



County of San Mateo

Inter-Departmental Correspondence

Department: COUNTY MANAGER: OFFICE OF SUSTAINABILITY

File #: 21-689

Board Meeting Date: 9/14/2021

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Carolyn Bloede, Director, Office of Sustainability
Subject: Adopt a Resolution approving the Third Amended and Restated Joint Exercise Power Agreement with South Bayside Waste Management Authority

RECOMMENDATION:

Adopt a resolution approving the third amended and restated Joint Exercise of Powers agreement with South Bayside Waste Management Authority for County Service Area No. 8 (North Fair Oaks), and the County Franchised Area.

BACKGROUND:

The South Bayside Waste Management Authority (SBWMA) was formed on December 9, 1999, pursuant to a Joint Exercise of Powers Agreement (JPA) executed by twelve Member Agencies. The JPA Agreement was amended and restated on January 17, 2006, and again on June 19, 2013. The SBWMA Board was asked to review the JPA Agreement and determined that it needs to be updated to reflect current practices and circumstances, including Atherton's withdrawal. The SBWMA Board considered these amendments at its regular meeting and recommended approval.

DISCUSSION:

The JPA Agreement has been amended twice. SBWMA staff noted the JPA Agreement contains outdated language and does not call out the manner for exercising power as required by Government Code Section 6509. In order to correct this, SBWMA staff recommended the SBWMA Board review proposed changes to the Agreement which would remove outdated language, clean up inconsistencies in use of defined terms, and bring the Agreement language into compliance with Government Code Section 6509. The amendments are non-substantive in nature and indicated in purple in Attachment A to this memo.

Proposed Changes to the JPA Agreement:

1. Inconsistent Terms

Changes are proposed throughout the Agreement to correct that Member Agencies are consistently referred to as "Members".

2. Language to Acknowledge This Amendment

Changes are proposed in the Recitals to reflect the Agreement is now being amended.

3. Addition of Language Designating the Manner in Which the JPA's Powers Will Be Exercised.

Language has been added to Section 7.2 to comply with the requirements of Government Code Section 6509 by identifying one of the Member's whose procedures and policies will be followed by the JPA. This designation will not enhance the substance of the powers which are jointly exercised by the Member Agencies through the JPA.

The proposed amendments to the JPA designate the County of San Mateo as the agency whose procedures and policies will apply to the SBWMA. Should the County withdraw from the JPA, a new Member Agency would need to be designated. SBWMA does not anticipate any change to the JPA's operations as a result of this designation.

4. Board Seats

Changes are proposed to Sections 8.2 and 9.1 to clarify that SBWMA Directors vacate their seats on the SBWMA Board in the event that they no longer serve on their Member Agency's governing body, and that the Member's alternate Director will serve until a new Director is named.

5. Meeting Minutes

Changes are proposed to Section 10.5 to reflect the SBWMA Board approves meeting minutes.

6. Identification of the JPA's Finance Manager

Section 8.7 is proposed to be deleted as it requires the SBWMA Board select a Finance Director from one of the Member Agencies to serve as SBWMA's Finance Director. The proposed revisions add new language to reflect the fact that SBWMA now has on staff a Finance Manager who is responsible for the duties previously assigned to a Board appointed Finance Director.

7. Revised Definition of Revenue Bonds

The proposed amendments include an updated definition of "Revenue Bonds" in Attachment A to this memo, section Exhibit C to account for the bonds issued in 2019.

8. Formatting and Grammatical Revisions

Non-substantive corrections to formatting and grammatical errors.

Environmental Review

Approval of the proposed amendments to the JPA Agreement is a governmental organizational activity and is therefore exempt from California Environmental Quality Act (CEQA) review because it is not a project within the meaning of CEQA. CEQA Guideline 15378 defines Project for CEQA purposes; Section 15378 (b) states that Project does NOT include: (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

County Counsel has reviewed and approved the resolution as to form.

FISCAL IMPACT:

There is no fiscal impact associated with the proposed amendment.

Attachments:

- Attachment A (SBWMA Exhibit A-D), SBWMA Board approved, Third Amendment to the Joint Powers Agreement with SBWMA