

ORDINANCE 2023-01

ORDINANCE OF THE BOARD OF DIRECTORS OF THE EAST COUNTY ADVANCED WATER PURIFICATION JOINT POWERS AUTHORITY ADOPTING THE 2022 CALIFORNIA BUILDING STANDARDS CODE, INCLUDING THE 2022 CALIFORNIA ADMINISTRATIVE CODE, 2022 CALIFORNIA BUILDING CODE, 2022 CALIFORNIA RESIDENTIAL CODE, 2022 CALIFORNIA ELECTRICAL CODE, 2022 CALIFORNIA MECHANICAL CODE, 2022 CALIFORNIA PLUMBING CODE, 2022 CALIFORNIA ENERGY CODE, 2022 CALIFORNIA HISTORICAL BUILDING CODE, 2022 CALIFORNIA EXISTING BUILDING CODE, 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE, 2022 CALIFORNIA FIRE CODE, AND CALIFORNIA REFERENCED STANDARDS CODE BY REFERENCE AND AUTHORIZING THE JPA ADMINISTRATOR TO CONTRACT WITH AND APPOINT INDIVIDUALS TO SERVE AS THE BUILDING OFFICIAL FOR THE EAST COUNTY ADVANCED WATER PURIFICATION PROJECT AND AS NEEDED TO SERVE AS THE BOARD OF APPEALS UNDER THE ADOPTED CODE

WHEREAS, the East County Advanced Water Purification Joint Powers Authority (“JPA”) is a California joint powers authority established pursuant to the Joint Exercise of Powers Act (Gov. Code § 6500 *et seq.*) and a Joint Exercise of Powers Agreement effective November 1, 2019, by the City of El Cajon, Padre Dam Municipal Water District, and the San Diego County Sanitation District for the purposes of, among other things, planning for, designing, constructing, owning, leasing, operating, maintaining, repairing, and replacing wastewater treatment and advanced water purification facilities; and

WHEREAS, pursuant to Section 1.5.1 of the Joint Exercise of Powers Agreement and Section 6509 of the Government Code, the JPA is subject to the restrictions applicable to the City of El Cajon, a charter city, in the exercise of its member agencies’ common powers; and

WHEREAS, the JPA is currently constructing the East County Advanced Water Purification Project (“Project”), which includes facilities and improvements located in multiple jurisdictions, including the City of Santee and unincorporated areas of the County of San Diego; and

WHEREAS, under California law, cities and counties are exempt from the local building and zoning ordinances of other cities or counties when operating therein, and this principle also applies to joint powers agencies which operate in accordance with the laws applicable to a city or county, including the JPA; and

WHEREAS, Title 24 of the California Code of Regulations contains statewide building standards governing the design and construction of certain building occupancies in California, referred to as the “California Building Standards Code”; and

WHEREAS, except for building occupancies subject to state agency enforcement, local agencies, such as cities and counties, must enforce the California Building Standards Code as published by the California Building Standards Commission, and may adopt the California Building Standards Code by reference in local ordinances (commonly called an “adoption ordinance”); and

WHEREAS, local agencies, such as cities and counties (and by extension, the JPA, which operates under the laws applicable to a charter city) are authorized to enforce the California Building Standards Code with regard to projects constructed by the local agency; and

WHEREAS, the Board of Directors of the JPA desires to adopt the California Building Standards Code by reference in this ordinance (this “Ordinance”) and appoint a third party consulting firm to act as the Building Official for review and inspection of the Project to the extent applicable under the California Building Standards Code; and

WHEREAS, pursuant to Section 50022.3 of the Government Code, the JPA Board held a first reading of the title of the Ordinance on August 17, 2023 and the title of the codes adopted under the Ordinance and scheduled a public hearing for a future JPA Board meeting; and

WHEREAS, pursuant to Section 50022.3 of the Government Code, the JPA Secretary caused notice of the hearing to be published in a newspaper of general circulation pursuant to California Government Code section 6066 on October 30, 2023 and November 6, 2023.

WHEREAS, on November 13, 2023, the JPA Board held a public hearing at which time all interested persons had the opportunity to appear and be heard on the matter of adopting the Ordinance adopting the California Building Standards Code by reference; and

WHEREAS, all legal prerequisites relating to the adoption of the Ordinance have occurred.

NOW, THEREFORE, the Board of Directors of the East County AWP Joint Powers Authority does ordain as follows:

- Section 1. **Adoption by Reference of the California Building Standards Code.** The JPA hereby adopts by reference the 2022 Edition of the California Building Standards Code, Title 24 of the California Code of Regulations, consisting of Parts 1 through 12, which is incorporated herein by reference, as the “East County Advanced Water Purification JPA Building Code, 2023.” All references to “jurisdiction” or “name of jurisdiction” therein shall refer to the East County Advanced Water Purification JPA. To the extent a prior edition of the California Building Standards Code, Title 24 of the California Code of Regulations, applies to a particular project or portion thereof, the JPA shall apply the applicable edition.
- Section 2. **Designation of Chief Appointing Authority.** The JPA hereby appoints the JPA Administrator to be the Chief Appointing Authority.
- Section 3. **Staffing and Appointment of the Building Department and Building Official.** The Chief Appointing Authority shall retain one or more individuals or consulting firms as the JPA’s Department of Building Safety (“Building Department”) and appoint one or more individuals or employees of the consulting firm or firms as the JPA’s Certified Building Official. The Building Official and all his or her deputies, technical officers, inspectors, plan examiners, and other employees shall meet the minimum qualifications provided in the East County Advanced Water Purification JPA Building Code, 2023, and all other qualifications required by applicable laws, ordinances, regulations, or standards (“Applicable Law”).
- Section 4. **Staffing and Appointment of Board of Appeals.** The Chief Appointing Authority shall retain and appoint five individuals as the JPA’s Board of Appeals and two individuals as alternate members. The members and alternate members of the Board of Appeals shall not be an officer or employee of the JPA, JPA Administrator, or a consulting firm constituting JPA’s Building Department or Building Official. If any of the individual members or alternate members are employees of a consulting firm, no members or alternate members may be employed by the same employer. The Board of Appeals shall meet the minimum qualifications provided the

Board of Appeals provisions of the East County Advanced Water Purification JPA Building Code, 2023, and all other qualifications required by Applicable Law. The members shall be paid reasonable fees for their services.

Section 5. **Severability.** If any provision or clause of this Ordinance or the application thereof is held unconstitutional or otherwise invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions, clauses, or applications of this Ordinance which can be implemented without the invalid provision, clause, or application, it being hereby expressly declared that this Ordinance, and each section, subsection, sentence, clause, and phrase hereof would have been prepared, proposed, approved, adopted and/ or ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses, and/or phrases may be declared invalid or unconstitutional.

Section 6. **Effective Date and Posting of Ordinance.** This Ordinance shall take effect 30 days after adoption and shall be posted in at least three public places within the service area of the JPA within 15 days of its adoption. The East County Advanced Water Purification JPA Building Code, 2023, shall be available to the public as required by Applicable Law.

PASSED AND ADOPTED at a regular meeting of the East County AWP Joint Powers Authority Board of Directors held on November 13, 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Board Chair

Board Secretary