

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 06/11/2019 by the following vote:

AYE:

NO:

ABSENT:

ABSTAIN:

RECUSE:



Resolution No. 2019/160

RESOLUTION CONCERNING THE DISBURSEMENT OF RESERVE FUNDS TO THE COUNTY OF CONTRA COSTA BY THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY (“AUTHORITY”) AND AUTHORIZING THE EXECUTION OF AN INDEMNIFICATION AGREEMENT RELATED TO SUCH DISBURSEMENT

WHEREAS, the Authority is a joint powers authority (JPA) organized under the provisions of Government Code Section 6500 et seq. (the Joint Exercise of Powers Act);

WHEREAS, the cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo (the “Member Cities”) are parties to the JPA agreement that created the Authority and the County of Contra Costa (the “County”) is an ex-officio member of the Authority;

WHEREAS, the JPA agreement authorized the construction and operation of an Integrated Resource Recovery Facility (IRRF), pledged Member Cities’ waste stream control to the Authority, and placed certain municipal solid waste activities, including compliance with the Integrated Waste Management Act ("AB939") for the Member Cities, with the Authority;

WHEREAS, from 1994 to 2013, the Authority was party to an agreement with Republic Services to operate the IRRF and provided for a sharing of revenues generated by the IRRF between the Authority and Republic Services (the “IRRF Service Agreement”);

WHEREAS, during the term of the IRRF Service Agreement the Authority accumulated reserve funds totaling \$6.65 million (the “Reserve Funds”);

WHEREAS, Government Code Section 6512.1 of the Joint Exercise of Powers Act expressly permits a JPA to distribute revenues it has received from the operation of a revenue-producing facility;

WHEREAS, the JPA agreement creating the Authority does not directly regulate the distribution of revenue, except upon termination of the Authority, and therefore the Authority Board of Directors has the authority and discretion to determine if, and in what manner, revenues should be distributed;

WHEREAS, a majority of the Authority Board of Directors voted to distribute a portion of the Reserve Funds to the Member Cities and the County and, by Resolution 18-05B, approved the distribution of \$500,000 from the Reserve Funds on the condition that (i) the recipients use the funds in ways that further the purposes of the Authority (any use that relates to solid waste, recycling, waste reduction and compliance with AB939), (ii) each Member City indemnify the Authority and each other Member City and the County from any and all claims arising out of the Authority’s disbursement of the monies, and (iii) the County indemnify the Authority and each of the Member Cities from any and all claims arising out of the Authority’s disbursement of the monies;

WHEREAS, the County’s share of the disbursement authorized by Resolution 18-05B is \$45,302.62 (the “County Disbursement Amount”);

WHEREAS, each of the Member Cities and the County have the option of (i) leaving their share of the authorized distribution on reserve with the Authority, or (ii) requesting disbursement;

WHEREAS, staff recommends requesting disbursement of the County Disbursement Amount and authorizing such funds be used only for purposes that relate to solid waste, recycling, waste reduction or compliance with AB939 within the unincorporated areas served by Richmond Sanitary Service and governed under the County’s Franchise Agreement; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Contra Costa:

1. The foregoing recitals are true and correct and made a part of this Resolution.
2. The County acknowledges receipt of the Authority Resolution 18-05B concerning the Authority's disbursement of Reserve Funds.
3. The County's Director of Conservation and Development, is authorized to enter into an indemnification agreement with the Authority in substantially the form attached hereto, under which the County will indemnify the Authority and the Member Cities for claims arising out of the County's use of the Reserve Funds disbursed by the Authority to the County.
4. The Reserve Funds disbursed to the County by the Authority are to be allocated to uses that relate to solid waste, recycling, waste reduction and compliance with AB939 within the unincorporated areas served under the County's Franchise Agreement with Richmond Sanitary Service, which could include programs to aid in the prevention or abatement of illegal dumping.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

Contact: Justin Sullivan (925) 674-7812

ATTESTED: June 11, 2019

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

cc: