

SOLID WASTE MANAGEMENT JOINT POWERS BOARD

CREATING AUTHORITY: City/County Landfill Joint Powers Agreement approved by City Council on December 14, 1994. Approved by the State of New Mexico Department of Finance on February 8, 1995.

MEMBERS: Three members, each of whom shall be a City Councilor from a different elective district with the City. Three members, each of whom shall be a County Commissioner, appointed by the Board of County Commissioners.

TERMS: Shall be appointed by the Mayor with the approval of the City Council, and each of which City members shall serve for such period as may be determined from time to time by the Mayor with the approval of the City Council. County members shall serve for such period as may be determined and approved from time to time by the Board of County Commissioners.

MEETING TIMES: 3rd Thursday of the month, 4:00 p.m.

STAFF LIAISON: Randall Kippenbrock, Director, Solid Waste Management Agency (424-1850 ext. 120)

POWERS AND DUTIES:

103. **Powers of the Board.** Each of the City and County delegates the following powers and authority to the Agency, and the Board, as the managing authority of the Agency, subject to the following limitations:

- (a) **Rules and Procedures** The power to adopt and implement rules and procedures with respect to the operation of the Agency, the Board, and the Facility, which rules and procedures must first be approved by each of the City and the County prior to being implemented;
- b) **100-Year Plan** The power to recommend and implement a 100-year plan for the provision of joint City/County regional solid waste disposal services for the City and County, which plan shall not be formally adopted or implemented unless and until it has been approved by each of the City and the County.
- c) **Annual Budget** The power to recommend an annual budget for the Agency and the Facility, which budget shall be finalized for recommendation after a public hearing, and which budget shall not be formally adopted or implemented unless and until it is approved by each of the City and the County. However, the City and the County shall have only the power to approve or disapprove the annual budget of the Agency; and shall not have the power to modify the annual budget or approve the budget subject to any conditions. If, for any reason, the Agency fails to have an approved annual budget for a fiscal Agency year as of the first day of that year, the annual

budget for the prior fiscal Agency year shall be effective for the subsequent fiscal year until such time as an annual budget is adopted and approved for that subsequent fiscal year.

- d) **Operation of Facility** The power to operate, maintain, repair, replace, expand, and close, as appropriate, the Facility in conformity with the relevant, adopted annual budget, which power shall include, without limitation, the powers to employ personnel, enter into contracts, amend, restate, modify or rescind applications and other documents filed with respect to the Facility with a public agency or entity, and perform any other function necessary for, and incidental to, the operation, maintenance, repair, replacement, expansion, and closure of the Facility; provided, however that the Facility shall not be expanded or closed, and no actions with respect to the expansion or closure of the Facility may be taken without the prior approval of each of the City and the County.
- e) **Financing** The power to apply for grants, loans, financial guarantees, and other financial assistance from private or public, including state and federal, agencies, institutions and entities; provided, however, that the Agency shall not obligate itself on a loan or encumber any of the Agency's or the Facility's property or assets unless and until each of the City and the County approves such loan or encumbrance.
- f) **Fees** The power to collect from the City, the County, and the residents of the City and the County, solid waste disposal fees as may be necessary or appropriate to operate, maintain, repair, replace, expand or close, as appropriate, the Facility, which fees shall be pursuant to a schedule of fees adopted by the Board after a public hearing.

1.04. Meetings of the Board The Board shall have at least one regularly scheduled meeting per calendar quarter, unless more or less frequent meetings are set by the Board pursuant to Agency rules and procedures adopted by the Board in accordance with Section 103.(a). Each meeting of the Board shall be open to the public. The Agency shall be responsible for publishing notice of each regularly scheduled meeting of the Board at least seven (7) days prior to the meeting date; and for publicly posting notice of all emergency meetings of the Board at least twenty-four (24) hours prior to the emergency meeting. Notice shall include the agenda for the relevant Board meeting. The first regularly scheduled meeting the Board shall occur no later than ninety (90) days after the Effective Date. A quorum shall be deemed to be present at each Board meeting if a majority of Board members is present. No action shall be taken at any meeting of the Board unless a quorum is present. A simple majority of Board members who are present at a duly called meeting of the Board at which a quorum is present shall act for the Board with respect to all matters brought before the Board at that meeting.

1.05. Tie Votes If the Board reaches a tie vote at any duly called meeting of the Board at which a quorum is present on any action item within the authority of the Board, as provided by this Agreement, then the matter shall be submitted to arbitration in Santa Fe County, New Mexico, pursuant to the New Mexico Arbitration Act, §§44-7-1 through 44-7-22 NMSA 1978, and the rules promulgated under that Act, so that the matter is finally decided within sixty (60) days of the date of the Board meeting at which the tie vote occurs. At any time during such sixty (60) day period, the Board may convene a special meeting of the Board for purposes of resolving the issue that caused the tie vote.

Arbitration pursuant to this Section 1.04 shall be before a panel of three (3) arbitrators, one (1) selected by member of the Board appointed by the City, one (1) selected by members of the Board appointed by the County, and the third selected by the other two arbitrators. Any award granted or determination made by two of the three arbitrators shall be the final award and decision of the panel and shall be binding upon the Agency, the Board and the parties, to the extent provided in that decision. Costs associated with arbitration shall be deemed to be operating costs of the Agency payable out of the Agency budget. However, if either of the parties incurs costs associated with an arbitration proceeding, such as legal costs, that party shall be solely responsible for the costs incurred by it unless otherwise determined by the relevant arbitration panel.