Rules Private Email Accounts are Subject to the California Public Records Act

Decision

On March 2, 2017, the California Supreme Court ruled that e-mails and text messages, sent or received on private electronic devices or personal accounts used by public officials and their staffs, were subject to disclosure under the California Public Records Act (CPRA). The decision is expected to have significant administrative, operational and financial impacts on public agencies.

Under the CPRA, a public record includes "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." According to the Court, communications such as e-mails and text messages on private devices and accounts can qualify as public records if their contents relate to the conduct of public business.

Applicability

The Court acknowledged that it may be difficult to draw the line between public records and personal information on private devices and accounts. The Court indicated that distinguishing the difference would involve several factors, including: (1) the content of the communication itself; (2) the context of, or purpose for, the communication; (3) the person to whom the communication was directed; and (4) whether the communication "was prepared by an employee acting or purporting to act within the scope of his or her employment."

As an example, the Court explained that, depending on the precise context, an e-mail to a spouse complaining about a co-worker would not be a public record. On the other hand, an e-mail to a supervisor about a co-worker's performance might be a public record.

The Court held that records which otherwise "meet CPRA's definition of 'public records' do not lose this status because they are located in an employee's personal account." Furthermore, "a writing prepared by a public employee conducting agency business has been 'prepared by' the agency within the meaning of" the CPRA, regardless of whether the writing is prepared using the employee's personal account.

If a record contains both public and private information, the Court reassured public agencies that they can redact information that is exclusively personal or otherwise exempt from disclosure under the CPRA.

Court Recommendations

The Court provided several suggestions for public agencies in this area. "Federal courts applying FOIA [Freedom of Information Act; the federal equivalent of CPRA] have approved of individual employees conducting their own searches and segregating public records from personal records, so long as the employees have been properly trained in how to distinguish between the two."

The Court noted that, for federal employees and public agency employees in other states, if an employee "withholds a document identified as potentially responsive," he or she may "submit an affidavit providing the agency, and a reviewing court, 'with a sufficient factual basis upon which to determine whether contested items were agency records' or personal materials." The Court indicated that this type of process could meet an agency's duty to produce responsive records while also protecting individual privacy interests of officials and employees.

The Court noted that California public agencies might consider adopting policies to reduce the possibility of public records being located on private devices or accounts. For example, federal statutes and regulations require some federal employees to use their official agency accounts for all communications relating to public business, or copy their official agency accounts on all public business communications conducted on private accounts.

Background

This ruling arose from a case involving the City of San Jose in which a private citizen filed a PRA request to access elected officials' and employees' electronic communications from personal devices. The city rejected the request arguing that such communication is not subject to public disclosure because it is not in the public agency's possession.

In its ruling against San Jose, the California Supreme Court referenced its constitutional mandate to interpret the CPRA in favor of public access. The ruling also stated that "...in today's environment, not all employment-related activity occurs during a conventional workday, or in an employer-maintained workplace."

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.F.
FROM: Peter Sanchez, District Engineer
SUBJECT: **Authorization to Execute Standard Developer Agreement, Tract 6174, Drainage Area "DP" (Southeast of Leonard & Ashlan Avenues), Wilson Premier Homes, Inc.**

Summary

Staff has imposed a requirement to construct the Storm Drainage Master Plan facilities (the "Creditable Facilities") as identified on the attached Exhibit No. 1 as a condition of development approval. A summary of the drainage fee obligation, Master Plan facilities cost and other data is shown below.

Development: Tract 6174
Drainage Area: "DP"
Drainage Fee: \$209,012
Construction Cost: \$192,500
Remaining Drainage Fee Amount to be Paid: \$16,512
Developer: Wilson Premier Homes, Inc.

Recommendation

It is recommended that the Board of Directors authorize staff to execute a Standard Developer Agreement with Wilson Premier Homes, Inc. for the construction of the required Master Plan facilities.

Discussion

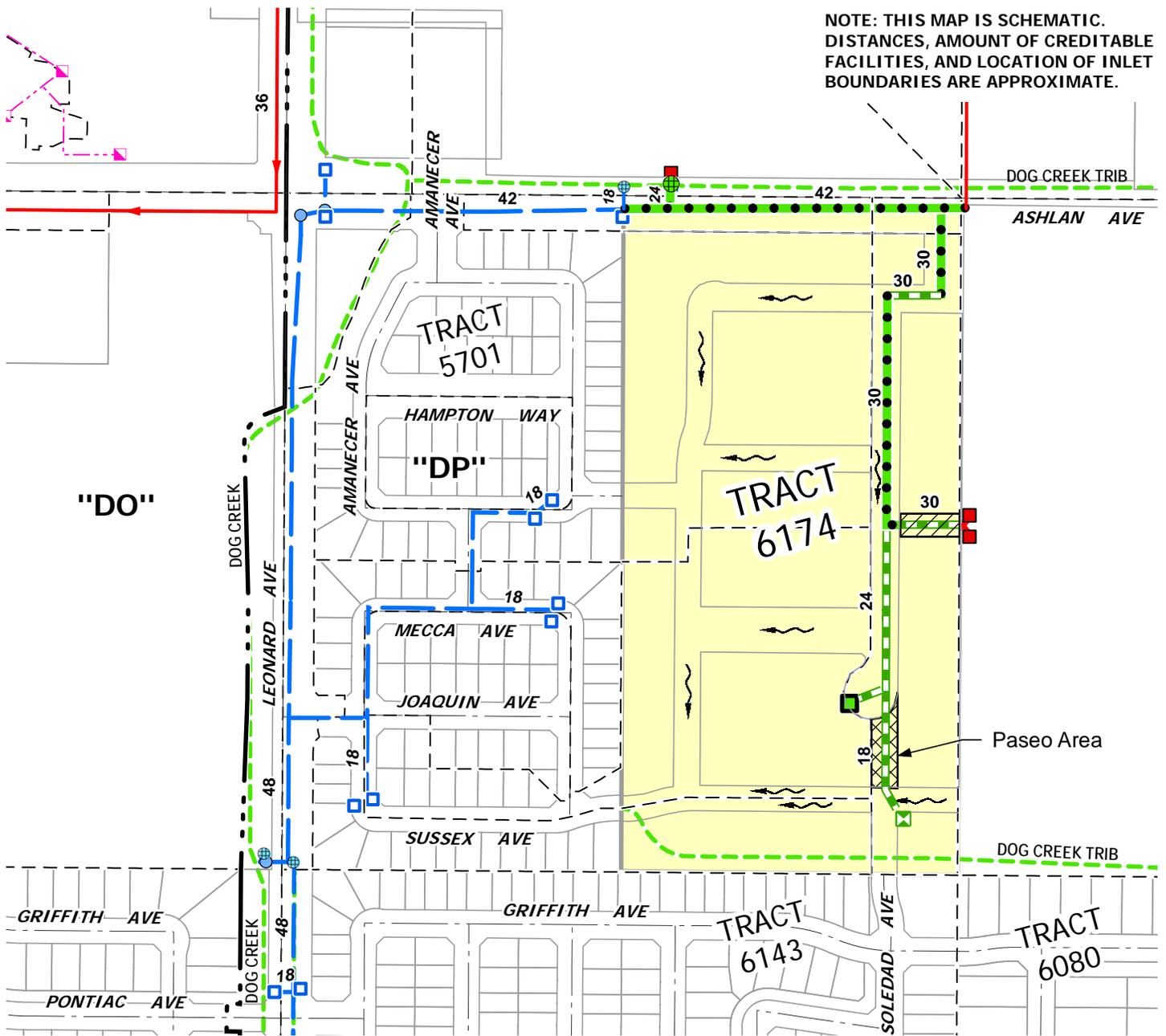
The developer will be required to pay the excess drainage fee upon finalization of the agreement. Should the final construction costs exceed the fee obligation, the excess credit will be reimbursed to the developer from future drainage fee revenue in accordance with the Drainage Fee Ordinance.

Bob Notley, Senior Engineering Technician

Attachments

1. Exhibit No. 1

NOTE: THIS MAP IS SCHEMATIC. DISTANCES, AMOUNT OF CREDITABLE FACILITIES, AND LOCATION OF INLET BOUNDARIES ARE APPROXIMATE.



LEGEND

- Existing Master Plan Facilities
- Future Master Plan Facilities
- - - - - Inlet Boundary
- - - - - Drainage Area Boundary
- - - - - Rural Facilities
- Creditable Facilities (Master Plan Facilities To Be Constructed By Developer)-Pipeline (Size Shown) & Inlet.
- Non-Master Plan Facilities To Be Constructed By Developer (Not Eligible For Fee Credit)
- Temporary Inlet To Be Constructed By Developer (Not Eligible For Fee Credit)
- 15' Wide Storm Drain Easement To Be Dedicated By Developer To District
- Major Storm Channel Easement To Be Dedicated To District By Developer
- Limits Of Tract 6174



TRACT 6174 DRAINAGE AREA "DP"

EXHIBIT NO. 1

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT



BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 8.G.
FROM: Peter Sanchez, District Engineer
SUBJECT: **Report on Drainage Fee Time Payment Agreements (January – March 2017)**

Summary

The District has entered into twenty-three (23) development applications for Time Payments. Nineteen (19) of the twenty-three (23) have been fully paid and finalized. Currently, there are four (4) active Time Payment Agreements. Of these agreements, only one (1) is delinquent. The remaining three (3) agreements are current with their payments. Refer to Attachment No. 1 for status of the Time Payment Agreements.

The permits on the delinquent project have expired. This delinquency, Agreement No. 1590(D)-Z, was originally reported to the Board of Directors at its December 12, 2012 meeting.

Recommendation

This report is for informational purposes only. No action is required of the Board of Directors unless specific direction is to be given to staff.

Discussion

This report is to update the Board of Directors of the status of the Time Payment Agreements. One (1) of the four (4) active Time Payment Agreements was requested and approved by the Board of Directors. The remaining three (3) active Time Payment Agreements were approved as a part of the “Late Payment of Drainage Fee Policy” that did not require additional Board approval.

Three (3) of the four (4) active Time Payment Agreements are current; one (1), Agreement 1590(D)-Z, is delinquent. As discussed in the last report, the case had been passed on to City of Fresno Code Enforcement because of code violations related to an existing residence on the site. On January 18, 2017, staff was notified that the City had informed the property owner that the development permits have expired as of January 15, 2017 and no further inspections will be allowed until new plans are submitted for plan check and all fees are paid. Should the property owner submit new plans it is anticipated that the new plans will request that the existing residence remain and be brought up to code or that the existing residence be removed and the code violations with it (the original site plan submitted with the application had the existing residence removed). In either case the City has informed staff that the drainage fees will be collected with a new submittal. In the mean time, the recorded Deed of Trust securing the Promissory Note as a part of the Time Payment Agreement remains on the property. Should the site change ownership it is anticipated a new lender would require the Promissory Note to be

BOARD MEETING: April 12, 2017

AGENDA ITEM NO.: 8.G.

fulfilled and the Deed of Trust to be reconveyed to the new owner.

With the development permits now expired and the requirement to re-submit new plans, staff is confident that the outstanding drainage fees will be collected at the time of re-submittal by the current owner or at the time there is a change of ownership. Therefore, staff will not be reporting to the Board on this issue until payment of the outstanding drainage fee is received.

Ricky Hara, Engineering Services Manager

Attachments

1. Attachment No. 1

Time Payment Agreement Status

Agreement	Drainage Area	Application	Executed	Initial	Paid	1st	1st paid	2nd	2nd paid	3rd	3rd paid	4th	4th paid	Comments
733(D)-ZZ	ZZ	SPR 1990-272	1/10/1994	2/16/1994	\$3,385.60	1/7/1995	\$3,385.60	1/7/1996	\$3,385.60	1/7/1997	\$3,385.60	1/7/1998	\$3,385.60	Final Payment received 1/7/1998
1053(D)-AQ	AQ	SPR 6783	4/17/2000	4/17/2000	\$38,526.18	3/30/2001	\$38,526.18	3/15/2002	\$38,526.18	3/7/2003	\$38,526.18	3/26/2004	\$38,526.18	Final payment received 3/26/04, Reconveyed Deed of Trust 6/21/04
1067(D)-CE	CE	SPR 6951/CUP 2890	6/9/2000	6/9/2000	\$6,226.04							6/20/2006	\$31,857.77	Paid balance 6/20/2006
1108(D)-EO	EO	SPR 7008	10/9/2001	10/5/2001	\$3,634.76	10/10/2002	\$3,634.76	10/20/2003	\$3,634.76	10/1/2004	\$3,634.76	10/4/2005	\$3,634.76	Final payment received 10/4/05.
1119(D)-CQ	CQ	Co. SPR 6864	4/11/2003	8/9/2001	\$1,958.00							3/14/2006	\$125,673.04	Paid in lump sum due to transaction of ownership, includes Agmt 1205(D)-CQ
1205(D)-CQ	CQ	Co. CUP 3016	3/18/2004	3/18/2004	\$23,667.59	3/23/2005	\$20,993.06	3/14/2006	\$64,847.35					Paid in lump sum due to transaction of ownership, includes Agmt 1205(D)-CQ
1261(D)-AW1	AW1	SPR 2003-337	4/15/2004	4/15/2004	\$8,084.00	12/17/2004	\$3,288.40	3/6/2006	\$3,288.40	12/29/2006	\$3,288.40	8/9/2007	\$3,288.40	Final payment received 8/9/07
1478(D)-CE	CE	SPR 7556	6/12/2007	6/30/2008	\$69,928.00									Paid in full 6/30/08
1479(D)-3D	3D	SPR 1996-023A	9/20/2007	6/19/2007	\$9,067.20	9/3/2008	\$2,182.20	9/2/2009	\$2,182.20	9/16/2010	\$4,364.40			final payment received 9/16/10
1564(D)-CG	CG	DRA 4045	7/14/2008	7/14/2008	\$1,246.33	7/13/2009	\$1,246.33	6/21/2010	\$1,246.33	6/30/2011	\$1,246.33	6/29/2012	\$848.78	Final Payment received 6/29/12
1587(D)-AV	AV	CUP 2006-223	1/21/2009	1/21/2009	\$13,127.17	1/21/2010	\$0.00	1/21/2011	\$0.00	1/21/2012	\$0.00	1/21/2013		Paid at current rates in lump sum
1590(D)-Z	Z	SPR 2007-184	4/17/2009	4/17/2009	\$1,329.03	2/25/2011	\$1,329.03	3/21/2011	\$220.97					Currently in default: City permit expired & waiting resubmittal of site plan.
1606(D)-BS	BS	CUP 3229	10/26/2009	10/27/2009	\$19,626.31	10/15/2010	\$19,202.14	10/19/2011	\$20,008.70	10/30/2012	\$20,854.11	9/27/2013	\$21,739.74	Emmetts, Final payment received 9/27/13
1609(D)-AS	AS	CUP 2009-026	Void	3/29/2012	\$16,450.00	6/4/2013	\$16,450.00	3/14/2014	\$16,450.00	3/13/2015	\$16,450.00	3/24/2016	\$16,255.00	Never executed (Gomez) Final payment received 3/24/16
1620(D)-EG	EG	CUP 2005-148	5/28/2010											Paid in full 4/12/10 Northpointe Church
1630(D)-KK	KK	CUP 2010-102	10/19/2010	10/19/2010	\$4,027.00	10/19/2011	\$2,455.90	10/19/2012	\$2,291.70					Payable in two annual payments. Final payment received 2/2/12
1649(D)-LL	LL	SPR 2000-419	7/19/2011	7/19/2011	\$8,694.82	8/10/2012	\$8,615.45	7/29/2013	\$8,981.74	8/11/2014	\$9,369.99			Granite Construction. Final payment received 8/11/14
1670(D)-I	I	CUP 2011-025	5/16/2012	5/16/2012	\$1,457.71	6/4/2013	\$1,457.71	4/29/2014	\$1,457.71	5/1/2015	\$1,457.71	5/3/2016	\$1,457.72	Redeemer Church. Final Payment received 5/3/16
1680(D)-UU3	UU3	SPR 7812	10/5/2012	10/5/2012	\$3,343.03	10/5/2013	\$3,268.88	9/5/2014	\$3,407.81	9/21/2015	\$3,552.64	9/16/2016	\$3,703.64	Shubin Final payment received 9/16/16
1685(D)-AV	AV	329-020-06	7/15/2013	7/15/2013	\$1,012.00	7/3/2014	\$1,006.00	7/10/2015	\$1,006.00	7/15/2016	\$1,006.00			Jose Garcia, Fee Violation
1686(D)-7H	7H	553-130-09	5/10/2013	5/10/2013	\$863.00	4/18/2014	\$863.00	4/14/2015	\$863.00	4/7/2016	\$863.00	3/14/2017	\$863.00	Allan Knepper, Fee Violation
1688(D)-BY	BY	580-030-25	5/20/2013	5/20/2013	\$364.80	6/30/2014	\$364.80	5/26/2015	\$364.80	7/1/2016	\$364.80			Manuel & Leticia Sepulveda, Fee Violation
1696(D)-CQ	CQ	328-181-06	7/19/2013	7/19/2013	\$1,870.00	7/23/2014	\$1,870.00	7/23/2015	\$1,870.00	7/22/2016	\$1,870.00			Juan F. & Yadira Castro, Fee violation

Finalized
Delinquent
Active

BOARD MEETING: April 12, 2017
 AGENDA ITEM NO.: 8.H.
 FROM: Brent Sunamoto, Operations Engineer
 SUBJECT: **Report of Public Concerns, March 2017**

Summary

District staff receives calls from the general public routinely requesting information about the District's drainage system or to voice concerns about some aspect of the District's program. Over time, the response to public concerns was disbursed to individuals closest to the activity of interest. A database was developed as a method of storing, tracking, and reporting all public concerns received.

The District received 15 public concerns during the month of March.

Recommendation

This report is for informational purposes only. No action is required of the Board of Directors unless specific direction is to be given to staff.

Discussion

All public concerns receive a thorough internal review by staff, field review when appropriate and a response to the calling party if necessary. The attached report summarizes each concern and staff's response.

The concerns are categorized by the type of issue. Staff received calls on Drainage, Fence Damage, Graffiti, Irrigation, Maintenance Activity, Miscellaneous, and Non-District during this reporting period. A limited description of the categories is as follows:

<u>Category</u>	<u>Description</u>
Construction	- issues regarding District related construction projects.
Excavation activity	- issues regarding street drainage, storm drainage system, pipelines, inlets or siphons.
Excavation activity	- issues regarding the borrow permit program.
Fence damage	- issues regarding the repair or damage to District fences.
Graffiti	- issues related to graffiti on District infrastructure.
Maintenance activity	- issues regarding the developed basin irrigation system.
Miscellaneous	- issues that do not fit into one of the other categories.
Non-District	- issues responded to by staff but are associated with another agency.
Recharge	- issues regarding the District's recharge program.
Wildlife	- issues regarding wildlife in the District's facilities (i.e. rodents, water fowl, pets).

BOARD MEETING: April 12, 2017

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Winter Operations - issues regarding winter operations activities (i.e. pumping, maintenance, etc.).

The report will specify the type of concern by these categories. Only concerns raised by the general public will be transmitted in this report. While staff also receives concerns from developers or engineering firms regarding District program issues routinely, these do not meet the subject matter or intent of this report and are not included herein.

Anthony Zaragoza, Engineer II

Attachments

1. Public Concern List, March 2017

Monthly Public Concerns Report

Month: March Year: 2017

Drainage	Description	Action
Drainage Area BX Name Rusty Karraker Address 6750 E Heritage Date/Time 03/03/2017 1:28 PM Taken By: JT	<p>Mr. Karraker called about his concern regarding the negative impacts of upstream development on Alluvial Drain as it routes through his property. There was a large amount of water flowing through the channel in January and February. His neighbor, Patrick Murray, has the same concern. Mr. Karraker sustained damages to some improvements (fence and lighting) placed in the easement for the Alluvial Drain Channel and wants to be reimbursed.</p>	<p>Staff met with Mr. Karraker and Mr. Murray on their properties. The large amount of water was due to the intensity of the storms that hit the Clovis areas in January and February. Staff provided Mr. Karraker a claim form.</p>

Fence Damage	Description	Action
Drainage Area FF Name Ana Address Date/Time 03/02/2017 9:09 AM Taken By: JZ	<p>There is a fence cut on the east side of Basin FF.</p>	<p>Repaired by contractor.</p>

Drainage Area X Name Albert Address Date/Time 03/17/2017 10:16 AM Taken By: AZ	<p>Fence cut on the west side of Basin X.</p>	<p>Repaired by contractor.</p>
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Drainage Area X Name Richard Address Date/Time 03/27/2017 11:11 AM Taken By: JZ	<p>Fence cut on the west side of Basin X.</p>	<p>Repaired by contractor.</p>
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Graffiti	Description	Action
Drainage Area I14 Name Mark - City of Fresno Address Date/Time 03/03/2017 9:55 AM Taken By: AZ	<p>Graffiti on the standpipe at the SEC of Basin I14.</p>	<p>Forwarded Mark's concern to the City of Fresno's Graffiti Task Force. The graffiti was covered up later in the afternoon.</p>

Irrigation**Description****Action**

Drainage Area C
Name Bruce Weinstein
Address
Date/Time 03/15/2017 10:44 AM
Taken By: AZ

Would like to know why Basin C is closed.

Informed Mr. Weinstein that staff is repairing the irrigation system. The system was repaired and the basin was opened on 3/17. The basin was closed on 3/24, due to rainfall in the forecast. The basin has remained closed due to water on the floor.

Maintenance Activity**Description****Action**

Drainage Area I
Name Mrs Lane
Address
Date/Time 03/14/2017 10:30 AM
Taken By: AZ

Trees on the south side of Basin I are hanging over the fence. The leaves are falling off onto the sidewalk on Celeste Avenue.

Forwarded Mrs. Lane's concerns to the maintenance contractor.

Drainage Area 7C
Name James Byrd
Address
Date/Time 03/21/2017 11:05 AM
Taken By: AZ

The weeds are very tall inside Basin 7C.

Informed Mr. Byrd that the undeveloped basin maintenance contractor has begun the first maintenance cycle, which is required to be completed by April 30th. The contractor is currently maintaining basins west of Cedar Avenue.

Drainage Area PP
Name Gary
Address
Date/Time 03/21/2017 11:16 AM
Taken By: PA

Weeds in Basin PP are very tall.

Informed Gary that the undeveloped basin maintenance contractor has begun the first maintenance cycle, which is required to be completed by April 30th. The contractor is currently maintaining basins west of Cedar Avenue.

Drainage Area BC
Name Julia Butler
Address 1723 N Mont Blanc
Date/Time 03/23/2017 2:11 PM
Taken By: AZ

The weeds in Basin BC are very tall. Her yard is separated from the basin by a wrought iron fence built by the developer of her tract. Her dog ingested some of the foxtails growing in the basin that extended through the fence. Her dog had to be taken to the veterinarian and she wants to be reimbursed for her expenses.

Informed Ms. Butler that the undeveloped basin maintenance contractor has begun the first maintenance cycle, which is required to be completed by April 30th. The contractor is currently maintaining basins west of Cedar Avenue. Staff sent a claim form on 3/24.

Drainage Area BC
Name Barbara
Address
Date/Time 03/30/2017 2:27 PM
Taken By: AZ

The weeds in Basin BC are very tall.

Informed Barbara that the undeveloped basin maintenance contractor has begun the first maintenance cycle, which is required to be completed by April 30th. The contractor is currently maintaining basins west of Cedar Avenue.

Miscellaneous**Action**

Drainage Area D Would like to know why the lower portion of Oso de Oro Park is closed. Informed Mr. Wong that staff found water outside the low flow fence this morning. Once the area is clear and dry, the gate will be opened.

Name Fred Wong

Address
Date/Time 03/07/2017 11:04 AM
Taken By: AZ

Drainage Area BZ A couple of fence posts at the SWC of Basin BZ are damaged.

Name Bob Crow

Address
Date/Time 03/20/2017 1:29 PM
Taken By: AZ

After checking with the City of Fresno, the fence in question is owned by the City of Fresno. According to the City, a work order to repair the fence has been submitted.

Drainage Area D Unhappy the park was open while the restrooms were closed. She was forced to leave the park due to her children needing to use the restrooms.

Name Diana Coleman

Address
Date/Time 03/23/2017 3:02 PM
Taken By: PA

Apologized to Ms. Coleman for the inconvenience. Staff placed signs near the restroom to alert park visitors of the closed bathrooms. The City of Fresno Water Division shut the water off in the area to connect a new water line on Forkner Avenue near Oso de Oro Park.

Non-District**Action**

Drainage Area B/E The pool is not being maintained at 3885 E Gettysburg. The pool is dark green with a large amount of debris on the surface. Forwarded Cadence's concern to the Consolidated Mosquito Abatement District.

Name Cadence

Address 3879 E Gettysburg
Date/Time 03/01/2017 1:52 PM
Taken By: AZ

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 9.A.
FROM: Paul Merrill, Finance Manager
SUBJECT: **Authorization to Extend Administrative Services and Office Space Agreement for the San Joaquin River Conservancy**

Summary

On May 11, 2016, the Board of Directors authorized a new Administrative Services and Office Space Agreement (Agreement) with the San Joaquin River Conservancy for the period of July 1, 2016 through August 31, 2017. The District entered into this Agreement with a period ending June 30, 2017. The Conservancy has requested, for budgeting purposes, that the existing Agreement with the District be extended six (6) months to December 31, 2017.

Recommendation

It is recommended the Board of Directors authorize staff to sign an extension to the existing Agreement with the San Joaquin River Conservancy until December 31, 2017.

Discussion

The District has provided the Conservancy, by agreement, with office space and technical and administrative support services since July 1, 2000. In addition to periodic renewals of this agreement, the District has entered into simple time extensions to accommodate the budget timing needs of the Conservancy. No other changes to the terms and conditions of the existing Agreement are proposed. A summary of the office Lease Agreement terms is shown in the Attachment.

The existing Agreement has positive aspects for both agencies. The District gains revenue from the use of office space that is not currently needed, and the Conservancy has access to computer, administrative and reproduction/communications resources not otherwise economically and readily available to an organization of their size. The cooperation exemplified by the Agreement reduces redundant public investment and produces cost savings to local taxpayers.

Andy Adams, Accountant II

Attachments

1. SJRC Detail of Monthly Reimbursement

FMFCD and San Joaquin River Conservancy

Office Lease Agreement

1. \$260 per month for 576 square feet of office space based on cost of utilities.

Calculation of Office Space Lease			
FMFCD Building 1 Square Feet		SJRC Square Feet	
FMFCD Building 1	12167	Interior Office	198
Warehouse Office	378	Warehouse Office	378
Total	12545	Total	576
Square Footage Ratio	4.59%		

Utility	FMFCD	FMFCD	SJRC
	Annual 2014-15	Monthly Average	% Share
Electricity and Gas	\$37,686	\$3,140.50	\$144.20
Water and Trash Disposal	\$7,115	\$592.92	\$27.22
Alarm Monitoring	\$1,550	\$129.17	\$5.93
Fire Protection	\$2,098	\$174.83	\$8.03
Janitorial Service	\$15,870	\$1,322.50	\$60.72
Janitorial Supplies	\$3,400	\$283.33	\$13.01
Total	\$67,719	\$5,643.25	\$259.11

2. A \$25 per month flat fee for all phone calls and faxes.
3. A \$25 per month flat fee for use of conference rooms and board room.
4. Reimbursement charge of \$.10 for each black and white copy and \$.15 for each color copy.
5. Reimbursement of postage paid by the District for the Conservancy.
6. In October 2016 a conference phone was purchased for \$1,030.92 and is being reimbursed to the District at \$85.91 per month for 12 months.
7. All charges, excluding the \$260 for rent, are charged a 10% overhead fee.

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 9.B.
FROM: Alan Hofmann, General Manager
SUBJECT: **Review of Spring 2017 State Legislative Activity**

Summary

The 2017 legislative session convened on January 4, 2017. This report provides an overview of State legislation proposed for the 2017-18 session and highlights several bills that should be watched closely.

February 17th was the last day for bills to be introduced in the State legislature. Staff has since reviewed bills of concern to the California Special Districts Association (CSDA), Association of California Water Agencies (ACWA) and the California Stormwater Quality Association (CASQA) in order to identify legislation that could impact the District. As of the writing of this report, the legislature has not yet produced much in the way of the detailed analysis that typically comes out of the various Senate and Assembly subcommittees. Staff will review the perspectives of these subcommittees and the aforementioned professional associations and report to the Board, most likely, prior to the District's participation in CSDA Legislative Days on May 16-17, 2017.

Recommendation

This report is for informational purposes only. No action is required of the Board of Directors unless specific direction is to be given to staff.

Discussion

A detailed discussion of Individual Bills and Related Issues is provided in Attachment A.

Andrew Remus, Senior Staff Analyst

Attachments

1. Attachment A -Legislation - Discussion

ATTACHMENT A

SB 5, California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018 (De León)

AB 18, California Clean Water, Climate, and Coastal Protection and Outdoor Access For All Act of 2018 (Garcia, Eduardo)

Summary: These two general obligation bond measures are nearly identical in their amounts, \$3 billion and \$3.105 billion, respectively, and in their focus on funding for a variety of water projects, including stormwater capture, recharge, and pollution reduction, climate change adaptation, and recreation projects to enhance, expand, or rehabilitate existing park facilities that benefit disadvantaged communities. SB 5 also lists flood control as a desired additional benefit.

Comments: Both bond measures would provide the District with funding opportunities through competitive grants in important program areas, notably for rehabilitation of recreation facilities. This is not a common type of funding available through grant programs, and would benefit District recreation facilities if funding can be secured.

Association & Legislative Committee Analysis: CSDA has taken a position of ‘Support 3’ on both SB 5 and AB 18. ACWA has taken a position of ‘Favor and Amend’ on these bills, with the idea that the bills could be fused into a single bill that includes stronger support for funding fire risk reduction and forest health programs.

SB 49, California environmental, public health, and workers defense act of 2017 (DeLeon & Stern)

Summary: This bill is designed to “backstop” several State environmental laws by prohibiting state or local agencies from revising their rules or regulations to be less stringent than the requirements of the federal Clean Air Act, Clean Water Act, Safe Drinking Water Act or Endangered Species Act. It was drafted in response to the authors’ concerns that the Trump administration and Congress will weaken federal natural resources and public health regulations, compromising the ability of the State to protect its citizens and environment. The bill would require that, in the event of federal weakening of environmental and public health standards, state agencies adopt the current baseline federal standards as their own.

Comments: SB 49 was simultaneously sent to three Senate Committees for consideration: the Committee on Natural Resources, the Committee on Environmental Quality, and the Judiciary Committee. Analysis by the Committee on Natural Resources noted that one of the impacts of the bill would be that the 74 federally listed endangered species that are not currently protected by the California Endangered Species Act would, in the event of loss of federal protection, become state-protected species.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position on this bill. ACWA claims that this measure has the ability to greatly impact water managers and their projects throughout the state. Statewide organizations such as the California Chamber of Commerce and the California Farm Bureau oppose the bill. The bill is supported by a variety of environmental groups. ACWA has not established a formal position on the bill, pending input from its Legislative Committee.

AB 190, Local government: development permits: design review (Steinorth)

Summary: Would require a lead agency, where an ordinance requiring design review applies to a development project, to approve or disapprove the design of the development project within 30 days of the application being determined to be complete. If the lead agency has not approved or disapproved the design of the development project within that 30-day period, the project is deemed to be approved on the 31st day.

Comments: The District reviews development proposals that are either brought directly into the office or forwarded to us from one of the cities. The city application intake and distribution process can itself take several days. Once we receive an application it will undergo several layers of review, which may result in a request to the originating engineer, consultant, company or public agency to make corrections, modifications or add clarifying information to ensure that the project will be built in a way that is compatible with the existing and future design and function of our urban/rural infrastructure.

While District staff is expeditious in its treatment of development applications, in practice, getting many applications to an acceptable state can take much longer than 30 days; especially for the larger, more complex, or less-well defined applications. A law that mandates that an application default to "Approved" 30 days after initial receipt could result in land development and construction of storm drain and flood control infrastructure that are fundamentally incompatible with the District's standards, placing property and people in jeopardy. Staff is working with CSDA on further analysis of the bill and will report to the Board on our findings.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position on this bill. ACWA has not taken this bill under consideration.

SB 205, Local Government Omnibus Act of 2017 (Committee on Governance and Finance)

Summary: Each year local officials discover problems with state statutes affecting counties, cities, special districts etc. that do not warrant separate, expensive bills. Legislators respond by combining several minor topics into an annual "omnibus" bill to pursue multiple noncontroversial statutory changes in an expeditious and relatively inexpensive way.

As of the writing of this report, SB 205 proposes to: 1) require that elected officials take the oath of office *both* when filing papers for candidacy and when taking office; 2) allow Merced County to authorize leases of property at Castle Air Force Base; 3) expand the types of financial officers allowed to serve on the State Committee on County Accounting Procedures; 4) allows special districts to use their own counsel to ensure the adequacy of agency sexual harassment prevention training; 5) allows local agencies to post their list of appointees and current vacancies online instead of at designated libraries; 6) updates Public Contract Code references to Community Services Districts; 7) makes corrections to provisions in the North Fork Kings Groundwater Sustainability Act regarding membership eligibility (note: this is not our own *North Kings* GSA); and 8) allows the Sacramento Area Flood Control Agency to acquire real interest in property for a flood control project.

Comments: SB 205 may be a vehicle for the District to get lien authority added to our District Act. As the Board will recall, on February 22, 2017, the Board authorized staff to work with State elected officials to amend the District Act to include lien authority. The District cannot place a lien on a delinquent property because the authority to do so is not in the Act that formed Fresno Metropolitan Flood Control District. State legislative action is required to amend the Act's language to include lien authority. Staff is exploring the possibility of using an omnibus bill to amend our Act, because lien authority is commonly included in local public agency formation acts and should meet the omnibus criteria for being minor and noncontroversial. Simultaneously, we are working with our elected officials to develop an interest in supporting our plan to amend the District Act. As of the writing of this report, none of our three Assemblymembers and none of our three State Senators are sponsoring bills pertaining to water resources that could conceivably host the language needed to amend our District Act.

Association & Legislative Committee Analysis: CSDA has stated its support for the bill. ACWA has not considered it.

SB 244, California Environmental Quality Act: baseline conditions (Jackson)

Summary: This bill is designed to ensure that, when conducting CEQA analysis of a project, that the 'environmental baseline conditions' that serve as a starting point for impact analysis do not take into account pre-existing conditions created by unpermitted or illegal actions, or actions that were undertaken without environmental review.

Comments: At the writing of this report, there are no Senate committee or other documents to help analyze this bill. It appears that the purpose of the bill is to make sure that a developer or property owner who illegally or without proper environmental review degraded the environmental value of a site does not benefit from those actions by starting the CEQA review from a post-degradation baseline.

Association & Legislative Committee Analysis: CSDA staff is recommending that the Association take an 'Oppose 2' position on this bill. ACWA is not currently reviewing this bill.

SB 231, Local Government: fees and charges (Hertzberg)

Summary: This bill proposes to amend the Proposition 218 Omnibus Implementation Act to add “drains, conduits, and outlets for surface or storm waters, and any and all other works, property or structures necessary for the convenient for the collection or disposal of...surface or storm waters” to the definition of sewer system contained in the California Constitution Article XIII D. This change would allow the imposition of property-based stormwater fees to fall into Proposition 218’s class of public services exempted from the requirement for voter approval.

Comments: As explained by ACWA staff: “Passed by California voters in 1996, Proposition 218 amended the California Constitution by adding Articles XIII C and XIII D. These articles established additional substantive and procedural requirements and limitations on new and increased taxes, assessments, and property-related fees and charges”, including a requirement that property-related fees be subject to voter approval. However, neither Proposition 218 nor its implementing legislation – the 1997 Proposition 218 Omnibus Implementation Act - provided a definition of “sewer” or “water”.

SB 231 would define the term sewer and include storm water systems as part of that definition. The effect would be to make charges and fees for stormwater services exempt from approval by majority vote of the electorate. Instead, proposals to charge for stormwater services would be subject to Prop 218’s simplified procedure whereby a majority *protest* is required to avoid the fee/charge.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position on this bill. ACWA has not yet taken a position on this bill.

AB 313, Water (Gray)

Summary: This bill would revise the qualifications for the membership in the State Water Resources Control Board (SWRCB) to eliminate the requirement that the attorney on the Board be qualified in the fields of water supply and water rights. It would also transfer authority over water rights matters from SWRCB to Department of Water Resources (DWR), create an independent state agency to manage the State Water Project (currently done by DWR) and transfer SWRCB's Sustainable Groundwater Management Act authorities to DWR.

Comments: This bill includes a number of recommendations made by the Little Hoover Commission in its August 2010 report “Managing for Change: Modernizing California’s Water Governance”. According to ACWA staff: “Under AB 313, the State Water Board’s existing water rights administration and authority would be transferred to DWR. A newly created Water Rights Division under the (DWR) Office of Administrative Hearings would be a neutral third party that would conduct enforcement proceedings. Meanwhile, a new State Water Project Authority would assume DWR’s current authority and water rights for the State Water Project, eliminating the potential conflict of DWR administering and enforcing water rights while possessing water rights of its own.”

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position on this bill. ACWA is taking a 'Favor' position.

AB 408, Eminent domain: final offer of compensation (Chen)

Summary: Current law governing settlement offers in eminent domain proceedings authorizes the recovery of litigation expenses under certain circumstances. This bill would provide that if a court finds that the offer of the plaintiff was lower than 90% of the compensation awarded in the proceeding, then the court would be required to include the defendant's litigation costs in the costs allowed. If the court finds that the offer of the plaintiff was at least 90% and less than 100% of the compensation awarded in the proceeding, the court would be authorized (but not *required*) to include the defendant's litigation costs in the settlement.

Comments: This legislation would mandate that the court award litigation costs to a property owner when an eminent domain settlement offer was less than 90% of the final settlement amount. CSDA's concern is that proposed eminent domain settlement amounts are typically well-founded, but courts tend to award higher-than-market value compensation to property owners. In many cases, the court's decision would end up requiring the condemning agency to pay litigation costs.

Association & Legislative Committee Analysis: CSDA has taken an 'Oppose 3' position on this legislation. ACWA has not considered this bill.

Budget Trailer Bill 502, Labor and Transportation: Public Works Enforcement

Summary: This Department of Industrial Relations' (DIR) budget trailer bill modifies the prevailing wage monitoring and enforcement requirements adopted in 2014 via SB 854. The bill proposes to increase the existing contractor registration threshold from \$1,000 to \$25,000 for new construction and \$15,000 for maintenance. The proposal includes new civil penalties for infractions of the contractor registration program, and expands the State Labor Commissioner's authority to crack down on contractors, subcontractors, and public agencies that fail to fulfill program requirements.

According to CSDA's analysis, "DIR's proposal would fine contractors and subcontractors who do not register with a penalty of \$100 per day, up to \$8,000. Contractors who employ unregistered subcontractors would be fined \$100 per day of violation, up to \$10,000. If a public agency is found to have employed unregistered contractors or subcontractors on a project, the agency would be subject to fines of \$100 per day, up to \$10,000. Agencies who fail to notify DIR of a public works project subject to registration requirements would be fined \$100 per day, up to \$10,000. The proposal would also require the State Labor Commissioner to issue a stop order for the unregistered contractor and subcontractor to cease construction on all public works projects until they are registered with the DIR. This stop order would be subject to appeal by the contractor, subcontractor, or public agency. Under the proposal, if the State Labor Commissioner finds that a public agency willfully

violated the requirements of the registration program twice in one calendar year, the public agency would be ineligible to receive state funding for any project for one year."

Comments: The District obligates its contractors to implement all current provisions of SB 854. Raising the contractor registration thresholds for new construction and maintenance to \$25,000 and \$15,000, respectively, would lessen the burdens on contractors working on smaller projects.

SB 506, Department of Fish & Wildlife; lake or streambed alteration (Salas)

Summary: Would exempt routine maintenance and repair of facilities for instream agricultural diversions from being subject to a streambed alteration agreement. Would also reverse a 2015 court decision that held that Dept. of Fish & Wildlife (DFW) must be notified prior to the operation of an existing diversion facility, even if the diversion would not impact the bed or banks of the stream.

Comments: The proposed exemption, from notification to DFW, for routine maintenance of in-stream agricultural diversion facilities, was the subject of last session's SB 1026. This bill failed to get out of the Senate Natural Resources & Wildlife Committee. In a 2015 court decision, Siskiyou County Farm Bureau v. DFW, it was determined that diverters of agricultural water have to notify DFW even if they are operating an existing diversion structure and the diversion will not impact the banks or bed of the associated channel. SB 506 would reverse that decision. Staff is tracking this bill in case it evolves into something that could potentially impact the network of natural and artificial channels that make up our rural flood control system.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. ACWA has taken a 'Support' position on this bill.

AB 514, Surplus household consumer product waste: management (Salas)

Summary: Current law requires the Department of Toxic Substances Control to convene a Retail Waste Working Group, as prescribed, to consider and make findings and recommendations relating to requirements for the management of surplus household consumer products, waste reduction opportunities for those products, and waste management requirements, as specified. Current law requires the working group to report these findings and recommendations to the Legislature by June 1, 2017. This bill would express the intent of the Legislature to adopt those recommendations later in the current legislative session.

Comments: At present, this is a spot bill with vague content. Staff will track its evolution to watch for changes that could impact the Fresno/Clovis area National Pollutant Discharge Elimination System (NPDES) Permit. Under the NPDES Permit, the District, City of Fresno, City of Clovis, County of Fresno, and Fresno State University are required to engage in a wide range of stormwater pollution prevention actions, including disposal of

surplus household consumer products through the County's Household Hazardous Waste Collection Facility in Kerman.

Association & Legislative Committee Analysis: CSDA has taken no position on this bill, though their legislative staff has recommended a 'Watch' position.

SB 541, School facilities: water capture design standards (Allen)

Summary: Would require SWRCB to develop design standards for new, reconstructed or altered public schools that include water capture/pollutant control, minimizing impervious surfaces, infiltration, bioretention etc. by 2019.

Comments: As described by ACWA staff: "...this bill would require the California Department of Education, SWRCB, Division of the State Architect and Office of Public School Construction to consult and recommend best design practices that include water capture design standards for all new, reconstructed, or altered public schools, including school grounds. "Water capture", as defined in the bill, includes methods to control pollutants and runoff volumes, maximize infiltration, evapotranspiration, rainfall harvesting etc.

Association & Legislative Committee Analysis: CSDA and ACWA have both taken a 'Watch' position on this bill.

AB 574, Potable reuse (Quirk)

Summary: Would streamline the terminology used to describe types of potable water reuse, establish a framework for the regulation of potable water reuse projects, and promote the creation of uniform water recycling criteria for potable reuse through 'raw water augmentation'.

Comments: AB 574 would require the State Water Board to establish a framework for the regulation of potable reuse projects by June 2018, and adopt uniform water recycling criteria for potable water reuse through raw water augmentation by December 2021. "Potable water reuse through raw water augmentation" refers to the delivery of recycled water (e.g. tertiary treated and disinfected municipal wastewater) to a drinking water treatment plant that provides water to a public water system.

As part of the bill's intent to simplify terminology used to describe the various types of potable reuse, the term "groundwater augmentation" would be created, and would mean "the planned placement of recycled water for replenishment of a groundwater basin or an aquifer that has been designated as the source of water supply for a public water system...".

The State has been seeking to develop uniform water recycling criteria for potable reuse since 2010. "Potable reuse" would be defined by the bill as "the planned use of municipal wastewater that has gone through multiple barrier treatment processes to produce or supplement a drinking water supply..." and can include augmentation of groundwater supplies, augmentation of surface water supplies, delivery to a drinking water treatment plant or direct placement into the drinking water supply.

According to ACWA: “AB 574 would help California maximize potable water reuse and achieve statewide water recycling goals.” “...potable reuse could provide up to 1.1 million acre-feet per year of new drinking water supplies for California, enough to serve more than 8 million Californians or one-fifth of the state’s population by 2020.”

This bill is of interest to the District because “groundwater augmentation” via the recharge of recycled municipal wastewater is anticipated by the City of Fresno’s Recycled Water Master Plan, and could someday include the routing of such water into our ponding basins.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. ACWA has taken a 'Support' position.

AB 577, Disadvantaged Communities (Caballero)

Summary: Current law defines a disadvantaged community (DAC) as a community with an *annual median household* income that is less than 80% of the statewide *annual median household* income. Under the Water Quality, Supply, and Infrastructure Improvement Act of 2014, eligibility to apply for certain funds from the State Water Pollution Cleanup and Abatement Account is a function of the applicant’s DAC status. This bill would expand the definition of a disadvantaged community to include a community with an annual per capita income that is less than 80% of the statewide annual per capita income.

Comments: The District regularly applies for State of California grant programs that offer a reduced local cost share based upon our region’s status as a Disadvantaged Community (defined by the existing annual median household income criterion). If AB 577 becomes law, Fresno would still be considered a DAC because annual per capita income is 71% of the statewide per capita income.

Association & Legislative Committee Analysis: CSDA has not taken a position on this bill, though their legislative staff has recommended a ‘Watch’ position. ACWA has taken a ‘Watch’ position.

SB 771, California Environmental Quality Act: continuing education: public employees (De Leon)

Summary: Would establish a continuing education requirement for employees of public agencies who have responsibility for overseeing compliance with the California Environmental Quality Act. Because this bill would require a public agency to ensure that this continuing education requirement is met, this bill would impose a state-mandated local program.

Comments: Staff is reviewing this bill and discussing it with professional societies that already have such training programs in place.

Association & Legislative Committee Analysis: CSDA staff is recommending a ‘Concerns’ position on the bill. ACWA has not taken this bill under consideration.

AB 898, Property taxation (Frazier)

Summary: This is a spot bill that states it is the intent of the Legislature to enact legislation that would reallocate property tax revenue to fire protection services.

Comments: The California Constitution requires that a statute that changes, for any fiscal year, the pro rata shares of ad valorem property tax revenues that are allocated among local agencies in a county must be approved by a 2/3 vote of each house of the Legislature. This spot bill is a single sentence stating that "It is the intent of the Legislature to enact legislation that would reallocate property tax revenue to fire protection services." Staff will track this bill to see if and how the proposal evolves.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. ACWA has not considered this bill.

AB 1180, California tire fee: Stormwater Permit Compliance Fund (Holden)

Summary: Would increase the California tire fee by \$1.50, to \$3.25 per tire. The bill would deposit the additional moneys in the Stormwater Permit Compliance Fund, which would be established by the bill, and would make the moneys available to the State Water Resources Control Board Division of Financial Assistance. The bill would continuously appropriate moneys in the fund for competitive grants for projects and programs that would prevent or remediate zinc pollutants caused by tires in the state.

Comments: Creation of a new grant program specifically to fund MS4 permit compliance projects could be of benefit to the District in meeting the requirements of the multi-agency National Pollutant Discharge Elimination System (NPDES) Permit, for which the District serves as the lead agency. Zinc is one of the pollutants identified as a pollutant of concern in our area's Stormwater Quality Management Plan.

Association & Legislative Committee Analysis: CSDA has taken no position on this bill, though their legislative staff has recommended a 'Watch' position.

AB 1223, Construction contract payments: Internet Web site posting (Caballero)

Summary: Current law imposes specified requirements on state and local agencies regarding payment of construction contracts. This bill would require, within 10 days of making a construction contract payment, a state or local agency to post on its Internet Web site the project for which the payment was made, the name of the construction contractor or company paid, the date the payment was made, the payment application number or other identifying information, and the amount of the payment.

Comments: Public agencies are already required to post contractor payment information on the Internet within 30 days of making payment, and the District does this. Reducing the timeframe to just 10 days could create an administrative burden on local agencies with no meaningful increase in transparency.

Association & Legislative Committee Analysis: CSDA has taken no position on this bill, though their legislative staff has recommended an 'Oppose 3' position. ACWA has not taken a position on this bill.

AB 1343, Stormwater resources: use of captured water (Chen)

Summary: Existing law, the Stormwater Resource Planning Act, authorizes one or more public agencies to develop a stormwater resource plan that meets specified standards to address the capture of stormwater and dry weather runoff. A public entity that captures stormwater from urban areas, in accordance with a stormwater resource plan - before the water reaches a natural channel - is authorized to use the captured water to the extent that the water augments existing water supplies. AB 1343 is a spot bill that, in its present form, makes simple, nonsubstantive changes to the Stormwater Resource Planning Act.

Comments: As of the writing of this report, AB 1343 did not include any important changes to the Stormwater Resource Planning Act. Staff will track this bill to see if it garners any meaningful content.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. ACWA has not yet considered this bill.

AB 1369, Water quality and storage (Gray)

Summary: Would require DWR to expand the State's water storage capacity by 25% by 2025, and 50% by 2050, using money from the Greenhouse Gas Reduction Fund (GGRF). Would require SWRCB, in formulating policy for water quality control, to take into account any applicable Groundwater Sustainability Plan.

Comments: This bill would establish water project planning, execution and reporting deadlines for DWR to meet through the year 2050. The bill specifies certain projects already expected to be funded through Proposition 1 grants. With revenues from the State's greenhouse gas cap and trade program being less than originally projected, and other programs also dipping into the Greenhouse Gas Reduction Fund (notably, High Speed Rail), the suitability of the GGRF as a funding source for large, long-range projects is questionable.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. ACWA is supporting this bill, assigning it 'Favor' status. The bill's intent is aligned with ACWA's position supporting the development of new water storage statewide.

AB 1442, Bonds: transportation: water projects (Allen)

Summary: Would redirect High-Speed Rail funds to water projects by requiring unspent bond proceeds from the high-speed portion of the Safe, Reliable High-Speed Passenger Train Bond Act of 2014 to be made available to the State Water Project.

Comments: The provisions of this bill would only become effective upon approval by the voters at the next statewide election.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. ACWA has not yet taken a position on this bill.

AB 1483, Local parks (Daly)

Summary: Under current law, programs have been established pursuant to bond acts for, among other things, the development and enhancement of state and local parks and recreational facilities. This bill would state the intent of the Legislature to enact legislation to establish a new source of funding for the construction, rehabilitation, and maintenance of local parks in high-density, parks-poor communities.

Comments: At present, this is a vaguely worded spot bill. If new legislation is enacted that would establish a new source of funding, the District could benefit from availability of grant funds for rehabilitation and maintenance of its recreation facilities. Rehabilitation grants are not common, and maintenance costs are nearly always excluded as eligible grant expenses.

Association & Legislative Committee Analysis: CSDA has taken no position on this bill, though their legislative staff have recommended a 'Watch' position.

AB 1529, Cross-connections or backflow prevention device inspectors: certification (Thurmond)

Summary: Would require a person who performs maintenance or testing of a cross-connection or backflow prevention device to be certified, as specified. The bill would require the California Building Standards Commission to publish a list of approved statewide certification providers on or before January 1, 2019. The bill would provide exceptions for local certification programs and for acceptance of previously issued certifications in certain circumstances.

Comments: Staff is reviewing this bill to see if it would create any special challenges for the District.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position on this bill. ACWA has not yet taken a position.

AB 1628, Public works: independent contractors (Grayson)

Summary: Would prohibit the use of independent contractors on public works projects.

Comments: This is a spot bill and currently has no content to inform us as to the intended scope of, or reasoning behind, this proposal. A prohibition on the use of private contractors to construct public works projects would, of course, result in enormous disruption to public

agency capital improvement programs and, presumably, force a huge investment in public agency employment, equipment and training to be able to build projects using only public employees.

Association & Legislative Committee Analysis: CSDA has taken a 'Watch' position. WA has not yet taken a position on this bill.

FEDERAL POLICY & LEGISLATION

Status of the Waters of the U.S./Clean Water Rule controversy

On February 28, 2017, President Trump issued an Executive Order Entitled “Restoring the Rule of Law, Federalism and Economic Growth by Reviewing the Waters of the United States Rule.” The order directed the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) to review and then rescind or revise the 2015 Clean Water Rule “Definition of Waters of the United States”.

The order further recommends that the EPA and USACE interpret the definition of WOTUS using Justice Antonia Scalia’s narrower test outlined in “*Rapanos v. United States*, (United States Supreme Court - 2006) which is based on only relatively permanent, standing or continuously flowing bodies of water, as opposed to Justice Kennedy’s broader, parallel “significant nexus” test that is based on whether or not the waters significantly affect the chemical, physical and biological integrity of downstream, traditional navigable waters and wetlands. The 2006 Supreme Court vote of 4-1-4 did not clarify which test to use to define Waters of the United States (WOTUS). Different Appellate courts have held that Kennedy’s test alone should prevail, while other courts have held that either test is sufficient.

The U.S. Supreme Court has delayed, until October 2017 hearing oral arguments on whether or not previous Clean Water Rule litigation should be heard in a federal district court or an appellate court. A 2-1 decision in 2016 by the U.S. Court of Appeals for the 6th Circuit, (Cincinnati, Ohio), ruled that the appellate court has authority to hear the case. There are also several more Clean Water Rule cases at the U.S District court level that have been stayed until the Supreme Court rules on the 6th Circuit case. Several states, as well as industrial, construction and agricultural organizations, favor going forward with the Supreme Court case to provide clarity about which courts will hear future cases. In this regard, on April 3rd, 2017 the high court rejected the U.S. Justice Department’s bid to stay the suit pending a decision about the correct venue for hearing the Clean Water Act jurisdictional rule, thus setting the stage for oral arguments in front of the high court in October 2017.

EPA withdrawal of the current rule would require a replacement rule, which would require a new comment period and probably additional litigation by supporters and opponents of the Clean Water Rule. Until the multitude of court cases are resolved and publication of a new or revised Clean Water Rule is adopted, water agencies are expected to follow the WOTUS jurisdictional determination process that was decided by (interpreted by) the “*Rapanos v. United States*, (2006) Supreme Court decision.

H.R. 23, the Gaining Responsibility on Water Act of 2017 (Valadao)

Summary: The bill would codify into federal law the 1994 Bay Delta Accord, the agreement between state and federal authorities to coordinate water use and quality standards for water in the California Delta, modify the Central Valley Project Improvement Act, streamline water project permitting and expand water storage.

Comments: By codifying the Bay-Delta Accord, this legislation would affirm that the State Water Project and Central Valley Project, when operated consistent with the Accord, are in compliance with the Endangered Species Act. The bill would also impose deadlines to finish feasibility studies on current proposals for the Sites Dam along the Sacramento River, and the Temperance Flat Dam along the San Joaquin River. Temperance Flat would be provided exemption from the restraints posed by any Wild and Scenic River designation on the section of the river required for the project. The Bureau of Reclamation would be put in charge of coordinating local, state and federal agencies in a consolidated "one-stop shop" for permitting of new non-federal surface storage facilities. A three-year cap would be placed on the amount of time the Bureau can take to complete a feasibility study. Staff will track this bill to see if the proposed Bureau of Reclamation "one-stop shop" for non-federal projects would extend so far as proposals to modify our rural flood control system to expand regional recharge potential.

H.R. 465, the Water Quality Improvement Act of 2017 (Gibbs)

Summary: Would amend the Federal Water Pollution Control Act to codify EPA's Integrated Planning and Permitting process as an option for local governments to address their wastewater and stormwater management needs.

Comments: The intent of this legislation is to allow municipalities the flexibility to consider alternative approaches to comply with EPA regulatory requirements (e.g. NPDES/MS4 Permits), taking into consideration the economic affordability of alternative approaches, the financial capability of the municipality to comply with requirements, and the prioritization of requirements to provide the greatest environmental and public health benefits for resources expended. Municipalities are expected to develop an integrated plan and a schedule of compliance that identifies the most cost-effective and protective approaches to comply with the requirements of the Clean Water Act.

STATE SUPREME COURT DECISION - Privacy of Personal E-Communications

Devices

On March 2, 2017, the California Supreme Court ruled that e-mails and text messages, sent or received on private electronic devices or personal accounts used by public officials and their staffs, were subject to disclosure under the California Public Records Act. A separate agenda item discusses the decision in more detail.

Definition of CSDA Formal Positions:

Support: A position given to bills and propositions that the Legislative Committee believes would Benefit special districts in one way or another, or is a good public policy.

Oppose: A position given to bills and propositions that the Legislative Committee believes would be a detriment to special districts in some way.

Neutral: A position given to bills that have been sufficiently amended to remove CSDA’s support or opposition.

Watch: A position given to bills that special districts have an interest in, but do not directly affect districts; bills that are in spot bill form but are on a subject area that concerns special districts; bills that are of interest to track, but do not warrant a position.

Priority 1: Bills given a “1” priority have major importance and a direct impact on special districts statewide. These bills receive comprehensive advocacy by the Legislative Department and contract lobbyist. This may include extensive testimony in committee, lobbying of the Legislature, and Grassroots mobilization as appropriate.

Priority 2: Bills given a “2” priority have a significant impact on the special district community, set a critical precedent that is relevant to all special districts and/or have major importance to a CSDA member or group of members and are not harmful to other groups of special districts. Position letters are sent from CSDA and testimony is given in committee as time permits.

Priority 3: Bills given a “3” priority have a substantive effect on special districts, but are determined to be a low priority for CSDA resources. CSDA will not write a position letter on these bills, but may sign on to a coalition letter. Neither committee testimony nor lobbying of the Legislature will be conducted, except in rare circumstances at staff’s discretion.

Definition of ACWA Formal Positions:

A bill marked “Not Yet Considered” means that, although ACWA staff has provided written description/analysis to the legislative committee, the committee has not yet considered (discussed) that piece of legislation. Other ACWA bill status designations are: Support, Favor, Favor if Amended, Watch, (neutral, but watching for future amendments), Oppose, Not Favor, and Not Favor Unless Amended.

2017 Legislative Calendar (critical dates):

- February 17, 2017: Last day to introduce new legislation
- June 2, 2017: Last day for bills to pass out of their house of origin
- June 15, 2017: Deadline to pass budget
- September 8, 2017: Last day for bills to be amended
- September 15, 2017: Last day for each house to pass bills
- October 15, 2017: Last day for Governor to sign or veto bills

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 9.C.
FROM: Peter Sanchez, District Engineer
SUBJECT: Authorization to Request Re-Evaluation of U.S. Army Corps of Engineers Facilities, Redbank and Fancher Creeks Project

Summary

After five (5) years of drought and the Governor's signing of the Sustainable Groundwater Management Act of 2014 (SGMA), it has become apparent to local agencies that they must unite and intensify the common goal of increasing water storage wherever possible and increase regional groundwater recharge efforts. SGMA required local agencies to establish a new governance structure, known as Groundwater Sustainability Agencies (GSA). In October 2016, local agencies formed the North Kings Groundwater Sustainability Agency (NKGSA) in accordance with SGMA. The next requirement of the NKGSA is to create a customized groundwater sustainability plan (GSP), by January 2020, tailored to meet the economic and environmental needs of the region and insure sustainability of the groundwater basin by 2040.

Given the challenges SGMA poses, storing stormwater for recharge and other beneficial uses has become a priority. The District, County of Fresno, City of Fresno, City of Clovis and the Fresno Irrigation District (FID), have been in discussions over the last 2 years about the concept of converting Big Dry Creek Reservoir to a storage facility to beneficially use captured storm water or route other waters through the reservoir to take advantage of its water storage capability. However, with Congress' approval and appropriation of funds, the U.S. Army Corps of Engineers (USACE) constructed the reservoir as a flood control facility and holds jurisdiction over it. The District, as the local sponsor, provides for the operation and maintenance. The reservoir is regulated by a Water Control Manual that mandates its operation. Therefore, any change to the Water Control Manual that provides for the reservoir's operation and use would require Congressional authorization with concurrence from the USACE. Despite requests from the District to include conservation and beneficial use of captured storm water within the Water Control Manual, the official document does not reference any such use of the captured storm water.

The local agencies agreed that the first step to re-operating the reservoir was to evaluate the project and regional alternatives and formulate a clear path to achieving the desired goal. Provost & Pritchard Consultant Engineers were included in the multi-agency meetings and agreed to provide consulting guidance on the matter. Provost & Pritchard submitted a proposal to perform a study on the previous design assumptions, proposed design alternatives and project feasibility in the amount of \$121,800. The City of Fresno, City of Clovis and FID each agreed to fund 25% of Provost & Pritchard's study. At the September 14, 2016 Board meeting, the Board of Directors approved participation in the study contingent upon receiving a revised scope of work and a more clear objective of the study. In addition, the Board requested staff meet with

BOARD MEETING: April 12, 2017

AGENDA ITEM NO.: 9.C.

the Corp to insure what steps must be taken for re-operating the reservoir.

A letter, dated September 22, 2016, was sent to the Sacramento Branch of the USACE, which prompted a meeting on January 18, 2017 between staff and 4 division chiefs from the USACE. Subsequent to that meeting, staff had a conference call with the USACE where they outlined the steps needed to re-evaluate the Redbank and Fancher Creeks Project (Project). Following these meetings, staff then met with our partner agencies and outlined the required steps and cost. The local agencies agreed that it was beneficial to move forward with a request to the USACE to place the Project on a list for re-evaluation.

Recommendation

It is recommended that the Board of Director's authorize staff to submit a request to the U.S. Army Corps of Engineers for Re-evaluation of the Redbank and Fancher Creeks Project.

Discussion

Big Dry Creek Reservoir was originally constructed in 1948 by the USACE and has historically been operated only as a flood control facility. In 1989, the reservoir was enlarged to provide the downstream watershed protection from a 230-year storm event. At that time, the USACE also deeded all existing reservoir property and easements to the District. Because the Project had a storage volume that was significant, the USACE created a Water Control Manual that detailed and regulated the operation of the reservoir, including when and how the District was required to discharge water from the reservoir. The manual requires the District to discharge any captured storm water in the reservoir into the Little Dry Creek Diversion Channel up to a maximum flow rate of 700 cubic feet per second, the safe diversion channel capacity, until all flood control storage is again available.

When storm water is captured in the reservoir, staff typically begins releases to Big Dry Creek at a slow rate that allows water to recharge in the channel, and be put to a beneficial use, rather than discharging it to the San Joaquin River and leaving the area. The Water Control Manual allows for this operation. However, given that Big Dry Creek Reservoir is a flood control facility, the USACE will generally require staff to dewater any captured storm water at a faster rate. This operation defeats the District's attempt to use the storm water for beneficial or conservation purposes and inconveniences residents that use Copper Avenue to access their property due to its closure. During the current winter period, while the reservoir has captured considerable amounts of storm water, staff has requested the USACE allow some flexibility in its operation. While large releases were made during the peak of the winter storms and Copper was closed for a substantial amount of time, as the storage volume was reduced, staff worked with the USACE to limit releases out the diversion channel. The inconvenience to local property owners, safety concerns for flows over Copper Avenue and the beneficial use of the storm water each provided justification for holding water for a longer period of time than in the past. While the USACE was not fully in favor of this operation, they granted this operation as long as the District was showing sufficient release from the flood pool in the reservoir. It is this flexibility that the District desires from the USACE, but they have informed the District that for this type of operation to become more permanent the Water Control Manual would need to be changed by a

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re-evaluation of the Project. A draft of the letter that is proposed to be sent to the USCAE to request the re-evaluation is attached.

Requesting the re-evaluation of the Project is the first step in the USACE's process. If approved, the re-evaluation is a 3 year process and requires \$3,000,000 in funding. Half of the funding would be provided by the USACE, with the other half coming from the locals. The USACE recently informed the District that if a request for re-evaluation of the Project is received by May 15, 2017, then the re-evaluation, if approved, would be eligible to be included in the FY 2019 Federal Budget. In FY 2019, the locals would potentially be responsible for funding in the range of \$50,000 and \$100,000. The study would actually begin in FY 2020 and the locals would match the Federal participation over the next three years, requiring the \$1,500,000 in matching funds.

Following is a list of some of the requirements that may be a product of the re-evaluation:

- Raising of the dam to account for changes in hydrology
- Retrofitting the dam for enhanced seismic studies
- Additional improvements to reduce seepage
- Additional Environmental regulations

While the local group is concerned with the time frame, scope and cost of the USACE study, as well as the potential for long term ramifications, they are in support of requesting the re-evaluation, which essentially places the project in line for Federal approval and funding. In addition, requesting the re-evaluation does not obligate the District or local agencies to the study. The District can cancel the re-evaluation request at any time in the process and prior to an obligation to expend any funds.

Peter Sanchez, District Engineer

Attachments

1. Attachment 1

April 13, 2017

Colonel David Ray, District Commander
USACE Sacramento District
1325 J Street – Room1513
Sacramento, CA 95814

Dear Colonel Ray,

**Re-Evaluation of Corps Facilities
Redbank and Fancher Creeks Project**

I would first like to thank you for your attention to the District's concerns brought forth in our letter dated September 22, 2016. As a result, the Fresno Metropolitan Flood Control District (District) has met, and continues to dialog, with Corps staff regarding the re-evaluation of the Big Dry Creek Dam and Reservoir (Big Dry Creek), which lies northeast of the cities of Fresno and Clovis. This facility was part of the Redbank and Fancher Creeks Project (Project) and enlarged by the US Army Corps of Engineers (Corps) in the early-1990s.

The purpose of the Project was to reduce losses from floods in the Fresno-Clovis Metropolitan area and surrounding agricultural areas. The Project was justified, and then approved, designed and constructed, pursuant to a General Design Memorandum (GDM) that focused on the exposure of the cities of Fresno and Clovis to flooding. While there is no doubt that this focus was justified and the facilities are performing as designed to eliminate urban and rural flooding, conditions have changed in California's Central Valley requiring additional study of these facilities to meet new water resource demands. Specifically, new laws within California, regarding the need for additional water supplies and the sustainability of groundwater, have burdened any agency that captures stormwater to look for new ways to use it to benefit the groundwater aquifer and other water resource needs.

As stated in a letter to the Corps dated December 5, 1995, commenting on the draft Water Control Manual (Manual), the District reminded the Corps that the original authorization for the Project, which the Manual refers, specifically references “*The project shall include measures determined appropriate by the Secretary to minimize adverse effects on groundwater and to maximize benefits to groundwater, including groundwater recharge.*” The Project as designed and the operational criterion in the Manual by which it is operated does not reference recharge and it is not conducive to good water management practices nor does it assist in meeting local water resource needs per the Projects stated purpose. Based on the current water resource needs, the District believes the Project should be re-evaluated with the intent of utilizing the facilities to their maximum conservation benefit, including recharge.

There are two issues that the District would like to raise in regards to the need to re-evaluate the operation of Big Dry Creek. The first is Big Dry Creek is governed by the Manual. This Manual requires that all captured stormwater within the facility be discharged to the San Joaquin River (River). During the current winter period, over 20,000 acre feet of stormwater has been discharged to the River and lost to the community. The February 1986 GDM states that “*the Feasibility Study, and other studies, have identified other water resource management problems and needs in Fresno County. These include the need for more water supplies, water based recreation facilities, integrated water resource management, and hydropower production.*” The GDM and Feasibility Study recognized these problems and needs in Fresno County. However, nothing in the GDM and Project design demonstrates that anything was included in the Project to assist with these problems and needs and, therefore, the stormwater is discharged to the River. The District’s letter, dated December 5, 1995, stated the concern that the Project was not

providing any storage or operation for conservation purposes. This is in direct conflict with the projects stated ancillary purpose.

Secondly, water supply and groundwater overdraft have become significant issues within Fresno County. Big Dry Creek has the capability to assist in partially solving these issues with limited public costs. Yet, it would appear the conclusion was drawn that the Project's National Economic Development (NED) objectives were not sufficient to include provisions within the Project's design that address these issues. The fact that agricultural land goes fallow and groundwater wells go dry because stormwater is not captured and beneficially used by the local agencies, should be reason enough to re-evaluate the Project.

Thirty (30) years have passed since the GDM was prepared and Congress made its decision to approve the Recommended Plan, which doesn't include the features to address water supply and groundwater overdraft. With the changing conditions during this period and recent legislative direction in California, the District must request that the Corps strongly consider placement of Big Dry Creek, and potentially the entire Project, on its list to study and re-evaluate the utilization of these facilities to meet the needs of tomorrow's water resource management challenges. It may not have been recognized in 1986 that the water resource management needs in Fresno County would advance to the degree currently being experienced, but the continuation of the status quo when options and solutions are available is not a prudent use of these Federal/local sponsor facilities.

I respectfully submit this request to re-engage and continue studying these existing facilities to maximize their potential to address the water resource needs of our area as requested in 1995 and again today.

Very Truly Yours

Alan Hofmann

General Manager-Secretary

DRAFT

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 10.A.
FROM: Peter Sanchez, District Engineer
SUBJECT: **Recommendation from Priorities & Programming Committee, Amendments to Capital Improvement Projects Budget for Fiscal Year 2016-2017**

Summary

At its meeting on March 28, 2017, the Priorities & Programming Committee reviewed amendments to the 2016-2017 Budget related to the Capital Projects Fund Budget. The budget period is entering into the 4th quarter of the fiscal year and there are several changes that are necessary to the current year's Capital Projects Fund Budget. The changes are a result of revised agency and utility construction schedules, and additional project evaluation. Each of the projects that are recommended to be deferred, removed or added is briefly described in the Discussion portion of this memorandum. The overall impact of the proposed changes result in a significant reduction of anticipated costs to the District in the current budget year. However, most of those costs are tied to PPDA funds, City funds and/or grant funds.

Exhibit No. 1 lists the proposed projects to be deferred, removed or added to the 2016-2017 Budget. The adjustments in the Capital Projects Fund Budget are proposed to 1) meet the requests from other agencies for project funding, 2) respond to utility relocation delays and 3) further project evaluation.

The added project will be funded from PPDA funds.

Recommendation

It is the recommendation of the Priorities & Programming Committee that the Board of Directors adopt the amendments to the 2016-2017 Budget to include deferral, removal, and additions of the Capital Projects identified on Exhibit No. 1.

Discussion

The following is a brief summary of each proposed project to be deferred, removed or added to the 2016-2017 Budget:

Proposed Projects to be Deferred or Removed

Budget Item No. 1 – Basin “4E” Fencing – The District intended to purchase a portion of a former fire station, adjacent to the basin, from the City of Clovis. Once acquired, the basin perimeter fence would be modified to include the newly acquired property. However, the City's Fire Department has decided not to sell the property at this time and thus the basin fencing is not needed. The City's Fire Department is now looking into leasing the building rather than

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demolishing it. This project will be removed from the 2016-2017 Budget.

Budget Item No. 4 – Drainage Area “CQ”, City Pond Pump Station – This project is dependent upon the relocation of PG&E facilities, which has been postponed to early 2018. This project will be deferred to the 2017-2018 Budget.

Budget Item No. 6 – Basin “M” Dual Pump & Reclaim Irrigation System – Staff is performing a water quality evaluation and anticipates the evaluation results will guide the District in designing an efficient filtering system for reclaimed irrigation. The project will be deferred to the 2017-2018 Budget to allow for completion of the evaluation.

Budget Item No. 7 – Basin “O” Reclaim Irrigation System – Staff is performing a water quality evaluation and anticipates the evaluation results will guide the District in designing an efficient filtering system for reclaimed irrigation. The project will be deferred to the 2017-2018 Budget to allow for completion of the evaluation.

Budget Item No. 17 – Drainage Area “BO”, Belmont Avenue Pipeline, Laterals and Inlets – This project is directly tied to the City of Fresno’s street improvement project for Belmont Avenue. The City of Fresno has postponed their project until early 2018, thus this project will be deferred to the 2017-2018 Budget.

Budget Item No. 18 – Drainage Area “BQ”, Belmont Avenue Lateral and Inlet – This project is directly tied to the City of Fresno’s street improvement project for Belmont Avenue. The City of Fresno has postponed their project until early 2018, thus this project will be deferred to the 2017-2018 Budget.

Budget Item No. 19 – Drainage Area “CQ”, Cargill Improvements – This project is dependent upon the relocation of PG&E facilities, which has been postponed to early 2018. This project will be deferred to the 2017-2018 Budget.

Budget Item No. 21 – Drainage Area “W”, Belmont Avenue Pipeline, Laterals and Inlets – This project is directly tied to the City of Fresno’s street improvement project for Belmont Avenue. The City of Fresno has postponed their project until early 2018, thus this project will be deferred to the 2017-2018 Budget.

Budget Item No. 29 – Drainage Area “CQ”, North Avenue and Fig Avenue Pipeline – This project is dependent upon the relocation of PG&E facilities, which has been postponed to early 2018. This project will be deferred to the 2017-2018 Budget.

Proposed Project Addition

Basin “3G” Sidewalk and Mowstrip Improvements – This project is part of the District’s obligation to complete sidewalk improvements adjacent to Basin “3G”. The improvements will improve pedestrian safety concerns near Red Bank Elementary School. Funding for this project

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is available in the Drainage Area "3G" PPDA account.

Jarrold Takemoto, Rural Streams Program Manager

Attachments

1. Exhibit No. 1
2. Basin 3G Sidewalk & Mowstrip Exhibit

Proposed Projects to be Deferred or Removed

Budget Item No.	Drainage Area	Description	Estimate
1	4E	Basin Fencing (Removed)	\$ 14,000 ⁽¹⁾
4	CQ	City Pond Pump Station	\$ 75,000 ⁽²⁾
6	M	Dual Pump and Reclaimed Irrigation System	\$ 250,000
7	O	Reclaim Irrigation System	\$ 100,000
17	BO	Belmont Ave Pipeline, Laterals & Inlets	\$ 60,000
18	BQ	Belmont Ave Lateral & Inlet	\$ 7,000 ⁽³⁾
19	CQ	Cargill Improvements	\$ 660,000 ⁽⁴⁾
21	W	Belmont Ave Pipeline, Laterals & Inlets	\$ 83,000
29	CQ	North Ave and Fig Ave Pipeline	\$ 475,000 ⁽⁵⁾

Subtotal	\$ 1,724,000
- PPDA Funds	\$ (426,000)
- City Funds	\$ (250,000)
- Grant Funds (not including costs to be paid through PPDA funds)	\$ (555,000)
Remaining Capital Improvement Funds (General Fund)	\$ 493,000

- (1) \$14,000 PPDA Fund
- (2) \$30,000 PPDA Funded
- (3) \$7,000 PPDA Fund
- (4) \$185,000 PPDA Fund and \$250,000 City Funded
- (5) \$190,000 PPDA Fund

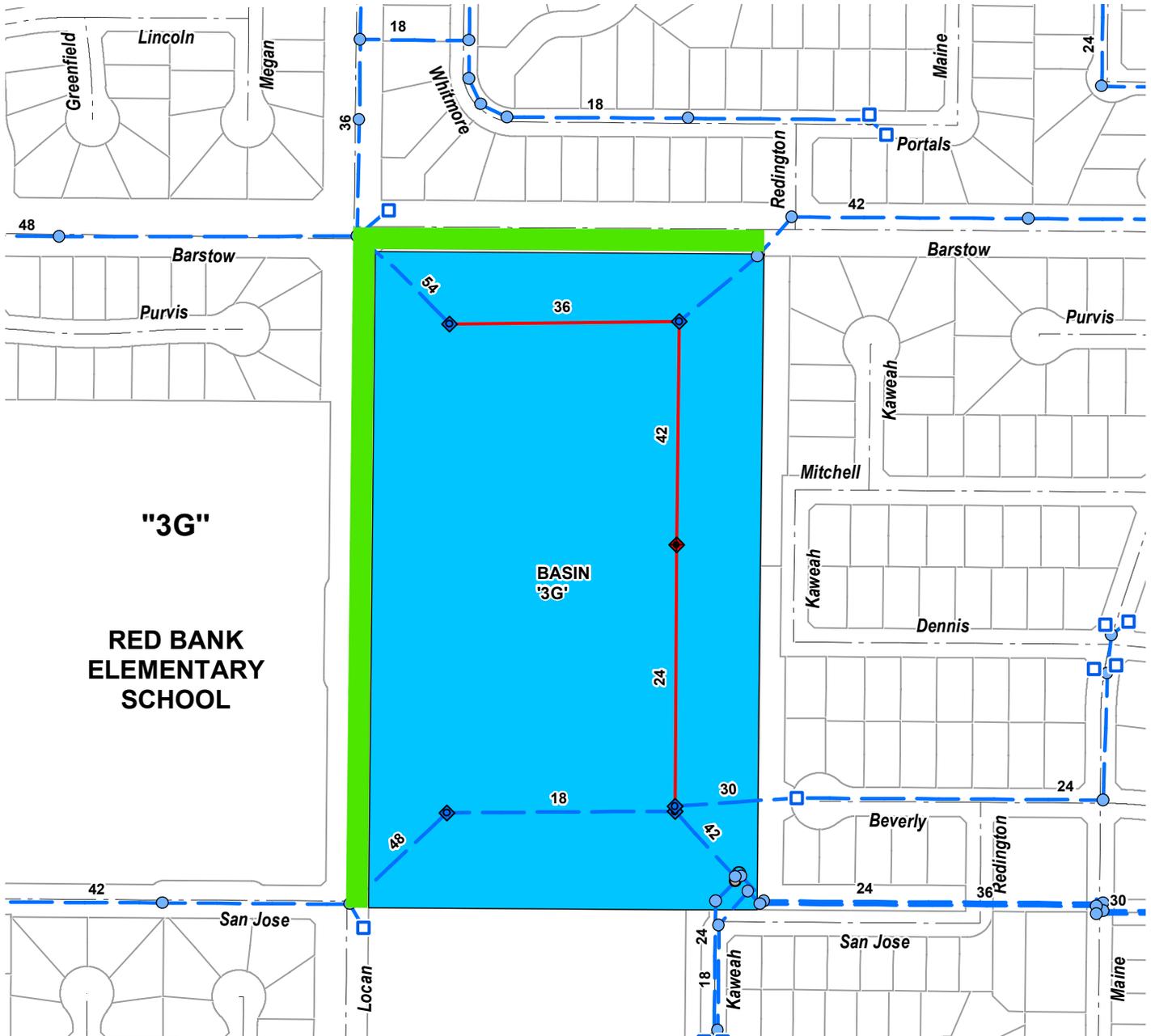
Proposed Additions to 2016-2017 Capital Projects

Budget Item No.	Drainage Area	Description	Estimate
	3G	Sidewalk & Mowstrip Improvements	\$ 145,000 ⁽¹⁾

Total \$ 145,000 ⁽¹⁾

⁽¹⁾ \$145,000 PPDA Fund

**NOTE: THIS MAP IS SCHEMATIC.
DISTANCES, AMOUNT OF CREDITABLE
FACILITIES, AND LOCATION OF INLET
BOUNDARIES ARE APPROXIMATE.**



LEGEND

- Sidewalk & Mowstrip Improvements To Be Constructed
- Existing Facilities
- Future Facilities



1" = 300'

SIDEWALK & MOWSTRIP IMPROVEMENTS DRAINAGE AREA "3G"

\$145,000



FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

Prepared by: keithr
Date: 3/23/2017

Path: K:\Autocad\DWGS\0EXHIBIT\Budget\2016-17\Updated\3G Sidewalk & Mowstrip.mxd

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 10.B.
FROM: Alan Hofmann, General Manager
**SUBJECT: Recommendation from the Policy Committee:
Adoption of Public Records Act Policy**

Summary

At its March 23, 2017 meeting, the Policy Committee considered a Public Records Act Policy. Due to recent amendments to the Retention and Destruction of District Records Policy, all reference to the California Public Records Act (CPRA) were inadvertently removed. The attached Policy provides for the District's compliance with the CPRA.

Recommendation

It is the recommendation of the Policy Committee that the Board of Directors adopt the proposed Public Records Act Policy

Discussion

In accordance with the California Government Code Section 6250 et seq., as amended, the District must comply with CPRA. While by law the District must comply, it is appropriate to have a Policy related to CPRA to show the District's intent to be transparent regarding the public's access to information regarding the District's business.

Another reason for adopting this policy is that the District intends to apply for the Special District Leadership Foundation (SDLF) "District Transparency Certificate of Excellence" (Transparency Certificate). Originally, staff had informed the Board that the adoption of a Code of Ethics Policy was the remaining item necessary to apply for the Transparency Certificate. This was until it was recognized that the reference to the CPRA had been removed from the Retention and Destruction of District Records Policy.

Following adoption of this Policy, the District will apply for the Transparency Certificate. This is an opportunity for the District to be recognized for its efforts to promote transparency in its operations and governance.

Alan Hofmann, General Manager

Attachments

1. Exhibit 1

<h1>POLICY MANUAL</h1>	Date Adopted:
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Public Records Act	Approved By:

I. Background:

The California Public Records Act, codified in California Government Code Section 6250 *et seq.*, as amended (“CPRA”), generally provides the public access to the records of public agencies. As such, members of the public may upon request inspect or receive copies of disclosable public records.

II. Purpose:

The purpose of this Policy is to insure that the public has access to information concerning the conduct of the people’s business. This is a fundamental and necessary right of every person in this State, and requires public records to be available to the public upon request.

III. Policy:

The Fresno Metropolitan Flood Control District (the “District”) is a California public agency and must comply with the CPRA. Therefore, requests for inspection or copies of public records should be directed to the General Manager of the District at 5469 East Olive Avenue, Fresno, California 93727.

<h1>POLICY MANUAL</h1>	Date Adopted:
Classification: BOARD OF DIRECTORS	Date Last Amended:
Subject: Public Records Act	Approved By:

Once received by the General Manager, all CPRA requests should be immediately forwarded to the District’s legal counsel to determine whether or not each record, or any portion of a record, is exempt from disclosure pursuant to the CPRA. The District’s legal counsel will evaluate each CPRA request and, in consultation with District staff, will respond to the requester of records within a time period that complies with the CPRA and in accordance with its requirements.

A fee for copies of public records may be charged, which covers the costs of duplication as determined by the District. Such charge shall be in accordance with the District’s Ordinance Code, Chapter 2 – Master Schedule of Service Charges. No original records may be removed from the District’s office.

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 10.C.
FROM: Alan Hofmann, General Manager
SUBJECT: **Recommendation from the Policy Committee:
Adoption of Amendments to the District's Employee
Handbook and Human Resources Policies and Procedures:**

**a. HR 505 - Overtime, Administrative Time Paid (ATP),
Compensatory Time Off (CTO)**

**b. HR 508 - Mileage and Accountable Reimbursement Plan
Expense**

c. HR 511 - Business Travel and Expense Reimbursement

Summary

At its March 23, 2017 meeting, the Policy Committee considered revisions to the Employee Handbook and Human Resources Policies and Procedures. The amendments were proposed for the following policies: 1) Home Garaged District Vehicles; 2) Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO); 3) Mileage and Accountable Reimbursement Plan Expense; and 4) Business Travel and Expense Reimbursement. After consideration of the revisions, the Policy Committee determined that all the Policies, with appropriate changes as described below, be presented to the Board of Directors for approval, excepting the Home Garaged District Vehicles Policy that was to be brought back to the Policy Committee for further discussion.

Recommendation

It is the recommendation of the Policy Committee that the Board of Directors adopt the proposed amendments to the District's Employee Handbook and Human Resources Policies and Procedures attached to this Board memorandum.

Discussion

The Board of Directors approved the District's Employee Handbook and Human Resources Policies & Procedures in November of 2008, to be effective January 1, 2009. At that time, staff agreed to bring back changes to the Board for review and approval as needed. Since the adoption of the Human Resources Policies & Procedures, changes for legal updates, clarification, and policy improvement have been recommended by Human Resources staff and reviewed by Legal Counsel. The following changes are recommended for incorporation in the Human Resources Policies & Procedures as Revision Number Nine (9).

This amendment is also the result of the Board of Director's request for review of certain

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AGENDA ITEM NO.: 10.C.

policies by the General Manager. One of the policies was the review of the Travel Expense Reimbursement Policy, regarding how employees must account for, and be reimbursed for, expenses incurred for District business travel and expenses. The existing policies, "Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO)" (HR-505) and "Business Travel and Mileage Reimbursement" (HR-508) were reviewed, and revisions made, based on the new "Business Travel and Expense Reimbursement" Policy (HR-511).

Policies and Procedures

Human Resources Policy 505 – Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO): This policy was revised to include travel time as time worked when computing overtime for non-exempt employees.

Human Resources Policy 508 – Mileage and Accountable Reimbursement Plan Expense: This policy was revised to include only the mileage and accountable reimbursement plan portion of the original policy. It was also modified to change the Assistant District Engineer title to Design Engineer. The amendment also deletes the Miscellaneous Expense Reimbursement section from the policy, which are the current District Business Travel Expense guidelines. This section has been transferred to a new policy.

Human Resources Policy 511 – Business Travel and Expense Reimbursement: This is a new policy designed to more clearly define the rules and guidelines to be followed and provide instructions for expense reimbursement when traveling to conduct District business and/or attend conferences, seminars, training and meetings. This policy was drafted, and is similar in most respects, to correspond to the District Board of Directors, Organizational Assignments, Related Travel Policy that was adopted in 2007. It has been the District's practice for staff to follow the same rules and guidelines that are in the Board's Travel policy, as well as the existing Business Travel Expenses and Mileage Reimbursement Policy. As noted above, the Mileage Reimbursement Policy was modified to exclude the Business Travel Expense, requiring the establishment of this new policy. It is appropriate to have a Human Resources Policies & Procedures policy that specifically outlines the rules and guidelines for Business Travel and Expense Reimbursement for consistency throughout the District.

Proposed Employee Handbook Changes

Sections in the Employee Handbook are also revised to reflect the Human Resources Policies and Procedures changes:

Employee Handbook Section 505 – Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO): Revise the section number for reference to the definition of a non-exempt employee. Include language stating travel time is considered time worked when computing overtime for non-exempt employees.

BOARD MEETING: April 12, 2017

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Employee Handbook Section 508 – Mileage Reimbursement: Revise Section 508 title and delete paragraphs referring to business travel expenses.

Employee Handbook Section 511 – Business Travel and Expense Reimbursement: Include reference to Human Resources Policy and Procedure HR-511 for compliance to the District’s travel policy. Revise the number of days for completing the travel expense report to match the HR-511 policy. Delete paragraph regarding travel time is considered work time when computing overtime for non-exempt employees (stated in Employee Handbook Section 505).

Karyn Kruser, Senior Human Resources Analyst

Attachments

1. HR-505
2. HR-508
3. HR-511
4. 505, 508, 511 handbook

Fresno Metropolitan Flood Control District	TYPE: Human Resources	REFERENCE: HR - 505
	EFFECTIVE DATE: 01/01/09; 5/8/13; 10/22/14	
TITLE: Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO)	APPROVED BY: DRAFT	
DISTRIBUTION: Department Managers		

STATEMENT OF PURPOSE

It is the policy of the Fresno Metropolitan Flood Control District to discourage overtime work hours to encourage each supervisor to organize the work of his/her section so that regular full-time employees shall normally work not more than 40 hours in any week; that overtime work be held to a minimum consistent with the efficient performance of necessary functions; and that overtime work be used only for emergencies or when temporarily using a regular full-time employee in excess of the normal workday can be shown to be more economical than using extra help.

POLICY

Overtime

Overtime work is defined as authorized work performed by nonexempt employees in excess of 40 hours in a workweek. Nonexempt employees are eligible for overtime pay. Exempt employees are paid on a salary basis and are in executive, administrative or professional positions and are not eligible for overtime pay.

Non-exempt employees are eligible for paid time due to time spent traveling on District business. Travel to and from a pre-approved conference or educational class is considered to be travel on District business and qualifies as hours worked. Nonexempt employees will be paid one and one-half times the regular rate of pay for all hours worked beyond 40 hours in the workweek. In lieu of overtime pay, the District and the non-exempt employee may elect compensatory time-off as set forth in this policy.

When in the judgment of the General Manager overtime work as defined above is required, records will be kept of the time worked and compensation in cash or compensatory time off will be provided pursuant to the provisions of this policy. The General Manager determines if an employee will work in excess of 40 hours a week and an employee may not work overtime without authorization from the General Manager.

Overtime must be specifically authorized (and in writing when practicable) by the General Manager or subordinates empowered by him to authorize such work.

Administrative Time Paid (ATP)

Due to the unique nature of the Fair Labor Standards Act (FLSA) as it pertains to exempt public employees, there are occasions when exempt employees may earn compensation beyond that of their normal salary. Exempt employees may be eligible for Administrative Time Paid (ATP).

In certain instances, at the sole discretion of the General Manager, exempt employees may be asked to work additional hours beyond a normal workweek on special projects. In such cases, the exempt employee will track the additional hours and submit at the end of a pay period. The additional hours will be paid at the employee's regular hourly rate of pay or "straight time." No exempt employee will be paid for ATP without prior approval by the supervisor and/or the General Manager.

Fresno Metropolitan Flood Control District	TYPE: Human Resources	REFERENCE: HR - 505
	EFFECTIVE DATE: 01/01/09; 5/8/13; 10/22/14	
TITLE: Overtime, Administrative Time Paid (ATP), Compensatory Time Off (CTO)	APPROVED BY: DRAFT	
DISTRIBUTION: Department Managers		

Compensatory Time Off (CTO)

Instead of receiving overtime pay, nonexempt employees may elect to accrue compensatory time off (CTO), up to a maximum of 60 hours. An employee's supervisor has the authority to adjust the employee's normal workweek to limit working more than 40 hours a week in lieu of earning CTO. CTO is accrued at a rate equal to the overtime rate (e.g. 40 hours of overtime equals 60 hours of CTO). If an employee wishes to use the accrued CTO, the employee shall submit a request to his or her supervisor. CTO may be used within a reasonable period after the request so long as it does not unduly disrupt operations. If the employee does not use his or her accrued CTO balance, the District may require the employee to use CTO or pay the employee the accrued CTO at least annually, not later than June 30 of each year. CTO may be paid off more frequently upon the written request of the employee and consent of the General Manager. All payments of CTO shall be computed at the employee's regular rate of pay at the time payment occurs.

Call Back Pay

Should a non-exempt employee under the Fair Labor Standards Act be called back to work after his/her normal full-time shift, the District will compensate the employee a minimum of two (2) hours up to the actual time spent working per call back. Such time will be added to the employee's timecard and may be subject to overtime per District policy.

Personal Time Off for Exempt Employees

In those instances where an exempt employee works more than 80 hours in a pay period and is not credited with ATP, the employee may receive credit for the extra hours worked that exceed the required hours to attend to matters of a personal nature, such as a doctor, dentist or other personal appointment without taking accrued annual leave. Time off must be pre-approved by the supervisor to allow for work coverage. In addition, time off should be used within the same pay period, unless it is prohibitive to do so. Supervisors will have the discretion for granting the time off with pay, in lieu of using annual leave.

PROCEDURE

RESPONSIBLE PARTY

ACTION

- | | |
|--------------------------|---|
| Employee | 1. Obtain approval from Supervisor before working overtime, ATP or CTO. |
| District Senior Managers | 2. Record overtime, ATP or CTO in the official District time-keeping system. |
| Accounting | 3. Approve (or deny) overtime, ATP or CTO when requested by employee. |
| | 4. Indicate approval in the official District time-keeping system. |
| | 5. Pay overtime, administrative time pay and compensatory time in accordance with the policy for exempt and non-exempt employees. |

Fresno Metropolitan Flood Control District TITLE: Business Travel Mileage & Accountable Reimbursement Plan Expenses and Mileage Reimbursement	TYPE: Human Resources	REFERENCE: HR – 508
	EFFECTIVE DATE: 01/01/09; 08/26/09	
DISTRIBUTION: Department Managers	APPROVED BY: DRAFT	

STATEMENT OF PURPOSE

The District will provide travel and reimbursement for business travel for all employees according to policy guidelines established by the Board of Directors.

POLICY

Mileage Reimbursement

It is the policy of the District that all employees use District vehicles for business travel within District boundaries and District rental vehicles for all out-of-District travel in the performance of District responsibilities. In those instances where District vehicles are not available or impractical, at the discretion of the supervisor or General Manager, employees may use their ~~personal~~ own vehicles and are reimbursed in accordance with IRS regulations and approved reimbursement rates for the use of personal vehicles in the performance of District responsibilities.— District employees other than the General Manager, the District Engineer, the ~~Assistant District Design~~ Engineer, and the Operations Engineer shall be reimbursed at the currently applicable rate per mile established by the IRS. The General Manager, the District Engineer, the ~~Assistant District Design~~ Engineer, and the Operations Engineer, shall be reimbursed at the currently applicable rate per mile established by the IRS for all authorized out-of-District travel involving the use of personal vehicle for District purposes.

Accountable Reimbursement Plan

The General Manager, the District Engineer, the ~~Assistant District Design~~ Engineer, and the Operations Engineer shall also be reimbursed for the business use of a qualified vehicle inside the District boundaries under this accountable plan. Only vehicles capable of entering an existing District property during muddy or rainy conditions and configured similar to the standard District four-wheel-drive, field service vehicle will qualify under this plan. The General Manager shall make the final determination as to a vehicle's qualification.

Under the plan, a monthly sum will be paid to certain executive staff members in lieu of requiring them to file for mileage reimbursement for travel within the District boundaries. The reimbursement shall be \$325 for the General Manager, \$325 for the District Engineer, \$325 for the ~~Assistant District Design~~ Engineer and \$325 for the Operations Engineer, which amounts represent the estimated total monthly reimbursement due for mileage driven on District business. Each participant shall account to the District at least once each year for their actual costs of operation including the depreciation allowed or allowable had these expenses been claimed as a tax deduction using the IRS Federal Form 2106. Qualifying accountable expenses in excess of the monthly allowance will not be reimbursed under this plan. Reimbursements in excess of qualifying expenses shall be determined to be paid under a non-accountable plan and will be included in the W-2 wages of the employee. Benefits based upon compensation will not be increased for these non-accountable plan amounts.

Fresno Metropolitan Flood Control District TITLE: <u>Business Travel Mileage & Accountable Reimbursement Plan Expenses and Mileage Reimbursement</u>	TYPE: Human Resources	REFERENCE: HR – 508
	EFFECTIVE DATE: 01/01/09; 08/26/09	
DISTRIBUTION: Department Managers	APPROVED BY: DRAFT	

Miscellaneous Expense Reimbursement

It is the policy of the District to reimburse all employees for reasonable, actual out-of-pocket expense for travel, meals, lodgings, fees, etc., related specifically to participation in authorized District functions requiring the incurrence of such expense. Subject to such exceptions as may be determined by the General Manager, such reimbursement shall include appropriate expenses incurred in District by District employees.

The District will reimburse employees for reasonable business travel expenses if the travel and associated expenses for meals and lodging, etc. have been approved in advance. Other than special circumstances, travel expenses will be limited to the amounts approved by the IRS and in accordance with the District's Board of Directors' Travel Policy. Reimbursements are in accordance with the IRS rates published on the GSA website, and vary based on the location of the travel. The Office Assistants will be responsible for determining the rates in advance for the request to travel. In most cases, approval is through the supervisor, with concurrence from the Department Head and the General Manager. Any travel out of the State of California must be approved by the Board of Directors. After a trip is approved, employees must make travel arrangements through their assigned Office Assistant. If employees are approved to make their own travel arrangements, they should select the travel option that is the most economical for the District and consistent with the IRS guidelines for travel.

The District reimburses approved travel expenses such as transportation, meals, lodging and other expenses as long as they are necessary to meet the objectives of the trip and in accordance with the District's travel policy. The employee is expected to estimate these expenses and to have them approved by the supervisor and General Manager in advance of the travel. Employees are expected to keep expenses to the amounts approved by the IRS. When a business trip is concluded, employees shall submit a completed travel expense report within two business days following the travel and submit itemized receipts for every expense item.

Non-exempt employees are eligible for paid time due to time spent traveling on District business. Travel to and from a pre-approved conference or educational class is considered to be travel on District business and qualifies as hours worked. Non-exempt employees will be paid one and one-half times the regular rate of pay for all hours worked beyond 40 hours in the workweek. In lieu of overtime pay, the employee may elect compensatory time off as outlined in the Overtime Policy.

It is a very serious matter to record false or misleading information on an expense report. Employees may not request reimbursement for expenses that were not incurred or were not business-related. Employees who submit false or misleading information on an expense report could be subject to disciplinary action, up to and including termination of employment.

The District reserves the right to amend its expense reimbursement program, including but not limited to, the rate of reimbursement, the list of eligible reimbursement recipients, the list of reimbursable expenses and the policies governing the expense reimbursement program when in the sole discretion of the District such action is deemed necessary or appropriate.

Fresno Metropolitan Flood Control District TITLE: <u>Business Travel Mileage & Accountable Reimbursement Plan Expenses and Mileage Reimbursement</u>	TYPE: Human Resources	REFERENCE: HR – 508
	EFFECTIVE DATE: 01/01/09; 08/26/09	
DISTRIBUTION: Department Managers	APPROVED BY: DRAFT	

PROCEDURE

RESPONSIBLE PARTY

ACTION

Employee	<ol style="list-style-type: none"> 1. Submit a request for approval to supervisor including the estimated cost for travel, lodging, meals and any other potential reimbursable expenses. 1. Complete <i>Employee Personal Mileage Reimbursement Form</i> and <i>Statement of Expenses and Reimbursement Form</i>
Supervisor	<ol style="list-style-type: none"> 2. <u>Accountable Reimbursement Plan</u>: Record actual costs and current year's depreciation for operating a personal vehicle qualified under this policy. 3. Recommend the employee's request for travel for approval in advance in accordance with District policy and guidelines. 3. Process check request by signing for approval and forward to accounting for check processing.
Accounting	<ol style="list-style-type: none"> 4. Process reimbursement check through accounts payable. 5. Process accountable reimbursement based on the difference of actual costs plus depreciation minus \$325 per month. Qualifying expenses less than monthly allowance will be included as compensation on form W-2.
General Manager	<p>Review any out-of-town travel requests. All out-of-town travel and expenses must be approved by the General Manager prior to scheduling the travel and related expenses and prior to the event.</p>

Fresno Metropolitan Flood Control District	TYPE: Human Resources	REFERENCE: HR – 511
	TITLE: Business Travel and Expense Reimbursement	
DISTRIBUTION: Department Managers	EFFECTIVE DATE:	
	APPROVED BY: DRAFT	

STATEMENT OF PURPOSE

To establish a policy providing rules and guidelines to be followed and/or observed for expense reimbursement when traveling to conduct District business and/or attend conferences, seminars, training and meetings.

POLICY

It is the policy of the District to reimburse all employees for reasonable, actual out-of-pocket expenses for travel, meals, lodgings, fees, etc., related specifically to participation in authorized District functions requiring the incurrence of such expenses. Subject to such exceptions as may be determined by the General Manager, such reimbursement shall include appropriate expenses incurred by District employees.

Business travel for attendance at conferences, seminars, and professional education classes, must be approved in advance by the Executive Staff/Supervisor and the General Manager. The employee is expected to estimate these expenses and have them approved in advance of the travel. Any travel required out of the State of California must be approved by the Board through the budget process or on a case-by-case basis. After a trip is approved, employees must make travel arrangements through their assigned Office Assistant.

The District will reimburse employees for transportation, lodging, meals, and incidental expenses only in accordance with the Internal Revenue Service (IRS) rates published on the General Services Administration (GSA) website. Other than special circumstances, employees are expected to keep expenses to the amounts approved by the IRS. When the business trip is concluded, employees must submit a completed Statement of Expenses and Reimbursement form no later than ten (10) business days following the travel, and submit itemized receipts for every expense item.

Transportation

The most economical mode and class of transportation, reasonably consistent with scheduling requirements, will be used, unless unusual circumstances require other alternatives. Air travel is authorized whenever, due to distance or time constraints, air travel is more economical than use of the employee's personal vehicle or rental car for transportation to and from authorized meetings and events. Airfare shall not exceed the most economical coach fare available for the required travel dates, with recognition for the time expected for the employee's travel. If ground transportation from an airport to a hotel is necessary, taxis will only be used when a less expensive form of travel (i.e. shuttle or other services such as Uber and Lyft) is not available. Employees are encouraged to use a District vehicle or car rental, when travel by such vehicle is the most economical option. In the event a more expensive class of transportation is used (i.e. personal vehicle versus air travel), the reimbursable amount will be limited to the cost of the most economical class of transportation

Fresno Metropolitan Flood Control District TITLE: Business Travel and Expense Reimbursement	TYPE: Human Resources	REFERENCE: HR – 511
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available. Non-business transportation, or any other personal expenses associated with the travel, are the employee’s responsibility and are not reimbursable.

Lodging

If lodging is provided in connection with a conference, seminar, or professional education, lodging costs shall not exceed the maximum group rate published by the conference sponsor, provided that the lodging at the group rate is available to the employee at the time of booking. If the group rate lodging is not available, the employee is limited to reimbursement for comparable lodging by taking advantage of any government rates available. Lodging for the night prior to or after the event will be reimbursable only when the starting or ending time for the event makes it impractical to travel to or from the employee’s residence on the same date as the activity.

Incidental Expenses

Incidental expenses for items actually and reasonably incurred in connection with attendance at approved events, including reasonable tips for luggage handling, telephone and facsimile charges, parking and similar expenses, will be reimbursed up to the maximum GSA per diem rate for incidental travel expenses.

Meals

Reimbursement will be provided for meals while attending meetings, conferences, seminars, professional education, and other activities authorized under this policy. The maximum daily amount reimbursable for meals, including beverages and tips, will be based on the GSA schedule for the current year. Meals that are included in the cost of registration for the event, the GSA per diem rate will be reduced by the meals provided. Meal expenses actually incurred, including tips, will be reimbursed up to the GSA per diem rate. The employee should strive to comply with the GSA per diem rate for each meal. However, it is recognized that exceptions to this may be required based upon location, schedule and timing of the meal periods. In all cases, the employee should be as prudent as possible in their expenditures for meals. No reimbursement will be allowed for alcoholic beverages.

On the days of travel to and from an event, the full rate of per diem may be reduced depending on the time of travel as follows:

- To be entitled to the breakfast portion of the per diem, travel must start from the District or employee’s residence before 7:30 a.m.
- To be entitled to the lunch portion of the per diem, travel must start from the District or employee’s residence before 11:00 a.m.

Fresno Metropolitan Flood Control District	TYPE: Human Resources	REFERENCE: HR – 511
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- If the return trip to the employee’s residence ends after 6:30 p.m., the dinner portion of the per diem can be reimbursed.

General

This policy recognizes that it is sometimes in the best interest of the District to provide transportation, lodging, and meals for non-District employees, and business guests during the conduct of District business and pre-authorizes the General Manager to make reasonable and appropriate expenditures for that purpose.

No reimbursement shall be allowed for transportation, lodging, meals or incidental expenses of family members or guests of an employee. It is a very serious matter to record false or misleading information on an expense report. Employees may not request reimbursement for expenses that were not incurred or were not business-related. Employees who submit false or misleading information on an expense report could be subject to disciplinary action, up to and including termination of employment.

The District may issue credit cards to specific employees who either travel on a regular basis or have the need to frequently purchase supplies or services for the District. Credit cards may be used only for legitimate, approved business of the District. Credit cards shall not be used for any personal items or personal services. Employees should use the District’s credit card for purchases associated with business travel expenses, such as meal purchases and hotel reservations as noted in this policy. Receipts documenting expenses incurred on the District credit card should be submitted, along with the appropriate Record of Credit Card Usage or Statement of Expenses and Reimbursement forms. Improper use of a District credit card will be treated as a misuse of public funds and could subject the Cardholder to disciplinary action, up to and including termination of employment.

The District may grant a cash advance, for expenses, to employees where the General Manager determines it to be appropriate. The balance of the advance, plus the receipts of the expenses, must equal the total amount of the advance or any remainder of the advance shall be returned to the District. Should the total expenses exceed the amount of the cash advance, employees will be reimbursed accordingly.

The District reserves the right to amend its expense reimbursement program, including but not limited to, the rate of reimbursement, the list of eligible reimbursement recipients, the list of reimbursable expenses and the policies governing the expense reimbursement program when in the sole discretion of the District such action is deemed necessary or appropriate.

The General Manager is given discretionary approval authority over any variances to this policy. Occasionally, special circumstances may arise where alternative travel arrangements can reduce the overall District cost. This Policy allows the General Manager to have discretion over the review and approve those special circumstances if the General Manager finds these special circumstances to be cost effective for the District.

Fresno Metropolitan Flood Control District	TYPE: Human Resources	REFERENCE: HR – 511
	EFFECTIVE DATE:	
TITLE: Business Travel and Expense Reimbursement	APPROVED BY: DRAFT	
DISTRIBUTION: Department Managers		

PROCEDURE

RESPONSIBLE PARTY

ACTION

- | | |
|--------------------------------|--|
| Office Assistant | 1. Complete the <i>Request for Attendance for Conferences, Seminars, Professional Education and Out of Town Travel</i> form. |
| Supervisor and General Manager | 2. Approve <i>Request for Attendance</i> by signing the form. |
| Office Assistant | 3. Reserve event, hotel, car reservations, etc. as stated on the form. |
| Employee | 4. Submit Receipts of eligible expenses and report on the <i>Statement of Expenses and Reimbursement</i> form or Credit Card Usage form within 10 business days. |
| Accounting | 5. Submit the <i>Check Request</i> form for the expense reimbursement. |
| | 6. Review the submitted forms for proper eligible expenses and process employee reimbursement check. |

500 Hours/Work Conditions

your desk ready to work within the 15 minute time-period.

You are expected to use good judgment with respect to taking a rest period and to always remember the needs of the District and its constituency should come first. If you abuse the rest period privilege by taking more than the allotted 15 minutes, you will be subject to corrective action and may lose the privilege.

505 Overtime, Administrative Time Paid (ATP), and Compensatory Time Off (CTO)

It is the policy of the District to discourage overtime work and encourage each supervisor to organize the work of his/her section so that employees shall normally work no more than 40 hours in any week. However, there may be times when the District cannot meet its operating requirements or other needs during regular working hours. If this happens, you may be eligible for overtime, ATP or CTO.

It is our policy that no overtime, ATP or CTO can be worked without the approval and authorization of your supervisor. We try to distribute assignments fairly among all employees who are qualified to perform the required work.

Overtime

If you are a nonexempt employee (see section [240-201](#) for definition,) you will receive overtime pay in accordance with the federal wage and hour laws. Overtime pay is based on the actual hours worked [and travel time for conducting District business](#). For this reason, time off for sick leave, vacation and other paid or unpaid leaves of absence is not counted as hours worked when calculating overtime pay. Overtime is paid at one and one-half times the regular rate of pay for all hours worked in excess of 40 hours in the work-week.

Compensatory Time Off (CTO)

In lieu of overtime pay, non-exempt employees may elect to receive compensatory time off (CTO). Compensatory time may be earned for hours worked in excess of 40 hours in the work-week that would otherwise be paid as overtime. Like overtime, CTO cannot be earned without the approval and authorization of your supervisor. Your supervisor may adjust your normal workweek to limit working more than 40 hours a week in lieu of earning CTO. CTO hours accrue at the same rate as the overtime pay (e.g. one and one-half hours of CTO for each hour worked in excess of 40 hours in a workweek). You must submit your request to use your CTO hours to your supervisor. Supervisors will approve a request to use CTO hours within a reasonable period after requested so long as the requested time off does not unduly disrupt the District's operations.

You may accrue a maximum of 60 hours of CTO. If you work in excess of 40 hours in a week and have already reached the maximum amount of CTO, you will be paid overtime. If you do not use your CTO, the District may require you to use it or be paid off at least annually, no later than June 30th of each year. All payments of CTO will be computed at the employee's rate of pay at the time of the pay-out.

500 Hours/Work Conditions

Administrative Time Paid (ATP)

Due to the unique nature of the Fair Labor Standards Act (FLSA), as it pertains to exempt public employees, there are occasions when exempt employees may earn compensation beyond that of their normal salary. In certain instances, at the sole discretion of the General Manager, exempt employees may be asked to work additional hours beyond a normal workweek on special projects. In such cases, the exempt employee will track the additional hours and submit those hours at the end of a pay period. The additional hours will be paid at the employee's regular hourly rate of pay or "straight time." No exempt employee will be paid for ATP without prior approval by his/her supervisor and/or the General Manager.

Call-Back Pay for Non-Exempt Employees

Should you be called back to work after your regular, full-time shift, the District will compensate you a minimum of two (2) hours up to the actual time spent working. Such time will be added to the employee's timecard and may be subject to overtime per District policy.

Personal Time Off for Exempt Employees

In those instances where an exempt employee works more than 80 hours in a pay period and is not credited with ATP, the employee may receive credit for the extra hours worked that exceed the required hours to attend to matters of a personal nature, such as a doctor, dentist or other personal appointment without taking accrued annual leave. Time off must be pre-approved by the supervisor to allow for work coverage. In addition, time off should be used within the same pay period, unless it is prohibitive to do so. Supervisors will have the discretion for granting the time off with pay, in lieu of using annual leave.

506 Use of Equipment and Vehicles

District equipment and vehicles may be assigned to employees to better aid in the efficiency and productivity of the District. Equipment and vehicles essential for accomplishing your job duties are expensive and may be difficult to replace. When you use District equipment, you are expected to be careful, perform required maintenance and follow all operating instructions, safety standards and guidelines.

Tell your supervisor if any equipment, machines, tools or vehicles appear to be damaged, defective or in need of repair. When you promptly report damages, defects and the need for repairs, you can prevent deterioration of equipment and possible injury to yourself or other people. See your supervisor if you have questions about your responsibility for maintenance and care of equipment or vehicles you use on the job.

Electronic Tracking

All District vehicles have electronic tracking devices used to observe, monitor, and collect information. Electronic tracking devices greatly enhance job performance, personnel safety, situational awareness, and provide oversight in time critical scenarios. Electronic tracking devices may also be used for other business-related purposes, including, measuring productivity, locating stolen vehicles, providing aid to vehicles that break down, or ensuring that employees are following their routes or assignments.

500 Hours/Work Conditions

Employees are prohibited from altering or attempting to alter or disable electronic tracking equipment in District vehicles. Employees found tampering with the devices may result in corrective action, up to and including termination.

Driving on the Job

The District has established a Driving Record Review Program. We are part of the Department of Motor Vehicles (DMV) Employer Pull Notice program, which provides driver record reports on all employees. All new employees will have a driving record report requested from the DMV. In addition, a copy of your driving record will be sent to the District at least annually or at any time that a change is made in the report, such as if you have an accident or vehicle code violation.

All employees are required to attend defensive driving school, conducted by the District every two years. Attendance is mandatory and failure to attend may result in corrective action.

Employees must maintain the minimum amount of insurance (\$15,000 per person, \$30,000 per accident, and \$5,000 property damage) as required by law if driving their personal vehicle while conducting District business.

If your duties require you to regularly drive a District vehicle, your driving record must meet certain criteria. You will be asked to sign an acknowledgement confirming your understanding of the acceptable driving record guidelines. Those guidelines can be found in the Human Resources Policies and Procedures Manual. If your license is suspended by the DMV, or if your driving privileges are suspended by the District due to your driving record, and you drive a District vehicle as an essential function of your job, you will be immediately suspended from work without pay and may face further corrective action, including termination.

507 Emergency Closings

At times, emergencies such as severe weather, fires, power failures or earthquakes can disrupt District operations. In extreme cases, these circumstances may require the closing of the work facility.

When operations are officially closed due to emergency conditions, the time off from scheduled work may be paid or unpaid at the discretion of the General Manager. However, with supervisory approval, if the time off is unpaid you may use available annual leave.

In cases where an emergency closing is not authorized, employees who fail to report for work will not be paid for time off. You may request available annual leave.

If your work is considered an essential operation, you may be asked to work on a day when operations are officially closed. In those circumstances, you will receive regular pay, including overtime if appropriate.

508 ~~Business Travel Expenses and Mileage Reimbursement~~

The District will reimburse you in accordance with IRS regulations and approved reimbursement

500 Hours/Work Conditions

rates for the use of personal vehicles in the performance of District responsibilities. District employees shall be reimbursed at the currently applicable rate per mile established by the IRS as the result of the authorized use of personal vehicles for District purposes. When such employees are required to conduct District business on their way to work, or during their commute home, they may be reimbursed for the number of miles driven in excess of his/her normal commute.

~~We will reimburse you for reasonable business travel expenses if the travel has been approved **in advance**. In most cases, request approval through your supervisor, with final approval from the department head and the General Manager. Any travel out of the state of California must be approved by the Board of Directors. After a trip is approved, you should make your travel arrangements through your assigned office assistant. If you are approved to make your own travel arrangements, you should select the travel option that is the most economical for the District.~~

~~The District will reimburse approved travel expenses such as transportation, meals, lodging and other expenses as long as they are necessary to meet the objectives of the trip and in compliance with the District travel policy HR 511. You are expected to keep expenses within reasonable limits. When a business trip is over, submit your completed travel expense report within 230 business days following the travel and submit **itemized** receipts for every expense item.~~

~~Non-exempt employees are eligible for paid time due to time spent traveling on District business. Travel to and from a pre-approved conference or educational class is considered to be travel on District business and qualifies as hours worked. Non-exempt employees will be paid one and one-half times the regular rate of pay for all hours worked beyond 40 hours in the workweek. In lieu of overtime pay, the employee may elect compensatory time off as set forth in the Overtime Policy.~~

~~It is a very serious matter if you record false or misleading information on your expense report. You may not request reimbursement for expenses that you did not have or that were not business-related. Employees who submit false or misleading information on an expense report could be subject to disciplinary action, up to and including termination of employment.~~

509 Computers, Email and Internet Usage

To help you do your job, the District may give you access to computers, computer files, the email system, the Internet and software. The District's Board of Directors approved an Electronics Communications Policy for use by the District. All employees are required to comply with the policy. You will be given the complete policy and asked to sign it, signifying your compliance. The complete policy is included in the Human Resources Policies and Procedures Manual. The following items are included in the policy.

You should not use a password, access a file, or retrieve any stored communication without authorization.

All documents and messages composed, sent or received through the electronic communication systems are and remain the property of the District. They are NOT the private property of any employee, and should not be considered private. The District reserves and intends to exercise the right to review, audit, intercept, access, print, read and disclose all messages created, received or sent over the electronic communication systems for any purpose. Please note that even when a message is deleted, it may still be possible to recreate the message; therefore, ultimate privacy of messages cannot be guaranteed to anyone.

500 Hours/Work Conditions

We try hard to have a workplace that is free of harassment and sensitive to the diversity of our employees. Therefore, we do not allow employees to use computers and email in ways that are disruptive, offensive to others, or harmful to morale.

At the District you may not display, download or email sexually explicit images, messages or cartoons. You also may not use computers and email for ethnic slurs, racial comments, off-color jokes or anything that another person might perceive as harassment or disrespect.

You may not use email to ask other people to contribute to or to tell them about businesses outside of the District, religious or political causes, outside organizations or any other non-business matters.

The District buys and licenses computer software for business purposes. We do not own the copyright to this software or its documentation. You may only use software according to the software license agreement. The District prohibits the illegal duplication of software and its documentation.

The District's electronic communication systems shall not be used to send (upload) or receive (download) copyrighted materials, trade secrets, proprietary financial information or other confidential materials without prior authorization.

Internet Usage

All Internet data that is written, sent, or received through our computer systems is part of official District records. That means that we can be legally required to show that information to law enforcement or other parties. Therefore, you should always make sure that the business information contained in Internet email messages and other transmissions is accurate, appropriate, ethical, and legal.

The equipment, services, and technology that you use to access the Internet are the property of the District. Therefore, we reserve the right to monitor how you use the Internet. We also reserve the right to find and read any data that you write, send, or receive through our online connections or is stored in our computer systems.

Employees who violate the Electronic policy may be subject to disciplinary action, up to and including termination of employment. You may also be held personally liable for violating this policy.

510 Workplace Violence Prevention

We are committed to preventing workplace violence and making the District a safe place to work. This policy explains our guidelines for dealing with intimidation, harassment, violent acts, or threats of violence that might occur during business hours or on our premises at any time.

You are expected to treat your co-workers, including supervisors and temporary employees, with courtesy and respect at all times. You should not fight, play tricks on others or behave in any way that might be dangerous to other people. We do not allow firearms, weapons, and other dangerous or hazardous devices and substances on the premises of the District without proper authorization.

The District does not allow behavior at any time that threatens, intimidates, bullies, or coerces

500 Hours/Work Conditions

another employee or a member of the public. This includes off-duty periods. We do not permit any act of harassment, including harassment that is based on an individual's sex, race, age, or any characteristic protected by federal, state or local law.

You should immediately report a threat of violence or an act of violence by anyone to your supervisor or the Human Resources Manager. If you experience a threat of violence, give every detail you can.

Be sure to immediately report any suspicious person or activities to a supervisor. Do not place yourself in danger, if you see or hear trouble or a disturbance near your work area.

We will promptly and completely investigate all reports of violent acts or threats of violence. We will also promptly and completely investigate all suspicious people and activities. We will protect the identity of a person who makes a report when practical. Until we have investigated a report, we may suspend an employee, either with or without pay, if we think it is necessary for safety reasons or to do the investigation.

If you commit a violent act, threaten violence or violate these guidelines in another way, you will be subject to disciplinary action, up to and including termination of employment.

If you are having a dispute with another employee we encourage you to talk it over with your supervisor or the Human Resources Manager. The District wants to help you work out problems before they become more serious and possibly violent.

511 Business Travel and Expense Reimbursement

We will reimburse you for reasonable business travel expenses if the travel has been approved *in advance*. In most cases, request approval through your supervisor, with final approval from the department head and the General Manager. Any travel out of the sState of California must be approved by the Board of Directors District Policy. After a trip is approved, you must make your travel arrangements through your assigned office assistant. If you are approved to make your own travel arrangements, you should select the travel option that is the most economical for the District.

The District will reimburse approved travel expenses such as transportation, meals, lodging and other expenses as long as they are necessary to meet the objectives of the trip and in compliance with the District's Human Resources Policy HR-511. You are expected to keep expenses within reasonable limits. When a business trip is over, submit your completed travel expense report within 10 business days following the travel and submit *itemized* receipts for every expense item.

It is a very serious matter if you record false or misleading information on your expense report. You may not request reimbursement for expenses that you did not have or that were not business-related. Employees who submit false or misleading information on an expense report could be subject to disciplinary action, up to and including termination of employment.

BOARD MEETING: April 12, 2017
AGENDA ITEM NO.: 10.D.
FROM: Alan Hofmann, General Manager
**SUBJECT: Recommendation from the Policy Committee:
Rescission of General Administration - Travel Policy**

Summary

The Employee Handbook and Human Resources Policies and Procedures manual have become the primary location for information related to employment at the District. In creating these resources, information from various sources were consolidated and in some cases, duplicated. Within this agenda, two new policies are recommended for creation, which, in turn, makes other policies obsolete. The Policy Committee is recommending the Board of Directors consider rescission of the Board Policy for Travel. A copy of the Policy is attached. The requirements regarding travel, and associated reimbursements, are now clearly stated in the new proposed Business Travel and Expense Reimbursement policy within this Agenda.

Recommendation

It is the recommendation of the Policy Committee that the Board of Directors rescind the General Administration - Travel Policy.

Discussion

It is not uncommon to adopt new policies that make other policies obsolete. The rescission of a policy occurs when a policy takes its place or it has combined with another policy. In this case, the Travel policy of the District, last amended in 1999, was no longer in step with the protocol or procedures currently being implemented within the District. Therefore, it was appropriate for this policy to be updated and reside in the Employee Handbook and Human Resources Policies and Procedures manual, which is the depository for employee rules and guidelines regarding expenses associated with District business.

Alan Hofmann, General Manager

Attachments

1. Attachment 1

<h1>POLICY MANUAL</h1>	Date Adopted: July 18, 1983
Classification: GENERAL ADMINISTRATION	Date Last Amended: 08/08/83; 12/12/89; 04/13/99
Subject: Travel	Approved By:

1. All District staff travel within the state may be approved by the General Manager when such travel is required by organizational memberships of the District, representational responsibilities of employees, or for training determined necessary to the function and purpose of the District, and sufficient funds to cover such expenses are provided within the adopted budget.
2. All District travel by Directors or out-of-state travel by staff shall require advance approval by the Board of Directors. The Directors may provide such approval through the Budget approval or on a case-by-case basis, at the discretion of the Board.
3. All District travel requirements involving expenses in excess of the adopted budget shall require the specific authorization of the Board of Directors in advance of the proposed travel event.
4. In those cases in which an important travel event involving expenses in excess of the budget arises without sufficient notice to secure approval at a regularly scheduled meeting of the Board of Directors, approval of the Administration Committee of the Board of Directors shall be required in advance of the proposed travel event.
5. All travel and entertainment related expenses, wherever possible, shall be incurred on the District VISA Card.
6. The District shall pay the actual reasonable costs for all registration, transportation, lodging and meals incurred during authorized travel, except that additional expenses incurred for personal or otherwise non-District purposes shall be paid by the individual.
7. Staff requesting travel authorization must submit a completed "Request for Travel" form to either the General Manager, District Engineer or Assistant General Manager. The completed and signed form must then be given to the staff member's Office Assistant. The Office Assistant will then make all necessary registration, reservations, and travel and lodging arrangements and prepare a District Standardized Travel Itinerary. The itinerary will be distributed to the staff member(s) for whom travel is

<h1>POLICY MANUAL</h1>	Date Adopted: July 18, 1983
Classification: GENERAL ADMINISTRATION	Date Last Amended: 08/08/83; 12/12/89; 04/13/99
Subject: Travel	Approved By:

authorized, to the staff members' department manager, and to the Office Manager.

<h1>POLICY MANUAL</h1>	Date Adopted: July 18, 1983
Classification: GENERAL ADMINISTRATION	Date Last Amended: 08/08/83; 12/12/89; 04/13/99
Subject: Travel	Approved By:

8. All travel and entertainment related expenses and requests for reimbursement shall be submitted by the employee or director to the District bookkeeper on a “Statement of Expenses and Reimbursement” form together with appropriate expense receipts or statements.
9. All travel related expenses shall be summarized and reported to the Board of Directors each month, such reports listing the nature of the expense, the amount, the person incurring the expense and the date.
10. All transportation, lodging and meal expenses incurred on behalf of non-District employees, Directors or contractors shall be considered district expenses when they satisfy the requirements of paragraph number 1. All such expenditures shall be reported on, and submitted to the District bookkeeper on the “Statement of Expenses and Reimbursements” form and shall be reported to the Board of Directors pursuant to paragraph number 8.
11. All expenses reported to the Board shall be reviewed by it and approved or disallowed. Any expense disallowed by the Board of Directors must be immediately reimbursed by the individual incurring such expense.
12. The District shall provide one direct round trip economy or coach class ticket covering the required travel event necessitating air transportation. In general the least expensive form of travel (e.g., car, plane) shall be used, giving consideration to the event schedule and employee well being.
13. To the extent travel premiums, such as free rental car days and hotel stays are accrued in the District corporate account through payment by the District of such travel expenses, these premiums shall be used to reduce future District travel expenses.
14. An expense advance may be paid in cash, where determined appropriate. The balance of such advance, together with the required “Statement of Expenses and Reimbursement” form, shall be submitted to the District bookkeeper at the conclusion of the travel event.

<h1>POLICY MANUAL</h1>	Date Adopted: July 18, 1983
Classification: GENERAL ADMINISTRATION	Date Last Amended: 08/08/83; 12/12/89; 04/13/99
Subject: Travel	Approved By:

15. Matters not specifically addressed by District policy shall be considered by the Board of Directors on a case-by-case basis.