



## AGENDA BILL

Agenda Item No. 4(E)

**Date:** June 6, 2017  
**To:** El Cerrito City Council  
**From:** Maria Sanders, Operations & Environmental Services Manager  
Yvetteh Ortiz, Public Works Director/City Engineer  
**Subject:** Household Hazardous Waste (HHW) Services

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### **ACTION REQUESTED**

Adopt a resolution authorizing the City Manager to execute a three-way agreement with the West Contra Costa Integrated Waste Management Authority (RecycleMore) and West County Resource Recovery, Incorporated (WCRR) for the provision of Household Hazardous Waste (HHW) collection services at the El Cerrito Recycling + Environmental Resource Center.

### **BACKGROUND**

RecycleMore is the lead agency in providing HHW collection and disposal services in West Contra Costa County. It contracts with WCRR, a subsidiary of Republic Services, Inc., to operate a HHW facility at 101 Pittsburg Avenue in North Richmond, where RecycleMore rate payers, including El Cerrito and other West Contra Costa County residents and qualified businesses, can drop off HHW materials, which are subsequently disposed of in compliance with applicable law. The facility is currently open three days per week. WCRR subcontracts with Stericycle to operate the facility. RecycleMore funds these services through rates set on tons of solid waste disposed at the landfill.

Currently, the El Cerrito Recycling + Environmental Resource Center (Recycling Center) collects a variety of hard-to-recycle materials and certain types of HHW and Universal Waste that are banned from landfills, including electronics, household batteries, automobile batteries, motor oil and filters, sharps, pharmaceuticals, and fluorescent lamps.

In February of 2013, RecycleMore successfully applied for a grant from the California Department of Resource Recycling and Recovery (CalRecycle) in the amount of \$87,669 in order to modify the existing West County HHW Facility in Richmond and to purchase and equip a HHW storage locker for the El Cerrito Recycling Center. This was done in anticipation of expanding HHW collection services at the Center. As part of the application, the City provided a letter of support and authorized RecycleMore to act as the lead agency in this regional grant application.

The HHW storage locker was purchased and installed at the El Cerrito Recycling Center in the summer of 2014. However, due to a re-organization at RecycleMore in 2015, implementation was postponed. On November 12, 2015, as part of their annual rate

setting for integrated waste management services in West County, the RecycleMore Board approved \$81,000 to pay for costs associated with WCRR operating a HHW satellite facility in El Cerrito. On January 20, 2016, the RecycleMore Board voted to authorize RecycleMore staff to work with El Cerrito staff to pursue opening the facility one day per week, whereby RecycleMore would be responsible for operations and costs associated with collecting HHW from all of RecycleMore area residents.

Since that time, City staff has worked with RecycleMore staff and consultants, WCRR, and Stericycle to work out the logistical, operational, and regulatory considerations in implementing HHW collection services one day a week at the Recycling Center. As part of that process, the various entities worked with their legal staff to also craft an agreement that clearly delineated important operational considerations, roles and responsibilities, insurance and indemnification, and records retention. At its May 11, 2017 meeting, the RecycleMore Board authorized the Board Chair to execute an agreement with the City of El Cerrito and WCRR.

### **ANALYSIS**

Increasing the ease and convenience of disposing of HHW for area residents is a common goal for both the City of El Cerrito and RecycleMore. While El Cerrito constituents and other users of the Recycling Center can currently drop off a wide variety of items banned from the landfill, such as motor oil, batteries, electronics and sharps, they still must go to the WCRR HHW facility in North Richmond to dispose of other automotive fluids, paints, solvents, household cleaners, pesticides and other garden chemicals. The WCRR is currently only open three days per week.

The proposed HHW satellite facility at the El Cerrito Recycling Center will allow RecycleMore to increase its services by adding another drop-off day, as well as a collection location that is more convenient for many area residents. The facility will also expand the list of drop-off services provided at the Recycling Center to include such items as anti-freeze, paint, and household chemicals, truly achieving the Center's goal of being a one-stop drop-off center.

As a member of RecycleMore, the City currently uses the Richmond HHW facility to dispose of batteries and fluorescent lamps collected at the Center, as well as any illegally dumped HHW in the City or at the Recycling Center. The City contracts with other vendors to process car batteries, used motor oil, sharps, pharmaceuticals, and electronics. While car batteries and electronics have traditionally been revenue producers for the Center, the Recycling Center does incur a cost for disposing of motor oil, pharmaceuticals and sharps. The new agreement will shift all costs of disposal of these HHW items to RecycleMore, while allowing the City to retain control of materials that produce revenue.

The new HHW collection facility is scheduled to be open every Tuesday from 9 AM to 4 PM. If Council approves and authorizes the agreement, City staff and WCRR staff anticipate a "soft opening" for the facility beginning Tuesday, June 20, meaning staff will only be publicizing the opening through word-of-mouth, postings at City facilities, and in some City outreach mechanisms, such as the website. This "soft opening" is intended to

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provide an opportunity for staff from both the Recycling Center and WCRR to address any unforeseen operational issues before generating more demand for the service. In conjunction with RecycleMore, staff anticipates staging a “grand opening” in early fall.

The proposed agreement (Attachment 2) delineates important operational considerations, roles and responsibilities, insurance and indemnification, and records retention associated with the new HHW facility. Highlights of the agreement include:

- The one day per week operation for the facility as noted above;
- Entities eligible to use the facility at no cost (residents in RecycleMore territory; small businesses will still need to use the Richmond HHW facility);
- The HHW locker will be under the ownership of RecycleMore, but WCRR will be responsible for maintenance, upkeep, and safety inspections for the facility. In the event that the agreement is terminated, the City and RecycleMore will discuss transferring ownership of the locker to the City;
- In order not to disrupt current services, the Recycling Center would continue to accept used motor oil, batteries, fluorescent lamps, sharps, pharmaceuticals, during the Center’s normal weekly open hours;
- WCRR shall:
  - Manage the HHW operations at the site, as well as their HHW subcontractor, Stericycle;
  - Manage site preparation and HHW locker maintenance;
  - Manage HHW customer service and logistics;
  - Coordinate with City staff to ensure seamless operations at the Recycling Center;
  - Track participation, prepare manifests, reports, and retain proper records;
  - Provide the primary insurance coverage as it relates to the HHW activities managed by WCRR.
- RecycleMore shall:
  - Obtain, manage, and hold the permit and any other required permits, with Contra Costa County Environmental Health;
  - Pay all costs associated with maintaining and operating the facility, including the costs of disposing sharps, pharmaceuticals, and used motor oil, up to an annual amount budgeted by the RecycleMore Board. As noted above, in 2015, the Board authorized \$81,000 for HHW services in El Cerrito;
  - If needed to address demand exceeding the budget, use an appointment system or reduce hours of operation;
  - Manage and monitor the contract with WCRR;
  - Provide the secondary insurance coverage as it relates to the HHW activities managed by WCRR.

- The City of El Cerrito shall:
  - Open and close the Recycling Center per its normal operating hours;
  - Coordinate fire protection and response at the Recycling Center per its normal practice;
  - Provide a location at the Recycling Center for WCRR's HHW satellite facility;
  - Continue to accept and provide staff to service the HHW and Universal Waste materials it currently accepts seven days per week;
  - Remove and store any HHW illegally dumped on site when the HHW facility is closed.

### **STRATEGIC PLAN CONSIDERATIONS**

Entering into an agreement to provide additional HHW collection services at the Recycling Center is consistent with the following El Cerrito Strategic Plan Goals:

- Goal A – Deliver exemplary government services, by providing services that increase the ease and convenience of residents properly disposing of HHW; and
- Goal E – Ensure the public's health and safety by providing a convenient way for residents to safely and properly dispose of household hazardous waste and other potentially dangerous items such as used medical sharps; and
- Goal F – Environmental Sustainability, by being a leader in providing innovative programs that protect the environment, making the El Cerrito Recycling + Environmental Resource Center a truly one-stop shop for recycling and proper disposal of hard-to-recycle (-or-toss) waste.

### **ENVIRONMENTAL CONSIDERATIONS**

The proposed HHW collection activities were anticipated and analyzed as part of the Initial Study/Negative Declaration (IS/ND) that was adopted by the El Cerrito Planning Commission on February 16, 2011 for the reconstruction of the El Cerrito Recycling + Environmental Resource Center. Pursuant to CEQA Guidelines Section 15054, the IS/ND found no "potentially significant" impacts to the environment or neighboring properties. Neither new information nor changed circumstances necessitate further review of the proposed HHW collection activities beyond what was already considered in the IS/ND.

### **FINANCIAL CONSIDERATIONS**

The requested action will not impact the General Fund. All operations at the Recycling Center are covered through the City's Integrated Waste Management (IWM) Fund. Operation of the new satellite facility will be funded by RecycleMore through rates set by the RecycleMore Board. As such, entering into this MOU with RecycleMore shall result in savings to the City's IWM fund. These cost savings are related to the elimination of disposal costs for sharps, pharmaceuticals, and motor oil currently borne by the City's IWM fund and is approximately \$10,000 per year. In addition, because RecycleMore's contractor will be solely responsible for transporting HHW from the Recycling Center

and will be servicing the Center's HHW customers one day per week, less City staff time will be spent on these activities to focus more on other operational needs at the Center.

**LEGAL CONSIDERATIONS**

The City Attorney has reviewed the proposed action and agreement and found that legal considerations have been addressed.

**Reviewed by:**



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**Scott Hanin**  
**City Manager**

**Attachments:**

1. Resolution
2. Agreement

RESOLUTION NO. 2017-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER TO EXECUTE A THREE-WAY AGREEMENT WITH THE WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY AND WEST COUNTY RESOURCE RECOVERY, INCORPORATED FOR THE PROVISION OF HOUSEHOLD HAZARDOUS WASTE COLLECTION SERVICES AT THE EL CERRITO RECYCLING + ENVIRONMENTAL RESOURCE CENTER

WHEREAS, the West Contra Costa Integrated Waste Management Authority (RecycleMore) and West County Resource Recovery, Incorporated (WCRR) contract to operate a Household Hazardous Waste (HHW) facility at 101 Pittsburg Avenue in North Richmond through an agreement between RecycleMore and WCRR, where residents and qualified businesses within RecycleMore's service area, which includes El Cerrito and other West Contra Costa County communities, can currently drop off HHW materials three (3) days per week, which are subsequently disposed of in compliance with applicable law; and

WHEREAS, the City of El Cerrito operates the Recycling + Environmental Resource Center (Recycling Center) at 7501 Schmidt Lane in El Cerrito, California, where El Cerrito residents and businesses, residents within RecycleMore's service area, and residents outside the RecycleMore service area may drop off hard-to-recycle materials and certain types of HHW, including household batteries, automobile batteries, motor oil and filters, sharps, pharmaceuticals, and fluorescent lamps; and

WHEREAS, the City and RecycleMore desire to allow residents within RecycleMore territory to also drop off additional HHW materials, such as paint, solvents, household chemicals, and pesticides, at the Recycling Center one (1) day per week, thus expanding the material collected at the Recycling Center and the drop-off services provided by RecycleMore; and

WHEREAS, WCRR agrees to provide these additional services; and

WHEREAS, these additional services will increase the ease and convenience of disposing of HHW for area residents; and

WHEREAS, costs to provide these services will be borne by RecycleMore and will result in savings in the El Cerrito Integrated Waste Management Fund; and

WHEREAS, the proposed HHW collection activities were anticipated and analyzed as part of the Initial Study/Negative Declaration that was adopted by the El Cerrito Planning Commission on February 16, 2011 for the reconstruction of the El Cerrito Recycling + Environmental Resource Center. Neither new information nor changed circumstances necessitate further review of the proposed HHW collection activities beyond what was already considered in the IS/ND.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of El Cerrito authorizes the City Manager to execute a three-way agreement with the West Contra Costa Integrated Waste Management Authority and West County Resource Recovery, Incorporated

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Attachment 1**

for the provision of HHW collection services at the El Cerrito Recycling + Environmental Resource Center.

I CERTIFY that at a regular meeting on June 6, 2017 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on June XX, 2017.

\_\_\_\_\_  
Cheryl Morse, City Clerk

APPROVED:

\_\_\_\_\_  
Janet Abelson, Mayor

**AGREEMENT BETWEEN THE CITY OF EL CERRITO, WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY AND WEST COUNTY RESOURCE RECOVERY, INC. REGARDING PROVISION OF HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSAL SERVICES TO RECYCLEMORE SERVICE AREA AND OTHER QUALIFIED RESIDENTS AT THE EL CERRITO RECYCLING AND ENVIRONMENTAL RESOURCE CENTER**

This Agreement ("Agreement") between the CITY OF EL CERRITO ("El Cerrito"), a municipal corporation, WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY ("RecycleMore"), a joint powers authority, and WEST COUNTY RESOURCE RECOVERY, Inc. ("WCRR"), an operating subsidiary of Republic Services, Inc., is made and entered into this \_\_\_ day of May, 2017 ("Effective Date"). El Cerrito, RecycleMore and WCRR are sometimes referred to in this Agreement individually as a "Party" or collective as the "Parties."

**RECITALS**

- A. RecycleMore and WCRR contract to operate a household hazardous waste ("HHW") facility in North Richmond through the Agreement between the West Contra Costa Integrated Waste Management Authority and West County Resource Recovery, Inc., West Contra Costa Sanitary Landfill, Inc., Golden Bear Transfer Services, Inc., Richmond Sanitary Service, Inc., and Keller Canyon Landfill Company for Post-Collection Recycling, and Disposal Services, dated October 10, 2013 ("Post Collection Agreement") where residents within RecycleMore's service area, which includes El Cerrito, and other qualified residents can currently drop off HHW materials three (3) days per week, which are subsequently disposed of in compliance with applicable law. WCRR currently subcontracts with Stericycle to operate the facility.
- B. El Cerrito operates a Recycling and Environmental Resource Center ("Center") at 7501 Schmidt Lane in El Cerrito, California, where El Cerrito residents, residents within RecycleMore's service area, and residents outside the RecycleMore service area may drop off hard-to-recycle materials and certain types of HHW, including household batteries, automobile batteries, motor oil and filters, sharps and pharmaceuticals, and fluorescent lamps. It charges a fee to residents outside the RecycleMore service area only for collection of fluorescent lamps. El Cerrito stores those materials in a special section of a storage shed within the Center.
- C. El Cerrito and RecycleMore desire to allow qualified residents, as defined in Section 2(h) below, to also drop off additional HHW materials at the Center at least one (1) day per week, thus expanding the drop-off services provided by RecycleMore.
- D. WCRR agrees to provide these additional services.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, El Cerrito, RecycleMore and WCRR hereby agree as follows:

1. TERM

The term of this Agreement will be from the Effective Date set forth above until December 31, 2017. This Agreement will automatically renew annually on January 1, 2018, and every following January 1 unless any Party terminates this Agreement pursuant to Section 4.

2. HHW COLLECTION SERVICES

a. HHW includes paints, solvents, pesticides, cleaners, universal waste, and all other regulated hazardous wastes from households. Hazardous wastes are materials that meet the definition presented in Section 25117 of the California Health and Safety Code or that exhibit any of the criteria set forth in Chapter 11, Article 3, of CCR, Title 22. A list of wastes that are presumed to be hazardous is set forth in Chapter 30, Article 9, of Title 22. Criteria for identifying hazardous wastes, as specified in Article 3 of Title 22, are toxicity, ignitability, reactivity, and corrosivity. In addition, a waste is regulated as a hazardous waste under California law if it is listed in Title 40 of the Code of Federal Regulations (CFR), Part 261, as promulgated pursuant to the RCRA, 42 U.S.C., Section 6901 et seq., and Title 22, CCR, Sections 66261.31 through 66261.33 (f). For purposes of this Agreement, the HHW collection services provided will also include the collection of sharps and pharmaceuticals.

b. WCRR and its subcontractor will provide HHW collection and disposal services at the Center, including proper storage, handling, recycling, and disposal of HHW materials collected. The services will be provided in accordance with the ordinances, resolutions, rules, regulations and policies of RecycleMore and El Cerrito, as well as other local, state and federal laws and regulations that may be applicable.

c. WCRR and its subcontractor will be responsible for site preparation, operation and management of the additional HHW collection and disposal services provided under this Agreement. WCRR and its subcontractor will also be responsible for keeping and maintaining the HHW locker (including its internal fire suppression system) and the area designated for HHW collection in a condition compliant with the requirements of applicable permits, preparation of hazardous waste manifests required for shipping and disposal of HHW, and coordination with El Cerrito staff for seamless operation and management of the portions of the Center designated by El Cerrito for HHW services. El Cerrito may temporarily store any illegally dumped HHW material at the Center in the HHW locker until WCRR's subcontractor is next at the Center to properly manage the material. El Cerrito will retain control and ownership of electronic waste items and car batteries, and El Cerrito will be responsible for any costs and liability associated with electronic waste items and car batteries. If at any time El Cerrito chooses to stop retaining control and ownership of electronic waste, then RecycleMore will take over the ownership, control, costs, revenue, and liability of the electronic waste and car batteries. RecycleMore will be responsible for any costs and liability associated with used motor oil and filters. WCRR and its subcontractor will not be held liable for or be required to provide indemnity for the collection, handling, or disposal of electronic waste items, car batteries, or used motor oil or filters.

d. WCRR and its subcontractor will also provide disposal services for El Cerrito for the batteries, sharps and pharmaceuticals, and fluorescent lamps that El Cerrito

collects on the days that WCRR and its subcontractor are not providing HHW services at the Center. It is understood that El Cerrito collects these items from outside the RecycleMore service area and outside of the member Agencies jurisdiction. It is further understood and agreed that WCRR shall not be responsible for the disposal costs. Those costs will be incorporated into and paid from RecycleMore's HHW budget as described in (j) of this section.

e. In performing the HHW services pursuant to this Agreement, WCRR will make reasonable efforts to ensure that its operations at the Center do not conflict with the other operations of the Center, and will cooperate with El Cerrito staff. In the event that El Cerrito, reasonably determines to reconfigure other operations at the Center, the Parties will coordinate changes to the HHW services to allow for continued seamless operation of HHW services at the Center.

f. The HHW services will be provided one (1) day per week, during hours mutually agreed to by the Parties. Should the Parties wish to modify the schedule, or add an additional day of service, they may do so by mutual agreement without the need to amend this Agreement.

g. Before beginning operation of the HHW collection and disposal services at the Center, RecycleMore will obtain a Permit by Rule, and any other required permits or approvals.

h. Business waste and HHW from Conditionally Exempt Small Quantity Generators (see 40 CFR 261.5) will not be intentionally accepted.

i. HHW services at the Center are intended only for RecycleMore area residents.

j. RecycleMore will be responsible for the costs of HHW handling, processing and ultimate disposition in an amount as authorized by the RecycleMore Board.

k. El Cerrito staff will be responsible for opening and closing the Center, as well as traffic control, site maintenance, and fire protection and response at the Center, not including the internal fire suppression system in the HHW locker.

l. To help control costs or for any other reason, at RecycleMore's option after consulting with El Cerrito and WCRR, WCRR will direct its subcontractor to institute an appointment system for drop-offs at the Center. If the system is modified and it changes the costs for any of the parties, they will meet in good faith to discuss and adjust the costs.

m. To help control costs, at RecycleMore's option after consulting with El Cerrito, and WCRR, WCRR will direct its subcontractor to reduce hours and/or days of service on a temporary or permanent basis as communicated in writing from RecycleMore to WCRR.

### **3. PUBLIC INFORMATION AND EDUCATIONAL MATERIALS**

From time to time, RecycleMore may provide to El Cerrito public information and

educational materials related to the HHW collection services provided. El Cerrito will be responsible for conveying this information to El Cerrito residents.

4. TERMINATION

Any Party may terminate this Agreement without cause upon sixty (60) days' written notice to the other Parties. In the event of termination of this Agreement, RecycleMore and El Cerrito will reasonably discuss transferring ownership of the HHW locker to El Cerrito.

5. INSURANCE

RecycleMore participates in the Special District Risk Management Authority ("SDRMA"), a self-insurance fund, and its existing coverage as set forth in Exhibit "A" attached hereto and incorporated by reference will apply to RecycleMore's obligations pursuant to this Agreement.

a. RecycleMore will add El Cerrito as an additional insured on its SDRMA coverage with respect to activities undertaken pursuant to this Agreement.

b. During the term of this Agreement, including automatic renewal periods, WCRR will maintain general liability; automobile; workers' compensation and employer's liability; and contractors' pollution liability insurance policies covering collection of the HHW materials at the Center and disposal of HHW materials collected. WCRR will provide El Cerrito with proof of the insurance coverage.

c. WCRR's and RecycleMore's insurance policies must be at least as broad as the following:

1. Commercial General Liability ("CGL"): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than Two Million Dollars (\$2,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if the contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

3. Workers' Compensation and Employer's Liability: Workers' compensation, as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

4. Contractors' Pollution Liability: Limits no less than One Million Dollars (\$1,000,000) per occurrence or claim, and Two Million Dollars (\$2,000,000) policy aggregate.

d. El Cerrito, its officers, officials, employees, and volunteers, and RecycleMore, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL, Automobile Liability, and Contractors' Pollution Liability policies with respect to liability arising out of work or operations performed by or on behalf of the contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of WCRR. General liability coverage shall be provided in a blanket form endorsement to WCRR's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

e. WCRR's insurance coverage shall be primary insurance as respects El Cerrito, its officers, officials, employees, and volunteers, and RecycleMore, its officers, officials, employees and volunteers, only as it relates to HHW activities managed by WCRR and its subcontractor under this Agreement. Any insurance or self- insurance maintained by El Cerrito or RecycleMore shall be in excess of WCRR's insurance and shall not contribute with it.

RecycleMore's insurance coverage shall be the secondary insurance as respects El Cerrito, its officers, officials, employees and volunteers, only as it relates to HHW activities undertaken pursuant to this Agreement. Any insurance or self-insurance maintained by RecycleMore shall be in excess of WCRR's insurance and shall not contribute with it.

With regard to activities that are not managed by WCRR or the responsibility of WCRR or its subcontractor, then RecycleMore's shall be the primary insurance, but only as it relates to HHW activities undertaken pursuant to this Agreement.

f. Each insurance policy required by this clause, other than worker's compensation, shall provide that coverage shall not be canceled, except with notice to El Cerrito, WCRR, and RecycleMore.

g. WCRR shall provide notice to El Cerrito and RecycleMore within ten (10) days in the event that any insurance policy is cancelled or not renewed.

## 6. INDEMNIFICATION

a. WCRR will hold harmless, defend, and indemnify El Cerrito and RecycleMore, including their officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with the performance of work hereunder by WCRR only as it relates to HHW activities directly managed by or performed by WCRR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, or the failure of any of them to comply with any of their obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of El Cerrito or RecycleMore.

b. El Cerrito will hold harmless, defend, and indemnify (1) RecycleMore and its officers, officials, employees, and volunteers and (2) WCRR and its parents, affiliates, subsidiaries and directors, officers, officials, agents, employees, and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of

litigation) of every nature arising out of or in connection with El Cerrito's operation or maintenance of the Center and resulting from the negligent acts or omissions of El Cerrito or its agents, employees, or subcontractors.

c. RecycleMore will hold harmless, defend, and indemnify (1) El Cerrito and its officers, officials, employees, and volunteers and (2) WCRR and its parents, affiliates, subsidiaries and directors, officers, officials, agents, employees, and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with its obtaining the Permit by Rule or its obligation to fund the HHW collection at the Center, and in either case resulting from the negligent acts or omissions of RecycleMore, its officers, officials, employees, and volunteers in the performance of this Agreement.

7. BUSINESS LICENSE

WCRR must obtain a City of El Cerrito business license and deliver to El Cerrito proof of such business license prior to beginning work under this Agreement.

8. CERCLA DISPOSAL RECORDS

For purposes of defense against possible CERCLA litigation, WCRR must maintain, retain and preserve records that can establish where HHW was disposed (and therefore establish where it was not). This provision will survive the expiration or earlier termination of this Agreement. WCRR must maintain these records for a minimum of three (3) years beyond expiration or earlier termination of the Agreement, or must transfer these records to RecycleMore or El Cerrito at the expiration or earlier termination of this Agreement.

9. NOTICES

All notices required by this Agreement must be given in writing, by first class mail, postage prepaid, or by email transmission addressed as follows:

El Cerrito:  
Yvetteh Ortiz  
Public Works Director  
10890 San Pablo Ave.  
El Cerrito, CA 94530  
yortiz@ci.el-cerrito.ca.us

RecycleMore:  
Stan Hakes  
Executive Director  
One Alvarado Square  
San Pablo, CA 94806  
stanh@recyclemore.com

West County Resource Recovery:  
Peter Nuti  
Post Collection Contract Manager  
101 Pittsburg Ave  
Richmond, CA 94801  
pnuti@republicservices.com

Notice by mail will be deemed given upon verification of receipt. Notice by e-mail transmission will be deemed given upon verification of receipt if received before 5:00 p.m. on a regular business day or else on the next business day.

10. AMENDMENTS

Any amendments to this Agreement must be in writing, executed by all the Parties.

11. SUCCESSORS AND ASSIGNS

No Party may assign or delegate any right or obligation hereunder without first having received the written consent duly executed by the other Parties. This Agreement shall bind and shall inure to the benefit of any successors or assigns of any Party hereto.

12. ADDITIONAL DOCUMENTS

The Parties hereto agree to promptly execute and deliver such other documents and perform such other acts as may be reasonably necessary to effectuate the intent of this Agreement.

13. SEVERABILITY

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect.

14. NO IMPLIED WAIVER OF BREACH

The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

15. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which will be an original and all of which together will constitute one agreement.

**SIGNATURES ON FOLLOWING PAGE**

WEST CONTRA COSTA INTEGRATED WASTE  
MANAGEMENT AUTHORITY

Dated: \_\_\_\_\_

\_\_\_\_\_  
Chair  
Board of Directors

ATTEST:

\_\_\_\_\_  
Secretary of the Board

CITY OF EL CERRITO

Dated: \_\_\_\_\_

\_\_\_\_\_  
Scott Hanin  
City Manager

ATTEST:

\_\_\_\_\_  
Cheryl Morse  
City Clerk

WEST COUNTY RESOURCE RECOVERY, INC.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Michael A. Caprio  
Vice President

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