



October 9, 2012

**TO:** Waste Management Authority (WMA) Member Agency Chief Executives  
**FROM:** Gary Wolff, Executive Director  
**SUBJECT:** Request regarding an amendment to the WMA Joint Powers Agreement (JPA)

The Strategic Workplan adopted by the Boards in 2010 directed staff to perform a governance review over a two year time period. During that review we found one item deserving of revision in the current JPA (see: [http://www.stopwaste.org/docs/joint\\_powers\\_agreement\\_updated\\_10-13-08.pdf](http://www.stopwaste.org/docs/joint_powers_agreement_updated_10-13-08.pdf) ).

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 (e.g., limits on procurement practices). In the absence of such a sentence, the most stringent rule of any member agency applies, which in practice might be difficult to ascertain. We have historically used the County's rules unless we knew of a more stringent member agency rule. On the advice of legal counsel, we are asking that this ambiguity be eliminated.

The specific request is to approve adding 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."

A model resolution approving this change is attached.

Att: model resolution amending the WMA JPA