



## MEMORANDUM

**TO:** City Council

**FROM:** Whitney McDonald, City Manager  
Timothy J. Carmel, City Attorney

**SUBJECT:** Consideration of Adoption of a Resolution Approving the Second Amended and Restated Joint Powers Agreement to Establish an Integrated Waste Management Authority for the Cities of San Luis Obispo County, California

**DATE:** May 24, 2022

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### **SUMMARY OF ACTION:**

Adopt a Resolution Approving the Second Amended and Restated Joint Powers Agreement to Establish an Integrated Waste Management Authority for the Cities of San Luis Obispo County, California (IWMA).

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

There is no direct fiscal impact as a result of this item. However, a proposed rate increase request by South County Sanitary is currently being reviewed, a required Proposition 218 notice was sent to all Arroyo Grande residents, and a public hearing will be held on June 14, 2022, to consider the requested rate increase. The increase includes language related an increase to the IWMA's fees, which are anticipated to rise by 5.4% effective July 1, 2022.

### **RECOMMENDATION:**

Adopt a Resolution Approving the Second Amended and Restated Joint Powers Agreement to Establish an Integrated Waste Management Authority for the Cities of San Luis Obispo County, California (the "Second Amended JPA").

### **BACKGROUND:**

The Integrated Waste Management Authority (IWMA or Authority) is a Joint Powers Authority that previously was comprised of the County of San Luis Obispo (County), the seven cities (Arroyo Grande, Atascadero, Grover Beach, Morro Bay, Paso Robles, Pismo Beach, and San Luis Obispo) and numerous special districts (the Avila Beach, California Valley, Cambria, Ground Squirrel Hollow, Heritage Ranch, Los Osos, Nipomo, Oceano, San Miguel, Nipomo, San Simeon, and Templeton Community Services Districts, and the Cayucos Sanitary District). The IWMA had been governed by a First Amended Joint

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Powers Agreement (JPA) entered into by the County and the seven cities. A Memorandum of Agreement (MOA) between the IWMA's member jurisdictions and the special districts in the County with activated solid waste powers has governed the identified special districts' participation in the IWMA. The IWMA was previously governed by a thirteen-member Board of Directors consisting of all five County Supervisors, one elected representative from each of the seven cities, and one elected representative from the participating special districts.

On May 18, 2021, the County of San Luis Obispo commissioned a third-party study of costs to assess the fiscal impacts of the County's withdrawal from the IWMA. Subsequently, on August 10, 2021, the County Board of Supervisors held a hearing to decide whether to withdraw from the IWMA and voted to withdraw from the IWMA and implement an independent County solid waste compliance program. On September 14, 2021, the County Board of Supervisors passed a Resolution to formally notify the IWMA of its intent to withdraw on November 15, 2021.

On October 13, 2021, the IWMA Board of Directors approved as to form a Second Amendment to the JPA that removed the County and enabled the Board of Directors to continue to meet and conduct the necessary business of the IWMA and also a form of an amendment to the MOA between the IWMA members and the special districts to ensure consistency with the amended JPA. On November 9, 2021, the City Council approved the proposed Second Amendment to the JPA to ensure that the IWMA Board of Directors could continue to meet without the participation of the County Board of Supervisors. The approval included adoption of a Resolution, however, that provided that in addition to the proposed amendments to the JPA and MOA, specific conditions were to be included to address the City's remaining concerns following the County's exit. The Resolution required additional revisions to the JPA, as well as other actions, in order for the City to continue its membership. These revisions and additional actions included:

1. Add a provision to the JPA which clearly and directly limits the IWMA's ability to adopt, impose, or implement any rule, regulation, policy, or ordinance in excess of State requirements (also requested by Grover Beach, Paso Robles, Pismo Beach, and San Luis Obispo);
2. Amend the JPA to require at least 6 months' notice in the event that a member wishes to leave the IWMA (also requested by Pismo Beach);
3. Begin recruitment and diligently pursue hiring a permanent Executive Director as soon as practical (also requested by Grover Beach, Paso Robles, Pismo Beach, and San Luis Obispo);
4. Hire a third-party firm with solid waste management expertise to analyze fees, staffing structures and make recommendations for any programs and services that are not required by, or are in excess of, State solid waste regulations. The report shall identify potential cost saving measures and the IWMA Board shall

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review and implement those recommendations to reduce costs and minimize expenses. *The report must be reviewed by the managers of the IWMA member agencies before it is completed and implemented* (also requested by Grover Beach, Paso Robles, Pismo Beach, and San Luis Obispo, with the exception of the italicized language which was proposed by Arroyo Grande);

5. Provide all information necessary to support the adoption of fees that meet all applicable legal requirements, including any information needed by the member agencies to implement the IWMA's fees as determined through coordination with the managers of the member agencies (requested by Arroyo Grande only); and
6. Rescind IWMA Resolution No. 21-06-02 and coordinate with the member agencies' managers before adopting any other increases to the IWMA's fees (requested by Arroyo Grande only).

**ANALYSIS OF ISSUES:**

The City of Arroyo Grande is, and has been, a significant partner to the IWMA, and the IWMA has been a crucial partner in assisting the City in meeting compliance with State mandates, including SB 1383. Agencies' continued participation as members of the IWMA is critical for the IWMA's ongoing viability as a regional organization. Regionality in solid waste traditionally provides an economy of scale, ensures consistent education and outreach among member jurisdictions, and locally has been a successful means of meeting waste diversion and regulatory compliance since 1994. The role of the IWMA has provided its member agencies with educational outreach on landfill diversion, source reduction, and emissions reduction efforts implemented in local communities. The IWMA is a regional government entity representing its members in solid waste diversion and reduction efforts. The efficacy of the organization depends on the breadth and participation of its member base. To continue as an operating regional organization, the remaining member agencies needed to agree on terms for the organization without the County's involvement.

A committee of staff from the IWMA and the remaining member agencies was formed to develop the additional amendments, which are now being presented to the City Council for approval in the form of the new Second Amended JPA. The Second Amended JPA includes the following revisions:

A new Section 7 has been added, titled Expressed Limitation of Powers. This Section explicitly limits the Authority's regulatory and ordinance power to state mandated legislation only. This Section provides that:

The Authority's power to adopt, impose, implement, and/or comply with regulations and ordinances is expressly limited to state-mandated legislation and exercising such powers as are imposed by law in the

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exercise of regulations related to solid waste, recycling, organic waste, and waste diversion. The Authority shall establish a budget policy requiring Board consideration of the minimum work required to comply with state mandates and regulations in the most demonstrably cost-effective way possible...

Section 15, Withdrawal and Dissolution, now provides for a six (6) month notice to withdraw as opposed to the 30 days that had been in the original JPA.

The Second Amended JPA also includes new updated recitals to include historical context and key pieces of legislation adopted after the original JPA. References to the County's withdrawal is also provided for context, and AB 431, AB 1826, and SB 1383 are identified as they expand the IWMA's scope of service. Also, Section 10.5., Quorum and Voting, previously included a supermajority provision wherein any Board member could demand eight (8) affirmative votes on any item. This provision has been deleted.

As noted, previously there was a separate MOA between the IWMA's member jurisdictions and the special districts (referred to in the Agreement as "Authorized Districts") that governed the special districts participation in the IWMA. Instead, provisions have been included in the Second Amended JPA addressing the special districts as Participating Agencies as signatories to the Agreement, to avoid confusion created by the existence of two documents (the JPA and the MOA). As permitted by the Public Resources Code Section 40977, the Second Amended JPA includes one Authorized District to be included as a member in the IWMA regional agency for the purpose of representation on the IWMA Board of Directors.

#### **ALTERNATIVES:**

The following alternatives are provided for the Council's consideration:

1. Adopt a Resolution Approving the Second Amended and Restated Joint Powers Agreement to Establish an Integrated Waste Management Authority for the Cities of San Luis Obispo County, California.
2. Provide direction to further evaluate withdrawing from the IWMA and entering into an agreement with the County to conduct all solid waste regulatory compliance work; or
3. Provide additional direction to staff to perform an analysis on the comparative costs of staffing and performing these services in-house; or
4. Provide other direction to staff.

#### **ADVANTAGES:**

Approving staff's recommendations will enable the City to continue its membership in the IWMA, which significantly assists the City in satisfying its solid waste management obligations under State law.

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**DISADVANTAGES:**

No disadvantages are identified to continuing to participate in the IWMA at this time.

**ENVIRONMENTAL REVIEW:**

No environmental review is required for this item.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

**Attachments:**

1. Proposed Resolution and Second Amended and Restated Joint Powers Agreement to Establish an Integrated Waste Management Authority for the Cities of San Luis Obispo County, California