




Office of the City Manager

CONSENT CALENDAR

January 29, 2013

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Andrew Clough, Director, Public Works

Subject: Amending Waste Management Authority Joint Powers Agreement

RECOMMENDATION

Adopt a Resolution approving an amendment to the Alameda County Waste Management Authority Joint Powers Agreement to clarify rules in case of member agency rule conflict.

FISCAL IMPACTS OF RECOMMENDATION

None

CURRENT SITUATION AND ITS EFFECTS

The current Alameda County Waste Management Authority (WMA) Joint Powers Agreement (JPA) does not specify which rules apply in the event of a member agency rule conflict. It has been determined that a JPA amendment is necessary to clarify which rules will apply.

BACKGROUND

During a governance review, the Alameda County WMA found one item deserving of revision in the current JPA. Section 8, ("RESTRICTIONS UPON EXERCISE OF POWER OF BOARD") is a standard boilerplate clause used in most JPAs to make clear that the JPA is not authorized to exercise its powers in contravention of law. However, most JPAs also include a sentence that specifies which member agency legal limitations apply if the boundaries of what is legal vary from member agency to member agency. In the absence of such a sentence, the most stringent rule of any member agency applies, which in practice might be difficult to ascertain. The WMA has historically used the County's rules unless it knew of a more stringent member agency rule.

The WMA is asking member agency approval to amend the JPA in order to eliminate this ambiguity. The specific request is to approve adding the following two sentences at the end of Section 8: "The manner of exercising powers granted by this Agreement shall be subject to the same restrictions as imposed upon the County of Alameda. If at any time the County of Alameda is not a party to this Agreement, the manner of exercising powers granted by this Agreement shall be subject to the same restrictions as imposed upon the largest city within Alameda County that is a Waste Management Authority member."

RATIONALE FOR RECOMMENDATION

Approving the JPA amendment would promote transparency and efficiency in government, and dictates the member agency rules that govern in the event of member agency rule conflict.

ALTERNATIVE ACTIONS CONSIDERED

None

CONTACT PERSON

Andy Schneider, Recycling Program Manager, Public Works, 510-981-6357

Attachments:

- 1: Resolution
2. Joint Powers Agreement 2008

RESOLUTION NO. ##,###-N.S.

APPROVING AN AMENDMENT OF THE JOINT EXERCISE OF POWERS AGREEMENT CREATING THE ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY

WHEREAS, the Alameda County Waste Management Authority (ACWMA) was founded in 1976 and currently operates under a Joint Exercise of Powers Agreement (JPA) most recently revised October 10, 2008, for the purpose of preparing, adopting, revising, amending, administering, implementing and enforcing the Countywide Integrated Waste Management Plan and Alameda County Hazardous Waste Management Plan; and

WHEREAS, the ACWMA, as part of its Strategic Workplan 2020 (developed collaboratively with the Alameda County Source Reduction and Recycling board) initiated a complete governance review in 2010 which has concluded that a specific amendment to the WMA JPA would promote transparency and efficiency in government; and

WHEREAS, Section 8 of the existing WMA JPA does not include typical language that states the member agency rules that govern in the event of a conflict between member agency rules.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council approves adding the following sentences to the end of Section 8 of the existing WMA JPA: "The manner of exercising powers granted by this Agreement shall be subject to the same restrictions as imposed upon the County of Alameda. If at any time the County of Alameda is not a party to this Agreement, the manner of exercising powers granted by this Agreement shall be subject to the same restrictions as imposed upon the largest city within Alameda County that is a Waste Management Authority member."