



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 07/10/07

AGENDA ITEM 5

WORK SESSION ITEM _____

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Water System Intertie Project: Authorization for the City Manager to Execute Amendments to the Agreements for Design Services and Construction, and for Operation and Maintenance

RECOMMENDATION:

It is recommended that the City Council adopt the attached resolutions authorizing the City Manager to:

1. Execute Second Amendment to Joint Exercise of Powers Agreements (JPA) for design services and construction; and
2. Execute First Amended Joint Exercise of Powers Agreements (JPA) for long term operation and maintenance.

BACKGROUND:

In September 2002, a feasibility study of a regional water system intertie between Hayward, Alameda County Water District (ACWD), East Bay Municipal Utility District (EBMUD), and San Francisco Public Utilities Commission (SFPUC) was initiated. The study evaluated the viability of conveying treated water between the EBMUD and SFPUC systems using existing and proposed facilities in the City of Hayward in the event that a serious disruption in water supply capacity occurs. The study determined that the project was feasible and recommended construction of an intertie pump station in the City of Hayward and approximately 1.5 miles of pipeline to connect the SFPUC and EBMUD water systems. On April 8, 2003, the Council approved the project and authorized the City Manager to execute Joint Exercise of Powers Agreements (JPA) for design and construction services and for long term operation and maintenance of the project.

The intertie project facilities are located primarily in Hayward. The pump station ("Skywest" Pump Station) was constructed on Hayward Executive Airport property at Hesperian Boulevard and Skywest Drive. The pipeline connecting the Skywest Pump Station and the EBMUD and SFPUC systems is located along Golf Course Road, Skywest Drive, and Hesperian Boulevard. The City was the lead Agency on the environmental review process. The City also has been managing the design and construction process. At this time, the project is essentially complete, except for some final operational testing that should be completed by the end of the month. Contract closeout activities will follow the operational testing.

Joint Exercise of Powers Agreement for Design and Construction Services: Under the existing terms of the agreement, EBMUD and SFPUC each deposited one-half of the design and construction cost of the project, totaling just over \$16 million. The City continues to oversee both design and construction aspects of the project and to contribute staff resources for the management and administration of the design and construction contracts. The services contributed by the City have totaled approximately \$125,000.

Joint Exercise of Powers Agreement for Operations and Maintenance: Under the existing terms of the agreement, the City has the sole authority and responsibility for operations and maintenance of the facility. This is primarily because activation of the intertie could impact water service in Hayward. It is, therefore, imperative that the City control the manner in which the intertie is used. Any and all costs related to routine operations and maintenance of the intertie are to be borne jointly by EBMUD and SFPUC. The Operations and Maintenance Agreement provides that, aside from routine operations and maintenance, the agency that utilizes the intertie to receive water will bear the cost of water and any operations and maintenance cost during the course of the transfer.

DISCUSSION:

Second Amendment to JPA for Design Services and Construction: In Fall of 2004, the design and construction JPA was amended to modify the agreement in certain respects, including a provision that the Design Services and Construction Agreement shall remain in effect from the time the construction is awarded until such time as the project has been completed and all construction cost obligations satisfied.

Now, SFPUC, EBMUD, and the City are proposing to amend this JPA a second time. Its purpose is to add, as part of the project and cost sharing arrangement, work completed by EBMUD at its Oak Rate Control Station intended to improve the efficiency of the station in conjunction with the Intertie Project. The Second Amendment also defines the responsibilities of the parties related to receipt and sharing of certain State of California Proposition 50 Grant Funds for which EBMUD has been approved. The Second Amendment prescribes that when those funds are received EBMUD shall reimburse Hayward for fifty percent of the City's administrative costs. Lastly, the Second Amendment prescribes certain requirements for bookkeeping, consistent with the State requirements for the grant funding.

First Amended JPA for Operations and Maintenance: The parties seek this First Amended JPA partly to satisfy the State Grant requirement for an obligation to operate and maintain the facility for a mandatory 20-year term and to clarify the level of maintenance requested by SFPUC and EBMUD. Since this agreement will remain in existence for at least twenty years, it has been completely revised, rather than addressing just amended sections. The Amended JPA does obligate the City to perform maintenance in accordance with the terms and conditions for such maintenance, as spelled out in the First Amended JPA, and obligates SFPUC and EBMUD to reimburse the City of Hayward for 100 percent of the cost.

Actions by SFPUC and EBMUD: SFPUC and EBMUD will each have to approve the revised JPAs. Both agencies have scheduled these actions for July.

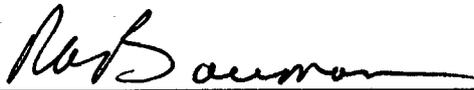
Staff has reviewed the proposed documents carefully and thoroughly, and has had numerous discussions with SFPUC and EBMUD. The City Attorney's Office has also reviewed both agreements. Staff is satisfied that the revised JPAs, as currently proposed, are acceptable and consistent with the City's short and long term interest in this regional water intertie system project.

Prepared by:



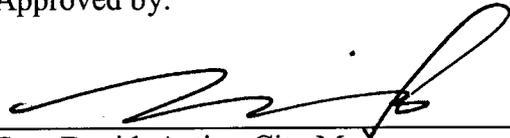
Alex Ameri, Deputy Director of Public Works

Recommended by:



Robert A. Bauman, Director of Public Works

Approved by:



Fran David, Acting City Manager

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 07-

Introduced by Council Member _____

me
7/6/07

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SECOND AMENDMENT TO THE JOINT EXERCISE OF POWERS AGREEMENT (JPA) WITH EAST BAY MUNICIPAL UTILITIES DISTRICT (EBMUD) AND SAN FRANCISCO PUBLIC UTILITIES COMMISSION (SFPUC) FOR DESIGN AND CONSTRUCTION SERVICES, AND A FIRST AMENDED JPA FOR LONG TERM OPERATIONS AND MAINTENANCE

WHEREAS, in September 2002, a feasibility study of regional water system Intertie between Hayward, Alameda County Water District (ACWD), East Bay Municipal Utility District (EBMUD), and the San Francisco Public Utilities Commission (SFPUC), was initiated to study the viability of conveying treated water between the EBMUD and SFPUC systems in the event that a serious disruption in supply capacity occurs; and

WHEREAS, the study determined the project was feasible and on April 8, 2003, Council approved the project and authorized the City Manager to execute a JPA for design and construction and one for long term operations and maintenance of the project; and

WHEREAS, in fall of 2004 the design and construction JPA was amended to modify the agreement in certain respects including providing that the design and construction agreement shall remain in effect from the time the construction is awarded until such time as the project has been completed and all construction cost obligations satisfied; and

WHEREAS, a second amendment to the agreement is proposed to add, as part of the project and cost sharing arrangement, work that has been performed by EBMUD at its Oak Rate Control Station so that it can perform more efficiently; to define the responsibilities of the parties related to receipt and sharing of State of California Proposition 50 Grant Funds; and to prescribe certain requirements for book keeping with the State requirements for the grant funding; and

WHEREAS, the parties seek a first amended JPA to satisfy the State Grant requirement for an obligation to operate and maintain the facility for a mandatory 20-year term and to clarify the level of maintenance requested by SFPUC and EBMUD.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute on behalf of the City of Hayward a second amendment to the Joint Exercise of Powers Agreement with EBMUD and SFPUC for design and construction services for the SFPUC-COH-EBMUD Regional Water System Intertie Project, in substantially the form of the agreement on file in the office of the City Clerk, as approved by the City Attorney.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that the City Manager is hereby authorized and directed to negotiate and execute a first amended Joint Exercise of Powers Agreement with EBMUD and SFPUC for long term operation and maintenance for the SFPUC-COH-EBMUD Regional Water System Intertie Project, in substantially the form of the agreement on file in the office of the City Clerk, as 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