

RESOLUTION NO. 35211-20

AUTHORIZE THE USE OF FLOW RESTRICTORS TO ENFORCE THE PAYMENT OF  
DELINQUENT ACCOUNTS FOR SINGLE FAMILY RESIDENCES

Introduced by Director Young ; Seconded by Director Mellon

WHEREAS, the government of the East Bay Municipal Utility District (District) is vested in the Board of Directors; and

WHEREAS, the Board of Directors is the legislative body of the District and determines all questions of policy; and

WHEREAS, Section 12811 of the Municipal Utility District Act (MUD Act) authorizes the Board of Directors to provide for the collection of fees, tolls, rates, rentals or other charges in any lawful manner and may provide for collection by action at law, and all remedies for the collection and enforcement thereof are cumulative and may be pursued alternatively or consecutively as the Board of Directors determines; and

WHEREAS, Section 12823 of the MUD Act authorizes the District to terminate water service for non-payment of delinquent accounts under specified circumstances; and

WHEREAS, the District adopted a policy of imposing water service terminations to enforce the payment of delinquent bills for single family residences; and

WHEREAS, in 2012, the state legislature enacted AB 685, which expressed the state-wide policy that every human being has the right to safe, clean, affordable and accessible water adequate for human consumption, cooking and sanitary purposes; and

WHEREAS, in 2019, the state legislature enacted SB 998, which expressed the legislative intent to minimize the number of Californians who lose access to water service due to inability to pay; and

WHEREAS, the District desires to better align its policies with the state-wide policies to minimize the number of Californians who lose access to water service due to inability to pay; and

WHEREAS, the District currently offers a variety of programs to assist customers to pay their water bills, and such programs consist of the Customer Assistance Program (CAP) that makes use of non-rate revenue to reduce costs, payment plans, payment extensions, Water Lifeline, leak adjustments, water audits, water conservation rebates, and distributing water saving devices to assist customers in managing the cost of water service; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in California in response to the COVID-19 pandemic; and

WHEREAS, on March 12, 2020, the District suspended water service terminations due to non-payment of water bills in response to the COVID-19 pandemic and subsequently on April 2, 2020, Governor Newsom issued Executive Order N-42-20, which imposed a state-wide moratorium on water service terminations for non-payment of water bills; and

WHEREAS, the COVID-19 pandemic has highlighted the importance of maintaining access to water for all District customers to maintain public health; and

WHEREAS, water service termination due to non-payment of water bills disproportionately affects low-income customers living in disadvantaged communities; and

WHEREAS, the District wishes to create a more progressive policy that utilizes flow restrictors as a means to enforce the payment of delinquent accounts for customers in single-family residences; and

WHEREAS, unlike water service termination as a means of enforcement of the payment of delinquent accounts for customers in single-family residences, flow restrictors would allow a customer, who has been delinquent in the payment for water service, to receive a minimal amount of water service sufficient for human consumption, cooking and sanitary purposes; and

WHEREAS, the District must ensure that the costs incurred by customers placed on flow restrictors for non-payment of delinquent bills shall not be subsidized by other customers or otherwise be implemented in a manner inconsistent with the requirements of Proposition 218; and

WHEREAS, the District intends that the installation of flow restrictors would meet two objectives by allowing customers sufficient water to meet basic needs while still enforcing the need to pay for their water bill;

NOW THEREFORE BE IT RESOLVED by the Board of Directors that staff shall implement flow restrictors as a means of enforcement of payment of delinquent accounts by customers in single-family residences and that such implementation shall not occur until the state of emergency declared on March 4, 2020 by Governor Newsom has been lifted.

BE IT FURTHER RESOLVED that in preparation for implementation, the Board of Directors shall direct staff to review and amend all applicable regulations and processes to:

1. Ensure customer support programs including financial assistance, water conservation, and customer outreach efforts are comprehensive and are reaching customers most in need of assistance.

2. Implement the use of flow restrictors as an additional collection strategy to enforce the payment of delinquent accounts by customers in single-family residences and after the District has exhausted all available means of offering financial assistance.
3. Expand the District's lien program as provided for under Section 12811.1 of the MUD Act to owner-occupied single-family residences.
4. Ensure that costs incurred by customers placed on flow restrictors are not subsidized by other customers by increasing its debt collection efforts and by placing the delinquent account in collections no later than three months after the installation of a flow restrictor and continued non-payment of delinquent accounts.
5. Ensure adequate notice to customers of impending installation of flow restrictors.

BE IT FURTHER RESOLVED that the Board of Directors shall direct staff to report the progress of the implementation of flow restrictors at the February 9, 2021 meeting of the Board of Directors as part of the staff report on the progress of the CAP.

ADOPTED this 8<sup>th</sup> day of December, 2020 by the following vote:

AYES: Directors Coleman, Katz, Linney, McIntosh, Mellon, Patterson and President Young.

NOES: None.

ABSENT: None.

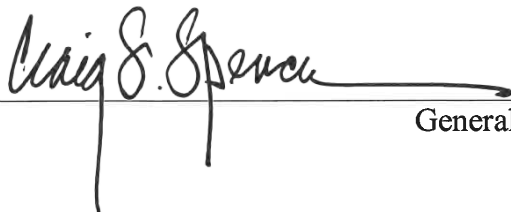
ABSTAIN: None.

  
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 President

ATTEST:

  
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 Secretary

APPROVED AS TO FORM AND PROCEDURE:

  
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 General Counsel