



**Board of Directors Meeting Agenda**  
**Regular Meeting**  
Thursday, October 13, 2022  
**6:15 PM**

### **Teleconference/Public Participation Information**

Pursuant to the provisions of California Governor's March 4, 2020 State of Emergency Declaration and enactment of Assembly Bill 361 on September 16, 2021 which adopted exemptions to the Ralph M. Brown Act and the proposed findings to be adopted by the Board at this meeting, this meeting will be conducted by the teleconference only in accordance with Government Code section 54953(e). No physical location will be available for this meeting. This meeting agenda is available online at <https://recyclemore.com/about/board-meeting-agendas>

For this meeting, there will be no physical location from which members of the public may observe the meeting. Members of the public are welcome to observe and address the Board telephonically at the appropriate time for public comment during the meeting, following these instructions:

**Link to join Webinar: <https://us02web.zoom.us/j/83970413840>**  
**Or phone: 1-669-900-6833 or 1-408-638-0968**  
**Webinar ID: 839 7041 3840**

During the meeting, the Chair will call for public comment. To make a public comment on a desired item while participating in the webinar, click on the "Raise Your Hand" option within the online webinar tool, or if participating via phone - dial \*9.

Members of the public are welcome to submit written comments via email to the Board Secretary at [donalds@recyclemore.com](mailto:donalds@recyclemore.com) prior or during the time for public comment at the meeting. The Board Secretary will share all comments with the Board at the meeting and make them part of the public record.

#### **Americans with Disabilities Act**

*In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet in an alternative format, please contact the Authority Board Secretary at (510) 609-1215 or by email at [donalds@recyclemore.com](mailto:donalds@recyclemore.com) with the following information: name, phone number, email, and type of assistance requested. Notification of at least 48 hours prior to the meeting or time when services are needed will assist Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.*

## **Public Comment**

*Members of the public may address the Board of Directors on items that are within the jurisdiction of the Authority. Comments by the public pertaining to items listed in this Agenda should be made at the time the item is considered by the Board of Directors. Please note this Agenda contains an item for the Public to address the Board on non-agenda matters. Each speaker is limited to 3 minutes and may speak only once under each agenda item. The Board of Directors may waive these provisions. If you desire to address the Board, please submit your request on a Speaker's Card available from the Secretary.*

### **1. Call to Order/Roll Call**

*The Chair will call the meeting to order and the Secretary will call the roll to establish the presence of a quorum.*

### **2. Closed Session**

*None.*

### **3. Pledge of Allegiance**

*The Chair or a Member of the Board will lead the Pledge of Allegiance.*

### **4. Ex Parte Communications Disclosures**

*The Chair of the Board will ask if any Director has an ex parte disclosure, pursuant to the Authority's Ex Parte Communications Policy, on any agenda items.*

### **5. Public Comment**

*Receipt of public comment on non-agenda matters.*

### **6. Consent Calendar**

*All matters listed in the Consent Calendar will be enacted with one motion. There will be no separate discussion of the items listed. However, upon request by a member of the Board or the Public, items will be removed from the Consent Calendar and considered separately in the agenda order.*

*Consideration of a motion to approve the following actions:*

#### **6.1 September 08, 2022 Authority Board Meeting Minutes**

*Consider a MOTION to APPROVE the subject minutes.*

#### **6.2 Continue Findings of AB 361 to Allow Teleconferenced Meeting**

*Consider a MOTION to ADOPT Resolution No. 22-16 to continue conducting Board of Director meetings remotely due to health and safety concerns for the public and making related findings in compliance with Assembly Bill 361 (2021) ("AB 361") effective October 13, 2022 through November 12, 2022.*

### **7. Staff Report**

*Staff will provide updates on recent and upcoming activities.*

## **8. Regular Agenda**

### **8.1 Workshop - Calendar Year 2023 Household Hazardous Waste Budget**

1. Conduct a Workshop on Calendar Year 2023 Household Hazardous Waste (HHW) Budget.
2. Provide direction to staff on actions needed, if any, for the Board to consider approval of the 2023 HHW Budget at the November 2022 Board meeting.

### **8.2 Workshop - Calendar Year 2023 Post-Collection Rates**

1. Conduct Workshop on Calendar Year 2023 Post-Collection Rates.
2. Provide direction to staff on actions needed, if any, for the Board to consider adopting new Calendar Year 2023 RecycleMore Post-Collection Rates at the November 2022 Board meeting.

## **9. Board Member and Staff Announcements**

*INFORMATION ONLY. Announcement of matters of interest by Board Members, Alternate Board Members, Executive Director and General Counsel.*

## **10. Adjournment**

*Consideration of a motion to adjourn. The next regular Board of Directors' Meeting is scheduled for November 10, 2022.*

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**recyclemore**  
WEST CONTRA COSTA INTEGRATED  
WASTE MANAGEMENT AUTHORITY

# Agenda Report

**DATE:** October 13, 2022

**TO:** West Contra Costa Integrated Waste Management Authority Board

**FROM:** Peter Holtzclaw - Executive Director

**SUBJECT:** September 08, 2022 Authority Board Meeting Minutes

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**ACTION REQUESTED:**

Consider a MOTION to APPROVE the subject minutes.

**BACKGROUND:**

The minutes of the September 08, 2022 Board meeting are attached.

**FISCAL IMPACT:**

None.

**ATTACHMENTS:**

[6.1 Attachment 1 - ActionMinutes 2022-9-8 DRAFT.pdf](#)

## WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS MEETING MINUTES – SEPTEMBER 8, 2022

**Meeting Date | Time 9/8/2022 6:15 PM | Meeting Location** *The meeting was held pursuant to the provisions of California Governor’s March 4, 2020 State of Emergency Declaration and enactment of Assembly Bill 361 on September 16, 2021 which adopted exemptions to the Ralph M. Brown Act and the proposed findings to be adopted by the Board at this meeting, to be conducted by teleconference only in accordance with Government Code Section 54953(e). No physical location to be available for this meeting. All votes of the Board to be Roll Call votes.*

Meeting called by Board of Directors

Type of meeting Regular

Authority Staff Present Peter Holtzclaw, Lisa Borreani, Donald Sturman

Legal Counsel John Bakker

### Board Members Present:

Directors: D. Romero, Hercules (Chair); A. Tave, Pinole; N. Bates and G. McLaughlin, Richmond; and A. Pineda, San Pablo

Absent: T. Rudnick, El Cerrito (Vice Chair) [excused]; M. Willis, Richmond; and F. Glover (Ex-Officio) Contra Costa County

### CALL TO ORDER/ROLL CALL

Chair Romero called the meeting to order at 6:18 P.M. and advised that given expected rolling blackouts, if the public or Directors were dropped from the meeting the meeting would be suspended until the public/Directors were able to gain access to the meeting. The Roll Call established the existence of a quorum (Bates, McLaughlin\*, Pineda, Romero, and Tave). \*Director McLaughlin arrived around 7:10 P.M.

### CLOSED SESSION

There was no Closed Session.

### PLEDGE OF ALLEGIANCE

Director Tave led the Pledge of Allegiance.

### EX-PARTE COMMUNICATIONS & DISCLOSURES

There were no ex-parte communications or disclosures.

### PUBLIC COMMENT

No written comments were submitted, or oral comments made, by any member of the public.

### CONSENT CALENDAR

**MOTION** by Director Pineda to approve Consent Calendar Items 6.1 and 6.2. **SECOND** by Director Bates.

MOTION PASSED unanimously by a Roll Call vote.

## STAFF REPORT

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### **Staff Report Item 7 - | Presenter | Peter Holtzclaw - Executive Director**

Executive Director Peter Holtzclaw advised of the status of the recruitment process for two RecycleMore positions: the Outreach Coordinator and Recycling and Household Hazardous Waste (HHW) Program Manager. He reported there had been a number of applicants and interviews would be conducted next week. The expectation would be that both positions would be filled by late October.

With respect to AB 1826, Mr. Holtzclaw reported that CalRecycle had given notice to the cities of Richmond, San Pablo, Pinole and Hercules that the number for mandatory organic recycling under the 1826 law was not up to snuff. He noted it was vague as to what that meant. He advised that Republic Services, RecycleMore and all member agencies had undertaken a big effort in the last three to four months to roll out the organic service to businesses that fell under the AB 1826 rubric, and an extraordinary effort by Republic staff and staff from those member agencies had rolled out service to 75 to 100 businesses, and had granted waivers to another 125 to 150 businesses across all four cities. Final numbers would be communicated to CalRecycle. He noted that Richmond had the most waivers and assuming those waivers would go through there would be a high 80 to low 90 percent compliance, which should satisfy CalRecycle. He also stated the electronic annual reports were being pursued from the member agencies and from Republic, which information would be submitted in the next couple of weeks to the member agencies first for review and then on to CalRecycle in October for approval.

Mr. Holtzclaw added that there had been two HHW events in Hercules and El Sobrante that had been very well attended; the most recent in El Sobrante had almost 600 participants dropping off all sorts of HHW material and mattresses. The last HHW event this year would be in the next couple of weeks in Richmond. The next RecycleMore effort would be for rate reviews over the next two to three months.

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### **Agenda Item 8.1 – Interagency Agreement between County of Contra Costa, California, and RecycleMore for Inspections of California Senate Bill No. 1383 Tier One Commercial Edible Food Generators | Presenter | Peter Holtzclaw – Executive Director**

Executive Director Holtzclaw presented the contract to approve the Interagency Agreement between the County of Contra Costa, California and RecycleMore for Inspections of California Senate Bill No. 1383 Tier One Commercial Edible Food Generators for an amount not to exceed \$74,625. He noted this would be a big undertaking and the contract signed a couple of months ago with Abbe & Associates would help identify Tier One generators of edible food as well as identify the food banks and the organizations actively receiving edible food and getting that food to hungry people.

With respect to the Tier One generation list required by SB 1383, Mr. Holtzclaw explained that the Tier One generators were the large hotels, cafeterias, and restaurants, among others, most of which had already put operations in place, which operations had to be inspected to make sure there was a program in place. He stated there were a lot of jurisdictions that had a default where the County Public Health structure would be the best way to implement that aspect of SB 1383 since the County Public Health infrastructure already inspected restaurants and other places that inspected food for customers from an environmental health aspect. Given that situation, there had been negotiations with County Public Health as to how the inspections would be done. The agreement would determine how that would be implemented at a cost no more than \$74,625, for approximately 18 months to March 2024.

Mr. Holtzclaw explained how RecycleMore staff would coordinate that process with the county and the contract was flexible enough that RecycleMore staff could even do some of the inspections, with two or more visits required before enforcement and penalties would be enacted. RecycleMore staff would work with County Public Health, the generators, and the food banks to ensure the most efficient way to get edible food out of the waste stream and to those who needed it.

Chair Romero reported that Director Rudnick, who was attending the League of Cities conference, had emailed questions related to the number of Tier One and Tier Two generators located in the RecycleMore service area and the process for enforcement.

Mr. Holtzclaw reported that there were 40 to 70 Tier One generators in the RecycleMore service area, Tier Two generators were the smaller businesses and that aspect was not being addressed at this time, and staff was working through the enforcement process with the Memorandums of Understanding (MOUs) with the member agencies when enforcement would be determined. He foresaw enforcement as between County Public Health and RecycleMore to identify businesses that did not cooperate. For edible food waste as with organic waste, if there was a business that did not comply, evidence would be gathered and be taken to the applicable member agency which would issue the citation. There were some cities in the service area without a code enforcement infrastructure and RecycleMore was monitoring that situation since it was in the process of moving its own accounting in-house, which would allow it to become an enforcement agent.

Chair Romero noted that he had similar concerns with respect to enforcement since the Joint Exercise of Powers Agreement (JEPA) did not allow the agency to impose a fine. As an agency, the Board needed to start directing the cities to look into that and cities would have to create an ordinance or add on to an existing ordinance to be able to impose a fine, a process that could take three to four months to complete. He recommended a discussion in the next three months to address that issue given that changing a JEPA could be a long process as well.

No written comments were submitted, or oral comments made, by any member of the public.

**MOTION** by Director Bates to approve the Interagency Agreement between the County of Contra Costa, California and RecycleMore for Inspections of California Senate Bill No. 1383 Tier One Commercial Edible Food Generators not to exceed \$74,625. **SECOND** by Director Pineda.

**MOTION PASSED** unanimously by a Roll Call vote.

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**Agenda Item 8.2 – The Ecology Center: Plastics Recycling Discussion | Presenter | Peter Holtzclaw – Executive Director**

Executive Director Holtzclaw introduced Martin Bourque of the Ecology Center and explained that under Mr. Bourque’s leadership for over twenty years the non-profit grass roots environmental organization had grown and had been one of the first curbside operations in the country, an innovator and supporter of local Farmers’ Markets, had worked with the Food Network, and remained a recycling operation when recycling had been institutionalized over the last three decades.

Martin Bourque, the Ecology Center, stated that in the City of Berkeley there was a city-operated public works operated waste hauling and composting program. The Ecology Center had started the first curbside recycling program in 1973 and continued to operate as the City of Berkeley’s recycler under a contract with the City.

Mr. Bourque explained that because the Ecology Center did not operate a landfill, an incinerator, or do anything else but recycling, he could speak to the point of what was real and what was not. He spoke to the issue of plastic exports, recyclability, and non-recyclability and what was and was not collected.

Mr. Bourque described the background of recycling in California where in the 1980s the California Integrated Waste Management Board had directed that waste could not be dumped in unlined holes in the ground or in the Bay, which had created a landfill crises that had evolved to the campaign to Reduce Reuse Recycle as a way forward, culminating in the current situation where plastic packaging had taken over recycling at a time when, in reality, there were only a few markets available for the very few plastic items that could actually be recycled.

Mr. Bourque highlighted the mission-driven goal of the Ecology Center utilizing a dual stream (paper and cardboard kept separate from cans and bottles), in a quality focused process which produced high quality feedstock to produce high quality material with low contamination rates. He noted that the Ecology Center had been pressured in 1996 to collect plastic and that issue had been studied through a Plastics Task Force that had found that much of what was collected was not recyclable. When the large haulers got involved, plastics had ultimately been exported in high tonnages, initially to China, with devastating impacts.

Mr. Bourque responded to questions and explained why glass was collected separate from paper to avoid contamination and degradation of paper and he described the equipment involved in the source sorting process. He also explained how bottles had begun to be collected given the markets for some of that material. By 2013, all plastics were being collected in the industry in the expectation that a market would develop but some plastic had ultimately been burned or had gone to landfills creating environmental concerns. He displayed pictures of King Fong, a Chinese recycling processing center that the Ecology Center had partnered with and described the process, the infrastructure, the paper trail and certifications of the material involved as well as the materials being sold.

As a result of the process used in China, Mr. Bourque described the mixed non-bottle plastic containers that had been added to their program when the tonnage had gone up dramatically, prices had dropped and King Fong had stopped accepting the material. And rather than getting paid for the material, the sellers had to pay to have the material accepted. In 2018, China had then instituted Green Fence and National Sword related to new restrictions on imports. He noted that the Ecology Center had used trackers deposited into bales of material to be recycled to find out where the material was going and it had been found that the material had been auctioned bale by bale onto pickup trucks in China, which had gone into people's back yards where the material was being sorted. Given that process had created such environmental degradation, the Chinese government had ultimately shut down those auctions.

Mr. Holtzclaw noted the same had subsequently occurred in other countries that had accepted "recyclable" material after China had refused it and the facilities in those other countries (Vietnam, Thailand, Laos, Malaysia and others) where the same environmental degradation had occurred had also been shut down given that in some cases the piles of material had leached toxins into the soil, the water table, the streams, rivers and oceans.

Mr. Bourque advised that there was currently no market for most plastic. He also emphasized that the intent was to recycle and not to cause harm, although the plastic industry was pushing for recycling and placing the liability and responsibility on others.

Mr. Holtzclaw added that Mexico had upped its capacity but was buying via brokers, and Mr. Bourque noted that Mexico was part of NAFTA, considered a North American market, and could accept the material, but whether it was being transshipped was unknown and whether it was being burned to make cement was also unknown.

Mr. Holtzclaw commented that making cement was probably the strongest link between solid waste disposal and processing and climate change, and Mr. Bourque added that would soon be an issue nationally and internationally.

Mr. Bourque commented that he would prefer to have the plastics in a US landfill than have it dumped in Mexico or burned in Brazil for energy or ending up in new markets in Africa. He pointed out that it cost about \$1,000/ton to sort and dispose of it, there were limited markets to recycle plastics, burning plastic was worse than burning coal, the CalRecycle Commission had identified 15 items that were recyclable and there were only two types of plastics (#1 and #2) on that list, the SB 343 California Recycling Label Law prohibited the placement of the recycle logo on plastics unless they were actually being recycled in California, and SB 54 Extended Producer Responsibility for Plastic Packaging had to revise the definition of what could and could not be recycled.

As to what could be done, Mr. Bourque suggested the solution would be to stop accepting those items that could not be recycled and there was a need to be more transparent and honest to the public. Customers had to be educated to help drive packaging changes and drive the responsibility up to the producers since those items that were not able to be recycled had driven up the costs of recycling. He noted that haulers did what the cities required in their Requests for Proposal (RFPs) and he stated there would have to be a different message in RFPs to identify what could be marketed. He added that plastic was trashing recycling, distorting the cost benefit and making it difficult to do the job that was originally set out to be done.

Mr. Holtzclaw advised that he had brought the issue of plastics to the Board to identify where the material went and how it was used. He added that RecycleMore would work with Republic Services, the City of El Cerrito and East Bay Sanitary to discuss the issue but noted that plastics were a very small part of the recycling stream. He recognized that addressing the problem would take some time. Going forward, he planned to do the same with e-waste and household hazardous waste given that those two waste streams were not well known and more than likely were being exported into developing nations, polluting the planet, and exacerbating climate change. He added it was important to have these discussions to be able to know how to structure programs to avoid furthering the concerns and to educate the populace to make better decisions in not only what was being purchased but how those purchases were being disposed.

Director McLaughlin requested a copy of the PowerPoint presentation from the Ecology Center and Mr. Holtzclaw stated he would make it available to the members of the Board.

Chair Romero asked about the City of Berkeley's City Council concerns for limiting plastic collection to #1s and #2s, and Mr. Bourque explained that some of the argument was that there was a desire to avoid the perception of going backwards, there would be a need to change the stickers identifying recyclables, and there was a hope that there might be a way to recycle the other plastics in the future. He urged an honest conversation with the public and the desire to place the responsibility on the producers.

Chair Romero suggested that the City of Berkeley and RecycleMore send letters to their State Legislators to talk about the issue. He specifically recommended letters to Senator Nancy Skinner and to Assemblywoman Buffy Jo Christina Wicks, who were knowledgeable of the issues, to help address the issues related to unrecyclable plastics.

Mr. Bourque urged RecycleMore to also send letters to support only those items that could be recyclable. In response to the question as to whether Styrofoam could be prohibited from coming into the U.S. from outside the U.S., he explained that while the City of Berkeley had been prohibited from buying anything that came in packages with polystyrene, it would be much more helpful if the State of California had the same prohibition. He added there were some things being done legislatively to create a polystyrene ban.

Mr. Holtzclaw stated that both SB 343 and SB 54, as earlier referenced, would provide a lot of cover at the municipal level for incentives, reasons, or political cover to ensure that the non-labeled items would have to be trashed and not recycled, and there could be a groundswell with what actually happened with plastics with legislative as well as operational solutions at the local level.

Mr. Bourque emphasized the need to Reduce and Reuse, and then Recycle what could be recycled. He suggested that 2022 would be a historic legislative cycle for plastics, waste, toxics, and climate and while the issue had not been addressed head-on, he was hopeful that might change in the next cycle.

No written comments were submitted, or oral comments made, by any member of the public.

Chair Romero recommended, and by consensus the Board directed, the Executive Director to craft a letter to Senator Skinner and Assemblywoman Wicks, to be submitted to the Board under Consent Calendar for approval at the next meeting.

## **BOARD MEMBER AND STAFF ANNOUNCEMENTS**

Mr. Holtzclaw reiterated that the next HHW event in Richmond would be on Saturday, September 24, 2022 at the Galileo Club.

## **ADJOURNMENT**

With consensus of the Board, Chair Romero adjourned the meeting at 7:45 P.M. until the regular Board meeting scheduled for October 13, 2022 at 6:15 P.M.

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I hereby certify the foregoing to be a true and correct statement of the Official Minutes of the West Contra Costa Integrated Waste Management Authority Board meeting held September 8, 2022.

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Board Secretary

\_\_\_\_\_  
Date

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**recyclemore**  
WEST CONTRA COSTA INTEGRATED  
WASTE MANAGEMENT AUTHORITY

# Agenda Report

**DATE:** October 13, 2022

**TO:** West Contra Costa Integrated Waste Management Authority Board

**FROM:** Peter Holtzclaw - Executive Director

**SUBJECT:** Continue Findings of AB 361 to Allow Teleconferenced Meeting

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## **ACTION REQUESTED:**

Consider a MOTION to ADOPT Resolution No. 22-16 to continue conducting Board of Director meetings remotely due to health and safety concerns for the public and making related findings in compliance with Assembly Bill 361 (2021) (“AB 361”) effective October 13, 2022 through November 12, 2022.

## **BACKGROUND:**

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State address the broader spread of COVID-19.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Ralph M. Brown Act (“**Brown Act**”) in order to allow local legislative bodies to conduct meetings telephonically or by other means. Additionally, the State implemented a shelter-in-place order, requiring all non-essential personnel to work from home.

The Board of Directors established virtual meetings. The virtual meetings have allowed the Board to continue to conduct its business from remote locations while ensuring the public’s continued access to government meetings in a safe manner.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other

things, rescinded certain clauses of Executive Order N-29-20 after September 30, 2021, including clauses that suspended certain provisions of the Brown Act. Thus, effective October 1, 2021, agencies would have had to transition back to in person public meetings. Since the Governor issued Executive Order N-08-21, the highly contagious Delta variant has emerged, causing a spike in cases throughout the state and within Contra Costa County.

On August 2, 2021, the Contra Costa County Health Officer issued a Health Order requiring all individuals in both Counties, regardless of vaccination status, to wear face coverings in all indoor public settings and businesses for the control of COVID-19. The August 2, 2021 Public Health Officer Order will be in effect until rescinded, superseded or amended.

On September 16, 2021, Governor Newsom signed AB 361, which was an urgency measure that became effective on October 1, 2021, and it allows a local agency to use teleconferencing for public meetings during a Governor-proclaimed state of emergency as long as the legislative body adopts findings every 30 days that: 1) meeting in person would present imminent risks to the health or safety of attendees as a result of the emergency; or 2) state or local officials have imposed or recommended measures to promote social distancing.

In such circumstances, a legislative body is not required to make available a physical location from which members of the public may observe the meeting and offer public comment or required to have a quorum of the members of the legislative body participate from locations within the boundaries of the agency's jurisdiction in the following circumstances:

- The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
- The legislative body holds a meeting during a proclaimed state of emergency to determine, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

The legislative body must make certain findings by majority vote every 30 days to continue using AB 361's teleconferencing requirements.

An additional provision of AB 361 states that, in the event of a disruption within the local

agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body is prohibited from taking any further action on items appearing on the meeting agenda until public access to the meeting via the call-in or internet-based options is restored.

These new provisions are only operative until January 1, 2024, at which point they are repealed, and the prior Brown Act teleconferencing requirements become effective again.

The California Department of Public Health (CDPH) and the Federal Centers for Disease Control and Prevention (CDC) caution that the Delta Variant of COVID-19, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations. The very recent emergence of the Omicron Variant of COVID-19 has resulted in the CDC's designation of it as Variant of Concern noting that it may spread more easily than other Variants, including Delta, and that fully vaccinated people who become infected with the Omicron Variant can spread the virus to others. In fact, the first verified case of the Omicron Variant in the United States has been confirmed as an individual in the Bay Area who was fully vaccinated.

The Authority meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The Governor has declared a State of Emergency related to the COVID-19 pandemic; and
- County Health Orders require that individuals in indoor public spaces wear masks and the CDC recommends social distancing of at least six feet due to COVID-19; and
- The Delta variant of COVID-19 has resulted in a significant increase of COVID-19 cases within the state and throughout Contra Costa County.

Thus, meeting in person for Board meetings would present imminent risks to the health and safety of attendees, the Board and staff. In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, Authority staff recommends invoking the provisions of Assembly Bill 361 related to teleconferencing.

The Board must make its own determination and findings, no later than 30 days after the adoption of Resolution 22-16, in order to continue to hold teleconferenced meetings in

accordance with AB 361. At this time, Staff intends to schedule special Board meetings every 30 days, if necessary, to consider adoption of similar findings in the future. Staff will return no later than November 12, 2022 with an item for the Board of Directors to consider whether to continue meeting under the provisions of Assembly Bill 361.

**FISCAL IMPACT:**

None.

**ATTACHMENTS:**

[Attachment 1 - Resolution 22-16 AB 361 Continued Findings October 13 - November 12 2022.pdf](#)

**RESOLUTION NO. 22-16**

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY  
AUTHORIZING TELECONFERENCE MEETINGS PURSUANT TO ASSEMBLY BILL  
361 EFFECTIVE OCTOBER 13, 2022 THROUGH NOVEMBER 12, 2022**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom proclaimed the existence of a state of emergency in California under the California Emergency Services Act, Government Code section 8550 et seq. (Declaration); and

**WHEREAS**, on March 17, 2020, Governor Gavin Newsom issued Executive order N- 29-20 (Executive Order), which suspended the teleconferencing rules set forth in California provided certain requirements were met and followed; and

**WHEREAS**, on June 11, 2021, Governor Gavin Newsom issued Executive Order N-08-21, which clarified the suspension of the teleconferencing rules set forth in the Ralph M. Brown Act and further provided that those provisions would remain suspended through September 30, 2021; and

**WHEREAS**, on September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361, which provides that under Government Code section 54953(e), a legislation body subject to the Ralph M. Brown Act may continue to meet using teleconferencing without complying with the non-emergency teleconferencing rules in Government Code section 54953(b)(3) if a proclaimed state of emergency exists and state or local officials have imposed or recommended measures to promote social distancing; and

**WHEREAS**, such conditions exist in the West Contra Costa Integrated Waste Management Authority (RecycleMore) jurisdiction. In addition to the Governor's Declaration, the Contra Costa County Health Officer has issued numerous Health Orders regarding safety protocols during the COVID-19 pandemic. In particular, on August 2, 2021, the Contra Costa County Health Officer issued an Order requiring all individuals in the County, regardless of vaccination status, to wear face coverings in all indoor public settings and businesses for the control of COVID-19. The Order was amended as of November 1, 2021 to allow groups of fully vaccinated individuals to remove masks indoors under limited circumstances, but the amendment does not apply to indoor spaces "open to the general public". This Public Health Officer Order will be in effect until rescinded, superseded or further amended; and

**WHEREAS**, The California Department of Public Health (CDPH) and the Federal Centers for Disease Control and Prevention (CDC) caution that the Delta Variant of COVID-19, is more transmissible than prior variants of the virus, may cause more severe illness, and even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations; and

WHEREAS, on December 9, 2021, the Board of Directors adopted Resolution No. 21-05 initially authorizing teleconferenced meetings to be conducted pursuant to AB 361 from December 18, 2021 to January 18th; and

WHEREAS, the very recent emergence of the Omicron Variant of COVID-19 has resulted in the CDC's designation of it as Variant of Concern noting that it may spread more easily than other Variants, including Delta, and that fully vaccinated people who become infected with the Omicron Variant can spread the virus to others. In fact, the first verified case of the Omicron Variant in the United States has been confirmed as an individual in the Bay Area who was fully vaccinated; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, RecycleMore intends to continue utilizing the provisions of Assembly Bill 361 related to teleconferencing in the manner authorized by Government Code § 54953(e), and such legislative body shall comply with the requirements to provide the public with access to the meetings as prescribed in Government Code § 54953(e)(2); and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the West Contra Costa Integrated Waste Management Authority as follows:

1. The Recitals set forth above are true and correct and are incorporated herein by reference.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Ralph M. Brown Act, the Board of Directors makes the following findings:
  - a. The Board of Directors has considered the circumstances of the state of emergency; and
  - b. The state of emergency, as declared by the Governor, continues to directly impact the ability of the Board of Directors, including RecycleMore's legislative bodies and staff, as well as staff and members of the public, from meeting safely in person; and
  - c. The CDC and Contra Costa County Department of Public Health continue to recommend physical distancing of at least six feet due to COVID-19 and as a result of the presence of COVID-19 and the Delta and Omicron Variants, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies, and staff.
3. The Board of Directors and RecycleMore's legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public and staff in accordance with the provisions of Government Code section 54953(e).

- 4. The Board of Directors will revisit the need to conduct meetings remotely before November 12, 2022.
- 5. Staff is authorized and directed to take all actions necessary to implement the intent and purpose of this resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and all other application provisions of the Ralph M. Brown Act; and
- 6. Staff is directed to return no later than November 12, 2022 with an item for the Board of Directors of the West Contra Costa Integrated Waste Management Authority to consider whether to continue meeting under the provisions of Assembly Bill 361.

**ATTEST:**

**CHAIR OF THE BOARD:**

\_\_\_\_\_  
Donald W. Sturman – Authority Secretary      Date

\_\_\_\_\_  
Dan Romero, Board Chair      Date

I hereby certify that the foregoing resolution was adopted by the Board of Directors of the West Contra Costa Integrated Waste Management Authority at its meeting of November 10, 2022, by the following vote:

AYES:              Directors: \_\_\_\_\_

NOES:             Directors: \_\_\_\_\_

ABSENT:          Directors: \_\_\_\_\_

\_\_\_\_\_  
Donald W. Sturman, Authority Secretary

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**recyclemore**  
WEST CONTRA COSTA INTEGRATED  
WASTE MANAGEMENT AUTHORITY

# Agenda Report

**DATE:** October 13, 2022

**TO:** West Contra Costa Integrated Waste Management Authority Board

**FROM:** Peter Holtzclaw - Executive Director

**SUBJECT:** Workshop - Calendar Year 2023 Household Hazardous Waste Budget

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## **ACTION REQUESTED:**

1. Conduct a Workshop on Calendar Year 2023 Household Hazardous Waste (HHW) Budget.
2. Provide direction to staff on actions needed, if any, for the Board to consider approval of the 2023 HHW Budget at the November 2022 Board meeting.

## **BACKGROUND:**

Republic Services (Republic), and each of its affiliates, provides Post-Collection Services to RecycleMore via the Post-Collection Agreement (PCA) between Republic and RecycleMore. This includes the services and facilities of Golden Bear Transfer Station, Keller Canyon Landfill, West Contra Costa Sanitary Landfill (WCCSL) Organics Processing Facility and West County Resource Recovery.

Per Article 5 of the PCA, Republic's sole compensation for services provided to RecycleMore is via the Blended Per Ton Rate. There are five (5) components which make up Republic's Blended Per Ton Rate. One important component is calculated based on the annual HHW Budget, which is discussed in this report.

Section 5.3.3 of the PCA stipulates that Republic and RecycleMore shall jointly prepare and submit a draft HHW drop-off services budget to RecycleMore Board of Directors annually for review and approval. Once approved, the HHW budget serves as the revenue requirement for the HHW portion of Republic's Blended Per Ton Rate. The specifics of the calculations of Republic's Blended Per Ton Rate and RecycleMore's Post-Collection Rate are discussed in a

separate Agenda Report this evening.

## **DISCUSSION:**

### HHW Budget - 2023 HHW Budget Summary

Republic has submitted a draft HHW Budget of \$1,335,622 for 2023 (see financial table included as Attachment 1). The 2023 HHW Budget includes continued funding for:

- One day per week operation of a Satellite HHW Facility in El Cerrito;
- Four day per week (Wednesday through Saturday) HHW Collection Service at the Republic/West County Resource Recovery (WCRR) HHW Facility in North Richmond;
- Door-to-door services for senior residents and persons with disabilities and collection kiosk services to collect medical sharps and pharmaceuticals; and
- Three one day remote collection events in 2023. As was the case in 2021 and 2022, these funds would be used for one day HHW Collection events in either Hercules or Pinole, Richmond, and either San Pablo or El Sobrante.

The annual HHW Budget is set per the *2019 First Amendment to and Restatement of Side Letter Agreement: Budget and Balancing Account for Household Hazardous Waste Operations* which was approved by the Board in November 2019 (Attachment 2). The Side Letter states how each line of the HHW Budget is to be set each year. Most HHW Budget expenses (74% of 2023 Budget) are adjusted by 85% of CPI (a 4.07% increase for the 2023 HHW Budget) based on the Board-approved 2022 HHW Budget. The CPI adjustment to these expenses results in an overall increase of \$38,757.

The only expenses that are not adjusted by 85% of CPI are:

- RecycleMore Requested Program Expenses (16% of 2023 Budget) including the Sharps Program, and three One-Day HHW Collection Events, the budgets for which are all set via joint determination of Republic and RecycleMore, which are proposed to remain constant without change from 2022 to 2023 (and for which actual expenses will vary based on actual participation);
- Balancing Account funding of \$9,256 (1% of 2023 Budget) which is calculated as the difference between the Board approved total HHW operating expenses and the actual HHW operating expenses reported by Republic via its 2021 HHW Annual Statement (Attachment 3);
- Operator Profit Margin (14% of 2023 Budget) which is calculated as 15% of the subtotal of operating expenses plus Balancing Account; and
- HHW Revenues (5% credit offset to 2023 Budget) which are estimated revenues from

HHW services that Republic provides to agencies outside of RecycleMore's jurisdiction.

For 2023, Republic and RecycleMore staff agree that the following budgets for RecycleMore's Requested Program Expenses are appropriate:

- El Cerrito Satellite HHW Facility: \$220,628 - CPI increase of \$4.07% from 2022 HHW Budget;
- Sharps Program: \$42,000 - no change from 2022 HHW Budget; and
- One-Day HHW Collection Events: \$180,000 - no change from 2022 HHW Budget.

The 2021 net Balancing Account adjustment for 2023 HHW Budget is \$9,256, increasing needed Blended Per Ton Rate revenues due to 2021 HHW Total Operating Expenses of \$1,209,064 (including Operator Profit Margin and HHW Revenues) being \$9,256 more than the 2021 HHW Budget of \$1,199,808 (as shown in Attachment 3).

2023 Operator Profit Margin is \$183,342, which is \$6,550 lower than the 2022 amount of \$189,892 and is based only on other changes in the HHW Budget, including the lower net Balancing Account figure. 2023 HHW Revenue is set at a \$70,000 credit (based on rounded prior actuals) reducing needed Blended Per Ton Rate revenues.

### **CONCLUSION:**

The 2023 HHW Budget has been calculated in accordance with the 2019 First Amendment to and Restatement of Side Letter Agreement; the Budget will also continue all existing HHW services. Pending Board comments and direction, staff will make appropriate adjustments and bring back a final 2023 HHW Budget for approval in November.

### **FISCAL IMPACT:**

The proposed Calendar Year 2023 HHW Budget is \$1,335,622 which is \$49,914 (3.6%) less than the 2022 HHW Budget, and is due to the reduction in the net Balancing Account. By adopting the 2023 HHW Budget, the HHW Budget component of Republic's Blended Per Ton Rate would increase by \$0.10 from \$7.73 per ton to \$7.83 per ton. Though the HHW Budget itself is decreasing, the number of tons over which the HHW Budget is spread in the Blended Per Ton Rate has also decreased, from 179,152 tons in 2022 to 170,625 in 2023, with the net result being a slight increase in the HHW Portion of the blended per ton rate.

### **ATTACHMENTS:**

Item 8.1 Attachment 1 - 2023 HHW Budget Compared to 2022 HHW Budget

Item 8.1 Attachment 2 - 2019 First Amendment to and Restatement of Side Letter Agreement: Budget and Balancing Account for Household Hazardous Waste Operations

Item 8.1 Attachment 3 - Republic HHW RECON 2021 Annual Statement

**Attachment 1**  
**2023 HHW Budget Compared to 2022 HHW Budget**

	2023 Requested Budget	\$ Change to 2022 Adopted Budget	% Change to 2022 Adopted Budget	2022 Adopted Budget
Wages & Benefits	\$ 142,776	\$ 5,584	4.07%	\$ 137,192
Program Supplies, Consumables and Outside Services	\$ 41,207	\$ 1,612	4.07%	\$ 39,595
HHW Facility Outside Services (Stericycle)	\$ 441,403	\$ 17,263	4.07%	\$ 424,141
Fuel	\$ 5,010	\$ 196	4.07%	\$ 4,814
Utilities	\$ 18,317	\$ 716	4.07%	\$ 17,600
Property Taxes	\$ 21,122	\$ 826	4.07%	\$ 20,296
Insurance	\$ 10,371	\$ 406	4.07%	\$ 9,965
Permit Fees	\$ 11,320	\$ 443	4.07%	\$ 10,877
Site Maintenance	\$ 43,584	\$ 1,704	4.07%	\$ 41,879
Accounting Support	\$ 35,288	\$ 1,380	4.07%	\$ 33,908
Satellite HHW Facility (El Cerrito Recycling Center)	\$ 220,628	\$ 8,628	4.07%	\$ 212,000
Sharps Containers/Sharps & Pharmaceutical Disposal	\$ 42,000	\$ -	0.00%	\$ 42,000
Three Special One Day Collection Events	\$ 180,000	\$ -	0.00%	\$ 180,000
<b>Subtotal</b>	<b>\$ 1,213,024</b>	<b>\$ 38,757</b>	<b>3.30%</b>	<b>\$ 1,174,267</b>
Balancing Account Add (Deduct)	\$ 9,256	\$ (82,427)	-100.00%	\$ 91,683
Operator Profit Margin 15%	\$ 183,342	\$ (6,550)	-4.22%	\$ 189,892
HHW Revenue	\$ (70,000)	\$ 306	-0.48%	\$ (70,306)
<b>Total Operating Expense</b>	<b>\$ 1,335,622</b>	<b>\$ (49,914)</b>	<b>-3.60%</b>	<b>\$ 1,385,536</b>

<b>Total HHW Program Expenses</b>	<b>\$ 1,335,622</b>
<b>Total Tons</b>	<b>170,625</b>
RSS HHW Expense Share	\$ 1,241,571
Total Tons (RSS)	158,610
<b>Rate per Ton</b>	<b>\$ 7.83</b>
El Cerrito HHW Expense Share	\$ 94,051
Total Tons (El Cerrito)	12,015
<b>Rate per Ton</b>	<b>\$ 7.83</b>

**First Amendment to and Restatement of Side Letter of Agreement:  
Budget and Balancing Account for Household Hazardous Waste Operations**

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Agreement

1. This Side Letter Agreement (“HHW Agreement”) is between the West Contra Costa Integrated Waste Management Authority (“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 operating subsidiaries of Republic Services, Inc.) (hereinafter collectively, “Contractor”). The Authority and Contractor may be referred to individually as “Party” or collectively as “Parties.”

Definitions

1.1 “Allowable Costs” shall have the meaning set forth in Exhibit A.

1.2 “HHW Program” means Household Hazardous Waste and Small Quantity Generator Hazardous Waste services provided by Contractor to pursuant to the PCA.

Unless otherwise defined herein, all capitalized terms shall have the same meaning as set forth in the PCA. If there is conflict between this Amended Agreement and the PCA, the terms of PCA shall prevail.

2. On October 10, 2013, the Authority and Contractor entered into a Post-Collection Recycling, and Disposal Services Agreement (“Post-Collection Agreement” or “Agreement”). Unless otherwise defined herein, all capitalized terms shall have the same meaning as set forth in the Post-Collection Agreement. If there is conflict between this HHW Agreement and the Post-Collection Agreement, the terms of this HHW Agreement shall prevail.

a. Section 4.1.7 of the Post-Collection Agreement provides that “Contractor shall contract with a vendor acceptable to the Authority for the operation of a permanent Household Hazardous Waste (HHW) drop-off facility (located at 101 Pittsburg Avenue, North Richmond) [“HHW Facility”] that shall serve the Member Agencies (Richmond, El Cerrito, San Pablo, Pinole, Hercules, and Contra Costa County unincorporated communities within the Authority service area). There are separate agreements with Contra Costa County to include the unincorporated communities adjacent to the Authority’s service area (Kensington, Rodeo, Crockett, Port Costa, and Tormey). The types of materials accepted, as well as days and hours of operation shall be determined by Authority, after good faith consultation with Contractor and County and may be

subject to change at any time by the Authority Board of Directors with input from Contractor and County, subject to reasonable implementation lead time and budget considerations.

b. Unincorporated communities adjacent to the Authority's service area, and known as Kensington, Rodeo, Crockett, Port Costa and Tormey ("KCPT") may receive some Authority HHW Program Services at the discretion of both the Authority and Contractor, shall be charged for all HHW Program services based on usage pursuant to a separate written agreement between the Authority, Contractor and third parties including KCPT. A "User" shall be any individual's use of HHW Program services, including but not limited to, the use of a Permanent or Satellite HHW Facility or participation in a one-day event conducted by Contractor as part of the HHW Program. Actual Allowable Costs will be divided by the total number of Users and the number of Users from KCPT Area jurisdictions. The KCPT Area jurisdictions will be charged in accordance with their proportionate share of total Users. Consolidated deliveries from more than one address or location, shall be treated as separate deliveries from each separate address or location. At the discretion of the Authority Board, a per use surcharge may also be imposed on users from outside the Authority's service area.

3. On January 1, 2014, Contractor initiated services under the Post-Collection Processing and Landfill Disposal Service Agreement with the City of El Cerrito ("El Cerrito Post-Collection Agreement"). Contractor's existing obligations to provide household hazardous waste services to the City of El Cerrito as a Member of the Authority at the HHW Facility are referenced in Section 4.1(e) of the El Cerrito Post-Collection Agreement. For the purposes of this HHW Agreement, Contractor shall be allowed to contract with a vendor acceptable to the Authority for the operation of one or more satellite Household Hazardous Waste facilities as they may be or are developed within the Authority's service area that shall serve the Authority's member agencies including the City of El Cerrito, and the unincorporated communities of Contra Costa County within Authority's service area. The other unincorporated areas of Contra Costa County outside the Authority service area shall be included by a separate agreement among Authority, Contractor, and County. The annual budget for HHW services and this HHW Agreement shall apply to any satellite HHW facility developed within the Authority's service area.

4. The Authority acknowledges that the Contractor has the right to utilize its assets and market its services. To the extent Contractor allows any additional ("out-of-area") jurisdictions to deliver HHW materials to the HHW Facility with the Authority as the generator of record, the Contractor and the Authority will meet and confer to develop an acceptable arrangement. The mutually acceptable arrangement will be included in the Republic annual HHW Budget submittal to the Board of Directors for review and consideration of approval.

5. Section 5.3.3 of the Post-Collection Agreement provides that Contractor and the Authority Contract Manager shall jointly prepare and submit a draft HHW budget to the Authority Board of Directors for its review and approval (HHW Budget). Section 5.3.3 further provides that the Board, “may approve that budget as submitted or may request modifications to the budget, including requesting either an increase in service levels or a reduction or elimination of Services to reduce costs.” Once approved, the HHW Budget shall serve as the revenue requirement for the HHW portion of the Rate for the coming year. The HHW component of the 2014 rate was established based on jointly estimated calendar year proposed cost of service of \$791,144. Section 5.3.3 further provides that “Contractor shall be entitled to an operating margin of eleven and fifty-five one hundredths percent (11.55%) for calendar year 2014 and fifteen percent (15%) in all subsequent Rate Years.”

6. The Parties agree that the costs of the HHW Facility are variable, due to factors such as variable days and hours of operation, labor costs and the costs of handling and properly disposing of the HHW materials received from the public. The Parties are interested in creating an equitable solution to the handling of those costs, in the event that costs exceed or fall short of budgeted amounts.

7. The intent of this HHW Agreement is to memorialize a procedure for establishing the HHW Budget for all subsequent Rate Years, using a balancing account approach.

8. The Parties therefore agree upon the following terms and conditions:

a. The Board of Directors shall, on an annual basis, approve an HHW Budget prior to December 1 for the following calendar year’s budget.

b. In establishing the HHW Budget for the following calendar year, the Parties shall consider Contractor’s actual prior year costs incurred in the operation of the HHW Facility. The line item accounts for prior year costs are identified in Exhibit A.

c. In establishing the HHW Budget, the Parties shall also agree upon certain operational parameters, including, but not limited to, the assumed number of part-time and full-time staff; the days and hours of all HHW facilities operations; and assumed volume of HHW materials received by type. These operational parameters will form the basis of annual allowable costs for the HHW Budget, as described in Exhibit A.

d. Unless the Parties are proposing changes to the operational parameters, some of the current year budget line items would be adjusted by the average monthly change in the San Francisco-San Jose-Oakland All Urban Consumers CPI (CPI) to arrive at the HHW Budget for the following calendar year as described in Exhibit A. Exhibit A shall identify those budgets items to be subject to the CPI adjustments.

e. Except in the event of an emergency or other exigent circumstance, neither Authority nor Contractor may adjust the operational parameters of the HHW Budget without prior written authorization of the Board of Directors. The

Authority and Contractor must mutually determine whether an emergency or other exigent circumstance exists.

f. If the HHW Budget parameters are changed without approval of the Board of Directors and those adjustments result in increased costs of operation, those increased costs shall not be allowable in consideration of the balancing account established below.

g. Once the HHW Budget is approved for the calendar year, neither Contractor nor the Authority shall add new categories of allowable costs in Exhibit A without the Authority verification and written authorization of the Board of Directors.

h. The previous approved Budgets in prior years have been approved by the Authority Board of Directors as follows:

- 2014 Budget \$791,144
- 2015 Budget \$836,818
- 2016 Budget \$857,284
- 2017 Budget \$978,684
- 2018 Budget \$1,058,785

Contractor will provide Authority with a reconciliation of actual expenses vs. budget amounts for 2014, 2015, 2016, and 2017. Contractor and Authority agree that the overall reconciliation for 2014 through 2017 could be in favor of Contractor; if so, Contractor would receive a direct payment or credit of no more than \$41,500. Contractor waives the right to any further payment, reimbursement, credit or other compensation after the Annual Statement line item reconciliation of actual expenses vs. budget amounts for 2014, 2015, 2016, and 2017 is completed.

Contractor will provide Authority with a reconciliation of actual expenses vs. budget amounts for 2018 by April 1, 2019. The reconciliation for years 2014, 2015, 2016, 2017 and 2018 shall include details of actual costs incurred and actual total revenues received compared to the approved budget in the operation of the HHW Facility for that calendar year, including any revenues allocated to the HHW Budget from jurisdictions other than the Member Agencies. The reconciliation shall include supporting documentation from Contractor's vendors and subcontractors. The reconciliation shall also be in a format as agreeable by the Authority in good faith consultation with the Contractor. Upon the Authority's request, Contractor shall provide any additional records not already provided with the reconciliation, that are relevant to the determination of the accuracy and appropriateness of the reported revenues and costs. Contractor shall grant such access to the relevant records within thirty (30) calendar days of such request. Contractor may provide electronic or hard copies of such records. The Authority acknowledges that some records may be "trade secrets" and must be kept confidential. Either the Authority

or the Contractor shall be entitled to recover any surplus/shortfall in actual revenues relative to actual allowable costs. The Authority or the Contractor shall recover such surplus/shortfall either by (a) a direct payment; or (b) as a credit/debit against the following year's rates.

i. To manage the HHW Budget, the Parties further agree to establish a balancing account effective January 1, 2019, for the remainder of the term of the Post-Collection Agreement.

j. The intent of the balancing account is to create an equitable arrangement to allow sufficient, but not excessive, revenues to cover actual costs and agreed-upon operating margin. The balancing account shall function as follows:

i. Contractor will provide Authority with a reconciliation of actual expenses vs. budget amounts for the previous budget year ("Annual Statement").

ii. The "Annual Statement" shall be developed as follows: Within one hundred twenty (120) days following the end of each calendar year, Contractor shall submit to the Authority its statement of actual costs incurred and actual total revenues received compared to the approved budget in the operation of the HHW Facility for that calendar year, including any revenues allocated to the HHW Budget from jurisdictions other than the Member Agencies. The Annual Statement shall include supporting documentation from Contractor's vendors and subcontractors. The Annual Statement shall also be in a format as agreeable by the Authority in good faith consultation with the Contractor.

iii. In reviewing the Annual Statement, the Authority Executive Director and the Contractor shall determine if actual allowable costs exceeded annual budgeted costs, and if actual revenues exceeded or fell short of budgeted revenues. Upon the Authority's request, Contractor shall provide any additional records not already provided with the Annual Statement, that are relevant to the determination of the accuracy and appropriateness of the reported revenues and costs. Contractor shall grant such access to the relevant records within thirty (30) calendar days of such request. Contractor may provide electronic or hard copies of such records. The Authority acknowledges that some records may be "trade secrets" and must be kept confidential. The Authority Executive Director may deny or reject an increase in the HHW Budget for the following year if Contractor fails to provide such requested records within thirty (30) calendar days. Beginning in Calendar Year 2020, Authority and Contractor agree that line item accounts for fuel, utilities, property tax, insurance, accounting support, permit fees, and site maintenance costs, as listed in Exhibit A, paragraph 4 and as included in the 2020 Board Approved HHW budget, are not subject to reconciliation. These seven-line items shall be subject to an annual CPI adjustment as

described in Exhibit A for all subsequent years and will be considered actual costs.

iv. The Authority shall review and either approve or reject the Annual Statement within sixty (60) days of receipt of the same. However, if any reported revenues and/or costs are disputed by the Authority, the Authority's approval of the Annual Statement may be delayed until such disputed items are resolved. Authority shall provide Contractor with a detailed statement outlining the areas of dispute. Contractor and the Authority shall then resolve any disputes pursuant to Section 8.17 of the Post-Collection Agreement.

v. Upon the Authority's approval of the Annual Statement, Contractor shall be allowed to recover any shortfall in actual expenses relative to the actual Allowable Costs and Authority shall be allowed to recover any surpluses from actual expenses relative to Allowable Costs.

Given that HHW Program budgeted Revenues are to equal budgeted Allowable Costs, any variances between actual HHW Program Revenues less actual HHW Program Allowable Costs must be reconciled annually in a true-up, as noted above. Therefore, if actual HHW Program Revenues exceed actual Allowable Costs for the year being reviewed, then the amount of the difference shall be "Excess Cost" and be reconciled by adding such Excess Cost to the HHW Program Revenue budgeted for the HHW Program expense Budget for the calendar year subsequent to the year being reviewed. The effect would be to reduce other HHW Program expenses needed to balance the HHW Program Revenues for the subsequent calendar year. The intended effect is to reduce the calculated HHW Program portion of Contractor's collection rate for such ensuing year, as collection rates are calculated based on the HHW Program Revenue necessary to balance the HHW Program Budget with Allowable Costs. For example:

If actual HHW Program Budget Revenues for calendar Year 2021 are \$1,200,000 and the actual Allowable Costs for calendar year 2021 are (\$1,100,000) then the difference would be a 2021 under budget carryover amount of \$100,000.

If HHW Program budget of calendar year 2022 are budgeted at \$1,300,000 then 2021 budget carryover amount of \$100,000 reduces necessary 2022 Revenue by (\$100,000) and, thus, other 2022 Revenues necessary to balance the budget are \$1,200,000.

This example balances the 2021 actual HHW Program budget and actual Allowable Costs by reducing the 2022 HHW Program Revenue necessary to balance the 2022 Budget by the amount of Excess Net Revenue from 2021.

Conversely, if actual Allowable Costs exceed actual HHW budget for the year being reviewed, then the amount of the difference shall be unbudgeted Allowable Costs and be reconciled by adding such unbudgeted Allowable Costs to the Allowable Costs budgeted for the HHW Program Budget for the year subsequent to the year being reviewed. The effect would be to increase the HHW Program budget in order to balance the HHW Program budget for the ensuing calendar with budgeted Allowable Costs. The effect is to increase the calculated HHW Program budget portion of Contractor's collection rate for the ensuing year, as collection rates shall be calculated based on the HHW Program budgeted expenses necessary to balance the HHW Program budget with Allowable Costs. For Example:

If actual the HHW Program budgets for calendar Year 2021 are \$1,200,000 and the actual Allowable Costs for calendar year are (\$1,250,000) then the unbudgeted Allowable Costs for 2022 would be (\$50,000)

If HHW Program Allowable Costs of calendar year 2022 are budgeted at \$1,300,000 then the 2021 unbudgeted Allowable Costs would be added in the amount of \$50,000 and, thus, the HHW Program expense budget necessary to balance the 2022 Budget would be \$1,350,000.

This example balances the 2021 actual budget and Allowable Costs by increasing the 2022 budgeted Allowable Costs necessary to balance the 2022 Budget.

The Authority shall review and either approve or reject the Annual Statement within sixty (60) days of receipt of the same. However, if any reported HHW Program Revenues and/or Allowable Costs are disputed by the Authority, the Authority's approval of the Annual Statement may be delayed until such disputed items are resolved. The Authority shall provide Contractor with a detailed statement outlining the areas of dispute. Contractor and the Authority shall then resolve any disputes pursuant to Section 8.17 of the Post-Collection Agreement.

vi. Pursuant to an annual true up, the Authority shall be entitled to recover any surplus as a result of lower expenses relative to actual Allowable Costs. The Authority shall recover such surplus as a credit against the following year's rates. The Contractor shall be entitled to recover any unbudgeted actual costs relative to Allowable Costs. The Contractor shall recover such unbudgeted Allowable Costs as an increase in the HHW budget for the following year.

9. On June 17, 2017 Contractor contracted with a vendor acceptable to the Authority and the City of El Cerrito for the operation of a satellite HHW facility located at 7501 Schmidt Lane in El Cerrito, California pursuant to an Agreement between Contractor, the Authority and El Cerrito ("El Cerrito Facility"). The El Cerrito Facility

serves the Member Agencies. The HHW budget for the El Cerrito Facility shall be part of the entire HHW Budget approved by the Authority Board of Directors. The HHW Budget for the El Cerrito Facility shall not include any non-allowable costs identified in Exhibit A.

10. This HHW Agreement shall expire upon completion of the final HHW Budget reconciliation which shall be conducted after expiration of the Post-Collection Agreement.

11. The terms and conditions set forth in this HHW Agreement have been mutually agreed upon by the Parties.

**West Contra Costa Integrated Waste Management Authority**



Steve Duran, Interim Executive Director

Dated: Nov. 21, 2019

**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**



Michael Caprio, Area President

Dated: 11/26/19

## Exhibit A: Allowable Costs

### A. Allowable Costs

The costs of the Permanent and Satellite HHW Facilities are variable, due to factors such as variable days and hours of operation, labor costs and the costs of handling and properly disposing of the HHW materials received from the public. Therefore, the Parties commissioned an independent audit of costs and reviewed historical data, and based on said audit and review, the Parties define Allowable Costs and as follows:

Contractor shall calculate its cost of operations including the actual and direct costs of operating the HHW Programs, Permanent HHW Facility, any satellite HHW Facilities, special one-day collection events, and any additional HHW services/programs as necessary for the following allowable costs:

1. Direct wages and benefits paid to Contractor for an HHW supervisor, manager and similar staff members who directly oversee HHW programs, manage the budget in cooperation with the Authority and provide support to the program on site. For the 2020 Budget, the amount is \$132,085. For the 2021 budget, this amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.
2. Maintenance supplies, spare parts, consumables and outside costs incurred directly to perform the HHW services required under the Post-Collection Agreement. For the 2020 budget, this amount is \$38,121. This amount will be increased by 85% of the CPI for each subsequent budget with the 2021 budget until the end of the PC Agreement.
3. HHW Facility Outside Services which are limited to the subcontracted services of Stericycle (or a replacement subcontractor approved by the Authority) for the receipt, handling, processing, and responsible disposal of the materials collected by the HHW program. Contractor shall separately account for and report the various components of this cost (i.e., labor, handling, transportation, material disposal, etc.) in both their budget request and Annual statement. For the 2020 budget, this amount is \$408,351. For the 2021 budget, this amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.
4. The Contractor incurs facility and administrative costs in support of the HHW program. These costs are allowable as follows:
  - a. Fuel costs incurred in the operation of mobile equipment used specifically for the benefit of the HHW program. For the 2020 budget, this amount is

\$4,635. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

b. Utilities costs incurred by Contractor in the operation of the HHW program and facility. For the 2020 budget, this amount is \$16,945. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

c. Property taxes which represents a 7.29% allocation of the total property taxes paid by Contractor for the 101 Pittsburg Avenue, Richmond site. The 7.29% allocation is based on Contractor's representation of the square footage of the site occupied by the HHW facility. For the 2020 budget, the allocated amount to the HHW facility is \$19,540. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

d. Insurance costs directly attributable to the operation of the HHW program for the types and levels of coverage required by the Agreement. For the 2020 budget, this amount is \$9,594. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

e. Accounting and Financial management support to manage HHW revenues, process invoices, prepare the Annual Statement, respond to Authority inquiries and assist with budget management. For the 2020 budget, this amount is \$32,646. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

f. Costs to maintain components of the larger IRRF site that are shared with the HHW program. This includes, but is not limited to security, landscaping, janitorial, improvements/repair of main office building, repair of forklift or other equipment shared with HHW, site lighting, security cameras, internet access, site communication, perimeter fencing, entry gate, sweeping, exterminator, fire suppression system, etc. These costs represent approximately 18% of the cost to maintain the entire site. For the 2020 budget, this amount is \$40,320. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

g. Costs for permit fees for the entire IRRF site that are shared with the HHW program. This does not include HHW specific permits which are allowable under section 2, above. For the 2020 budget, this amount is \$10,472. This amount will be increased by 85% of the CPI for each subsequent budget beginning with the 2021 budget until the end of the PC Agreement.

5. JPA Requested Programs will be budgeted based on a budget for those programs as determined jointly by the Authority and Contractor.
6. Contractor expenses for Household Hazardous Waste, motor oil, and universal waste training, education, networking and related travel expenses not to exceed \$3,500 per year.
7. Capital costs or depreciation included in a Board approved annual HHW Budget.
8. All other unforeseen costs such as payment to repair damage, fines and penalties not due to Contractor's negligence. Both the Authority and Contractor agree to meet and confer in good faith towards a resolution.

B. Non-Allowable Costs

Non-allowable costs shall not be included in the Annual Statement and, if determined by the Authority to have been included in the Annual Statement, shall be deducted from actual costs. Non-allowable costs include, but are not limited to the following:

1. Any costs or portions of allocated costs associated with the Contractor's provision of similar services to "out of area" users of the HHW Facility that are not approved by Authority Board of Directors.
2. Labor and equipment costs for personnel and vehicles that are not specified in the operational parameters and assumptions that are approved as part of the HHW budget.
3. Payments or other compensation to managers, directors, and/or owners of Contractor.
4. Corporate overhead allocations or other charges for the Contractor's selling, general and/or administrative employees, except for insurance and other overhead included in a Board approved annual HHW budget.
5. Travel and entertainment expenses except for Household Hazardous Waste, motor oil and universal waste training, education, networking and related travel expenses.
6. Payments to repair damage to public or private property due to Contractor's negligence.
7. Fines or penalties due to Contractor's negligence.
8. Liquidated Damages assessed under the Agreement
9. Federal or State income taxes.

10. Charitable or political donations, except non-profit organization HHW fee waivers approved by RecycleMore staff.
11. Depreciation or interest expense for Collection vehicles, Containers or other equipment, offices and other facilities if such items are leased unless approved by the Board as part of the Budget.
12. Attorney's fees and other expenses incurred by Contractor in any dispute, negotiation, or court proceeding.
13. Attorney's fees and other expenses incurred by Contractor arising from any act or omission in violation of the Agreement.
14. Payments to Affiliates for products or services, in excess of the cost to the Affiliates for those products or services.
15. Goodwill.
16. Profit and/or profit-sharing distributions exceeding the operator's margin described in the Agreement.
17. Bad debt.

2021 Budget

2021 Actual Expenses

**RICHMOND**

**Personnel**

Contract Manager	11,237		44,801	
HHW Operations Manager	94,291		14,470	
Forklift driver	29,146		29,278	

Total Personnel 134,674 88,549

**Subcontracted Services**

Clean Earth		416,355		429,708
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**Other Direct Supplies and Services**

HHW Permits	8,790		7,825	
Other				
	30,078		30,539	

Total Direct Services and Supplies 38,868 38,363

**Facility and Administrative Allocated Costs**

Property Taxes	19,923		19,923	
Insurance	9,782		11,805	
Fuel	4,726		7,095	
Utilities	17,277		17,277	
Permit Fees	10,677		10,677	
Other				
	41,110		41,110	
Accounting support	33,286		33,286	

Total Facility and Administrative Allocated Costs 136,781 141,173

TOTAL RICHMOND 726,678 697,794

**JPA REQUESTED SPECIAL PROGRAMS**

**El Cerrito Satellite Facility**

Contract Manager	5,510		22,400	
HHW Operations Manager	16,320		-	
Clean Earth				
	182,983		194,158	
HHW Permits	5,495		6,797	
Other				
	1,000		1,000	

Total El Cerrito Satellite Facility 211,308 224,355

**Sharps Containers/Sharps & Pharmaceutical Disposal**

Sharps Solutions	30,000		30,372	
Barnett Medical	12,000		6,986	

Total Sharps and Pharmaceuticals 42,000 37,358

**Three One-Day Special Collection Events**

Clean Earth	119,000		145,704	
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	2021 Budget		2021 Actual Expenses		
Other					
	1,000		2,473		
Total Three One-Day Special Collection Events		120,000		148,177	
TOTAL EXPENSES ALL PROGRAMS		1,099,986		1,107,684	
Plus: 15% Operating Margin		164,975		166,153	
Less: Other Revenues Received		(65,000)		(64,773)	
One Time Credit		(153)			
TOTAL		1,199,808		1,209,064	(9,256)

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**recyclemore**  
WEST CONTRA COSTA INTEGRATED  
WASTE MANAGEMENT AUTHORITY

# Agenda Report

**DATE:** October 13, 2022

**TO:** West Contra Costa Integrated Waste Management Authority Board

**FROM:** Peter Holtzclaw - Executive Director

**SUBJECT:** Workshop - Calendar Year 2023 Post-Collection Rates

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## **ACTION REQUESTED:**

1. Conduct Workshop on Calendar Year 2023 Post-Collection Rates.
2. Provide direction to staff on actions needed, if any, for the Board to consider adopting new Calendar Year 2023 RecycleMore Post-Collection Rates at the November 2022 Board meeting.

## **BACKGROUND:**

Republic Services, and each of its affiliates, provides post-collection services to RecycleMore through an agreement between Republic and RecycleMore. This includes the services and facilities of Golden Bear Transfer Station, Keller Canyon Landfill, West Contra Costa Sanitary Landfill and West County Resource Recovery. Per Article 5 of the PCA, Republic's sole compensation for services provided to RecycleMore is via the Blended Per Ton Rate. The Blended Per Ton Rate is charged by Republic to the solid waste hauler, Richmond Sanitary Service (a Republic affiliate), providing solid waste collection services to RecycleMore's member agencies, except El Cerrito, which has its own post-collection agreement and sets its own post-collection rates. Each Member City oversees the collection rates charged by their franchised haulers.

One of RecycleMore's responsibilities is to approve the maximum annual Post-Collection Rate which, when added to the collection rates established pursuant to each member agency's collection franchise agreement, equals the total amount charged to solid waste ratepayers. The Board is asked to adopt a rate schedule that approves the Post-Collection Rates to be included in the total amounts charged to the residential, commercial and industrial solid waste customers effective January 1, 2023. Residential Post-Collection Rates are a monthly amount for each service level (20, 35, 65, and 95-gallons), Commercial Post-Collection Rates are a

flat amount per cubic yard, and Industrial Post-Collection Rates (for those customers using debris boxes and compactors) are on a per-ton basis.

## **DISCUSSION:**

### **Executive Summary**

Staff and the consultant, R3 Consulting Group Inc. (R3), have completed review of the proposed 2023 Blended Per Ton Rate adjustment from Republic Services (Republic), which is due annually per Section 5.3 of the Post-Collection Agreement (PCA) between RecycleMore and Republic. We have also calculated the 2023 RecycleMore Post-Collection Rates, which the RecycleMore Board sets annually, and are added to solid waste bills based on the Blended Per Ton Rate.

Pending the Board's direction regarding the annual HHW Budget, Authority revenue and Regulatory Compliance portions, Republic's 2023 Blended Per Ton Rate will increase by \$5.19 per ton, from the current 2022 Blended Per Ton Rate of \$107.60 to \$112.79, a 4.82% increase. The contributors to the increase in the Blended Per Ton Rate are as follows:

- \$3.38 per ton increase due to the annual 85% of CPI increase (capped at 4%) in the Material Specific portion – this portion is Republic's compensation for PCA services except HHW.
- \$1.51 per ton increase due to proposed increases in the Authority revenue portion – this portion is projected by RecycleMore staff.
- \$2.41 per ton *decrease* due to an increase in the Recycling Rebate portion of the per ton rate – this portion is a "credit" to the rate, but that credit comes back to help rate payers as fiber markets rebounded substantially last year, for the second year in a row.
- \$0.34 per ton increase due to adjustments to the Governmental Fees portion of the per ton rate – this portion compensates Republic for changes in government fees based on tonnage and fee amounts.
- \$0.07 per ton increase due to funding of the Regulatory Compliance portion of the per ton rate – this portion generates revenues for the Authority's and Republic's CalRecycle compliance activities.
- \$0.10 per ton increase for the HHW portion of the per ton rate – this portion increases with changes in the HHW budget.
- \$2.20 per ton increase for increased costs of operating Republic's composting operation, which Republic attributes to the SB 1383 change in law which increased contamination in the organic waste stream and thus operating expenses to remove that contamination.

As shown in Attachment 2, the Proposed 2023 RecycleMore Post-Collection Rate Calculation,

the Blended Per Ton Rate of \$112.79 results in increases for 35-gallon solid waste customers (the most common service level at 77% of customers) of \$0.57 per month. For commercial customers the amount per cubic yard decreases by \$0.78, and for industrial customers the amount per ton increases by \$19.00.

### **Republic's 2023 Blended Per Ton Rate**

The annual adjustment to the Blended Per Ton Rate was received on time, prior to September 1, 2022. Staff and R3 have reviewed the annual adjustments and calculated 2023 Blended Per Ton Rates. After some minor adjustments to the calculations, staff and R3 have found that:

1. The CPI adjustment of 4.00% to the Material Specific portion was calculated accurately using the correct index, periods, and the agreed-upon 85% of the index, as per the terms and conditions of the PCA. There will be a 0.07% carry-forward to the CPI adjustment for 2024.
2. The adjustment to the HHW portion (which is set based on the draft HHW Budget) was found to be consistent with the terms and conditions of the PCA; however, the HHW Budget (Attachment 1) has not yet been approved by the Board. The Board will consider approval of the proposed 2023 HHW Budget at the November 2022 Board meeting. This item is the subject of the October 13, 2022 Board Agenda Item Number 8.1
3. The adjustment to the Recycling Rebate portion was reviewed and determined to be consistent with terms and conditions of the PCA. The amount of the per ton rate “discount” attributed to the Recycling Rebate is increasing due to recovery in the global recycling markets, specifically fiber markets, rebounding strongly from years of very poor performance since the inception of China’s National Sword Policy in 2017.
4. The adjustment to the Governmental Fees portion was reviewed and found to be consistent with the terms and conditions of the PCA and with prior practice.
5. The Authority portion of the Blended Per Ton Rate is calculated correctly given RecycleMore’s proposed 2023 Authority revenues.

As in recent years, Republic and staff are proposing as much as \$250,000 in continued annual revenues to support Compliance Monies for expenses specifically relating to activities supporting compliance with State laws AB 1826 and SB 1383. Continuing this funding into 2023 forecasted to be \$250,000 would continue to provide revenues needed for CalRecycle compliance activities, including technical assistance contracts, necessary database management software, and other unfunded mandates contained within AB 1826 and SB 1383.

Republic is also requesting an increase of \$2.20 per ton for increased costs of operating

Republic's composting operation, which Republic attributes to the SB 1383 change in law which increased contamination in the organic waste stream and thus increased operating expenses to remove that contamination. Section 5.5 of the PCA stipulates that Republic may request RecycleMore's consideration of an adjustment to the Blended Per Ton Rates in the event of a change in law for which Republic's compliance is mandatory, and that results in documented increases in the specific cost of providing services to RecycleMore. Republic's calculation of the change in law increase for SB 1383 includes RecycleMore's tonnage proportionate share of:

- \$1.248 million in capital equipment (depreciating over 7 years).
- \$350,000 per year for new grinder operations.
- \$380,000 per year for new sort line labor.
- \$30,000 per year for new maintenance expenses.

The total new annual costs outline by Republic amount to \$938,286 per year for the entirety of the composting operation, of which RecycleMore's organic waste (without El Cerrito) constitutes 37% of tons. Taking that annual operating cost over a total of 85,030 in annual organics tons into the composting facility yields a net increase in operating costs of \$11.03 per ton of organic waste. For RecycleMore's annual organic waste tonnage (not including El Cerrito) of 31,575, this means an increase in processing costs of \$348,419. When spread over the total 158,610 total RecycleMore tons subject to the Blended Per Ton Rate, the result is a \$2.20 increase for Republic's SB 1383 Change in Law request.

### **RecycleMore's 2023 Post Collection Rates**

RecycleMore's Post-Collection Rates are based on a calculation that starts with multiplying the Blended Per Ton Rate times the actual tons handled for the prior 12-month period ending September 30 (set by the PCA) yielding an annual revenue requirement. That annual revenue requirement is then allocated based on a subset of the same 12-month tonnages (not including recycling and organics) for the residential, commercial and industrial customer sectors. A listing of tonnages and the residential and commercial units used in the calculations is provided as Attachment 3. A table showing the calculations of the 2023 Post-Collection Rates compared to previous year's rates is included with this report as Attachment 4.

The revenue requirement for each sector is divided by a "collection unit" based on subscription information provided by Republic of each September. As an example of how the calculation works, the residential Post-Collection Rate is set equivalent to the common 35-gallon service level. For that unit, the annual revenue requirement (\$9,320,179 in 2023) is divided by the number of 35-gallon equivalent carts (60,463 in 2023) divided by 12 months, yielding the 2023

rate of \$12.85 per month. This is an increase of \$0.57 over the rate of \$12.28 in 2022. Similarly, the 20-gallon rate increases by \$0.32, the 64-gallon rate increases by \$1.06, and the 95-gallon rate increases by \$1.59.

For commercial customers, the unit basis is annual cubic yards (413,832 in 2023). The commercial revenue requirement of \$4,809,275 is divided by the annual cubic yardage, yielding the 2023 rate of \$11.62 per cubic yard, a decrease of \$0.78 compared to current 2022 rates. The commercial per cubic yard rate is decreasing because the tonnages decreased in the recent 12-months compared to the prior year, while subscription levels as of September 30, 2022, were higher than the same date on the prior year. This trend was also evident in the 2022 rate calculations and is likely the result of recovery from the pandemic combined with changes in waste generation from commercial businesses.

For industrial customers, the unit basis is annual tons of non-recyclable/non-organic waste (18,977 for 2023, down from 2022). The industrial revenue requirement of \$3,760,178 is divided by the annual tonnage, yielding the 2023 rate of \$198.15 per ton, which is an increase of \$19.00 per ton over the prior year.

#### **CONCLUSION:**

RecycleMore staff and R3 have thoroughly reviewed Republic's proposed calendar year 2023 post-collection rates and made recommendations contained in this Agenda Report. Staff asks that the Board provide direction to staff on actions needed, if any, for the Board to consider adopting new Calendar Year 2023 RecycleMore Post-Collection Rates at the November 2022 Board meeting.

#### **FISCAL IMPACT:**

The Authority (RecycleMore) portion of the Blended Per Ton Rate included in the 2023 Post-Collection Rates would generate \$1,301,415 from Richmond Sanitary Service customers (all but El Cerrito) and \$98,586 from East Bay Sanitary customers (El Cerrito only) for a total of \$1,400,000 in 2023. The 22.54% rate increase (\$1.51/ton) is justified under current contractor cost structures as well as the unclear nature of future compliance requirements.

**ATTACHMENTS:**

Item 8.2 - Attachment 1 - 2023 HHW Budget Compared to 2022 HHW Budget

Item 8.2 - Attachment 2 - Proposed 2023 RecycleMore Post-Collection Rate Calculation

Item 8.2 - Attachment 3 - Tons and Can Counts Reported by Republic

Item 8.2 - Attachment 4 - Calculated 2023 Blended Per Ton Rate and Components Compared to Prior Years

Item 8.2 - Attachment 5 - 2023 Post-Collection Rates PPT Presentation

**Attachment 1  
2023 HHW Budget Compared to 2022 HHW Budget**

	2023 Requested Budget	\$ Change to 2022 Adopted Budget	% Change to 2022 Adopted Budget	2022 Adopted Budget
Wages & Benefits	\$ 142,776	\$ 5,584	4.07%	\$ 137,192
Program Supplies, Consumables and Outside Services	\$ 41,207	\$ 1,612	4.07%	\$ 39,595
HHW Facility Outside Services (Stericycle)	\$ 441,403	\$ 17,263	4.07%	\$ 424,141
Fuel	\$ 5,010	\$ 196	4.07%	\$ 4,814
Utilities	\$ 18,317	\$ 716	4.07%	\$ 17,600
Property Taxes	\$ 21,122	\$ 826	4.07%	\$ 20,296
Insurance	\$ 10,371	\$ 406	4.07%	\$ 9,965
Permit Fees	\$ 11,320	\$ 443	4.07%	\$ 10,877
Site Maintenance	\$ 43,584	\$ 1,704	4.07%	\$ 41,879
Accounting Support	\$ 35,288	\$ 1,380	4.07%	\$ 33,908
Satellite HHW Facility (El Cerrito Recycling Center)	\$ 220,628	\$ 8,628	4.07%	\$ 212,000
Sharps Containers/Sharps & Pharmaceutical Disposal	\$ 42,000	\$ -	0.00%	\$ 42,000
Three Special One Day Collection Events	\$ 180,000	\$ -	0.00%	\$ 180,000
<b>Subtotal</b>	<b>\$ 1,213,024</b>	<b>\$ 38,757</b>	<b>3.30%</b>	<b>\$ 1,174,267</b>
Balancing Account Add (Deduct)	\$ 9,256	\$ (82,427)	-100.00%	\$ 91,683
Operator Profit Margin 15%	\$ 183,342	\$ (6,550)	-4.22%	\$ 189,892
HHW Revenue	\$ (70,000)	\$ 306	-0.48%	\$ (70,306)
<b>Total Operating Expense</b>	<b>\$ 1,335,622</b>	<b>\$ (49,914)</b>	<b>-3.60%</b>	<b>\$ 1,385,536</b>

**Total HHW Program Expenses \$ 1,335,622**  
**Total Tons 170,625**

RSS HHW Expense Share \$ 1,241,571  
Total Tons (RSS) 158,610  
**Rate per Ton \$ 7.83**

El Cerrito HHW Expense Share \$ 94,051  
Total Tons (El Cerrito) 12,015  
**Rate per Ton \$ 7.83**

## Attachment 2

### Proposed 2023 RecycleMore Post-Collection Rate Calculation

<b>2023</b>	\$	<b>112.79</b>	Blended per ton		x	<b>158,610</b>	total tons =		<b>17,889,632</b>	Annual Revenue				
			<b>Residential</b>				<b>Commercial</b>	<b>Industrial</b>						
		<b>20-Gallon</b>	<b>35-Gallon</b>	<b>60/65-Gallon</b>	<b>95/100-Gallon</b>	<b>Per Cubic Yard</b>	<b>Per Ton</b>		<b>TOTAL</b>					
<b>2022</b>														
<b>2022 Rates</b>	\$	7.00	\$	12.28	\$	22.83	\$	34.26	\$	12.40	\$	179.15	\$	<b>179.15</b>
<b>2022 Tonnage Basis</b>		49,415					27,197	23,211		<b>99,823</b>				
<b>2022 % of Tons</b>		50%					27%	23%		<b>99,823</b>				
<b>2022 Unit Basis*</b>		60,067					392,934	23,211		<b>99,823</b>				
<b>2022 Revenue</b>	\$					<b>8,852,830</b>	<b>\$ 4,872,418</b>	<b>\$ 4,158,364</b>		<b>\$ 17,883,612</b>				
<b>2023</b>														
<b>2023 Rates</b>	\$	7.32	\$	12.85	\$	23.89	\$	35.85	\$	11.62	\$	198.15	\$	<b>198.15</b>
<b>2023 Tonnage Basis</b>		47,036					24,271	18,977		<b>90,284</b>				
<b>2023 % of Tons</b>		52%					27%	21%		<b>90,284</b>				
<b>2023 Unit Basis*</b>		60,463					413,832	18,977		<b>90,284</b>				
<b>2023 Revenue</b>	\$					<b>9,320,179</b>	<b>\$ 4,809,275</b>	<b>\$ 3,760,178</b>		<b>\$ 17,889,632</b>				
<b>Year-to-Year Change</b>														
<b>2022 Rate</b>	\$	7.00	\$	12.28	\$	22.83	\$	34.26	\$	12.40	\$	179.15	\$	179.15
<b>2023 Rate</b>	\$	7.32	\$	12.85	\$	23.89	\$	35.85	\$	11.62	\$	198.15	\$	198.15
<b>\$ Increase/(Decrease)</b>	\$	<b>0.32</b>	\$	<b>0.57</b>	\$	<b>1.06</b>	\$	<b>1.59</b>	\$	<b>(0.78)</b>	\$	<b>19.00</b>	\$	<b>19.00</b>
<b>% Increase/(Decrease)</b>		<b>4.6%</b>		<b>4.6%</b>		<b>4.6%</b>		<b>4.6%</b>		<b>-6.3%</b>		<b>10.6%</b>		<b>10.6%</b>

\* The "unit basis" is: monthly service expressed in 35-gallon equivalents (Residential), annual cubic yards (Commercial), and annual tons (Industrial). Container counts are as September 30 2022.

**Attachment 3  
Tons and Can Counts Reported by Republic**

**08/01/2021 - 07/31/2022**

	<b>Solid Waste</b>	<b>Dry Waste</b>	<b>Organic</b>	<b>C&amp;D</b>	<b>Recycling</b>	<b>Total</b>
Richmond	51,289	3,376	15,995	2,904	13,933	87,497
San Pablo	12,839	683	3,824	520	3,407	21,273
Pinole	8,378	656	2,978	109	2,274	14,396
Hercules	7,442	502	2,780	249	2,678	13,652
County	10,336	197	5,997	1,102	4,161	21,792
<b>RSS Total</b>	<b>90,284</b>	<b>5,414</b>	<b>31,575</b>	<b>4,884</b>	<b>26,453</b>	<b>158,610</b>

	<b>Solid Waste</b>	<b>Dry Waste</b>	<b>Organic</b>	<b>C&amp;D</b>	<b>Recycling</b>	<b>Total</b>
El Cerrito	7,639	49	4,216	112	-	12,015
RSS	158,610	0.9296	92.958%			
El Cerrito	12,015	0.0704	7.042%			
Total Tons	170,625					

**Detailed Can Count and Cubic Yard Information**

**As of September 30, 2022**

	<b>Richmond</b>	<b>Hercules</b>	<b>County</b>	<b>Pinole</b>	<b>San Pablo</b>	<b>Total</b>	
<b>Can Size:</b>							
20 Gal	4,621	1,159	1,849	823	758	9,210	15%
35 Gal	23,356	5,253	7,485	4,501	5,662	46,257	77%
65 Gal	1,832	524	710	476	334	3,876	6%
95/100 Gal	312	52	108	80	74	626	1%
	<b>30,121</b>	<b>6,988</b>	<b>10,152</b>	<b>5,880</b>	<b>6,828</b>	<b>59,969</b>	<b>100%</b>
<b># of IRRF Can Equivalent Per Month</b>	30,268	7,033	10,161	6,079	6,922	60,463	
<b>Commercial Cubic Yards Per Month</b>	18,603	2,585	2,910	4,616	5,772	34,486	
<b>Per Year</b>	223,236	31,020	34,920	55,392	69,264	413,832	

**Attachment 4**  
**Calculated 2023 Blended Per Ton Rate and Components Compared to Prior Years**

	\$ Change	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014
	2023 to 2022	Proposed	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Actual	Initial
Material Specific	\$ 3.38	\$ 87.80	\$ 84.42	\$ 82.87	\$ 81.28	\$ 78.62	\$ 76.53	\$ 74.33	\$ 72.61	\$ 70.99	\$ 69.57
HHW	\$ 0.10	\$ 7.83	\$ 7.73	\$ 6.86	\$ 6.97	\$ 6.78	\$ 6.22	\$ 6.04	\$ 5.75	\$ 6.02	\$ 5.76
Authority Budget	\$ 1.51	\$ 8.21	\$ 6.70	\$ 5.36	\$ 7.86	\$ 6.44	\$ 6.16	\$ 6.12	\$ 5.43	\$ 5.37	\$ 7.28
Authority Regulatory Compliance	\$ 0.07	\$ 1.47	\$ 1.40	\$ 1.43	\$ 1.33	NA	NA	NA	NA	NA	NA
Recycling Rebate	\$ (2.41)	\$ (5.20)	\$ (2.79)	\$ (0.48)	\$ (1.18)	\$ (2.91)	\$ (6.15)	\$ (4.58)	\$ (4.56)	\$ (5.64)	\$ (5.71)
Governmental Fee	\$ 0.34	\$ 10.48	\$ 10.14	\$ 10.10	\$ 10.00	\$ 9.64	\$ 9.27	\$ 9.18	\$ 10.54	\$ 11.10	\$ 11.51
Change In Law (SB 1383)	\$ 2.20	\$ 2.20	NA	NA	NA	NA	NA	NA	NA	NA	NA
<b>Total</b>	<b>\$ 5.19</b>	<b>\$ 112.79</b>	<b>\$ 107.60</b>	<b>\$ 106.14</b>	<b>\$ 106.26</b>	<b>\$ 98.57</b>	<b>\$ 92.03</b>	<b>\$ 91.08</b>	<b>\$ 89.77</b>	<b>\$ 87.84</b>	<b>\$ 88.41</b>

# RecycleMore Board of Directors

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Agenda Item 8.2  
- Workshop -

RecycleMore 2023 Post-  
Collection Rates

OCTOBER 13, 2022

# 2023 Post-Collection Rates

2

## Topics

- Republic's Initial 2023 Blended Per Ton Rates
- RecycleMore's Initial 2023 Post-Collection Rates
- Board Q&A
- Board Direction

# 2023 Blended-Per Ton Rate

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## Republic's Initial 2023 Blended Per Ton Rates

- Compensation to Republic for Post-Collection Agreement (PCA) services
- Compensation is not tied to actual cost of operation
- Annual adjustments per PCA Section 5.3 for five components
  - ❖ Material Specific – Escalates at 85% of CPI (4% cap)
  - ❖ HHW– Set based on Board approved HHW Budget
  - ❖ Authority– Set based on CY 2023 revenue need
  - ❖ Recycling Rebate – Changes with market conditions
  - ❖ Gov. Fees – Changes with tons and fee adjustments
  - ❖ SB 1383 Change in Law Request

# 2023 Blended-Per Ton Rate

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## Republic's Initial 2023 Blended Per Ton Rates

- Current 2022 Per Ton Rate = \$107.60
- Calculated 2023 Per Ton Rate = \$112.79
- Increase of \$5.19/ton (4.82% increase)
  - ❖ Material Specific = +\$3.38/ton
  - ❖ Authority = \$1.51/ton
  - ❖ Recycling Rebate = **-\$2.41 credit/ton**
  - ❖ Gov. Fees = +\$0.34/ton
  - ❖ CalRecycle Compliance = +\$0.07/ton
  - ❖ HHW = \$0.10/ton
  - ❖ SB 1383 Change in Law = +\$2.20/ton
- Tonnages decreased 4.56% from 166,205 in 2022 to 158,610

# 2023 Draft Post-Collection Rates

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## RecycleMore's Initial 2023 Post-Collection Rates

- Republic's Blended per Ton Rate sets the annual compensation amounts owed to Republic
- Payment of that compensation is through rates charged to customers via Post-Collection Rate
- RecycleMore sets the Post-Collection Rate based on Republic's Blended per Ton Rate
- RecycleMore's Post-Collection Rates are the sole compensation to Republic for PCA services

# 2023 Draft Post-Collection Rates

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## RecycleMore's Initial 2023 Post-Collection Rates

- Post-Collection Rates are set by:
  - ❖ Multiplying the Blended per Ton Rate times PCA tonnages from prior 12-months (\$112.79 times 158,610 tons = \$17,889,632 2023 revenue requirement an increase of just \$6,020 from 2022)
  - ❖ Allocating annual revenue requirement to Residential, Commercial and Industrial Sectors based on tonnages of garbage, dry waste, and C&D (not recycling or organics)
  - ❖ Calculating per customer amounts based on container size (Residential), cubic yards (Commercial), and tons (Industrial)

# 2023 Draft Post-Collection Rates

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## RecycleMore's Initial 2023 Post-Collection Rates

- Residential – increase in monthly rates
  - ❖ 20-gallon: \$0.32 increase (from \$7.00 to \$7.32)
  - ❖ 35-gallon: \$0.57 increase (from \$12.28 to \$12.85)
  - ❖ 65-gallon: \$1.06 increase (from \$22.83 to \$23.89)
  - ❖ 95-gallon: \$1.59 increase (from \$34.26 to \$35.85)
- Commercial – \$0.78 decrease in per CY rate
  - ❖ \$12.40 per CY to \$11.62 per CY
  - ❖ Decrease due combination of increasing subscriptions and decreasing disposal tonnage
- Industrial – \$19.00 increase in per ton rate
  - ❖ \$179.15 per ton to \$198.15 per ton

# 2023 Draft Post-Collection Rates

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2023	\$	112.79	Blended per ton		x	158,610	total tons =	17,889,632	Annual Revenue					
	Residential				Commercial	Industrial	TOTAL							
	20-Gallon	35-Gallon	60/65-Gallon	95/100-Gallon	Per Cubic Yard	Per Ton								
2022														
2022 Rates	\$	7.00	\$	12.28	\$	22.83	\$	34.26	\$	12.40	\$	179.15	\$	179.15
2022 Tonnage Basis	49,415				27,197		23,211		99,823					
2022 % of Tons	50%				27%		23%							
2022 Unit Basis*	60,067				392,934		23,211							
2022 Revenue	\$	8,852,830				\$	4,872,418	\$	4,158,364	\$	17,883,612			
2023														
2023 Rates	\$	7.32	\$	12.85	\$	23.89	\$	35.85	\$	11.62	\$	198.15	\$	198.15
2023 Tonnage Basis	47,036				24,271		18,977		90,284					
2023 % of Tons	52%				27%		21%							
2023 Unit Basis*	60,463				413,832		18,977							
2023 Revenue	\$	9,320,179				\$	4,809,275	\$	3,760,178	\$	17,889,632			
Year-to-Year Change														
2022 Rate	\$	7.00	\$	12.28	\$	22.83	\$	34.26	\$	12.40	\$	179.15	\$	179.15
2023 Rate	\$	7.32	\$	12.85	\$	23.89	\$	35.85	\$	11.62	\$	198.15	\$	198.15
\$ Increase/(Decrease)	\$	0.32	\$	0.57	\$	1.06	\$	1.59	\$	(0.78)	\$	19.00	\$	19.00
% Increase/(Decrease)	4.6%		4.6%		4.6%		4.6%		-6.3%		10.6%		10.6%	

# 2023 Draft Post-Collection Rates

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## 2023 Post-Collection Rates Workshop

- Board Q&A and Direction
  - ❖ Republic's Initial 2023 Blended Per Ton Rates
  - ❖ RecycleMore's Initial 2023 Post-Collection Rates
- Board Consideration of 2023 Post-Collection Rates scheduled for November meeting



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