



DATE: March 20, 2023

TO: President and Members of the Estero Municipal Improvement District (EMID) Board of Directors

VIA: Stefan Chatwin, City/District Manager  
Marlene Subhashini, Assistant City/District Manager

FROM: Sofia Mangalam, Community Development Director

DEPARTMENT: Community Development

SUBJECT: WATER NEUTRALITY GROWTH POLICY FRAMEWORK

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### RECOMMENDATION

It is recommended that the EMID District Board approve the attached Resolution (Attachment 1) directing staff to prepare an Ordinance implementing Water Neutrality Growth Policy framework; 2) appropriating \$26,955 from Account No. 128 to Account No. 128-0845-419-4251 to pay for the cost proposal by Maddaus to assist in preparing the Ordinance; and 3) finding the approval of the Resolution exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15262, 15061(b)(3) and California Water Code section 10652.

### EXECUTIVE SUMMARY

The City of Foster City prepared a [Water Capacity Study \(WCS\)](#) to inform the development of a Water Supply Assessment (WSA) for the 6th Cycle (2023-31) Housing Element Update to accommodate 1,896 housing units including a buffer, Safety Element Update and associated General Plan and zoning amendments. The WCS concluded that EMID's water supplies are, or will be, insufficient during single-dry and multiple dry water years to meet the future housing units planned for in the 6<sup>th</sup> Cycle Housing Element Update. Per Water Code Section 10911, EMID must consider this projected water supply insufficiency and provide the City with its plans to acquire and develop additional water supplies when it considers the Housing Element. Prior to the issuance of future development project entitlements, utility analyses shall be performed by the project

developer to determine whether the existing infrastructure has adequate water supply capacity to deliver the needed water to support the proposed development project site(s).

EMID has been and will continue to implement water demand management measures to address supply shortfalls by reducing existing potable demand and explore opportunities to use recycled water.

The State's mandate that the City plan for its fair share of the regional housing needs over the next eight (8) years as part of the RHNA Cycle 6 and the inadequate water supply to support housing is a burdensome challenge. Thus, in order to reduce the future demand for water from new growth or expanded redevelopment projects, the Draft Environmental Impact Report (EIR) prepared for the Housing and Safety Element identified a Water Neutral Growth Policy as a mitigation measure ([see Page 29 of Draft EIR](#)).

## **BACKGROUND**

The EMID service area consists of the City of Foster City and a portion of the City of San Mateo immediately adjacent to the west, referred to as the Mariners Island area. EMID's customers are mostly residential with a broad cross-section of offices, commercial businesses, biotech research and development businesses, and a small number of industrial businesses.

EMID purchases all of its potable water from the San Francisco Public Utility Commission (SFPUC) Regional Water System (RWS) as a contractual member of the Bay Area Water Supply and Conservation Agency (BAWSCA), which represents the 26 member agencies that purchase wholesale water supplies from the SFPUC. EMID receives the already-treated water from SFPUC and distributes it to its customers. As a retailer, EMID has no direct control over its water supply and treatment and relies solely on SFPUC.

The City has been working on a Program EIR for the 6<sup>th</sup> Cycle Housing Element Update in accordance with CEQA, implementing the CEQA Guidelines, relevant case law, and City procedures. Per Water Code Section 10912, a WSA is required for a proposed residential development of more than 500 dwelling units.

The City prepared the WCS to inform the development of WSA, which concluded that there is not "sufficient water supply" (per Government Code 664737.7 (a)(2)) available to meet the demands of the 2023-2031 Housing Element, in addition to the existing and planned future uses evaluated in this WCS, during single-dry and multiple dry water years within a 20-year projection (per Senate Bill (SB) 610, the WSA should include a 20-year projection).

EMID is coordinating with the City of San Mateo, SFPUC, and BAWSCA to assess potential options for producing and using recycled water in the future to assist with offsetting future potable water demand from new developments and/or redevelopment of existing sites. Recently, EMID updated its Water Shortage Contingency Plan (WSCP)

and will continue to invest in and implement ongoing and long-term demand management measures. A long-term demand management measure for EMID identified in DEIR is a Water Neutral Growth Policy for all new development(s), redevelopment, or changes in use .

## ANALYSIS

The estimated net demand from the 6<sup>th</sup> Cycle Housing Element Update, in addition to the net demand from the existing and planned future uses evaluated in the WCS, will exacerbate EMID's existing projected supply shortfall during single and multiple dry years. EMID has recently updated its WSCP along with the 2020 Urban Water Management Plan (UWMP) update, which will further reduce demand during dry years, but additional measures will be required to offset future water demands from new development such as the 'Water Neutrality Growth Policy' (Policy) framework. The proposed Policy framework is attached as Exhibit A to the Resolution.

The proposed Policy framework would require new development(s), redevelopment, or changes in use within the EMID service area that will require a new water service from EMID or will increase water demand above the existing water demand level to offset the projected new water demand with water efficiency/conservation/retrofit measures to create a neutral (or net zero) impact on the overall site (or account) water use demand.

EMID staff would provide the applicant with the existing property's Baseline Water Demand which is the average water use over the previous five years from the date the building permit application was submitted. Where no water data is available, the Baseline Water Demand would be the five-year average of properties in the same customer class as the existing use or previously existing use with the same meter size, as determined by EMID staff. The applicant will then provide Projected Water Demand to determine 'New Water Demand' as shown below.

### ***New Water Demand = Baseline Water Demand – Projected Water Demand***

If a proposed project shows New Water Demand i.e. if the Projected Water Demand exceeds the 'Baseline Water Demand', the applicant will propose onsite and/or offsite water efficiency/conservation/retrofit measures to offset the new water demand. Onsite measures could include using alternative water sources such as graywater or rainwater, instant hot water heaters, Pressure Reducing Valves (PRVs) to prevent the higher pressure from rupturing valves or pipes, etc. Offsite measure could include direct installation of ultra-high-efficiency toilets and other plumbing fixtures, turf replacement, and commercial, institutional, industrial appliance upgrades within the EMID service area.

The Policy framework would serve as the direction from the EMID Board to staff to prepare an Ordinance that sets forth regulations that offset the New Water Demand with water efficiency or conservation measures to create a neutral (or net zero) impact on the overall site (or account) water use demand in accordance with Water Code section 10911.

Staff contacted three (3) Consulting firms, including Maddaus, EKI Environment & Water, Inc. and Water Resources Engineer, Inc., requesting proposals for the development of the Water Neutrality Growth Ordinance. Staff received responses from Maddaus and EKI as included in Table 1 below:

Table 1: Comparison of proposals

Consulting Firm	Cost Estimate
EKI	\$44,600
Maddaus	\$26,955

Staff evaluated both the proposals and after thorough deliberation and based on the qualifications and experience, has decided to award the agreement to Maddaus for the development of the EMID Water Neutrality Growth Ordinance. It shall be noted that Maddaus is the subconsultant for the Housing and Safety Element EIR and has prepared both the WCS and WSA.

The City has a purchasing policy under which if the contract amount is between \$10,000-\$50,000, the City Manager is authorized to approve. Given that Maddaus' proposal is \$26,955 (under the \$50,000), the City Manager will be authorized to approve the agreement. However, staff is requesting that the City Council approve the appropriation of \$26,955 from General Fund Account No. 128 to Account No. 128-0845-419-4251 to pay for the cost proposal by Maddaus to assist in preparing the Ordinance.

Staff will work with Maddaus to develop an Ordinance to include regulations for proposed projects to achieve a net zero impact on water use. The Ordinance will be brought for EMID Board of Directors' consideration and adoption in a future meeting date.

Development of the Ordinance would codify the Policy framework and guidelines would be developed to provide applicants with clear implementation steps.

## CEQA

The adoption of the attached Resolution directing staff to prepare an Ordinance consistent with the Policy framework is categorically exempt under the California Environmental Quality Act pursuant (CEQA) pursuant to CEQA Guidelines Section 15262 (Feasibility and Planning Studies), California Water Code section 10652 (Urban Water Management Planning) and under the "common sense" exception (14 Cal. Code Regs. § 15061(b)(3)) because it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment.

The Policy framework is also mitigation measure Impact SVCS-1 identified in the DEIR for the City's Housing Element Update.

## FISCAL IMPACT

There is no fiscal impact for preparation of this Policy framework except for staff time spent on preparation of the Policy framework. However, as noted previously, the preparation of the Ordinance would require an appropriation of \$26,955 from the General Plan maintenance Fund Account 128 to Account No. 128-0845-419-4251 to pay for the cost proposal by Maddaus. The associated fiscal impact regarding the enforcement of the Ordinance would be discussed during the approval of the Ordinance at a future meeting.

## CITY COUNCIL VISION, MISSION, AND VALUE/PRIORITY AREA

Smart Planning, Development, and the Local Economy

## ATTACHMENTS:

Attachment 1 – EMID Resolution with Exhibit A

Attachment 2 – Proposal by Maddaus