



DATE: June 13, 2024

TO: Programs and Administration Committee

FROM: Kelly Schoonmaker, Senior Program Manager

SUBJECT: Amendment to Property Leasing Ordinance (Ordinance 2000-01)

SUMMARY

The Agency owns 1,600 acres in the Altamont Hills (“Property”), and has several lease and license agreements there, including telecommunications leases and licenses and a grazing license, some of which are nearing the end of their 10-year terms. The expiring agreements were approved under Ordinance 2000-01: An Ordinance Establishing Procedures for Certain Leases of Property Owned by the Authority, which, consistent with state law at that time, established a simplified, non-bid procedure for entering into non-renewable leases and licenses with a monthly rent amount that does not exceed \$5,000 and a term of 10 years or less. Staff recommends an amendment to Ordinance 2000-01 to increase the allowable monthly rental payment to \$10,000 to reflect changes in state law and to allow for the maximum monthly rental payment to be further increased if permitted by a future change in state law. Staff also recommends minor amendments to the Ordinance’s noticing provisions to align with state law.

DISCUSSION

Under the Agency’s Joint Exercise of Powers Agreement for Waste Management (as revised 7/30/2013), the Agency’s manner of exercising its powers is subject to the same restrictions that apply to the County of Alameda. This includes state law restrictions that require counties to use extensive bidding procedures for many leases and licenses.

In 2000, the Agency adopted Ordinance 2000-01 under Government Code Section 25537, a provision of state law that allows counties to enter into certain leases and licenses without going through a formal bid process. Ordinance 2000-01 establishes a simplified, no-bid procedure for entering into leases and licenses that are non-renewable, do not exceed 10 years, have a monthly rent not exceeding \$5,000, are of public benefit, and are compatible with the Agency’s uses of the Property. This Ordinance was enacted to provide an alternative to complying with the leasing and licensing requirements for counties, which would have required a formal bidding process for most leases and licenses on the Agency Property.

Some leases and licenses approved under Ordinance 2000-01 are approaching the end of their terms. Because these leases and licenses are non-renewable, if the Agency determines that it wants to continue leasing to any of these existing tenants, it will be necessary to enter into a new agreement with them. For one of these current leases, the tenant's monthly rent is high enough that a new lease agreement with them subject to the same pricing structure and escalation as the current agreement would cause their monthly rent to increase to more than \$5,000 during the term of the lease. That means that the Board could not approve such a new lease with this tenant under the Agency's Ordinance without first amending the Ordinance to increase the maximum allowable monthly rental. For that reason, as well as to ensure that the Agency is able to enter into other new leases or licenses under the Ordinance that have a monthly rental of more than \$5,000 to reflect market rates, staff recommends an amendment to the Ordinance to increase the allowable monthly rental payment to \$10,000 and to allow this amount to be further increased if allowed by a future change in state law.

Staff also recommends minor changes to the Ordinance's notification provisions to better align with state law.

RECOMMENDATION

That the Programs and Administration Committee approve forwarding Ordinance 2024-02 to the Waste Management Authority Board for adoption.

Attachment: ACWMA Draft Ordinance 2024-02 Amending Ordinance 2000-01

**ORDINANCE 2024-02
AMENDING ORDINANCE 2000-01**

**ORDINANCE ESTABLISHING PROCEDURES FOR CERTAIN LEASES AND LICENSES OF PROPERTY
OWNED BY THE AUTHORITY**

The Board of the Alameda County Waste Management Authority (“Authority”) finds that:

1. In 2000 the Authority adopted Ordinance 2000-01, the Ordinance Establishing Procedures for Certain Leases of Property Owned by the Authority. The Authority now wishes to amend the ordinance to increase the allowable monthly rental payment to \$10,000 to reflect a change in state law, to allow for that monthly rental payment to be further increased if permitted by a future change in state law, and to update the ordinance’s noticing provisions.
2. The Board of the Alameda County Waste Management Authority held a public meeting on June 26, 2024, to consider this Ordinance, and after considering all testimony and written materials provided in connection with that meeting introduced this ordinance and waived the reading thereof.

Therefore, the Board of the Authority hereby ordains as follows:

Section 1. Amendment.

Ordinance 2000-01 is hereby amended as shown in Exhibit A. Text to be added is indicated in bold underlined font (e.g., **underlined**), and text to be deleted is indicated in strikeout font (e.g., ~~strikeout~~).

Section 2. Severability.

If any provision of this Ordinance or its application to any situation is held to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance, which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

Section 3. Publication.

Within 15 days after adoption, a summary of the Ordinance with the names of those voting for and against shall be published and a certified copy of the full text with the names of those voting for and against the Ordinance shall either (i) be posted on the Authority’s website or (ii) be posted in the Authority’s offices. The Ordinance shall become effective 30 days after adoption.

- Continued on following page -

Following introduction on June 26, 2024, passed and adopted July 24, 2024 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I certify that under the penalty of perjury that the foregoing is a full, true and correct copy of
ORDINANCE NO. 2024-02.

ARLISS DUNN
CLERK OF THE BOARD

Exhibit A

**ORDINANCE 2000-01
as amended by Ordinance 2024-02**

**AN ORDINANCE ESTABLISHING PROCEDURES FOR CERTAIN LEASES AND LICENSES OF
PROPERTY OWNED BY THE AUTHORITY**

The Board of the Alameda County Waste Management Authority ordains as follows:

SECTION 1 (Enactment)

The Board of the Authority does hereby enact this ordinance in full consisting of Sections 1 through Section 6.

SECTION 2 (Findings)

- (a) The Authority finds that the proposed process for entering into leases or licenses for real property owned by the Authority—which applies only to leases and licenses that are non-renewable, do not exceed 10 years, have a monthly rental not ~~in excess of~~ **exceeding ten** thousand dollars (~~\$5,000~~**10,000**) **or the amount authorized in Government Code section 25537 (or any successor provision), whichever is greater,** are of public benefit, and provide for uses that are compatible with the Authority's use of the property—will provide adequate notice to the public of such leases and licenses, ensure long-term stewardship of Authority property, and establish an efficient process for managing Authority property.
- (b) The Authority finds that it has the power to enact this ordinance pursuant to the Joint Exercise of Powers Agreement for Waste Management.

SECTION 3 (Definitions)

The following definitions govern the use of terms in this ordinance:

- (a) “Authority” means the Alameda County Waste Management Authority created by the Joint Exercise of Powers Agreement for Waste Management.
- (b) “Board” means the governing body of the Authority made up of elected representatives of the member agencies pursuant to the Joint Exercise of Powers Agreement for Waste Management.

SECTION 4 (Procedures for Entering into Specified Leases and Licenses for Authority Property)

Where the Authority proposes to enter into a lease or license for any real property belonging to, leased by, or licensed by the Authority, where the lease or license is nonrenewable, does not exceed 10 years, ~~does not have~~ has a monthly rental ~~in excess of~~ not exceeding five ten thousand dollars (\$5,00010,000) or the amount authorized under Government Code section 25537 (or any successor provision), whichever is greater, will be of public benefit, and will provide for a use that is compatible with the Authority's uses of the property, the following procedures shall apply:

- (a) The Authority shall issue a notice that describes the property to be leased or licensed, the terms of the lease or license, the location where offers to lease or license the property will be accepted, the location where the lease or license will be executed, ~~the~~ any Authority officer authorized to execute the lease or license, and the date of the public hearing on the lease or license.
- (b) The notice of the proposed lease or license shall be published in the following manner:
 - 1) posting of the notice with the County clerk;
 - 2) posting of the notice at the Authority office;
 - 3) at least 15 days prior to accepting the offers to lease or license the property, mailing of the notice to any person who has filed a written request for such notice with a person designated by the Authority receive these requests; and
 - 4) publication of the notice in a newspaper of general circulation ~~two times, with the first notice occurring~~ at least 15 days prior to accepting the offers to lease or license the property ~~and with at least six days between the publication dates, in a newspaper of general circulation.~~
- (c) Where the proposed lease or license involves residential property, notice shall also be provided to housing sponsors (as defined by section 50074 and 50074.5 of the Health and Safety Code).
- (d) The Authority shall hold a public hearing concerning the proposed lease or license and shall make a finding that the property subject to the lease or license will be used for compatible uses and that the lease or license will be of public benefit.

SECTION 5 (Exemption)

The provisions of Section 4 shall not apply to any lease or license that the Authority enters into with the state, or with any county, city, district, public agency, public corporation or public utility corporation.

SECTION 6 (Notice and Verification)

~~This ordinance shall be posted at the Authority Office after its second reading by the Board for at least thirty (30) days and shall become effective thirty (30) days after the second reading.~~