

JOINT EXERCISE OF POWERS AGREEMENT
FOR WASTE MANAGEMENT

C-90-150

This Agreement is entered into and becomes effective this 13 day of February, 1990, by and between the undersigned public agencies, all of said parties referred to collectively as the "Agencies";

WITNESSETH:

A. Solid Waste Management

1. Until January 1, 1990 Government Code section 66780 et seq. had required the preparation, adoption, revision, amendment, administration and enforcement of countywide solid waste management plans in order to protect the environment and provide for safe, sanitary and economical disposal of solid waste. An objective of prior versions of this Joint Exercise of Powers Agreement for Waste Management ("JPA") had been to create a city, county, special district waste management authority responsible for and capable of preparation, adoption, revision, amendment, administration, policy-making, budgetary, planning and enforcement of the Alameda County Solid Waste Management Plan as mandated by then existing Government Code section 66780 et seq.

2. In this regard, the Alameda County Solid Waste Management Plan has been adopted, revised and amended from

time to time pursuant to Government Code section 66780 et seq. Alameda County had previously delegated to the Alameda County Solid Waste Management Authority, an agency created by a Joint Exercise of Powers Agreement for Solid Waste Management on September 2, 1976, the power, duty and responsibility to prepare, adopt, revise, amend, administer and enforce the Alameda County Solid Waste Management Plan. On October 27, 1987 the JPA was amended to create, among other things, the Alameda County Waste Management Authority ("Authority"), which was empowered to engage in hazardous waste planning as well as solid waste planning. By its signature on the October 27, 1987 Joint Powers Agreement for Waste Management, Alameda County delegated the power, duty, and responsibility to prepare, adopt, revise, amend, administer and enforce the Alameda County Solid Waste Management Plan. In the event that Government Code section 66780 et seq. is re-enacted in any manner, whether by enactment of additions to the Government Code or other code or in uncodified sections, by its signature hereon, Alameda County continues the delegation enumerated above in regard to the Alameda County Solid Waste Management Plan.

3. Notwithstanding the repeal of Government Code section 66780 et seq. the Agencies, including Alameda County, hereby exercise their shared power to engage in planning and regulation of solid waste by delegating to the

Authority the power to prepare, adopt, revise, amend, administer and enforce the Alameda County Solid Waste Management Plan which has previously been adopted by the Authority, approved by a majority of cities in the County having a majority of the population in the incorporated areas of the County, and approved by the California Waste Management Board. This delegation shall continue until approval of the Alameda County Integrated Waste Management Plan by all necessary public agencies specifically including the California Integrated Waste Management Board pursuant to the provisions of Public Resources Code section 40900 et seq. as those sections exist or as they may be amended from time to time. In this regard, the Agencies intend and do adopt the requirement that any amendment of the Alameda County Solid Waste Management Plan shall become effective only after approval by a majority of the cities in the County containing a majority of the population of the incorporated areas of the County.

4. Public Resources Code section 40900, part of AB 939 (Statutes of 1989, chapter 1095), became effective January 1, 1990 and requires preparation of countywide integrated waste management plans. A purpose of this JPA is to create a city, county, special district waste management authority responsible for and capable of preparation, adoption, revision, amendment, administration, policy-

making, budgetary, planning and enforcement of the Alameda County Integrated Waste Management Plan. By their signatures hereon, Alameda County and each city delegates the power, duty and responsibility to prepare, adopt, revise, amend, administer and enforce the Alameda County Integrated Waste Management Plan pursuant to Public Resources Code section 40900 et seq. as those sections exist and as they may be amended from time to time. This JPA shall be considered a Memorandum of Understanding for the purpose of the delegation from the County and the cities to the Authority of the power to prepare the Alameda County Integrated Waste Management Plan.

5. As regards the Alameda County Integrated Waste Management Plan, the Agencies intend and require that the city source reduction and recycling elements required by Public Resources Code section 41000 et seq., as those sections exist and as they may be amended from time to time, shall be prepared and amended from time to time by the Authority. However, any city may elect to treat the city source reduction and recycling element prepared by the Authority for that city as a baseline plan to which a city may add policies and programs tailored more specifically to that city's needs or designed to be more effective in accomplishing source reduction and recycling of solid waste. If a city exercises this option, that city shall coordinate

with the Authority in the preparation and adoption of any additions or changes in the source reduction and recycling component prepared by the Authority for use by that city. To allow cities to have adequate time to make revisions or changes in any city source reduction or recycling component prepared by the Authority, the Authority shall make such component available to cities sufficiently in advance of the time that a city source reduction and recycling element or countywide integrated waste management plan is required by law to be submitted to the California Integrated Waste Management Board so that cities will have an opportunity to make revisions or changes as authorized by this paragraph. If a city does not exercise the option to make revisions or changes in the city source reduction and recycling element prepared for it by the Authority, or if a city exercises the option at a time when it is impractical to meet deadlines specified by law for submitting such components or countywide integrated waste management plans to the California Integrated Waste Management Board, then the Authority shall submit the city source reduction and recycling component prepared by the Authority to the California Integrated Waste Management Board as the city source reduction and recycling component for all cities (except those cities which have prepared changes or revisions in compliance with this paragraph). If a city

exercises the option specified in this paragraph, that city shall submit any proposed changes or revisions in the city source reduction and recycling component to the Authority for comment prior to adoption by the city. Nothing in this JPA shall be construed to render the Authority responsible for compliance with Public Resources Code section 41780 as that section exists or as it may be amended from time to time.

B. Hazardous Waste Management

Government Code section 66780.8 and Health and Safety Code sections 25135 through 25135.8 establish a planning process and requirements for the preparation, adoption, amendment, administration and enforcement of county hazardous waste management plans in order to protect the environment and provide for safe and responsible management of hazardous wastes. An objective of this Agreement is to create a city, county, special district waste management authority responsible for and capable of preparation, adoption, amendment, administration, policy-making, budgetary, planning and enforcement of an Alameda County Hazardous Waste Management Plan. By its signature hereon, Alameda County delegates to the Alameda County Waste Management Authority the power, duty and responsibility to prepare, adopt, amend, administer and enforce the Alameda County Hazardous Waste Management Plan pursuant to

Government Code section 66780.8 and Health and Safety Code sections 25135 through 25135.8 as those sections exist or as they may be amended from time to time.

C. Joint Exercise of Powers.

Government Code section 6500 et seq. provides that two or more public agencies by agreement may jointly exercise any power common to the contracting parties. Public Resources Code section 41823 authorizes a city or county to enter into a memorandum of understanding with another city or county or agency formed under a joint exercise of powers agreement for the purpose of preparing and implementing source reduction and recycling elements or a countywide integrated waste management plan. It is the intent of the contracting Agencies to utilize these statutory authorizations in this Agreement.

NOW, THEREFORE, the Agencies agree as follows:

1. OBJECTIVE

The purposes of this Agreement are to provide a means of preparing, adopting, revising, amending, administering and enforcing the Alameda County Solid Waste Management Plan (on an interim basis as specified in paragraphs A2 and A3), the Alameda County Integrated Waste Management Plan and the Alameda County Hazardous Waste Management Plan.

2. DEFINITIONS

Certain words as used in this Agreement shall be defined as follows:

a. "Board" shall mean the board constituted herein pursuant to this Agreement to administer and execute this Agreement.

b. "Agency" shall mean each city, county, or special district which is a signatory to this Agreement.

c. "Alameda County Waste Management Authority" shall mean the public and separate agency created by this Agreement.

d. "Enforcement Agency" shall mean that the Alameda County Department of Environmental Health is the enforcement agency for hazardous wastes for the entire County and it is the enforcement agency for solid wastes for the entire County, except for the City of Berkeley.

3. EFFECTIVE DATE

This agreement shall become effective on _____, 1990.

4. CREATION OF ALAMEDA COUNTY WASTE MANAGEMENT AUTHORITY.

There is hereby created the Alameda County Waste Management Authority to exercise in the manner set forth in this Agreement the powers common to each of the Agencies. The Authority shall be a public entity separate from the

Agencies. No debt, liability, or obligation of the Authority shall constitute a debt, liability or obligation of any Agency and each party's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the parties hereto may agree.

5. SUCCESSOR AGENCY

The Authority is for all purposes the successor to the Alameda County Solid Waste Management Authority created by Joint Powers Agreement effective September 2, 1976. The Authority shall succeed to all of the assets, liabilities, contracts and other obligations of the Alameda County Solid Waste Management Authority. The Authority shall also assume all powers, duties and responsibilities specified in this Agreement regarding the Alameda County Solid Waste Management Plan. By separate document the members of the Alameda County Solid Waste Management Authority shall execute an instrument indicating the dissolution of that public agency and the transfer of all of its assets, liabilities, contracts and other obligations to this Authority. The California Waste Management Board shall be notified of this change and requested to verify that the Authority is the identified agency for solid waste planning in Alameda County. The State Department of Health Services shall also be notified and requested to verify that the

Authority is the identified agency for hazardous waste planning in Alameda County.

6. POWERS

The Authority shall have the power to prepare, adopt, revise, amend, administer and enforce the provisions of the Alameda County Solid Waste Management Plan as specified in paragraphs A2 and A3, the Alameda County Integrated Waste Management Plan and the Alameda County Hazardous Waste Management Plan. The Authority is hereby authorized in its own name to perform all acts necessary for the exercise of said powers including but not limited to the following:

- a. to make and enter into contracts;
- b. to apply for and accept grants, advances and contributions;
- c. to employ or contract for the services of agents, employees, consultants and such other persons or firms as it deems necessary;
- d. to make plans and conduct studies; to review the Alameda County Solid Waste Management Plan as specified in paragraphs A2 and A3 and the Alameda County Integrated Waste Management Plan and recommend or adopt revisions or amendments thereto to the extent allowed by law;
- e. to acquire, construct, manage, maintain, operate and control any buildings, works or improvements;

- f. to acquire, hold or dispose of property;
- g. to sue and be sued in its own name;
- h. to incur debts, liabilities or obligations, subject to limitations herein set forth;
- i. to levy and collect fees and charges, including administrative and operating costs, as provided in this Agreement or by law, against all entities to which the law applies, both signatory and non-signatory to this Agreement;
- j. to adopt, as authorized by law, ordinances or resolutions necessary to carry out the purposes of this Agreement;
- k. to issue bonds, subject to the provisions and limitations of the Government Code of the State of California;
- l. to adopt annually a budget setting forth all administrative, operational and capital expenses for the Authority, together with the apportionment of such expenses by levy against each agency to the extent necessary;
- m. to act by and on behalf of Alameda County for the purposes of Government Code section 66780.8 and Health and Safety Code sections 25135 through 25135.8 as those sections exist or as they may be amended from time to time in order to seek state funding to defray the cost of

preparing, adopting, amending, administering and enforcing the Alameda County Hazardous Waste Management Plan;

n. to appoint four members to the advisory committee required by Health and Safety Code section 25135.2 as that section exists or as it may be amended from time to time. In this regard, the Agencies agree that the advisory committee shall consist of a maximum of 17 members of which ten shall be appointed by the Board of Supervisors, including at least one representative of industry, one representative of an environmental organization and one representative of the public, and three shall be appointed by the city selection committee;

o. to recommend, adopt and amend the Alameda County Hazardous Waste Management Plan to the extent allowed by law.

7. BOUNDARIES

The boundaries of the Authority shall be the boundaries of the County of Alameda.

8. ORGANIZATION

a. Board

The Authority shall be governed by the Board which shall exercise all powers and authority on behalf of the Authority.

The Board is empowered to establish its own procedures. The Board may do any and all things necessary to carry out the purposes of this Agreement.

b. Members

The Board shall consist of one member of the governing body of each of the Agencies. Upon execution of this Agreement, the governing body of each Agency shall by resolution appoint one of its members to serve as a member of the Board and another of its members to serve as an alternate member of the Board to serve in the absence of the regular member. Each member and alternate shall hold office from the first meeting of the Board after his or her appointment until a successor is selected. Each member and alternate shall serve at the pleasure of the governing body of the appointing agency. Any change in appointment of a member or alternate shall be by resolution of the governing body of the appointing agency.

c. Vote

In order to represent the population of the Agencies, each member shall have one vote except that the member selected by the City of Oakland shall have three votes and the member selected by the County of Alameda shall have two votes.

d. Vote Required

A two-thirds majority of the authorized vote shall be required for the adoption of a resolution or ordinance. A majority vote of those present and voting shall be required for any other action.

e. Meetings of the Board

(1) Regular Meetings

The Board shall hold at least one regular meeting each year. The date, hour and place at which each such regular meeting shall be held shall be fixed by resolution of the Board.

(2) Special Meetings

Special meetings of the Board may be called in accordance with provisions of law.

(3) Notice of Meetings

All meetings of the Board shall be held subject to the provisions of the Ralph M. Brown Act, being sections 54950 et seq. of the Government Code, and other applicable laws of the State of California requiring notice of meetings of public bodies to be given.

(4) Minutes

The Board shall cause minutes of all meetings to be kept and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to each Agency.

(5) Quorum

A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time.

f. By-Laws

The Board shall adopt from time to time such by-laws, rules or regulations for the conduct of its affairs as may be required.

9. STAFFING

The Authority may appoint and retain staff as necessary to fulfill its powers, duties and responsibilities under this Agreement, including appointment of temporary or permanent staff, or contract with the County of Alameda.

10. RESTRICTIONS UPON EXERCISE OF POWER OF BOARD

This Agreement is entered into under the provisions of Government Code section 6500 et seq. concerning joint powers agreements. The powers to be exercised hereunder shall be subject to the restrictions upon the manner of exercising those powers as limited by law.

11. FUNDS, AUDIT AND ACCOUNTING SERVICES

Pursuant to the requirements of section 6505.5 Of the Government Code, the Treasurer of the County of Alameda is designated to be the depository and to have custody of

all project funds from whatever source, and to perform the following functions:

a. Receive and receipt for all money for the project and place it in the County Treasury of Alameda County for the credit of the Authority;

b. Be responsible upon official bond for the safekeeping and disbursement of all Authority money so held;

c. Pay any sums due from Authority money, or any portion thereof, only upon warrants of the public officer performing the functions of auditor or controller who has been so designated pursuant to this Agreement; and

d. Verify and report in writing on the first day of July, October, January and April of each year to the Authority and to the contracting parties to this Agreement the amount of money the Treasurer holds for the Authority, the amount of receipts and the amount paid out since the last report to the Authority.

The functions of auditor shall be performed for the Authority by the Auditor of Alameda County. The Auditor shall draw warrants to pay demands against the Authority when the demands have been approved by the Authority or by a person authorized by the Authority to so approve.

There shall be strict accountability of all funds and the Auditor of the County of Alameda will report to the Board of Control all receipts and disbursements. In

addition, the Auditor of the County of Alameda will either make or contract for an audit of the accounts and records at least annually as prescribed by section 6505 of the Government Code. In each case the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under section 26909 of the Government Code and the audit shall conform to generally accepted auditing standards.

12. DISPOSITION OF AUTHORITY FUNDS UPON TERMINATION

a. In the event of termination of the Authority where there is a successor public entity which will carry on the activities of the Authority and assume its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations shall be transferred to the successor public entity.

b. If there is no successor public entity which would carry on any of the activities of the Authority or assume any of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be returned in proportion to the contribution of each Agency during the term of this Agreement.

c. If there is a successor public agency which would undertake some of the functions of the Authority and

assume some of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be allocated by the Board between the successor public entity and member agencies.

In the event the Authority is terminated under circumstances falling within (b) or (c) above, all decisions of the Board with regard to determinations of amounts to be transferred to member agencies or any successor shall be final.

13. PROCEDURE FOR BECOMING MEMBER OF BOARD

All of the agency signatories to this Agreement shall be members of the Board. Any city in Alameda County, including cities incorporated after the effective date of this Agreement, may become members of the Board by presenting an adopted resolution to the Authority which includes a request to become a member of the Board. Any other public entity in Alameda County which shares and exercises powers in common with the contracting parties may become a member of the Board by presenting an adopted resolution to the Authority which includes a request to become a member of the Board and upon a two-thirds affirmative vote of the Authority accepting the public entity to membership.

14. WITHDRAWAL AND TERMINATION OF MEMBERSHIP

Any Agency upon two years' written notice given to the Authority prior to July 1st of any year may withdraw from this Agreement. The membership of any agency which ceases to have powers in common with the contracting parties to this Agreement or, in the case of a special district, ceases to exercise franchise authority for solid or hazardous waste and does not own or operate any solid or hazardous waste facilities shall terminate thirty (30) days after the occurrence of the requisite events as specified in this section.

15. SPECIAL PROVISIONS

a. The Authority shall not under any circumstances attempt to impose or enforce a tax for general purposes or impose a user fee in reliance on Health and Safety Code section 25173.5 as that section exists or may be amended from time to time unless said section or its successor authorizes such a tax or user fee to be levied by the Authority.

b. The previous JPA provided that the Authority could levy the fee authorized by then existing Government Code section 66784.3 to defray the cost of preparing, maintaining and administering the Alameda County Solid Waste Management Plan. The Agencies are desirous of continuing the authorization to levy a fee for the purpose of defraying

the cost of preparing, maintaining and administering the Alameda County Solid Waste Management Plan until such time as an Alameda County Integrated Waste Management Plan is approved by the California Integrated Waste Management Board. Therefore, by their signatures hereon, the Agencies delegate to the Authority the power to levy such a fee upon solid waste operators in the County for the purpose of defraying the cost of preparing, maintaining and administering the Alameda County Solid Waste Management Plan until such time as it is superseded by an approved Alameda County Integrated Waste Management Plan. Alameda County understands and agrees that the Authority and not the County may levy the fee authorized by this provision.

c. The Agencies understand and agree that the Authority and not the Agencies may levy the fee authorized by Public Resources Code sections 41901 and 41902 as those sections exist or as they may be amended from time to time.

d. The Agencies understand and agree that the Authority and not the Agencies may assess special fees of a reasonable amount on the importation of waste from outside of the County pursuant to Public Resources Code section 41903 as that section exists or as it may be amended from time to time.

16. AMENDMENTS

This Agreement may be amended by the affirmative vote of the governing bodies of not less than two-thirds of all member Agencies.

17. NOTICES

All notices to Agencies shall be deemed to have been given when mailed to the governing body of each member agency.

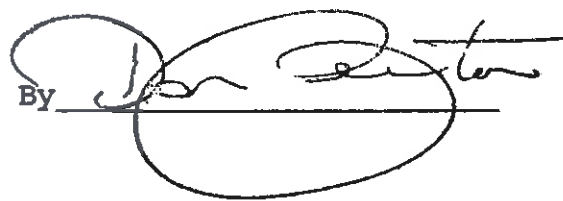
IN WITNESS WHEREOF, each Agency has executed approval of this Agreement and filed said approval with the Clerk of the County of Alameda and said signatures are listed below or attached hereto.

Dated: FEB 13 1990

County of Alameda

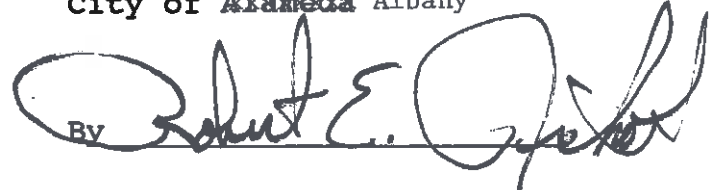
Approved as to Form
KELVIN H. BOOTY, JR., County Counsel

By: 
LORENZO E. CHAMBLISS

BY 

City of ~~Alameda~~ Albany

Dated:
5/21/90

BY 

Dated: 5/25/90
attest:

City of ~~Albany~~ Alameda


DEPUTY CITY CLERK

BY 
C. J. CORICA
MAYOR OF ALAMEDA

I hereby certify under penalty of perjury that the Chairman of the Board of Supervisors was duly authorized to execute this document on behalf of the County of Alameda by a majority vote of the Board on FEB 13 1990; and that a copy has been delivered to the Chairman as provided by Government Code Section 25103.

Dated: FEB 13 1990

WILLIAM MEHRWEIN, Clerk, Board of Supervisors,
County of Alameda, State of California

By

Josephine M. Cabanun

Deputy

Dated:
APPROVED AS TO FORM:

Manuela Albuquerque
MANUELA ALBUQUERQUE
City Attorney

Dated: 3/26/90

Attest: Kay Keck
City Clerk

Dated:

3/28/90

Dated: 6/15/90

APPROVED AS TO FORM:
Allen E. Sprague
ALLEN E. SPRAGUE
City Attorney

Dated: 7/16/90

FORM APPROVED
CITY ATTORNEY

by Nice C. Gray

Dated:

5/14/90

City of Berkeley

By Lori Hancock

City of Dublin

By Paul C. Moffatt

City of Emeryville

By Dale [Signature]

City of Fremont

By [Signature]

City of Hayward

By [Signature]

City of Livermore

By Cathie [Signature]

Dated: 6/4/90

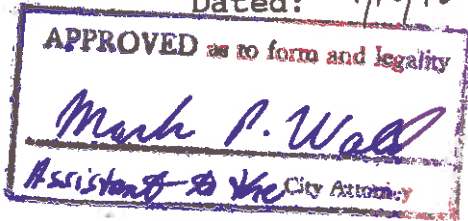
City of Newark

By David W. Smith

Dated: 9/18/90

City of Oakland

By Lionel J. Wilson



Dated: 3/28/90

City of ~~Piedmont~~ Pleasanton

By K/R Meru

Dated: 4/25/90

City of ~~Pleasanton~~ Piedmont

By SKIP RHODES

Dated: 6/22/90

City of San Leandro

By Gene Kay

Dated: 4/12/90

City of Union City

By Tom Hayden

Dated:

March 6, 1990

Castro Valley Sanitary
District

By

James S. Martin
Secretary

By

Ronald J. Street
President

Dated:

7/9/90

Oro Loma Sanitary District

By

Carl Hansen

agmt2/acwm2.ad