

**DIABLO COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS  
EMERGENCY MEETING AGENDA  
TELECONFERENCE VIA THE APPLICATION ZOOM  
JANUARY 4, 2023, 2:30 P.M.**

**MEETING PROCEDURE**

*Pursuant to California Assembly Bill 361, the Diablo Community Services District is authorized to hold public meetings remotely and to make those meetings accessible to all members of the public seeking to observe and to address the Board by remote means. All members of the public seeking to observe and/or address the Board may participate in the meeting in the manner described below. This meeting can be viewed using the Zoom platform:*

**ZOOM WEBSITE:**     <https://zoom.us/j/4680449859>

**MEETING ID:**        **468 044 9859**

**FOR AUDIO PARTICIPATION ONLY:** Call **(346) 248-7799** or **(669) 900-9128** and enter Meeting ID# 468 044 9859 followed by the pound (#) key.

To submit public comments before the meeting, email [generalmanager@diablocsd.org](mailto:generalmanager@diablocsd.org)

**CALL TO ORDER:**            **President:**     **Kathy Urbelis**

**ROLL CALL:**                **Secretary:**

**Directors:**            **Urbelis, Cox, Lorenz, Slavonia, Chartier**

**PUBLIC COMMENTS:** *Public comments will be taken on any subject including items on this agenda and are limited to 3 minutes per person when speaking in English, and 6 minutes per person when using a translator. Comments by the audience are not intended to result in a dialogue between members of the audience or between the audience and the Board. Please note that under Brown Act regulations, no member of the Board may engage in any discussion, other than a brief comment or request for clarification, of any item raised by any member of the audience unless that item is included as an agenda item.*

**1.     BOARD/STAFF COMMUNICATION AND ACTIONS:**

Consider and declare the existence of an emergency pursuant to Government Code section 54956.5, Public Contract Code section 22050, and DCSD Ordinance 2021-01 (Ord. Code Title 7, section 7.1(C)(6)), and authorize the General Manager and Roads Commissioner to make emergency repairs to Alameda Diablo including the surface of the road and structural support system estimated to be \$500,000.

**2.     CALL OF NEXT MEETING & ADJOURNMENT:**

The next DCSD Regular Board meeting is scheduled for January 10, 2023, at 7:30 p.m. via Zoom.

Diablo Community Services District by  
Kathy Torru, General Manager  
[generalmanager@diablocsd.org](mailto:generalmanager@diablocsd.org)

DCSD Board Meetings are accessible to people with disabilities and others who need assistance. Individuals who need special assistance or a disability-related modification or accommodation (including auxiliary aids or services) to observe and/or participate in this meeting; or who have a disability and wish to request an alternative format for the agenda, meeting notice, agenda packet, or other writings that may be distributed at the meeting should contact the General Manager at least one working day before the meeting at (925) 683-4956 or [generalmanager@diablocsd.org](mailto:generalmanager@diablocsd.org). Notification in advance of the meeting will enable the District to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Public records that relate to any item on the open session agenda are available for public inspection by contacting the General Manager and on the District's website <http://diablocsd.org>.

## STAFF REPORT

**DATE:** January 4, 2023  
**TO:** DCSD Board Members  
**FROM:** Kathy Torru, General Manager  
**RE:** Emergency repair of Alameda Diablo

---

### Background

Government Code section 54956.5 allows the Diablo Community Services District (District) to hold an emergency meeting to discuss matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. The District called such an emergency meeting following the unprecedented storms caused by an atmospheric river that hit Northern California, including the Bay Area, over the New Year's holiday.<sup>1</sup>

Given that the District's territory is located at the base of Mt. Diablo and the terrain of the District – including creeks and ditches – can be problematic in the event of heavy rain, several properties in the District experienced flooding and other water-intrusion issues during the storm. Significantly, water breached the culvert near Club House Road and Calle Arroyo and the banks of an area of Dan Cook Creek have receded such that the District needs to evaluate the integrity of Alameda Diablo Road. As to the former problem, the District dispatched work crews to remove debris. As to the latter, the District immediately engaged ENGEO Engineering to assess the situation, blocked off Alameda Diablo between Avenida Nueva and Caballo Ranchero, and sent various emails to residents directing vehicular traffic away from this segment of the road.

The District is aware that a second atmospheric river and more wet weather is imminent per recent reports.<sup>2</sup>

### DISCUSSION

Generally, the District is required to comply with public bidding requirements set forth in the Public Contract Code and its Ordinance Code. However, in order to repair the segment of Alameda Diablo and make the road safe, particularly for emergency response vehicles, the Public Contract Code and the District's Ordinance Code allow the Board to determine that there is an emergency that will not allow for the delay caused by the regular competitive bid process, and that District action is necessary to respond to that emergency. The law requires that the Board make these findings by a 4/5 vote (i.e. a supermajority).

Based on the facts set forth in the Background section above and the urgency to get repairs underway so that more damage is not done to the road during the forecasted storms, staff recommends that the Board authorize the General Manager and the Roads Commissioner (Matt Cox) to further engage ENGEO and/or the qualified contractor(s) necessary to make

---

<sup>1</sup> See "Northern California sees historic deluge as atmospheric river slams state," January 2, 2023, Washington Post: <https://www.washingtonpost.com/weather/2023/01/01/san-francisco-flooding-rainfall-record/> (last accessed 1/2/23).

<sup>2</sup> See fn 1, *supra*. See also "More showers coming Monday to Bay Area, powerful storm later this week," January 2, 2023, San Francisco Chronicle: <https://www.sfchronicle.com/weather-forecast/article/showers-storm-bay-area-17689196.php> (last accessed 1/2/23).

the repairs. At this time, the repairs are estimated to be approximately 500,000. In accordance with the Public Contract Code, if the Board takes the recommended action and makes this authorization, the Board will be asked at its next regular meeting to review the emergency and determine whether there is a need to continue the authorized action.

Alternatively, the Board would need to direct staff to prepare a public bidding package for this work. This action is not recommended because of the significant delay that would be involved with that process as well as the continued health and safety concerns associated with leaving the road in its current state.

### **RECOMMENDATION**

Adopt the attached Resolution No. 2023-01 declaring an emergency and authorizing the General Manager and Roads Commissioner to make emergency repairs to Alameda Diablo including the surface of the road and structural support system, estimated to be \$500,000.

## RESOLUTION NO. 2023-01

### RESOLUTION OF THE DIABLO COMMUNITY SERVICES DISTRICT DECLARING AN EMERGENCY AND AUTHORIZING THE GENERAL MANAGER AND ROADS COMMISSIONER TO MAKE EMERGENCY REPAIRS TO ALAMEDA DIABLO INCLUDING THE SURFACE OF THE ROAD AND THE STRUCTURAL SUPPORT SYSTEM

**WHEREAS**, between December 25, 2022 and January 2, 2023, the Bay Area endured a winter storm system known as an atmospheric river that inflicted severe damage to various properties within Diablo; and

**WHEREAS**, the storm system damaged a section of Alameda Diablo Road between Avenida Nueva and Calle Arroyo such that the road may be unsafe for vehicles, including emergency response vehicles; and

**WHEREAS**, the District has engaged qualified engineers and consultants to assess and evaluate the necessary repairs; and

**WHEREAS**, staff is of the opinion that the repairs need to be made as soon as possible in order to ensure the general health, safety, and welfare of the residents, guests, and emergency personnel; and

**WHEREAS**, staff is of the opinion that adherence to bidding procedures set forth in Title 7 of the District's Ordinance Code would result in unacceptable delays that could further compromise the health, safety, and welfare of residents, guests, and emergency personnel; and

**WHEREAS**, Title 7 and the Public Contract Code provide an exception to the bidding requirements when an emergency arises, and Section 1102 of the Public Contract Code defines emergency as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring action to prevent or mitigate the loss or impairment of life, health or property, and the circumstances surrounding the sudden failure of Alameda Diablo and lack of safe use of and access via Alameda Diablo constitutes such an emergency; and

**WHEREAS**, Section 20168 of the Public Contract Code provides that in the case of an emergency, the District, by four-fifths vote, may pass a resolution declaring that the public interest and necessity demand the immediate expenditure of public funds to safeguard life, health and property, and that such monies may be expended without compliance with mandatory contract bidding procedures; and

**WHEREAS**, there is substantial evidence, including evidence in the staff report accompanying this Resolution, demonstrating that this emergency will not permit a delay resulting from a competitive solicitation for bids and that District action is required to respond to ensure public health, safety, and welfare; and

**WHEREAS**, based on consultation with professional engineers, staff estimates that the repairs necessary to address the emergent situation are \$\_\_\_\_\_ and recommends that the Board authorize the General Manager and Roads Commissioner to contract with ENGeo and any other entity required to complete the necessary repairs.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

**Section 1. Recitals.** The foregoing recitals are true and correct; the recitals are hereby incorporated by reference into each of the findings as though fully set forth therein. The recitals and the information below constitute findings in this matter and serve as an adequate and appropriate evidentiary basis for the findings and actions set forth herein.

**Section 2. Findings.** The Board hereby further finds the following: an emergency situation as described in both Title 7 of the District's Ordinance Code and Public Contract Code Section 1102, exists with respect to the need to take immediate action to maintain, repair, and rehabilitate Alameda Diablo Road so as to ensure the health, safety, and welfare of residents and users of the road. The Board further finds, pursuant to Title 7 of the District's Ordinance Code and Public Contract Code Section 20168, that the public interest and necessity demands the immediate obligation of funds to maintain, repair and rehabilitate Alameda Diablo and that emergency will not permit a delay resulting from a competitive solicitation for bids and that District action is required to respond to ensure public health, safety, and welfare.

**Section 3. Authorization.** The Board hereby authorizes the General Manager and Roads Commissioner to contract with ENGEO and any other necessary contractor to complete the repairs to Alameda Diablo including to the road surface and structural support system currently estimated to cost \$500,000.

**Section 4. CEQA.** This action is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15331 ("Existing Facilities") because it involves the repair of existing roads and structural support systems.

**Section 4. Effective Date.** This Resolution shall take effect on and after its adoption.

\* \* \* \* \*

The foregoing Resolution was adopted by the Board of Directors of the Diablo Community Services District on January 4, 2023.

Adopted by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Attest:

---

Kathy Urbelis, President of the Board

---

Kathy Torru, General Manager