

## RESOLUTION 2019-140

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO APPROVING A REQUEST FROM THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY/RECYCLEMORE JPA BOARD OF DIRECTORS TO CONSIDER ADOPTION OF THE FIFTH AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT, TO WHICH THE CITY IS A PARTY, AND AUTHORIZING THE MAYOR BY RESOLUTION TO EXECUTE THE AGREEMENT IF THE MAJORITY OF THE OTHER MEMBER AGENCIES' GOVERNING BODIES APPROVE THE AGREEMENT**

WHEREAS, the West Contra Costa Waste Management Authority (referred to as RecycleMore) 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 are members of RecycleMore and Contra Costa County is an ex-officio member;

WHEREAS, in 1991 the member agencies developed the Joint Exercise of Powers Agreement (JEPA) that authorized the financing, construction, and operation of an Integrated Resource Recovery Facility (IRRF) and tasked RecycleMore with certain solid waste activities to comply with new state diversion mandates;

WHEREAS, with the bonds paid off for the IRRF in 2013, and due to other operational changes in the organization, the RecycleMore Board (Board) began discussions about amending the JEPA governing document primarily due to: (1) ongoing requests by the cities of El Cerrito and Richmond over defining the JPA's core services and simplifying the withdrawal process; (2) the interest of Contra Costa County in joining the JPA with certain terms and conditions; and (3) the need for operationally streamlining the JPA's governing document with updated provisions;

WHEREAS, at majority vote direction of the Board, the City Managers (CM) met on several occasions to negotiate new terms and conditions for the new JEPA Amendment, and agreed to changing the Board governance structure (i.e. voting seats) to one vote per member agency in exchange for defining Core Services; requiring a unanimous vote to change the rate setting methodology add new projects; and for simplifying the withdrawal process;

WHEREAS, following CM deliberations in April and June 2019 at the request of the Board, San Pablo still maintains ongoing concerns over the major concessions reached during the City Manager framework deliberations on defining core services in exchange for changes agreed to on the existing Board governance structure reached by all CMs in August 2018; and affirmed by Board action on January 24, 2019 by a 6-1 vote (One Richmond vote dissenting); and

WHEREAS, since March 18, 2019, following a City Council update and majority vote direction, the City of San Pablo has consistently upheld the CM recommended JEPA framework reached in August 2018 focused on equity and regional partnerships, and has

consistently followed City Council majority vote direction by casting a dissenting vote during subsequent Board actions regarding the JEPA Amendment process;

WHEREAS, despite San Pablo's ongoing concerns, and after an extensive four years of subsequent Board discussion and negotiations, the Board approved the Fifth Amended and Restated JEPA (5<sup>th</sup> JEPA Amendment) on July 18, 2019 with a 6-1 vote (San Pablo dissenting);

WHEREAS, in summary, the 5<sup>th</sup> JEPA Amendment maintains the current status-quo governance structure, simplifies withdrawal for member agencies, defines the core services to be provided by RecycleMore JPA, and provides for a unanimous vote (veto power) to approve projects outside of the core services (and for all budgetary/financial matters), including future changes to rate setting methodology and the reserve policy;

WHEREAS, with the recent reversion by the City of Richmond City Council in February 2019 to maintain the current status-quo governance structure which includes Richmond maintaining three (3) voting seats and all other member agencies have one (1) voting seat, the City of San Pablo is resigned to supporting the 5<sup>th</sup> JEPA Amendment due to the unanimous voting provision (veto power) adopted by the Board on July 18, 2019 which makes Richmond's status-quo weighted vote moot;

WHEREAS, following Board majority approval, the proposed 5<sup>th</sup> JEPA Amendment now requires approval by majority vote approval of all member agencies' governing bodies to become effective; and

WHEREAS, going forward, upon said execution of said Resolution by the City Council, any future amendments to the JEPA Amended governing document would be subject to majority vote approval by the Board and approval by all member agencies' governing bodies.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Pablo hereby:

- 1) Approves the Fifth Amended and Restated Joint Exercise of Powers Agreement.
- 2) Authorizes the Mayor to execute the 5<sup>th</sup> JEPA Amendment agreement in final form on behalf of the City of San Pablo subject to majority approval of the other member agencies' governing bodies.
- 3) Declares that the recitations herein are true and correct, and are included herein by reference as findings.

\* \* \* \* \*

ADOPTED this 3<sup>rd</sup> day of September, 2019, by the following votes:

AYES:	COUNCILMEMBERS:	Pineda, Xavier, Pabon-Alvarado, Cruz and Kinney
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:

/s/ Patricia Ponce  
Patricia Ponce, City Clerk

/s/ Rich Kinney  
Rich Kinney, Mayor