

AGREEMENT FOR THE OPERATION
OF THE
SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY'S
TRANSFER STATION AND RECYCLERY
BETWEEN
THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY
AND
BFI WASTE SYSTEMS OF NORTH AMERICA, INC.

April 1, 2005

TABLE OF CONTENTS

RECITALS	<u>12</u>
ARTICLE 1 - DEFINITIONS	<u>32</u>
ARTICLE 2 - TERM OF AGREEMENT	<u>32</u>
2.01 EFFECTIVE DATE.....	<u>32</u>
2.02 TERM.....	<u>32</u>
2.03 INITIAL EXTENSION PERIOD.....	<u>ERROR! BOOKMARK NOT DEFINED.2</u>
2.04 OPTION TO EXTEND AGREEMENT.....	<u>42</u>
2.04 CONDITIONS TO THE EFFECTIVENESS OF AGREEMENT.....	<u>42</u>
ARTICLE 3 - OPERATION OF FACILITIES	<u>52</u>
3.01 RECEIPT OF SOLID WASTE.....	<u>52</u>
3.02 MATERIAL RECOVERY OPERATIONS.....	<u>52</u>
3.03 PRIORITY.....	<u>72</u>
3.04 DAYS AND HOURS OF OPERATION.....	<u>82</u>
3.05 PERMITS.....	<u>82</u>
3.06 HAZARDOUS WASTE EXCLUSION PROGRAM.....	<u>82</u>
3.07 EQUIPMENT.....	<u>92</u>
3.08 PERSONNEL.....	<u>92</u>
3.09 WEIGHING.....	<u>92</u>
3.10 COLLECTION OF FEES.....	<u>92</u>
3.11 TURNAROUND TIME OF SOLID WASTE, PLANT MATERIAL AND RECYCLABLE MATERIALS COLLECTION VEHICLES.....	<u>92</u>
3.12 MARKETING OF RECYCLABLE MATERIALS AND PLANT MATERIALS.....	<u>102</u>
3.13 RELATIONSHIP OF PARTIES WITH REGARD TO MARKETING OF RECYCLABLE MATERIALS AND PLANT MATERIALS.....	<u>102</u>
3.14 MAINTENANCE OF FACILITIES	<u>112</u>
3.15 MODIFICATIONS TO SERVICE.....	<u>112</u>
3.16 OWNERSHIP OF SOLID WASTE.....	<u>122</u>
ARTICLE 4 - TRANSPORTATION OF MUNICIPAL SOLID WASTE, HAZARDOUS WASTE, RECYCLABLE MATERIALS AND PLANT MATERIALS.....	<u>122</u>
4.01 GENERAL.....	<u>122</u>
4.02 TRANSPORTATION OF SOLID WASTE.....	<u>132</u>
4.03 TRANSPORTATION OF HAZARDOUS SUBSTANCES.....	<u>132</u>
4.04 TRANSPORTATION OF RECYCLABLE MATERIALS AND PLANT MATERIALS.....	<u>132</u>
ARTICLE 5 - COMPENSATION TO CONTRACTOR	<u>132</u>
5.01 GENERAL.....	<u>132</u>
5.02 INITIAL CONTRACTOR COMPENSATION.....	<u>132</u>
5.03 BALANCING ACCOUNT.....	<u>132</u>
5.04 CONTRACTOR'S COMPENSATION FOR EACH SUBSEQUENT RATE YEAR.....	<u>142</u>
5.05 LEASE OR PURCHASE OF EQUIPMENT AND FACILITIES AND HIRING OF ADDITIONAL EMPLOYEES.....	<u>142</u>
5.06 COST SAVINGS INCENTIVES.....	<u>142</u>
5.07 PERFORMANCE INCENTIVES.....	<u>152</u>

5.09	INTERIM COMPENSATION ADJUSTMENT.....	162
5.10	INITIAL RATES.....	162
5.11	SUBSEQUENT RATES.....	172
5.12	LIMITS ON CONTRACTOR'S PROFIT	17
ARTICLE 6 - CONTRACTOR RECORDS/REPORTING		172
6.01	SOLID WASTE RECORDS.....	172
6.02	CERCLA DEFENSE RECORDS.....	182
6.03	PROVISION OF RECORDS TO SBWMA.....	182
6.04	REPORTS AND SCHEDULE.....	182
6.05	QUARTERLY REPORTS.....	192
6.06	ANNUAL REPORT REQUIREMENTS.....	212
6.07	ADVERSE INFORMATION.....	232
ARTICLE 7 - PAYMENTS TO THE SBWMA AND TO THE CITY OF SAN CARLOS....		242
7.01	GENERAL.....	242
7.02	CALCULATION OF PAYMENT DUE TO SBWMA.....	242
7.03	FRANCHISE FEE DUE THE CITY OF SAN CARLOS.....	242
7.04	PAYMENTS TO THE SBWMA.....	242
ARTICLE 8 - INDEMNITY, INSURANCE AND BOND.....		252
8.01	INDEMNIFICATION.....	252
8.02	INSURANCE.....	262
8.03	FAITHFUL PERFORMANCE BOND.....	302
ARTICLE 9 - DEFAULT BY CONTRACTOR.....		302
9.01	EVENTS OF DEFAULT.....	302
9.02	RIGHT TO TERMINATE UPON DEFAULT.....	322
9.03	LIQUIDATED DAMAGES.....	322
9.04	EXCUSE FROM PERFORMANCE.....	352
9.05	RIGHT TO PERFORM.....	362
9.06	SBWMA'S REMEDIES CUMULATIVE; SPECIFIC PERFORMANCE.....	362
ARTICLE 10 - OTHER AGREEMENTS OF THE PARTIES.....		362
10.01	RELATIONSHIP OF PARTIES.....	362
10.02	COMPLIANCE WITH LAW.....	372
10.03	GOVERNING LAW.....	372
10.04	JURISDICTION.....	372
10.05	ASSIGNMENT BY CONTRACTOR.....	372
10.06	BINDING ON SUCCESSORS.....	402
10.07	PARTIES IN INTEREST.....	402
10.08	WAIVER.....	402
10.09	NOTICES.....	402
10.10	REPRESENTATIVES OF THE PARTIES.....	412
10.11	DUTY OF CONTRACTOR NOT TO DISCRIMINATE.....	412
10.12	RIGHT TO INSPECT FACILITIES AND OPERATIONAL RECORDS.....	422
10.13	COMPILATION OF INFORMATION FOR STATE LAW PURPOSES.....	422
10.14	RIGHT TO DEMAND ASSURANCES OF PERFORMANCE.....	422
10.15	GUARANTY OF CONTRACTOR'S PERFORMANCE.....	422
10.16	DISPUTE RESOLUTION.....	422
10.17	AFFILIATED COMPANIES.....	432
10.18	SUBCONTRACTING.....	432
10.19	TRANSITION TO NEXT CONTRACTOR.....	432

10.20	CONTRACTOR'S INVESTIGATION.....	432
10.21	SBWMA FREE TO NEGOTIATE WITH THIRD PARTIES.....	432
10.22	COMPLIANCE WITH SBSWA CODES.....	432
10.23	PRIVACY.....	442
10.24	INTEGRATED CONTRACT.....	442
10.25	INSERTED PROVISIONS.....	442
ARTICLE 11 - MISCELLANEOUS PROVISIONS.....		442
11.01	EXHIBITS.....	442
11.02	SECTION HEADINGS.....	442
11.03	INTERPRETATION.....	442
11.04	AMENDMENT.....	442
11.05	SEVERABILITY.....	452
11.06	ATTORNEYS' FEES.....	452
11.07	REFERENCES TO LAWS.....	452
11.08	DEFINITIONS.....	452
11.09	COUNTERPARTS.....	452
ARTICLE 12 - REPRESENTATIONS AND WARRANTIES OF CONTRACTOR.....		452
12.01	CORPORATE STATUS.....	452
12.02	CORPORATE AUTHORIZATION.....	452
12.03	AGREEMENT WILL NOT CAUSE BREACH.....	452
12.04	NO LITIGATION.....	462
12.05	ABILITY TO PERFORM.....	462
12.06	SBWMA AUTHORIZATION.....	462

Amendments

First Amendment - Plant Material Diversion Approved February 24, 2000 Revised February 1, 2002

Second Amendment - Method of Reconciling Contractor Payment Dated April 28, 2004

Third Amendment - Contractor Compensation Method Dated April 28, 2004

EXHIBITS

DEFINITIONS.....	A
DESCRIPTION OF MATERIAL PROCESSING OPERATIONS.....	B
HAZARDOUS WASTE EXCLUSION PROGRAM DESCRIPTION.....	C
LIST OF SBWMA PROVIDED EQUIPMENT.....	D
MINIMUM NUMBER AND COMPOSITION OF PERSONNEL REQUIRED BY THE AGREEMENT.....	E
WEIGHING STANDARDS AND PROCEDURES.....	F
RECYCLABLE MATERIALS MARKETING PLAN.....	G
CONTRACTOR COMPENSATION.....	H
DIVERSION PROGRAM PERFORMANCE INCENTIVE.....	H1
1999 RECYCLABLE MATERIAL PRICES.....	H2
MAINTENANCE REQUIREMENTS.....	I
INITIAL RATES.....	J
FORM OF FAITHFUL PERFORMANCE BOND.....	K

PERFORMANCE GUARANTEEL
NOTARY CERTIFICATION..... M

1 **Whereas;** the State of California has, through legislation, including enactment
2 of the California Integrated Waste Management Act of 1989 (Act), directed the
3 responsible state agency, and all local agencies, to promote recycling and to
4 maximize the use of feasible source reduction recycling and composting options in
5 order to reduce the amount of solid waste that must be disposed of by land disposal;
6 and,

7 **Whereas;** the SBWMA concurs in the aforementioned findings and
8 declarations of the State of California, and in addition, desires to properly manage
9 natural resources and preserve landfill space; and,

10 **Whereas;** the recycling operations conducted at the Recyclery, which is
11 located adjacent to the Transfer Station, are an integral and important component of
12 the SBWMA 's strategy for implementing the Act and are incorporated into each of
13 the SBWMA Member Agencies' Source Reduction and Recycling Elements which
14 have in turn been incorporated into the San Mateo County's Integrated Waste
15 Management Plan; and,

16 **Whereas;** acting on behalf of the Member Agencies, the SBWMA acquired the
17 Transfer Station and the Recyclery as well as related facilities and equipment
18 (Facilities) which were owned and operated by Contractor in accordance with a
19 Purchase Agreement between the SBWMA and Contractor; and,

20 **Whereas;** Contractor has experience with these Facilities and similar facilities
21 nationwide and Contractor has maintained a cooperative relationship with the
22 SBWMA, and Contractor is prepared to enter this Agreement to provide operation of
23 the Facilities in a manner and on terms which are in the best interest of the SBWMA
24 Member Agencies, the SBWMA agreed to enter into this Agreement;

25 **Whereas;** SBWMA and BFI wish to amend and restate their agreement dated
26 March 1, 2000; and

27 **Whereas;** SBWMA and BFI wish to incorporate Amendments One, Two and
28 Three by reference and attachment hereto;

29 **NOW, THEREFORE,** in consideration of the mutual promises, covenants, and
30 conditions contained in this Agreement and for other good and valuable
31 consideration, the parties agree as follows:

1 **2.03 Subsequent Extension Period.** The SBWMA may extend the Term of
2 this Agreement for a period of from one to seven years, in periods of at least 12
3 months, on the same terms and conditions including the right to further extension. If
4 the SBWMA wishes to extend the Term of this Agreement it shall deliver a written
5 notice to Contractor at least twelve months before the expiration of the then current
6 Term (i.e. on or before December 31, 2009, for the first extension period after the
7 extension specified in Section 2.03 specifying the number of additional years by
8 which it wishes to extend the Term.

9 **2.04 Conditions to the Effectiveness of Agreement.** The obligation of the
10 SBWMA and Contractor to perform under this Agreement is subject to satisfaction,
11 on or before the Effective Date, of each and every one of the conditions set out below,
12 which may be waived in whole or in part by the SBWMA.

13 **A. Accuracy of Representations.** The representations and
14 warranties made by Contractor in Article 11 of this Agreement shall be true and
15 correct on and as of the Effective Date, and a certification to that effect dated as of the
16 Effective Date shall be delivered by Contractor to the SBWMA on the Effective Date.

17 **B. Absence of Litigation.** There shall be no litigation pending
18 on the Effective Date in any court challenging the execution of this Agreement or
19 seeking to restrain or enjoin its performance.

20 **C. Furnishing of Bonds and Insurance.** Contractor shall have
21 shown evidence of the insurance policies required by Section 8.02 and furnished the
22 performance bond required by Section 8.03.

23 **D. Effectiveness of the SBWMA's Approval.** The SBWMA's
24 approval of this Agreement shall have become effective, pursuant to California law,
25 on or before the Effective Date.

26 If either party wishes to assert that a condition for its benefit has not been
27 satisfied and has not been waived on the Effective Date, it must deliver written notice
28 to that effect to the other party. The SBWMA may waive the satisfaction of
29 conditions described in this Section 2.05, allow this Agreement to become effective,
30 and exercise its rights and remedies under this Agreement for Contractor's failure to
31 deliver the bond and/or evidence of insurance. Each party is obligated to perform in
32 good faith the actions, if any, which this Agreement requires it to perform before the
33 Effective Date and to cooperate towards the satisfaction of the conditions set forth
34 above.

1 description of the design and agreed upon costs of this program shall be included in
2 Exhibit B.

3 **D. Processing of Source Separated Recyclable Materials and Plant**
4 **Materials.** All Source Separated Recyclable Materials and Plant Materials delivered
5 by the Member Agencies or their Designated Hauler shall be processed and
6 marketed or donated, in accordance with Section 3.12.

7 **E. Buyback/Drop-Off Center.** Contractor shall accept and
8 purchase at a Buyback/Drop-Off Center Recyclable Materials that are separated and
9 delivered to the Station by the public, process those Recyclable Materials and market
10 them on behalf of SBWMA.

11 **F. Recovery of Recyclable Materials from Self-Haul and Debris**
12 **Box ("Bunker Program").** Contractor shall develop an area at the Facilities that will
13 allow self-haul and certain debris box loads to drop off Recyclable Materials for
14 Recycling and/or reuse prior to Disposal of the remainder of the load. Materials
15 targeted for diversion should include, but not be limited to: Plant Materials, wood,
16 roofing materials, concrete, asphalt and scrap metal. Other more common Recyclable
17 Materials including corrugated, newspaper, office paper, mixed paper, glass, plastic
18 and metal containers and such other materials as directed by the SBWMA shall be
19 diverted through the Drop-Off/ Buy Back program described in E. above. Contractor
20 shall be responsible for providing adequate personnel to ensure the quality of the
21 dropped-off Recyclable Materials.

22
23 Contractor shall make all users of the Facilities aware of this
24 program for the diversion of Recyclable Materials from self haul loads and debris
25 boxes and its associated benefits. Contractor shall be responsible for checking the
26 incoming loads, ensuring the maximum diversion of Recyclable Materials and
27 approving the quality of the materials for drop-off. Contractor shall begin this
28 program by October 1, 1999 and it should be fully operational by January 1, 2000.
29 Contractor may collect and/or process the materials for market on site with the
30 assistance of a third party (if approved by the SBWMA in advance) or arrange for
31 transfer of the materials to a third party processor. All records of third party
32 processing should be supplied to the SBWMA in Contractor's quarterly reports. A
33 detailed description of the design and agreed upon costs of this program shall be
34 included in Exhibit B.

35
36 **G. Diversion of Plant Materials and Wood.** Contractor shall
37 accept and transfer Source Separated Plant Materials and Wood to a Plant Materials
38 Processing Facility designated by the SBWMA. The Plant Materials Processing
39 Facility initially designated by the SBWMA is the Ox Mountain Landfill owned and
40 operated by Contractor. Should the SBWMA change or supplement the designated

41

1 Plant Materials Processing Facility, it shall give Contractor thirty (30) days
2 written notice of the change.

3 **H. Residue.** Limiting the level of residue from source-separated
4 Recyclable Material Processing will be the responsibility of Contractor. If it is
5 demonstrated that residue is in excess of that commonly resulting from similar
6 processing operations by weight of the total amount of Recyclable Materials
7 processed at the Facilities, Contractor will be subject to the penalties described in
8 Section 9.03. Contractor shall weigh residue on a sample basis (at least SBWMA
9 containers per SBWMA) and the results used to convert, from volume measurements
10 to weight the unweighed containers of residue.

11 **I. Diversion Program Guarantees.** For the diversion programs
12 (identified in Sections 3.02 C and F) operated at the Facilities, Contractor shall each
13 year of this Agreement divert at least the amount of tons listed below from Solid
14 Waste delivered to the Transfer Station for Landfill Disposal (the Diversion Program
15 Guarantee):
16

	Floor Sorting	Self Haul Debris Box Drop Off
2000	12,414	8,460
2001	12,414	8,460

17
18 Failure to meet the total amount of the diversion requirements will result in the
19 liquidated damages described in Section 9.03

20 . However, if Contractor's total diversion equals the sum of the diversion amount for
21 each of the programs, even though the diversion amount of one or more of the
22 programs is not met, then, no liquidated damages shall be imposed.
23

24 Contractor and SBWMA shall meet not later than July 1, 2000 to develop annual
25 Diversion Program Guarantees for subsequent years. Should Contractor and
26 SBWMA not reach agreement on the Diversion Program Guarantees for future years,
27 the Diversion Program Guarantee for 2001 shall become the Diversion Program
28 Guarantee for each of the remaining years of this Agreement.
29

30 **3.03 Priority.** The basic and primary purpose of the Facilities is to process
31 Solid Waste, Plant Materials, and Recyclable Materials generated within the
32 jurisdictions of the Member Agencies and delivered by the Member Agencies or their
33 Designated Haulers to the Facilities. A secondary purpose is to process publicly
34 hauled waste and Recyclable Materials delivered by residents and/or businesses of
35 the Member Agencies who shall have secondary priority in use of the Facilities.
36 Solid Waste, Recyclable Materials or Plant Materials generated outside the Member
37 Agencies shall be assigned third priority and Contractor shall operate the Facilities in

1 order to give effect to the above stated priorities. For example and not limitation,
2 such operating practices may include not accepting materials from outside the
3 Member Agencies' jurisdictions during peak hours.

4
5 **3.04 Days and Hours of Operation.** Contractor shall have the right to use
6 the Facilities, (including the administrative, maintenance and repair building) every
7 day of the year during the term of the Agreement. Contractor shall operate the
8 Facilities every day of the year, except legal holidays, during the term of the
9 Agreement.

10 The Facilities shall be open 9 hours per day between 8:00 a.m. and 5:00 p.m.
11 for the general public, and 12 hours per day between 4:00 a.m. and 4:00 p.m. for
12 Designated Haulers and transfer trucks. Contractor may operate the Facilities
13 beyond the hours set forth above, provided that it complies with the conditional use
14 permit issued by the City of San Carlos and the transfer station operations permit
15 issued by the State of California Integrated Waste Management Board.

16
17 **3.05 Permits.** Contractor shall be responsible to obtain the renewal and
18 amendment of existing permits and any new permits which may become necessary
19 during the Term. Permits shall be in the name of the SBWMA. Contractor shall
20 submit a draft of all applications for operating permits (including the renewal
21 and/or amendment of existing permits) to the SBWMA for its review and approval
22 prior to filing an application with the permitting agency. Contractor shall keep the
23 SBWMA fully informed at all times of the status of all permit applications.
24 Contractor shall not agree to permit terms and conditions without the prior written
25 consent of the SBWMA which consent shall not be unreasonably withheld. Copies of
26 all permits shall be delivered to the SBWMA within five (5) working days of their
27 receipt by Contractor.

28 Contractor shall keep all licenses, permits and approvals governing the
29 Facilities' operations in force and shall comply with their terms as they may be
30 amended or superseded (including any mitigation measures related to the operation
31 and maintenance of the Facilities which were adopted by the City of San Carlos when
32 the Facilities' environmental impact report was certified as well as the requirements
33 of the California Integrated Waste Management Board).

34 Contractor shall be solely responsible for paying any fines or penalties
35 imposed by governmental agencies for Contractor's noncompliance with permit
36 terms or Contractor's failure to obtain necessary permits.

37 **3.06 Hazardous Waste Exclusion Program.** Contractor shall maintain a
38 hazardous waste exclusion program, the minimum requirements of which are
39 described in Exhibit C. Should additional measures be incorporated into the

1 hazardous waste exclusion program to comply with regulatory change, Contractor
2 shall comply with such measures. Contractor shall arrange for the safe and lawful
3 temporary storage and disposal of such waste.

4 **3.07 Equipment.** All equipment used by or on behalf of Contractor shall
5 comply with all applicable laws and regulations. The SBWMA will provide the
6 equipment listed in Exhibit D. Contractor shall provide all other equipment required
7 to perform, in a safe and efficient manner, the services required by this Agreement.
8 The SBWMA shall have the right but not the obligation to purchase any or all of the
9 equipment owned by Contractor at the termination of this Agreement. The cost of
10 this equipment shall be the purchase price less the accumulated depreciation claimed
11 by Contractor on its financial statements and used in the determination of
12 Contractor's compensation. Contractor shall purchase the equipment it is to
13 furnish.

14 **3.08 Personnel.** Contractor shall furnish qualified, competent personnel in
15 sufficient numbers to perform, in a safe and efficient manner, the services required
16 by this Agreement. The minimum number and composition of personnel required
17 by this Agreement shall be as shown on Exhibit E. Where there is a material change
18 in compensation, the number and composition of personnel may be changed by
19 Contractor only upon written approval of the SBWMA and if such approval is
20 granted, Contractor shall be entitled to an appropriate adjustment to their
21 compensation as described in Article 5 of this Agreement. The parties acknowledge
22 that the services provided by Contractor do not constitute a "public work" and are
23 not subject to any of the provisions of the Public Works Law, Labor §1720-1901, nor
24 the regulations promulgated thereunder.

25 **3.09 Weighing.** Contractor shall operate and maintain the scale system at
26 the Facilities. Weighing operations shall be conducted in accordance with standards
27 and procedures set forth in Exhibit F.

28 **3.10 Collection of Fees.** Contractor shall collect Fees established by the
29 SBWMA from all Persons who use the Facilities. Contractor shall keep complete and
30 accurate records of all Fees collected, shall keep safe all monies and negotiables
31 collected, and shall make certain payments to the SBWMA as provided in Article 7.

32 **3.11 Turnaround Time of Solid Waste, Plant Material and Recyclable**
33 **Materials Collection Vehicles.** Contractor shall operate the Facilities so that all
34 Collection vehicles of Member Agencies and their Designated Haulers are processed
35 from the scale house weighing operation, unloaded and exited from the facilities in
36 no more than fifteen (15) minutes from leaving the scale house (Maximum
37 Turnaround Time). Should Contractor fail to meet the Maximum Turnaround Time
38 in any Fiscal Year, it shall pay the amounts stated in Section 9.03.

1 **3.12 Marketing of Recyclable Materials and Plant Materials.**

2 **A. Marketing Plan.** Contractor shall market and promote the sale
3 or donation of all Recyclable Materials and Plant Materials delivered to the Facilities
4 in accordance with the Marketing Plan set forth in Exhibit G. Within ninety (90) days
5 of the execution of this Agreement, Contractor shall submit a proposal describing
6 facilities and related costs for the diversion of Plant Materials from landfill disposal
7 which could serve as an alternative to the use of Plant Materials as alternative daily
8 cover at the landfill.

9 **B. Marketing Duties.** Contractor shall perform all of the following:

10 **1)** Contractor shall suitably store all Recyclable Materials
11 and Plant Materials to protect against theft, deterioration, contamination, fire, and
12 other damage.

13 **2)** Contractor shall be responsible for delivery of Recyclable
14 Materials and Plant Materials to purchasers or recipients unless the terms of material
15 purchasing agreements require the purchaser to arrange for delivery.

16 **3)** Contractor shall obtain a certification of end use from the
17 purchaser establishing that the materials sold or donated will be/have been recycled
18 or re-used.

19 **4)** Contractor shall be responsible for the disposition of
20 Recyclable Materials and Plant Materials when they have no market value or
21 negative market value. For Recyclable Materials and Plant Materials which, have no
22 commercially reasonable market in the Bay Area, Contractor shall propose a plan for
23 the marketing of the materials including a projection of related costs and revenues to
24 the SBWMA. The SBWMA may accept, reject or modify such plan and Contractor
25 shall be entitled to such compensation for implementing the plan as agreed to by the
26 Parties.

27 **C. Marketing Efforts.** Contractor shall use its best efforts in
28 marketing and promoting the sale and reuse of all Recyclable Materials and Plant
29 Materials.

30 **3.13 Relationship of Parties with Regard to Marketing of Recyclable**
31 **Materials and Plant Materials.** The Parties intend and hereby agree that their
32 relationship shall be that of independent contractors with respect to the marketing of
33 Recyclable Materials. Nothing contained herein shall be construed to create any
34 employment, partnership, joint venture, co-ownership or agency relationship
35 between the Parties, and Contractor shall not by any action allow any presumption
36 to arise that a relationship of partnership or agency exists between the Parties.

1 **3.14 Maintenance of Facilities.** Contractor shall perform all necessary
2 preventive and ongoing maintenance functions for the Facilities in order to keep
3 them in good working order, including but not limited to conforming with
4 warranties and guidelines for the use of equipment and shall comply with all
5 necessary and required inspections and reporting as required under applicable laws
6 and regulations. A list of minimum inspections and Facility reports is included in
7 Exhibit I.

8 **3.15 Modifications to Service.**

9 **3.15.1 General.** SBWMA may direct Contractor to perform
10 additional services (including new diversion programs) or modify the manner in
11 which it performs existing services (including the modifications to or elimination of
12 programs). Contractor's compensation shall be increased or decreased, as
13 appropriate, to give effect to these adjustments in accordance with Article 5.

14 **3.15.2 Proposal for Modification of Services.** Contractor
15 shall present, within 30 days of a request to do so by SBWMA, a proposal to modify
16 existing services. At a minimum, the proposal shall contain a completed description
17 of the following:

18 A. Methodology to be employed (changes to equipment,
19 manpower, etc.).

20 B. Equipment to be utilized (equipment number, types, capacity,
21 age, etc.).

22 C. Labor requirements (changes in number of employees by
23 classification).

24 D. Provision for program publicity/education/marketing (if
25 appropriate).

26 E. Estimate of the impact of the service modification (increased
27 diversion tonnage, reduced costs, increased public service, etc.).

28 F. Five-year projection of the financial results of the program's
29 operations in a balance sheet and operating statement format including
30 documentation of the key assumption underlying the projections and the support
31 for those assumptions, giving full effect to the savings or costs to existing services.

32 **3.15.3 SBWMA's Right to Permit Others to Provide Services.**
33 Contractor acknowledges and agrees that SBWMA may permit other Persons besides
34 Contractor to provide additional Solid Waste Services not otherwise contemplated
35 under this Agreement. If pursuant to Section 3.15.2, Contractor and SBWMA cannot

1 agree on terms and conditions of such services in one hundred twenty
2 (120) days from the date when SBWMA first requests a proposal from Contractor to
3 perform such services, Contractor acknowledges and agrees that Agency may permit
4 Persons other than Contractor to provide such services.

5 **3.16 Ownership of Solid Waste.** Once Solid Waste, Recyclable Materials
6 and/or Plant Materials is/are delivered to the Facilities, ownership and the right to
7 possession shall transfer directly from the deliverer to Contractor by operation of this
8 Agreement. Contractor is hereby granted the right to retain, Recycle, process,
9 dispose of and otherwise use such Solid Waste or Recyclable or Plant Materials, or
10 any part thereof, in any lawful fashion or for any lawful purpose desired by
11 Contractor. This right is subject to:

12 **A)** Contractor's objective to meet the SBWMA's diversion goals;
13 and,

14 **B)** SBWMA's right to direct Contractor to process Solid Waste,
15 Recyclable and Plant Materials at a particular licensed Facility or to Dispose of Solid
16 Waste at a particular licensed Disposal Site, if and only if SBWMA exercises such
17 right by providing specific written direction to Contractor.

18 Subject to the provisions of this Agreement, Contractor shall have the
19 right to retain any benefit resulting from its right to retain, Recycle, process, dispose
20 of, or reuse the Solid Waste and/or Recyclable and Plant Materials which it receives
21 subject to the provision of Article 5 of this Agreement. Solid Waste, or any part
22 thereof, which is disposed of at a Disposal Site or sites (whether landfill or
23 transformation Facility) shall become the property of the owner or operator of the
24 disposal Site(s) once deposited there by Contractor. SBWMA may obtain ownership
25 or possession of solid Waste received at the Facilities upon written notice of its intent
26 to do so, however, nothing in this Agreement shall be construed as giving rise to any
27 inference that SBWMA has such ownership or possession unless such written notice
28 has been given to Contractor.

29 **ARTICLE 4.**
30 **TRANSPORTATION OF MUNICIPAL SOLID WASTE, HAZARDOUS WASTE,**
31 **RECYCLABLE MATERIALS AND PLANT MATERIALS**

32 **4.01 General.** Routes over which Contractor's transfer vehicles travel to
33 effect the transport of materials within the City of San Carlos shall be selected to
34 minimize inconvenience and disturbance to the public and shall be subject to the
35 approval of the City of San Carlos.

1 Contractor shall use due care to prevent materials being transported from
2 being spilled or scattered during transport. If any materials are spilled within the
3 Member Agencies' geographic limits, Contractor shall immediately clean up all
4 spilled materials, whether on private or public property.

5 **4.02 Transportation of Solid Waste.** Contractor shall transport and deliver
6 to the Disposal Facility all Solid Waste that is not recycled or reused. No Solid Waste
7 may be disposed of at any location other than the Disposal Facility.

8 **4.03 Transportation of Hazardous Substances.** Contractor shall arrange for
9 or provide transportation and delivery to an appropriately permitted disposal
10 facility of Hazardous Substances that are encountered at the Facilities and which
11 cannot be accepted at the Disposal Facility.

12 **4.04 Transportation of Recyclable Materials and Plant Materials.**
13 Contractor shall arrange or provide transportation and delivery of all Recyclable
14 Materials and Plant Materials to a purchaser, a licensed recycling facility, or a person
15 who will use the materials in a process or product and will not dispose of them in a
16 landfill without prior written approval of the SBWMA. No Recyclable Materials or
17 Plant Materials that have been delivered to the Facilities already separated, and no
18 Recyclable Materials or Plant Materials that have been separated from Solid Waste at
19 the Facilities may be disposed of (1) in a landfill, or (2) through Transformation,
20 without the prior written consent of the SBWMA.

21 **ARTICLE 5**
22 **COMPENSATION TO CONTRACTOR**

23 **5.01 General.** Contractor's Compensation provided for in this Article 5
24 shall be the full, entire, and complete compensation due to Contractor pursuant to
25 this Agreement for all labor, equipment, materials and supplies, taxes, insurance,
26 bonds, overhead, profit, and all other things necessary to perform all the services
27 required by this Agreement in the manner and times prescribed.

28 **5.02 Initial Contractor Compensation.** Contractor's Compensation for the
29 initial twelve (12) months of this Agreement (Rate Year One) (i.e., from January 1,
30 2005 to December 31, 2005) is expected to be Thirty-Six Million Five Hundred Fifty-
31 Five Thousand Dollars (\$36,555,000), based on the estimated costs plus profit, as
32 presented in Exhibit H.

33 **5.03 Balancing Account.** Any balance maintained by Contractor due to
34 prior years surplus revenues accumulated at the Facilities and due to the SBWMA
35 (including that balance at February 29, 2000) shall carry forward into this Agreement
36 and be utilized by Contractor only upon direction from the SBWMA.

1 **5.04 Contractor's Compensation for Each Subsequent Rate Year.**

2 **A. Contractor's Application.** By August 1 of each Rate Year,
3 Contractor shall submit a Request for Adjustment to Compensation. This request
4 shall be in conformance with the procedures contained in Exhibit H. Contractor will
5 provide all information requested by the SBWMA as part of its review of
6 Contractor's application, including, but not limited to, all information from related
7 parties requested by the SBWMA regarding any transactions between Contractor
8 and any Related Party Entity.

9 **B. Determination of Contractor's Compensation.** The SBWMA, or
10 its representative, will review Contractor's application for compliance with this
11 Agreement, accuracy, and reasonableness.

12 **C. Review Methodology.** The methodology for reviewing
13 Contractor's application is described in Exhibit H.

14
15 **5.05 Lease or Purchase of Equipment and Facilities and Hiring of**
16 **Additional Employees.** In order to protect against unforeseen rate increases related
17 to unanticipated increases in Contractor expenses, Contractor agrees not to enter into
18 leases or purchase significant quantities or type of new vehicles, equipment or
19 facilities or hire additional employees that materially affect the calculation of
20 Contractor Compensation without the advance, written approval of the SBWMA.

21 **5.06 Cost Savings Incentives.** Pursuant to the procedure herein described,
22 Contractor is encouraged to achieve cost savings in its operations which will provide
23 extraordinary rate reductions to SBWMA's ratepayers. Contractor may, concurrently
24 with its submittal of reports for the Contractor Compensation modification process
25 submit, in writing, a proposal for any extraordinary Operating Cost savings (a "Cost
26 Savings Program" or "Program"). SBWMA shall either approve or disapprove the
27 proposed Program. Contractor shall, in cooperation with SBWMA, establish
28 procedures for the proper accounting of any such Program; provided that if such
29 procedures are not agreed upon, a Program shall not be recommended for approval
30 by SBWMA. It shall be the function of the accounting procedures to determine actual
31 Operating Cost Savings resulting from implementation of any such Program.

32 In the event actual cost savings in an Operating Year resulting from
33 implementation of a Cost Savings Program equals or exceeds 5/10ths of one percent
34 (0.5%) of the Billings for such year, Contractor shall be entitled to receive a share of
35 the actual Operating Cost Savings over the first five years of the Program in addition
36 to Contractor's profits based upon the operating ratio of 91% described in Exhibit H.
37 In the fifth year (if applicable) and thereafter, ratepayers shall receive 100% of the
38

1 benefit of such savings. The distribution of benefits between Contractor and
2 ratepayers from any such Program shall be as follows:

3
4

<u>Party Benefited</u>	<u>Years</u>				
	1	2	3	4	5 and above
5 % to Contractor	80%	60%	40%	20%	0
6 % to Rate Payer	20%	40%	60%	80%	100%

7
8
9
10

11 The foregoing distribution of benefits shall be applicable for the
12 corresponding year in which a Program is in effect, notwithstanding that the number
13 of Operating Years remaining following the institution of such Program may be less
14 than the full amount specified above.

15
16 Following the implementation of an approved Cost Savings Program,
17 SBWMA shall determine the actual operating cost savings which occurred during
18 each Operating Year as a result of the Program. If the actual savings equal or exceed
19 5/10th of one percent (0.5%) of the billings for each such Operating Year, the savings
20 shall be allocated in accordance with the above table in pursuance of the rate
21 modification process described hereinabove. The allocations shall be made in each
22 succeeding year by identifying the difference between Contractor's actual Operating
23 Cost and the Operating Costs which would have resulted without the Program.

24
25 It is understood that some proposals made by Contractor may require
26 significant capital investments by Contractor, and that the allocation of the Operating
27 Cost savings there from to Contractor in accordance with the above table may be
28 insufficient to justify the investment. In such instances, Contractor and SBWMA,
29 upon the recommendation of the SBWMA, may agree upon a reasonable return to
30 Contractor for its investment in lieu of distributing the benefits in accordance with
31 the above table. Should Contractor and SBWMA fail to agree on such Program,
32 Contractor shall not be required to initiate the Program, nor incur further significant
33 additional capital investment beyond that required for normal operations.

34
35 **5.07 Performance Incentives.** In addition to the operating ratio allowed
36 Contractor as described in Exhibit H and the Cost Savings Incentive described in 5.06
37 above, Contractor shall be entitled to the following performance incentives which are
38 also described in Exhibit H-1:

39
40 **A.** If Contractor diverts from 16,699 to 20,874 tons (80% - 100% of
41 the Diversion Program Guarantee shown in Section 3.02 I) of material from the
42 programs identified in Sections 3.02 C and F, Contractor shall receive \$2,500 for each

1 1,000 tons diverted from 16,699 through 20,874. No credit shall be given for fractions
2 of this 1,000 ton unit.)
3

4 **B.** If Contractor diverts from 20,875 tons to 41,748 tons (100% -
5 200% of the Diversion Program Guarantee shown in Section 3.02 I) of material from
6 the programs identified in Sections 3.02 C and F, Contractor shall receive \$5,000 for
7 each 1,000 tons diverted above 20,875 tons. (No credit shall be given for fractions of
8 this 1,000 ton unit and no payment shall be made for tons diverted above 41,720.)
9

10 **C.** Each year of the Agreement, the amount shown in the Diversion
11 Program Guarantee shall be increased (for purposes of this Section 5.07 only), if the
12 actual amount of diversion achieved from the programs identified in Sections 3.02 C
13 and F is greater than shown in 3.02 I, to the actual amount of diversion and the
14 diversion tonnage shown in 5.07 A and B above shall be increased as indicated (i.e.,
15 80% to 100% and 101% to 200% of the actual tonnage diverted).
16

17 **5.08 Revenue Sharing.** In the event that actual annual gross Recyclable
18 Material sales revenue related to Recyclable Materials and Plant Materials exceeds
19 \$4,500,000 for any Rate Year of this Agreement as the direct result of exceeding the
20 minimum diversion tons described in this Agreement (as contrasted to changes in the
21 value received from the sale of Recyclable Materials from those shown on Exhibit H2),
22 this incremental amount shall be divided 50 percent (50%) to the SBWMA and 50
23 percent (50%) to Contractor. The amount due the Contractor and SBWMA shall first
24 be a credit against Contractor 's loss of \$1,449,000 from recycling operations in prior
25 years and, once this amount has been paid, then the amount due the SBWMA shall be
26 a credit against Contractor's compensation during future rate years. These revenues
27 are in addition to any performance incentives earned by Contractor in Section 5.07.
28

29 **5.09 Interim Compensation Adjustment.** In the event the SBWMA directs
30 Contractor to change its operations, or in the event of an extraordinary or
31 unanticipated event including a change in law, or an adjustment to the Disposal Rate,
32 and such adjustment materially affects Contractor's cost of operations, then
33 Contractor or the SBWMA may submit a request for an interim compensation
34 adjustment. In such case, Contractor shall prepare a complete request for adjustment
35 to compensation application, in accordance with Exhibit H.

36 **5.10 Initial Rates.** The rates and charges which the Contractor is authorized
37 to apply to Customers for the Rate Year ending December 31, 2005, are those
38 established by the SBWMA, unless amended in accordance with this Agreement.
39 Unless and until the rates set forth on Exhibit J, are adjusted by the SBWMA,
40 Contractor will provide the service required by this Agreement, charging no more
41 and no less than the rates authorized by Exhibit J unless authorized to do so by the
42 SBWMA. The revenue from all such rates and charges shall be included in the
43 determination of rates and charges established in accordance with this Article 5.

1 G. Location to which all Solid Waste, Recyclable Materials and
2 Plant Materials received by the Facilities was delivered for
3 Transfer, Processing, sale, ultimate use or Disposal,

4 H. Recyclable Materials and Plant Materials sales value.

5
6 Contractor shall maintain records of all Solid Waste Recyclable
7 Materials and Plant Materials for the period of this Agreement and all extensions to
8 this Agreement or successor Agreements. In the event the SBWMA requests certain
9 records or Contractor discontinues providing services to the SBWMA, Contractor
10 shall provide all records of all Solid Waste services requested to the SBWMA within
11 thirty (30) days of discontinuing service. Records shall be in a chronological and
12 organized form, and readily and easily interpreted.

13 **6.02 CERCLA Defense Records.** The SBWMA views the ability to defend
14 against CERCLA and related litigation as a matter of great importance. For this
15 reason, the SBWMA regards the ability to prove where Solid Waste Collected in the
16 SBWMA Service Area was taken for Transfer or Disposal, as well as where it was not
17 taken, to be matters of significant importance. Therefore, Contractor shall maintain
18 data retention and preservation systems that can establish where Solid Waste was
19 transferred and disposed of (and therefore establish where it was not landfilled).
20 This provision shall survive the expiration of the period during which services are to
21 be provided under this Agreement for ten (10) years; such records shall be provided
22 in an organized and indexed manner and then turned over to the SBWMA after the
23 ten (10) year period.

24 All records required under this Agreement shall be maintained for each
25 year of the Term and for three years beyond the expiration or termination of the
26 Agreement. At the end of that period, SBWMA reserves the right to take physical
27 possession of these records.

28 **6.03 Provision of Records to the SBWMA.** In the event Contractor
29 discontinues providing Solid Waste services to the SBWMA, Contractor shall provide
30 to the SBWMA all records required by this Agreement within thirty (30) days of
31 discontinuing service. Records shall be in chronological order, in an organized form,
32 and readily and easily interpreted.

33 **6.04 Reports and Schedules.** Records shall be maintained in forms and by
34 methods that facilitate flexible use of data contained in them to structure reports, as
35 needed. Reports are intended to compile recorded data into useful forms of
36 information that can be used to, among other things:

37 A. Determine and set rates and evaluate the financial efficiency of
38 operations;

1 **B. Recyclable Materials and Plant Materials Services**

2 1) Same as Solid Waste Service, but also, including the
3 percentage diverted by material type and category (Residential, Commercial,
4 Industrial, Institutional) and residual.

5 2) Sales or donation statement showing quantity of material,
6 by type and type of end-use.

7 3) Recyclable Material sales revenue, by material type.

8 **C. Other Programs.** For each program, provide activity-related
9 and narrative reports on goals, milestones, and accomplishments. Contractor shall
10 describe problems encountered, actions taken and any recommendations to facilitate
11 progress.

12 **D. Summary Assessment.** Contractor shall provide a summary
13 assessment of the overall Solid Waste handling system from Contractor's perspective
14 relative to financial and physical status of the Facilities. Contractor shall assess how
15 well the program is operating in terms of efficiency, economy and effectiveness
16 relative to meeting all the goals and objectives of this Agreement and the Act.
17 Contractor shall provide recommendations and plans to improve operations and
18 shall highlight significant accomplishments and problems.

19 **E. Meet and Confer with SBWMA.** Beginning on the effective
20 date of the Agreement, and then on a quarterly basis thereafter, Contractor shall
21 meet with the SBWMA to describe the progress of each active diversion program.
22 Contractor should document the results of the programs on a monthly basis,
23 including the tonnage diverted by material type, the end use or processor of the
24 diverted materials and the cost per ton for transporting and processing each type of
25 material and other such information requested by the SBWMA necessary to evaluate
26 the performance of each program.

27
28 At each quarterly meeting, the SBWMA and Contractor shall
29 have the opportunity to revise the program based on mutually agreed upon terms.
30 The SBWMA shall have the right to terminate a program if in its sole discretion,
31 Contractor is not cost effectively achieving the program's goals and objectives. Prior
32 to such termination, the SBWMA shall meet and confer with Contractor for a period
33 of up to 90 days to resolve the SBWMA's concerns. Thereafter, the SBWMA may
34 utilize a third party to perform these services if the SBWMA reasonably believes the
35 third party can improve on Contractor's performance and/or cost.
36 Notwithstanding these changes, Contractor should continue the program during the
37 meet and confer period and, thereafter, until the third party takes over the program.
38

1 **6.06 Annual Report Requirements.** The Annual Report shall be in the form
2 of the quarterly reports and shall provide the same type of information as required
3 pursuant to Section 6.04 and 6.05 of this Agreement, summarized for the preceding
4 four quarters. In addition, Contractor's and Related Party Entities' annual financial
5 reports/statements shall be included. The annual report shall also include a
6 complete inventory of equipment used to provide all services, and a list of
7 Contractor's officers and members of its board of directors.

8 **A. General.** In order to effectuate the periodic rate review
9 contemplated by Article 5, it is necessary for Contractor to maintain accurate,
10 detailed financial information in a consistent format and to make such information
11 available to the SBWMA in a timely fashion. It is also necessary, in order to assure
12 the public of the accuracy of the review process, for Contractor's financial records to
13 be confirmed by an audit conducted by an independent Certified Public Accountant
14 (CPA) whose report thereon is forwarded to the SBWMA on a regular basis. This
15 Section 6.06 is intended to effectuate these requirements.

16 **B. Contractor's Accounting Records.** Contractor shall maintain
17 accurate and complete accounting records containing the underlying financial and
18 operating data relating to and showing the basis for computation of all costs
19 associated with providing services under this Agreement. The accounting records
20 shall be prepared in accordance with Generally Accepted Accounting Principles
21 (GAAP) consistently applied.

22 **C. Financial Information.** Within 120 days after the close of each
23 fiscal year, Contractor shall deliver to the SBWMA four (4) copies of the audited
24 consolidated financial statements and profit and loss statements for services
25 operations under this Agreement of Contractor for the preceding fiscal year. If the
26 financial statements are consolidated with operations not under this Agreement then
27 they shall include a supplemental combining schedule showing Contractor's results
28 of operations, including the specific revenues and expenses in connection with the
29 operations provided for in this Agreement and others included in such financial
30 statements. The financial statements and footnotes shall be prepared in accordance
31 with Generally Accepted Accounting Principles (GAAP) consistently applied and
32 fairly reflecting the results of operation and Contractor's financial condition. Annual
33 financial statements shall be audited, in accordance with Generally Accepted
34 Auditing Standards (GAAS) by a Certified Public Accountant (CPA) licensed (in
35 good standing) to practice public accounting in the State of California as determined
36 by the State of California Department of Consumer Affairs Board of Accountancy,
37 and that the CPA opinion on Contractor's annual financial statements shall be
38 unqualified or with an exception for a quantified exception to GAAP, and that the
39 supplemental schedule be prepared on a compiled basis.

40

1 **D. Related Party Entities.** As part of the annual requirement,
2 Contractor shall provide the SBWMA with a copy of each Related Party Entity's
3 (whose cost of services are not pre-determined by a governmental agency) audited
4 annual financial statements and management letter for that Fiscal Year, or within
5 ninety (90) days of each Related Party Entity's Fiscal Year-end, if timing does not
6 coincide with the annual report date. Financial statements shall be prepared in
7 accordance with GAAP and audited, in accordance with GAAS, by a CPA licensed in
8 the State, and that the CPA's opinion on each Related Party Entity's annual financial
9 statements shall be unqualified, and that the CPA make available to the SBWMA (or
10 the SBWMA's designated representative) such CPA's working papers related to the
11 audit.

12 Contractor agrees that all financial transactions with all Related Party
13 Entities shall be approved in advance in writing and disclosed annually (coinciding
14 with Contractor's annual audited financial statements referred to in this Section 6.06)
15 to the SBWMA in a separate disclosure letter to the SBWMA. This letter shall
16 include, but not be limited to, the following information:

17 A general description of the nature of each transaction, or type of (or
18 many similar) transaction, as applicable. Such description shall include for each (or
19 similar) transaction, amounts, specific Related Party Entity, basis of amount (how
20 amount was determined), and description of the allocation methodology used to
21 allocate any common costs. Amounts shall be reconciled to the Related Party Entity
22 disclosures made in Contractor's annual audited financial statements referred to in
23 this Section.

24 At the SBWMA 's request, Contractor shall provide the SBWMA with
25 copies of working papers or other documentation deemed relevant by the SBWMA
26 relating to information shown in the annual disclosure letter. The annual disclosure
27 letter shall be provided to the SBWMA within ninety (90) days of Contractor's Fiscal
28 Year end.

29 **E. Inspection of Records.** The SBWMA, and its agents selected by
30 the SBWMA, shall have the right, during regular business hours, to conduct
31 unannounced on-site inspections of the records and accounting systems of
32 Contractor and to make copies of any documents relevant to this Agreement.

33 **F. Retention of Records.** Contractor shall retain all records and
34 data required to be maintained by this Agreement at least until the ensuing rate
35 review under Article 5, has been completed.

36 Records and data required to be maintained that are specifically
37 directed to be retained shall be retrieved by Contractor and made available to the
38 SBWMA.

1 Records and data required to be maintained that are not
2 specifically directed to be retained that are, in the sole opinion of the SBWMA,
3 material to the rate review or to a determination of Contractor's performance under
4 this Agreement, shall be retrieved by Contractor and made available to the SBWMA.

5 Records and data required to be maintained that are not
6 specifically directed to be retained and that are not material to a rate review and/or
7 not required for the determination of Contractor's performance do not need to be
8 retrieved by Contractor. In such a case, however, the SBWMA may make reasonable
9 assumptions regarding what information is contained in such records and data, and
10 such assumption shall be conclusive in whatever action the SBWMA takes.

11
12 **6.07 Adverse Information.**

13 **A. Reporting Adverse Information.** Contractor shall provide the
14 SBWMA two copies (one to the SBWMA Chairperson, one to the SBWMA Attorney)
15 of all reports, pleadings, applications, notifications, Notices of Violation,
16 communications or other material relating specifically to Contractor's performance of
17 services pursuant to this Agreement, submitted by Contractor to, or received by
18 Contractor from, the United States or California Environmental Protection Agency,
19 the California Integrated Waste Management Board, the Securities and Exchange
20 Commission or any other federal, state or local agency, including any federal or state
21 court. Contractor shall also notify the SBWMA of any criminal charges for violation
22 of any federal or state environmental law or antitrust law or for fraud or similar
23 matters initiated hereafter against any management employee of Contractor or its
24 affiliates, that have direct or indirect responsibility for administration of Contractor's
25 performance of services under this agreement. Copies shall be submitted to the
26 SBWMA simultaneously with Contractor's filing or submission of such matters with
27 said agencies. Contractor's routine correspondence to said agencies need not be
28 routinely submitted to the SBWMA, but shall be made available to the
29 SBWMA promptly upon the SBWMA's written request.

30 **B. Failure to Report.** The refusal or failure of Contractor to file any
31 required reports, or to provide required information to the SBWMA, or the inclusion
32 of any materially false or misleading statement or representation by Contractor in
33 such report shall be deemed a material breach of this Agreement, and shall subject
34 Contractor to all remedies available to the SBWMA, after sixty (60) days and
35 notification to Contractor by the SBWMA of the selected remedy, under this
36 Agreement or otherwise.

1 **ARTICLE 7**

2 **PAYMENTS TO THE SBWMA AND TO THE CITY OF SAN CARLOS**

3 **7.01 General.** It is the intent of this Article 7 to compensate the SBWMA for
4 all labor, equipment, materials and supplies, taxes, insurance, bonds, overhead, debt
5 service payments, contributions to prudent and necessary reserves, and all other
6 things necessary to perform its contractual and fiduciary responsibilities required by
7 this Agreement. Also, it is the intent of this Article to ensure that the City of San
8 Carlos continues to receive compensation due it including but not limited to its
9 current share of property tax revenue in spite of the transfer of ownership of the
10 Facilities from Contractor to the SBWMA.

11 **7.02 Calculation of Payment Due to the SBWMA.**

12 **A. Debt Service Payments and Contributions to Reserves.** The
13 SBWMA shall annually determine the amount of the debt service payment and
14 contributions to reserves required by the covenants of the bonds issued to finance the
15 purchase of the Facilities. This amount shall be added to the amount of Contractor's
16 Compensation determined in accordance with Exhibit H.

17 **B. Management Costs.** The SBWMA shall annually determine
18 the amount of its costs to perform its obligations under this Agreement and other
19 agreements to which it is party. This amount shall be added to the amount of
20 Contractor's Compensation determined in accordance with Exhibit H when setting
21 rates.

22 **7.03 Franchise Fee Due the City of San Carlos.** The SBWMA shall annually
23 determine the amount of the franchise fee payment due the City of San Carlos based
24 upon the terms of the Franchise Agreement between Contractor and the City of San
25 Carlos. This amount shall be added to the Contractor's compensation without profit
26 and paid to the City of San Carlos.

27
28 **7.04 Payments to the SBWMA.** Contractor shall collect Fees from all
29 Persons, as provided in Section 3.10 of this Agreement. In accordance with a
30 schedule established by the SBWMA Finance Director, but no more frequently than
31 bi-weekly and no less frequently than monthly, Contractor shall deposit with the
32 SBWMA such Fees collected during the period plus revenue received from
33 Recyclable Materials and SBWMA shall pay amounts in the order set forth in the
34 Indenture of Trust to the South Bayside Waste Management Authority Solid Waste
35 System Revenue Bonds, Series 2000.

36 In addition, Contractor shall pay monthly in advance one twelfth (1/12) of the
37 annual debt service of the South Bayside Waste Management Authority Solid Waste
38 System Revenue Bonds, Series 2000.

1 **ARTICLE 8**
2 **INDEMNITY, INSURANCE AND BOND**

3 **8.01 Indemnification.**

4 **A. General Indemnification.** Contractor shall indemnify, defend
5 and hold harmless, at Contractor's sole cost and expense, the SBWMA, its officers,
6 Directors, employees, volunteers and agents and its Member Agencies and their
7 officers, Directors, employees, volunteers and agents (collectively "Indemnities"),
8 from and against any and all loss, liability, penalty, forfeiture, claim, demand, action,
9 proceeding or suit, of any and every kind and description, whether judicial, quasi-
10 judicial or administrative in nature, including, but not be limited to, injury to and
11 death of any person and/or damage to property or for contribution or indemnity
12 claimed by third parties (collectively, the "Claim") arising out of or occasioned in any
13 way by, directly or indirectly, Contractor's performance of, or its failure to perform,
14 its obligations under the Agreement, including Contractor's failure to comply with
15 applicable laws or Contractor's breach of its representation and warranties in this
16 Agreement. The foregoing shall also apply if the Claim is caused by the joint
17 negligence of Contractor and SBWMA Member Agencies, officers, employees, and
18 agents, but only to the extent of Contractor's negligence. This indemnification will
19 not extend to a Claim to the extent it is caused by the sole negligence or intentional
20 misconduct or omission of the SBWMA, its Member Agencies, officers, employees or
21 agents. Nothing in the Sale and Purchase Agreement (referenced in the recitals)
22 including Section 17.02 thereof, shall relieve or reduce Contractor's indemnification
23 hereunder.

24 **B. Hazardous Substance Indemnification.** Contractor shall
25 indemnify, defend with counsel selected by SBWMA, protect and hold harmless the
26 SBWMA, its officers, Directors, employees, volunteers, and agents, and Member
27 Agencies and their officers, Directors, employees, volunteers, and agents,
28 (collectively, indemnitees) from and against all claims, damages (including but not
29 limited to special, consequential, natural resources and punitive damages), injuries,
30 costs, (including without limit any and all response, remediation and removal costs),
31 losses, demands, debts, liens, liabilities, causes of action, suits, legal or administrative
32 proceedings, interest, fines, charges, penalties, and expenses (including without limit
33 attorneys' expert witness fees and costs incurred in connection with defending
34 against any of the foregoing or in enforcing this indemnity), (Collectively,
35 "Damages") of any kind whatsoever paid, incurred or suffered by, or asserted
36 against, indemnitees arising from or attributable to the acts or omissions of
37 Contractor, its officers, directors, employees, companies or agents, whether or not
38 negligent or otherwise culpable, in connection with or related to the performance of
39 this Agreement, including without limit damages arising from or attributable to any
40 operations, repair, clean-up or detoxification, or preparation and implementation of
41

1 any removal, remedial, response, closure, post-closure or other plan (regardless of
2 whether undertaken due to governmental action) concerning any Hazardous
3 Substance, Hazardous Waste, and/or construction and street debris, or other waste
4 Collected under this Agreement. This indemnity afforded indemnitees, shall only be
5 limited to exclude coverage for intentional wrongful acts and negligence of
6 indemnitees, delivery of Solid Waste by one or more indemnitees which does not
7 conform to the descriptions of materials to be provided to Contractor under this
8 Agreement (unless such non-conforming waste is received in an intentional or
9 negligent manner) and as provided below. The forgoing indemnity is intended to
10 operate as an agreement recognizing the provisions of §107(e) of the Comprehensive
11 Environmental Response, Compensation and Liability Act, CERCLA, 42 USC.
12 §9607(e) and California Health and Safety Code provisions, and establishing
13 Contractor's contractual obligations to defend, protect, hold harmless, and indemnify
14 SBWMA from claims, damages and losses. This provision is in addition to all other
15 provisions in this Agreement and is intended to survive the end of the Term of this
16 Agreement. Nothing in this paragraph shall prevent Contractor from seeking
17 indemnification or contribution from persons or entities other than indemnities, for
18 any liabilities incurred by Contractor, or the indemnitees. As appropriate,
19 Contractor's parent company guarantee shall extend to the indemnification
20 obligation hereunder.

21

22 Should the SBWMA or its Member Agencies contract for or direct the Disposal
23 of Solid Waste to a Transfer Station or landfill not owned or operated solely by
24 Contractor or an Affiliate, then in that event, Contractor's Hazardous Substances
25 indemnification and other indemnities shall not apply to claims, damages, legal
26 proceedings or other liabilities arising from or relating to such non-Contractor
27 owned or operated Transfer Station or Disposal Facility.

28 **8.02 Insurance.**

29 **A. Types and Amounts of Coverage.** Contractor shall procure
30 from an insurance company or companies, which shall conform to the qualification
31 described in Section 8.02(B), and maintain in force at all time during the Term the
32 following types and amounts of insurance:

33 **1) Workers' Compensation.** Contractor shall maintain
34 workers' compensation insurance covering its employees in statutory amounts and
35 otherwise in compliance with the law of the State of California.

36 **2) Employer's Liability.** Contractor shall maintain
37 employer's liability insurance in an amount not less than one million dollars
38 (\$1,000,000) per accident or disease.

1 **3) Comprehensive General Liability (including**
2 **Automobile Liability).** Contractor shall maintain comprehensive general liability
3 insurance with a combined single limit of not less than ten million dollars
4 (\$10,000,000) per occurrence covering all claims and all legal liability for personal
5 injury, bodily injury, death and property damage, including the loss of use thereof,
6 arising out of, or occasioned in any way by, directly or indirectly, Contractor's
7 performance of, or its failure to perform, services under this Agreement. The policy
8 or policies may contain a deductible or self-insured retention with the prior written
9 approval of the SBWMA.

10 The insurance required by this subsection shall include:

- 11 a) Premises operations;
- 12 b) Independent Contractor's protective;
- 13 c) Products and completed operations;
- 14 d) Personal injury liability with Employment
15 exclusion deleted;
- 16 e) Broad form blanket contractual with no exclusions
17 for bodily injury, personal injury or property damage;
- 18 f) Broad form property damage, including completed
19 operations.

20 **4) Environmental Impairment Liability.** Contractor shall
21 maintain environmental impairment liability insurance in the amount of Ten Million
22 Dollars (\$10,000,000) covering liability arising from the release of pollution at the
23 Facilities.

24 **B. Acceptability of Insurers.** The insurance policies required by
25 this Section 8.02 shall be issued by an insurance company or companies admitted to
26 do business in the State of California subject to the authority of the California
27 Insurance Commission and with a rating in the most recent edition of Best's
28 Insurance Reports of size category VII or larger and a rating classification of A or
29 better.

30 **C. Other Insurance Provisions.** The policies are to contain, or be
31 endorsed to contain, the following provisions:

32 **1) Workers' Compensation and Employer's Liability**
33 **Coverage.** The insurer shall agree to waive all rights of subrogation against the

1 SBWMA, its Member Agencies, its officials, employees and
2 volunteers for losses arising from work performed by Contractor for the SBWMA.

3 **2) Comprehensive General Liability (including**
4 **Automobile Liability) Coverage.**

5 a) The SBWMA Members, its, officers, Directors,
6 employees, volunteers, and agents, and Member Agencies, Agencies and their
7 officers, Directors, employees, volunteers, and agents are to be covered as additional
8 insureds as respects: liability arising out of activities performed by or on behalf of
9 Contractor; completed operations of Contractor; premises leased or used by
10 Contractor; and automobiles owned, leased, hired, or borrowed by Contractor. The
11 coverage shall contain no special limitations on the scope of protection afforded to
12 the SBWMA, its officials, employees, or agents.

13 b) Contractor's insurance coverage shall be primary
14 insurance as respects; the SBWMA, its Member Agencies, officials, employees, and
15 agents. Any insurance or self-insurance maintained by the SBWMA, its Member
16 Agencies, officials, employees or volunteers shall be excess of Contractor's insurance
17 and shall not contribute with it.

18 c) Any failure to comply with the reporting
19 provisions of the policies shall not affect coverage provided to the SBWMA, its
20 Member Agencies, officials, employees and agents.

21 d) Coverage shall state that Contractor's insurance
22 shall apply separately to each insured against whom claim is made or suit is brought
23 except with respect to the limits of the insurer's liability.

24 **D. Required Endorsements.** The policies shall contain
25 endorsements in substantially the following form:

26 **1) Workers' Compensation and Employer's Liability:**

27 a) "Thirty (30) days written notice shall be given by
28 certified mail, return receipt request, to the SBWMA in the event of cancellation,
29 reduction in coverage, or non-renewal of this policy."

30 c) "Insurer waives all right of subrogation against the
31 SBWMA, its Member Agencies, officials, employees, and agents for losses arising
32 from work performed by Contractor for the SBWMA.

33 **2) Comprehensive General Liability (Including**
34 **Automobile Liability) and Environmental.**

1 a) “Thirty (30) days written notice shall be given by
2 certified mail, return receipt requested, to the SBWMA in the event of cancellation,
3 reduction in coverage, or non-renewal of this policy.”

4 b) “The SBWMA, its Member Agencies, officers,
5 employees, volunteers and agents are additional insureds on this policy.”

6 c) “This policy shall be considered primary insurance
7 as respects any other valid and collective insurance maintained by the SBWMA,
8 including any self-insured retention or program of self-insurance, and any other such
9 insurance shall be considered excess insurance only.”

10 d) “Inclusion of the SBWMA as an additional insured
11 shall not affect the SBWMA’s rights as respects any claim, demand, suit or judgment
12 brought or recovered against Contractor. This policy shall protect Contractor and
13 the SBWMA in the same manner as though a separate policy had been issued to
14 each, but this policy shall not operate to increase the insurance company’s liability as
15 set forth in the policy beyond the amount shown or to which the insurance company
16 would have been liable if only one party had been name as an insured.”

17 **E. Delivery of Proof of Coverage.** On or before the Effective Date,
18 Contractor shall furnish the SBWMA with certificates of each policy of insurance
19 required hereunder. Such certificates shall show the type and amount of coverage,
20 effective dates, and dates of expiration of policies, and shall be accompanied by copies
21 of all required endorsements. The certificates and endorsements for each policy are
22 to be signed by a person authorized by the insurer to bind coverage on its behalf. If
23 at any time the SBWMA so requests, complete, certified copies of each policy,
24 together with all endorsements, shall also be promptly delivered to the SBWMA.
25 Contractor shall periodically furnish renewal certificates to the SBWMA to
26 demonstrate maintenance of the required coverage throughout the Term.

27 **F. Other Insurance Requirements.**

28 1) In the event any services are delegated to a subcontractor,
29 Contractor shall require such subcontractor to provide statutory workers’
30 compensation insurance and employer’s liability insurance for all of the
31 subcontractor’s employees engaged in the work performed for or on behalf of the
32 SBWMA. The liability insurance required by Subsections 8.02(A).1 and 8.02(A).2
33 shall cover all subcontractors, or the subcontractor must furnish evidence that its
34 insurance meets all of the requirements of Section 8.02.

35 2) Contractor shall comply with all requirements of the
36 insurers policies. The carrying of insurance shall not relieve Contractor from any
37 obligation under this Agreement, including those imposed by Section 8.01. If any
38 claim is made by any third party against Contractor or a subcontractor on account of

1 **C. Failure to Maintain Coverage.** If Contractor fails to provide or
2 maintain in full force and effect the Workers' Compensation, liability, or
3 indemnification coverage as required by this Agreement.

4 **D. Violations of Regulation.** If Contractor violates any orders or
5 filings of any regulatory body having authority over Contractor relative to this
6 Agreement, provided that Contractor may contest any such orders or filings by
7 appropriate proceedings conducted in good faith, in which case no breach of the
8 Agreement shall be deemed to have occurred.

9 **E. Failure to Perform.** If Contractor ceases to provide transfer,
10 processing or Recyclable Materials services as required under this Agreement for a
11 period of two (2) consecutive days or more, for any reason within the control of
12 Contractor, including labor disputes.

13 **F. Failure to Pay.** If Contractor fails to make any payments
14 required under this Agreement and/or refuses to provide the SBWMA with required
15 information, reports, and/or records in a timely manner as provided for in the
16 Agreement.

17 **G. Acts or Omissions.** Any other act or omission by Contractor
18 which violates the terms, conditions, or requirements of this Agreement, the Act, as it
19 may be amended from time to time, or any law, statute, ordinance, order, directive,
20 rule, or regulation issued thereunder and which is not corrected or remedied within
21 the time set in the written notice of the violation or, if Contractor cannot reasonably
22 correct or remedy the breach within the time set forth in such notice, if Contractor
23 should fail to commence to correct or remedy such violation within the time set forth
24 in such notice and diligently effect such correction or remedy thereafter.

25 **H. False or Misleading Statements.** Any representation or
26 disclosure made to the SBWMA by Contractor in connection with or as an
27 inducement to entering into this Agreement, or any future amendment to this
28 Agreement, which proves to be false or misleading in any material respect as of the
29 time such representation or disclosure is made, whether or not any such
30 representation or disclosure appears as part of this Agreement.

31 **I. Attachment.** There is a seizure of, attachment of, or levy on, the
32 operating equipment of Contractor, including without limits its equipment,
33 maintenance or office facilities, or any part thereof.

34 **J. Suspension or Termination of Service.** There is any
35 termination or suspension of the services to be provided by Contractor under this
36 agreement, including without limit, due to labor unrest including strike, work
37 stoppage or slowdown, sick-out, picketing, or other concerted job action lasting more
38 than two (2) consecutive service days.

1 **K. Failure to Provide Assurance of Performance.** If Contractor
2 fails to provide reasonable assurances of performance as required under Section
3 10.14.

4 Contractor shall be given forty-eight (48) hours from notification by the
5 SBWMA to cure any default arising under subsections C, E, F, I and J provided,
6 however, that the SBWMA shall not be obligated to provide Contractor with a notice
7 and cure opportunity if Contractor has committed the same or similar breach within
8 a twenty-four (24) month period.

9 **9.02 Right to Terminate Upon Default.** In the event that Contractor should
10 default and subject to the right of Contractor to cure as described above, the SBWMA
11 has the unilateral right to terminate this Agreement and will determine within ten
12 (10) days' notice if the public health or safety is threatened, or otherwise thirty (30)
13 days, from written notice of default to Contractor, if a termination hearing must be
14 held. In the event the SBWMA decides to terminate this contract, the SBWMA shall
15 serve twenty (20) days' written notice of its intention to terminate upon Contractor.
16 In the event the SBWMA exercises its right to terminate this Agreement, the SBWMA
17 may, at its option, either directly undertake performance of the services or arrange
18 with other persons to perform the services with or without a written agreement. This
19 right of termination is in addition to any other rights of the SBWMA upon a failure of
20 Contractor to perform its obligations under this Agreement.

21 The SBWMA's right to terminate this Agreement and to take possession
22 of the Facility are not exclusive, and the SBWMA's termination of this Agreement
23 shall not constitute an election of remedies. Instead, they shall be in addition to any
24 and all other legal and equitable rights and remedies which the SBWMA may have.

25 By virtue of the nature of this Agreement, the urgency of timely
26 continuous and high-quality service, the time required to effect alternative service,
27 and the rights granted by the SBWMA to Contractor, the remedy of damages for a
28 breach hereof by Contractor may be inadequate, and the SBWMA may seek
29 injunctive relief.

30 **9.03 Liquidated Damages.**

31 **9.03.1 General.** The SBWMA finds, and Contractor agrees, that as
32 of the time of the execution of this Agreement, it is impractical, if not impossible, to
33 reasonably ascertain the extent of damages which shall be incurred by the SBWMA
34 as a result of a breach by Contractor of its obligations under this Agreement. The
35 factors relating to the impracticability of ascertaining damages include, but are not
36 limited to, the fact that: (i) substantial damage results to members of the public who
37 are denied services or denied quality or reliable service; (ii) such breaches cause
38 inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement
39 to individual members of the general public for whose benefit this Agreement exists,

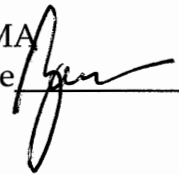
1 in subjective ways and in varying degrees of intensity which are incapable of
2 measurement in precise monetary terms; (iii) that similar services might be available
3 at substantially lower costs than alternative services and the monetary loss resulting
4 from denial of services or denial of quality or reliable services is impossible to
5 calculate in precise monetary terms; and (iv) the termination of this Agreement for
6 such breaches, and other remedies are, at best, a means of future correction and not
7 remedies which make the public whole for past breaches.

8 **9.03.2 Service Performance Standards; Liquidated Damages for**
9 **Failure to Meet Standards.** The Parties further acknowledge that consistent, reliable
10 transfer and processing service is of utmost importance to the SBWMA and that the
11 SBWMA has considered and relied on Contractor's representations as to its quality of
12 service commitment in awarding this Agreement to Contractor. The Parties further
13 recognize that some quantified standards of performance are necessary and
14 appropriate to ensure consistent and reliable service and performance. The Parties
15 further recognize that if Contractor fails to achieve the performance standards, or
16 fails to submit required documents in a timely manner, the SBWMA and its residents
17 will suffer damages, and that it is and will be impractical and extremely difficult to
18 ascertain and determine the exact amount of damages which the SBWMA will suffer.
19 Therefore, without prejudice to the SBWMA's right to treat such non-performance as
20 an event of default under this Article9, the Parties agree that the following liquidated
21 damage amounts represent a reasonable estimate of the amount of such damages
22 considering all of the circumstances existing on the date of this Agreement, including
23 the relationship of the sums to the range of harm to the SBWMA that reasonably
24 could be anticipated and the anticipation that proof of actual damages would be
25 costly or impractical. In placing their initials at the places provided, each party
26 specifically confirms the accuracy of the statements made above and the fact that
27 each party has had ample opportunity to consult with legal counsel and obtain an
28 explanation of the liquidated damage provisions at the time that the Agreement was
29 made.

30 Contractor
31 Initial Here



The SBWMA
Initial Here



32

1 Contractor agrees to pay (as liquidated damages and not as a
2 penalty) the amounts set forth below:

3 A. Transfer Reliability. For each Collection vehicle of
4 Member Agencies or its Franchisee, which is unable to depart from the Transfer
5 Station within the 15 (fifteen) minute maximum turnaround time due to queuing
6 within the Transfer Station: \$100.00.

7 B. Processing Quality. each month that residual
8 waste from the Recyclery exceeds levels at comparable facilities: \$1,000.00
9

10 C. Marketing Ability.

11 1) For each month that overall per ton revenues for
12 recyclable materials are less than averages achieved by other similar facilities in the
13 nine (9) counties of the Bay Area: \$1,000.00

14 2) For each 30 days, or fraction thereof, that the
15 Marketing Plan for the alternative diversion options for the use of Plant Materials
16 (described in Section 3.12A of this Agreement) is beyond 90 days after the execution
17 of this Agreement: \$5,000.

18 D. Timeliness of Submissions to the SBWMA. Any report
19 shall be considered late until such time as a correct and complete report is received
20 by the SBWMA. For each calendar day a report is late, after the seventh late day, the
21 daily liquidated damage amount shall be:

22 1) Quarterly Reports: \$100 per day

23 2) Annual Reports: \$500 per day

24 3) Other Reports not specifically addressed in this
25 Section 9.03: \$100 per day

26 E. Additional Liquidated Damages.
27

28 1) For each year that Contractor fails to meet a
29 program's annual diversion requirements as described in Section 3.02I for material
30 recovery of self-haul and debris box loads through manual floor sorting and/or self-
31 haul/debris box drop-off at the Transfer Station: \$25,000.
32

1 excuse from performance and Contractor shall be obligated to continue to provide
2 service notwithstanding the occurrence of any or all of such events.

3 The party claiming excuse from performance shall, within two (2) days
4 after such party has notice of such cause, give the other party notice of the facts con-
5 stituting such cause and asserting its claim to excuse under this Section 9.04.

6 The interruption or discontinuance of Contractor's services caused by
7 one or more of the events excused shall not constitute a default by Contractor under
8 this Agreement. Notwithstanding the foregoing, however, if Contractor is excused
9 from performing its obligations to transfer, dispose and recycle Solid Waste under
10 this Agreement hereunder for any of the causes listed in this Section 9.04 for a period
11 of ten (10) or more, the SBWMA shall nevertheless have the right, in its sole
12 discretion, to terminate this Agreement by giving ten (10) days notice, in which case
13 the provisions relative to taking possession of the land, equipment and other
14 property and engaging Contractor's personnel in Section 9.05 will apply.

15 **9.05 Right to Perform.** If this Agreement is suspended and/or terminated
16 due to a Contractor default, the SBWMA shall have the right to perform and
17 complete, by contract or otherwise, the services herein or such part thereof as it may
18 deem necessary to procure labor, equipment, and materials and incur all other
19 expenses necessary for completion of the services, including, but not limited to,
20 transfer of Solid Waste and/or processing of Recyclable Materials and Plant
21 Materials at alternate facilities. If such expenses (including, but not limited to, the
22 costs of transportation to alternative facilities and the actual fees charged for transfer
23 and processing) exceed the amounts which would have been payable to Contractor
24 under this Agreement, if it had been fully performed by Contractor, then Contractor
25 shall pay the amount of such excess to the SBWMA within thirty (30) days of
26 Contractor's receipt of a claim for reimbursement, and evidence of costs incurred,
27 from the SBWMA.

28 **9.06 The SBWMA's Remedies Cumulative; Specific Performance.** The
29 SBWMA's rights to suspend or terminate this Agreement under Section 9.02 or to
30 perform under Section 9.05 are not mutually exclusive, and the SBWMA's exercise of
31 one such right shall not constitute a selection of remedies. Instead, they shall be in
32 addition to any and all other legal and equitable rights and remedies which the
33 SBWMA may have.

34 **ARTICLE 10**
35 **OTHER AGREEMENTS OF THE PARTIES**

36 **10.01 Relationship of Parties.** The Parties intend that Contractor shall
37 perform the services required by this Agreement as an independent Contractor

1 engaged by the SBWMA and not as an agent of the SBWMA or any Member
2 Agency, an officer or employee of the SBWMA or any Member Agency or as a
3 partner of or joint venturer with the SBWMA or any Member Agency. No employee
4 or agent of Contractor shall be or shall be deemed to be an employee or agent of the
5 SBWMA. Except as expressly provided herein, Contractor shall have the exclusive
6 control over the manner and means of conducting the Solid Waste transfer and
7 Recyclable Materials and Plant Materials processing and marketing services
8 performed under this Agreement, and all persons performing such services.
9 Contractor shall be solely responsible for the acts and omissions of its officers,
10 employees, subcontractors, and agents. Neither Contractor nor its officers,
11 employees, subcontractors, and agents shall obtain any rights to retirement benefits,
12 survivors compensation benefits, or any other benefits which accrue to the SBWMA
13 employees by virtue of their employment with the SBWMA.

14 **10.02 Compliance with Law.** In providing the services required under this
15 Agreement, Contractor shall at all times comply with all applicable laws (including
16 but not limited to the "Environmental Laws") of the United States, the State of
17 California, the County of San Mateo and with all applicable regulations promulgated
18 by federal, state, regional, or local administrative and regulatory agencies, now in
19 force and as they may be enacted, issued, or amended during the Term, collectively,
20 the "Laws"). In the event of any conflict between this Agreement and Laws, the
21 requirements of the Laws shall govern, and Contractor shall not be in breach of this
22 Agreement if Contractor complies with the Laws in contravention of this Agreement,
23 provided that nothing in this Section 10.02 is intended to limit or enlarge Contractor's
24 obligations or diminish its right to satisfy its obligation to transfer Solid Waste and
25 process and market Recyclable Materials by arranging for it to be accepted and
26 disposed of at other facilities.

27 **10.03 Governing Law.** This Agreement shall be governed by, and construed
28 and enforced in accordance with, the laws of the State of California.

29 **10.04 Jurisdiction.** Any lawsuits between the parties arising out of this
30 Agreement shall be brought and concluded in the courts of the State of California, in
31 the County of San Mateo or the Federal District court for northern California, which
32 shall have exclusive jurisdiction over such lawsuits. With respect to venue, the
33 parties agree that this Agreement is made in and will be performed in the County of
34 San Mateo, California.

35 **10.05 Assignment by Contractor.**

36 **10.05.1 Permitted Assignments.** Contractor shall have the right
37 to assign this Agreement to any other company which is owned and controlled by
38 Browning-Ferris Industries,LLC. a limited liability company provided that, (i) such

- 1 company is qualified to do business in California, and assumes in writing all of
- 2 Contractor's obligations under
- 3

1 this Agreement prior to or concurrently with such assignment, (ii) such company
2 provides the performance bond required under Section 8.03; and (iii) the corporate
3 guaranty described in Section 10.16 remains in full force and effect. Contractor shall
4 not otherwise assign its rights nor delegate or otherwise transfer its obligations
5 under this Agreement to any other Person.

6 **10.05.2 Assignment Defined.** For the purpose of this Section
7 when used in reference to Contractor, "assignment" shall include, but not be limited
8 to (1) a sale, exchange or other transfer of substantially all of Contractor's assets
9 dedicated to service under this Agreement to a third party; (ii) a sale, exchange or
10 other transfer of outstanding common stock of Contractor to a third party provided
11 said sale, exchange or transfer may result in a change of control of contractor; (iii)
12 any dissolution, organization, consolidation, merger, re-capitalization,, stock
13 issuance or re-issuance, voting trust, pooling agreement, escrow arrangement,
14 liquidation or other transaction to which results in a change of Ownership or control
15 of Contractor; (iv) any assignment by operation of law, including insolvency or
16 bankruptcy, making assignment for the benefit of creditors, writ of attachment for an
17 execution being levied against this Agreement, appointment of a receiver taking
18 possession of Contractor's property, or transfer occurring in the event of a probate
19 proceeding; and (v) any combination of the foregoing (whether or not in related or
20 contemporaneous transactions) which has the effect of any such transfer or change of
21 Ownership, or change of control of Contractor.

22
23 Contractor acknowledges that this Agreement involves rendering a
24 vital service to the SBWMA's residents and business, and that the SBWMA has
25 selected Contractor to perform the services specified herein based on (1)
26 Contractor's experience, skill and reputation for conducting its operations in a safe,
27 effective and responsible fashion, at all times in keeping with applicable
28 Environmental Laws, regulations, and best management practices, and (2)
29 Contractor's obligations to the SBWMA under this Agreement. The SBWMA has
30 relied on each of these factors, among others, in choosing Contractor to perform the
31 services to be rendered by Contractor under this Agreement.

32
33 **10.05.3 Contractor Request for Assignment.** If Contractor
34 requests the SBWMA's consideration of and consent to an assignment, the SBWMA
35 may reasonably deny or approve such request. No request by Contractor for consent
36 to any assignment need be considered by SBWMA unless and until Contractor has
37 met the following requirements:

38
39 **A.** Contractor shall undertake to pay SBWMA its reasonably
40 expenses for attorney's fees and investigation costs necessary to investigate the
41 suitability of any proposed assignee, and to review and finalize any documentation
42 required as a condition for approving any such assignment;
43

1 **B.** Contractor shall furnish SBWMA with audited financial
2 statements of the proposed assignee's operations for the immediately preceding
3 three (3) operating years;

4
5 **C.** Contractor shall furnish SBWMA with satisfactory proof: (i) that
6 the proposed assignee has at least ten (10) years of Solid Waste management
7 experience on a scale equal to or exceeding the sale of operations conducted by
8 Contractor under this Agreement; (ii) that in the last five (5) years, the proposed
9 assignee has not suffered any significant citations or other censure from any federal,
10 state or local agency having jurisdiction over its Solid Waste management operations
11 due to any significant failure to comply with state, federal or local Environmental
12 Laws and that the assignee has provided SBWMA with a complete list of such
13 citations and censures; (iii) that the proposed assignee has at all times conducted its
14 operations in an environmentally safe and conscientious fashion; (iv) that the
15 proposed assignee conducts its Solid Waste management practices in accordance
16 with sound Solid Waste management practices in full compliance with all federal,
17 state and local laws regulating the collection and Disposal of Solid Waste including
18 Hazardous Substances; and, (v) of any other information required by SBWMA to
19 ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe
20 and effective manner.

21
22 Under no circumstances shall SBWMA be obligated to consider any proposed
23 Assignment by SBWMA if Contractor is in default at any time during the period of
24 consideration.

25
26 **10.06 Binding on Successors.** The provisions of this Agreement shall inure
27 to the benefit of and be binding on the successors and permitted assigns of the
28 parties.

29
30 **10.07 Parties in Interest.** Nothing in this Agreement, whether expressed or
31 implied, is intended to confer any rights on any Persons other than the Parties to it
32 and their representatives, successors and permitted assigns.

33 **10.08 Waiver.** The waiver by either Party of any breach or violation of any
34 provisions of this Agreement shall not be deemed to be a waiver of any breach or
35 violation of any other provision nor of any subsequent breach or violation of the
36 same or any other provision. The subsequent acceptance by either Party of any
37 monies which become due hereunder shall not be deemed to be a waiver of any pre-
38 existing, concurrent or subsequent breach or violation by the other Party of any
39 provision of this Agreement.

40 **10.09 Notices.** All notices, demands, requests, proposals, approvals,
41 consents, and other communications which this Agreement requires, authorizes or
42 contemplates shall, except where specifically provided otherwise, be in writing and

1 shall either be personally delivered to a representative of the parties at the address
2 below or be deposited in the United States mail, first class postage prepaid, (certified
3 or registered mail, return receipt requested) addressed as follows:

4 If to the SBWMA: SBWMA Chair
5 c/o City Manager
6 City of San Carlos
7 600 Elm Street
8 San Carlos, CA 94070

9 If to Contractor: District Manager
10 Browning-Ferris Industries, San Mateo District
11 225 Shoreway Road
12 San Carlos, CA 94070
13

14 The address to which communications may be delivered may be
15 changed from time to time by a notice given in accordance with this Section 10.09.
16 Notices shall be deemed delivered only upon receipt.

17 **10.10 Representatives of the Parties.**

18 **A. Representative of the SBWMA.** On or before the effective date,
19 the SBWMA Board of Directors shall delegate, in writing, authority to an SBWMA
20 official, and may permit such official, in turn, to delegate in writing some or all of
21 such authority to subordinate officers. Contractor may rely upon actions taken by
22 such delegates with respect to the SBWMA's respective rights and obligations under
23 this Agreement.

24 **B. Representatives of Contractor.** Contractor shall, on or before
25 the Effective Date, designate in writing a responsible officer who shall serve as the
26 representative of Contractor in all matters related to this Agreement and shall inform
27 the SBWMA in writing of such designation and of any limitations upon his or her
28 authority to bind Contractor. The SBWMA may rely upon action taken by such
29 designated representative as actions of Contractor unless they are outside the scope
30 of the authority delegated to him/her by Contractor as communicated to the
31 SBWMA.

32 **10.11 Duty of Contractor Not to Discriminate.** Consistent with the SBWMA
33 policy that harassment and discrimination are unacceptable employer-employee
34 conduct, Contractor agrees that harassment or discrimination directed toward a job
35 applicant or employee of Contractor, an SBWMA employee, or a citizen by
36 Contractor or Contractor's employee on the basis of race, religious creed, color,
37 national origin, ancestry, handicap, mental or physical disability, Acquired Immune
38 Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC), cancer-related medical
39 condition, refusal of family care leave, marital status, denial of pregnancy disability

1 leave, veteran status, age, sex, sexual orientation, or sexual preference will not be
2 tolerated. Contractor agrees that any and all violations of this provision shall
3 constitute a material breach of this Agreement.

4
5 **10.12 Right to Inspect Facilities and Operational Records.** The SBWMA
6 shall have the right, but not the obligation, to observe and inspect all of Contractor's
7 operations under this Agreement. In connection therewith, the SBWMA shall have
8 the right to enter the Facilities unannounced during operating hours, speak to any of
9 Contractor's employees and receive cooperation from such employees in response to
10 inquiries. In addition, upon reasonable notice and without interference with
11 Contractor's operations, the SBWMA may review and copy, at the SBWMA's
12 expense, any of Contractor's operational records related to this Agreement. If the
13 SBWMA so requests, Contractor shall make specified personnel available to
14 accompany the SBWMA representatives on inspections.

15 **10.13 Compilation of Information for State Law Purposes.** Contractor shall
16 compile information on amounts of Solid Waste and Recyclable Materials delivered
17 to the Facilities and other information, which the SBWMA may reasonably request.

18 **10.14 Right to Demand Assurances of Performance.** If Contractor (1) is the
19 subject of any labor unrest including service stoppage or slowdown, sick-out,
20 picketing or other concerted job action; (2) appears in the reasonable judgment of the
21 SBWMA to be unable to regularly pay its bills as they become due; or (3) is the
22 subject of a civil or criminal proceeding brought by a federal, state, regional, or local
23 agency for violation of an Environmental Law at the Facilities which the SBWMA
24 reasonably believes has placed Contractor's ability to perform under this Agreement
25 in substantial jeopardy, the SBWMA may, at its option and in addition to all other
26 remedies it may have, demand from Contractor written assurances of timely and
27 proper performance of this Agreement within three (3) days after receiving demand
28 by certified mail. "Assurances" for purposes of this Section 10.14 do not include an
29 increase in financial guarantees beyond the bond provided for under Section 8.03.

30 **10.15 Guaranty of Contractor's Performance.** Pursuant to a guaranty in
31 substantially the form attached as Exhibit L, Browning-Ferris Industries, LLC., a
32 limited liability company duly organized and existing in good standing under the
33 laws of the State of Delaware which owns all of the issued and outstanding common
34 stock of BFI Waste Systems of North America, Inc., has agreed to guaranty
35 Contractor's performance of this Agreement including Contractor's indemnification
36 obligation hereunder. The Guaranty is being provided concurrently with
37 Contractor's execution of this Agreement.

38 **10.16 Dispute Resolution.** Disputes arising under this Agreement shall be
39 resolved by means of mediation, and if that fails by arbitration. If the parties cannot

1 agree on a mediator, the Superior Court of San Mateo County shall appoint a
2 mediator.

3 **10.17 Affiliated Companies.** Contractor shall maintain accounting records
4 and financial statements on a basis showing the results of Contractor's operations
5 under this Agreement separately from operations in other locations, as if Contractor
6 were an independent entity providing service only to the SBWMA. For purposes of
7 the Agreement, the costs and revenues associated with providing service to the
8 SBWMA shall not be combined, consolidated or in any other way incorporated with
9 those of other operations conducted by Contractor in other locations, or with those of
10 an Affiliate.

11 **10.18 Subcontracting.** Contractor shall not engage any subcontractors for
12 transfer, processing or Disposal of Solid Waste without the prior written consent of
13 the SBWMA.

14 **10.19 Transition to Next Contractor.** If the transition of services to another
15 contractor occurs through expiration of Term, default and termination, or otherwise,
16 Contractor will cooperate with the SBWMA and subsequent contractor(s) to assist in
17 an orderly transition. Depending on Contractor's circumstances at the point of
18 transition, Contractor at its option may enter into negotiations with the next
19 contractor to sell (in part or all) vehicles and equipment, as appropriate.

20 **10.20 Contractor's Investigation.** Contractor has made an independent
21 investigation of the conditions and circumstances surrounding the Agreement and
22 the work to be performed by it. Contractor's execution of this Agreement constitutes
23 Contractor's acceptance of the results of such investigation as satisfactory.

24 **10.21 The SBWMA Free to Negotiate with Third Parties.** The SBWMA may
25 investigate all options for the transfer and processing of Solid Waste after the
26 expiration of the Term. Without limiting the generality of the foregoing, the SBWMA
27 may solicit proposals from Contractor and from third parties for the provision of
28 services, and any combination thereof, and may negotiate and execute agreements
29 for such services which will take effect upon the expiration or earlier termination
30 under Section 9.02.

31 **10.22 Compliance with the SBWMA Codes.** Contractor shall comply with
32 those provisions of the ordinances and municipal codes of the SBWMA Member
33 Agencies which are applicable, and with any and all amendments to such applicable
34 provisions during the Term of this Agreement provided, however, that if a change in
35 any such municipal code materially affects Contractor's annual cost of operations,
36 Contractor shall be entitled to an interim compensation adjustment. Moreover, no
37 such change may override Contractor's designations of an MRF, Transfer Station and
38 Disposal Site pursuant to this Agreement.

1 delivery of this Agreement nor the performance of this Agreement: (i) conflicts
2 with, violates, or results in a breach of any applicable law; or (ii) conflicts with,
3 violates or results in a breach of any term or condition of any judgment, order or
4 decree of any court, administrative agency or other governmental authority, or any
5 agreement or instrument to which Contractor or SBWMA is a party or by which
6 Contractor or SBWMA or any of its properties or assets are bound, or constitutes a
7 default thereunder.

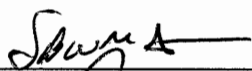
8 **12.04 No Litigation.** To the best of Contractor's knowledge, after reasonable
9 investigation, there is no action, suit, proceeding or investigation, at law or in equity,
10 before or by any court or governmental authority, commission, board, agency or
11 instrumentality decided, pending or threatened against Contractor wherein an
12 unfavorable decision, ruling or finding, in any single case or in the aggregate, would
13 materially adversely affect the performance by Contractor of its obligations
14 hereunder or which, in any way, would adversely affect the validity or enforceability
15 of this Agreement or which would have a material adverse effect on the financial
16 condition of Contractor or any surety guaranteeing Contractor's performance under
17 this Agreement, which has not been waived by the SBWMA in writing.

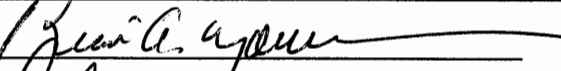
18 **12.05 Ability to Perform.** Contractor possesses the business, professional,
19 and technical expertise to manage, handle, treat, store and dispose of the Solid
20 Waste, and possesses the equipment, plant, and employee resources required to
21 perform this Agreement.

22 **12.06 SBWMA Authorization.** The SBWMA has the authority to enter into
23 and perform its obligations under this Agreement. SBWMA has taken all actions
24 required by law or otherwise to authorize the execution of this Agreement. The
25 persons signing this Agreement on behalf of the SBWMA have the authority to do so.
26 Any Member Agency subsequently withdrawing from SBWMA after the execution
27 of this Agreement or withdrawing its delegation to SBWMA to provide Solid Waste
28 services, shall nevertheless be bound by this Agreement in exercising withdrawing
29 Member Agency's authority for the term of this Agreement, including extensions
30 entered into prior to the date of withdrawal.

31 IN WITNESS WHEREOF, the SBWMA and Contractor have executed this
32 Agreement as of the day and year first above written.

33
34

35 _____


36 By: _____


37 Name: Brian A. Moura

38 Title: Chair

1 Contractor BEL WASTE SYSTEMS OF NORTH AMERICA, INC.

2 By: _____

3 Name: Bill Jones

4 Title: DISTRICT MANAGER.

5 ATTEST:

6 By: _____

7 Name: _____

Name: _____

8 Title: _____

Title: Secretary

9 APPROVED AS TO FORM:

(Corporate Seal)

10 [Signature]

11 Authority Counsel

12 (Seal)

Exhibit A

Definitions

DEFINITIONS

This Agreement will be construed in accordance with the following definitions:

Act

"Act" means the California Integrated Waste Management Act of 1989 (AB939), as it may be amended from time to time.

Affiliate

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Contractor and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

Agency

"Agency" means a municipal corporation or political subdivision (as the case may be) of the State of California which is an active member of the SBSWA.

Agreement

"Agreement" means this Agreement between the SBSWA and Contractor for transfer, processing and recycling of Solid Waste, and other services related to meeting the goals and requirements of the Act, including all exhibits and attachments, and any amendments thereto.

Buyback/Drop-Off Center

"Buyback/Drop-Off Center" means an area located at the Facility where Contractor provides generators the opportunity to divert Recyclable Materials prior to Disposal

for free or for a price paid by Contractor when market prices exist for the Recyclable Materials.

California Integrated Waste Management Act (AB939)

"California Integrated Waste Management Act" means Public Resources Code, §40000 et seq.

Claim

"Claim" means any claim by third parties against Contractor, including but not limited to, injury, death of any person or damage to private property arising out of or occasioned in any way by, directly or indirectly, Contractor's performance of, or its failure to perform its obligations under this Agreement, including Contractor's failure to comply with all applicable laws or Contractor's breach of its representation and warranties under this Agreement.

Collect/Collection

"Collect" or "Collection" means to take physical possession, transport, and remove Solid Waste within and from the Service Area.

Contractor

"Contractor" means Browning-Ferris Industries Waste Systems of North America, Inc. (a wholly-owned subsidiary of Browning-Ferris Industries, LLC.), a limited liability company organized and operating under the laws of the State of Delaware and its officers, directors, employees, agents, companies and subcontractors.

Contractor Compensation

"Contractor Compensation" means the revenue received by Contractor from billings, cash receipts and Recyclable Material sales revenue, in return for providing services in accordance with this Agreement and any amendments to this Agreement.

County

"County" means the County of San Mateo, California.

Designated Hauler(s)

"Designated Hauler" means that Collection company or those companies operating in accordance with a Franchise Agreement with a SBWSA Member Agency/Agencies.

Disposal

"Disposal" means the ultimate disposition of Solid Waste received by Contractor at a landfill in full regulatory compliance.

Disposal Agreement

"Disposal Agreement" means the Agreement between the County of San Mateo and Contractor (dated August, 1999).

Disposal Facility

"Disposal Facility" means the Solid Waste handling facility or facilities utilized for the Disposal of Solid Waste received by Contractor. The Ox Mountain Landfill owned by Contractor, shall be the designated Disposal Facility of Contractor as of the effective date of this Agreement.

Disposal Rate

"Disposal Rate" means the fee charges per ton for disposal at a Disposal Facility.

Diversification

"Diversification" means the separation of materials from the overall Solid Waste stream and whose disposition is for reuse or Recycling and not landfill Disposal.

Effective Date

"Effective Date" means the date specified in Section 2.01.

Environmental Laws

"Environmental Laws" means all federal and state statutes, county, local and Agency ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Toxic Substances Control Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; the California Integrated Waste Management Act, California Public Resources Code §40000 et seq., as currently in force or as hereafter amended, and all rules and regulations promulgated thereunder.

Facility

"Facility" means any plant or site, owned or leased and maintained, operated or used by Contractor or the SBWMA for purposes of performing under this Agreement. The designated facilities for the purposes of this Agreement shall be the San Carlos Transfer Station and San Carlos Recyclery located at 225 Shoreway Road and 333 Shoreway Road respectively, in the City of San Carlos.

Fiscal Year

"Fiscal Year" means the period commencing January 1 and concluding December 31 of the same year.

Full Regulatory Compliance

"Full Regulatory Compliance" means compliance with all applicable permits for a Facility such that Contractor will at all times maintain the ability to comply fully with its obligations under this Agreement.

Hazardous Substance

"Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Wastes", "toxic waste", "pollutant" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq.(CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, and 25316; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated thereunder to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local environmental laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyls ("PCBs"), petroleum, natural gas and synthetic fuel products, and by-products.

Hazardous Waste

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the U.S. Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated thereunder.

Maximum Turnaround Time

"Maximum Turnaround Time" shall be fifteen (15) minutes from the scale house, to unload and deposit Solid Waste and exit the Facility.

Member Agency/ Agencies

"Member Agencies" means any one and/or all of the public entities listed in Exhibit A of the Joint Exercise of Powers Agreement South Bayside Waste Management Authority.

Parties

"Parties" means Contractor and SBWMA.

Pass-Through Cost

"Pass-Through Cost" means a cost to which no element of overhead, administrative expense, profit, or other cost is added nor with respect to which any other amount is credited, such that the specific amount of such cost is included without modification in the calculations or reports to which such costs pertain as described in Exhibit H. (e.g., waste characterization studies, payments for diverting negative value recyclable materials, disposal expense, franchise fees and Contractor Compensation).

Person

"Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, the County of San Mateo, towns, cities, and special purpose districts.

Plant Materials

"Plant Materials" means a subset of Recyclable Materials consisting of grass cuttings, weeds, leaves, prunings, branches, dead plants, brush, tree trimmings, dead trees (not more than six [6] inches in diameter), and similar organic materials generated at residential commercial, industrial and institutional properties within the Service Area, separated and set out for Collection, processing, and Recycling. Plant Materials does not include materials not normally produced from gardens or landscapes, such as, but not limited to, palm fronds, brick, rock, gravel, large quantities of dirt, concrete, sod, non-organic wastes and oil. Diseased plants and trees are also excluded from Plant Materials.

Plant Materials Processing Facility

"Plant Materials Processing Facility" means a permitted Facility where Plant Materials are sorted, ground, mulched or separated for the purposes of land application, alternate daily cover, reuse or composting, so long as that purpose complies with the Act.

Premises

"Premises" means any land, or building in the Service Area where Solid Waste is generated or accumulated.

Purchase Agreement

Agreement between the SBWMA and Contractor for the purchase of the San Carlos Transfer Station and San Mateo Recyclery.

Rate Year

"Rate Year" means the twelve-month period, commencing January 1 and concluding December 31 of the same year, for which Contractor compensation is calculated.

Recyclable Materials

"Recyclable Materials" means discarded materials that are separated from Solid Waste for the purpose of processing, re-manufacture or reuse.

Recyclery

"Recyclery" means the Material Recovery Facility operated by Contractor pursuant to this Agreement for the purposes of processing Solid Waste for Recyclable Materials.

Recycling

"Recycling" means the process of separating for Collection, Collecting, treating and/or reconstituting Recyclable Materials which would otherwise be discarded and returning them to the economy in the form of raw materials for new, reused, or reconstituted products or reuse. The Collection, transportation or Disposal of Solid Waste not intended for, or capable of, reuse is not Recycling.

Refuse

"Refuse" means putrescible and non-putrescible Solid Waste or debris, except sewage, whether combustible or non-combustible which does not include uncontaminated Recyclable Materials or Plant Materials.

Related Party Entity

"Related Party Entity" means any Affiliate which has financial transactions with Contractor pertaining to this Agreement.

Service Area

"Service Area" means that territory within, and, if applicable, outside the SBWMA's Member Agency's boundaries with respect to which the SBWMA Member Agency exercises Franchising authority for the collection of Solid Waste.

SBWMA Service Area

"SBWMA Service Area" means all of the geographic area within the boundaries of the Member Agencies as they are currently drawn or as they may be amended in the future due to annexations or the addition of new Member Agencies.

Solid Waste

“Solid Waste” means and includes all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, as defined in California Public Resources Code §40191, as that section may be amended from time to time. For the purposes of this Agreement, “Solid Waste” does not include abandoned vehicles and parts thereof, Hazardous Waste or low-level radioactive waste, medical waste, Recyclable Materials, or Plant Materials.

The SBTSA

“The SBTSA” means the public entity formed pursuant to that certain agreement entered into in 1981 and entitled “Joint Exercise of Powers Agreement - South Bayside Transfer Station” by and between the County of San Mateo, the West Bay Sanitary District (formerly known as the Menlo Park Sanitary District), and the Cities of Atherton, Belmont, Burlingame, East Palo Alto, Foster City, Hillsborough, Menlo Park, Redwood City, San Carlos, and San Mateo, California.

Source Separation

"Source Separation" means the segregation into separate containers by the Waste Generator of individual components of material which otherwise would become Solid Waste, , such as Recyclable Materials or Plant Materials for the sole purpose of reuse, Recyclable Materials, or composting.

Term

“Term” means the period of time specified in Sections 2.02 and 2.03.

Transfer Station

“Transfer Station” means a Facility used for primarily the purpose of transferring Solid Waste from collection vehicles to transfer vehicles to more efficiently transport said Solid Waste to its ultimate Disposal Site and at which Recyclable Materials may be recovered from the Solid Waste Stream and diverted from landfill disposal. For the purposes of this Agreement, the San Carlos Transfer Station, located at 225 Shoreway Road, owned by SBWMA and operated by BFI, shall be the designated Transfer Station.

Exhibit B

Description of Material Processing Operations

Exhibit B

Description of Materials Processing Operations: Transfer Station

The transfer station building has two areas for unloading. The collection vehicle tipping area measures 190' x 280' and a separate self-haul public tipping area measures 70' x 120'. The two unloading areas are separated by four 8' x 46' loading portals in the tipping floor. A vehicle tunnel below the tipping floor runs the entire east-west length of the transfer station and is used by the transfer vehicles to access the loading portals. A transfer vehicle enters the tunnel at the east end of the building and travels west through the tunnel until the top of the trailer is aligned with a portal. The top of the transfer trailer is open which allows material to be loaded in through the tipping floor portal.

Material unloaded on the tipping floor by self-haul and collection vehicles is consolidated into separate piles on the tipping floor with the use of front-end loader tractors. After a transfer vehicle is staged under the loading portal, the front-end loader tractor pushes material from the pile in through the portal to load the staged vehicle. While staged under the loading portal, the transfer vehicle rests on a set of scales. A digital weight display is mounted on the wall inside the transfer station for use by the front-end loader operator. As the loader operator fills the trailer with material, the weight of the load is monitored and loading ceases by the operator when a legal payload is attained. The number of transfer vehicles and front-end loaders used daily is anticipated using historical material volumes. Spare vehicles and loaders are maintained at the facility for immediate use in the event of a breakdown or an unanticipated increase in material volume.

Segregated areas for recyclable materials are maintained inside the transfer station for material diversion. Large roll-off containers located along the north and west walls are used storing ferrous and non-ferrous metals. When full, these materials are hauled by a metals

recycler for processing. Corrugated cardboard is diverted and stored in a rear-end loader collection vehicle. When full, the vehicle is driven to the Recyclery and unloaded. Clean wood waste and yard waste received from self-haul and collection vehicles is stored on the collection vehicle side of the tipping floor, adjacent to the solid waste. The clean wood waste and yard waste is loaded into transfer vehicles through the loading portals and transported to the landfill where is processed for ADC, or hauled off-site for land application.

Exhibit C

Hazardous Waste Exclusion Program Description

Exhibit C

Hazardous Waste Exclusion Program Description

A sign is posted at the transfer station entrance gate prohibiting disposal of hazardous materials and also listing various types of materials that are unacceptable for disposal. A visual inspection is made of each public load at the entrance of the transfer station building site, also known as the gatehouse. The load is inspected by the gate personnel for unacceptable material. Customers who have unacceptable material are provided information about the County of San Mateo household hazardous waste program in order that the customer may properly dispose of the unacceptable items. In addition, transfer station operating floor personnel also perform continual checking of loads being dumped. All personnel are trained in hazardous waste recognition and handling. Should any hazardous materials enter the station undetected, the County of San Mateo Department of Health Services will be notified and proper disposal will follow within the time specified by regulations for the specific type of hazardous material.

The transfer station is set up to accept used motor oil, used motor oil filters, and used antifreeze from the public. The oil and antifreeze is deposited in an approved double containment receptacle for each product. All products are removed as necessary and within allowable storage periods by a licensed recycle company.

Exhibit D

List of SBWMA Provided Equipment

South BaySide Transfer Station Authority
Review of Fixed Assets For Sale

Assets	Asset Number	Date of Purchase	Purchase Price	Projected NBV 012/99
49 Office Addition	100098870	12/1/87	24,193.00	6,266.11
50 Office Addition	100098871	2/1/88	24,193.00	6,301.31
51 Office Addition	100098872	3/1/88	24,193.00	7,226.86
52 Office	100098873	3/1/88	9,169.10	2,387.74
53 Gal Oil Tank	100143541	7/1/95	7,550.44	4,151.75
54 Myers Pump-Truck Washer	100143666	1/1/92	6,224.50	1,244.90
55 Office Remodel	100148594	5/1/96	29,525.44	18,699.48
56 Parts Rm Mezzanine Shelving	100149690	12/1/79	14,511.98	0.00
57 Air Conditioner repairs	100150417	11/1/94	9,442.85	0.00
58 Air Conditioner repairs	100150418	11/1/94	247.86	0.00
59 Office Remodel	100150422	6/1/96	26,135.06	16,770.01
60 Remodel/Add zone	100150423	3/1/96	3,930.88	917.23
61 Office Remodel	100150424	5/1/96	5,688.37	2,708.68
62 Phone System	100150425	4/1/97	107,980.46	78,285.88
63 Scale	100154593	9/1/91	70,000.00	11,764.59
64 Scale	100154594	9/1/91	9,949.25	1,658.19
65 Generator	100156595	9/1/93	18,000.00	6,599.98
66 Recy-Processing Cir	100157212	7/1/92	2,464,028.96	924,010.87
67 Recy-Processing Cir	100157213	8/1/92	467,655.12	176,597.07
68 Recy-Processing	100157214	8/1/92	13,374.54	5,050.50
69 Start Up Costs	100157215	10/1/92	298,417.31	118,173.53
70 Start Up Costs	100157216	10/1/92	3,361.39	1,330.49
71 Start Up Costs	100157217	1/1/93	42,410.12	15,624.75
72 Start Up Costs	100157218	5/1/93	35,964.39	14,808.75
73 Start Up Costs	100157219	7/1/93	14,599.45	6,184.24
74 Start Up Costs	100157220	9/1/93	12,137.95	5,145.15
75 Start Up Costs	100157221	9/1/93	1,634.00	693.20
76 Start Up Costs	100157222	12/1/93	12,431.44	5,229.10
77 Start Up Costs	100157223	12/1/93	5,755.48	2,420.93
78 Start Up Costs	100157224	12/1/94	1,466.08	621.61
79 Recy PC Center	100157615	2/1/93	398,037.01	149,263.85
80 Recy-Equip	100157616	7/1/92	26,190.00	11,130.75
81 Sorlline Retrofit	100157617	7/1/94	2,910.00	1,285.35
82 Sorlline Retrofit	100207403	6/1/94	160,165.00	139,699.45
83 Removal - Under Fuel Tanks	100218929	6/5/98	518,888.32	411,672.50
84 C.P. System (line)	100053377	12/1/89	10,000.00	0.00
85 Oil Tank	100095281	7/1/95	5,997.00	599.70
86 Seal and Paint Trk Parking	100143674	9/1/93	10,801.26	2,345.38
87 Spinner System	100098463	5/1/96	2,920.86	5,100.57
88 Parts Room	100157618	9/1/94	2,256.05	1,286.20
89 Processing - Mobile			\$16,138,266.05	\$5,227,587.53

South BaySide Transfer Station Authority
Review of Fixed Assets For Sale

Assets	Asset Number	Date of Purchase	Purchase Price	Projected NBV 012/99
1 Architecture & Engineering fees	100019541	4/1/85	\$1,151.32	\$302.27
2 Architecture work on TS	100019564	10/1/87	1,980.68	470.37
3 Columbia Tipper	100217151	8/1/78	321,718.46	277,482.15
4 White Fiber Glass Flagpoles	100095280	4/1/88	4,074.00	882.65
5 Shop Wiring	100095283	9/1/95	138.28	78.37
6 Shop Cameras	100095283	9/1/95	2,689.10	1,523.82
7 Land Improvements	100095378	7/1/92	191,375.00	71,765.64
8 Shop & TS Traving	100096006	5/1/84	1,505,372.36	326,163.04
9 Clear and Grade TS/Shop	100096007	5/1/84	138,975.00	30,111.16
10 Office Relocation	100097007	8/1/88	750.00	407.50
11 New Office Bob Ughte	100097008	8/1/88	6,230.00	3,379.48
12 Dispatch Office Add	100097009	7/1/88	17,135.00	9,232.95
13 Dispatch Office Add	100097010	9/1/88	17,135.00	9,267.18
14 Added Work on Shop Office	100097011	12/1/88	3,300.00	1,837.00
15 Added Work on Shop Office	100097012	12/1/88	12,430.00	6,919.32
16 Added Work on Shop Office	100097013	1/1/89	10,010.28	5,605.75
17 Replace Roof Admin.	100097014	11/1/94	50,000.00	24,166.69
18 Wire/Existing Circuit	100097017	8/1/85	1,031.00	575.66
19 New Conductors	100097018	8/1/85	2,400.00	1,340.00
20 Swivel Hangers	100097019	8/1/85	4,470.00	2,495.75
21 Inventory # 363977	100097020	9/1/95	2,548.56	1,444.16
22 Shop Parking Lot Lights	100097021	8/1/95	3,749.87	2,093.66
23 Shop Wiring	100097022	9/1/95	589.17	333.85
24 Remodel Storage	100097023	9/1/95	5,660.94	3,207.90
25 Lighting for Office	100097024	9/1/95	35,500.00	31,654.15
26 Permit/Labor	100097231	9/1/95	390.00	117.00
27 Replace Anvil Floor	100097232	9/1/94	40,000.00	0.00
28 Replace Anvil Floor Top	100098718	5/1/74	150,170.00	22,784.04
29 2nd Floor Expansion	100098719	4/1/85	13,463.00	1,928.53
30 Office Remodel	100098720	4/1/85	616,399.22	161,804.81
31 Architect & Engnr Fees-It	100098721	4/1/85	55,567.28	14,539.46
32 Canopy for Front Office	100098722	12/1/86	6,413.00	2,217.83
33 Demountable Partitlon	100098723	5/1/87	2,450.00	898.32
34 Remodel Accounting Office	100098724	4/1/87	5,333.85	1,933.57
35 Office Remodeling DM	100098725	9/1/87	3,025.00	537.81
36 Office Remodeling	100098726	9/1/87	3,116.12	554.00
37 Construction Work	100098729	10/1/87	2,127.43	824.43
38 Installation	100098730	10/1/87	1,570.00	608.39
39 Rooftop Air Conditioner	100098731	1/1/88	3,300.00	1,320.00
40 Landscaping & Signage	100098861	5/1/84	49,140.00	10,646.97
41 Landscaping & Signage	100098862	4/1/85	36,847.99	8,367.20
42 Shop Bldg	100098863	5/1/84	1,180,482.85	255,770.47
43 Shop & TS Engineer	100098864	5/1/84	1,079,246.81	233,944.43
44 Engineering For Shop	100098865	4/1/85	74,690.50	16,960.23
45 TS Bldg	100098866	5/1/84	4,095,130.36	1,184,569.10
46 TS Bldg	100098867	6/1/85	970,860.72	219,088.08
47 Capitalized Interest	100098868	5/1/84	402,372.03	87,180.40
48 Loan Costs	100098869	7/1/85	93,750.00	21,250.05

Exhibit E

Minimum Number And Composition Of
Personnel Required By The Agreement

SOUTH BAYSIDE TRANSFER STATION FACILITY STAFFING

CATEGORY	POSITION	EMPLOYEES	TOTAL
Administrative:	Manager	01	01
Hauling:	Drivers	16	16
Processing:	Loader Operator	04	14
	Load Spotter	02	
	Traffic Spotter	01	
	Gate Person	3.5	
	Nigh Watchman	02	
	Utility	1.5	
Material Recovery	Sorter	07	07
Total Current Full-Time			38
Proposed Material Diversion Programs Additional Staffing			
Bunker Program:	Traffic Spotter		01
Expanded Material Recovery:	Sorter		02
Total Projected Additional Full-Time Staff			03
Total Projected Transfer Station Facility Staff			
			41

MATERIALS RECOVERY STAFFING

Manager	01
Operations Supervisors	02
Clerical Staff	05
Commercial Ryc Coordinators	05
Weighmaster	01
Equipment Maintenance	01
Equipment Operators	07
* Sorters	13
Floor Sorting Supervisor	01
TOTAL	36

* These are "contract" employees and their numbers vary from week to week.

Exhibit F

Weighing Standards and Procedures

Exhibit F

Weighing Standards and Procedures

There is one scale and fee collection location at the entrance to the transfer station. This location is referred to as the gatehouse. Gatehouse personnel are responsible for inspecting the self-haul public loads for volume and material type and determining the total fee based on the posted rate schedule. Self-haul public loads are charged on a cubic yardage basis and are not required to use the scale. A detailed rate schedule is posted outside the gatehouse for the public to review. The cash register generates a receipt for each customer, and the customer is directed to the unloading area in the transfer station. Loads containing recyclable material are directed to the appropriate unloading area of the facility so that the materials may be recovered and diverted from the landfill. The cash register computer compiles the information for use in determining AB939 material allocation. The cash register computer hard drive is backed up daily onto disk and the AB939 data is recorded on a separate disk. The cash and checks received by the public are reconciled daily against the cash register daily financial report. The funds are then prepared for deposit the following day.

All franchised commercial and franchised residential solid waste collection vehicles are charged on a tonnage basis and are required to weigh in each load on the scale. A separate scale computer is used by the gate attendant to record the transaction for each vehicle weighed in. The scale computer compiles the information into various reports of recorded charges and weights by vehicle identification, account, material type, route number and vehicle type. These reports are generated daily and forwarded to the accounting department in the administrative office. The scale computer is cleared daily after the reports are printed. The weighing device is inspected and certified annually by the San Mateo County Department of Agriculture, Weights and Measures. An inspection sticker is located on the scale in the gatehouse.

Exhibit G

Recyclable Materials Marketing Plan

EXHIBIT G

RECYCLABLE MATERIALS MARKETING PLAN

BFI is committed to producing the highest quality recycled commodity for resale, thereby ensuring stable long term markets, which translates into sound business financial results.

BFI employs national experts from BFI's Materials Marketing Group (MMG), whose sole responsibility is to arrange for the transportation, pricing agreement, and scheduling of material direct to secondary consumers. There exists a Western Regional Manager for West Coast marketing.

This MMG Western Regional manager is in daily contact with BFI's California facilities and has contacts with all local, state and regional recycling mills who are currently buying material. In addition, he has constant access to the West Coast port traffic and movement of recycled goods. Finally, he meets weekly via phone conference and monthly in person with his colleagues around the country to share all pertinent marketing intelligence.

The MMG manager is directly responsible for:

- A monthly shipment schedule for each commodity at the beginning of each month with pricing commitments and tonnage guarantees
- A quarterly update of the material marketing matrix
- Arrangement of facility tours with mill officials, including seminars and training for plant employees
- Optimizing the material flow for highest material revenue in conjunction with the MRF plant manager

BFI marketing plan utilizes these experienced operators and marketers to ensure material delivery with the correct specifications to the right markets. And, finally, use a detailed marketing structure to give premium service to our recycling customers.

Marketing Structure – BFI enjoys mutually beneficial contractual arrangements with a number of national and regional firms for the marketing of collected recyclable materials. For instance, long-term purchasing agreements have been concluded with Weyerhaeuser for old corrugated products and old newspaper, Greenstone Industries for old newspaper and phone books, Gaylord Container for old corrugated, Recycled Fibers for old corrugated and old newspaper and Strategic Materials for Glass.

It is the policy of BFI to establish business arrangements with local companies in any given market area to assure continuous secure markets for recyclable products. For example, BFI's California processing centers have materials marketing arrangements with a number of firms such as Weyerhaeuser Paper, Greenstone Industries, Tomra Aluminum, QEP Gypsum, AMC, Sims Metals, The Newark Group (Recycled Fibers), Gaylord Container, Longview Fiber, Strategic Materials (Glass), and WeisCo (Plastic).

Most of these marketing arrangements have been set up with buyers who use the products directly for finished goods. In this manner, we help assure a stable market for the recyclable materials. BFI seeks to become a long-term supplier to our customers in order to avoid market volatility and to help establish marketing "partnerships" with these firms.

As the paper industry and other large consumers increase the volumes of recyclable materials they use and as BFI's material recovery capacity increases, comprehensive coordination of supply, quality and pricing become critical to efficient operations and good customer service. Centralizing marketing management and logistics, particularly during a period of high growth, will help make certain our focus remains on establishing long term agreements with a wide variety of customers. This assures delivery of high quality materials and reliable marketing of collected municipal recyclables.

Our goal is to be involved with stable long-term customers (preferably end-users). Whenever possible, we will sell each type of commodity to loyal customers to ensure continuity of movement of our collected and processed recyclables. We will back up these primary markets with secondary and tertiary consumers as a matter of course.

Specific Commodities and Markets – BFI plans to produce high quality recovered materials with minimum contamination. Marketing of commodities is based upon contracting with various enterprises as set forth below. This list of enterprises will change from time to time based upon BFI optimizing its long-term commodity values.

Market Plan by Commodity:

Old Newspaper (ONP) – BFI has agreements with Weyerhaeuser, Greenstone Industries and Recycled Fibers to recycle up to 1,000 tons of recovered paper per month in California. The newspaper is shipped to an insulation company as well as to mills making newsprint and packaging board. The relationship BFI shares with these companies promotes the use of renewable resources and guarantees a market outlet for BFI's materials.

Among others, BFI has established secondary markets for newspaper with a number of Asian buyers.

Old Corrugated Container (OCC) – BFI has established a very strong relationship with a number of local companies recycling OCC. This sometimes results in a higher demand for OCC than sometimes can be supplied. BFI currently supplies cardboard to many local markets including Recycled Fibers (Newark Group), Weyerhaeuser Paper, QEP Gypsum, Gaylord Container and a variety of Export companies who move cardboard to Asia via the Pacific Rim.

BFI's primary market for magazines is with Jefferson Smurfit and has established a secondary market for old magazines with Mills in Korea.

Mixed Waste Paper – Mixed waste paper is sold to Leatherback Industries located in Hollister, California, and the Newark Group in Newark, California. Mixed waste paper is used in the manufacture of roofing products, paper and paper board products.

Glass – BFI currently has an agreement for its recovered single color and mixed glass with Strategic Materials in Newark, California who purchases it for further beneficiation and eventual manufacturing of glass bottles. Large wine and beer manufacturers are also purchasing green and brown glass to ensure legally specified minimum recycled content in their bottles, fiberglass and other glass products. Large wine and beer manufacturers are also purchasing green and brown glass to ensure legally specified minimum recycled content in their bottles.

Aluminum – BFI has an arrangement with Tomra Aluminum in Fremont, California. Tomra currently purchases the aluminum produced at The Recyclery. Tomra remelts and rolls used aluminum cans into new sheets for sale to can makers, often completing the loop between a used can and new metals for cans with 90 days. The arrangement also provides for BFI's use of Tomra's technical and promotional assistance in setting up recycling programs. Tomra's also makes available can flatteners, densifiers and caged trailers at BFI's request. Through this mutually beneficial arrangement, BFI is assured of a consistent, reliable outlet for aluminum.

Secondary markets have been established with Alcoa Aluminum and Kaiser Aluminum, who also purchase aluminum. Numerous tertiary export markets for aluminum are available throughout the Pacific Rim.

Tin and Bi-Metal Cans – BFI currently has an arrangement to sell tin cans to AMG and Sims Metals. The export scrap market throughout the Pacific Rim are also utilized when necessary. The tin cans are de-tinned to recover the tin and then sold or processed as scrap steel. Tin is also used as feed stock in independent and national steel mills.

PET - PET plastics are sold through the Plastics Recycling Corporation of California (PRCC), which is a marketing consortium established solely for the purpose of guaranteeing viable markets for PET containers.

HDPE – BFI markets the full range of HDPE milk and water jugs, detergent and shampoo bottles to Weisco Recyclers. BFI also sells to Pacific West Recycling. HDPE is used in the manufacturing of numerous plastic products, including plastic bags, recycling bins, container liners and plastic lumber.

Ferrous Materials – A healthy and long-term market exists for ferrous materials (Fe). Although low in value, the movement of Fe to consumers in the Pacific Rim is common. Domestic mills purchase secondary material as an ever growing percentage of their feed stock for steel fabricating. BFI utilizes local scrap dealers such as Sims Metals and Markovitz and Fox to move this material.

Exhibit H

Contractor Compensation

EXHIBIT H

SBWMA

COMPENSATION ADJUSTMENT GUIDELINES FOR THE OPERATION OF THE SAN CARLOS TRANSFER STATION AND SAN MATEO RECYCLERY



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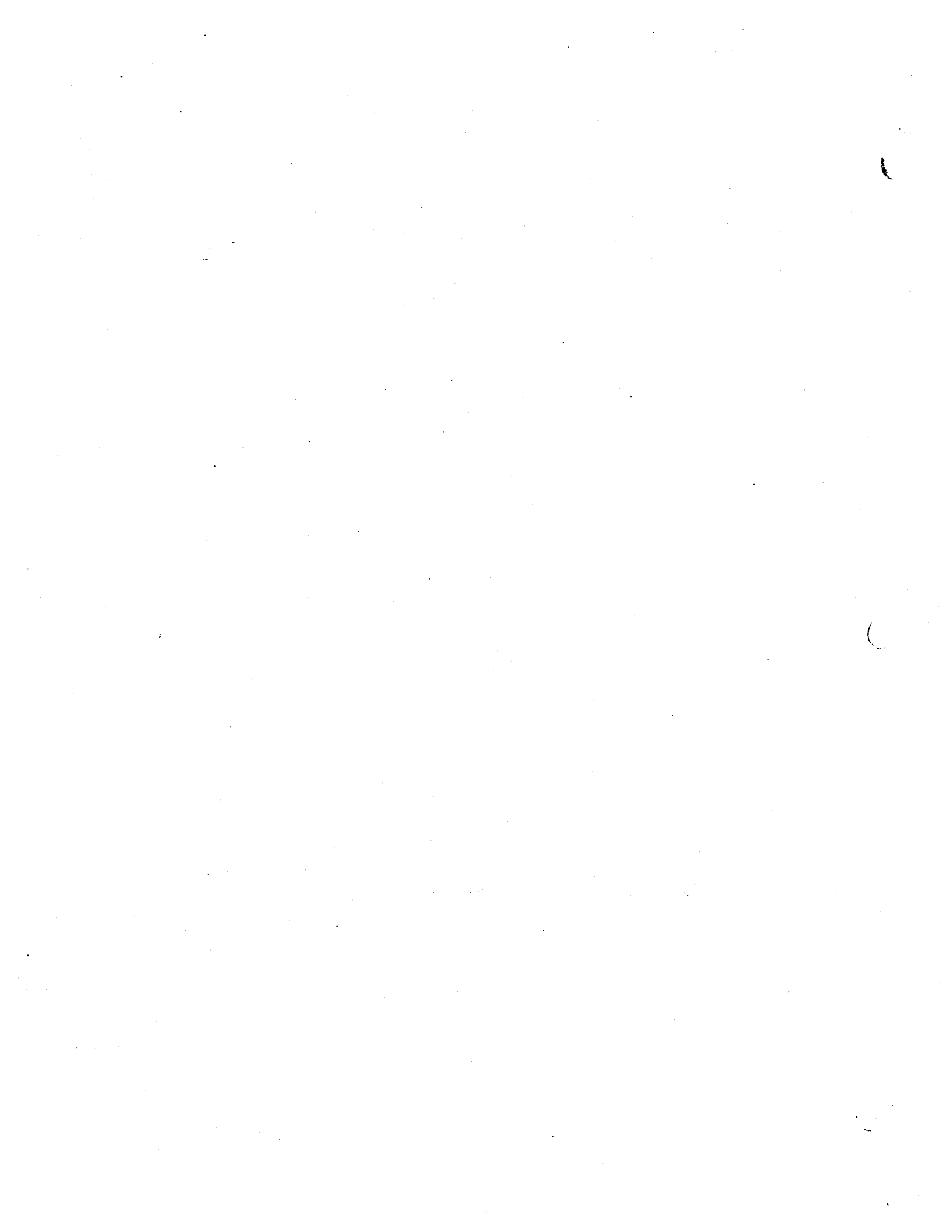
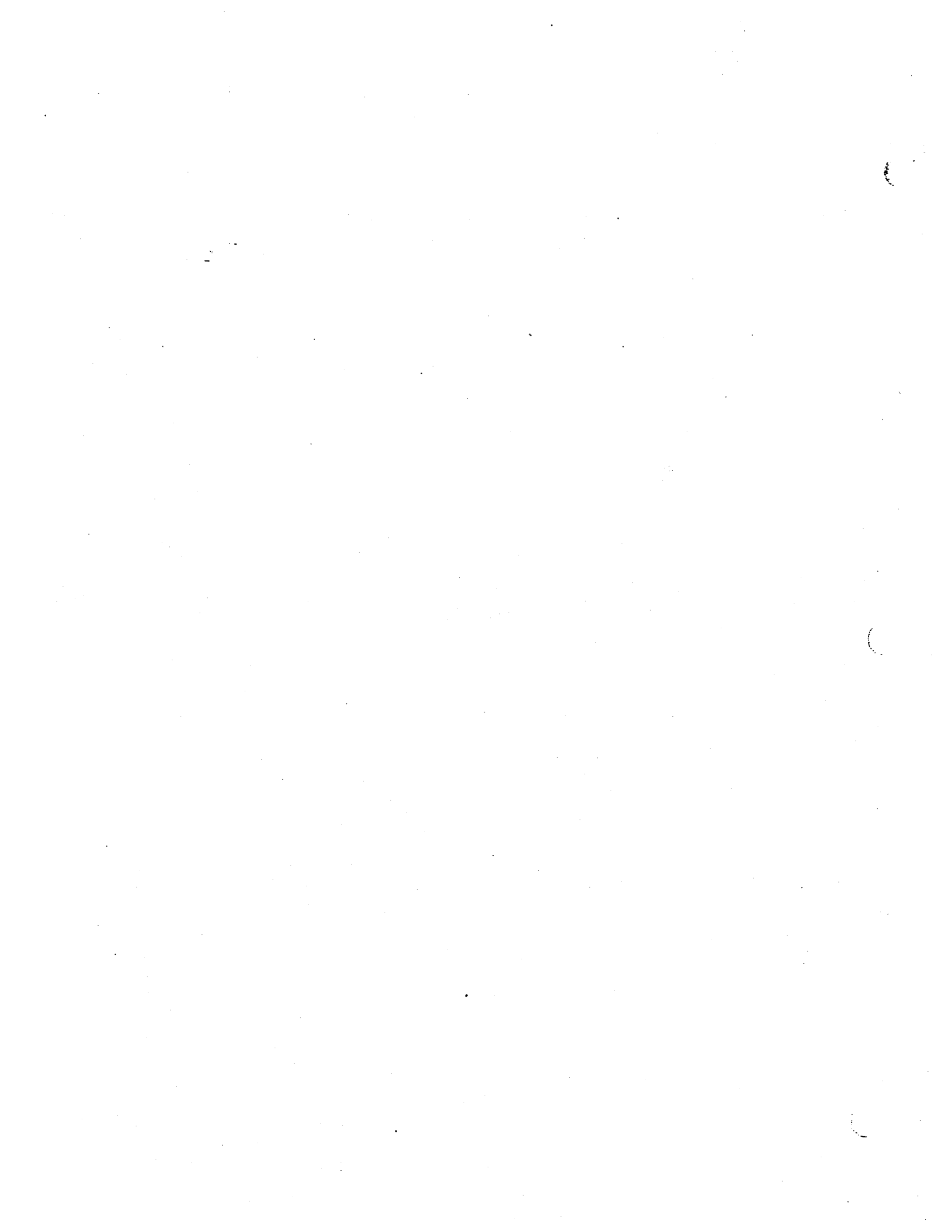


TABLE OF CONTENTS

I.	Overview Of The Contractor's Compensation Adjustment Review Process.....	1
	Objectives of Contractor's Compensation Adjustment Review Process.....	1
	Scope of the Guidelines.....	1
	Background	2
	Definitions.....	3
	Compensation Adjustment Process	3
II.	Schedule and Responsibilities for Compensation Adjustments and Rate Setting.....	4
	Schedule	4
	Responsibility.....	5
III.	Calculation of Contractor's Compensation.....	6
	Determining the Future Annual Cost of Operations	6
	Step 1 - Determining Actual Costs.....	6
	Step 2 - Adjustment of Actual Costs.....	6
	A. Non-Allowable Expenses are briefly stated below (see Agreement for actual language).....	6
	B. Reasonable and Necessary Costs	7
	C. Additional Material Recovery and/or Processing.....	7
	D. Reduction in Vehicles or Personnel.....	7
	E. Other Expenses Allowed/Disallowed in Contractor Compensation.....	7
	Step 3 - Forecasting Costs	8
	Labor, Vehicle & Other Costs.....	8
	Depreciation Expense.....	8
	Profit	8
	Pass-Through Expenses.....	8
IV.	Preparation of Compensation Adjustment Application.....	10
	Reporting of Operational Information.....	10
	Audited Financial Statements	10
	Preparation of Management Representation Letter	11
	Preparation of Expense Information	11
	Preparation of Expense Projections	12
	Preparation of Supporting Documentation.....	12
	Expense Allocations	13
V.	Preparation of Revenue Information.....	13
VI.	Compensation Adjustment Application	14
	Verification of Completeness of Compensation Adjustment Application.....	14
	A. Overview.....	14



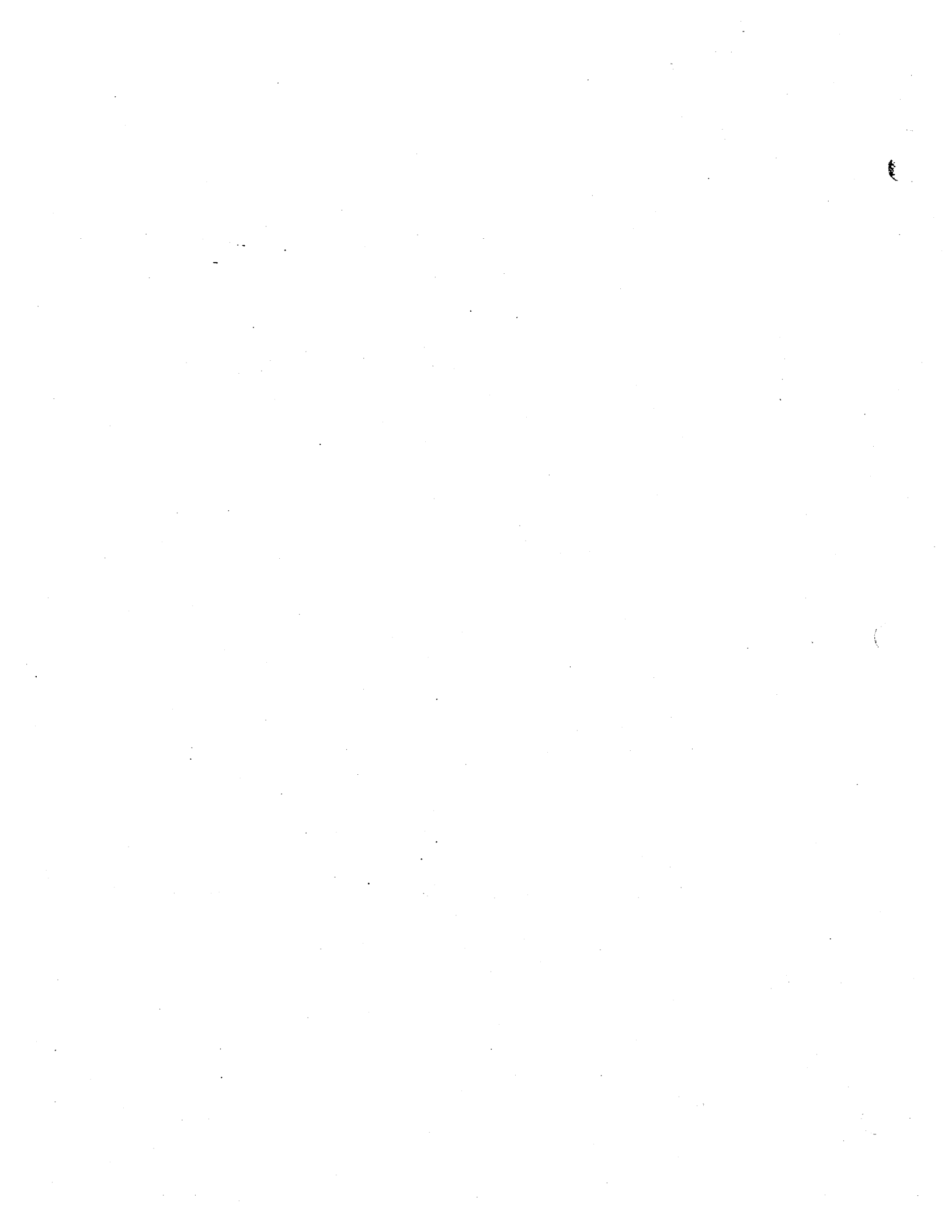
B. Compliance Review	14
C. Verify Operations.....	14
D. Verify Supporting Documents and Schedules	14
E. Notify Contractor.....	15
Detailed Review of Compensation Adjustment Application	15
Application Review Process	15
A. Rate Application Reconciliation.....	15
B. Review of Revenues.....	15
C. Review of Expenses.....	15
D. Review of Compensation Calculations	16
E. Projections.....	16
F. Review of Allocations	16
G. Calculation of Operating Ratio.....	17
H. Review of Performance Data.....	17
I. Determine Surplus/Shortfall-Balancing Account.....	17
J. Final Year "Expense True-Up"	17
VII. Preparation and Review of Reports.....	19
Report Contents	19
Draft Report.....	20
Final Report.....	20

Attachments

1. Operational Data
2. Expense Data
3. Rate Revenue Data
4. Recyclable Materials Revenue Data

Appendices

1. Contractor Operational Assumptions
2. Contractor Cost Allocations



I. OVERVIEW OF THE CONTRACTOR'S COMPENSATION ADJUSTMENT REVIEW PROCESS

OBJECTIVES OF CONTRACTOR'S COMPENSATION ADJUSTMENT REVIEW PROCESS

The Contractor's Compensation Adjustment Review Process described in Article 5 of the Agreement for the Operation of the South Bayside Transfer Station Authority's (SBTSA's) Transfer Station and Recycling was developed to meet the following objectives:

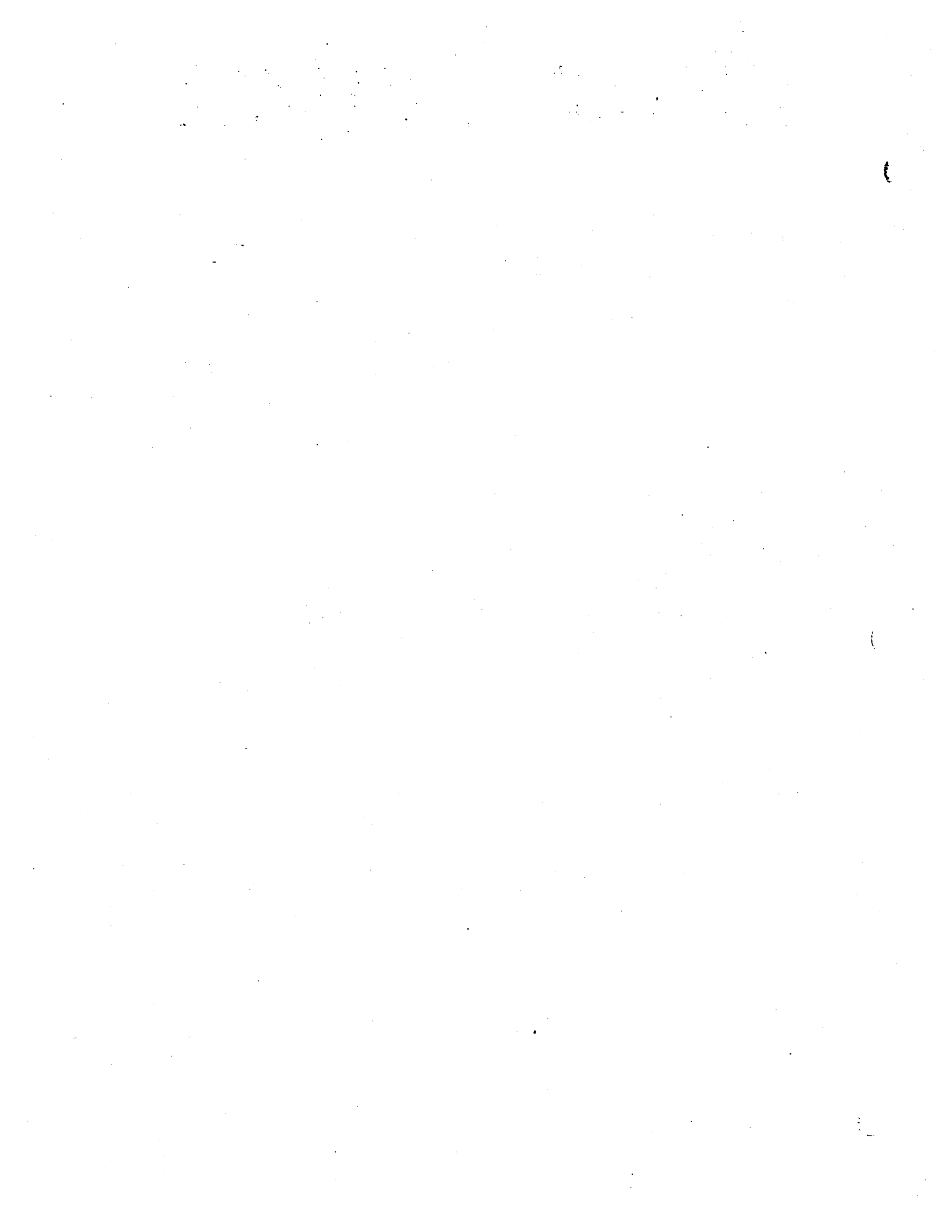
- ❖ Provide long-term rate stability to the SBTSA rate payers;
- ❖ Provide fair and adequate compensation to the Contractor;
- ❖ Ensure sufficient revenue to the SBTSA to cover bond debt;
- ❖ Adjust for necessary and agreed-upon changes over time.

These guidelines will serve as a framework for the South Bayside Transfer Station Authority (SBTSA) its Member Agencies, and consultants for completing and reviewing compensation adjustment applications (Applications).

SCOPE OF THE GUIDELINES

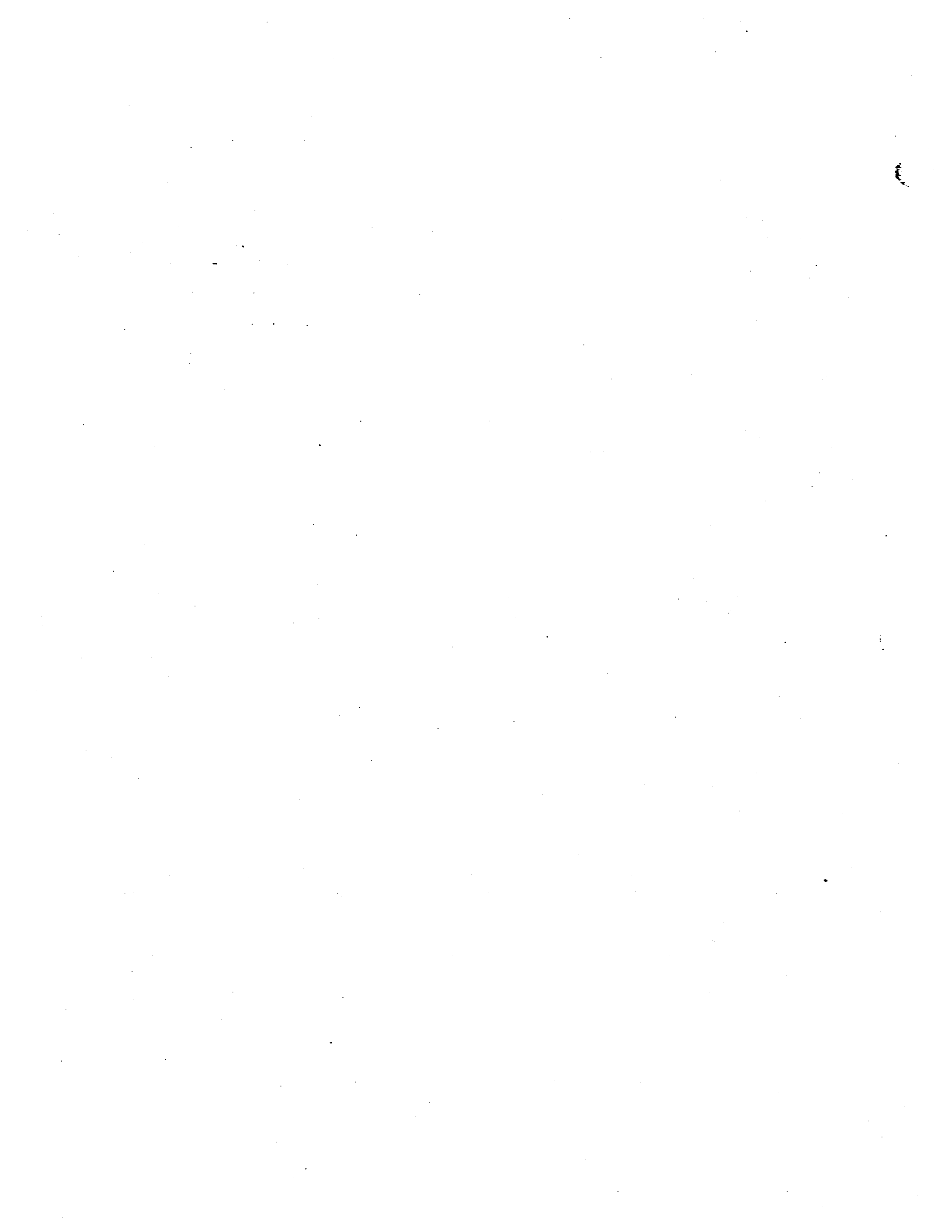
The SBTSA engaged Hilton Farnkopf & Hobson, LLC to develop standard compensation adjustment guidelines that would:

- ❖ Provide a framework for Contractor to report the results of its operations and request compensation adjustments;
- ❖ Provide guidance to the SBTSA in its review of the information submitted by the Contractor to ensure that:
 - The information provided by the Contractor is accurate;
 - The bases for the classification and allocation of costs between operations are logical and consistent;
 - Costs reported by the Contractor have been (or will be) incurred and are reasonable and necessary;
 - The Contractor's profit is determined in the manner provided for in the Agreement.



BACKGROUND

In 1999, acting on behalf of the Member Agencies, the SBTSA acquired the Transfer Station and the Recyclery as well as related facilities and equipment (Facilities) (which were owned and operated by Contractor) in accordance with a Purchase Agreement between SBTSA and Contractor. As part of that Purchase Agreement, and because of the Contractor's past experience with these Facilities and similar facilities nationwide, Contractor's past cooperative relationship with SBTSA, and Contractor's agreement to provide operation of the facilities in a manner and on terms which are in the best interest of the SBTSA Member Agencies, the SBTSA agreed to enter into an Operations Agreement to provide solid waste transfer, recycling and green waste processing, and marketing services. (Throughout these guidelines, Contractor shall refer to BFI unless otherwise noted). The Contractor prepared Projected Costs including detailed worksheets and operational assumptions based upon this Operations Agreement. All future compensation adjustments are to be based in part on the Contractor's Projected Costs.



DEFINITIONS

Unless the context otherwise requires, capitalized terms used in these Guidelines, also referred to as Exhibit H, will have the meanings specified in Exhibit A to the Operations Agreement. In addition, the following are used to define rate-setting periods.

Current Year – The year the compensation application is submitted for review. For example, if the submission year is 2000, the Current Year is January 1, 1999 to December 31, 1999.

Fiscal Year – The Company's fiscal year is January 1 to December 31.

Prior Year – The year prior to the year of submission. For example, if the Application is being submitted in 1999., the Prior Year is January 1, 1998 to December 31, 1998.

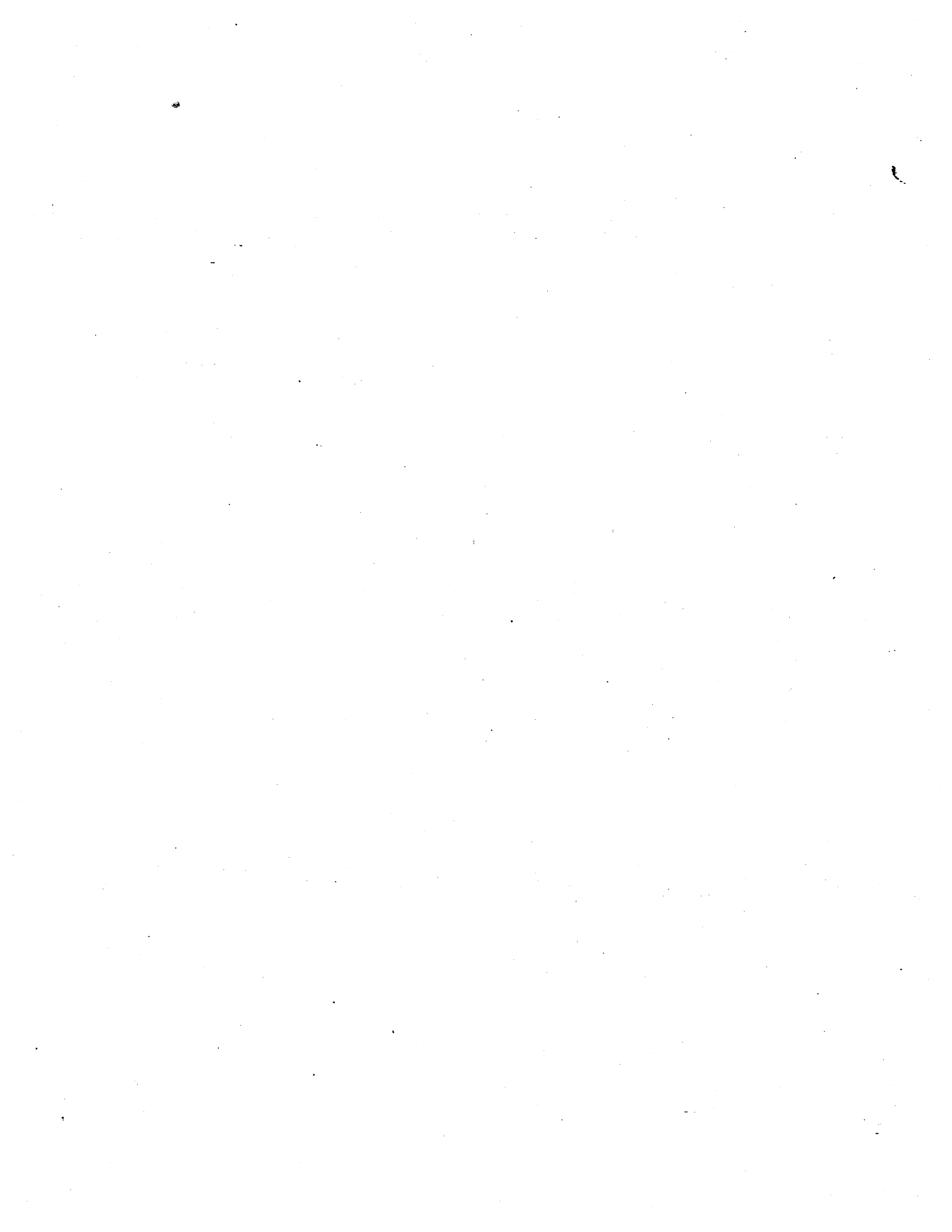
Rate Year – The Rate Year is the year upon which projections are made to determine contractor compensation and follows the Current Year. For example, if the Current Year is January 1, 1999 to December 31, 1999, the Rate Year is January 1, 2000 to December 31, 2000.

COMPENSATION ADJUSTMENT PROCESS

The Agreement states that The Contractor's Compensation for the initial twelve (12) months of the Agreement (Rate Year One) (i.e., from _____ to _____) is expected to be _____ (\$_____), based on Contractor's Projected Costs.

Since the collection service rate adjustments for the member agencies are impacted by the cost of operations of the Transfer Station and Recyclery the Contractor shall submit its annual Request for Adjustment of Contractor's Compensation on or before August 1st of each year for the Rate Year. This request shall be in a form as described in this document (also known as Exhibit H in the Agreement). The Contractor will provide all information requested by the SBTSA as part of its review of the Contractor's application, including, but not limited to, all information from related parties regarding any transactions between the Contractor and any Related Party Entity required by the Agreement. The SBTSA shall use its best efforts to make the adjustment effective by January 1st of the following year.

However, the SBTSA shall not make any retroactive adjustments to compensate for any delay in calculating the Contractor's Compensation which results in whole or in part from: 1) the failure of the Contractor to submit its request by August 1st; 2) the failure of the



Contractor to reasonably cooperate with the requests of the SBTSA for information related to any of the calculations required by this Section; and/or; 3) from appeals of the determination to the SBTSA which extends the process of determination.

II. SCHEDULE AND RESPONSIBILITIES FOR COMPENSATION ADJUSTMENTS AND RATE SETTING

SCHEDULE-

These guidelines are intended to set forth an approach to compensation adjustments that will enable the SBTSA to effectively establish rates at the Facilities. This tentative schedule is to include the major events in the adjustment process. The schedule for the performance of the compensation review and rate setting is shown below:

Proposed Rate Setting Schedule for 1998/1999

RESPONSIBILITY

For each step of the compensation adjustment and rate setting process, different players will have different responsibilities for each task as shown on the following page:

Compensation Adjustment Responsibilities

DESCRIPTION	RESPONSIBILITY
1. Preparation, submission and presentation of the Compensation Adjustment Application to the SBTSA	Contractor'
2. Verification of Completeness of Application	SBTSA Consultant
3. Compensation Adjustment Application Review	SBTSA Consultant
4. Preparation of Draft Report	SBTSA Consultant
5. Initial Review of Draft Report	Contractor
6. General Review of Draft Report	SBTSA Board, Contractor and Public
7. Preparation of Final Report	SBTSA Consultant
8. Input on Compensation Adjustment	Local Jurisdictions/Board
9. Final Approval of Report and Contractor Compensation	SBTSA Board
10. Input on Rate Setting and Compensation	Local Jurisdictions
11. Preparation of Revised Rate Structures	SBTSA and its Consultant
12. Approval of Revised Rates	SBTSA Board

III. CALCULATION OF CONTRACTOR'S COMPENSATION

Responsibility:

Contractor Prepares Initial Calculation for review by Consultant

Timing: Prior to September 1

Tasks: → Determine Actual Expenses (Prior Rate Year)
→ Project Contractor Expenses (Current Rate Year)
→ Forecast Contractor Expenses (Future Rate Year)

As described in the Agreement, the Contractor's Compensation shall be determined by calculating the sum of the:

- 1) Labor Expense
- 2) Vehicle and Container Operating and Maintenance Expense
- 3) Other Operating Expense
- 4) Depreciation and Other Fixed Costs
- 5) Profit
- 6) Pass-Through Expenses
- 7) Balance Due To/Due From Company from Prior Year Operations.

DETERMINING THE FUTURE ANNUAL COST OF OPERATIONS

In order to determine the Future Annual Cost of Operations, the following three steps are to be undertaken:

Step 1 - Determining Actual Costs

The Contractor's audited financial statements for the Company's most recently completed fiscal year, Contractor's supplemental schedules for the stub period, if applicable, included and immediately following the audited fiscal year and the Application Management Representation Letter as described in Section VI will be reviewed to determine Contractor's actual costs for each of the cost categories for the Prior Year.

Step 2 - Adjustment of Actual Costs

The actual costs determined above shall be adjusted for each of the following (unless otherwise noted):

A. Non-Allowable Expenses are briefly stated below (see Agreement for actual language)

Costs that are non-allowable consist of the following:

- ❖ Promotional, entertainment and travel expenses above allowed cap;
- ❖ Fines;
- ❖ Liquidated damages;
- ❖ Income taxes;
- ❖ Charitable or political donations;
- ❖ Long-term rental or lease charges for transfer vehicles which are greater than the cost of acquisition;
- ❖ Attorney's fees as described in the Agreement related to suits by Contractor against SBTSA;
- ❖ Personnel and Equipment greater than those included in Contractor's Projected Costs unless supported by corresponding increases in workload;
- ❖ Certain Related Party Transactions as described in the Agreement, if applicable;
- ❖ Certain General and Administrative Inflationary Increases if applicable;
- ❖ Additional Transportation Costs to Alternative Facilities if applicable;

B. Reasonable and Necessary Costs

Actual Contractor expenses should be reduced by Contractor to exclude and/or reduce any costs which were not reasonably and necessarily incurred in the performance of the services provided in accordance with the Agreement

C. Additional Material Recovery and/or Processing

Contractor compensation may be increased to add costs to provide additional diversion above the minimum level outlined in Article 3.04 of the Agreement, if approved in advance by the SBTSA.

D. Other Expenses Allowed/Disallowed in Contractor Compensation

Additional expenses, not set forth in the Agreement, may be allowed or disallowed in the Contractor's compensation such as when SBTSA directs the Contractor to perform additional services or when Contractor incurs additional costs for which it is solely responsible (such as liquidated damages).

Step 3 - Forecasting Costs

The Allowed Costs of Operations for the Prior Year and Current Year (Year to Date) will form the bases for forecasting the costs associated with the Current Year and the Rate Year, as described below:

Labor, Vehicle & Other Costs

Labor, Vehicle and Other Costs will be projected for the Current Year, using actual data up to the most recent month available. The Contractor's assumptions made for purposes of calculating the year end total cost shall be fully explained in the writing. The costs for the Rate Year will be forecasted by increasing the estimated costs for the Current Year according to documented assumptions based on governmental forecasts or budgeted increases (i.e. staff increases due to projected growth in the number of accounts).

Depreciation Expense

Depreciation on new assets will be calculated by dividing the actual prices of the assets by the number of years of the assets economic life. The result is the Forecasted Depreciation Expense for the appropriate Rate Year.

Regional and Corporate Overhead and Other Corporate Charges.

Regional and corporate overhead and other corporate charges shall be not more than Contractor's allowed amounts for these items in 1998 escalated by the change in the Consumer Price Index for the San Francisco - Oakland - San Jose Metropolitan Area.

Profit

Profit for each Rate Year shall be calculated by dividing the Forecasted Allowed Annual Cost of Operations for the appropriate Rate Year by ___ percent (___%) and subtracting the Forecasted Annual Costs of Operations for the appropriate Base Rate Year from the dividend.

Pass-Through Expenses

The Forecasted Pass-Through Expenses consist of the sum of:

A. Forecasted Disposal Expense

The Forecasted Disposal Expense for the appropriate Rate Year shall result from multiplying the tonnage of Solid Waste, Green Waste, and Recycling residue forecasted to be disposed of by the effective disposal rates as described in the Agreement.

B. Forecasted Franchise Fees

The Forecasted Franchise Fees, due the City of San Carlos for the operation of the Transfer Station, for the Future Rate Year shall be calculated in accordance with the appropriate methodology using projected Current Rate Year values and adjusted for forecasted increased volume revenue.

C. Forecasted SBTSA Compensation

Once the Forecasted SBTSA Compensation for the Future Rate Year is determined, it will be provided by the SBTSA to BFI and included in BFI's compensation since BFI is responsible for compensating SBTSA as described in the Agreement.

D. Balancing Account

Any balance maintained by Contractor due to prior surplus or insufficient revenues accumulated at the Facilities and due to SBWMA or BFI (including that balance at December 31, 1999) shall carry forward into the periods by the Agreement to which these procedures are an Exhibit and be utilized by Contractor only upon direction from the SBWMA.

Similarly, during the term of the Agreement to which these procedures are an Exhibit, surplus or insufficient revenues accumulated at the Facilities and due to SBWMA or Contractor will carry forward into the next rate year.

IV. PREPARATION OF COMPENSATION ADJUSTMENT APPLICATION

Responsibility:

Prepared by Contractor

Timing: Not later than September 1

Tasks:

- Preparation of Audited Financial Statements
- Preparation of Management Representation Letter
- Preparation of Expense Projections
- Preparation of Supporting Documentation

The Contractor is required to submit a Consolidated Application documenting the expenses for the Transfer Station and the Recyclery separately, and unless otherwise noted, the guidelines are similar for both.

REPORTING OF OPERATIONAL INFORMATION

Operational information shall be prepared for each category of service (e.g., refuse transfer and disposal, plant material transfer and processing, and recyclable material recovery and processing). Operational information to be provided includes, but is not limited to:

- ❖ MIS Reports consisting of Tonnage accepted, processed, disposed, recycled, composted, and used as Alternate Daily Cover (ADC);
- ❖ Volume of Commodities purchased by type;
- ❖ Volume of Commodities sold by type;
- ❖ Hazardous Waste disposal;
- ❖ Number and type of vehicles; and,
- ❖ Number of personnel.

Prior to the presentation of its application, Contractor is encouraged to discuss with the SBTSA any operations that are different than those described in this Agreement (e.g., the phasing in of new programs). Management should also project anticipated changes and how its current operations could be altered as a result.

AUDITED FINANCIAL STATEMENTS

Annual audited financial statements for the Transfer Station/Recyclery operations are required under the Agreement with the Contractor for each contract calendar year. The audited financial statements provide assurance that the financial records fairly present the financial results of the Contractor' operation and as the underlying document for the Application. The Contractor will reconcile statements of revenues and expenses and other reports contained in the Application to the audited financial statements.

PREPARATION OF MANAGEMENT REPRESENTATION LETTER

The Application should be submitted including a management representation letter, which states that:

- ❖ Management accepts responsibility for the Application;
- ❖ The Application is based upon management's best judgment of the most likely future conditions and management's planned course of action; and,
- ❖ All significant information and documents relevant to the compensation adjustment process are available for review.

PREPARATION OF EXPENSE INFORMATION

Attachments 2A-2C are expense worksheets that are to be completed and included as part of the Application. Additionally, included in Attachment 2A are the expense projections included in the Contractor's Projected Costs. For each detailed compensation adjustment, the Contractor shall submit cost information for a total of three rate years:

- ❖ Attachment 2A - Actual cost information for the prior year;
- ❖ Attachment 2B - Actual year-to-date cost plus the projected costs for the remainder of the Current Year;
- ❖ Attachment 2C - Forecasted costs for the Rate Year.

Cost information shall be prepared for each category of service on either a direct or an allocated basis, and included in the format of the attached worksheets. The categories of service are as follows:

- ❖ Attachment 2A-2C:
 - Transfer Station Refuse Operation (Transfer Station)
 - Transfer Station Yard Waste Operation (Transfer Station)
 - Transfer Station Salvage Operation (Transfer Station)
 - Material Processing (Recyclery)
 - Material Buyback (Recyclery)
 - Vehicle and Machinery Maintenance (Transfer Station and Recyclery)
 - Administration (Transfer Station and Recyclery).

PREPARATION OF EXPENSE PROJECTIONS

Article 5 of the Agreement describes the methodology for the Contractor to project its expenses for the Current Rate Year and Future Rate Year. Additionally, an overview of the expense projection methodology is included in Section 3 of these guidelines.

In order to facilitate the completion of the Application by the Contractor and the review of the Application by the SBTSA and its consultant, the previously mentioned data collection forms have been prepared. The Contractor is encouraged to identify in its Application, any areas where productivity improvements can be achieved which are deviations from the current operations and as a result, decrease current expenses. These improvements should be segregated from other expenses and supporting documentation should be provided.

PREPARATION OF SUPPORTING DOCUMENTATION

The Contractor will be expected to provide supporting documentation for all expense categories. For each such expense, the Contractor must make the supporting documentation available to the consultant during the compensation review process. Typical supporting documents that should be provided/made available include, but are not limited to:

- ❖ Audited Financial Statements for the Most Recently Completed Fiscal Year (including reconciling schedule)
- ❖ Labor Agreement
- ❖ General Ledger
- ❖ Profit and Loss Statement
- ❖ Accounts Payable Records
- ❖ Purchase Orders/Invoices/Revenues
- ❖ Payroll Records/Timecards/Payroll Tax Documents
- ❖ Dump Tickets (disposal, and processing)/Monthly Disposal Reports
- ❖ Recyclable Materials Sales Revenues Transaction Record
- ❖ Recyclables Buyback Costs/Invoices
- ❖ Green Waste Tonnage Processing Invoices

The SBTSA's consultant based on unusual or unexpected variances in expenses and revenues may request other information.

EXPENSE ALLOCATIONS

V. PREPARATION OF REVENUE INFORMATION

Responsibility:

Prepared by Contractor

Timing: Not later than September 1**Tasks:**

- Preparation of Current Revenues
- Allocation of Current Revenues
- Preparation of Forecasted Revenues
- Allocation of Forecasted Revenues

Similar to cost information, revenues are reported for three years. Actual revenue for each category is reported for the year prior to the Current Rate Year, estimated revenue is reported in the current year, and projected revenue is reported for the Future Rate Year. Transfer Station Revenue should be included on Attachment 3 and Recyclable Materials Revenue and Recycling Surcharge Revenue on Attachment 4.

Calculation of Transfer Station Revenues

Contractor shall attribute actual and forecasted Transfer Station revenue according the following categories: San Mateo Scavenger, related party debris box companies, SBTSA member agencies, and general public self-haul.

The Contractor should describe changes to forecasted revenues from those actually received and include an explanation for the change.

Calculation of Recyclable Material Revenues

Recyclable Material revenues shall be determined as follows:

1. **Determination of Actual Gross Revenues**

The Contractor's Application will be reviewed to determine its Gross Recyclable Materials sales revenue for each type of material during the prior Rate Year.

2. **Adjustment to Actual Gross Revenues**

Upon the determination of the Actual Gross Revenues from the sale of Recyclable Materials for the Prior Year, forecasted Recyclable Material revenues shall be adjusted by the consultant based on the then-current market prices and anticipated trends. Market prices and trends will be determined using publications, prices paid by other materials recovery facilities in the San Francisco Bay Area, etc.

VI. COMPENSATION ADJUSTMENT APPLICATION

Responsibility:

Consultant

Timing: September 1 to October 24

Tasks: → Verify Completeness of Application
→ Perform Detailed Review

VERIFICATION OF COMPLETENESS OF COMPENSATION ADJUSTMENT APPLICATION

A. Overview

The SBTSA Consultant shall ensure that the Application has been prepared and that the data is provided in a manner consistent with the previously discussed methodology. The SBTSA Consultant shall request, in writing, from the Contractor any missing information necessary to complete the Application. The SBTSA Consultant shall participate in meetings with the SBTSA and/or the Contractor to discuss the Application.

B. Compliance Review

The SBTSA Consultant should review the Application to determine if it is complete and ready for analysis. The SBTSA Consultant should determine:

- ❖ Whether the Contractor included all required forms and financial statements.
- ❖ Whether all forms are complete.
- ❖ Whether all calculations are mathematically correct.

C. Verify Operations

Consultant shall perform an on-site review of Contractor's operations to verify vehicle types, numbers of personnel, and operations, and compare and contrast operations to Contractor's proposal.

D. Verify Supporting Documents and Schedules

Various documents will be included in the Application to support the compensation adjustment. The purpose of each supporting document shall be clearly identified by the Contractor and any missing support identified by the consultant will be requested from the Contractor.

E. Notify Contractor

If the Application is incomplete the consultant will request, in writing, from the Contractor the necessary additional information.

DETAILED REVIEW OF COMPENSATION ADJUSTMENT APPLICATION

The Contractor is allowed to recover actual, reasonable and necessary expenses that are incurred in the normal course of its business and earn a profit in accordance with the Agreement. The compensation review process is intended to allow the SBTSA to determine whether the Contractor's Application meets this "actual, reasonable and necessary" standard as described in the Agreement.

Application Review Process

The SBTSA Consultant will take the following steps during its review of the Contractor's Application.

A. Rate Application Reconciliation

The SBTSA Consultant will Contractor's reconciliation of the Application to the Contractor's audited financial statements.

B. Review of Revenues

The SBTSA Consultant will review the historical, actual and forecasted revenues and calculate current revenues based on then-current Transfer Station and Recycling tonnage. Any unusual trend will be identified and reasonable explanations obtained from the Contractor's management. Any adjustments will be identified and documented.

C. Review of Expenses

The SBTSA Consultant will review historical expenses to determine that they have actually been incurred and are necessary. The SBTSA Consultant shall select a judgmental sample of transactions related to expense items for testing each year.

The selected items should be tested to ensure that they are properly supported by invoices, time cards, dump tickets, recyclable processing invoices, or other appropriate source documents. This activity generally requires that the SBTSA Consultant select a judgmental sample of transactions. The Contractor will then assemble the source documents of the selected items for the SBTSA Consultant's review.

The SBTSA Consultant will review variances from year to year and obtain explanations for significant variances. Also, the SBTSA Consultant will compare projections included in

Contractor's Projected Cost with actual results. Significant differences will be investigated and explanations sought from Contractor's management. Costs will be correlated with the revenues and operating statistics provided by the Contractor and explanations for unusual trends or variances will be sought. For example, the SBTSA Consultant may wish to correlate changes in the numbers of transfer station personnel to tip fee revenues and disposal volumes. Explanations should be requested from the Contractor for all significant variances and explanations should be reviewed both for reasonableness as well as for conformance to the service standards of the Agreement and the Contractor's Projected Cost. Any adjustments to the Contractor's Projected Cost shall be documented and discussed with the Contractor's management.

D. Review of Compensation Calculations

SBTSA Consultant shall review the calculation of Contractor's compensation as described in Chapter IV of these guidelines and Article 5 of the Agreement. The SBTSA Consultant shall identify any discrepancies in the calculation of compensation and recommend adjustments to the calculations as appropriate.

E. Projections

The SBTSA Consultant will review projections of expenses and underlying projection assumptions for reasonableness. The Contractor should document the assumptions used in preparing the projections and provide support for those assumptions. This could involve reviewing historical trends (i.e., growth in materials recovered or changes in disposal levels), management's plans for new or revised diversion programs, and governmental indices (e.g., CPI or PPI). The SBTSA Consultant should also ensure that these assumptions are consistently applied (e.g., if processing costs are projected to increase due to growth in disposal volume, revenue should also be increased to reflect the additional tip fee revenue generated by this volume).

F. Review of Allocations

The SBTSA Consultant will review the allocations of costs to the various service areas, for reasonableness. The SBTSA Consultant should compare the allocation bases to those established in the Agreement to ensure that they are consistently applied. The SBTSA Consultant shall also review the allocation statistics to identify any unusual trends and ensure that they are being accumulated and calculated correctly. The SBTSA Consultant should review and judgmentally test the underlying reports and management systems used

to generate these allocation statistics to ensure that the data is consistently recorded and reported.

G. Calculation of Operating Ratio

Following adjustment of allowed expenses resulting from the SBTSA Consultant's review, the operating ratio will be calculated in accordance with the Agreement. The SBWMA Consultant should calculate liquidated damages, if any, according to the service thresholds contained in the Agreement and deduct the total from the calculated profit. Similarly the SBWMA Consultant should calculate the incentive payments, if any according to Section 5.06, 5.07 and 5.08 of the Agreement.

H. Review of Performance Data

The SBTSA Consultant should review operating statistics to gain an understanding of past historical trends as they relate to future expense projections. The SBTSA Consultant should investigate unusual trends to determine their cause and effect on future cost performance. This step is critical to ascertaining the reasonableness of projected costs, because it places these costs in the context of the actual services being provided.

I. Determine Surplus/Shortfall-Balancing Account

The SBTSA Consultant should identify the surplus due to SBTSA, or the shortfall resulting from the actual expenses for the Prior Rate Year against the actual revenues for the Prior Rate Year (Prior Year surplus/shortfall). The SBTSA Consultant will then project the Current Rate Year surplus or shortfall resulting from the projected current year expenses, against the projected revenues based on the then-current rates (Current Year surplus/shortfall). The SBTSA Consultant will then determine the Future Rate Year surplus or shortfall resulting from the forecasted future year expenses, against the projected revenues based on the then-current rates (Future Year surplus/shortfall). The SBTSA Consultant should then sum the total for the three rate years.

J. Final Year "Expense True-Up"

In the event the agreement is terminated, an exit conference will be scheduled. At the conference the Contractor will submit a statement which will itemize expenses and revenues to the end of the Current Year. The SBTSA Consultant will identify the surplus due to the SBTSA or the shortfall resulting from the itemized expenses for the Current Year against the revenues for the Current Year (Current Year surplus/shortfall). The SBTSA Consultant should then sum the existing Balancing Accounts and Current year surplus/shortfall and

determine the overall surplus/shortfall. Any surplus owed to the SBTSA shall be paid by the Contractor to the SBTSA over a one-year period and applied to a new balancing account. Any shortfall owed to the Contractor will be paid out to the existing Contractor over a one-year period.

VII. PREPARATION AND REVIEW OF REPORTS

Responsibility:

Consultant Prepares Reports
SBTSA, Contractor and Public Review Reports

Timing: November 1 - December Board Meeting

Tasks: → Prepare Preliminary Report
→ Prepare Draft Report
→ Prepare Final Report

The reporting and review of the SBTSA Consultant's findings will be conducted in a manner that will allow for maximum input from the SBTSA staff, Board Members, Contractor and the public.

REPORT CONTENTS

The SBTSA Consultant shall summarize the results of its findings in a preliminary draft report to the SBTSA. The draft report must include all of the following:

- ❖ An Executive Summary;
- ❖ A summary of the Contractor's Application;
- ❖ A description of and the basis for all adjustments to Contractor's Application;
- ❖ Adjusted revenue projections;
- ❖ Adjusted expense projections;
- ❖ Calculation of the required adjustment to the then-current Transfer Station tip fees and the Recycling surcharge;
- ❖ A discussion of outstanding issues for SBTSA consideration;
- ❖ Projected adjustment recommendation;
- ❖ Calculated operating ratio;
- ❖ Anticipated SBTSA surplus/shortfall; and
- ❖ Recommended Contractor Compensation for the Rate Year.

All of the revenue and expense projections, calculations and adjustments shall be prepared by line of business:

- ❖ Refuse Transfer and Disposal;
- ❖ Yard Waste Transfer and Processing;
- ❖ Refuse Material Recovery;
- ❖ Recyclery Material Buyback and Processing.

Finally, a summary report the above should be prepared for the SBTSA each local jurisdiction separately. Unless otherwise directed by the SBTSA, all rate adjustment calculations shall assume that the current rate structures will remain the same.

DRAFT REPORT

The SBTSA Consultant shall distribute a draft report for review by the Contractor, the SBTSA Board, and the public. The report should be distributed by the end of October. All comments on the draft report should be submitted to the consultant, in writing, by early November. As appropriate, the consultant shall incorporate written comments and be prepared to issue its final report by mid-_____.

FINAL REPORT

The SBTSA Consultant should incorporate comments as appropriate and be prepared to have the final report included on the agenda for the December SBTSA Board meeting. At that meeting, the SBTSA will obtain any other public comments and use the report as a basis for any adjustment to the Transfer Station Tip fees or the Recycling Surcharge..

The Attachments and Appendices referred to in this Appendix H will be prepared as part of the Review of the 2000 Rate Application

Exhibit H-1

Diversion Program Performance Incentive

Transfer Station Diversion

Description:

No Positive Incentive Until 80% of the Planned Total Diversion is Achieved.
 Less Than 80% of Planned Total Diversion = Assessment of \$25,000 Penalty without Offset
 From 80% to 99% of Planned Total Diversion = Assessment of \$25,000 Penalty Offset by \$2,500 for Each 1,000 tons Diverted Above 80%.
 100% and Above of Planned Total Diversion = No Assessment. \$2,500 for Each 1,000 tons Diverted from 80% to 100%
 and \$5,000 for each 1,000 tons Diverted Above 100%
 Each Year the Planned Total Diversion is Increased to the Actual Diversion; the 80% is recalculated; the penalty is only assessed at volumes below 20,874.
 Each Year the Planned Total Diversion is Increased to the Greater of the Actual or Planned Diversion (Assuming the Additional Diversion is On-going); the 80% is Recalculated;
 the Penalty is Only Assessed at Volumes Below 20,874.

Examples for Year 2000:

If Actual Diversion is:	Bunker Storage	Planned Diversion Sorter Program	Total	80% of Total	Variance From Planned Tons		Penalty (\$25,000)	First Incentive 80% - 100%	Second Incentive 100%+	Total Economic Incentive
					100%	80%				
14,227	8,460	12,414	20,874	16,699	(6,647)	(2,472)	(\$25,000)	\$ -	\$ -	(\$25,000)
19,000	8,460	12,414	20,874	16,699	(1,874)	2,301	(\$25,000)	\$5,000	\$ -	(\$20,000)
25,000	8,460	12,414	20,874	16,699	4,126	8,301	\$ -	\$10,000	\$20,000	\$30,000
27,521	8,460	12,414	20,874	16,699	6,647	10,822	\$ -	\$10,000	\$30,000	\$40,000
29,021	8,460	12,414	20,874	16,699	8,147	12,322	\$ -	\$10,000	\$40,000	\$50,000

Exhibit H-2
1999 Recyclable Material Prices

SBWMA Board
Approved Rates-effective 09/01/05

		<u>Rate</u>
1	Franchised-SW	59.00
2	Franchised-SW-BDBS	59.00
3	Non-Franchised County-SW	59.00
4	Non-Franchised-SW-BDBS	67.50
5	Franchised-Plant Mat'l	48.50
6	Franchised-Plant Mat'l-BDBS	48.50
7	Franchised - Organics	48.50
8	Non-Fran-Plant Mat'l-County	48.50
9	Non-Franchised-Plant Mat'l-BDBS	67.50
10	Public (Booth) SW	20.00
11	Public (Booth)Plant	16.50
12	C&D (Booth)	20.00
13	metals (Booth)	19.00
14	Aggregates (Booth)	67.50
15	Tires (Booth)	11.00
16	E-Waste (Booth)	20.00

Exhibit I
Maintenance Requirements

The frequency of facility inspections and routine maintenance for the Transfer Station, Recyclery and Maintenance facility shall be performed in accordance with the attached list that details the frequency with which certain service are performed. Repairs, as identified during the monthly facility inspections, shall be corrected as immediately as possible by either facility staff or by a qualified subcontractor.

Copies of the monthly facility inspection forms are also attached. These forms shall be used by the facility managers to document the completion of the monthly facility inspections.

Prior to performing service of any type, all subcontractors are required to provide a certificate of insurance that meets or exceeds _____'s required liability insurance coverage.

The facility managers shall continually view, aside from the monthly inspections, the entire facility in order to identify deficiencies and maintain a professional looking work site.

Exhibit J

INITIAL RATES

SAN CARLOS TRANSFER FACILITY RATE SCHEDULE

Exhibit J

COMMERCIAL TONNAGE	\$63.14 PER TON
COMMERCIAL SOLID WASTE	\$16.50 PER CUBIC YARD
COMMERCIAL GREEN WASTE AND CLEAN WOOD LOADS	\$12.50 PER CUBIC YARD
RESIDENTIAL SOLID WASTE	\$14.00 PER CUBIC YARD
RESIDENTIAL GREEN WASTE AND CLEAN WOOD LOADS	\$10.50 PER CUBIC YARD
DIRT, CONCRETE, ROCK, ASPHALT	\$55.00 PER YARD
ASPHALT ROOFING	\$63.14 PER TON
MINIMUM CHARGE	\$4.00

HARD TO HANDLE ITEMS

WATER HEATER (60 GALLONS AND LARGER)	\$18.00 EACH
WATER HEATER (UP TO 60 GALLONS)	\$11.00 EACH
REFRIGERATOR (WITH PROOF OF FREON EVACUATED)	\$18.00 EACH
REFRIGERATOR (WITHOUT PROOF OF FREON EVACUATED)	\$43.00 EACH
FREON EVACUATION	\$25.00 EACH
MATTRESS OR BOXSPRING (ANY SIZE)	\$11.00 EACH
SOFA	\$15.00 EACH
WASHER OR DRYER	\$11.00 EACH
KITCHEN APPLIANCES (DISHWASHER, STOVE, OVEN, ETC.)	\$11.00 EACH
TRUCK TIRE:	W/ RIM \$25.00 EACH, W/O RIM \$20.00 EACH
AUTO TIRE:	W/ RIM \$10.00 EACH, W/O RIM \$7.00 EACH
GARAGE DOORS:	DOUBLE \$33.00 EACH
	SINGLE \$16.50 EACH
	ROLL-UP (SECTIONAL) \$24.75 EACH

THE SAN CARLOS TRANSFER FACILITY IS NOT PERMITTED TO ACCEPT HAZARDOUS WASTE, INCLUDING BATTERIES, HOT ASHES, SEALED CONTAINERS, ANIMAL WASTE, NON LATEX PAINT, OILS AND SOLVENTS, DEAD ANIMALS, LIQUID WASTE OR SLUDGE, RADIOACTIVE OR REACTIVE MATERIALS, AND ALL OTHER TYPES OF HAZARDOUS WASTE. PLEASE CONTACT THE COUNTY OF SAN MATEO, ENVIRONMENTAL HEALTH SERVICES, (650) 363-4718, FOR PROPER DISPOSAL OF HAZARDOUS WASTE.

THE SAN CARLOS TRANSFER FACILITY IS PERMITTED TO ACCEPT LATEX PAINT, USED MOTOR OIL, USED MOTOR OIL FILTERS, AND USED ANTIFREEZE.

HOURS OF PUBLIC USE: 8:00 AM - 5:00 PM, SEVEN DAYS PER WEEK (CLOSED LEGAL HOLIDAYS)

PLEASE CALL (650) 592-0255 FOR INFORMATION ABOUT THE SAN CARLOS TRANSFER FACILITY OR FOR ANY QUESTIONS ABOUT WASTE DISPOSAL.

Exhibit K

Form of Faithful Performance Bond

PERFORMANCE BOND

Bond No. 929132705

KNOW ALL MEN BY THESE PRESENTS: That we, BFI Waste Systems of North America, Inc.

225 Shoreway Road San Carlos CA 94070

as Principal, and the National Fire Insurance Company of Hartford, a CT corporation, as Surety, subject to the Conditions, Limitations and Exclusions of this Performance Bond, are firmly bound unto South Bayside Waste Management Authority 600 Elm Street San Carlos CA 94070, hereinafter referred to as the Oblige, for such monetary amount as incurred by the Oblige, not to exceed the penal sum of Two Million Dollars (\$2,000,000.00), as may be required to remedy any contractual default by the Principal in the performance of that certain written contract between Principal and Oblige dated _____ for Operation of the SBWMA Transfer Station and Recyclery

hereinafter referred to as the Contract; for the payment hereof, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally.

CONDITIONS

The obligation of this Performance Bond shall be null and void unless: (1) the above Contract is in writing, and has been fully executed by both the Principal and the Oblige; (2) the Principal is actually in default under the above Contract, and is declared by the Oblige thereafter to be in default; (3) the Oblige has performed all of the obligations of the Oblige under the above Contract; and (4) the Oblige has provided written notice of the default to the Surety as promptly as possible, and in any event, within ten (10) days after such default.

LIMITATIONS AND EXCLUSIONS

The Surety, as the sole election and discretion of the Surety, may take any of the following actions:

- (1) With notice to the Oblige, provide financial assistance to the Principal to remedy any contractual default by the Principal; or,
- (2) Undertake the completion of the above Contract by the Surety, through its agents or through independent contractors; or,
- (3) Determine the amount for which the Surety may be liable to the Oblige, and as soon as a practicable thereafter, tender payment thereof to the Oblige; or,
- (4) Pay the full amount of the above penal sum in complete discharge and exoneration of this Performance Bond, and of all liabilities of the Surety relating thereto.

If the Surety so elects to act, all payments and expenditures by the Surety shall be applied against the above penal sum and in reduction of the limit of liability of the Surety.

The obligation of this Performance Bond Shall not include liability for loss, cost, damage, fines, penalties or expense (including attorney's fees) from personal injury (including death), or from property damage (including environmental impairment or cleanup), or from any criminal or tortious act arising out of the performance, default or completion of the above Contract, nor shall the Surety obligated to provide or maintain any policy or undertaking of liability insurance

This bond is for a one year term beginning March 1, 2000. In the event of default by the Principal in the performance of the contract during the term of this bond, the Surety shall be liable only for the direct loss to the Obligee due to actual excess costs of performance of the contract up to the termination of this term of this bond. No suit shall be brought on this bond after one year following its termination. Neither non-renewal by the Surety, nor failure or inability of the Principal to file a replacement bond, shall constitute loss of the Obligee recoverable under this bond. The bond may be extended for additional terms at the option of the Surety, by continuation certificate executed by the Surety.

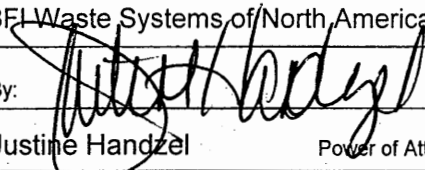
The Obligation of this Performance bond inures solely to the benefit of the obligee. No right of action shall accrue under this Performance Bond to or for the use of any person, firm, corporation, public or private entity other than the obligee. In the event that the Obligee is comprised of more than one person, firm corporation, public or private entity, the conditions, limitations and exclusions of this Performance Bond shall apply jointly and severally to each and all constituents of the Obligee, and the aggregate liability of the Surety to the Obligee shall in no event exceed the above penal sum.

The consent of the Surety shall be required with regard to any changes or alterations in the above Contract including, but not limited to, where the cost thereof, added to prior changes or alterations, causes the aggregate cost of all changes and alterations to exceed 10 percent of the original contract price, or where the completion thereof is extended by more than 90 days.

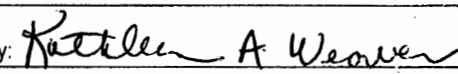
No right of action shall accrue under this Performance bond unless demand is brought by suit, action or other legal proceeding commended against the Surety within one year after the day that the Principal last performed labor or supplied material for the above Contract. Any and all claims and causes of action (including warranty requirement or the remedy of latent defects) not so commended shall be deemed extinguished and forever barred from action under this Performance Bond.

In the event of conflict or inconsistency between the provisions of this Performance Bond and the provisions of the above Contract, the provisions of this Performance Bond shall control, or the obligation of the surety be deemed null and void to the extent of any enlargement or augmentation to the liabilities of the Surety prescribed by this Performance Bond.

BFI Waste Systems of North America, Inc.

By: 
Justine Handzel Power of Attorney
Principal

National Fire Insurance Company of Hartford

By: 
Kathleen A. Weaver
Attorney-in-fact

1411 Opus Place
Downers Grove, IL 60515

NOTARIAL ACKNOWLEDGEMENT

**STATE OF ILLINOIS
COUNTY OF Kane**

On this 1st day of March, 2000, before me, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came Justine Handzel, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois; that she is an Attorney-in-Fact for BFI Waste Systems of North America, Inc. and its subsidiaries and that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.



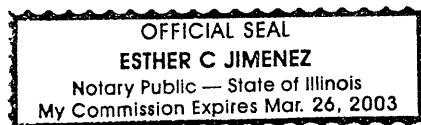


NOTARIAL ACKNOWLEDGEMENT

State of Illinois
County of Kane

On this 1st day of March, 2000, before me, a Notary Public of the State and County aforesaid, residing therein, duly commissioned and sworn, personally came Kathleen A. Weaver, to me known, who being by me duly sworn according to law, did depose and say that she resides in Illinois: that she is an Attorney-in-Fact of the National Fire Insurance Company of Hartford, a corporation described in and which executed the foregoing instrument: that she knows the seal of said corporation: that it was so affixed by order of The Board of Directors of said corporation and that she signed this name thereto by like order: that she executed and delivered such instrument on behalf of said corporation as its voluntary act and deed for the uses and purposes therein mentioned.

My Commission Expires:





(Notary Public)



ALLIED WASTE INDUSTRIES, INC.

POWER OF ATTORNEY

Allied Waste Industries, Inc., incorporated under the laws of the State of Delaware, and having its chief place of business at 15880 N. Greenway-Hayden Loop, #100, Scottsdale, Arizona, 85260, hereby makes, constitutes and appoints Weible, Cahill & Company, LLC, acting through and by either William P. Weible or Kathleen A. Weaver or Justine Handzel, its true and lawful attorney and affix its corporate seal to and deliver for and on behalf as surety thereon or otherwise, bonds of any of the following classes, to wit:

1. Surety bonds and/or Bid Bonds to the United States of America or agency thereof, including those required or permitted under the laws or regulations relating to Customs or Internal Revenue; License and Permit Bonds or other indemnity bonds under the laws, ordinances or regulations of any State, City, Town, Village, Board, other body organization, public or private; bonds to Transportation Companies; Lost Instrument bonds; Lease bonds, Worker's Compensation bonds; Miscellaneous Surety Bonds; and bonds on behalf of Notaries Public, Sheriffs, Deputy Sheriffs and similar public officials.
2. Surety bonds and/or Bid bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, included, but not limited to, Allied Services, LLC, Allied Waste Systems, Inc., Allied Waste Transportation, Inc., American Disposal Services of Missouri, Inc. and BFI Waste Systems of North America, Inc., in connection with bonds, proposals, or contracts.

To sign and seal all bids bonds and surety bonds on behalf of Allied Waste Industries, Inc. and its subsidiaries, relating to the provision of solid waste collection, transportation, recycling, or disposal services by Allied Waste Industries, Inc. and its subsidiaries. Allied Waste Industries, Inc. hereby agrees to ratify and confirm whatsoever Weible, Cahill & Company, LLC shall lawfully do pursuant to this power of attorney and the procedural guidelines set forth to Weible, Cahill & Company, LLC, and until notice or revocation has been given by Allied Waste Industries, Inc. the acts of the said attorney shall be binding on the undersigned.

IN WITNESS WHEREOF this **POWER OF ATTORNEY** has been signed this 27th day of August, 1999, on behalf of Allied Waste Industries, Inc. by its Vice President-Legal, Mr. Steven M. Helm.

Allied Waste Industries, Inc.

By: _____

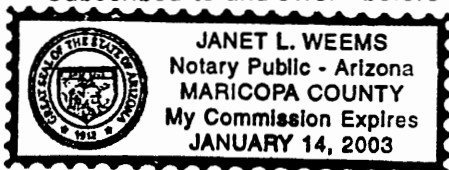
Steven M. Helm

State of Arizona)

) ss.

County of Maricopa)

Subscribed to and sworn before me this 27th day of August, 1999 by Steven M. Helm.



Janet L. Weems

Notary Public

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That CONTINENTAL CASUALTY COMPANY, an Illinois corporation, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, a Connecticut corporation, AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA, a Pennsylvania corporation (herein collectively called "the CCC Surety Companies"), are duly organized and existing corporations having their principal offices in the City of Chicago, and State of Illinois, and that they do by virtue of the signature and seals herein affixed hereby make, constitute and appoint

William P. Weible, Molly M. Moran, Lori A. Noggle, Sharon M. Hudson, William Cahill, Kimberly Sawicki, Deborah Buss, Kathleen A. Weaver, Justine Handzel, Esther C. Jimenez, Individually

of North Aurora, Illinois

their true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on their behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind them thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of their corporations and all the acts of said Attorney, pursuant to the authority hereby given are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Laws and Resolutions, printed on the reverse hereof, duly adopted, as indicated, by the Boards of Directors of the corporations.

In Witness Whereof, the CCC Surety Companies have caused these presents to be signed by their Group Vice President and their corporate seals to be hereto affixed on this 10th day of December, 1999.



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Marvin J. Cashion

Marvin J. Cashion Group Vice President

State of Illinois, County of Cook, ss:

On this 10th day of December, 1999, before me personally came Marvin J. Cashion, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Chicago, State of Illinois; that he is a Group Vice President of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA described in and which executed the above instrument; that he knows the seals of said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed pursuant to authority given by the Boards of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



Diane Faulkner

My Commission Expires September 17, 2001

Diane Faulkner Notary Public

CERTIFICATE

I, Mary A. Ribikawskis, Assistant Secretary of CONTINENTAL CASUALTY COMPANY, NATIONAL FIRE INSURANCE COMPANY OF HARTFORD, and AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA do hereby certify that the Power of Attorney herein above set forth is still in force, and further certify that the By-Law and Resolution of the Board of Directors of each corporation printed on the reverse hereof are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seals of the said corporations this 1st day of March, 2000.



CONTINENTAL CASUALTY COMPANY
NATIONAL FIRE INSURANCE COMPANY OF HARTFORD
AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA

Mary A. Ribikawskis

Mary A. Ribikawskis Assistant Secretary

CNA INSURANCE COMPANIES

EXTENSION CERTIFICATE

(To be filed with the Obligee)

BOND NUMBER: 929132705

To be attached to Bond described below, executed by **NATIONAL FIRE INSURANCE COMPANY OF HARTFORD** as Surety:

PRINCIPAL: BFI Waste Systems of North America, Inc.
OBLIGEE: South Bayside Waste Management Authority
DESCRIPTION: Operation of the SBWMA Transfer Station and Recyclery


Said Principal and said Surety hereby agree that the term of said bond is extended from **March 1, 2005** to **February 28, 2006**; subject to all other provisions, conditions and limitations of said bond, upon the express condition that Surety's liability thereunder during the original term of said bond and during any extended term shall not be cumulative and shall in no event exceed the sum of **\$2,000,000.00**.

IN WITNESS WHEREOF, the said Principal and Said Surety have signed or caused this Certificate to be duly signed and their respective seals hereto affixed as follows:

Signed, Sealed, and Dated: **December 2, 2004**.

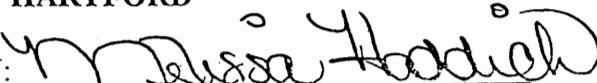
BFI Waste Systems of North America, Inc.

(Principal)

By: 

Sandra Parker, Attorney-in-Fact

**NATIONAL FIRE INSURANCE COMPANY
OF HARTFORD**

BY: 

Melissa Haddick, Attorney-in-Fact

CNA

For All the Commitments You Make

Exhibit L

Performance Guarantee

PERFORMANCE GUARANTY

Guaranty

THIS GUARANTY (the "Guaranty") is given as of the 1st day of April, 2005.

THIS GUARANTY is made with reference to the following facts and circumstances:

A. BFI Waste Systems of North America, Inc, hereinafter ("Contractor") is a corporation organized under the laws of the State of Delaware, all of the issued and outstanding stock of which is owned by Browning-Ferris Industries, LLC, which is owned by Allied Waste North America, Inc. (Guarantor).

B. Contractor and the SBWMA have negotiated an Agreement for Collection, Processing, and Disposal of Solid Waste dated as of April 1, 2005, (hereinafter "Agreement"). A copy of this Agreement is attached hereto.

C. It is a requirement of the Agreement, and a condition to the SBWMA entering into the Agreement, that Guarantor guaranty Contractor's performance of the Agreement.

D. Guarantor is providing this Guaranty to induce the SBWMA to enter into the Agreement.

NOW, THEREFORE, in consideration of the foregoing, Guarantor agrees as follows:

1. Guaranty of the Agreement. Guarantor hereby irrevocably and unconditionally guarantees to the SBWMA the complete and timely performance, satisfaction and observation by Contractor of each and every term and condition of the Agreement which Contractor is required to perform, satisfy or observe. In the event that Contractor fails to perform, satisfy or observe any of the terms and conditions of the Agreement, Guarantor will promptly and fully perform, satisfy or observe them in the place of Contractor or cause them to be performed, satisfied or observed. Guarantor hereby guarantees payment to the SBWMA of any damages, costs or expenses which might become recoverable by the SBWMA from Contractor due to its breach of the Agreement.

2. Guarantor's Obligations Absolute. The obligations of the Guarantor hereunder are direct, immediate, absolute, continuing, unconditional and unlimited, and with respect to any payment obligation of Contractor under the Agreement, shall constitute a guarantee of payment and not of collection, and are not conditional upon the genuineness, validity, regularity or enforceability of the Agreement. In any action brought against the Guarantor to enforce, or for damages for breach of, its obligations hereunder, the Guarantor shall be entitled to all defenses, if any, that would be available to Contractor in an action to enforce, or for damages for breach of, the Agreement (other than discharge of, or stay of proceedings to enforce, obligations under the Agreement under bankruptcy law).

3. Waivers. Except as provided herein the Guarantor shall have no right to terminate this Guaranty or to be released, relieved, exonerated or discharged from its obligations under it for any reason whatsoever, including, without limitation: (1) the insolvency, bankruptcy, reorganization or cessation of existence of Contractor; (2) the actual or purported rejection by a trustee in bankruptcy of the Agreement, or any limitation on any claim in bankruptcy resulting from the actual or purported termination of the Agreement; (3) any waiver with respect to any of the obligations of the Agreement guaranteed hereunder or the impairment or suspension of any of the SBWMA 's rights or remedies against Contractor; or (4) any merger or consolidation of Contractor with any other corporation, or any sale, lease or transfer of any or all the assets of Contractor. Without limiting the generality of the foregoing, Guarantor hereby waives the rights and benefits under California Civil Code §2819.

The Guarantor hereby waives any and all benefits and defenses under California Civil Code §2846, 2849, and 2850, including without limitation, the right to require the SBWMA to (a) proceed against Contractor, (b) proceed against or exhaust any security or collateral the SBWMA may hold now or hereafter hold, or (c) pursue any other right or remedy for Guarantor's benefit, and agrees that the SBWMA may proceed against Guarantor for the obligations guaranteed herein without taking any action against Contractor or any other guarantor or pledgor and without proceeding against or exhausting any security or collateral the SBWMA may hold now or hereafter hold. SBWMA may unqualifiedly exercise in its sole discretion any or all rights and remedies available to it against Contractor or any other guarantor or pledgor without impairing the SBWMA 's rights and remedies in enforcing this Guaranty.

The Guarantor hereby waives and agrees to waive at any future time at the request of the SBWMA to the extent now or then permitted by applicable law, any and all rights which the Guarantor may have or which at any time hereafter may be conferred upon it, by statute, regulation or otherwise, to avoid any of its obligations under, or to terminate, cancel, quit or surrender this

Guaranty. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of the Guarantor hereunder: (a) at any time or from time to time, without notice the Guarantor, performance or compliance herewith is waived; (b) any other of any provision of its Agreement indemnification with respect to Contractor's obligations under the Agreement or any security therefore is released or exchanged in whole or in part or otherwise dealt with; or (c) any assignment of the Agreement is effected which does not require the SBWMA's approval.

The Guarantor hereby expressly waives, diligence, presentment, demand for payment or performance, protest and all notices whatsoever, including, but not limited to, notices of non-payment or non-performance, notices of protest, notices of any breach or default, and notices of acceptance of this Guaranty. If all or any portion of the obligations guaranteed hereunder are paid or performed, Guarantor's obligations hereunder shall continue and remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from the SBWMA as a preference, fraudulent transfer or otherwise, irrespective of (a) any notice of revocation given by Guarantor or Contractor prior to such avoidance or recovery, and (b) payment in full of any obligations then outstanding.

4. Term. This Guaranty is not limited to any period of time, but shall continue in full force and effect until all of the terms and conditions of the Agreement have been fully performed or otherwise discharged and Guarantor shall remain fully responsible under this Guaranty without regard to the acceptance by the SBWMA of any performance bond or other collateral to assure the performance of Contractor's obligations under the Agreement. Guarantor shall not be released of its obligations hereunder so long as there is any claim by the SBWMA against Contractor arising out of the Agreement based on Contractor's failure to perform which has not been settled or discharged.

5. No Waivers. No delay on the part of the SBWMA in exercising any rights under this Guaranty or failure to exercise such rights shall operate as a waiver of such rights. No notice to or demand on Guarantor shall be a waiver of any obligation of Guarantor or right of the SBWMA to take other or further action without notice or demand. No modification or waiver of any of the provisions of this Guaranty shall be effective unless it is in writing and signed by the SBWMA and by Guarantor, nor shall any waiver be effective except in the specific instance or matter for which it is given.

6. Attorney's Fees. In addition to the amounts guaranteed under this Guaranty, Guarantor agrees in the event of Guaranty's breach of its obligations including to pay reasonable attorney's fees and all other reasonable costs and expenses incurred by the SBWMA in enforcing this Guaranty, or in any

action or proceeding arising out of or relating to this Guaranty, including any action instituted to determine the respective rights and obligations of the parties hereunder.

7. Governing Law: _____. This Guaranty is and shall be deemed to be a contract entered into in and pursuant to the laws of the State of California and shall be governed and construed in accordance with the laws of California without regard to its conflicts of laws, rules for all purposes including, but not limited to, matters of construction, validity and performance. Guarantor agrees that any action brought by the SBWMA to enforce this Guaranty may be brought in any court of the State of California and Guarantor consents to personal jurisdiction over it by such courts. Guarantor appoints the following person as its agents for service of process in California:

CT Corporation System
818 W 7th Street
Los Angeles, CA 90017

With a copy by certified mail to:

Allied Waste Service San Mateo Division
Attn: General Manager
225 Shoreway Road
San Carlos, CA 94070

8. Severability. If any portion of this Guaranty is held to be invalid or unenforceable, such invalidity will have not effect upon the remaining portions of this Guaranty, which shall be severable and continue in full force and effect.

9. Binding On Successors. This Guaranty shall inure to the benefit of the SBWMA and its successors and shall be binding upon Guarantor and its successors, including transferee(s) of substantially all of its assets and its shareholder(s) in the event of its dissolution or insolvency.

10. Authority. Guarantor represents and warrants that it has the corporate power and the authority to give this Guaranty, that its execution of this Guaranty has been authorized by all necessary action under its Article of Incorporation and By-Laws, and that the person signing this Guaranty on its behalf has the authority to do so.

11. Notices. Notice shall be given in writing, deposited in the U.S. mail, registered or certified, first class postage prepaid, addressed as follows:

To the SBWMA:

SBWMA Chair
City of San Carlos
600 Elm Street
San Carlos, CA

with a copy to the SBWMA Counsel at the same address.

To the Guarantor:

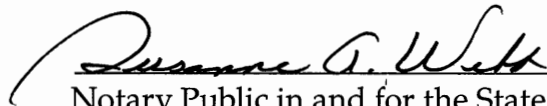
Allied Waste North America, Inc.
15880 N. Greenway-Hayden Loop
Suite 100
Scottsdale, AZ 85260

Signature By: _____


Steven M. Helm, Vice President-Legal

STATE OF ARIZONA)
) SS.
COUNTY OF MARICOPA)

On this, the 10th day of October, 2005, before me, the undersigned Notary Public, personally appeared Steven M. Helm, who acknowledged that he executed the foregoing instrument in his capacity as Vice President – Legal, of ALLIED WASTE NORTH AMERICA, INC., for the purposes therein contained.


Notary Public in and for the State of Arizona

My commission expires on: 9-17-08



Notary Public State of Arizona
Maricopa County
Susanne A Webb
Expires September 17 2008

Exhibit M

Notary Certification

NOTARY CERTIFICATION

STATE OF CALIFORNIA)

COUNTY OF _____) ss:

On _____, _____, before me, the undersigned, a Notary Public in and for the State of California, personally appeared _____, known to me to be the _____ of the Contractor that executed the within instrument on behalf of the Contractor therein named, and acknowledged to me that such Contractor executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of _____ this _____ day of _____, _____.

Notary Public

My Commission Expires:
