

## **RESOLUTION NO. 19-**

### **A RESOLUTION OF THE CITY COUNCIL OF HERCULES APPROVING THE FIFTH AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT FOR THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY**

**WHEREAS**, the West Contra Costa Integrated Waste Management Authority (“the Authority”) is a joint powers authority organized pursuant to the Joint Exercise of Powers Act, Government Code section 6500 et seq. and the California Integrated Waste Management Act of 1989 at California Public Resources Code section 40000 et seq. (“the Act”); and

**WHEREAS**, the membership of the Authority is comprised of the cities of El Cerrito, Hercules, Pinole, Richmond and San Pablo (collectively, the “Members”); and

**WHEREAS**, the Authority was formed in 1991 and the joint powers agreement that created the Authority (the “JEPA Agreement”) was last amended in 2011; and

**WHEREAS**, pursuant to the JEPA Agreement, the Members formed the Authority to: (i) form a regional agency for reporting purposes under the Act; (ii) implement regional waste reduction and recycling diversion programs; (iii) increase the diversion of waste from disposal facilities; and (iv) develop an integrated resource recovery facility (“IRRF”); and

**WHEREAS**, the Authority has recognized the need to update and revise the JEPA Agreement, namely, because the prior iterations of the JEPA Agreement addressed IRRF bonds, development and operation and the Authority’s involvement with these activities has now concluded, and the JEPA should be amended to remove provisions relating to those matters; and

**WHEREAS**, additional changes to the JEPA are included in the Fifth Amendment as follows:

Changes to the rate setting methodology would require a unanimous vote of the Board;

Any Member can withdraw from the Authority with 180 days written notice;

The amended JEPA may only be further amended by a written instrument approved by a majority of the Directors which then shall be approved by all of the Member’s governing bodies;

The amended JEPA may only be terminated, or other action leading to dissolution of the Authority may only be effectuated, through adoption of a resolution by a minimum 2/3 vote of all Directors which then shall be approved by a minimum of 2/3 of the Members’ governing bodies.

**WHEREAS**, the Authority continues to operate as a regional agency and to manage the post-collection processing and disposal activities of the Members, thus, the updated and revised JEPA

Agreement is consistent with those activities and provides a structure for the Authority to both meet new legislative mandates and provide the necessary flexibility to address Members' needs post 2024; and

**WHEREAS**, Mayor Dan Romero serves on the Board of Directors as the City's representative; and

**WHEREAS**, Members through their Councilperson representative as well as through their City Attorneys and their City Managers have had multiple opportunities to review and contribute to the revised JEPA Agreement; and

**WHEREAS**, the City desires to continue its participation in the Authority; and

**WHEREAS**, pursuant to Section 19.1 of current iteration of the JEPA Agreement, it can only be amended if it is approved by a majority of the Members' representing a majority of the Board of Directors' seats.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Hercules:

**Section 1.** The foregoing recitals are true, correct, and incorporated herein by reference.

**Section 2.** The City Council does hereby authorize the Mayor to execute the Fifth Amended and Restated Joint Exercise of Powers Agreement subject to approval as to form by the City Attorney, attached as Exhibit A to this Resolution, and to take any other action consistent with the intent of this Resolution.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 10<sup>th</sup> day of September, 2019 by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

---

Dan Romero, Mayor

ATTEST:

---

Lori Martin, Administrative Services Director &  
City Clerk