IT IS THE POLICY OF EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Ensure the District can respond to and recover from emergencies and disruptive incidents. The District will create and maintain an active Emergency Preparedness Program that includes an Emergency Operations Plan (EOP) written and administered to help manage the District's critical operations during any emergency and protect people, property, and the environment. The District will coordinate the emergency planning and response with federal, state, and local agencies and private entities charged with emergency duties. The District will also create and maintain a Business Continuity Program Plan (BCPP) to minimize impacts to critical business functions and enhance its capability to recover operations expeditiously and successfully following a disruptive incident.

The EOP and BCPP will include provisions to:

- Make employee and community life safety the highest priority.
- Anticipate, prevent, protect against, and mitigate the greatest risks to the extent practicable.
- Periodically review the plans and incorporate lessons learned from exercises, incidents, and industry.
- Comply with all applicable legal requirements and be consistent with state and federal guidance.

Emergency

An emergency includes actual or threatened existence of conditions of disaster or extreme peril to critical District operations, its infrastructure, and/or the health and safety of staff or the public. These conditions may be caused by an earthquake, power outage, dam failure, freeze, water supply contamination, national security incident, storm event, and other conditions that may be beyond the capability of District forces and may require support from other government agencies, non-profit organizations, or the private sector.

An exigency is something that is necessary in a particular situation that requires or demands immediate aid or action. An emergency is an unexpected and unusually dangerous situation that calls for immediate action or urgent need for assistance or relief.

A key distinction between “emergency” and “exigency” is an emergency will typically involve a threat to life, public health or safety, improved property, and/or some other form of dangerous situation whereas an exigency is not necessarily so limited. The Federal Emergency Management Agency's (FEMA's) determination of whether an emergency or exigency exists is not based on whether the Board declared an emergency, only the facts surrounding the situation.

Emergency Preparedness Program

The District's Emergency Preparedness Program shall include an EOP written and administered in accordance with the guidelines of the National Response Framework (NRF), the National Incident Management System (NIMS), and the California Standardized Emergency Management System (SEMS). In accordance with NIMS and SEMS, the Emergency Preparedness Program will consist of five areas of readiness: prevention, protection, mitigation, response, and recovery. The EOP will describe the District's emergency response organization based on NIMS; include guidelines for identifying and training District staff in NIMS; designate District staff to critical positions identified in the EOP, and designate staff to represent the District in negotiations or consultations with public and private agencies on matters pertaining to response to the emergency and recovery of damaged systems and financial costs. The Regulatory Compliance Office will facilitate progress on this program.
Authorization of Contracts During District Emergency Response and Reporting of Emergency Contracts

When an emergency condition arises that necessitates immediate action to minimize damage and inconvenience resulting from such condition, the General Manager or his or her designee, in consultation with the President of the Board of Directors or their designee, may declare a District emergency. The Board may also declare a District emergency under the Municipal Utilities District Act (Public Utilities Code) Section 12753. The General Manager or his or her designee is authorized, after a District-declared emergency, to enter into emergency contracts not to exceed $350,000, per contract, without bids or notice during the emergency response period. The Board shall meet to ratify the declaration of emergency by the General Manager as soon as possible after the declaration, but no later than 14 days following such declaration.

At the next regular or special meeting of the Board of Directors following such emergency, a report shall be made to the Board of Directors summarizing contracts executed in response to said emergency. Periodic reports on the status of response and additional contracts shall be provided to the Board of Directors until the emergency is concluded. The emergency declaration will remain in effect until formal Board action is taken to conclude the emergency.

Note that under federal law (2 C.F.R, 200.320(f)(2)) for procurement that may be reimbursed by the federal government, procurement by noncompetitive proposals through solicitation of a proposal from only one source may be used only when a public exigency or emergency will not permit a delay resulting from competitive solicitation.

Emergency Operations Director

The District’s EOP will identify a District Director or member of the Senior Management Team (SMT) to serve as the Emergency Operations Director (EOD) who will have the authority for developing plans, training staff and managing the District’s response to an emergency through the Emergency Operations Team (EOT). The EOT will be structured consistent with the NIMS in sections managed by Section Chiefs. In consultation with the General Manager, the EOD will identify staff to fulfill the planning and response duties listed in the EOP. As the need arises, the EOD may direct all staff or material resources of the District to combat the effects of a threatened, declared or actual emergency. In an emergency, the EOD may delegate approval authority to the EOT Section Chiefs up to $80,000 for material purchases and up to $30,000 for services.

The EOD or his or her designee is authorized to take all necessary action to apply for incoming state or federal resources and to represent the District in requesting/negotiating for the needed resources.

Mutual Aid/Assistance

The General Manager, EOD, and their designees, in accordance with the EOP, may either request mutual aid/assistance from other local government agencies, including public and private water and wastewater utilities, or commit District resources to other agencies requesting aid. The General Manager may sign appropriate documents to implement mutual aid/assistance, emergency interties, and other emergency response agreements.

Business Continuity Program

The District provides products and services that support the economic, human, and environmental health of the East Bay. Therefore, the District must have a program that facilitates the performance of essential functions during an emergency situation that disrupts normal operations and/or the timely resumption of normal operations once the emergency has ended. The District will maintain a BCPP consistent with federal, state, and industry guidance that provides the overall framework for the program and outlines the basic priorities for recovery of business functions in
individual departmental or division Business Continuity Plans (BCPs). The Regulatory Compliance Office will manage the program and maintain the BCPP. Individual BCPs outline the critical functions that must be performed before, during, and after an event; identify the personnel responsible for completing the necessary actions; and list the vital records, equipment, supplies, tools and systems required to accomplish the identified tasks. The departments are responsible for ensuring that their BCPs are maintained, employees trained, plans tested, and their vital records necessary to maintain operations are available. Vital records include all information and records that if lost, would place significant financial, operational, or legal restrictions on the continuation of District services.

**Continuity of Management**

All of the District’s BCPs, including that of the Office of the General Manager, will designate up to three successors to serve in the event there is an activation of the EOT so day-to-day operations may continue. In the event the primary critical staff person is unable to respond to an emergency, the designee, in the order listed, may assume all the duties and powers of the primary critical staff person.

**Status Reports**

The General Manager will provide periodic Emergency Preparedness Program and Business Continuity Program progress reports to the Board of Directors, as necessary, and the District’s response to a declared District emergency, when applicable.

**Board of Directors Succession Plan**

Each Board Member shall designate no more than three Standby Officers to serve in his or her place in the event of the Board Member’s unavailability in an emergency, as defined by the California Emergency Services Act (CESA). Upon appointment by the Board through a Board Resolution, the Standby Officer shall take the oath of office, remain informed of the duties, District business, and be prepared to immediately report for duty during an emergency. The General Manager will determine the availability of the Board Members in an emergency. The Board will fill the vacancies in accordance with the Municipal Utility District Act and CESA within 60 days of the effective date of the vacancy. Details of this process will be documented in the General Manager’s BCP. The list of Standby Officers shall be approved by Board Resolution and reviewed on an annual basis.

**Authority**

Resolution No. 33014-96, November 12, 1996
As amended by Resolution No. 33027-02, September 24, 2002
As amended by Resolution No. 33460-05, February 8, 2005
As amended by Resolution No. 33564-06, November 14, 2006
As amended by Resolution No. 33703-09, February 24, 2009
As amended by Resolution No. 33793-10, November 23, 2010
As amended by Resolution No. 33904-12, November 27, 2012
As amended by Resolution No. 33941-13, September 24, 2013
As amended by Resolution No. 34052-15, September 22, 2015
As amended by Resolution No. 34094-16, July 26, 2016
As amended by Resolution No. 35037-17, May 23, 2017
As amended by Resolution No. 35098-18, June 26, 2018
As amended by Resolution No. 35156-19, September 24, 2019
References

Business Continuity Program Plan
California Emergency Services Act (CESA), Government Code 8635 et seq.
District Emergency Operations Plan
FEMA Procurement Guidance
Municipal Utility District Act – Section 12753
National Incident Management System
National Preparedness Goal
National Response Framework
Policy 7.13 – Security
Procedure 415 – Emergency Purchases
Standardized Emergency Management System