



November 4, 2021

TO: LOCSD Board of Directors

FROM: Ron Munds, General Manager

SUBJECT: Agenda Item 8H – 11/4/2021 Board Meeting

Approve the Amendments to the San Luis Obispo County Integrated Waste Management Authority's Memorandum of Agreement with Member Agencies.

President

Christine M. Womack

Vice President

Matthew D. Fourcroy

Directors

Charles L. Cesena
Troy C. Gatchell
Marshall E. Ochylski

General Manager

Ron Munds

District Accountant

Robert Stilts, CPA

Unit Chief

Eddy Moore

Battalion Chief

Paul Provence

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DESCRIPTION

The County of San Luis Obispo, from the Integrated Waste Management Authority (IWMA), is in the process of amending its Memorandum of Agreement with member agencies to incorporate the recent direction from their Board of Directors in response to the withdrawal of the County of San Luis Obispo from the organization. This report summarizes the amendment and subsequent actions.

STAFF RECOMMENDATION:

This item will be approved along with the Consent Calendar unless it is pulled by a Director for separate consideration. If so, Staff recommends that the Board adopt the following motion:

Motion: I move that the Board approve the recommended amendment to the San Luis Obispo Integrated Waste Management Authority's Memorandum of Agreement with member agencies.

DISCUSSION

The District has received a request from the IWMA to approve the amendment (attached) to the Memorandum of Agreement (MOA) with their member agencies. The MOA was originally executed by and between the five cities in San Luis Obispo County, the County of San Luis Obispo (County), and Special Districts with solid waste authority. The District has retained its solid waste authority though relinquished the franchise agreement as part of the bankruptcy proceedings in 2013. By approving the MOA amendment, the District would be accepting the amendment to the Joint Powers Agreement (JPA) approved by the IWMA Board of Directors on October 13, 2021.

According to the IWMA, the revisions incorporated in the MOA amendment is limited to those specific to board composition (deleting the County representatives) and the quorum requirement. The IWMA Executive Committee is considering the formation of an ad hoc committee to assist with further modification of the JPA in the near future. The MOA amendment reflects a preliminary step towards future modifications.

Financial Impact

There is no direct financial impact associated with the recommended action.

Attachment



SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY

Connecting the Community to Waste Solutions

IWMA Board of Director's

Charles Bourbeau - President,
City of Atascadero

Via Electronic and U.S. Mail

Jan Marx - Vice President,
City of San Luis Obispo

October 20, 2021

Robert Enns - Past President,
Special Districts

Los Osos CSD
Attn: Ron Munds and Legal Counsel
Po Box 3336
Los Osos, CA. 93412

Debbie Arnold - Supervisor,
San Luis Obispo County Dist. 5

Karen Bright,
City of Grover Beach

Re: Agency Adoption of Amendment to the IWMA Memorandum of Agreement ("MOA")

Lynn Compton - Supervisor,
San Luis Obispo County Dist. 4

Dear Mr. Munds and Legal Counsel:

Bruce Gibson - Supervisor,
San Luis Obispo County Dist. 2

On October 13, 2021, the Board of Directors of the San Luis Obispo County Integrated Waste Management Authority ("IWMA") approved "as to form" the enclosed amendment to the Memorandum of Agreement ("MOA Amendment"). The MOA was originally executed by and between the Cities, the County, and Special Districts with solid waste powers to amend the IWMA Joint Powers Agreement ("JPA") to include those Special Districts for representation on the IWMA Board. This MOA Amendment formalizes the Special Districts' acceptance of an amendment to the JPA, also approved on October 13th ("JPA Amendment"), which is described more fully below.

John Hamon,
City of Paso Robles

Jeff Heller,
City of Morro Bay

Scott Newton,
City of Pismo Beach

The revisions encompassed in the JPA Amendment are limited to those specific to board composition, quorum requirements, and the required Government Code designated agency, following the County's formal withdrawal on November 15, 2021. The "supermajority" provision in Section 8.5 is also deleted. Without this deletion, a unanimous vote could be required on any item with the request of one board member. Instead, this revision provides for a simple majority on all matters. The IWMA Executive Committee is considering the formation of an ad hoc committee to assist with further modification of the JPA in the near future. The JPA Amendment reflects a preliminary step.

Dawn Ortiz-Legg - Supervisor,
San Luis Obispo County Dist. 3

John Peschong - Supervisor,
San Luis Obispo County Dist. 1

Keith Storton,
City of Arroyo Grande

For this MOA Amendment to be effective, it will need to be adopted by all member agencies. It is our anticipation that your board of directors will consider this Amendment prior to November 15, 2021.

IWMA Staff

Patti Toews,
Interim Executive Director

Please contact me if you have any questions.

Kelly York,
SB Program Manager

Sincerely,

A handwritten signature in blue ink, appearing to read "Patti Toews".

Barbara Aspernelson,
Accountant

Patti Toews, Interim Executive Director
Integrated Waste Management Authority

Sasha Del Giorgio,
Clerk of the Board

Jeff Minnery
Legal Counsel

Enclosures:

Amendment to IWMA JPA re Quorum_redline
Amendment to IWMA MOA re JPA Amendment

**SECOND AMENDMENT TO THE
SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY
("IWMA") JOINT POWERS AGREEMENT**

This Second Amendment to the Joint Powers Agreement ("Second Amendment") dated October 13, 2021, is made by and between the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo, hereinafter called "Cities," and the County of San Luis Obispo, hereinafter called "County."

RECITALS

WHEREAS, on May 10, 1994, an agreement was executed by and between the Cities and the County forming a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.), for the purposes of facilitating the development of waste diversion programs and projects and of providing economies of scale on a regional basis (hereinafter referred to as the "JPA Agreement"); and

WHEREAS, in or around 2001, a memorandum of agreement ("MOA") was executed by and between the Cities, the County, and certain special districts within the County ("Authorized Districts") (collectively "parties") amending the JPA Agreement to include the Authorized Districts for representation on the IWMA Board ("First Amendment to the JPA Agreement"); and

WHEREAS, Section 7.2 (b) of the JPA Agreement provides that "[r]epresentatives to the Authority shall consist of the five members of the Board of Supervisors of the County of San Luis Obispo and of one additional member from the governing body of each incorporated city within the boundaries of the County of San Luis Obispo which is a party to this Agreement . . ."; and

WHEREAS, Section 8.5 of the JPA Agreement provides that to establish a quorum of the IWMA Board, there must be present a majority of representatives, "including one COUNTY representative"; and

WHEREAS, on September 14, 2021, the County Board of Supervisors voted to withdraw from the IWMA with an effective date of November 15, 2021; and

WHEREAS, to facilitate the continued operation of the IWMA Board of Directors without the County as a member jurisdiction, this Second Amendment to the JPA Agreement is necessary to (1) revise the representative members of the IWMA Board of Directors to eliminate the participation of the County Board of Supervisors; and (2) eliminate the requirement that a County representative is required to establish a quorum of the IWMA Board.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Section 5.3 of the JPA Agreement is amended and restated as follows:

Such powers shall be exercised subject only to the limitations set forth in this Agreement, applicable law and such restrictions upon the manner of exercising such powers as are imposed by law upon the Members in the exercise of similar powers. In no event shall the Authority be authorized to exercise any power not expressly authorized. The Authority hereby designates the City of San Luis Obispo as the Member required to be designated by Section 6509 of the California Government Code.

2. Section 7.2 (b) of the JPA Agreement is amended and restated as follows:

Representatives of the CITIES shall be appointed to serve on the Board in accordance with procedures established by each of the governing bodies of the member agencies. Representatives to the Authority shall consist of one member from the governing body of each incorporated city, within the boundaries of the County of San Luis Obispo, which is a party to this Agreement, with each incorporated area being limited to one representative. Representatives shall serve so long as they hold office with their member agency or until they shall resign or be removed by a majority vote of their member agency. Vacancies among representatives shall be filled in the same manner as the first appointment.

3. Section 8.5 of the JPA Agreement is amended and restated as follows:

8.5 Quorum and voting. For purposes of conducting business, there shall be present a quorum consisting of a majority of representatives. Each representative shall have one vote. No action shall be effective without the affirmative votes of a majority of those present. The representatives to the Authority shall adopt such procedures as are consistent with this Agreement and necessary to conduct the business of the Authority in an orderly manner.

4. All other terms and conditions of the JPA Agreement will remain in full force and effect.
5. Effective Date. This Second Amendment shall become effective upon the adoption and execution of all member agencies and the formal exit of the County of San Luis Obispo from the IWMA.

IN WITNESS WHEREOF, the parties have each caused this Second Amendment to the JPA to be executed by their duly authorized representative effective upon the execution by all member agencies.

**SECOND AMENDMENT TO THE
SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY
("IWMA") JOINT POWERS AGREEMENT**

This Second Amendment to the Joint Powers Agreement ("Second Amendment") dated October 13, 2021, is made by and between the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo, hereinafter called "Cities," and the County of San Luis Obispo, hereinafter called "County."

RECITALS

WHEREAS, on May 10, 1994, an agreement was executed by and between the Cities and the County forming a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.), for the purposes of facilitating the development of waste diversion programs and projects and of providing economies of scale on a regional basis (hereinafter referred to as the "JPA Agreement"); and

WHEREAS, in or around 2001, a memorandum of agreement ("MOA") was executed by and between the Cities, the County, and certain special districts within the County ("Authorized Districts") (collectively "parties") amending the JPA Agreement to include the Authorized Districts for representation on the IWMA Board ("First Amendment to the JPA Agreement"); and

WHEREAS, Section 7.2 (b) of the JPA Agreement provides that "[r]epresentatives to the Authority shall consist of the five members of the Board of Supervisors of the County of San Luis Obispo and of one additional member from the governing body of each incorporated city within the boundaries of the County of San Luis Obispo which is a party to this Agreement . . ."; and

WHEREAS, Section 8.5 of the JPA Agreement provides that to establish a quorum of the IWMA Board, there must be present a majority of representatives, "including one COUNTY representative"; and

WHEREAS, on September 14, 2021, the County Board of Supervisors voted to withdraw from the IWMA with an effective date of November 15, 2021; and

WHEREAS, to facilitate the continued operation of the IWMA Board of Directors without the County as a member jurisdiction, this Second Amendment to the JPA Agreement is necessary to (1) revise the representative members of the IWMA Board of Directors to eliminate the participation of the County Board of Supervisors; and (2) eliminate the requirement that a County representative is required to establish a quorum of the IWMA Board.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Section 5.3 of the JPA Agreement is amended and restated as follows:

Such powers shall be exercised subject only to the limitations set forth in this Agreement, applicable law and such restrictions upon the manner of exercising such powers as are imposed by law upon the Members in the exercise of similar powers. In no event shall the Authority be authorized to exercise any power not expressly authorized. The Authority hereby designates the City of San Luis Obispo San Luis Obispo County as the Member required to be designated by Section 6509 of the California Government Code.

2. Section 7.2 (b) of the JPA Agreement is amended and restated as follows:

Representatives of the ~~COUNTY and~~ CITIES shall be appointed to serve on the Board in accordance with procedures established by each of the governing bodies of the member agencies. Representatives to the Authority shall consist of ~~the five members of the Board of Supervisors of the County of San Luis Obispo and of one~~ **additional** member from the governing body of each incorporated city within the boundaries of the County of San Luis Obispo which is a party to this Agreement, with each incorporated area being limited to one representative. Representatives shall serve so long as they hold office with their member agency or until they shall resign or be removed by a majority vote of their member agency. Vacancies among representatives shall be filled in the same manner as the first appointment.

3. Section 8.5 of the JPA Agreement is amended and restated as follows:

8.5 Quorum and voting. For purposes of conducting business, there shall be present a quorum consisting of a majority of representatives, ~~including one COUNTY representative.~~ Each representative shall have one vote. No action shall be effective without the affirmative votes of a majority of those present. ~~However, eight (8) affirmative votes shall be required for taking any action in the event any Member demands such a vote.~~ The representatives to the Authority shall adopt such procedures as are consistent with this Agreement and necessary to conduct the business of the Authority in an orderly manner.

4. All other terms and conditions of the JPA Agreement will remain in full force and effect.

5. Effective Date. This Second Amendment shall become effective upon the adoption and execution of all member agencies and the formal exit of the County of San Luis Obispo from the IWMA.

IN WITNESS WHEREOF, the parties have each caused this Second Amendment to the JPA to be executed by their duly authorized representative effective upon the execution by all member agencies.

**FIRST AMENDMENT TO THE
MEMORANDUM OF AGREEMENT BETWEEN THE MEMBER JURISDICTIONS OF
THE SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT
AUTHORITY AND THE AUTHORIZED DISTRICTS**

This First Amendment to the Memorandum of Agreement (“First Amendment to the MOA”) is executed on the date below stated, by and between the Member Jurisdictions of the San Luis Obispo County Integrated Waste Management Authority (the County of San Luis Obispo and the incorporated cities of Arroyo Grande, Atascadero, El Paso de Robles, Grover Beach, Morro Bay, Pismo Beach, and San Luis Obispo) and the special district parties to the Memorandum of Agreement (“MOA”) (Avila Beach Community Services District, California Valley Community Services District, Cambria Community Services District, Cayucos Sanitary District, Ground Squirrel Hollow Community Services District, Heritage Ranch Community Services District, Los Osos Community Services District, Nipomo Community Services District, Oceano Community Services District, San Miguel Community Services District, San Simeon Community Services District, and Templeton Community Services District (hereinafter “Authorized Districts”)).

RECITALS

WHEREAS, on May 10, 1994, an agreement was executed by and between the incorporated cities of San Luis Obispo County and the County of San Luis Obispo forming a joint powers authority pursuant to the provisions of the Joint Exercise of Powers Act (Government Code sections 6500 et seq.), for the purpose of facilitating the development of waste diversion programs and projects that provide economies of scale without interfering with individual agencies’ exercise of power within their own jurisdiction (hereinafter referred to as the “JPA Agreement”); and

WHEREAS, pursuant to the JPA Agreement, the power to perform the responsibilities of the joint powers authority was vested in the San Luis Obispo County Integrated Waste Management Authority Board of Directors (“IWMA Board”); and

WHEREAS, in or around 2001, an MOA was executed by and between the incorporated cities, the County of San Luis Obispo, and the Authorized Districts amending the JPA Agreement to include the Authorized Districts for representation on the IWMA Board (“First Amendment to the JPA Agreement”); and

WHEREAS, in or around October 13, 2021, the JPA Agreement was amended (“Second Amendment to the JPA Agreement”) to reflect the County of San Luis Obispo’s withdrawal from the IWMA (a true and correct copy of the Second Amendment to the JPA Agreement is attached hereto as Exhibit A); and

WHEREAS, by this First Amendment to the MOA, the parties hereto desire to acknowledge, accept, and agree to be bound by the terms and conditions of the Second Amendment to the JPA Agreement.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The parties hereto desire to acknowledge, accept, and agree to be bound by the terms and conditions of the Second Amendment to the JPA Agreement.
2. All other terms and conditions of the MOA will remain in full force and effect.

This First Amendment to the MOA may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement.

IN WITNESS WHEREOF, the parties have each caused this First Amendment to the MOA to be executed by their duly authorized representative effective upon the execution by all member agencies.

LOS OSOS COMMUNITY SERVICES DISTRICT

By: _____
Chairperson

Date: _____

Clerk

Resolution No. _____

APPROVED AS TO FORM AND LEGAL EFFECT:

By: _____
Attorney

Date: _____