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Staff Report for Resolution Approving an Amendment of the Joint Exercise of Powers Agreement Creating the Alameda County Waste Management Authority

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve the resolution to amend the Joint Exercise of Powers Agreement for Waste Management to use the County’s rules as the basis for legal restrictions upon the exercise of power of the board.

BACKGROUND

The Strategic Workplan adopted by the Alameda County Waste Management Authority and Recycling Board (“the Boards”) directed agency staff to perform a governance review over a two year time period. During the review, agency staff identified a section of the Joint Powers Agreement (JPA) that requires some legal clarification.

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. In practice, the agency has used the County's rules unless they knew of a more stringent member agency rule.

On October 9, 2012, the Executive Director, Gary Wolff, of the Alameda County Waste Management Authority and Recycling Board sent a letter to the City of San Leandro requesting that the City approve such an amendment to the JPA.

Analysis

The agency has requested that member agencies approve adding two sentences at the end of Section 8 of the 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."

The addition of these sentences would eliminate ambiguity related to the application of legal limitations in the event of a conflict between member agency rules.

ATTACHMENTS

- Attachment 1 - Letter from Gary Wolff, Executive Director dated October 9, 2012
- Attachment 3 - Joint Exercise of Power Agreement for Waste Management, revised 10/13/08

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