

**COUNTY OF SONOMA  
AGENDA ITEM  
SUMMARY REPORT**

**Clerk of the Board Use Only**  
**Meeting Date** / / **Held Until** / /  
**Agenda Item No:** \_\_\_\_\_ **Agenda Item No:** \_\_\_\_\_

**Department:** Permit and Resource Management Department

( ) **4/5 Vote Required**

**Contact:**  
Scott Briggs

**Phone:**  
(707) 565-8351

**Board Date:**  
10/20/2009

**Deadline for Board Action:**

**AGENDA SHORT TITLE:**

Dutra Haystack Landing Asphalt Plant and Recycling Facility; EIR Contract Amendment No. 4.

**REQUESTED BOARD ACTION:**

Authorize the Board Chair to sign a contract amendment that would increase the amended Christopher A. Joseph and Associates (CAJA) Agreement for Professional Services by \$8,711.52 to \$488,136.00 including contingencies.

**CURRENT FISCAL YEAR FINANCIAL IMPACT**

**EXPENDITURES**

**Estimated Cost** \$ \$8,711.52

**Amount Budgeted** \$ \$8,711.52

**Other Avail Approp.** \$  
(Explain below)

**Additional Requested:** \$

**Explanation (if required):**

**ADD'L FUNDS REQUIRING BOARD**

**Contingencies** \$  
(Fund Name:)

**Unanticipated Revenue** \$  
(Source:)

**Other Transfer(s)** \$  
(Source:)

**Add'l Funds Requested:** \$

**Prior Board Action(s):** 1) September 28, 2005: Approve contract with CAJA for the Dutra Haystack Landing Asphalt Plant and Recycling Facility EIR. 2) May 13, 2008: Approve first contract amendment with CAJA for preparation of the EIR for the Dutra Asphalt Plant and Recycling Facility project. 3) February 3, 2009: Approve second contract amendment with CAJA to provide PRMD with technical assistance regarding comments received on the Final EIR. 4) June 9, 2009: Approve third contract amendment with CAJA to provide PRMD with technical assistance regarding the applicant's revisions to the project description in the Final EIR.

**Alternatives - Results of Non-Approval:** CAJA will not be available to assist staff with unanticipated level of effort required to complete the Dutra Haystack Landing Asphalt Plant and Recycling Facility Final EIR and attend the Board hearings regarding the document.

**Background:**

On file with the Clerk: Original CAJA contract, first contract amendment, second contract amendment, and third contract amendment.

On September 28, 2005, your Board authorized a contract with CAJA for \$227,654.00 with a contingency of \$56,914.00 to prepare a Draft and Final EIR on the proposed Dutra Haystack Landing Asphalt Plant and Recycling Facility. On January 14, 2008, a Draft EIR for the project was prepared and published by CAJA for public review.

During the preparation of the Final EIR, CAJA incurred additional costs resulting from the expanded analysis of numerous comments received on the Draft EIR, including preparing the data necessary for a detailed Health Risk Screening Assessment at the request of the Bay Area Air Quality Management District and additional travel to compare other asphalt facilities with the proposed project at the request of the County Planning Commission. Accordingly, on May 13, 2008, your Board approved the first contract amendment to increase the original CAJA Agreement for Professional Services by \$158,765.56 to \$443,333.56, including contingencies, to provide funding for the completion of the Final EIR.

On October 16, 2008, the Planning Commission recommended certification of the EIR and approval of the Dutra Haystack Landing project, as conditioned. A December 9, 2008 date was then set to bring this project/project EIR to your Board for consideration. However, on December 8, 2008, a 240-page document was submitted by Lozeau-Drury LLC., on behalf of the Petaluma River Council, which raised numerous concerns about the project and project EIR. Given the number and complexity of comments contained in this submittal, and the last-minute timing of this submittal, the applicant requested that your Board delay its consideration of the Dutra Haystack Landing project/project EIR to February 3, 2009, in order to afford time for PRMD, County Counsel, and CAJA to consider and prepare responses to any substantive issues raised.

On February 3, 2009, the Board approved the second CAJA contract amendment, took several public comments, closed the public hearing, directed staff to make a number of modifications to the Conditions of Approval, cast a straw vote and continued the item to March 24, 2009, for deliberation. The item was subsequently continued to May 12, 2009, and then again to June 9, 2009. On March 5, 2009, the Planning Commission continued to April 16, 2009, its consideration of staff's recommended General Plan Text Amendment that would allow the project to exceed noise standards in the General Plan Noise Element.

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**Attachments:** None

**On File With Clerk:** Fourth contract amendment, Third contract amendment, Second contract amendment, First contract amendment and Original Agreement for Professional Services with CAJA

**CLERK OF THE BOARD USE ONLY**

**Board Action** (If other than "Requested")

**Vote:**

**Background:** (Continued)

The Planning Commission received public comments on the proposed amendment to the General Plan Noise Element at that time, closed the public hearing and continued the item to May 21, 2009 for deliberation. During the course of the Planning Commission and Board hearings, comments were received requiring substantially more work to be performed by CAJA. This additional work included clarifying and refining technical issues discussed in the EIR including potential impacts on air quality, noise exposure to birds, and statements made in the Draft EIR regarding possible growth inducement that could be caused by the propose project.

On June 9, 2009 the Board approved the third contract amendment to fund CAJA's analysis of additional comments received during the course of the Planning Commission and Board hearings, considered the Draft and Final EIR, took public testimony on the proposed project, closed the public hearing, deliberated, and on a 3-2 straw vote, tentatively denied the project. The Board Chair instructed staff to prepare a resolution for possible denial of the project, to revise the draft conditions of approval to include several changes requested by Supervisor Kerns for the Board's consideration in the event the project is approved, and to continue the project to July 21, 2009 for final vote. Subsequent to the June 9 meeting, the applicant presented to your Board a revised project proposal designed to reduce potential environmental impacts. On July 21, 2009 the Board directed staff to study the applicant's revised project description and to continue the decision on the proposed project to a future date to be determined.

The applicant's revised project would change potential impacts to air quality, noise, aesthetics, river navigability and traffic. Given the technical nature of the issues raised, PRMD hereby requests that your Board approve a fourth contract amendment to the CAJA EIR contract so that the CAJA team can assist PRMD with a technical evaluation of the project's potential reduction in environmental impacts. The CAJA cost estimate to provide this technical assistance is \$6,701.17. Given past history regarding analytical issues arising at your Board meetings, PRMD is requesting that a 30% contingency be added to the CAJA estimate, resulting in a total requested contract amendment in the amount of \$8,711.52. Although, this contingency is larger than is typical (contingencies typically range between 10% and 25%), staff believes that this additional cushion is prudent given the nature and complexity of the issues raised, and is hopeful that this will preclude the need for yet another amendment should additional, unanticipated issues arise at your Board. Please note that prior approval must be obtained from PRMD before any portion of these contingency dollars can be used by CAJA. Also please note that this contract amendment, including the proposed 30% contingency, has been fully discussed with the applicant, the Dutra Group, which has agreed to provide these additional funds to PRMD immediately upon approval of this contract amendment by your Board.

**Recommendations:** Authorize the Board Chair to sign a contract amendment with CAJA increasing the contract by \$8,711.52 to \$488,136.00 including contingencies.