COMMISSION WORKSHOP
AGENDA

Friday, January 18, 2019

10:00 A.M.

Union Sanitary District
5072 Benson Road
Union City, CA  94587

1. Call to Order
2. Roll Call
3. Public Forum
4. JPA Renewal Discussion
   (The Commission will meet to discuss the EBDA JPA renewal.)
5. Adjournment

(Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.)

(In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Administrative Assistant at the EBDA office at (510) 278-5910. Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.)

(In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA  94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at http://www.ebda.org.)
ITEM NO. 4  JPA RENEWAL DISCUSSION

Background
The East Bay Dischargers Authority (Authority) was created by a Joint Exercise of Powers Agreement (JPA) in 1974, and which was last amended in 2007. The JPA is effective through January 1, 2020.

Discussion
For the past several years, the Authority’s members have engaged in discussions related to the renewal of the JPA in anticipation of the 2020 expiration, with certain agencies seeking changes to their capacity allocations, along with changes to the allocation of cost and risk among the members. Much of the discussion of JPA terms has taken place at the Managers Advisory Committee, as well as with the Commission’s JPA Ad Hoc Committee. At this juncture in the discussions, it seemed prudent for the full Commission to come together to discuss key issues in the agreement, opportunities for compromise and consensus, and next steps in terms of process to arrive at a new JPA.

The intent of this workshop is to share ideas, discuss what’s most important to each agency, and assist each Commissioner in understanding other agencies’ perspectives. The attached slides provide an orientation to the key issues and a framework for discussion. Commissioners are welcome to share opening statements if they wish, but there is no expectation that everyone will do so. The desired outcomes for the workshop are a common understanding of the issues and each agency’s “must have” elements, and a path forward for further negotiation. It is not anticipated that specific language will be negotiated at this workshop.
Workshop Expectations

- Today is an exploration session and is not intended to be a negotiation session

- Goals of today are to
  - gain a common understanding of the issues
  - hear agencies’ perspectives
  - understand which issues are most important to each agency and where there may be room for movement
  - discuss next steps and how best to constructively continue talking

- *The more we talk, the better*
Agency Opening Comments
( Optional )
Key Issues
Key Issues

- **Cost**
  - Annual cost allocation
  - Penalties for exceeding capacity

- **Risk**
  - Responsibility for “sole use” facilities
  - “Catastrophic” out clause/ spending cap
  - Term of agreement
Cost – Annual Cost Allocation

<table>
<thead>
<tr>
<th>Budget Item</th>
<th>Current Allocation Methodology</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Studies</td>
<td>Defined in JPA</td>
</tr>
<tr>
<td>Variable Costs</td>
<td>Total Annual Flow</td>
</tr>
<tr>
<td>Fixed Costs</td>
<td>Capacity Rights</td>
</tr>
<tr>
<td>Renewal &amp; Replacement Fund (RRF)</td>
<td>Capacity Rights</td>
</tr>
<tr>
<td>Regional Monitoring Program</td>
<td>Metals Loading</td>
</tr>
<tr>
<td>Nutrients</td>
<td>TN Loading</td>
</tr>
<tr>
<td>NPDES Fee</td>
<td>Permitted Flow</td>
</tr>
<tr>
<td>Water Research Foundation</td>
<td>Total Annual Flow</td>
</tr>
</tbody>
</table>

*Note: Only these three allocations are explicitly outlined in the current JPA*
For Baseline Year (2016–17), total budget excluding LAVWMA = $4.1M
For Baseline Year (2016–17),
total O&M costs excluding LAVWMA = $2.8M

Note: 69% of costs are for all EBDA “joint use”
### Cost – Annual Cost Allocation

**New Capacities – “Pick a Flow”**

<table>
<thead>
<tr>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>San Leandro</td>
<td>22.3</td>
<td>13%</td>
<td>17</td>
<td>16%</td>
</tr>
<tr>
<td>Oro Loma/Castro Valley</td>
<td>69.2</td>
<td>41%</td>
<td>30</td>
<td>29%</td>
</tr>
<tr>
<td>Hayward</td>
<td>35.0</td>
<td>21%</td>
<td>15</td>
<td>14%</td>
</tr>
<tr>
<td>Union</td>
<td>42.9</td>
<td>25%</td>
<td>42.9</td>
<td>41%</td>
</tr>
</tbody>
</table>
## Cost – Annual Cost Allocation

### Current Total Flows

<table>
<thead>
<tr>
<th>Agency</th>
<th>2017–18 Flows (MGD)</th>
<th>Variable Cost Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Leandro</td>
<td>1,697</td>
<td>9%</td>
</tr>
<tr>
<td>Oro Loma/Castro Valley</td>
<td>4,476</td>
<td>24%</td>
</tr>
<tr>
<td>Hayward</td>
<td>4,115</td>
<td>22%</td>
</tr>
<tr>
<td>Union</td>
<td>8,501</td>
<td>45%</td>
</tr>
</tbody>
</table>
### Cost – Annual Cost Allocation

#### Expected Growth

<table>
<thead>
<tr>
<th>Agency</th>
<th>Projected Annual Population Growth*</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Leandro</td>
<td>1%</td>
</tr>
<tr>
<td>Oro Loma/Castro Valley</td>
<td>1%</td>
</tr>
<tr>
<td>Hayward</td>
<td>2.2%</td>
</tr>
<tr>
<td>Union</td>
<td>2.5–3%</td>
</tr>
</tbody>
</table>

*As reported to BACWA in October 2018*
Cost – Penalties for Exceeding Capacity

- Based on peak hour flow
- Mulligan concept
- OLSD has proposed $0.005/gal ($5k/MG)
- USD has suggested that penalty should be significantly higher
Risk – Responsibility for “Sole Use” Facilities

- Three categories of facilities:
  - All EBDA use
  - Sole use
  - Joint use

- Multiple distinct issues:
  - O&M cost allocation
  - Capital cost allocation
  - Liability
  - Ownership
Risk – Responsibility for “Sole Use” Facilities

Facility Usage

Note: Use based on “pick a flow” capacity
## Risk – Responsibility for “Sole Use” Facilities

### Facility Usage

<table>
<thead>
<tr>
<th>Pipe Reach</th>
<th>% System Length*</th>
<th>Capacity Rights**</th>
</tr>
</thead>
<tbody>
<tr>
<td>SL to MDF</td>
<td>17%</td>
<td>SL 100%</td>
</tr>
<tr>
<td>MDF to OLEPS</td>
<td>19%</td>
<td>USD 49%, Hayward 17%, OLSD/CVSan 34%</td>
</tr>
<tr>
<td>OLEPS to HEPS</td>
<td>16%</td>
<td>USD 74%, Hayward 26%</td>
</tr>
<tr>
<td>HEPS to AEPS</td>
<td>49%</td>
<td>USD 100%</td>
</tr>
</tbody>
</table>

*Does not include outfall

**Based on Pick a Flow
Risk – Out Clause

- Concept previously discussed was that any agency could opt out in the event of a catastrophe leading to $50M in rebuild cost.
- Consideration of lowering to $35M.
- OLSD is proposing that value should be cumulative over RRF budget projection.
- Importance and structure of this clause may depend on ownership/liability distribution.
Risk – Agreement Term

- Original discussion was 20 year term with 10 year strategic planning exercise
- OLSD current proposal is 5 year term with 3 x 5–year extensions
Next Steps
Next Steps – AMP Update

- Asset Management Plan Update will provide information on expected RRF requirements
  - All asset conditions and replacement costs are being updated
  - Ability to analyze scenarios, e.g. capacity reduction, change in SBS requirements
  - Assumption that civil assets will not be wholly replaced but rather rehabbed over time
  - *Results expected end of the month will lead to discussion of prudent RRF funding levels*
Next Steps – Risk Reduction

- Disaster Cost Recovery Plan will reduce risk
  - RFP out now for consultant to develop FEMA/CalOES cost recovery plan
  - Brown & Caldwell providing scope for transport system seismic vulnerability summary and recommended actions

- Additional inspection of force mains could provide greater confidence in condition
  - Inspection of 96” main and portion of outfall would be ~$60k
Next Steps – Process

- Where do we go from here?
  - Additional engineering or cost analysis?
  - Forum for ongoing discussions
    - Facilitator
    - MAC vs. Commission
    - Frequency and venue
  - Timeline
Discussion