

# WEST CONTRA COSTA INTEGRATED WASTE MANAGEMENT AUTHORITY (WCCIWMA) BOARD OF DIRECTORS MEETING MINUTES – SEPTEMBER 12, 2024

**Meeting Date | Time 9/12/2024 6:15 PM | Meeting Location City of Hercules - Council Chambers, 111 Civic Drive, Hercules, CA 94547**

**Meeting called by** Board of Directors  
**Type of meeting** Special  
**Authority Staff Present** Peter Holtzclaw, Reka Abraham, Lisa Borreani, Rachel Dice, Claudia Menjivar and Webster Nguyen  
**Legal Counsel** John Bakker arrived 6:34 P.M.

**Board Members Present:**  
Directors: T. Rudnick, El Cerrito; D. Romero, Hercules; A. Tave, Pinole (Chair); G. McLaughlin, D. Robinson and C. Zepeda (Vice Chair), Richmond; and R. Xavier, San Pablo  
Absent: F. Glover and J. Gioia (Ex-Officio) Contra Costa County

## CALL TO ORDER/ROLL CALL

Chair Tave called the regular meeting to order at 6:15 P.M.

The Roll Call established the existence of a quorum (McLaughlin, Robinson, Romero, Rudnick, Tave, Xavier and Zepeda). Vice Chair Zepeda arrived at 6:21 P.M. and Director McLaughlin arrived at 6:23 P.M.

## CLOSED SESSION

### CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: Chair Tave, Director Robinson, and Director Romero

Unrepresented employee: Executive Director

Chair Tave advised that the Closed Session would be considered out of agenda order. See below for information.

## PLEDGE OF ALLEGIANCE

Chair Tave led the Pledge of Allegiance.

## EX-PARTE COMMUNICATIONS & DISCLOSURES

There were no ex-parté communications or disclosures.

## PUBLIC COMMENT

One written comment was submitted, and oral comment made by Christina Leard, on behalf of the City of El Cerrito. Both comments were based on Agenda Item 8.1 SMART 1383 Data Tracker. Please see attached document.

## CONSENT CALENDAR

1. July 18, 2024 Authority Board Meeting Minutes  
**MOTION** by Director Romero to approve the Consent Calendar, as submitted. **SECOND** by Director Rudnick.

**MOTION PASSED** unanimously by a Roll Call vote by Chair Tave, Director Romero, Director Xavier, Director Robinson, and Director Rudnick.

## STAFF REPORT

Executive Director Peter Holtzclaw announced the one-day HHW event scheduled for September 21, 2024 at the Galileo Club in Richmond.

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### **Staff Report Item 7.1 – Recycling and HHW Programs Update | Presenter | Reka Abraham – Recycling & Household Hazardous Waste Program Manager**

The report from the Recycling and Household Hazardous Waste (HHW) Program Manager was presented in writing. There were no questions related to the report.

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### **Staff Report Item 7.2 – Outreach Programs Update | Presenter | Lisa Borreani – Program Manager - Outreach**

The report from the Outreach Program Manager was presented in writing. There were no questions related to the report.

## REGULAR AGENDA

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### **Agenda Item 8.1 – Data Tracker Software for City of El Cerrito | Presenter | Reka Abraham – Recycling & Household Hazardous Waste Program Manager**

Executive Director Holtzclaw recused himself at 6:20 P.M. from Item 8.1 and left the Council Chambers.

Reka Abraham, Program Manager, explained that the data tracking for the majority of the RecycleMore member agencies is currently held by the Post Collection Agreement (PCA) contractor, however since the City of El Cerrito was not part of the PCA, the data tracking software contract for El Cerrito is held by RecycleMore. The current contract for data tracking, with Recyclist, cost \$14,500 per year and that contract would expire on October 31, 2024.

Ms. Abraham described the process taken to select one of the two vendors submitted for Board consideration at this time and provided the details and a comparison of the pros and cons of each. One of the vendors, Terra Compliance, proposed a three-year contract with a \$10,000 annual fee plus a \$1,000 one-time startup fee. Terra Compliance was new to the market with one contract in the solid waste industry. The second vendor, Smart1383, proposed a three-year contract with a \$23,765 annual fee plus a \$4,995 one-time startup fee. Smart1383 offered a slight edge in qualifications and had been in the market for a couple of years with 17 active contracts in California.

Ms. Abraham reported that \$16,000 had been allocated in the Fiscal Year 2024/25 approved budget for the El Cerrito data tracker. Given the higher quote from Smart1383, she asked the Board of Directors to make a decision between the two vendors at this meeting to allow time for the chosen vendor to transition the data to the new program prior to the October 31, 2024 deadline.

Director Romero questioned why RecycleMore was addressing the issue since he understood El Cerrito had its own Post Collection Agreement with Republic Services, and its own set-aside compliance fund.

As such, Director Romero suggested the matter should be submitted to the El Cerrito City Council and not RecycleMore, which had no authority over the El Cerrito PCA.

Ms. Abraham explained her understanding that the Board had decided in 2021 to pull the data tracker for El Cerrito, and with the expiration of the existing contract approaching, the same process was being followed as was decided in 2021. . She noted at that time Recyclist was the only data tracker on the market, although there are four data trackers available on the market, now. She also verified that El Cerrito has its own compliance funds.

Director Rudnick pointed out that in 2021, El Cerrito had given direction to be on the same system throughout all the member agencies, although Republic Services had signed a contract with Recyclist, which had forced El Cerrito to have their own contract. She reiterated that, initially, El Cerrito wanted a regional software and wanted to be on the same system. There were also challenges around data ownership in 2021. As someone who worked in the software field, she described the challenges and real risks of going with software that was untested, and while she appreciated the lower cost offered by Terra Compliance, she had serious concerns with Terra Compliance as a result.

Ms. Abraham confirmed for Director Rudnick that Recyclist had an external link on the RecycleMore website that allowed for waiver applications. She explained that Smart1383 does have a waiver review component to their program, although it does not have the verification aspect of the waiver program and does not have that link to post externally. If Smart1383 was approved by the Board, RecycleMore would have to create its own waiver application form for the website and manually upload submitted applications into the Smart1383 system.

Ms. Abraham also verified that the program tracker would pull together everything required in the State of California Electronic Annual Report (EAR) to CalRecycle. She noted that Smart1383 had it built into the program and Terra Compliance had it under development. Both Smart1383 and Terra Compliance had API, a key to connect to other systems.

Ms. Abraham explained in response to Directors Robinson and McLaughlin that both the City of El Cerrito and RecycleMore staff would use the system to be selected by the Board, but in different ways. And, while she had not contacted Smart1383's clients, it had multiple webinars where their clients spoke of the Smart1383 program. She also clarified that although only \$16,000 had been allocated in the Compliance Fund for the El Cerrito data tracker program, the difference would also come from the Compliance Fund, which had sufficient funds to cover the total amount. She further explained that RecycleMore's Compliance Fund will be used to pay for the program tracker that the rest of the member agencies use with Republic Services, and because El Cerrito's data tracker is separate from the rest of the jurisdiction, RecycleMore pays for El Cerrito's tracker from the Compliance Fund as well. Director Rudnik added that City of El Cerrito's data tracker had to be separate because of data sharing restrictions with Republic Services, since City of El Cerrito has a separate hauler that would need access to the system. Ms. Abraham added that both of the vendors in consideration have the ability to have separate haulers and to grant separate access.

Director Rudnick reported, when asked, that the City of El Cerrito's preference for a vendor would be Smart1383. She clarified some of the challenges involved with El Cerrito's current system with respect to proprietary data and the need to have a combined system to share data. She clarified that El Cerrito was already paying into the Compliance Fund, had its own staff for SB1383 compliance and a separate PCA, and she supported conversations about potentially contributing more. She reiterated El Cerrito's desire for one platform because of the data sharing element, and clarified the need to take a regional approach. She explained that back in 2021 Republic Services signed a program tracker contract on its own, outside of the Authority Board's decision making process, taking what would have made sense to be an Authority wide data tracker to a private contract. Director McLaughlin asked if it would be possible to take back the tracker from Republic Services depending on when their contract ends. Ms. Abraham

replied that RecycleMore staff does not have access to Republic Services contract and does not know the contract end date.

Director Romero expressed concern for the Smart1383 program at almost \$29,000, which was double the current cost of \$14,500.

Director Romero verified with RecycleMore staff that the \$16,000 that had been budgeted had assumed a 10 percent increase of the current \$14,500 cost. He also clarified with staff that the other bids received were more than the Smart1383 proposal. He did not want to exceed the budgeted amount.

Ms. Abraham further responded to the Board and explained that the data transfer process could be extensive depending on the new vendor system. She identified the estimated staff time required to switch the data into the new system based on the proposals submitted to RecycleMore as one day for Terra with a lower startup cost of \$1,000 and four weeks, with Smart1383 at a higher startup cost at \$4,995.

#### PUBLIC COMMENTS

The Board acknowledged the two-page letter from Yvetteh Ortiz, City of El Cerrito Public Works Director/City Engineer dated September 11, 2024 related to the data tracker software for the City of El Cerrito, which recommended that RecycleMore contract with Smart1383. Copies of the letter were at the dais and had been submitted to the Board of Directors.

CHRISTINA LEARD, City of El Cerrito Management Analyst, also referred to the letter from the El Cerrito Public Works Director/City Engineer and clarified how El Cerrito wanted to be included in the procurement of a regional contract for a data tracker for all member agencies, although Republic Services had chosen to procure its own data tracker, which had excluded El Cerrito. She also confirmed the request that the Board contract with Smart1383. She added that El Cerrito supported Smart1383 as the founder had over 30 years of solid waste experience, a strong client base, and a robust and easy-to-use Electronic Annual Report (EAR) feature, and even though the costs were not comparable to Terra Compliance, the costs were comparable to the other two quotes received by RecycleMore. She added that El Cerrito was concerned with the Terra Compliance data tracker given that it was new to the industry and was high risk, there was no staff with a solid waste background, it did not have an EAR feature and there would be a learning curve as missing features were noticed.

Ms. Leard clarified that El Cerrito did not have its own compliance fund tied to its Post Collection Agreement and that RecycleMore was in charge of the Compliance Fund for all member agencies.

**MOTION** by Director Rudnick to approve Smart1383 as the vendor for the City of El Cerrito Compliance Data Tracker Software for a three-year contract. **SECOND** by Director Xavier.

**MOTION PASSED** by the following Roll Call vote:

Ayes:	McLaughlin, Robinson, Rudnick, Tave, Xavier, Zepeda
Noes:	Romero
Abstain:	None
Absent:	None

Executive Director Holtzclaw rejoined the meeting at 6:52 P.M.

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**Agenda Item 8.2 – Draft Post Collection Request for Proposals (RFP) and Draft Post Collection Agreement (PCA) | Presenter | Peter Holtzclaw - Executive Director**

Executive Director Holtzclaw provided a PowerPoint presentation on the Draft Post Collection Request for Proposals (RFP) and Draft Post Collection Agreement (PCA). He noted that the PCA would likely be renegotiated after the RFP process. He clarified that both the RFP and the PCA were based on the Request for Qualifications (RFQ) from 2012, as well as the current PCA. He stated the County and El Cerrito were part of the process and the document, although El Cerrito was separate. The RFP has a default term of 10 years, with two 5-year mutual options to extend. The rates would begin July 1, 2025 and be good for eighteen months.

Mr. Holtzclaw identified the scope of the current PCA, noted the section for optional services, and stated the pricing rates were based on the current rate structure, the blended specific per ton rate and the separate HHW rates, and the RFP would spell out the pricing for all aspects of post collections.

Mr. Holtzclaw provided some historical context of the rates since 2018, noted there was more cardboard coming in to material recovery facilities (MRFs) because of what was known as the “Amazon effect,” and stated that performance metrics related to CalRecycle’s pounds per person per day metric corresponded to the 50 percent diversion mandate. He also highlighted the data tracker software, and contract extensions.

Mr. Holtzclaw stated the Collection Services RFP would either be approved by the Board and be published next week with a timeframe until November and staff would return in December or January with a preferred contractor or a negotiation for a contractor, or the Board could redirect that some aspect(s) of the RFP be redone and he would return on October 10, 2024 for Board approval.

Director Romero referred to the report that had indicated that El Cerrito could not join the PCA until January -1, 2026, although he understood that El Cerrito had a contract with Republic Services until 2031, which needed to be clarified.

CHRISTINA LEARD, City of El Cerrito Management Analyst, clarified that El Cerrito’s PCA with Republic Services would expire on December 31, 2025, six months after RecycleMore’s contract ended.

Director Rudnick noted that she had questioned the contract extension given the span of six months. She stated that El Cerrito wanted to join the PCA and El Cerrito was concerned with the credit mechanism and wanted to quantify it and understand it since El Cerrito had its own staff, its own hauler for some of those elements, and wanted to be able to figure out the best way forward to allow El Cerrito to help make the region stronger.

When asked, Mr. Holtzclaw stated that discussion could be part of the RFP process as opposed to any informal negotiations right now, but he cautioned that negotiations for a six-month contract could be very expensive. He stated that the contract terms were better approached at the RFP in negotiations rather than before the RFP.

Director Rudnick acknowledged that the Compliance Fund was not currently in the PCA and she suggested it should be explicit that RecycleMore held those funds and not the contractor and that the annual fee was set by the Board and not at the PCA level. The RFP should also explicitly indicate that El Cerrito had a different hauler.

Mr. Holtzclaw stated that the funds would be brought back into RecycleMore prior to January 1, 2025.

Director Romero referred to the section of the report related to unpermitted waste. He noted that yard trimmings were shown as not permitted waste and he suggested that statement be removed. He also noted that the potential for hydrogen being produced had not been included in the PCA, and Mr. Holtzclaw explained that would be put in the RFP as an option.

Director Romero referenced his comment at the last meeting that the West Contra Costa Unified School District (WCCUSD) had its own agreement with Republic Services, although RecycleMore continued to provide public education that the WCCUSD did not want to accept. Now considering it again for potentially a ten-year period, he suggested the Board discuss whether or not that effort should be continued given that it was difficult to work with the WCCUSD. He was concerned using money for education when the WCCUSD refused it, which he noted had been ongoing for the 14 years he had been a member of RecycleMore.

Mr. Holtzclaw suggested putting that off pending the PCA negotiations given that every region would have difficulties with school districts since they were a state entity and their own separate piece. He explained that RecycleMore staff had worked very hard with Republic, primarily around school field trips that were very popular. He also noted that they were working well with Republic and the Schools Program and that collaboration would continue.

Vice Chair Zepeda suggested it made more sense to pursue an extension now as opposed to the RFP to give RecycleMore the upper hand and ensure negotiations in good faith.

Mr. Holtzclaw stated that if the Board directed him to negotiate an extension he would do that and suggested an extension of 10 to 15 years, although Vice Chair Zepeda suggested a six-month extension. There was a brief discussion on what could result if that was done.

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

Director McLaughlin understood that the Central Contra Costa Solid Waste Authority (RecycleSmart) put out their Post Collection RFP in April 2024, and their current contract did not expire until February 28, 2027, with an extended period of time prior to the end of that contract. This was her argument for at least a six months' extension or a potentially longer extension of the contract that would allow some time for whoever was selected as the hauler to get up to speed and move forward.

Director Romero noted that RecycleSmart had started the Post Collection Agreement process a year or more after RecycleMore had passed its own, and about a year or two ago RecycleSmart had approached the hauler about an extension. He also noted that what was missed in the RecycleMore contract had been picked up in the RecycleSmart contract given that the same attorney was involved.

Director McLaughlin emphasized her point that RecycleSmart had started its RFP process long before the expiration of its contract and had given itself a long stretch of time to pursue the process.

With respect to an extension, Chair Tave explained that both parties had to be willing to negotiate outside of the contract.

Director Romero referred to the schedule included in the staff report on Page 207 and suggested there would be sufficient time to process the RFP, get it out to the public, get answers back, see what transpired, and do what had to be done to get to a new PCA. While he suggested taking the approach to extend, he commented that everything was in place and ready now to pursue the RFP process and the Board should be ready to proceed.

Director Rudnick emphasized the importance of the credit mechanism element to the City of El Cerrito and urged that any motion include that element. She recommended that the item be pushed back to October to be able to finalize the details, and agreed that the RFP process was coming to the timeline and should be pursued. She also recommended direction to staff to have a conversation with Republic Services as to what an extension would look like. While she understood from Mr. Holtzclaw that the credit mechanism element was a small amount in the realm

of \$10,000 or \$15,000, she stated it would preclude El Cerrito from potentially joining the PCA and creating a unified entity. She wanted to make sure as well that El Cerrito staff understood the recycling rebate matrix and what it meant, with El Cerrito staff to be involved in that engagement.

Director Robinson verified the discussion related to the need for time to work out the details of the RFP, particularly with respect to the credit mechanism that would allow El Cerrito to join the PCA. It would also allow a discussion with Republic Services about an extension that could sync the expiration of the RecycleMore and El Cerrito PCAs to make El Cerrito's connection to the PCA easier.

Mr. Holtzclaw explained that he could approach Republic and bring in El Cerrito about synching up the dates, meet separately with El Cerrito, and come back in October to report on a potential extension and the RFP. He confirmed that the draft PCA had been included in the RFP.

Director McLaughlin stated that in addition to the matrix, multiple agencies wanted more time to review that element and Richmond staff wanted additional time to review the Side Agreement. While she understood that the draft PCA had been included in the RFP, there was a question as to whether the Compliance Fund should be part of the PCA given that future Boards may pursue a different approach.

Mr. Holtzclaw stated that the Compliance Fund, as set up in 2019 and clarified in 2021, was a restricted fund just for AB 1826 and SB 1383 compliance activities. It sat outside the RecycleMore budget and the Board made clear that the Compliance Fund was not part of that budget, part of which was to show CalRecycle that RecycleMore was committed to CalRecycle's mandates. He clarified that the compliance budget was discussed not during the review of the annual budget but at the time of rate setting, which was when the Board decided what to put into the rates for the Compliance Fund because it was separate from the RecycleMore budget. For the PCA, the Compliance Fund was listed as part of the line items for the post collection system, a pass-through fee. He explained that it all started at the collection point and the collection company paid the post collection company, which in the case of RecycleMore Member Agencies (other than El Cerrito) was the same company. The post collection company apportioned out all the fees whether held by RecycleMore or the collection company. He stated the Compliance Fund was an essential part of the program. He also clarified, when asked, that the rationale for keeping the Compliance Fund in the rate structure going forward was because it provided three purposes – one, as a restricted fund explicitly to pay for compliance programs; second, as a separate fund that elected officials could easily show to their constituents how much these unfunded mandates cost local rate payers; and third to demonstrate to CalRecycle that the jurisdiction was serious in meeting the state's mandates by utilizing a separate fund within the rate structure.

John Bakker, RecycleMore Legal Counsel, stated the RFP and the PCA had been structured to maintain Board policy around compliance fees. If the Board did not want to continue that fund, the line item could be zeroed out and the funds included in the RecycleMore budget.

Mr. Holtzclaw recalled that one of the other reasons the Board wanted a separate Compliance Fund was that some of the activities were done by RecycleMore while others were done by the contractor and there was a potential issue of convoluting the authority's insurance. He commented that the bottom line was that if it was not broken, it did not need to be fixed.

Although there was a motion from Director Rudnick to bring back the final RFP package for final approval at the October 10, 2024 meeting, identify the credit mechanisms and have staff from all agencies review the recycling matrix and direct the Executive Director to review with Republic Services what an extension would look like, and the motion was seconded by Director McLaughlin, there were a number of questions and a general discussion amongst the Board ensued.

Director Romero referred to the credit issue and sought some clarity to El Cerrito's concerns. He sought clear and concise instructions and commented that time was of the essence, the documents had been prepared, reviewed by staff, and submitted to the Board and action should be taken at this meeting. He wanted to give instructions to Mr. Holtzclaw to address the issues with the City of El Cerrito, get those questions answered, and then immediately release the RFP.

Chair Tave referred to the motion and second, acknowledged Mr. Bakker's efforts to clarify the language of the motion, and sought direction to Mr. Holtzclaw to work with the City of El Cerrito and with the member agencies for clarifying language to approve the RFP package in October.

Director Robinson asked for clarification of what timeframe was being considered for an extension.

Director Rudnick attempted to explain El Cerrito's issue with respect to the credit mechanism and what El Cerrito was already paying into RecycleMore, and Mr. Holtzclaw clarified that he had numerous conversations with El Cerrito staff about the issue that related to the sustainability coordinators that Republic used.

Mr. Holtzclaw explained that Republic's sustainability coordinators were talking to customers, such as in multifamily dwellings and doing outreach about recycling and organics, and RecycleMore was also doing compliance on behalf of the member agencies. He noted that Republic was El Cerrito's contractor too and El Cerrito was making a choice not to use Republic's services. He commented that he understood El Cerrito's choice not to use those services.

In an effort to clarify the credit issue, Mr. Holtzclaw referred to the methodology of 7.5 percent of the estimated cost of the sustainability coordinators from Republic, plus route reviews, and subtracting the SB 1383 data tracker subscription versus the data subscription that Republic had for the five member agencies on average. He stated with that, El Cerrito's cost was more than the average cost and brought down the credit. If the cost was equal or more, the credit would stay the same. There was also a one-time cost for El Cerrito to join the PCA.

Director Rudnick stated that was why there was no final draft of the PCA at this time. She emphasized that El Cerrito wanted to be done with the situation. As to the earlier question of the timeframe involved for an extension, she supported six months to one year. She wanted to bring back a final draft of the RFP on October 10 and asked what it would look like to decide to extend for six months. She emphasized there was not a lot of buffer in the timeline.

Mr. Holtzclaw advised the Board not to put any time restriction on an extension in that six months was as dramatic an extension as the earlier suggested 20 years. He suggested a three-year extension could be considered. He did not want to jeopardize RecycleMore's bargaining position. He also commented that if there was more flexibility with the term there would be better flexibility with the price.

Director Rudnick emphasized the need to bargain in good faith given the public process and the need to be fair throughout. She emphasized that El Cerrito wanted to be a good partner. She made a motion to bring back a final draft RFP package on October 10, 2024, to then have an informational item of whether or not to consider an extension, and what an extension would look like.

Chair Tave suggested the details of the credit mechanism were important and should be provided in writing to provide a clear methodology and understanding of the El Cerrito credit as part of the informational item to be considered at the October 10, 2024 meeting.

Mr. Holtzclaw clarified that the credit mechanism would be a negotiable item.

**MOTION** by Director Rudnick to bring back a final RFP package at the October 10, 2024 meeting along with an informational item of whether or not to consider an extension and what an extension would look like. **SECOND** by Director McLaughlin.

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

**BOARD MEMBER AND STAFF ANNOUNCEMENTS**

Director Romero highlighted an energy event he had attended and reported he had learned that the same energy it took to process 1,000 tons of hydrogen with green waste would be seven times more with the same energy using plastic. He recommended that local leaders reach out to Assemblymember Wicks to see if that could be pushed through CalRecycle.

Director Xavier spoke to the upcoming closed session and asked when the Board had chosen three members for the closed session item on the meeting agenda.

Director Rudnick reported that in 2023 when she had been the Chair of the Board, there had been an ad hoc committee previously created to discuss the Executive Director’s contract. That ad hoc committee had then been comprised of Directors Tave, Romero and the Chair (Rudnick). In 2023, she had stepped away and Director Robinson had stepped in as a member of that ad hoc committee.

**CLOSED SESSION**

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

Chair Tave adjourned into Closed Session at 7:57 P.M.

CONFERENCE WITH LABOR NEGOTIATORS  
Agency designated representatives: Chair Tave, Director Robinson, and Director Romero  
Unrepresented employee: Executive Director

Chair Tave reconvened from Closed Session at 8:57 P.M. and advised that there was nothing to report from the Closed Session.

**ADJOURNMENT**

With consensus of the Board, Chair Tave adjourned the meeting at 9:00 P.M. until the regular Board meeting scheduled for October 10, 2024 at 6:15 P.M.

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 12, 2024.

*Claudia Menjivar*                      10/16/24  
Board Secretary                                      Date