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TOP 25 MUNICIPAL LAWYERS OF 2011

Joan L. Cassman

A major focus for Cassman has been crafting a collaboration between the city of San Carlos and Redwood City to share resources involving fire and emergency services.

In the agreement, which took effect Oct. 1, San Carlos maintains firefighters and paramedics on its payroll, while Redwood City provides the management services.

"If you are a relatively small city, it's hard to have sufficient resources to properly train and manage a good, effective fire force without sharing some of the more expensive aspects of it," she said.

San Carlos brought Cassman in three years ago to help them dissolve its joint powers agreement with neighboring Belmont when it no longer fit San Carlos' needs.

"Then we had to decide how San Carlos was going to provide fire services to its own constituents," said Cassman, chair of her firm's government group.

San Carlos put out a request for proposal and, in addition to Redwood City, received a response from a private company — a scenario that can be "very politically charged," Cassman said. Factored in are labor issues, along with considerations about procurement and employment laws and regulations on how to make this transition.

"There is a dearth of case law on this point," Cassman said.

While San Carlos opted to go with a public entity, the question remains: Can general law cities in California outsource services to private parties?

In an Oct. 11 letter responding to an inquiry by state Rep. Das Williams, D-Santa

MUNICIPAL LAW

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Big Matter: Municipal outsourcing

Barbara, on the subject, the attorney general's office concluded that a general law city may not enter into a contract with a private company to provide fire protection, but may contract with another local public agency.

A general law city also may contract with a private company to provide emergency ambulance services, as long as the contract complies with state law.

Cassman dismissed the response as being "less than rigorous," and disagreed that current laws overtly prohibit general law cities from outsourcing to private entities.

"My sense is, this issue will be presented to a court," she said. "I don't see any legal reason to take the outsourcing option off the table."

Cash-strapped cities are increasingly being forced to find alternatives, Cassman said.

"If you look statewide, you're going to see that outsourcing and privatization is the new reality," Cassman said. "We have



Courtesy Photo

limited government resources. We used to think when we were in a recession that for a period of time, we'd do more with less. But this is here to stay. Government is going to have to be very creative in figuring out how we can do things differently."

In the case of San Carlos, teaming up with another public entity initially caused some tensions.

"Labor wasn't happy with the change in the joint powers authority and didn't want to see it dissolved," Cassman said.

But, ultimately, she said, all the parties were able to work through the issues without heading to court.

"It takes a lot of work, it takes sensitivity and lots of communication," Cassman said. "There were moments that were tense and uncertain, but they worked through it and it was magical. It can be done."

— Pat Broderick