

HOUSEHOLD HAZARDOUS WASTE SECOND AGREEMENT

This Agreement (“Second Agreement”) is made and entered into between the **SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY (“IWMA”)**, a California joint powers authority agency, on the one hand, and **CAYUCOS SANITARY DISTRICT (“CSD”), a California special district**, and the **CITY OF MORRO BAY (“City”), a California municipal corporation** (collectively “Owner”), on the other hand (all three entities collectively referred to as the “Parties,” and individual as a “Party”).

RECITALS

WHEREAS, the Parties entered into an agreement effective April 5, 2000 (“Original Agreement”), whereby Owner leased to IWMA a portion of land at the Owner's facility located at 170 Atascadero Road, Morro Bay, California 93442 and described on "Exhibit 1", which is attached and made a part of this Second Agreement, for the purposes of constructing a household hazardous waste (HHW) collection facility, for a term of ten (10) years; and

WHEREAS, the Parties subsequently extended the Original Agreement pursuant to its terms to an expiration date of April 5, 2020; and

WHEREAS, the IWMA desires to continue to lease from Owner and Owner desires to continue to lease to IWMA, a portion of land at the Owner's facility located at 170 Atascadero Road, Morro Bay, California 93442, for the purpose of maintaining a HHW collection facility to provide for the convenient and proper management of household hazardous waste; and

WHEREAS, the Owner will make its premises available for such use by the IWMA, subject to the terms and conditions of this Second Agreement; and

WHEREAS, since the commencement of the Original Agreement on April 5, 2000, the Parties have continued to operate under the terms of that Original Agreement, through the date of the execution of this Second Agreement, and thereafter consistent with the terms of this Second Agreement; and

WHEREAS, the Parties expressly affirm a desire to approve this Second Agreement so as to provide for a continuous operation of the terms of the Original Agreement from April 5, 2020 through August 11, 2022, except as otherwise provided herein; and

NOW, THEREFORE, the Parties do mutually agree as follows:

A. The above findings are true and correct and incorporated herein by this reference.

B. TERM

The term of this Agreement shall be from April 5, 2020 to August 5, 2022.

C. RESPONSIBILITIES OF THE IWMA

1. A modular storage unit has been placed by the IWMA at the designated HHW collection facility location to be used by IWMA for the acceptance and storage of HHW, pursuant to the Original Agreement. IWMA affirms the storage unit meets or exceeds applicable fire and hazardous materials storage requirements. The Owner has provided a concrete pad (pursuant to design by IWMA under the Original Agreement) for placement at the HHW collection facility. IWMA shall provide a roll-off box (or equivalent equipment to meet IWMA responsibility for providing waste collection and disposal services for HHW operations) for trash from the facility.
2. The IWMA shall comply, and ensure the HHW collection facility complies, with all federal, state and local statutes, regulations, ordinances, and other laws relating to the operation of a HHW collection facility. IWMA also shall ensure that the transportation and disposal of the HHW collected at the site complies with applicable federal, state, and local statutes, regulations, ordinances, and other laws.
3. The IWMA shall provide all storage and handling equipment necessary for the storage of HHW collected by the IWMA and adequate materials for packing the same. The IWMA, or its contracted, licensed hazardous waste service provider, shall be responsible for collecting HHW from the public and packing the drums for shipment. The IWMA will also label and manifest the drums.
4. The IWMA shall contract with a licensed hazardous waste hauler to remove and dispose of all HHW collected at the site on a regular basis, at least annually, and shall maintain and provide proof of general liability insurance of at least \$2 million per occurrence to Owner.
5. The IWMA shall be responsible for obtaining all necessary permits for the operation of the HHW collection facility.
6. The IWMA, or its contracted, licensed hazardous waste service provider, shall train personnel as necessary due to changes in law or circumstances, but as least annually.
7. The IWMA shall provide the closure assurance required by State law.
8. IWMA shall keep and maintain the HHW collection facility and surrounding area in good, safe, and sanitary condition, including site cleanup if necessary.

D. RESPONSIBILITY OF OWNER

1. The Owner agrees to lease the designated HHW collection location to the IWMA. The parties agree that the term of the lease shall be for a period commencing on April 5, 2020 through August 5, 2022. The IWMA agrees to pay to Owner annual rent of one dollar (\$1.00) for each year during the term of the Original Agreement and the Second Agreement.
2. The Owner will allow members of the public to have reasonable access to the HHW collections facility for the purpose of disposal of HHW at the collections facility.
3. The Owner will allow the IWMA to have reasonable access to the HHW facility for the purpose of removing the HHW.

4. The Owner shall be responsible for ensuring the structure provided by the IWMA, and the surrounding property, is maintained in a secure, safe and appropriate manner.

E. INDEMNIFICATION

It is agreed that IWMA shall defend, save harmless, and indemnify the Owner, their officers and employees from any and all liabilities, penalties, and claims for injuries and damages to persons and/or property, which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of the IWMA, its officers, employees, and/or contractors.

It is further agreed that Owner shall defend, save harmless, and indemnify the IWMA, its officers, employees, and contractors from any and all claims for injuries and damages to persons and/or property which arise out of the terms and conditions of this Agreement and which result from the negligent acts or omissions of the Owner, their officers, and/or employees.

IWMA bears and assumes all risk of loss or damage to or destruction of the HHW collection facility, and any other associated fixtures, material, equipment and improvements on the property, from fire, theft or any other casualty as a result of HHW collection activities, whether or not insured; and IWMA shall hold Owner harmless with respect to any such loss, damage or destruction during the term of the Original Agreement and the Second Agreement, as well as name the Owner as an additional insured on the required general liability insurance in an amount of no less than \$2 million per occurrence.

F. CLEANUP OF SITE

Upon expiration or earlier termination of this Second Agreement, IWMA shall promptly remove the HHW collection facility and all IWMA equipment (including, but not limited to, collection structure, office trailer, storage tanks and drums, and any hazardous waste remaining at the facility) and surrender and deliver the property to Owner in as good condition as it was in at the commencement of the Original Agreement. The only item remaining on-site will be the concrete pad, which will become the property of the Owner. If the property and/or the HHW collection facility are damaged in any way or destroyed, IWMA shall at IWMA's sole cost and expense repair, replace, rebuild or restore the property and improvements to substantially the same condition as they were in immediately prior to such destruction or damage.

G. TERMINATION

This Agreement is subject to the annual appropriation of funds to provide HHW services. If the IWMA fails to appropriate the funds necessary to conduct the program, the Agreement can be terminated with 30 days' notice. The Owner may terminate this Agreement before expiration of its term by giving 30 days' advance written notice of termination to IWMA.

H. COMPLETE AGREEMENT

This Second Agreement contains the complete agreement between the parties and can only be modified by written amendment signed by all parties.

I. COUNTERPARTS

This Second Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

J. RATIFICATION

1. Each Party represents and warrants to the other Parties that the Original Agreement is currently effective, valid and binding in each and every one of the respective rights and obligations arising under the Original Agreement, except as modified by this Second Agreement, whereupon the terms of this Second Agreement shall govern in the event of conflict with the Original Agreement.
2. Each Party represents and warrants to the other Parties an express intent of this Second Agreement is to provide for a continuous and unbroken continuation of the term of the Original Agreement that began on April 5, 2000, through the termination date of this Second Agreement, and that this Second Agreement shall govern in the event of conflict with the Original Agreement.
3. IWMA represents and warrants to Owner that, as of the below date of execution by IWMA of this Second Agreement, Owner is not in default of any material term of the Original Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Original Agreement by Owner.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Household Hazardous Waste Second Agreement this _____ day of _____, 20__.

SAN LUIS OBISPO COUNTY INTEGRATED WASTE MANAGEMENT AUTHORITY, a California joint powers authority agency

_____ Date: _____
Aaron Gomez, President

Approved as to form:

By: _____ Date: _____

CITY OF MORRO BAY, a California municipal corporation

By: _____ Date: _____

Approved as to form:

By: _____ Date: _____
Chris F. Neumeyer, Morro Bay City Attorney

CAYUCOS SANITARY DISTRICT, a California special district

By: _____ Date: _____

Approved as to form:

By: _____ Date: _____
Timothy J. Carmel, District Counsel