

City of Los Alamitos

Agenda Report Consent Calendar

July 21, 2015
Item No: 8I

To: Mayor Richard D. Murphy & Members of the City Council

From: Bret M. Plumlee, City Manager

Subject: Third Amendment to Orange County Fire Authority (OCFA) Joint Powers Authority Agreement

Summary: This agenda item is submitted to request approval of the Orange County Fire Authority's Third Amendment to the Amended Joint Powers Authority Agreement to eliminate alternate directors.

Recommendation: Adopt Resolution 2015-19, entitled, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING THE THIRD AMENDMENT TO THE ORANGE COUNTY FIRE AUTHORITY AMENDED JOINT POWERS AUTHORITY AGREEMENT AND AUTHORIZING ITS EXECUTION."

Background

The Orange County Fire Authority (OCFA) was formed in 1995 to provide regional fire protection and related services to the County of Orange and 18 member cities. Subsequent to formation, 6 additional cities have become members of the OCFA. The original JPA agreement was amended on September 23, 1999, and renewed in 2010 by the First Amendment, which provided for a term that runs through 2030. In 2013, OCFA's members approved a Second Amendment to the Amended JPA which amended several provisions to promote financing equity among the members.

Discussion

Purpose of the Third Amendment

Since formation of the OCFA in 1995, the JPA Agreement has provided for each member agency to have representation on the Board of Directors. This provision was key to the formation of the OCFA, as discussed in an early feasibility study in 1991 regarding the formation of a regional Orange County Fire agency, which stated:

"Provide equal agency representation on a governing board, regardless of participant size, to address cost, expenditure, equity, and service level issues."

In addition to providing for each member agency to appoint a representative to act as its Director on the OCFA Board, the JPA Agreement also provides for each member agency to appoint an alternate to act in each Director's absence.

In discussing AB1217 (Daly), which would reduce member agency representation on the OCFA Board, a majority of the Board concluded that representation of every member agency on the Board remains critically important; however, a majority of the Board also concluded that the provision for alternate Directors could be eliminated. OCFA's primary Directors have a long history of good attendance at Board meetings. When a Director is occasionally unable to attend, they rarely request their alternate to attend on their behalf since the alternate may be less informed on the complex or sensitive topics for consideration.

As a result of this dialogue, the OCFA Board of Directors directed its General Counsel to (1) draft a proposed amendment to the JPA Agreement which would eliminate alternate directors, and (2) after OCFA Board approval of the form of the amendment, submit the proposed amendment to the governing bodies of OCFA's member agencies for actual approval. Per this direction, OCFA's General Counsel drafted the Third Amendment, amending Article II, Sections 2 and 5 of the 1999 Amended JPA Agreement. The OCFA Board of Directors reviewed the form of the amendment at a Special Meeting on July 1, 2015. The OCFA Board approved the form of the Third Amendment by a vote of 17-3, with Lalloway (Irvine), Sloan (Seal Beach), and Bartlett (County) opposed to the Amendment.

In order to become effective, the Third Amendment must be approved by at least two-thirds (e.g., 16 of 24) of the member agencies' governing bodies. On July 14, 2015, the amendment to the Orange County Fire Authority's Joint Powers Authority Agreement was passed by 16 OCFA member agencies, eliminating alternate board directors. Four member agencies will consider the 'Third Amendment' within the next three weeks, and four member agencies have not scheduled a vote on the amendment. Staff is requesting the City Council to approve the Third Amendment.

Fiscal Impact

None.

Approved By:



Bret M. Plumlee
City Manager

Fiscal Impact Reviewed By:



Jason Al-Imam
Administrative Services Director

- Attachments:*
1. Resolution 2015-19
 2. Third Amendment to Amended Joint Powers Authority Agreement
 3. Chart of Member Agencies and Votes

RESOLUTION NO. 2015-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING THE THIRD AMENDMENT TO THE ORANGE COUNTY FIRE AUTHORITY AMENDED JOINT POWERS AUTHORITY AGREEMENT AND AUTHORIZING ITS EXECUTION

WHEREAS, the Orange County Fire Authority (OCFA) is a California Joint Powers Authority (JPA) that was formed in 1995 to provide regional fire protection and related services to the County of Orange and its member cities; and,

WHEREAS, the original JPA agreement was amended by an "Amended Joint Powers Authority Agreement" ("Amended JPA Agreement") on September 23, 1999, and the Amended JPA Agreement was subsequently amended; and,

WHEREAS, the City of Los Alamitos is a member of the OCFA and is represented on the OCFA Board by a Director selected by the Los Alamitos City Council; and,

WHEREAS, in addition to appointing a Director on the OCFA Board, the Amended JPA Agreement provides for each member to appoint an alternate to act in the Director's absence; and,

WHEREAS, the OCFA Board has requested that the City Council consider the attached "Third Amendment to Amended Joint Powers Authority Agreement" to eliminate alternate Board members; and,

WHEREAS, when a Director is occasionally unable to attend, they rarely request their alternate to attend on their behalf since the alternate may be less informed on the complex or sensitive topics for Board consideration.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS DOES RESOLVE AS FOLLOWS:

SECTION 1. The City Council of the City of Los Alamitos, California, finds that the above recitals are true and correct.

SECTION 2. Approves and authorizes the execution of the Third Amendment to Amended Joint Powers Authority Agreement, exhibit A.

SECTION 3. The City Clerk shall certify as to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 21st day of July, 2015.

Richard D. Murphy, Mayor

ATTEST:

Windmera Quintanar, CMC, City Clerk

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LOS ALAMITOS)

I, Windmera Quintanar, CMC, City Clerk, of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a Regular meeting of the City Council held on the 21st day of July, 2015, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

Windmera Quintanar, CMC, City Clerk

**THIRD AMENDMENT TO AMENDED JOINT POWERS AUTHORITY AGREEMENT
ORANGE COUNTY FIRE AUTHORITY**

This Third Amendment (“Third Amendment”) to the Amended Joint Powers Authority Agreement is made and entered into by and between the following public entities (collectively referred to as “members”): Aliso Viejo, Buena Park, Cypress, Dana Point, Irvine, La Palma, Laguna Hills, Laguna Niguel, Laguna Woods, Lake Forest, Los Alamitos, Mission Viejo, Placentia, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Santa Ana, Seal Beach, Stanton, Tustin, Villa Park, Westminster, and Yorba Linda (collectively referred to as “Cities” and individually as “City”) and the County of Orange (referred to as the “County”), each of whom is a member of the Joint Powers Authority, Orange County Fire Authority (“the Authority”).

RECITALS

WHEREAS, the Authority presently provides fire protection, prevention and suppression services and related and incidental services (collectively, “Fire Services”) to Cities as well as to the unincorporated area of the County and State Responsibility Areas (“SRA”); and

WHEREAS, the County and several of the Cities entered into a Joint Powers Authority Agreement to form the Authority as of February 3, 1995 pursuant to the provisions of Article 1, Chapter 5, Division 7, Title I (commencing with Section 6500) of the Government Code of the State of California (“Joint Powers Statutes”); and

WHEREAS, pursuant to the Joint Powers Statutes the members are authorized to jointly provide for the methods of the provision of Fire Services, including the method of financing the provision of Fire Services; and

WHEREAS, on September 23, 1999, the members entered into an amended Joint Powers Authority Agreement (“1999 Amended Agreement”) which superseded all prior agreements between the members and is incorporated herein by reference; and

WHEREAS, on July 1, 2010, the members entered into a First Amendment to the Amended Joint Powers Agreement ("First Amendment") which amended several provisions of the 1999 Amended Agreement; and

WHEREAS, on April 20, 2012, the City of Santa Ana joined the Authority and became a party to the 1999 Amended Agreement and the First Amendment; and

WHEREAS, on November 18, 2013, the members entered into the Second Amendment to the Amended Joint Powers Agreement ("Second Amendment") which amended several provisions of the 1999 Amended Agreement. Litigation has been filed by the County challenging the validity of the Second Amendment, and the litigation remains unresolved as of the date of this Third Amendment;

WHEREAS, the parties wish to adopt this Third Amendment to eliminate alternative Board directors;

NOW THEREFORE, the members agree to amend the 1999 Amended Agreement as follows:

AGREEMENT

1. *Article II, Section 2 of the 1999 Amended Agreement shall be amended to read as follows:*

2. **Designation of Directors.** Each member by resolution of its governing body shall designate and appoint one representative to act as its Director on the Authority Board of Directors (the "Board"), except the County whose Board of Supervisors shall appoint two representatives to act as its Directors. Each representative shall be a current elected member of the governing body. Each Director shall hold office until the selection of a successor by the appointing body. ~~Each member shall also appoint an alternate to act in each Director's absence. Each alternate shall be a current elected representative of the governing board of the member.~~ Each Director ~~and alternate~~ shall serve at the pleasure of his or her appointing body and may be removed at any time, with or without cause, at the sole discretion of that appointing body. Any vacancy shall be filled in the same manner as the original appointment of a Director ~~and/or alternate~~. With approval of the Board, a Director ~~or alternate~~

may be reimbursed for reasonable expenses incurred in the conduct of the business of the Authority.

2. *Article II, Section 5 of the 1999 Amended Agreement shall be amended to read as follows:*

5. **Quorum; Voting.** A majority of the Directors shall constitute a quorum for the purpose of the transaction of business relating to the Authority. Each Director, ~~or alternate in the absence of any voting Director,~~ shall be entitled to one vote. Unless otherwise provided herein, a vote of the majority of those present and qualified to vote shall be sufficient for the adoption of any motion, resolution or order and to take any other action deemed appropriate to carry forward the objectives of the Authority.

3. **Effective Date.** *This Third Amendment requires the approval of at least two thirds of the members to go into effect, and it shall be effective on the date of approval by a sixteenth member.*

CITY OF LOS ALAMITOS

Dated: _____

By: _____

Richard D. Murphy
Mayor

ATTEST:

Windmera Quintanar, CMC
City Clerk

NOTICE TO CITY TO BE GIVEN TO:

City Manager
City of Los Alamitos
3191 Katella Avenue
Los Alamitos, CA 90720

Phone: (562) 431-3538
Fax: (562) 493-1255

APPROVED AS TO FORM:

By: _____
Cary S. Reisman
City Attorney

Dated: _____

[Signatures Continued on Page 16]

**Orange County Fire Authority
Member Agency Meetings
Third Amendment to Amended JPA (Board Alternates)**

	Agency	Scheduled Meeting	
1	Villa Park	Monday, July 6, 5pm	5-0 Approved
2	Mission Viejo	Monday, July 6, 6pm	5-0 Approved
3	Santa Ana	Tuesday, July 7, 5:45pm	6-0 Approved
4	San Clemente	Tuesday, July 7, 6pm	5-0 Approved
5	La Palma	Tuesday July 7, 7pm	5-0 Approved
6	Laguna Niguel	Tuesday, July 7, 7pm	5-0 Approved
7	Lake Forest	Tuesday, July 7, 7pm	3-1 Approved
8	Placentia	Tuesday, July 7, 7pm	3-1 Approved
9	Tustin	Tuesday, July 7, 7pm	5-0 Approved
10	Laguna Woods	Wednesday, July 8, 3:30pm	5-0 Approved
11	Rancho Santa Marg.	Wednesday, July 8, 7pm	4-0 Approved
12	Westminster	Wednesday, July 8, 7pm	5-0 Approved
13	Cypress	Monday, July 13, 7pm	4-0 Approved
14	Buena Park	Tuesday, July 14, 5pm	5-0 Approved
15	Stanton	Tuesday, July 14, 6:30pm	5-0 Approved
16	Laguna Hills	Tuesday, July 14, 7pm	5-0 Approved
17	Dana Point	Tuesday, July 21, 6pm	
18	Yorba Linda	Tuesday, July 21, 6:30pm	
19	Seal Beach	Monday July 27, 7pm	
20	Aliso Viejo	Wednesday, August 5, 7pm	
21	Irvine		
22	Los Alamitos		
23	San Juan Capistrano		
24	County		