



**Contra  
Costa  
County**

To: Board of Supervisors  
From: John Kopchik, Director, Conservation & Development Department  
Date: October 23, 2018

Subject: Resolution and Indemnification Agreement for Disbursement of West Contra Costa Integrated Waste Management Authority Reserve Funds to the County

**RECOMMENDATION(S):**

1. ADOPT Resolution No. 2018/539 concerning the disbursement of reserve funds to the County in the amount of \$659,481 by the West Contra Costa Integrated Waste Management Authority (Authority) to be used to further the purposes of the Authority.
2. APPROVE and AUTHORIZE the Conservation and Development Director to execute an Indemnification Agreement by and between the County and the Authority regarding the County's use of reserve funding to be disbursed to the County.
3. DIRECT staff to return and present a proposed reserve funding allocation plan, identifying recommended allowable uses which shall include but not necessarily be limited to subsidizing programs/services that directly aid in the prevention or abatement of illegal dumping within the areas served by Richmond Sanitary Service (RSS) under the County/RSS Franchise, subsidizing on-call services to customers which are not already included in approved rates, and offsetting potential future rate increases for customers in said Franchise area.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY  
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD  
COMMITTEE

Action of Board On: **10/23/2018** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

**VOTE OF SUPERVISORS**

AYE: John Gioia, District I Supervisor  
Candace Andersen, District II Supervisor  
Diane Burgis, District III Supervisor  
Karen Mitchoff, District IV Supervisor  
Federal D. Glover, District V Supervisor

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 Twa, County Administrator and Clerk of the Board of Supervisors

By: June McHuen, Deputy

Contact: Deidra Dingman,  
(925) 674-7825

cc:

## FISCAL IMPACT:

There will be no impact to the General Fund. Expenditures will be subject to future authorization by the Board following consideration of a proposed funding allocation plan delineating the recommended allowable uses.

## BACKGROUND:

The West Contra Costa Integrated Waste Management Authority (Authority) is a joint powers agency created on April 2, 1991 by the cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo (Member Agencies). Unlike the cities, the County is not a Member Agency and instead serves as an ex-officio non-voting member to the Authority.

The Authority is responsible for regulating post-collection processing services (disposal, recyclables processing, composting and management of household hazardous waste) for the waste stream governed under the collection franchise agreements administered by the five Member Agencies as well as the waste stream governed by the County's collection franchise agreement with Richmond Sanitary Service (RSS). The Authority also implements a variety of waste diversion programs targeting the waste stream generated within the above-mentioned West County franchise areas.

The Authority participated in the public-private partnership responsible for arranging bond financing for the development and operation of the Integrated Resource Recovery Facility (IRRF) located on Pittsburg Avenue in North Richmond. In July 1993, the County Board of Supervisors approved a Land Use Permit allowing the development and operation of the IRRF. In May 1993, the County and Authority entered into an agreement (County/Authority Contract) to provide for, among other things joint regulation of the IRRF. This agreement also established the County as a non-voting member of the Authority.

The Authority (also known as RecycleMore) separately contracts with Republic Services, Inc. (Republic) for post-collection services including recyclables processing, composting, operation of the household hazardous waste facility, and the transfer, transportation and disposal of solid waste. In anticipation of the bonds being paid off concurrent with the expiration of the IRRF Service Agreement at the end of 2013, a new agreement was established between the Authority and Republic to govern the full range of post-collection services to be provided until the end of the term of the existing RSS collection Franchises. During the term of the IRRF Service Agreement, the Authority accumulated reserve funds totaling \$6.65 million. These funds came from three different revenue streams:

- 1) Authority share of revenues from the sale of recyclables generated by communities outside of the Authority territory (Out-Of-Area Recycling Revenue and Rate Reserves - OOA),
- 2) Authority share of revenues from the sale of recyclables generated by Member Agencies with collection agreements with Republic Services (In-Area Recycling Revenue

and Rate Reserves - RRRR), and

3) the remaining amount from the balancing account with Republic Services (Performance Evaluation Revenue Adjustment Mechanism - PERAM).

On October 29, 2015, a majority of the Authority Board approved resolutions 15-03, 15-04, and 15-05 (Exhibit A) authorizing disbursement of a portion of the OOA, RRRR, and PERAM reserve funds upon request of each Member Agency and the County.

Authority Board Members representing a majority of the Member Agencies (Hercules, Pinole and San Pablo) voted against disbursement out of concern for the future financial sustainability of the Authority, however a majority of the Authority Board Members voted to disburse funding (El Cerrito plus all three from Richmond).

The Authority retained \$1.9 million in reserves for “one time” projects and on-going operational needs, making \$4.7 million available for disbursement to Member Agencies. The allocation amounts were based on an allocation methodology determined by the Authority, with input from representatives of the Member Agencies and the County, to be fair and equitable. All five cities that are members of the Authority have requested and received their respective reserve fund disbursement. The County’s proportional share of the allocated reserve funding available for disbursement amounts to a total of \$659,481.

County staff recommends requesting disbursement of the County’s share of the reserves so that it can be expended in ways that further the purposes of the Authority (i.e. uses directly related to solid waste, recycling, wastes reduction or compliance with the Integrated Waste Management Act) for the benefit of the unincorporated area served under the County's Franchise Agreement with RSS. If these recommendations are approved, staff plans to return to the Board in 2018 to present a recommended reserve funding allocation plan, which would include but not necessarily be limited to subsidizing programs/services that directly aid in the prevention or abatement of illegal dumping within the areas served under the County/RSS Franchise, subsidizing on-call services to customers which are not already included in approved rates, and offsetting potential future rate increases for County/RSS Franchise area customers.

#### CONSEQUENCE OF NEGATIVE ACTION:

The County would not receive its ratepayers prorated share of excess West Contra Costa Integrated Waste Management Authority reserve funding totaling \$659,481.

#### ATTACHMENTS

Resolution No. 2018/539

Exhibit A: Authority Resolutions 15-03, 15-04 & 15-05

Indemnification Agreement by and between the Authority and the County