



Legislation Details (With Text)

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Title: Amend Carson Remediation JPA Agreement to make clean-up changes per DTSC and other organizational requirements; Make appointments to the Joint Powers Authority Board.

THIS IS A JOINT AGENDA ITEM WITH THE housing authority and community facilities district no. 2012-2

Sponsors: City Attorney

Indexes:

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Attachments: 1. Exhibit No. 1 - Restatement of JPA Agreement

Date	Ver.	Action By	Action	Result
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Report to Community Facilities District No. 2012-1

Tuesday, March 17, 2015

New Business Discussion

SUBJECT:

AMEND CARSON REMEDIATION JPA AGREEMENT TO MAKE CLEAN-UP CHANGES PER DTSC AND OTHER ORGANIZATIONAL REQUIREMENTS; MAKE APPOINTMENTS TO THE JOINT POWERS AUTHORITY BOARD.

THIS IS A JOINT AGENDA ITEM WITH THE HOUSING AUTHORITY AND COMMUNITY FACILITIES DISTRICT NO. 2012-2

I. SUMMARY

I. On January 20, 2015, the governing Boards of the Housing Authority and Community Facilities Districts (“CFDs”) approved each Board’s authority to enter into an agreement for the formation of a Joint Powers Authority (“JPA”) for the purpose of overseeing, and facilitating the remediation of contaminated properties in the City of Carson and maintenance and potential development of same (the proposed “Remediation JPA”).

At the request of the Chair of the Housing Authority and CFDs, we have proposed certain changes to the JPA Agreement, which revisions are reflected in Exhibit 1 hereto.

Also at this meeting, it is proposed that the Housing Authority Board and the CFDs make their appointments to the JPA's governing board.

II. RECOMMENDATION

1. Consider ADOPTING an amendment to the JPA Agreement. The amended JPA Agreement would enact the proposed revisions shown in Exhibit 1 hereto.

2. MAKE appointments to the governing board of the JPA. How appointments are made will depend on whether the Housing Authority and CFD boards accept the proposed amendments to the JPA Agreement because the proposed JPA amendments primarily alter the appointment process.

III. ALTERNATIVES

1. Do not REVISE the JPA Agreement to enact the Exhibit 1 revisions. Or, RECOMMEND other revisions to be implemented into the JPA Agreement.

2. DECLINE to make any appointments at this time. The JPA cannot take any effective action until its Board is formed.

IV. BACKGROUND

In light of dissolution of the Carson Redevelopment Agency, the City faces a unique challenge in dealing with the remaining contaminated properties within the City's boundaries. From the 1940s through the 1960s, many environmentally harmful land uses operated within the City. More than 500 acres were occupied by 17 landfills, each with varying levels of toxicity, and a total of 88 auto salvage yards operated without any regulations in place. Other industrial activities such as metal production, paper product production, chemical processing, electronics manufacturing, automobile dismantling and petroleum refining have also had negative effects on the City's environment. As a result of past land uses, the Carson Redevelopment Agency was a critical arm of the City in successfully remediating environmental conditions of the City and in assisting in successful redevelopment of the City.

The City still contains a number of environmental blighting conditions on many properties that pose barriers to meaningful redevelopment. However, with the elimination of the Redevelopment Agency, property owners are less inclined to remediate these properties

and the City will have to be careful involving itself in such projects not to expose the City's general funds to any potential liabilities. To fill this gap, the Carson Remediation JPA was approved for formation.

Under the Joint Exercise of Powers Act, Gov. Code §§ 6500 et seq., public agencies may make agreements with other public agencies to jointly exercise a power they have in common. Subject to the strict limitations noted below, JPAs can define their own powers, administrative control, and procedures through their formational document, the Joint Powers Agreement. (Gov. Code § 6503.) An agreement that creates a new JPA describes the size, structure, and membership of the JPA's governing board and documents the JPA's powers and functions. As a legally separate public agency, the JPA can sue or be sued, hire staff, obtain financing to build public facilities, and manage property. Joint powers agreements usually protect their member agencies from a JPA's debts or other liabilities.

The JPA Board has not yet been formed. The JPA Board is a "public entity" for nearly all legal purposes. This means that a JPA must abide by the complex conflicts-of-interest laws of the California Political Reform Act (Gov. Code §§ 87100 et seq.), the restrictions on self-interested contracts involving government officials (Gov. Codes §§ 1090 et seq.), the Brown Act's open meeting laws (Gov. Code §§ 54950 et seq.) and the Public Records Act (Gov. Code §§ 6250 et seq.).

Under the version of the JPA Agreement that was approved by the Housing Authority and the CFDs on January 20, 2015, the appointments to the JPA Board were to be made as follows:

- 1) Two appointments by the Housing Authority appointing two members of its legislative body to two Board seats;
- 2) One seat on the Board shall be filled by the Chair of the Carson Planning Commission;
- 3) One seat on the Board shall be filled by the Chair of the Carson Economic Development Commission;
- 4) One seat on the Board shall be filled by either (i) the Chair of the Carson Environmental Commission, or (ii) the Secretary to the Housing Authority, which appointment shall be made by majority vote of the Housing Authority Board. In the event the Secretary to the Housing Authority is appointed to sit on the Board, the position of Authority Secretary shall pass to the Deputy City Clerk of the City of Carson.

However, if the Housing Authority and the CFDs accept the proposed amendments to the JPA Agreement, then the appointment process will be as follows:

5) One appointment by the Chair of the Housing Authority subject to ratification by a majority vote of the Housing Authority Board;

6) One appointment by the Chair of the Districts' Board subject to ratification by a majority vote of the Districts' Board;

7) One seat on the Board shall be filled by a member of the Carson Planning Commission, which appointment shall be made by the Chair of the Housing Authority subject to ratification by a majority vote of the Housing Authority Board;

8) One seat on the Board shall be filled by a member of the Carson Environmental Commission, which appointment shall be made by the Chair of the Housing Authority subject to ratification by a majority vote of the Housing Authority;

9) One seat on the Board shall be filled by either (i) the Chair of the Carson Economic Development Commission, or (ii) the Secretary to the Housing Authority, which appointment shall be made by the Chair of the Housing Authority Board, subject to ratification by a majority vote of the Housing Authority. In the event the Secretary to the Housing Authority is appointed to sit on the Board, the position of Authority Secretary shall pass to the Deputy City Clerk of the City of Carson.

10) One seat on the Board shall be filled by either (i) the Chair of the Carson Economic Development Commission, or (ii) the Secretary to the Housing Authority, which appointment shall be made by the Chair of the Housing Authority Board, subject to ratification by a majority vote of the Housing Authority. In the event the Secretary to the Housing Authority is appointed to sit on the Board, the position of Authority Secretary shall pass to the Deputy City Clerk of the City of Carson.

Once these appointments are completed, the Board can take further organizational actions, such as adopting bylaws and making JPA employment and officer assignments.

V. FISCAL IMPACT

None. The City is merely providing preliminary consent and direction to move forward with the formation of the JPA Board.

VI. EXHIBITS

Exhibit 1 - Restatement of JPA Agreement (pgs. 5-18)

Prepared by: City Attorney's office