

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

Adopted this Resolution on 10/23/2018 by the following vote:

		John Gioia
		Candace Andersen
AYE:	<input type="text" value="5"/>	Diane Burgis
		Karen Mitchoff
		Federal D. Glover
NO:	<input type="text" value="/"/>	
ABSENT:	<input type="text" value="/"/>	
ABSTAIN:	<input type="text" value="/"/>	
RECUSE:	<input type="text" value="/"/>	



Resolution No. 2018/539

THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY'S ("AUTHORITY'S")
DISBURSEMENT OF RESERVE FUNDS TO THE COUNTY OF CONTRA COSTA 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 contain any provisions which 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 Resolutions 15-03, 15-04, and 15-05, approved such distribution on the condition that (i) the recipients use the funds in ways that further the purposes of the Authority (any use which 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 total approved disbursement is \$659,481 (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 recommends authorizing that these funds be expended on uses which related to solid waste, recycling, waste reduction and 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 Resolutions 15-03, 15-04, and 15-05 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.
4. The Reserve Funds disbursed to the County by the Authority are to be allocated to uses which 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.

ATTESTED: October 23, 2018

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

Contact: Deidra Dingman, (925) 674-7825

By:  June McHuen, Deputy

cc: