

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

THIS AGREEMENT, entered into this ____ day of March, 2017, 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, 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, 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 begin on the Effective Date and shall run concurrently with the SBR-SBWMA Operations Agreement, which is set to expire at midnight on December 31, 2020.

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, as 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:

Jennifer Valencia

1 Davis Drive

Belmont, CA 94002

Facsimile: (650) 594-4316

In the case of Contractor, to:

Dwight Herring

South Bay Recycling, LLC

333 Shoreway Road

San Carlos, CA 94070

Facsimile: (650) 591-3268

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: Dmyl S Heng
Its: General Manager

Date: 2/17/2017

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, 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 Rehabilitation 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 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 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 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 needed each work day, which is anticipated to be 24; however, this number is subject to change based on the needs of the operation. Contractor will provide thirty (30) days' notice if additional Clients are required.

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 its administrative costs, which includes Workers Compensation and Regulatory Fee and Overhead Fee. These costs shall be calculated at 25% and 14.7% respectively (39.7% in total) above the straight-time wage.
2. 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
Memorial Day
Independence Day
Labor Day

IV. **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) Rehabilitation Production Supervisor and one (1) Utility Worker per shift who work full time at Contractor's facility.

V. **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.

1. The VRS Business Manager shall be available to Contractor's assigned designee to resolve any programmatic concerns.
2. The VRS Business Manager will conduct monthly on-site assessments to determine: 1) VRS supervision effectiveness, 2) Client performance compared to established standards, 3) overall contractual performance, and 4) overall program effectiveness. Results will be formally shared with Contractor during the monthly VRS-Contractor meeting.
3. 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.
4. 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

1. 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”).
2. County, through the Vocational Rehabilitation Services Supported Employment Program (SEP), will provide a minimum of one (1) Rehabilitation Production Supervisor and one (1) Utility Worker for each shift of each regularly scheduled work day. If the regularly assigned Rehabilitation Production Supervisor and or Utility Worker is/are absent, County will use best efforts to provide sufficient County staff for coverage.
3. The assigned SEP Clients, Rehabilitation Production Supervisors and Utility Workers will follow tasks as specified by Contractor as it relates to material separation for the purposes of recycling.
4. Contractor agrees to reimburse County for one (1) Rehabilitation Production Supervisor and one (1) Utility Worker, and up to 5% more Clients per shift than requested. Such reimbursement shall be at the rates described in Exhibit B and Exhibit G.
5. **Contractor’s Policies:** SEP Clients, Rehabilitation Production Supervisors and Utility Workers working at the Materials Recovery Facility (MRF) will observe Contractor’s Policies as described in Exhibit I.
6. **Working Hours:** Regularly scheduled working hours for first or second shift (if applicable) 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.
7. The Contractor may request a shift with different working hours or different working locations within the SEC MRF. With mutual understanding between the County and Contractor, some SEP Clients may be assigned to work overlapping shifts.
8. Holidays observed for Rehabilitation Production Supervisors and Utility Workers will be as follows:

New Year’s Day
Martin Luther King Day
Lincoln’s Birthday (Floating Holiday)
Presidents’ Day
Memorial Day
Independence Day

Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving 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.

9. **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, Rehabilitation Production Supervisors, and Utility Workers.

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

First Shift

	2017	2018	2019	2020
Client Reimbursement Basic				
Hourly Rate	\$ 859,560.00	\$ 918,840.00	\$ 978,120.00	\$ 1,020,357.00
Overhead Cost	\$ 119,705.04	\$ 127,960.56	\$ 136,216.08	\$ 142,098.14
Regulatory Fee	\$ 203,580.00	\$ 217,620.00	\$ 231,660.00	\$ 241,663.50
Total Client Basic	\$ 1,182,845.04	\$ 1,264,420.56	\$ 1,345,996.08	\$ 1,404,118.64
Client Reimbursement Holiday				
Hourly Rate	\$ 11,136.00	\$ 11,904.00	\$ 12,672.00	\$ 13,219.20
Overhead Cost	\$ -	\$ -	\$ -	\$ -
Regulatory Fee	\$ -	\$ -	\$ -	\$ -
Total Client Holiday	\$ 11,136.00	\$ 11,904.00	\$ 12,672.00	\$ 13,219.20
Production Supvr - Basic				
Hourly Rate	\$ 141,306.10	\$ 163,494.76	\$ 190,211.41	\$ 222,516.83
Overtime Rate	\$ 21,296.84	\$ 24,197.89	\$ 27,631.60	\$ 31,716.71
Total Production Supvr Basic	\$ 162,602.95	\$ 187,692.66	\$ 217,843.01	\$ 254,233.54
Production Supvr - Holiday				
Hourly Rate	\$ 7,904.47	\$ 8,983.03	\$ 10,259.89	\$ 11,779.30
Total Production Supvr Holiday	\$ 7,904.47	\$ 8,983.03	\$ 10,259.89	\$ 11,779.30
Utility Worker - Basic				
Hourly Rate	\$ 122,746.05	\$ 142,586.43	\$ 166,551.07	\$ 195,613.84
Overtime Rate	\$ 18,122.40	\$ 20,611.56	\$ 23,560.87	\$ 27,073.28
Total Utility Worker Basic	\$ 140,868.44	\$ 163,197.98	\$ 190,111.94	\$ 222,687.12
Utility Worker - Holiday				
Hourly Rate	\$ 6,726.53	\$ 7,651.99	\$ 8,748.77	\$ 10,055.23
Total Utility Worker Holiday	\$ 6,726.53	\$ 7,651.99	\$ 8,748.77	\$ 10,055.23
Total Program Expense	2017	2018	2019	2020
Total Participant Intern Cost	\$ 870,696.00	\$ 930,744.00	\$ 990,792.00	\$ 1,033,576.20
Total Supervisory Cost	\$ 318,102.39	\$ 367,525.66	\$ 426,963.61	\$ 498,755.19
Total Administrative Expense	\$ 323,285.04	\$ 345,580.56	\$ 367,876.08	\$ 383,761.64
Annual Program Expense	\$ 1,512,083.43	\$ 1,643,850.22	\$ 1,785,631.69	\$ 1,916,093.03

Second Shift

	2017	2018	2019	2020
Client Reimbursement Basic				
Hourly Rate	\$ 885,346.80	\$ 946,405.20	\$ 1,007,463.60	\$ 1,050,967.71
Overhead Cost	\$ 123,296.19	\$ 131,799.38	\$ 140,302.56	\$ 146,361.08
Regulatory Fee	\$ 209,687.40	\$ 224,148.60	\$ 238,609.80	\$ 248,913.41
Base Cost / Hour	\$ 1,218,330.39	\$ 1,302,353.18	\$ 1,386,375.96	\$ 1,446,242.20
Client Reimbursement Holiday				
Hourly Rate	\$ 11,470.08	\$ 12,261.12	\$ 13,052.16	\$ 13,615.78
Overhead Cost	\$ -	\$ -	\$ -	\$ -
Regulatory Fee	\$ -	\$ -	\$ -	\$ -
Base Cost / Hour	\$ 11,470.08	\$ 12,261.12	\$ 13,052.16	\$ 13,615.78
Production Supvr - Basic				
Hourly Rate	\$ 141,306.10	\$ 163,494.76	\$ 190,211.41	\$ 222,516.83
Overtime Rate	\$ 21,296.84	\$ 24,197.89	\$ 27,631.60	\$ 31,716.71
Base Cost / Hour	\$ 162,602.95	\$ 187,692.66	\$ 217,843.01	\$ 254,233.54
Production Supvr - Holiday				
Hourly Rate	\$ 7,904.47	\$ 8,983.03	\$ 10,259.89	\$ 11,779.30
Base Cost / Hour	\$ 7,904.47	\$ 8,983.03	\$ 10,259.89	\$ 11,779.30
Utility Worker - Basic				
Hourly Rate	\$ 122,746.05	\$ 142,586.43	\$ 166,551.07	\$ 195,613.84
Overtime Rate	\$ 18,122.40	\$ 20,611.56	\$ 23,560.87	\$ 27,073.28
Base Cost / Hour	\$ 140,868.44	\$ 163,197.98	\$ 190,111.94	\$ 222,687.12
Utility Worker - Holiday				
Hourly Rate	\$ 6,726.53	\$ 7,651.99	\$ 8,748.77	\$ 10,055.23
Base Cost / Hour	\$ 6,726.53	\$ 7,651.99	\$ 8,748.77	\$ 10,055.23
Total Program Expense	2017	2018	2019	2020
Total Participant Intern Cost	\$ 896,816.88	\$ 958,666.32	\$ 1,020,515.76	\$ 1,064,583.49
Total Supervisory Cost	\$ 318,102.39	\$ 367,525.66	\$ 426,963.61	\$ 498,755.19
Total Administrative Expense	\$ 332,983.59	\$ 355,947.98	\$ 378,912.36	\$ 395,274.49
Annual Program Expense	\$ 1,547,902.86	\$ 1,682,139.96	\$ 1,826,391.73	\$ 1,958,613.17

Footnote #1: The estimated program expense outlined above are based on current known factors. These factors are as follows: 1) Twenty-four (24) Clients, one Rehabilitation Production Supervisor and one Utility Worker at 40 hours per week straight-time and 5 hours per week overtime, and 2) Administrative Fees of 39.7% of the straight-time wage.

Footnote #2: Some of these factors may vary throughout the term of this Agreement; however, this would only be due to the amount of actual hours worked and the actual CPI-U for program years beginning in July 2020 and forward.

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. County ensures that Clients assigned to Contractor have consented to being photographed or recorded while on the premises of the Shoreway Facility.
6. No individual shall be discriminated against solely because of his or her status under this Agreement.
7. 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.
8. 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.
9. This Agreement shall not impair existing contracts for service or collective bargaining agreements.
10. 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.

11. 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.
12. Contractor shall provide Workers Compensation insurance for its own employees. The County shall provide Workers Compensation insurance for the Clients, Utility Workers, and Rehabilitation Production Supervisors. Neither Contractor nor its carrier shall be entitled to recover any costs, settlements, or expenses of Workers Compensation claims made by Clients, Utility Workers or Rehabilitation Production Supervisors. Contractor shall provide evidence of its insurance coverage of its own employees to County upon request.
13. 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.
14. Contractor shall inform the County in writing in the event Contractor no longer requires a second shift. The County will have thirty (30) days from the time they receive the notice from Contractor to terminate the second shift.
15. In the event the second shift is eliminated, Attachment II will continue to apply.
16. 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.
17. County and Contractor understand that Rehabilitation Production Supervisors and Utility Workers must follow the VRS policy related to overtime at SBR.
18. County will use its best efforts to conduct comprehensive background checks on Clients interested in working at the Shoreway Materials Recovery Facility and will not knowingly assign Clients to Contractor who have been convicted of a violent crime and/or who are a registered sex offender.

EXHIBIT I

Code of Conduct

Contractor shall inform SEP Clients, Utility Workers and Rehabilitation Production Supervisors of the workplace policies and procedures applicable to Contractor's employees. Any violation of Contractor policies and procedures by SEP Clients, Utility Workers and Rehabilitation 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, Utility Worker or Rehabilitation 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, Utility Workers or Rehabilitation 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, Utility Worker or Rehabilitation 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, Utility Worker or Rehabilitation 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, Utility Workers and Rehabilitation 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, Utility Workers and Rehabilitation 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, Utility Worker or Rehabilitation 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 Utility Workers who are unable to meet these standards are subject to disciplinary action, including up to removal from the program.

I. Rehabilitation Production Supervisors and Utility Workers

Rehabilitation 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. Rehabilitation Production Supervisors and 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.

Rehabilitation Production Supervisors and 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) Rehabilitation Production Supervisor and one (1) 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, which may be amended from time to time based solely on SBR's quality requirements, 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;
Mixed Rigid Plastics;
Electronics; and
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, Wax, 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, Rehabilitation Production Supervisors and Utility Workers are required to coordinate and assign Clients 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.
6. Other work as assigned.

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.

Dwight Herring

Name of 504 Person – Type or Print

South Bay Recycling, LLC

Name of Contractor(s) – Type or Print

333 Shoreway Road

Street Address or P.O. Box

San Carlos, California 94070

City, State, Zip Code

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


Signature

General Manager

Title of Authorized Official

February 17, 2017

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**

- A. County will use best efforts to provide the appropriate number of SEP Clients within the two (2) hour Remedy Period after notification from either the Rehabilitation Production Supervisor, Utility Worker or Contractor that 90% of the required number of Clients are not working on site.
- B. If a SEP Client leaves prior to the completion of his/her shift without permission from either a Rehabilitation Production Supervisor or Contractor, the County will provide replacement(s) within the two (2) hour Remedy Period after notification from the Rehabilitation Production Supervisor, Utility Worker or Contractor of the vacancy(ies).

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 given:

By e-mail at the following addresses:

If to County: tbiel@smcgov.org; with a copy to CArrecis@smcgov

OR

If to Contractor: jharsh@sbrecycling.net with a copy to pkeck@sbrecycling.net;

The email shall constitute prima facie evidence of the date and time when the e-mail notification was given.

Either party may change the 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).

3. 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 may add 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 4, below, unless the staffing falls more than 10% below the number of Clients requested per shift.

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

If any of the events described in Section 1(A)-(B) 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

First Shift

Reduce payment to County by fifty dollars (\$50.00) for failure to provide Contractor with a minimum of 90% of the required number of Clients within two (2) hours of the beginning of the shift; or

Reduce payment to County by fifty dollars (\$50.00) for failure to provide Contractor with a minimum of 50% of the required number of Clients per shift within two (2) hours of the beginning of the shift.

Second Shift

Reduce payment to County by fifty dollars (\$50.00) for failure to provide Contractor with a minimum of 90% of the required number of Clients within two (2) hours of the beginning of the shift; or

Reduce payment to County by fifty dollars (\$50.00) for failure to provide Contractor with a minimum of 50% of the required number of Clients per shift within two (2) hours of the beginning of the shift.

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

5. 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.

6. 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.