



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 03/06/07
AGENDA ITEM 2
WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Approval of Amendment to EBDA Joint Exercise of Powers Agreement

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolution authorizing the City Manager to sign an amendment to the East Bay Dischargers Authority Joint Exercise of Powers Agreement.

BACKGROUND:

Hayward is a member agency of the East Bay Dischargers Authority (Authority), which also includes the City of San Leandro, Oro Loma Sanitary District, Castro Valley Sanitary District, and Union Sanitary District. The Authority is governed by a Joint Exercise of Powers Agreement (JPA) that was first approved in 1974.

The bidding and contracting procedures specified in the JPA have not changed since 1974 and currently require formal bidding for all projects greater than \$15,000. There are provisions in the Government Code that raise that level to \$100,000. Revising the JPA has the potential to create cost-savings to the Authority's member agencies. The Authority Commission considered the issue at its February 15, 2007 meeting and unanimously approved a minor modification to the JPA to provide for more efficient bidding and procurement procedures. The Commission further authorized the EBDA General Manager to forward the revised JPA to the member agencies for their approval.

The following table indicates the specific changes that the modification will provide:

Current JPA	Modified JPA
<ul style="list-style-type: none">• Formal bidding for all projects greater than \$15,000	<ul style="list-style-type: none">• Purchase order for projects of \$25,000 or less• Informal bid procedure for projects between \$25,000 and \$100,000• Formal bidding for projects more than \$100,000

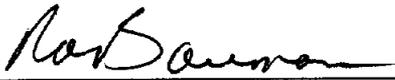
In order for the JPA to be modified, it must be approved by each of the Authority's member agencies. Therefore, it is requested that the Council approve the amendment and authorize the City Manager to sign the document. The language that has been added to Section 5, Powers, of the JPA is shown in the attachment.

Prepared by:



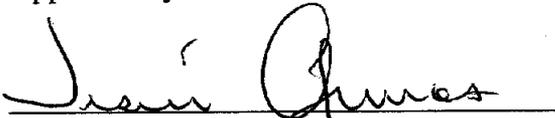
Alex Ameri, Deputy Director of Public Works/Utilities

Recommended by:



Robert A. Bauman, Director of Public Works

Approved by:



Jesús Armas, City Manager

Attachment: Exhibit A: Revised JPA Language

Section 5. Powers

The Authority shall have power to plan for, acquire, construct, manage, maintain, operate, and control facilities for the collection, transmission, treatment, reclamation, sale and disposal of wastewater and to enter into contracts to provide services to other governmental or non-governmental entities within or outside its boundaries. It shall also have the power to plan for, prepare studies and reports, and make recommendations for proper wastewater management.

The Authority is hereby authorized, in its own name, to perform all acts necessary for the exercise of said powers, as allowed by law, including but not limited to any or all of the following:

- (a) to make and enter into contracts;
- (b) to apply for and accept grants, advances and contributions;
- (c) to employ or contract for the services of engineers, attorneys, planners, financial consultants, fiscal agents, and such other persons as it deems necessary;
- (d) to make plans and conduct studies;
- (e) to acquire, construct, manage, maintain, operate, and control any building, works, or improvements;
- (f) to acquire, hold or dispose of property;
- (g) to sue and be sued in its own name;
- (h) to incur debts, liabilities, or obligations, subject to limitations herein set forth;
- (i) to establish rates, tolls, fees, rentals, or other charges in connection with the facilities and services provided by the Authority;
- (j) to develop and adopt policies and procedures for the conduct of business of the Authority;
- (k) to plan for, acquire land or rights of way for, construct, operate, or maintain an Agency's Sole-Use Facilities when specifically requested by that Agency, or when necessary to meet joint discharge requirements, subject to the provisions of Section 20 hereof; and

- (l) to accept ownership of the reclaimed water turn-out on the Alvarado to Hayward Force Main along with other necessary control facilities and provide reclaimed water to EBRPD for the Hayward Marsh Project

The above powers are subject to the restrictions upon the manner of exercising said powers set forth in the Sanitary District Act of 1923, as amended, being Sections 6400 et seq of the California Health and Safety Code and Sections 20800 et seq of the Public Contracts Code. Notwithstanding any of the above-described provisions, the Authority is empowered to utilize the Alternative Procedure described in Division 2, Part 3, Chapter 2, Article 3 (commencing with Section 22030) of the California Public Contracts Code regarding contracting for public projects.

The Authority shall have the additional power and authority to issue Grant Anticipation Notes and to issue revenue bonds in accordance with the following laws:

- (a) Article 2, Chapter 5, Title 1, Division 7 of the California Government Code, commencing with Section 6540.
- (b) Chapter 6, Title 5, Division 2 of the California Government Code commencing with Section 54300.

DRAFT

*NH
2/28/07*

HAYWARD CITY COUNCIL

RESOLUTION NO. 07-

Introduced by Council Member _____

**RESOLUTION APPROVING A MODIFICATION TO THE
EAST BAY AUTHORITY'S SECOND AMENDED JOINT
EXERCISE OF POWERS AGREEMENT AND
AUTHORIZING THE CITY MANAGER TO EXECUTE
THE AGREEMENT AS AMENDED**

BE IT RESOLVED that the City Council of the City of Hayward hereby approves the amendment to the East Bay Authority's Second Amended Joint Exercise of Powers Agreement which allows for purchase orders on projects of \$25,000 or less; informal bid procedures for projects between \$25,000 and \$100,000; and formal bidding for projects more than \$100,000.

BE IT FURTHER RESOLVED that the City Manager of the City of Hayward is hereby authorized and directed to negotiate and execute on behalf of the City of Hayward the amendment to the East Bay Authority's Joint Exercise of Powers Agreement, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2007

ADOPTED BY THE FOLLOWING VOTE:

**AYES: COUNCIL MEMBERS:
MAYOR:**

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

**ATTEST: _____
City Clerk of the City of Hayward**

APPROVED AS TO FORM:

City Attorney of the City of Hayward