



Staff Report

TO: City Council
FROM: Kari Mendoza, Administrative Services Director
DATE: July 20, 2021
SUBJECT: Approve Amendments to the ERMAC Joint Powers Agreement

Background and Analysis:

The Exclusive Risk Management Authority of California (ERMAC) was founded in 2003 specifically for the purpose of providing risk-sharing and risk-transfer municipal liability protection to California Governmental Agencies. The City is a member of ERMAC. The ERMAC Board of Directors recommends approval of the amendments to the ERMAC Joint Powers Agreement.

ERMAC is a self - insured joint powers authority (JPA) created exclusively for the purpose of providing property and liability protection to California Governmental Agencies. The JPA agreement was revised to conform the agreement to current practices and to conform with the Joint Exercise of Powers Act (Gov. Code § 6500 et seq.) and California Association Joint Powers Authority (CAJPA) accreditation standards.

Changes to the JPA agreement were made to indicate the effective date of the amendments, state the conditions under which California public agencies could join, provide for appointment of a treasurer and an auditor, specify the member whose restrictions will apply to the authority pursuant to § 6509, increase the amount of notice for withdrawal, require at least one board meeting per year, clarify that a separate agency was created, add member responsibilities, provide for assessments and distribution of surplus, procedure for expulsion, specify the effect of withdrawal, and provide for distribution of assets if the agreement is terminated.

- Sections 1 and 10 were revised to refer to the agreement as updated and amended, and to clarify that the effective date of the amended and restated agreement is when the last of the members has executed it;

- Section 3 specifies that California public agencies are eligible to join upon approval by at least two-thirds of the Board. (CAJPA accreditation standards requires such a provision);
- Section 4(H) provide for appointment of a treasurer and an auditor, and for an annual audit, as required by Government Code section 6505.6. (CAJPA requires);
- Section 5 is revised to increase the prior 30-day notice period for withdrawal to a provisional notice six months before the end of the fiscal year and final notice three months before the end of the fiscal year;
- Section 15 is slightly revised to clarify that the authority is a separate public entity created by the JPA agreement;
- Section 16 is new. CAJPA's accreditation standards require a provision for obligations of members. Section 16 lists the responsibilities of members including cooperation regarding claims, prompt payment of amounts owed to the Authority, furnishing necessary information, establishment of risk management programs, compliance with governing documents, and appointments to the authority's board;
- Section 17 gives the Board authority, by a two-thirds vote, to impose assessments and declare distributions, and requires assessments and distributions to be pro rata to premiums paid. (CAJPA requires provisions for assessments and distributions);
- Section 18 allows expulsion of a member by a two-thirds vote. (CAJPA requires provision for terminating a member based on issues such as non-payment of premiums, underwriting problems, or the failure to adequately control risks);
- Section 19 covers the effect of withdrawal, including a continuing obligation to cooperate and pay any amounts owed. (CAJPA requires provisions for withdrawal); and
- Section 20 provides for termination of the authority and proportionate distribution of assets upon termination. (CAJPA requires provisions for distribution upon termination, as does Gov. Code § 6512.)

Fiscal Impact:

City staff estimates the cost to prepare this report was \$975.

Recommended Action:

Approve amendments to the ERMAC Joint Powers Agreement.

Attachments:

- A. ERMAC Amended JPA Agreement
- B. ERMAC Bylaws