

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

INTRODUCED BY COUNCILMEMBER [IF APPLICABLE]

Resolution Authorizing The City Administrator To Execute An Indemnity Agreement With The East Bay Municipal Utility District (EBMUD) To Restore Water Service To Supply Lines That Service Caldecott Park Bathrooms, Ball Fields, And Fire Hydrants, Which Requires The City To Indemnify, Defend, And Hold EBMUD, Its Directors, Officers And Employees, Harmless From Any Claims, Including Attorney's Fees, Related To Leakage Or Failure Of The City's Water Service Lines After Service Is Restored- Except To The Extent Such Events Are Caused By EBMUD's Negligence, Recklessness Or Willful Misconduct

WHEREAS, In January of 2018, a major mudslide occurred near Caldecott Fields in the North Oakland Sports Complex. In an abundance of caution, EBMUD stopped the supply of water to the City of Oakland owned water supply lines; and

WHEREAS, The water supply lines provided service to Caldecott Park Bathrooms, Ball Fields, and Fire Hydrants. The city believed its water supply lines to be intact and requested the water lines be pressurized to demonstrate the water supply lines were intact and not affected by the collapse of the hillside below our water line location. EBMUD denied the request.; and

WHEREAS, In December of 2021, EBMUD agreed to allow the city to pressurize the water supply lines, the lines held pressure and the test results were accepted by EBMUD; and

WHEREAS, EBMUD will not restore water service unless the City agrees to fully indemnify EBMUD for any loss, injuries or damage that arise from City pipeline leaks (an "indemnification agreement"); and

WHEREAS, The proposed indemnification agreement would exclude loss, injuries or damage that result from failures of EBMUD's infrastructure that were the result of EBMUD's negligence or failure to maintain its infrastructure; and

WHEREAS, EBMUD has agreed to re-establish water service as soon as the City executes an indemnification agreement; and

WHEREAS, Restoration of water service to Caldecott Park is vital for activation of the sports fields, bathrooms and of primary importance to ensure fire suppression is available; and

WHEREAS, Oakland City Charter section 504, subsection (l) provides that the City Administrator may negotiate contracts for joint governmental actions, subject to Council's approval; and

WHEREAS, Adoption of the proposed resolution authorizes the City Administrator or designee to execute an indemnification agreement with EBMUD to restore the water supply to the pipelines servicing Caldecott Park and the North Oakland athletic fields; now, therefore, be it

RESOLVED: That the City Council hereby authorizes the City Administrator to Execute an Indemnity Agreement With East Bay Municipal Utility District (EBMUD) To Restore Water Service to Supply Lines that service Caldecott Park Bathrooms, Ball Fields, And Fire Hydrants; and be it

FURTHER RESOLVED: That The city construct a new waterline, the initial estimates are \$2,000,000 for an in-ground system. The City could also examine other less costly but not as effective above ground temporary methods to deliver water to Caldecott Fields; and be it

FURTHER RESOLVED: That the methods would not include the size and capacity of the six-inch pipe currently designed in the existing fire suppression system for the area; and be it

FURTHER RESOLVED: That the Indemnification Agreement shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –
ABSENT –
ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California