



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** G. Harold Duffey  
Director, Oakland Public  
Works Department

**SUBJECT:** Indemnification Agreement with  
EBMUD and the City of Oakland for  
Caldecott Sports Fields

**DATE:** March 24, 2022

City Administrator Approval

Date: Mar 24, 2022

## **RECOMMENDATION**

**Staff Recommends That City Council Adopt A 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.**

## **EXECUTIVE SUMMARY**

The City of Oakland (City) and East Bay Municipal District (EBMUD) have agreed to an indemnification agreement which would: (1) indemnify EBMUD for losses, injuries or damages that arise from water leaks from the City's pipelines and (2) allow the City's water pipelines to be supplied with water from EBMUD. Because the waterlines travel from connections to the water supply, across easements of other properties, EBMUD wants to ensure that if the water pipelines were to be damaged because of future mudslides or other causes, EBMUD not held accountable for losses, injuries or damage to property because of any water leaks from the City's water pipelines.

Oakland City Charter section 504, subsection (l) provides that the City Administrator may negotiate contracts for joint governmental actions, subject to Council's approval. 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 Caldicott Park and the North Oakland athletic fields.

Special City Council  
March 29, 2022

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## **BACKGROUND / LEGISLATIVE HISTORY**

In January 2018 a major mudslide occurred near Caldecott Fields in the North Oakland Sports Complex. EBMUD's Swainland Reservoir is in the hill area southwest of and adjacent to the Park. Most of the affected land on the hill is owned by Pacific Gas and Electric ("PG&E"). The City of Oakland has a utility easement through PG&E's property for the City's two water pipelines, a four-inch line for Caldecott Park's bathroom facilities and that irrigates the Park's athletic fields; and a second six-inch City pipeline that supplies water to two nearby fire hydrants.

Caldecott Park and its athletic fields are heavily used by Oakland residents, especially by Little League and soccer teams. Thus, water service is essential to maintaining the Park's fields and use of its bathroom facilities.

In an abundance of caution EBMUD discontinued use of its reservoir. EBMUD stopped the supply of water to the City of Oakland water supply lines that 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 the City's water pipeline location. EBMUD denied the request.

In December 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. EBMUD will not restore services unless the City agrees to fully indemnify EBMUD for any loss, injuries or damage that arise from City pipeline leaks (an "indemnification agreement"). 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.

EBMUD has agreed to re-establish water service as soon as the City executes the indemnification agreement. Restoration of service is vital for activation of the sports fields and of primary importance to ensure fire suppression is available.

## **ANALYSIS AND POLICY ALTERNATIVES**

The City could 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. However, 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.

**Adoption of the resolution aligns with Oakland's citywide policy for housing, economic, and cultural security by making sure water is restored to public bathrooms in the park and surrounding fire hydrants.**

The City needs to have the Water supply restored by early April to re-seed and fertilize the grass and to prepare and open the athletic fields and park facilities for recreational use. For example, Little League baseball season has already begun, soccer summer season is next, and spring warm weather has arrived. Additionally, Caldecott Park's and two fire hydrants need water service restored to provide fire protection to the area.

### **FISCAL IMPACT**

There is no direct fiscal impact.

### **PUBLIC OUTREACH / INTEREST**

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures because this is restoral of existing services.

### **COORDINATION**

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** The report supports the use of vital city recreation facilities that support community leagues and other organizations. The re-establishment of fire suppression services will continue to offer support for safe neighborhoods.

***Environmental:*** Reconnecting water services to Caldecott ball fields, also provides additional support to city grants, as a new trail project will be allowed to continue the project was stalled because construction crews need a water supply incase constructions activity results in a fire hazard. Reconnection of water services will enhance the aesthetics and make the city parks active and habitable.

***Race & Equity:*** The City provides park and recreation services throughout the community; this action will not provide new facilities or increase services in one area over another. Therefore, there are no Race and Equity opportunities associated with this report. The City will continue to analyze data related to park facilities and make adjustments to service plans and objectives as needed and approved by City Council.

Edward D. Reiskin, City Administrator

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**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That the City Council authorize 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.

For questions regarding this report, please contact G. Harold Duffey Public Works Director at (510) 238-4470.

Respectfully submitted,



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G. HAROLD DUFFEY  
Director, Oakland Public Works

Special City Council  
March 29, 2022

