



A Public Agency

OLD BUSINESS



To: SBWMA Board Members
From: Cliff Feldman, Recycling Programs Manager
Date: September 25, 2014 Board of Director's Meeting
Subject: Consideration of Introduction of Ordinance Implementing a Recycling Reporting System for Commercial Recycling Haulers

Recommendation

It is recommended that the SBWMA Board of Directors introduce the attached Ordinance No. 002 - Recycling Reporting Requirements for Commercial Recycling Haulers (**Attachment A**) by the following motion:

"Move to introduce an ordinance entitled Ordinance No. 002 – Recycling Reporting Requirements for Commercial Recycling Haulers and waive further reading of the Ordinance."

Analysis

Overview

The primary rationale for adopting this Ordinance is to enable RethinkWaste to develop a more complete picture of existing diversion efforts for the commercial sector, since the only diversion information currently available is provided by the Member Agencies franchised service provider, Recology San Mateo County (Recology). Based solely on the Recology data, the current commercial diversion rate for 2013 was 28%. The actual overall commercial diversion rate is likely much higher once we factor in diversion data from non-franchised haulers. As noted in the May 22, 2014 BOD staff report on benchmarking SBWMA's Recycling, Public Outreach and Shoreway Tour Programs, this commercial diversion rate is low relative to other surveyed communities.

This SBWMA-wide Ordinance would implement reporting requirements for non-franchised commercial recycling haulers (e.g., paper recycling companies, scrap metal haulers, construction and demolition debris haulers, businesses that backhaul recyclables and/or compost materials to distribution centers, etc.) in an effort to begin collecting diversion data that is currently unavailable. The Ordinance will become effective on January 1, 2015 and the haulers will be required to commence providing reports for the first quarter of 2015 by April 30, 2015 and quarterly thereafter. The haulers will be requested to provide data by Member Agency if available. Obtaining such data is critical for future waste diversion planning purposes, including completion and implementation of the SBWMA Long Range Plan. However, collecting the data is not required for complying with State mandated recycling laws (e.g., AB 939, AB 341, etc.).

As the JPA is responsible for service area wide diversion (i.e., waste reduction, recycling and composting programs) planning, it makes sense for the JPA to implement one Ordinance as opposed to individual Member Agencies implementing separate Ordinances. It would also make it easier for companies that have to comply with the Ordinance to have one point of contact to direct questions and get registered in lieu of having to deal with multiple jurisdictions. It would also guarantee that data is collected for all Member Agencies instead of relying on the Member Agencies individually to adopt and implement Ordinances as some Member Agencies may choose not to. Thus, the effort to collect data would be compromised from the JPA perspective if data was not collected for all Member Agencies.

The JPA will work closely with the Member Agencies to supplement the list of potential registrants which has already been compiled and shared with Board Members. Staff will also confer with key Member Agency staff on any implementation challenges, issues that may arise and potential future enforcement efforts. For example, regarding potential enforcement, JPA staff will seek the assistance of Member Agency staff first to try and resolve any reporting lapses by registrants. The Ordinance was crafted to encourage commercial recycling haulers to provide the needed data while the SBWMA's enforcement activities will be limited and only as a last resort. In addition, the Ordinance is not intended to place an undue burden on recycling haulers nor require significant JPA resources to implement. The Implementation Schedule to commence this project is provided as **Attachment B**.

Per discussion at the July 24, 2014 Board meeting, staff updated its working list of recycling haulers and shared it with the Board on August 28, 2014. Board Members were encouraged to get feedback from businesses potentially subject to the ordinance such as haulers and backhaulers and to share this feedback at the next Board meeting on September 11, 2014.

At the September 11, 2014 Special Board meeting Staff was directed to bring this item to the Board for consideration at the September 25, 2014 meeting. The Board also discussed the need to collect data quarterly, the potential that reporting would be an undue burden on small haulers, whether the JPA should have responsibility to pursue enforcement of an ordinance and feedback was provided regarding a large hauler that was contacted by a Board member and Staff. Staff assured the Board that they would periodically provide updates on the status of the program and would revisit the frequency of reporting once an adequate amount of data is compiled, perhaps in two years. In addition, Staff noted that one of the goals in conducting a stakeholder engagement is to reach out to small haulers to determine what assistance they would benefit from, but over time it was unlikely Staff would spend considerable time "chasing" the smaller haulers who had difficulty reporting data.

Regarding the JPA acting as an enforcement agency, Staff explained that the extent of the administrative enforcement would largely be to send letters and to work closely with Member Agencies to contact companies not complying with the ordinance. Additionally, the Ordinance prescribes that enforcement activities would be authorized by the Executive Director and Staff would apprise the Board of any enforcement pursued.

Alternatives to an Ordinance

- Staff can proceed with the Long Range Planning effort without the data sought per the Ordinance. Assumptions can be used in lieu of actual data, but this will result in significantly lower confidence in the diversion and cost models presented for efforts to increase commercial diversion.
- Staff can continue attempting to obtain data voluntarily; however, Staff's recent attempts to obtain data voluntarily was not cost effective as the return on investment of this effort returned few results as explained to the Board at the July meeting. Further, staff does not have time budgeted in the current fiscal year to conduct such a data gathering effort.

Background

At the May 23, 2013 Board meeting, staff shared the preliminary results of the research project on Non-Exclusive Franchise Options for Commercial Recycling. Staff explained the efforts of other public agencies in California that implemented systems to capture data from many of the independent recycling companies that haul recyclables. In addition, Staff explained how this could be accomplished in the SBWMA service area and why this data is critical for RethinkWaste to ascertain how best to focus its efforts in the pursuit of increasing diversion from the commercial sector which still contributes approximately two-thirds of all the garbage generated. The challenges faced and best practices employed were highlighted in order to guide RethinkWaste in developing a policy and

program that would be successful and to provide detailed information to interested stakeholders during the stakeholder engagement process. Additional staff reports on this project were provided to the Board for its October 24, 2013, February 27, 2014, March 27, 2014, July 24, 2014 and September 11, 2014 meetings and this item was discussed in detail with the TAC at its November 7, 2013, February 13, 2014 and March 13, 2014 meetings.

Section 4.01(B)(1) of the Member Agencies Franchise Agreements with Recology provide the company the non-exclusive right to collect source separated recyclables and compost from commercial accounts. Therefore, the open market competition for the collection of recycling and compost which has always characterized our service area has been preserved. While Recology's commercial recycling collection services and commercial recycling outreach staff of nine full time employees are paid for through the Member Agency's solid waste rates, the businesses in the service area are not bound to subscribing to Recology's collection service. Many businesses offer commodities for sale in the marketplace, such as high-grade paper and corrugated cardboard, and many others backhaul recyclables and/or compostables to their distribution facilities (e.g., large grocery and chain stores).

In addition, per AB341 (California's Mandatory Commercial Recycling Law), commencing July 1, 2012, all businesses that generate four cubic yards or more of garbage per week or multifamily dwelling complexes of five units or more are required to recycle.

At the March 27, 2014 Board meeting a revised ordinance was provided reflective of changes per discussions with the TAC and SBWMA legal counsel. These revisions included: changing the system from requiring permits to simply requiring applicants to register and then provide reports quarterly; significantly simplifying enforcement to only administer an administrative fine for non-compliance; establishing the Ordinance will become effective on January 1, 2015; and, including sections 2, 3 and 4 concerning severability and applicable Government Code sections.

Fiscal Impact

The approved FY1415 budget includes \$25,000 to hire a consultant to assist Staff with the stakeholder engagement and implementation of an SBWMA-wide Ordinance implementing a reporting system for commercial recycling haulers. Ongoing maintenance of the program is anticipated to be less in future years. The Ordinance establishes an administrative fee in an amount not to exceed \$150.00 to cover the SBWMA costs to administer the Ordinance. This administrative fee will be charged to commercial recycling haulers required to register and submit reports and is anticipated to generate approximately \$25,000 in revenue commencing in calendar year 2015.

In addition, the FY1415 budget includes a one-time expense of \$10,000-\$15,000 to develop the software update needed for the online registration and reporting system. (The FY1314 budget included similar funding which was not spent due to delays in adopting the Ordinance.)

For future implementation and maintenance, staff will not be proposing any additional staff to administer this program but will rely on the support of outside contractors if needed.

Attachments:

Attachment A – SBWMA Ordinance No. 002: Recycling Reporting Requirements for Commercial Recycling Haulers

Attachment B – Implementation Schedule



ORDINANCE NO. 002

ORDINANCE OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY ADOPTING RECYCLING REPORTING REQUIREMENTS FOR COMMERCIAL RECYCLING HAULERS

IT IS ORDAINED by the Board of Directors of SBWMA as follows:

SECTION I: The following ordinance regarding Commercial Recycling Reporting is adopted:

I. Findings

A. The Board of Directors finds that there is a need to implement a Reporting System for Commercial Recycling Haulers to begin collecting recycling diversion data that is currently unavailable.

B. Currently the Agency receives recycling diversion data only from the Member Agencies franchised recycling service provider, Recology San Mateo County. Based solely on the Recology data, the most recently reported annual commercial recycling diversion rate for Agency Service Area in 2013 was 28%.

C. Implementation of a Reporting System requiring Commercial Recycling Haulers to submit quarterly reports on the volumes and types of recyclable materials that are collected within the Agency Service Area would allow the Agency to develop a more complete picture of existing recycling diversion efforts for the commercial sector.

D. Implementing a Reporting System for Commercial Recycling Haulers will enable the Agency to capture data that is needed for future planning purposes related to increasing recycling diversion to better meet State mandates.

II. Purpose

A. This Ordinance establishes a system for registering Commercial Recycling Haulers who are performing services in the Agency Service Area and receiving from them information on the volume and types of Recyclable Materials that they collect in the Agency Service Area. To achieve this reporting requirement, each Commercial Recycling Hauler will be required to submit to Agency a Recycling Report quarterly.

B. This Ordinance is not intended to preclude a Commercial Entity or a building or demolition contractor from contracting with more than one Commercial Recycling Hauler or from donating, selling or otherwise disposing or hauling Recyclable Materials.

III. Definitions

“Agency” means the South Bayside Waste Management Authority (SBWMA) or RethinkWaste, which is a joint powers authority comprised of the Member Agencies.

“Agency Clerk” means the SBWMA Board Secretary.

“Agency Service Area” means the service area comprised of the Member Agencies, which include the following: Town of Atherton, City of Belmont, City of Burlingame, City of East Palo Alto, City of Foster City, Town of Hillsborough, City of Menlo Park, City of Redwood City, City of San Carlos, City of San Mateo, sections of unincorporated San Mateo County, and West Bay Sanitary District.

"Applicant" means any person, business, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, public or private corporation, or any other entity whatsoever who is required to register and report to the Agency.

“Board of Directors” means the governing body of the Agency.

“Collection Container” means any container used to store and collect Solid Waste, Targeted Recyclable Materials, Organic Materials, or any other material targeted for collection by a Recycling Hauler.

“C&D Debris” (“Construction and Demolition Debris” or “C&D”) means materials resulting from construction, renovation, remodeling, repair, or demolition operations on any Residential, Commercial or other structure or pavement. The C&D materials can be in mixed or source separated form.

"Commercial" means a business activity including, but not limited to, retail sales, wholesale sales, services, research and development, government, private schools, colleges and universities, non-profit, hospital, manufacturing, institutional and industrial operations, but excluding businesses conducted upon residential property which are permitted under applicable zoning regulations and are not the primary use of the property.

“Commercial Entity” means a Commercial business that generates Recyclable Materials and/or Organic Materials in the Agency’s Service Area.

“Commercial Recyclables” means Recyclable Materials generated by a Commercial business.

“Commercial Recycling Hauler” means a Person or Entity engaged in commercial hauling of Recyclable Materials in the Agency Service Area.

“Director” means the Executive Director of the Agency or designee.

“Discarded Material” means Solid Waste, Targeted Recyclable Materials, and Organic Materials placed by a Generator in a Collection Container and/or at a location that is designated for Collection pursuant to a Member Agency’s Code.

"Food Scraps" means a subset of Organic Materials including: (i) all kitchen and table food waste, and animal or vegetable fruit, grain, dairy or fish waste that attends or results from the storage, preparation, cooking or handling of foodstuffs, with the exception of animal excrement, (ii) paper waste contaminated with putrescible material, and (iii) biodegradable plastic food service ware.

“Generator” means any Person whose act or process produces Solid Waste, Targeted Recyclable Materials, or Organic Materials.

“Member Agencies” means the following jurisdictions: the cities of Belmont, Burlingame, East Palo Alto, Foster City, Menlo Park, Redwood City, San Carlos, and San Mateo; the towns of Atherton and Hillsborough; the County of San Mateo; and the West Bay Sanitary District.

“Organic Materials” means those materials that will decompose and/or putrefy and that the Agency permits, directs, or requires Generators to separate from Solid Waste and Targeted Recyclable Materials for collection in specially designated containers for Organic Materials collection. Organic Materials include Plant Materials, Food Scraps, paper contaminated with Food Scraps, biodegradable plastic food service ware, pieces of unpainted and untreated wood, and pieces of unpainted and untreated wallboard. Plant materials and wood may be in loose form or chipped or ground but excludes finished product such as mulch or compost for sale. No Discarded Material shall be considered Organic Materials, unless such material is separated from Solid Waste and Targeted Recyclable Material.

“Person” means any individual of Commercial Entity.

“Recycling Hauler” means an entity that engages in the activity of hauling or transporting Targeted Recyclable Materials and/or Organic Materials generated by Commercial businesses, but does not include haulers and transporters of electronic scrap (as defined by California Public Resources Code §66273), universal waste, hazardous waste or radioactive waste.

"Recyclable Materials" means discarded commingled or source separated materials including C&D Debris that can be re-used, remanufactured, reconstituted, or recycled.

“Recycling Registration ” means the registration of Commercial Recycling Haulers required by this Ordinance to provide information on Recyclable Materials and/or Organic Materials hauled in the Agency’s Service Area.

“Recycling Report” means the report providing information on the volume and types of Recyclable Materials and/or Organic Materials transported by the Recycling Hauler in the Agency’s Service Area.

“Solid Waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, as defined in California Public Resources Code §40191.

“Targeted Recyclable Materials” means a subset of Recyclable Materials that includes: newspaper (including inserts, coupons, and store advertisements); mixed paper (including office paper, computer paper, magazines, junk mail, catalogs, brown paper bags, paperboard, paper egg cartons, telephone books, books, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes); chipboard; corrugated cardboard; paper milk cartons; glass containers of any color (including brown, blue, clear, and green); aluminum (including food and beverage containers, foil, small pieces of scrap metal); scrap metal (ferrous and non-ferrous) steel, tin or bi-metal; plastics (i.e., both thermoform and thermoset plastics); and C&D Debris The Targeted Recyclable Materials can be in mixed (commingled) or source separated form.

IV. Commercial Recycling Hauler Registration

A. Commercial Recycling Haulers shall register with the Agency and provide Recycling Reports as set forth in this Ordinance in the Agency Service Area.

B. Registration shall be in writing and submitted in a format specified by the Director, and pay an administrative fee to the Agency in an amount not to exceed \$150.00 established by the Director.

C. Registration of a Commercial Recycling Hauler shall be renewed every two years.

V. Appeals

Persons or Commercial Entities that are dissatisfied with any decision or determination of the Director pursuant to this Ordinance shall have the right to appeal that decision to the Board of Directors if the appeal is filed with the Agency Clerk fifteen (15) days of the decision of Director.

VI. Reporting Requirements

A. Commercial Recycling Haulers shall be required to submit a report each calendar quarter to the Agency providing data on the volume and type of Recyclable Materials hauled during that calendar quarter from Commercial Entities in the Agency Service Area. To the extent feasible, the data provided in the Recycling Report should be attributable to the jurisdiction of the Member Agency where it was generated. The Recycling Report shall be due to the Agency thirty (30) calendar days after the end of each calendar quarter as follows: First Quarter (January-February-March) report due April 30; Second Quarter (April-May-June) report due July 30; Third Quarter (July-August-September) report due October 30; Fourth Quarter (October-November-December) report due January 30.

The format of the Recycling Report and submittal guidelines shall be determined by the Director. The data to be included by the Commercial Recycling Hauler in the Recycling Report must provide to the furthest extent possible the specific volumes and types of Recyclable Materials by weight (e.g., tons) and by the source of generation.

VII. Civil Administrative Penalties

Recycling Haulers that fail to comply with any or all of the provisions of this Ordinance shall be subject to the issuance of civil administrative penalty in the amount of \$100 for the first failure to comply, \$250 for the second failure to comply and \$500 for each subsequent failure to comply.

A. The Director shall establish the procedures and notification protocol to administer civil administrative penalties.

VIII. Enforcement

Except as otherwise expressly provided, the provisions of this Ordinance shall be administered and enforced within the Agency Service Area by the Director or other staff and enforcement officials designated by the Director. The remedies set forth herein are cumulative to any other remedy available to the Agency or Member Agencies.

IX. Effective Date:

This Ordinance shall not be effective until January 1, 2015. It is the intent of the Agency to provide Commercial Recycling Haulers with advance information and assistance with the terms of this Ordinance.

SECTION 2: Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The SBWMA Board hereby declares that it would have adopted this Ordinance and such section, subsection, sentence, clause, phrase or portion may be declared invalid or unconstitutional.

SECTION 3: Pursuant to Section 36937 of the Government Code of the State of California, this Ordinance shall not take effect and be in full force and effect until thirty (30) days from its final passage and pursuant to Section IX above shall not be in effect until January 1, 2015.

SECTION 4: The Clerk of the Board shall cause this Ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

Introduced this _____ day of _____, 2014.

PASSED AND ADOPTED as an Ordinance of the Board of Directors of the SBWMA at a regular meeting thereof held on the _____ day of _____, 2014.

AYES, BOARD MEMBERS: _____

NOES, BOARD MEMBERS: _____

ABSENT, BOARD MEMBERS: _____

ABSTAIN, BOARD MEMBERS: _____

Chair of the SBWMA

ATTEST:

Clerk of the SBWMA Board of Directors



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Attachment B
Implementation Schedule

<u>Date</u>	<u>Activity</u>
September 25, 2014	<ul style="list-style-type: none"> • Board introduces Ordinance (first reading).
October 23, 2014	<ul style="list-style-type: none"> • Board adopts Ordinance (approval finalized).
October - December 2014	<ul style="list-style-type: none"> • Develop the protocol and procedures to implement the Ordinance, including: application and reporting formats, registration and reporting review process, enforcement process, outreach strategy and needs. • Establish registration fee. • Develop software to facilitate online application and reporting compliance. • Commence stakeholder engagement and outreach
January 1, 2015	<ul style="list-style-type: none"> • Effective date of Ordinance. • Compliance commences with submittal of 1st quarter 2015 report (due April 30, 2015).
January - March 2015	<ul style="list-style-type: none"> • Continue outreach effort • Conduct stakeholder meetings with haulers and chambers of commerce • Update website with information on the reporting system and commence accepting registrations. • Include hauler best practices information on website. • Test online application and reporting system with several stakeholders. • Refine application and reporting system. • Develop and produce outreach tools and design changes to website. • Provide assistance to haulers in completing registrations and submitting sample reports.
March 30, 2015	<ul style="list-style-type: none"> • Registration deadline for applicants.
April - May 2015	<ul style="list-style-type: none"> • Conduct additional outreach to facilitate haulers to register and submit reports.
April 30, 2015	<ul style="list-style-type: none"> • 1st Quarter 2015 Report(s) due (Jan-Feb-Mar)
May 2015 - ongoing	<ul style="list-style-type: none"> • Assess compliance. • Pursue enforcement as needed. • Compile data. • Make adjustments to system as needed.
July 30, 2015	<ul style="list-style-type: none"> • 2nd Quarter 2015 Report(s) due (Apr-May-June)
October 30, 2015	<ul style="list-style-type: none"> • 3rd Quarter 2015 Report(s) due (July-Aug-Sept)
January 30, 2016	<ul style="list-style-type: none"> • 4th Quarter 2015 Report(s) due (Oct-Nov-Dec)



STAFF REPORT

To: SBWMA Board Members
From: Hilary Gans, Operations Contracts Manager
Kevin McCarthy, Executive Director
Date: September 25, 2014 Board of Directors Meeting
Subject: Consideration of Approval of Continued Use of County VRS Workers by South Bay Recycling

Recommendation

Staff recommends the Board approve Resolution 2014-22 attached hereto authorizing the following action:

- Approval of Continued Use of County VRS Workers by South Bay Recycling (SBR) per the terms and conditions of MOU Agreement in **Exhibit A**.

Analysis

The Agreement between SBR and the County Vocational Rehabilitation Services (VRS) program expired on **December 30, 2013 so the parties have been negotiating a new Agreement** (see Attachment A for final draft new Agreement). The Board action is not to approve the Agreement per se but to approve the continued use of VRS as a subcontractor to SBR providing MRF sorters.

During the past three years VRS has had 20-25 sorters on a daily basis at the MRF. A major goal of the negotiations between the SBR and the County has been to guarantee a more reliable labor force for the MRF operations and to add a second-shift of sorters to process third-party recyclables (over the past few years, the County VRS program did not consistently supply all of the sort labor that SBR required to run their first shift of operations). The new Agreement includes a new wage structure (implemented in January 2014) that has allowed VRS to recruit and to supply the needed number of sorters for both the first and second shifts on a consistent basis.

The key elements of the current negotiated Agreement between SBR and the County's VRS program include:

- County guarantees to provide the number of workers required by SBR.
- Adds a second-shift of sort workers to be provided by the VRS program.
- SBR has agreed to pay a wage of \$11.00 per hour for sorters on both shifts -- an increase of \$3.00 per hour (This is a cost is borne entirely by SBR and is not passed through to the SBWMA).
- 120-day notice provision to terminate the Agreement.
- The term of the Agreement would be for three years starting in the next 30-60 days depending upon the dates of contract ratification by the County Board of Supervisors.

It should be noted that with a proposed three year term, another Agreement will need to be negotiated for the balance of the term of the Operating Agreement (thru 12/31/20).

Discussion of the Cost of VRS Program

Per the Operations Agreement, the SBWMA compensates SBR a fixed amount per ton (\$76.74 per ton MRF processing fee for rate year 2014) and SBR is responsible for paying all of the costs of MRF operations (including

sort labor) out of the per/ton processing fee paid by the SBWMA. It is important to note that SBR is not able to pass through labor cost increases to the SBWMA that are not covered by the compensation methodology in the Operations Agreement (e.g., in the case of the VRS sort labor cost increase discussed in this staff report, SBR is solely responsible for paying the sort labor cost increase and will not be reimbursed by the SBWMA). SBR has evaluated the new sort labor cost under the proposed new VRS contract and has estimated that there is a \$129,003 per year cost differential between the compensation paid to SBR by the SBWMA and the wage and administrative cost of the VRS program (see sort cost analysis, Table 1).

This differential and the apparent lower cost of using a staffing agency is the basis for recent negotiations to identify strategies for cost reductions. The County's administrative cost burden on the VRS program has been a key point negotiated over the past six-months. Even after making some cost concessions, the County's administrative overhead cost for the VRS program remains at 45% of the worker's wage rate. There have been several unsuccessful attempts made by SBR with support from the SBWMA staff, to obtain additional cost concessions from the County including the potential elimination of a supervisor (classified by the County as a Senior Utility Worker) position that is duplicative of supervisory support provided by SBR. No actual guaranteed cost reductions were ultimately agreed to by the County.

Table 1.

**MRF Sort Labor Cost Comparison
2014 Costs Based on Day Shift Operation Using 25 Sorters**

	<u>/Hour</u>	<u>/Ton</u>	<u>Cost</u>
SBWMA Compensation to SBR (1)	\$ 17.95	\$ 15.11	\$ 1,118,472
VRS Cost for Sort Labor (2)	\$ 20.02	\$ 16.85	\$ 1,247,475
Outside Staffing Agency Cost (3)	\$ 14.62	\$ 11.32	\$ 837,984
Union Represented Sorters (4)	\$ 36.79	\$ 37.46	\$ 2,773,214

(1) SBWMA compensation to SBR for sort labor
(2) VRS cost per sorter with administration cost included
(3) Staffing Agency cost estimate based on quote obtained by SBR in June 2014
(4) Union Represented sort worker cost estimate based on comparable local facilities

Alternatives to Use of VRS Workers as Subcontract MRF Sorters

There are several other options for securing subcontract MRF sorter workers including: use of temporary labor from an outside staffing agency, using workers sourced through a job training program like the Conservation Corp., and unionized workers. As shown in Table 1 above, temporary worker laborer is considerably cheaper whereas union workers are much more expensive than use of VRS workers. To date, no research has been conducted on use of conservation corp. or related work forces.

Background

The VRS program's function is to provide steady work for people who experience barriers to employment and are transitioning back to the workplace. The VRS clients spend a maximum of 18 months in the program before they transition out of the program (it should be noted that there are several program graduates that have been hired by SBR for full-time employment). Throughout the program's history at the Shoreway MRF, the SBWMA has been supportive of the VRS program.

As was reported in the July 24th, 2014 staff report on this topic, negotiations between the County and SBR have been ongoing. The key elements of the negotiation between SBR and the County's VRS program include:

- County VRS program needs to supply sort workers for SBR's first and second-shift operations (the new agreement would double the number of sorters provided by the VRS program).
- The County must guarantee to provide the number of VRS workers required by SBR (25 sorters are needed on the first-shift and second-shifts).
- The County wants SBR to pay a wage increase of \$3.00 per hour to each sorter on the first-shift and on the second-shift as an incentive to help the County recruit and retain the VRS workers. (Effective since January 2014, SBR increased the wage paid to VRS sorters from \$8.00 per hour to \$11.00 per hour for sorters on both shifts. This is a cost borne entirely by SBR and is not passed through to the SBWMA. It should be noted the State minimum wage effective 7/1/14 is \$9.00 per hour and the rate will increase to \$10.00 per hour on 1/1/16)..

Fiscal Impact

The SBWMA pays SBR a fixed price per ton for each ton of franchise single stream material processed at the Shoreway MRF. This processing fee adjusts annually according to a methodology (Operations Agreement section 8.01) that uses established indexes. VRS sort labor cost increases incurred by SBR are not reimbursable and so do not affect the current payment made by the SBWMA to SBR for MRF operations. However, there is a concern by the SBWMA staff that any labor cost increase that is agreed to by SBR will become the status quo and that the Agency will potentially bear any labor cost increase when a new Facility Operations Agreement is negotiated.

Attachments:

Resolution 2014-22

Exhibit A – Memorandum of Understanding for the Subcontracting of MRF Sort Workers through the San Mateo County Vocational Rehabilitation Services

Attachment A – Agreement Between the County of San Mateo and South Bay Recycling

RESOLUTION NO. 2014-22

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS CONSIDERATION OF APPROVAL OF CONTINUED USE OF COUNTY VRS WORKERS BY SOUTH BAY RECYCLING

WHEREAS, the SBWMA owns a Materials Recovery Facility (MRF) and contracts with SBR to operate the MRF; and

WHEREAS, SBR needs reliable sort workers to process franchise and third-party tons; and

WHEREAS, SBR and the County have been operating under an interim contract since the expiration on December 30, 2013 of the prior three-year agreement; and

WHEREAS, the SBWMA must approve the use of subcontractors by SBR, and SBR agrees to abide by the terms and conditions set forth in the MOU agreement detailed in **Exhibit A**.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby authorizes the Executive Director to enter into an agreement (per **Exhibit A**) with SBR for the use of County VRS as a subcontract supplier of sort workers at the MRF.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the 25th day of September, 2014, by the following vote:

Agency	Yes	No	Abstain	Absent	Agency	Yes	No	Abstain	Absent
Atherton					Menlo Park				
Belmont					Redwood City				
Burlingame					San Carlos				
East Palo Alto					San Mateo				
Foster City					County of San Mateo				
Hillsborough					West Bay Sanitary Dist.				

I HEREBY CERTIFY that the foregoing Resolution No. 2014-22 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on September 25, 2014.

ATTEST:

Bill Widmer, Chairperson of SBWMA

Cyndi Urman, Board Secretary

Exhibit A

**MEMORANDUM OF UNDERSTANDING
FOR THE SUBCONTRACTING OF MRF SORT WORKERS
THROUGH SAN MATEO COUNTY VOCATIONAL REHABILITATION SERVICES**

This is an agreement (MOU) by and between the South Bayside Waste Management and Authority, a California JPA (SBWMA) and South Bay Recycling (SBR), regarding the use of subcontract MRF sort workers through the San Mateo County Vocational Rehabilitation Services (VRS) program.

WHEREAS, the SBWMA owns a Materials Recovery Facility (MRF) that needs sort workers for processing of franchise and third-party MRF tonnage on a daily basis and has an agreement with SBR to provide this service; and

WHEREAS, the prior agreement for MRF Sort workers between SBR and the San Mateo County VRS program expired on December 30, 2013 and a new three year agreement has been agreed to by the parties for MRF sort staffing; and

WHEREAS, the Shoreway Operations Agreement between SBWMA and SBR requires SBR to obtain Board or Directors approval for the use of subcontractors at the MRF;

Therefore, The SBWMA and SBR agree to the following terms and conditions that shall apply to the subcontracting of MRF sort workers by SBR through the San Mateo County VRS program:

1. The MOU shall be for a period of three years or coterminous with the Agreement between SBR and VRS.
2. Any change or extension of the Agreement between SBR and VRS shall be in writing and approved by the SBWMA Board of Directors.
3. All of the terms and conditions of the Agreement for Operations of the Shoreway Recycling and Disposal Center shall apply to this MOU, and to the Agreement between SBR and VRS.

Dated: _____

SBR

Dated: _____

SBWMA

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND SOUTH BAY
RECYCLING**

THIS AGREEMENT, entered into this 1st day of January, 2015, by and between COUNTY OF SAN MATEO hereinafter called "County," and SOUTH BAY RECYCLING, LLC, hereinafter called "Contractor".

WITNESSETH:

WHEREAS, San Mateo County residents with barriers to employment are in need of training in order to obtain jobs and the Vocational Rehabilitation Services program of the Human Services Agency is teaming up with the recycling industry to provide training and employment opportunities to the hard-to-employ population; and

WHEREAS, the County and Contractor desire to enter into an agreement whereby the Contractor will provide training and employment opportunities to San Mateo County residents with barriers to employment, (hereafter called "Clients"), through Supported Employment Programs (SEP) at Contractor's facility and will reimburse the County for Client wages, supervision costs, and administration costs;

**NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS
FOLLOWS:**

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

- Exhibit A: Program Description
- Exhibit B: Payment and Rates
- Exhibit C: Left Blank Intentionally
- Exhibit D: Program Monitoring
- Exhibit E: Program Requirements
- Exhibit F: Insurance
- Exhibit G: Budget
- Exhibit H: Assurance
- Exhibit I: Code of Conduct
- Exhibit J: Standard Operating Procedures
- Attachment I: §504 Compliance
- Attachment II: County Performance Guarantee

2. County Referral of SEP Clients

In consideration of the payments made by Contractor based on the rates and in the manner set forth herein and Exhibits B, C, G, and H, and Attachment II, the County shall make referrals in accordance with the terms, conditions and specifications set forth herein and in Exhibits A, D, E, and I.

3. Payments by Contractor

In consideration of the referrals provided by the County in accordance with all terms, conditions and specifications set forth herein and in Exhibits A, D, E, and I hereto, Contractor shall make payment to County based on the rates and in the manner specified in Exhibits B, C, G, and H, and Attachment II. In no event shall the County incur any fiscal obligation to Contractor under this Agreement. The County acknowledges that its overhead cost due under this Agreement may be reduced, as described in Attachment II.

4. Term and Termination

The term of this Agreement shall be from the date of approval by both parties through December 31, 2017.

This Agreement may be terminated by Contractor, the Director of the Human Services Agency, or his/her designee at any time without a requirement of good cause upon one hundred twenty (120) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereinafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials.

5. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees and servants from all claims, suits or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor's officers, agents, employees, or servants, (B) damages to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set for in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including, but not limited to that caused by the concurrent active or passive negligence of the County, its officers, agents, employees, or servants, resulting from the performance of any work performed by Contractor, its officers, agents, employees, or servants, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

6. Assignability and Subcontracting

Contractor shall not assign or subcontract this Agreement or any portion thereof to a third party to pay for the referrals provided by the County under this Agreement without the prior written consent of the County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

7. Insurance

Contractor shall not undertake to utilize any of the County’s SEP Clients under this Agreement until all insurance required under this section has been obtained by the Contractor and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractors coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days’ notice must be given, in writing, to County of any ending change in the limits of liability or of any cancellation or modification of this policy.

- 1) **Worker’s Compensation and Employer’s Liability Insurance.** Contractor shall have in effect during the entire life of this Agreement Worker’s Compensation and Employer’s Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, a required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker’s Compensation or to undertake self-insurance in accordance with the provisions of the Code, and Contractor will comply with such provisions before commencing the utilization of the County’s SEP Clients pursuant to this Agreement.

- 2) **Liability Insurance.** Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance, as shall protect the Contractor and County while the County’s SEP Clients perform the work covered under this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise under this Agreement whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- a. Comprehensive General Liability..... \$5,000,000
- b. Motor Vehicle Liability Insurance..... \$1,000,000
- c. Professional Liability..... \$1,000,000

The County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to Contractor and its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if County and it offers and employee have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County, at its option, may notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

8. Compliance with laws; payment of Permits/Licenses

All obligations to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Exhibit C, which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations.

In the event of a conflict between the terms of this Agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

9. Non-Discrimination and Other Requirements

- A. Section 504 applies only to Contractors who are providing services to members of the public. Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified disabled individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. General non-discrimination. No person shall, on the grounds of age (over 40), ancestry, creed, color, disability, marital status, medical conditions, national origin, political or religious affiliation, race, sex, sexual orientation or any non-job-related criteria be excluded from participation in, be denied the benefits, or be subjected to discrimination under this Agreement.
- C. Equal employment opportunity. Contractor shall ensure equal employment opportunity based on objective standards or recruitment, selection, promotion, classification, compensation, performance evaluations, and management relations, for all employees under this Agreement. Contractor's non-discrimination policies shall be made available to County upon request.

- D. Violation of the non-discrimination provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to:
- i. Termination of this Agreement;
 - ii. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii. Liquidated damages of \$2,500 per violation; and/or
 - iv. Imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section and subject to privacy laws, including but not limited to HIPPA, the County Manager or his designee shall have the authority to examine Contractor's employment records with respect to compliance to this section.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within thirty (30) days of such filing, provided that within such thirty (30) days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complaint, a copy of such complaint and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. Compliance with Equal Benefits Ordinance. With respect to the provision of employee benefits, Contractor shall comply with County Ordinance which prohibits Contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirement required by 41 CFR 60-741.5 (a), which is incorporated herein as if full, set forth.

10. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit an fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

11. Retention of Records, Right to Monitor and Audit

- a) Contractor shall maintain all required records for three (3) years after the termination of this Agreement and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, through any authorized representative, the access and the right to examine all records, books, papers, and other documents related to this Agreement.
- b) Reporting and Record Keeping: Contractor shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the County.
- c) Contractor agrees to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

12. Merger Clause

This Agreement, including the Exhibits and Attachment attached hereto and incorporated herein by reference, constitutes the sole agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this documents date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with a term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

13. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venue either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

14. Notices

Any notice request, demand or other communications required or permitted hereunder shall be deemed to be properly given when deposited in the United States mail, postage prepaid, or when deposited with a public telegraph company for transmittal, charges prepaid, addressed:

In the case of County, to:
John Joy
1 Davis Drive
Belmont, CA 94002
Facsimile: (650) 802-5157

In the case of Contractor, to:
Dwight Herring
South Bay Recycling, LLC
333 Shoreway Road
San Carlos, CA 94070
Facsimile: (650) 802-8355

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
Its: President, Board of Supervisors

Date: _____

ATTEST:

By: _____
Its: Clerk of Said Board

Date: _____

SOUTH BAY RECYCLING

By: _____
Its: General Manager

Date: _____

EXHIBIT A
Program Description

In consideration of the payments made by Contractor based on the rates and in the manner set forth in Exhibits B, C, G, and H, and Attachment II, the County shall make referrals in accordance with the terms, conditions and specifications set forth herein and in Exhibits D, E, and I, and Attachment II.

This Agreement will establish a joint program between the County of San Mateo and Contractor to continue a Supported Employment Program at Contractor's facility located in San Carlos, California.

For the purpose of this Agreement, the term "Supported Employment" refers to the arrangement whereby a specific number of SEP Clients are assigned to the Contractor as specified in Exhibit B, under the direct supervision of SEP Production Supervisors. This scenario is commonly called an "Enclave" wherein SEP would assign both Clients and supervisor(s) to work at a location other than SEP.

County, exclusively through their SEP (Supported Employment Programs), will perform certain services for Contractor relating to its residential and commercial recycling operations as described in Exhibits and Attachments to this Agreement. SEP agrees to pay Clients and Supervisor wages, and Contractor agrees to reimburse SEP for wages, supervision, and administrative overhead as described in Exhibit B and Exhibit G.

Any disciplinary action and/or removal of any of the SEP Clients or Production Supervisors must be by mutual agreement between Contractor and SEP representatives, prior to any action being taken. Contractor has the ultimate responsibility to operate the SEC MRF facility in a safe and efficient manner, and as such, the Contractor may require that a SEP Client or Supervisor be suspended without charge to the Contractor while disciplinary action and/or termination action is under consideration by SEP and the Contractor.

EXHIBIT B
Payment Schedule

In consideration of the referrals provided by County in accordance with all terms, conditions and specifications set forth in Exhibits A, D, E, and I hereto, South Bay Recycling (“Contractor”) shall make payment to County based on the rates and in the manner specified herein and in Exhibits C, G, and H, and Attachment II:

I. Reimbursement to the County for Program Clients:

County shall refer SEP Clients to work at Contractor in a paid Supported Employment Program. Clients may train in this program and receive a paid position at Contractor’s facilities for up to 24 months. Contractor shall reimburse County for all Client related costs for this program.

Reimbursement shall be based on the cost per Client as shown in Exhibit G and this Exhibit. The number of Clients shall be determined by Contractor. Contractor will determine the number of Clients per shift with two shifts operating each work day; however, this number is subject to change based on the needs of the operation. Based on full operation, the number of Clients per shift is anticipated to be 24. Contractor will provide the County with at least 15 days’ written notice prior of its intent to modify the minimum staffing requirement and County guarantees to meet Contractor’s minimum staffing requirements.

II. Rates for Reimbursement to the County for SEP Clients:

It is anticipated that Clients will work with Contractor for up to 45 hours per week per shift and be paid for their participation by County. Depending on the needs of the facility, additional overtime may be necessary. Contractor agrees to work cooperatively with SEP to address any need for significant overtime by providing as much advance notice as possible and by considering modifications to shift times, etc., that may be necessary. It shall be the responsibility of Contractor to reimburse County for such payments as follows:

1. Contractor shall reimburse County a base cost of \$15.95 per hour for each Client for up to 40 hours per week and \$21.45 per hour after 40 hours per week has been exceeded. Any hours worked by a Client on a holiday, the County shall be reimbursed at \$26.95 per hour (*such rate is based on a base wage equivalent of \$11.00 per hour and includes Workers Compensation and Regulatory Fee of 25% above the straight-time wage equivalent and an additional 20% overhead cost above the straight-time wage equivalent*).
2. Contractor shall reimburse County for a \$100.00 bonus payment to each Client who completes six (6) months at Contractor with uninterrupted service.
3. Contractor shall reimburse County for a \$500.00 bonus payment to each Client who completes twelve (12) months at Contractor with uninterrupted service. SEP Clients are eligible to receive holiday pay once they have completed their three (3) month probation.

Contractor shall reimburse County for holidays worked by eligible SEP Clients. The holidays eligible for holiday pay are:

Washington's Birthday

Independence Day

Memorial Day

Labor Day

4. An adjustment to the hourly rate may apply should the California minimum wage be increased in 2016 and beyond (currently \$9.00 effective July 2014 and \$10.00 effective July 2015 per hour).

III. **Rates for Reimbursement to County for Program Administration and Supervisory Salaries:**

Contractor shall reimburse SEP for County staff costs associated with operating this program. County's staff costs (shown in Exhibit G) includes salaries, benefits, taxes and other expenses incurred by County including workers compensation, regulatory fees, incentives, bonus, vacation and holiday pay. County will supply a minimum of one (1) Production Supervisor and one (1) Senior Utility Worker per shift who work full time at Contractor's facility.

IV. **Payments**

County shall pay Clients directly for their work with Contractor. Contractor shall reimburse County monthly for actual costs incurred by County upon receipt from County of an invoice based on the rates outlined in Exhibit G. Total reimbursement to County shall not exceed the rates outlined in Exhibit G over the term of the Agreement unless agreed upon by both parties and set forth in a written amendment to the Agreement in accordance with Section 12 of the Agreement.

EXHIBIT C

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EXHIBIT D
Program Monitoring

County of San Mateo through Vocational Rehabilitation Services (VRS) and Contractor shall monitor the Supported Employment Program at the South Bayside Waste Management Authority (SBWMA) Shoreway Environmental Center (SEC) facility as described herein.

The VRS Program Manager or his/her designee shall be available to Contractor's assigned designee to resolve any programmatic concerns.

Contractor shall review overall results and ongoing activities as outlined in this Agreement, which includes but is not limited to the following: Supervisor's weekly performance reports; day to day production throughput; bi-weekly compensation metrics.

Both parties understand and agree that SEP Client staffing, supervisory performance, and overall productivity levels are of critical importance to ensure the long term viability of this Agreement and as such will work together to ensure that Contractor's needs, as described in Exhibit E, Exhibit J and Exhibit I of this Agreement are met on a consistent basis.

EXHIBIT E
Programs Specific Requirements

County, through the Vocational Rehabilitation Services Supported Employment Program (SEP), guarantees to provide Contractor with a minimum of 90% of the requested SEP Clients for each shift of each regularly scheduled work day (as defined in this Exhibit "Working Hours").

County, through the Vocational Rehabilitation Services Supported Employment Program (SEP), guarantees to provide a minimum of one (1) SEP Production Supervisor and one (1) SEP Senior Utility Worker for each shift of each regularly scheduled work day

The assigned SEP Clients, SEP Production Supervisors and SEP Senior Utility Workers will follow tasks as specified by Contractor as it relates to material separation for the purposes of recycling.

Contractor agrees to reimburse County for two (2) SEP Production Supervisors and two (2) SEP Senior Utility Workers, and up to 5% more Clients per shift than requested. Such reimbursement shall be at the rates described in Exhibit B and Exhibit G.

Contractor's Policies: SEP Clients, SEP Production Supervisors and SEP Senior Utility Workers working at the Materials Recovery Facility (MRF) will observe Contractor's Policies as described in Exhibit I.

Working Hours: Regularly scheduled working hours for first or second shift will be established for Monday through Friday (Monday through Saturday on weeks which include a holiday during the work week). Additional overtime, weekend, and holiday work may, at Contractor's option, be requested with reasonable advance notice, and the County will use best efforts to provide SEP Clients to meet such requests.

The Contractor may request a shift with different working hours or different working locations within the SEC MRF or different rates of pay for select SEP Clients. With mutual understanding between the County and Contractor, some SEP Clients may be assigned to work overlapping shifts.

Holidays observed for SEP Clients will be as follows:

New Year's Day	Labor Day
Washington's Birthday	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

Holidays observed for SEP Production Supervisors and SEP Utility Workers will be as follows:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Lincoln's Birthday (Floating Holiday)	Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Day

A mandatory Saturday make-up shift may be scheduled, at the discretion of the Contractor, during the weeks which contain the above holidays.

Seasonal Staffing Increases: Contractor historically experiences significant increases in materials delivered to the Facility for sorting and processing during the holidays. In order to address this seasonal increase, the Parties agree to temporarily increase the staffing requirements during this period as follows:

1. During the week preceding and the week following Thanksgiving, each shift will be staffed by up to 10% more Clients; and
2. From mid-December to mid-January, each shift will be staffed by up to 15% more Clients.

EXHIBIT F
Insurance

County and Contractor agrees to keep at a minimum the following insurance requirements in full force and effect during the term of this Agreement.

Workers' Compensation: This coverage will be provided by and paid for by the County for all SEP Clients and SEP Production Supervisors.

Employers Liability: \$1,000,000 each Bodily Injury by Accident; \$1,000,000 each occurrence Bodily Injury by Disease.

Automobile Liability:

Bodily Injury/Property Damage: \$5,000,000
Combined – Single Limit: Coverage is to apply to all owned, non-owned, hired and leased vehicles (including trailers).

Commercial General Liability:

Bodily Injury/Property Damage: \$5,000,000 each occurrence
Combined-Single Limit: \$10,000,000 general aggregate

Commercial General Liability insurance is to include Contractual Liability coverage specifically covering Contractor's Indemnification of Owner as stated in Paragraph 6 above.

Coverage is to be provided for Products/Completed Operations.

The policy shall also contain a cross Liability/Severability of Interests provision assuring that the acts of one insured does not affect the applicability of coverage to another insured.

Contractor can meet the above required limits of liability through primary or primary and umbrella insurance coverage.

The policy shall be endorsed to provide both parties with thirty (30) days prior written notice of termination, cancellation or material change in coverage. Such insurance shall name the other party as additional insured and shall hold the other party harmless of liability and all such actions. Satisfactory evidence of such insurance in an acceptable company shall be submitted to the other party at least ten (10) days prior to the commencement of services as outlined in this Agreement. In addition, said certificates of insurance naming Contractor as additional insured shall be resubmitted to Contractor on an annual basis.

**Exhibit G
Budget for Term of Agreement**

		2015					
Client Reimbursement Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 11.00	\$ 440.00	\$ 82.50	\$ 522.50	\$ 27,170.00	\$ 652,080.00	
Overhead Cost	\$ 2.20	\$ 88.00	\$ 11.00	\$ 99.00	\$ 5,148.00	\$ 123,552.00	
Regulatory Fee	\$ 2.75	\$ 110.00	\$ 13.75	\$ 123.75	\$ 6,435.00	\$ 154,440.00	
Base Cost/Hour	\$ 15.95	\$ 638.00	\$ 107.25	\$ 745.25	\$ 38,753.00	\$ 930,072.00	
Client Reimbursement - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 11.00	\$ 88.00			\$ 352.00	\$ 8,448.00	
Overhead Cost	\$ -	\$ -			\$ -	\$ -	
Regulatory Fee	\$ -	\$ -			\$ -	\$ -	
Base Cost/Hour	\$ 11.00	\$ 88.00	\$ -	\$ -	\$ 352.00	\$ 8,448.00	
Production Supvr - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 58.36	\$ 2,334.36		\$ 2,334.36	\$ 121,386.70	\$ 121,386.70	
Overtime Rate	\$ 72.43		\$ 362.17	\$ 362.17	\$ 18,832.77	\$ 18,832.77	
Base Cost/Hour	\$ 130.79	\$ 2,334.36	\$ 362.17	\$ 2,696.53	\$ 140,219.47	\$ 140,219.47	
Production Supvr - Hoiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 72.43	\$ 579.47			\$ 4,056.29	\$ 4,056.29	
Base Cost/Hour	\$ 72.43	\$ 579.47	\$ -	\$ -	\$ 4,056.29	\$ 4,056.29	
Utility Worker - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 51.08	\$ 2,043.25		\$ 2,043.25	\$ 106,249.02	\$ 106,249.02	
Overtime Rate	\$ 61.58		\$ 307.89	\$ 307.89	\$ 16,010.48	\$ 16,010.48	
Base Cost/Hour	\$ 112.66	\$ 2,043.25	\$ 307.89	\$ 2,351.14	\$ 122,259.50	\$ 122,259.50	
Utility Worker - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 61.58	\$ 492.63			\$ 3,448.41	\$ 3,448.41	
Base Cost/Hour	\$ 61.58	\$ 492.63	\$ -	\$ -	\$ 3,448.41	\$ 3,448.41	
Client Reimbursement Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 11.00	\$ 440.00	\$ 82.50	\$ 522.50	\$ 27,170.00	\$ 652,080.00	
Overhead Cost	\$ 2.20	\$ 88.00	\$ 11.00	\$ 99.00	\$ 5,148.00	\$ 123,552.00	
Regulatory Fee	\$ 2.75	\$ 110.00	\$ 13.75	\$ 123.75	\$ 6,435.00	\$ 154,440.00	
Base Cost/Hour	\$ 15.95	\$ 638.00	\$ 107.25	\$ 745.25	\$ 38,753.00	\$ 930,072.00	
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Hourly Rate	\$ 11.00	\$ 88.00			\$ 352.00	\$ 8,448.00	
Overhead Cost	\$ -	\$ -			\$ -	\$ -	
Regulatory Fee	\$ -	\$ -			\$ -	\$ -	
Base Cost/Hour	\$ 11.00	\$ 88.00	\$ -	\$ -	\$ 352.00	\$ 8,448.00	
Production Supvr - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 58.36	\$ 2,334.36		\$ 2,334.36	\$ 121,386.70	\$ 121,386.70	
Overtime Rate	\$ 72.43		\$ 362.17	\$ 362.17	\$ 18,832.77	\$ 18,832.77	
Base Cost/Hour	\$ 130.79	\$ 2,334.36	\$ 362.17	\$ 2,696.53	\$ 140,219.47	\$ 140,219.47	
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Hourly Rate	\$ 51.08	\$ 2,043.25		\$ 2,043.25	\$ 106,249.02	\$ 106,249.02	
Overtime Rate	\$ 61.58		\$ 307.89	\$ 307.89	\$ 16,010.48	\$ 16,010.48	
Base Cost/Hour	\$ 112.66	\$ 2,043.25	\$ 307.89	\$ 2,351.14	\$ 122,259.50	\$ 122,259.50	
Utility Worker - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost	
Hourly Rate	\$ 61.58	\$ 492.63			\$ 3,448.41	\$ 3,448.41	
Base Cost/Hour	\$ 61.58	\$ 492.63	\$ -	\$ -	\$ 3,448.41	\$ 3,448.41	
Total Participant Intern Cost						\$ 1,333,728.00	
Total Supervisory Cost						\$ 539,967.32	
Total Administrative Expense						\$ 611,501.58	
Annual Program Expense						\$ 2,485,196.90	

	2016					
Client Reimbursement Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 440.00	\$ 82.50	\$ 522.50	\$ 27,170.00	\$ 652,080.00
Overhead Cost	\$ 2.20	\$ 88.00	\$ 11.00	\$ 99.00	\$ 5,148.00	\$ 123,552.00
Regulatory Fee	\$ 2.75	\$ 110.00	\$ 13.75	\$ 123.75	\$ 6,435.00	\$ 154,440.00
Base Cost/Hour	\$ 15.95	\$ 638.00	\$ 107.25	\$ 745.25	\$ 38,753.00	\$ 930,072.00
Client Reimbursement - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 88.00			\$ 352.00	\$ 8,448.00
Overhead Cost	\$ -	\$ -			\$ -	\$ -
Regulatory Fee	\$ -	\$ -			\$ -	\$ -
Base Cost/Hour	\$ 11.00	\$ 88.00	\$ -	\$ -	\$ 352.00	\$ 8,448.00
Production Supvr - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 62.58	\$ 2,503.33		\$ 2,503.33	\$ 130,172.91	\$ 130,172.91
Overtime Rate	\$ 76.98		\$ 384.91	\$ 384.91	\$ 20,015.39	\$ 20,015.39
Base Cost/Hour	\$ 139.57	\$ 2,503.33	\$ 384.91	\$ 2,888.24	\$ 150,188.30	\$ 150,188.30
Production Supvr - Hoiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 76.98	\$ 615.86			\$ 4,311.01	\$ 4,311.01
Base Cost/Hour	\$ 76.98	\$ 615.86	\$ -	\$ -	\$ 4,311.01	\$ 4,311.01
Utility Worker - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 54.87	\$ 2,194.65		\$ 2,194.65	\$ 114,122.00	\$ 114,122.00
Overtime Rate	\$ 65.48		\$ 327.38	\$ 327.38	\$ 17,023.80	\$ 17,023.80
Base Cost/Hour	\$ 120.34	\$ 2,194.65	\$ 327.38	\$ 2,522.03	\$ 131,145.80	\$ 131,145.80
Utility Worker - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 65.48	\$ 523.81			\$ 3,666.66	\$ 3,666.66
Base Cost/Hour	\$ 65.48	\$ 523.81	\$ -	\$ -	\$ 3,666.66	\$ 3,666.66
Client Reimbursement Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 440.00	\$ 82.50	\$ 522.50	\$ 27,170.00	\$ 652,080.00
Overhead Cost	\$ 2.20	\$ 88.00	\$ 11.00	\$ 99.00	\$ 5,148.00	\$ 123,552.00
Regulatory Fee	\$ 2.75	\$ 110.00	\$ 13.75	\$ 123.75	\$ 6,435.00	\$ 154,440.00
Base Cost/Hour	\$ 15.95	\$ 638.00	\$ 107.25	\$ 745.25	\$ 38,753.00	\$ 930,072.00
Client Reimbursement - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 88.00			\$ 352.00	\$ 8,448.00
Overhead Cost	\$ -	\$ -			\$ -	\$ -
Regulatory Fee	\$ -	\$ -			\$ -	\$ -
Base Cost/Hour	\$ 11.00	\$ 88.00	\$ -	\$ -	\$ 352.00	\$ 8,448.00
Production Supvr - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 62.58	\$ 2,503.33		\$ 2,503.33	\$ 130,172.91	\$ 130,172.91
Overtime Rate	\$ 76.98		\$ 384.91	\$ 384.91	\$ 20,015.39	\$ 20,015.39
Base Cost/Hour	\$ 139.57	\$ 2,503.33	\$ 384.91	\$ 2,888.24	\$ 150,188.30	\$ 150,188.30
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Utility Worker - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 54.87	\$ 2,194.65		\$ 2,194.65	\$ 114,122.00	\$ 114,122.00
Overtime Rate	\$ 65.48		\$ 327.38	\$ 327.38	\$ 17,023.80	\$ 17,023.80
Base Cost/Hour	\$ 120.34	\$ 2,194.65	\$ 327.38	\$ 2,522.03	\$ 131,145.80	\$ 131,145.80
Utility Worker - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 65.48	\$ 523.81			\$ 3,666.66	\$ 3,666.66
Base Cost/Hour	\$ 65.48	\$ 523.81	\$ -	\$ -	\$ 3,666.66	\$ 3,666.66
Total Participant Intern Cost						\$ 1,333,728.00
Total Supervisory Cost						\$ 578,623.55
Total Administrative Expense						\$ 613,974.23
Annual Program Expense						\$ 2,526,325.77

	2017					
Client Reimbursement Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 440.00	\$ 82.50	\$ 522.50	\$ 27,170.00	\$ 652,080.00
Overhead Cost	\$ 2.20	\$ 88.00	\$ 11.00	\$ 99.00	\$ 5,148.00	\$ 123,552.00
Regulatory Fee	\$ 2.75	\$ 110.00	\$ 13.75	\$ 123.75	\$ 6,435.00	\$ 154,440.00
Base Cost/Hour	\$ 15.95	\$ 638.00	\$ 107.25	\$ 745.25	\$ 38,753.00	\$ 930,072.00
Client Reimbursement - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 88.00			\$ 352.00	\$ 8,448.00
Overhead Cost	\$ -	\$ -			\$ -	\$ -
Regulatory Fee	\$ -	\$ -			\$ -	\$ -
Base Cost/Hour	\$ 11.00	\$ 88.00	\$ -	\$ -	\$ 352.00	\$ 8,448.00
Production Supvr - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 64.79	\$ 2,591.57		\$ 2,591.57	\$ 134,761.54	\$ 134,761.54
Overtime Rate	\$ 79.35		\$ 396.73	\$ 396.73	\$ 20,630.21	\$ 20,630.21
Base Cost/Hour	\$ 144.14	\$ 2,591.57	\$ 396.73	\$ 2,988.30	\$ 155,391.76	\$ 155,391.76
Production Supvr - Hoiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 79.35	\$ 634.78			\$ 4,443.43	\$ 4,443.43
Base Cost/Hour	\$ 79.35	\$ 634.78	\$ -	\$ -	\$ 4,443.43	\$ 4,443.43
Utility Worker - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 56.84	\$ 2,273.78		\$ 2,273.78	\$ 118,236.52	\$ 118,236.52
Overtime Rate	\$ 67.50		\$ 337.51	\$ 337.51	\$ 17,550.74	\$ 17,550.74
Base Cost/Hour	\$ 124.35	\$ 2,273.78	\$ 337.51	\$ 2,611.29	\$ 135,787.26	\$ 135,787.26
Utility Worker - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 67.50	\$ 540.02			\$ 3,780.16	\$ 3,780.16
Base Cost/Hour	\$ 67.50	\$ 540.02	\$ -	\$ -	\$ 3,780.16	\$ 3,780.16
Client Reimbursement Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 440.00	\$ 82.50	\$ 522.50	\$ 27,170.00	\$ 652,080.00
Overhead Cost	\$ 2.20	\$ 88.00	\$ 11.00	\$ 99.00	\$ 5,148.00	\$ 123,552.00
Regulatory Fee	\$ 2.75	\$ 110.00	\$ 13.75	\$ 123.75	\$ 6,435.00	\$ 154,440.00
Base Cost/Hour	\$ 15.95	\$ 638.00	\$ 107.25	\$ 745.25	\$ 38,753.00	\$ 930,072.00
Client Reimbursement - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 11.00	\$ 88.00			\$ 352.00	\$ 8,448.00
Overhead Cost	\$ -	\$ -			\$ -	\$ -
Regulatory Fee	\$ -	\$ -			\$ -	\$ -
Base Cost/Hour	\$ 11.00	\$ 88.00	\$ -	\$ -	\$ 352.00	\$ 8,448.00
Production Supvr - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 64.79	\$ 2,591.57		\$ 2,591.57	\$ 134,761.54	\$ 134,761.54
Overtime Rate	\$ 79.35		\$ 396.73	\$ 396.73	\$ 20,630.21	\$ 20,630.21
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Hourly Rate	\$ 79.35	\$ 634.78			\$ 4,443.43	\$ 4,443.43
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Utility Worker - Basic	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
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Utility Worker - Holiday	Hourly Rate	Wages Reg	Wages OT	Weekly	Annual	Ttl Cost
Hourly Rate	\$ 67.50	\$ 540.02			\$ 3,780.16	\$ 3,780.16
Base Cost/Hour	\$ 67.50	\$ 540.02	\$ -	\$ -	\$ 3,780.16	\$ 3,780.16
Total Participant Intern Cost						\$ 1,333,728.00
Total Supervisory Cost						\$ 598,805.21
Total Administrative Expense						\$ 616,603.83
Annual Program Expense						\$ 2,549,137.04

Footnote #1: The above costs are based on 40 regular hours and 5 overtime hours per week per shift for a total of two (2) shifts.

Footnote #2: The estimated costs outlined above are based on current known factors that may vary throughout the term of this Agreement. Reimbursement for SEP Client costs and program administration will be based on actual costs of providing the Contractor Program in partnership with the Human Services Agency Vocational Rehabilitation Services Program.

Exhibit H
Contractor and County Assurances

Contractor assures that:

1. Services and activities provided under this Agreement will be administered by or under the supervision of the Contractor.
2. All applicable federal, state, municipal and local standards for health and safety in work and training situations, including all provisions of the Occupational Safety and Health Act of 1979 and all amendments hereto, will be maintained.
3. Contractor will give the County, through any authorized representative, the access and the right to examine all records, books, papers, and other documents related to this Agreement.
4. Contractor will comply with the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964, and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam-era Veterans Status, political affiliation, or any other non-merit factors be excluded from participation in, be denied the benefits of, or be subject to discrimination under this Agreement.
5. No individual shall be discriminated against solely because of his or her status under this Agreement.
6. Individuals shall be compensated at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary of Labor, but in no event at a rate less than that specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 or if higher, under the applicable state or local minimum wage law.
7. Contractor will comply with the provisions of the Immigration Reform and Control Act of 1986, which requires employers to verify that all Clients are eligible to work in the United States as legal residents of the United States.
8. This Agreement shall not impair existing contracts for service or collective bargaining agreements.
9. Contractor understands that fraudulent claims or actions under this Agreement are subject to criminal penalties and the County may invoke all sanctions available to it in the event of such fraud. An example of fraud would be submitting a false invoice requesting reimbursement on wages that have not been paid.

10. Contractor has a “Permit to Employ and Work” on file during the term of employment of any minors hired under this Agreement, and will comply with all labor laws applicable to the employment of a minor.
11. Contractor shall provide Workers Compensation insurance for its own employees. The County shall provide Workers Compensation insurance for the Clients and SEP Production Supervisors. Neither Contractor nor its carrier shall be entitled to recover any costs, settlements, or expenses of Workers Compensation claims made by Clients or SEP Production Supervisors. Contractor shall provide evidence of its insurance coverage of its own employees to County upon request.
12. Contractor and County shall provide comprehensive general liability insurance protection, and, if the Client will operate a motor vehicle as part of his/her job responsibilities, shall also provide comprehensive automobile liability insurance. Contractor shall provide evidence of this insurance coverage to the County upon request.
13. Contractor shall inform the County in writing in the event Contractor no longer requires a second shift. The County will have ten (10) days from the time they receive the notice from Contractor to terminate the second shift.
14. In the event the second shift is eliminated, Attachment II will continue to apply.
15. County will work closely with Contractor to provide Clients at start times which meet Contractor’s requirements. Contractor, at their sole and absolute discretion, may change start times provided that sixty (60) day written notice is provided to the County. Both parties recognize that changing start times may create complications, since many Clients rely on public transportation to travel to and from work, and as such Contractor will make a good faith effort to minimize such changes and work closely with County to try and achieve start times that are acceptable to Clients.

EXHIBIT I

Code of Conduct

Contractor shall inform SEP Clients and SEP Production Supervisors of the workplace policies and procedures applicable to Contractor's employees. Any violation of Contractor policies and procedures by SEP Clients and SEP Production Supervisors may result in re-assignment to a program other than Contractor's.

The Contractor wishes to maintain a workplace where all employees are safe and enjoy coming to work, while at the same time meeting the Agreement requirements in a competitive and efficient manner. To accomplish this, cooperation is required from everyone and a set of guidelines regarding employee conduct and performance have been put in place.

Any action that, in the opinion of Contractor, actually or potentially interferes with or harms its business is a reason for requesting that the County remove a SEP Client or SEP Production Supervisors from assignment to Contractor. This discipline may range from warnings to immediate removal, depending on the action.

To decide on the appropriate action, the County, acting on the recommendation of the Contractor may consider the seriousness of the action, the SEP Clients or SEP Production Supervisors record, the ability to correct the action, discipline the Contractor has used for similar action by other employees, how the action affects production, quality, safety and other circumstances.

The following is a partial list of actions that may result in request for removal of a SEP Client or SEP Production Supervisor and, depending on the severity, may be grounds for immediate removal from assignment to Contractor:

- Unsatisfactory performance, such as failure to do assigned work in a satisfactory manner, or failure to cooperate satisfactorily with supervisors, subordinates and/or other co-workers;
- Insubordination, such as failure or refusal to do assigned work or carry out any reasonable direction of a supervisor or Contractor's representative;
- Violation of any Contractor's policy, work rule or procedure: Discrimination in hiring, paying, promoting, transferring, training, terminating or interrelating with employees on the grounds of race, color, religion, national origin, gender, age, disability, sexual orientation, veteran status, or other classification protected by law;
- Absence from work without proper notification and authorization;
- Failure to return at the end of vacation or leave of absence;
- Harassment in violation of Contractor's policies;
- Retaliation or threatening retaliation against employees who exercise rights under Contractor's policies or employment laws;
- Fighting, threatening, intimidating or coercing anyone;

- Use, sale, purchase, transfer, consumption, presence in one's system or transportation of any alcoholic beverage or illegal drug, or the misuse of prescription drugs, on or in SBWMA property or on Contractor's time;
- Smoking in prohibited areas;
- Violation of Contractor's safety practices;
- Conflict of interest with Contractor's business;
- Improper use or distribution of confidential Contractor's information, including personnel-related information regarding other employees;
- Acts of sabotage, destruction, salvaging or unauthorized removal of Contractor or of another person's property;
- Illegal possession or storage of firearms, explosives or weapons on Contractor premises or on Contractor's time;
- Dishonesty regarding any aspect of your employment or Contractor's business including misuse of funds or other Contractor's property;
- Conduct that reflects badly on the Contractor; and
- Failure to follow the rules of conduct necessary to the safety and welfare of the company, its employees and the public.

The above list is not intended to be complete.

Drug and Alcohol Use

Contractor is committed to providing a safe and healthy workplace for its employees. A portion of this commitment is demonstrated in part through a drug and alcohol program, which consists of pre-employment, reasonable suspicion, post-accident, and follow-up testing for drug and alcohol misuse. This testing applies to all Clients and Production Supervisors, regardless of position, to the extent allowable by law.

The Alcohol and Drug Free Workplace and Substance Abuse Policy and related procedures apply to any SEP Client or SEP Production Supervisor while at work or doing his/her job, on or in SBWMA property or operating Contractor's equipment. It specifically prohibits the use or sale of any alcoholic beverage or controlled substance (with the exception of medically prescribed drugs being used properly as explained in the referenced policy). Although this summary is provided as an overview of the company's Alcohol and Drug Free Workplace and Substance Abuse Policy, SEP Clients and SEP Production Supervisors are responsible to read the actual policy and procedures, comply with them, and ensure that Clients also understand and comply with them.

Workplace Violence

Both parties believe that a supportive and healthy work environment must be free of violence or the threat of violence. To make sure SEP Clients and SEP Production Supervisors, customers, and others are safe; acts of violence will not be tolerated.

Violent behavior includes:

- Actual or threatened harm to another person, whether verbal or physical in nature;
- The illegal possession on company property of weapons or explosives of any kind; or
- Loud, angry, or disruptive conduct.

If a SEP Client or SEP Production Supervisor knows or suspects that a violent act has occurred or may occur in the future, it must be reported promptly to his/her supervisor or any manager. No adverse action will be taken against anyone who, in good faith, reports acts or threats of violence. All reports of violence or threats of violence will be investigated and appropriate actions will be taken to ensure a safe working environment.

EXHIBIT J
Standard Operating Procedures

Both parties recognize the importance of program participants meeting performance standards that have been established and agreed upon. SEP Clients, Supervisors or Senior Utility Workers who are unable to meet these standards are subject to disciplinary action, including up to removal from the program.

I. SEP Production Supervisors and Senior Utility Workers

SEP Production Supervisors are required to train SEP Clients assigned to Contractor in Contractor's safe workplace practices, and essential functions of their job assignment in such a manner as to achieve and maintain production standards. SEP Production Supervisors and Senior Utility Workers are responsible for supervising the daily activities of the SEP Clients, and provide assistance to Contractor as reasonably needed to ensure ongoing program success.

VRS Production Supervisors and Senior Utility Workers are responsible to perform the following functions:

1. Train SEP Clients on safe workplace practices;
2. Train, direct, observe, and coach, SEP Clients in all aspects of their essential job functions, and ensure productivity and material quality standards are met on a consistent basis;
3. Ensure SEP Clients are at their assigned stations ready to work at the scheduled production start time;
4. Ensure SEP Clients attend all scheduled safety training and any other meetings as required;
5. Inspect each work station at the beginning and at the ending of each shift to ensure metering bins, screens, platforms, work stations and work areas are clean, organized and free of debris;
6. Attend scheduled meetings with Contractor and assist in the development and implementation of strategic programs and initiatives to improve productivity and material quality;
7. Check in with Contractor's MRF Supervisor throughout the shift;
8. Train and supervise all SEP Clients on proper Lock-out/Tag-out procedures;
9. Shut down, lock-out and tag-out the power source prior to SEP Clients entry into any machinery or equipment, and accounting for all personnel prior to removing locks and tags and from the power source and restarting the equipment;
10. Inform the Contractor's MRF Supervisor of the number of SEP Clients that reported to work at their scheduled start time, and of any changes (additions or reductions) in the number of SEP Clients as they occur throughout the shift;
11. Be present on the plant floor during production and perform any necessary administrative functions only when the plant is NOT in operation;
12. Become familiar with, and comply with all of the responsibilities outlined in Contractor's Code of Conduct (Exhibit I of this Agreement);
13. Keep water dispensing units filled with fresh drinking water and useable disposable cups;

14. Assign Personal Protective Equipment (PPE) to SEP Clients and verify equipment is properly donned at all times while inside the plant;
15. In the event of an equipment failure or plant wide stoppage during normal production, contact the Contractor's MRF Supervisor or his/her designee and be prepared to lend assistance if called upon; and
16. Provide assistance as reasonably required to ensure continuous improvement and ongoing program success.

Pre Sort Operations:

1. Walk both pre-sort belts and OCC QC station every 30 minutes;
2. Empty barrels into the appropriate bunker to keep walk ways and work areas clean;
3. Check material burden depth and report heavy burden depth to Contractor's MRF Supervisor;
4. Check bag breaker conveyors and baler;
5. Sort material at the downstream station to identify any materials not being recovered by SEP Clients;
6. Keep work stations and platforms free of debris;
7. Observe residential and commercial in-feed conveyors and notify Contractor's MRF Supervisor of any issues; and
8. Remove hazardous materials to the appropriate storage/collection area.

Post Sort Operations:

1. Walk Post Sort and Residual QC Stations every 30 minutes;
2. Monitor PET and aluminum post-sort quality every thirty (30) minutes;
3. Monitor PET takeaway belt for presence of PET every thirty (30) minutes;
4. Monitor HDC, HDN, plastics 1-7 and residue post-sort quality control every thirty (30) minutes;
5. Monitor GCUS 3 stage cleaning every thirty (30) minutes and remove any blocked or jammed materials;

II. SEP Clients

Vocational Rehabilitation Services (VRS) is responsible for providing a minimum of twenty-four (24) SEP Clients, one (1) Production Supervisor and one (1) Senior Utility Worker per shift for each scheduled operating day. SEP Clients assigned to Contractor are expected to have received the appropriate training by County to perform the essential job functions required of the work station assigned in a safe and efficient manner. SEP Clients are expected to meet a minimum productivity standard of forty five (45) picks per minute during production operations. VRS will adjust the number of SEP Clients provided to SBR based on SBR's needs.

General Rules and Information

1. No recyclables or large items are to be placed in the residue chutes;
2. Scavenging is strictly prohibited;
3. Pornography is not to be pulled off the line, posted, or stored on platform, walls or equipment;

4. Film suction hoods are only for empty plastic grocery bags or newspaper bags;
5. Material from cleaning platforms, workstations, screens or any other area(s) MUST be removed and placed into the residue bunker;
6. Telephone books should be considered mixed paper; and
7. Be aware of normal operating conditions in different parts of the plant and notify the SEP Supervisor or someone from Contractor whenever there is a change in conditions (i.e., belt stops moving, material composition or burden depth changes, unusual sight or smell, etc.).

SEP Clients are required to perform the following job functions for the following station assignments:

Pre Sort Operations:

Remove hazardous materials and/or large contaminants that could become wrapped up or lodged between the discs causing unscheduled downtime. Some contaminants include:

Wood	Styrofoam
Organics	Toys
Textiles	Telephone Books
Inert Materials	Propane bottles/tanks

Recover and place into the appropriate bunkers the following materials:

Large Film Plastic;	Electronics; and
Mixed Rigid Plastics;	Metal

Note: Bagged material should be placed on the conveyor marked “Bag Breaker”

OCC Quality Control Station:

Recover and place into the appropriate receptacle the following materials:

Containers	Paper
Foil	Metal
Plastic	Wax Cardboard.
Newspaper	

Container Pre Sort Station:

Remove/recover the following materials:

- Cardboard
- Paper
- Large Metal
- Telephone Books

Barrels filled with metal should be taken to the pre-sort area and unloaded into the metal bunker.

Post-Sort ONP #100 and #116

Remove/recover the following materials:

Containers
Browns
Film Plastic
Residue

Post-Sort Mix Paper #142 and #152

Remove/recover the following materials:

Containers
Film Plastic
Residue

Post-Sort Alum/PET #210

Clients should be focused on the following:

Remove large pieces of PET
Remove Mixed Rigid Plastic from both lines
Remove Aluminum from the PET line
Remove PET from the aluminum line

It is important that the Client assigned to this station be diligent about reporting changes in material composition or volume and notify his/her supervisor immediately.

Post-Sort Plastic/Residue #221

Move PET into in-feed. Move Alum cans into Alum in-feed. Move paper from plastic belt to residue conveyor. Remove large items from plastic belt to avoid blockage of air conveyance. Sorter must be diligent about reporting changes in material composition or volume and notify his/her supervisor immediately.

Bale Quality Control Station

The following materials must be removed from the exterior of each bale as follows:

Newspaper: Brown, OCC, Hazardous Material, Residue, Containers and Plastic
Cardboard: Hazardous Material, Residue, Was, Containers, Plastic and Paper
Mix Paper: Hazardous Material, Residue, Wax, Containers and Plastic
HDPEC: Hazardous Materials, Residue, Other Plastics, Paper and Metal
HDPEN: Hazardous Material, HDC, Residue, Other Plastics, Paper and metal
Mix Plastics: Hazardous Material, Residue, Film Plastics, Paper and Metal
TIN: Hazardous Material, Residue, Plastics, Paper and Aluminum
Aluminum: Hazardous Material, Residue, Plastics, Paper, Metal, Cat Food Cans and Foil
Ferrous Metal: Hazardous Material, Residue, Plastics and Paper

III. MRF Cleaning

At the conclusion of production operations, Production Supervisors and Senior Utility Workers are required to coordinate and assign Interns to various post-production cleaning assignments. Such assignments may include the following:

1. Removal and disposal of debris from individual work stations;
2. Removal of debris from residential metering drum;
3. Removal of debris from discs in various screening equipment;
4. Removal and disposal of debris in conveyor pits; and
5. Removal and disposal of debris in the bunker conveyor pits.

IV. MRF Sort Productivity Standards

Excluding residential and commercial Pre Sort, SEP Clients are required to meet a minimum standard of 45 picks per minute. A “pick” only counts if it is the correct material removed from the conveyor belt established for each sort station.

Newspaper, Mixed paper, Cardboard: From the sorting belt and from floor sorting, remove and discard prohibited materials from the newspaper, mixed paper and cardboard, These items include, but are not limited to, grocery bags, string, plastic, other non-paper materials, magazines and phone books. Most sorting performed from a standing position at the sorting belt, but some sorting may be required from the floor, to remove large pieces of cardboard or other materials.

Glass, Cans and Plastics: From the sorting belt and from floor sorting, remove specific types of plastic or other materials to their designated storage areas, by throwing into hoppers directly in front of them, dropping items into chutes, or placing them into receptacles.

Mixed Recyclables or Contaminants: At sorting belt, from a standing position or from floor sorting, remove corrugated cardboard, recyclable paper, contaminants, and/or non-recyclable items into chutes, overhead ducting, receptacles, or other containers on, above, below, or at the side of the work area.

Baled Recyclables: From the floor, remove out-throws or prohibited materials from the bales and place them in appropriate receptacles.

Composition Sort Tests: From the floor, at the sort table, or from the sorting belt remove various types of materials into various containers.

Other Assignments: SEP Clients and VRS Production Supervisors will perform other tasks as requested by Contractor which directly relate to the above mentioned responsibilities. This includes but is not limited to: preparing the work area, training, moving sorted materials to designated locations, and cleaning the work areas (sweeping, dusting, picking up spilled materials on the floor or platform deck, etc.).

Attachment I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the “Contractor(s)”) hereby agrees that it will comply with Section 504 of Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

- a. employs fewer than 15 persons
- b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person (s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person – Type or Print

Name of Contractor(s) – Type or Print

Street Address or P.O. Box

City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:
“If a recipient with fewer than 15 employees finds, that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations)...other than making a significant alteration in its existing facilities, the recipient may, as alternative, refer the handicapped person to other providers of those services that are accessible.”

Attachment II
County Service Guarantee

The Parties acknowledge that efficient, consistent, and courteous and efficient operations of the Materials Recovery Facility (MRF) is of utmost importance and Contractor has considered and relied on County's representations as to its quality of service commitment in entering into this Agreement. The Parties further recognize that consistent staffing of qualified Production Supervisors and Clients and their ability to meet the standards of performance as outlined in this Agreement are necessary and appropriate to ensure consistent and reliable service.

1. County Service Guarantee

Subject to the exception set forth in Section 2 below, each of the following shall constitute a failure to meet the County's Service Guarantee:

County fails to provide the appropriate number of SEP Clients within the two (2) hour Remedy Period after notification from either the SEP Production Supervisor, Senior Utility Worker or Contractor that 90% of the required number of Clients are not working on site.

SEP Clients leave prior to the completion of his/her shift without permission from either a SEP Production Supervisor or Contractor and the County fails to provide replacement(s) within the two (2) hour Remedy Period after notification from the SEP Production Supervisor, Senior Utility Worker or Contractor of the vacancy(ies).

SEP Clients leave prior to the completion of his/her shift with the permission of a SEP Production Supervisor and/or Senior Utility Worker and the County fails to provide replacement(s) within the two (2) hour Remedy Period after notification from the SEP Production Supervisor or Contractor of the vacancy(ies).

For purposes of the forgoing County Service Guarantees, in the event that a Client departs from the work site less than two hours before the end of the shift to which such Client was assigned, County shall not have the right to replace such Client for the remainder of such shift, and such departure shall constitute a default by County.

For purposes of the foregoing County Service Guarantees, "notification" shall be deemed to have been duly given, if given as follows, at which time the applicable two (2) hour Remedy Period shall be deemed to commence:

First, County or Contractor gives telephonic notice to a live person at the offices of the other at the following designated numbers:

If to County: (650) 454-9479

If to Contractor: (650) 802-8355

The person giving such notice to a live person shall request the identity of the person answering the phone, and the person answering the phone shall provide such information. The person giving such notification shall note and make a written record of the date and time of such notification and the identity of such person to whom such notification was given. Such written record shall constitute prima facie evidence of the date and time such telephonic notice was given.

Second, if a live person does not answer the telephone number set forth above, the notification shall be sent by text to the following telephone numbers:

If to County: (650) 454-9479

If to Contractor:

First Shift: (650) 218-4827 and (253) 495-1461

Second Shift: (650) 281-7979 and (253) 495-1461

AND simultaneously by e-mail at the following addresses:

If to County: lstrachan@smchsa.org

If to Contractor:

First Shift: pkeck@sbrecycling.net with a copy to ssanfilippo@sbrecycling.net

Second Shift: czupfer@sbrecycling.net with a copy to ssanfilippo@sbrecycling.net

In the event of notification by text and e-mail, such notification shall be deemed given at the last such notification to occur. The person giving such notification shall note and make a written record of the date and time of such notification, the telephone number to which the text notification was given, and the e-mail address of the person to whom such e-mail notification was given. Such written record shall constitute prima facie evidence of the date and time when such text and e-mail notifications were given.

Either party may change the telephone number and e-mail to which such notifications may be given to such party by written notice to the other given by personal delivery, or by U.S. Mail (effective two business days after mailing).

2. Exceptions to Claiming a Failure to Meet the County's Service Guarantee

As noted in Exhibits B and E, the parties anticipate that Clients will work up to 45 hours per week, (up to 40 hours at regular time and up to five hours of overtime). The parties have added a second shift of Clients to address increased production demands at Contractor's facility. If Contractor requires overtime exceeding five hours per week, notwithstanding the additional shift, the County will use best efforts to meet the increased staffing demand. For the purpose of determining compliance, overtime hours worked as part of regularly scheduled weekend work due to Holidays will be considered a failure to meet the County's Service Guarantee.

In addition, it will not be considered a failure to meet the County's Service Guarantee if the County is unable to staff within the range of +5% and -10% Clients per shift. In other words, Contractor acknowledges and agrees that it shall receive and pay for up to 5% more Clients than requested and if they are provided, will not invoke the remedies contained in Section 3, below, unless the staffing falls more than 10% below the number of Clients requested per shift.

3. Remedies for Failure to Meet the County's Service Guarantee

If any of the events described in Section 1(A)-(C) of this Attachment has occurred, Contractor will, without limiting the rights or remedies available under this Agreement or applicable law, have the right:

by notice to the County, to designate a date, not earlier than fifteen (15) days after the County receives notice of the Contractor's intention to invoke this remedy, as an early termination date ("Early Termination Date") of this Agreement; and/or, to demand from the County reasonable assurances of timely and proper performance of this Agreement, in such form and substance as Contractor may require; and/or

To have the overhead cost due to the County under this Agreement reduced by \$250 for each separate failure to meet the County's Service Guarantee, as described in Section 1(A)-(C) of this Attachment. For example, if Contractor requests 24 Clients and only 22 are provided, then there is no reduction. If after the applicable Remedy Period has lapsed, only 21 Clients are working on site, then the reduction for that shift is \$250 (one Client x \$250). If after the Remedy Period has lapsed only 20 Clients are working on site, then the reduction for that shift is \$500 (two Clients x \$250 each). If after the Remedy Period has lapsed only 19 Clients are working on site, then the reduction for that shift is \$750 (three Clients x \$250 each).

In the event that the Contractor designates an Early Termination Date, this Agreement will terminate as of the Early Termination Date.

4. Dispute Resolution Procedure

In the event of a disagreement between the parties, including but not limited to a dispute over whether the County has failed to meet its Service Guarantee, the complaining party shall so advise the other party in writing. Within fifteen (15) days after receiving such notice, the receiving party shall advise the other party in writing as to its position. If the parties are unable to resolve the dispute through reasonable negotiations, they shall retain the services of an

independent mediator who will attempt to facilitate a settlement of the disputed matter. The cost of the mediator shall be divided equally between the parties. Neither party will initiate any claim or lawsuit for breach of this Agreement alleged to have been committed by the other party without the matter having first been submitted to mediation nor have all efforts toward arriving at a negotiated settlement as described hereunder been exhausted.

5. Excuse from Performance

Force Majeure. Neither party shall be in default of its obligations under this Agreement in the event, and for so long as, it is impossible or extremely impracticable for it to perform its obligations due to a natural disaster(including, but not limited to, flood, earthquake or other catastrophic events), war, insurrection, riot, labor unrest of other than the party's employees (including strike, work stoppage, slow down, sickout, picketing, or other concerted job action), or other similar cause not the fault of, and beyond the reasonable control of, the party claiming excuse. A party claiming excuse under this Section must (1) have taken reasonable precautions, if possible, to avoid being affected by the cause, and (2) notify the other party in writing as provided in Subsection C.

Obligation to Restore Ability to Perform. Any suspension of performance by a party pursuant to this Section shall be only to the extent, and for a period of no longer duration than, required by the nature of the event, and the party claiming excuse shall use its best efforts to remedy its inability to perform as quickly as possible and to mitigate damages that may occur as result of the event.

Notice. The party claiming excuse shall deliver to the other party a written notice of intent to claim excuse from performance under this Agreement by reason of an event of Force Majeure. Notice required by this Section shall be given promptly in light of the circumstances, but in any event not later than five (5) days after the occurrence of the event of Force Majeure. Such notice shall describe in detail the event of Force Majeure claimed, the services impacted by the claimed event of Force Majeure, the expected length of time that the party expects to be prevented from performing, the steps which the party intends to take to restore its ability to perform, and such other information as the other party reasonably requests.

Contractor's Rights in the Event of Force Majeure. The partial or complete interruption or discontinuance of County's services caused by an event of Force Majeure shall not constitute a County Default. Notwithstanding the foregoing: if County's failure to perform by reason of Force Majeure continues for a period of thirty (30) days or more, Contractor shall have the right to immediately terminate this Agreement.