



NEW BUSINESS



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Marshall Moran, Finance Manager
Date: September 22, 2011 Board of Director's Meeting
Subject: Resolution Approving SBWMA Reimbursement of Allied Waste/Republic Services for Teamster Benefit Trust Payment and Repayment Terms for Recology San Mateo County

Recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2011-21 attached hereto authorizing the following action:

1. Payment of \$357,000 to Allied Waste/Republic Services (Allied) for reimbursement of the Teamsters' Benefit Trust health care premiums for employees covered under collective bargaining agreements (CBA).
2. Bill Recology monthly starting in October 2011 for one-twelfth of the \$357,000 plus accrued interest at a rate of prime plus one percent. Payments to the SBWMA are net 30 days.
3. Recognize that the SBWMA and the Member Agencies will need to make Recology whole for the TBT payment in January 2021 for CBA employees if it is paid by Recology and not directly by the next contractor (whether Recology or a new vendor).
4. The Executive Director to negotiate an agreement with Recology reflecting the parties' understandings regarding Recology's payment to the SBWMA and inclusion of the TBT payment for the final month of the current franchise agreements in Rates for the last year of the franchise agreements. The agreement will be presented to the SBWMA Board at the October 27th Board meeting.

Analysis

As noted in the final 2010 Allied rate reports for collection services and Shoreway operations included under agenda item 4B, at the request and urging of Recology San Mateo County and Teamsters management representatives, Allied paid the Teamsters' Benefit Trust health care premiums due in January 2011 for work performed by employees in December 2010 (TBT payments are due one month in arrears). This expense totaling \$357,000 was also included by Recology in their 2011 compensation application and was therefore not anticipated to be paid by Allied. Including this expense in the Allied closeout rate applications will increase each agency's balancing account.

The SBWMA has requested that Recology reimburse Allied for this payment since it was for Recology's employees January 2011 benefits coverage. If Recology had agreed to our request, this would have resulted in Recology making one payment to Allied and eleven payments to the TBT fund directly, thus matching the number of payments in the company's total collection cost approved in their 2011 compensation application. Recology is willing to make this payment provided it receives a commitment from the SBWMA that it will be made whole for the TBT payment due in January 2021, if Recology is required to make that payment.

In order to keep this \$357,000 expense out of the Allied final 2010 compensation application, and afford time to prepare an agreement between the SBWMA and Recology, SBWMA staff is recommending that the SBWMA directly reimburse Allied for this expense. In turn, the SBWMA will get reimbursed by Recology subject to the following payment terms:

- o Starting in October 2011 the SBWMA will bill Recology monthly for one-twelfth of the amount due plus accrued interest at a rate of prime plus one percent. Payments to the SBWMA are net 30 days.

Based on this recommendation, and assuming the next contractor pays the TBT payment due in January 2021, Recology would still make a total of 120 TBT payments over the ten year term of the franchise agreements with one payment over twelve months to the SBWMA and 119 payments to TBT fund. The SBWMA recognizes that the Member Agencies will need to make Recology whole for the possible payment by Recology in January 2021 for CBA employees if the next contractor does not pay it directly.

Background

The 2007 Collection Services Request for Proposals (RFP) cost proposal was structured based on the assumption that each contractor would cover 120 months of benefit coverage, including the TBT payments.

Fiscal Impact

The SBWMA has available sufficient undesignated cash reserves to make this payment. The SBWMA cash flow and reserves will be modestly impacted, reducing the undesignated funds by half of the balance or \$179,000 at June 30, 2012, but the net effect by the end of calendar year 2012 would be increased net cash reserves due to accrued interest payments from Recology.

Attachments:

Resolution 2011-21



RESOLUTION NO. 2011-21

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING REIMBURSEMENT OF ALLIED WASTE FOR TEAMSTER BENEFIT TRUST PAYMENT AND REPAYMENT TERMS FOR RECOLOGY SAN MATEO COUNTY

WHEREAS, The South Bayside Waste Management Authority (SBWMA) prepared and issued to the SBWMA Board of Director's on July 28, 2011 the SBWMA Draft Report on the Allied Waste/Republic Services (Allied) Closeout Rate Applications; and

WHEREAS, The July 28, 2011 Draft Report noted that Allied made a January 2011 Teamster Benefit Trust (TBT) payment and such a payment was an unanticipated expense for Allied; and

WHEREAS, Staff and Recology have reached an agreement in principle whereby the SBWMA directly reimburses Allied for this unanticipated expense, Recology reimburses the SBWMA with interest, and the SBWMA and Member Agencies agree to compensate Recology for the TBT payment due in the month after the last month of the contract term, if such payment is not made by the next contractor.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the recommended approach for the SBWMA to directly reimburse Allied for the January TBT expense totaling \$357,000 using reserve funds, and negotiate a written agreement with Recology providing for repayment of such amount by Recology and reimbursement of Recology for the final TBT payment if not paid by the next contractor.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the this 22nd day of September, 2011, by the following vote:

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

I HEREBY CERTIFY that the foregoing Resolution No. 2011-21 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on September 22, 2011.

ATTEST:

Brian Moura, Chairperson of SBWMA

Cyndi Urman, Board Secretary



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Marshall Moran, Finance Manager
Date: September 22, 2011 Board of Director's Meeting
Subject: Resolution Approving Allied Waste 2010 Closeout Rate Applications for Collection and Shoreway Operations

Recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2011-22 attached hereto authorizing the following action:

Approval of Allied Waste/Republic Services 2010 Closeout Rate Applications for Collection Services and Shoreway Operations attached as **Exhibits A** and **B**, respectively.

Analysis

Collection

Allied Waste/Republic Service's (Allied) application submitted to the SBWMA on April 18, 2011 presented a balancing account surplus and shortfall (as appropriate) by Member Agency. Allied calculated an average balancing account shortfall for all Member Agencies of \$926,000 (ranging from a surplus of \$181,000 for West Bay Sanitary District to a shortfall of \$3,700,000 for the City of San Mateo). Hilton, Farnkopf & Hobson (HF&H) calculated an average cumulative balancing account shortfall of \$885,000 (ranging from a surplus of \$189,000 for the West Bay Sanitary District to a shortfall of \$3,551,000 for the city of San Mateo) after the recommended adjustments described in Section VI of their attached report (see **Exhibit A**),

SBWMA-wide, the actual balancing account balance owed to Allied was \$199,000 less than projected last year, with eight Member Agencies' balancing account balances decreasing and four increasing (as shown in Table 1 in the Executive Summary of the attached HF&H report – see **Exhibit A**). These figures exclude the January 2011 Teamster Benefit Trust (TBT) expense of \$357,000 as it is recommended that the SBWMA directly reimburse Allied and then be repaid by Recology; this recommended action is covered in the staff report for agenda item 4A.

With the exception of the West Bay Sanitary District and North Fair Oaks, all other Member Agencies have balancing account shortfalls which are required to be paid back to Allied within 12-months of the agreed-upon amount owed. Additional details by Member Agency can be found in Appendix A of the Collection Services rate report.

Allied and SBWMA staff met and resolved two disputed items related to pre-paid vehicle licenses and public schools revenue as noted on pages 4 and 5 of the Executive Summary of the attached report.

The attached HF&H report was also updated to reflect actual workers compensation claim reserves and health care premiums through August 2011 and projected workers compensation claims and health care premiums from September 2011 through December 2012. Actual claims and health care premiums will be higher or lower than what has been projected; however, the parties have agreed that this is a final fixed expense which will not be reconciled later based on actual results.

Bad debt has also been re-projected based on actual write-offs and recoveries through September 11, 2011. The final bad debt expense for customer's failure to remit payments may be higher or lower; however, the parties have agreed that this is a fixed expense which will not be reconciled later based on actual results.

Transfer Station

Allied submitted its rate application on April 18, 2011 for an adjustment to its compensation and calculated a two year cumulative actual revenue shortfall of \$1,988,000 at the end of 2010 (see **Table 2 in the Executive Summary in the attached report- Exhibit B**). The shortfall is comprised of a 2009 cash shortfall of \$1,347,000 and a 2010 cash shortfall of \$641,000. This compares favorably to the projected two-year revenue shortfall last year estimated at \$2,213,000.

Allied and SBWMA staff met and resolved two disputed items related to pre-paid vehicle licenses and bridge repair costs as noted on pages 2 and 3 of the Executive Summary of the attached report.

The attached report was also updated to reflect actual workers compensation claim reserves through August 2011. Actual claims will be higher or lower than what has been projected; however, the parties have agreed that this is a fixed expense which will not be reconciled later based on actual results.

Background

Collection

Procedurally, Allied submits a rate application to the SBWMA no later than August 1 of each year, which contracts with an independent consultant (HF&H) to review the application. The SBWMA bases its recommendations on the consultant's report and presents its recommendations to the Member Agencies for consideration. This application process covers the review of projected operating revenues and expenses for 2010 and the application was submitted earlier than usual as it only focused on the closeout of one rate year (i.e., 2010).

Transfer Station

Since the start of the operating agreement in March 2000, Allied has received bi-monthly payments from the SBWMA. The per-ton payment amount is calculated to provide Allied with its allowable projected compensation; however, the payments are not intended to provide compensation greater than allowable expenses and profit. On an annual basis, HF&H reviews and determines Allied's approved compensation (actual and allowable expenses and profit). HF&H calculates the difference between Allied's approved compensation and the sum of the bi-monthly payments Allied received from the SBWMA which becomes the Balancing Account. HF&H's findings are contained in a rate report that is reviewed by SBWMA staff and submitted to the Board for review and approval.

Allied's actual revenue and expenses were compared to the projected revenue and expenses to determine the final year's (2010) operating surplus/shortfall for Shoreway operations. In accordance with the Shoreway Operations Agreement Section VI.J of Exhibit H – SBWMA Compensation Adjustment Guidelines for the Operation of the Shoreway Recycling and Disposal Center "Any surplus owed to the SBWMA shall be paid by [Allied] to the SBWMA over a one-year period. Any shortfall owed to [Allied] will be paid to [Allied] over a one-year period." With Board approval, the SBWMA has made two quarterly payments of \$673,417 for half of the 2009 balance. Quarterly payments for 2010 will begin after Board approval of this report.

Fiscal Impact

The Allied Collection Services rate report is the basis for determining final balancing accounts by Member Agency. Similarly, the Allied Shoreway rate report determines the final balancing account for the SBWMA. Since these final Rate Reports show a minor improvement to the Member Agency Balancing Accounts and the SBWMA balancing

account in total, there is no direct fiscal impact but the improvement is certainly good news compared to the alternative and will put less pressure on collection rates overall. Each Member Agency is responsible for establishing its own plan for settling with Allied any balance owed.

Attachments:

Resolution No. 2011-22

Exhibit A -- Allied Waste Draft 2010 Collection Rate Report

Exhibit B -- Allied Waste Draft 2010 Shoreway (Transfer Station) Rate Report



RESOLUTION NO. 2011-22

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING THE 2010 ALLIED WASTE CLOSEOUT RATE APPLICATIONS FOR COLLECTION AND SHOREWAY OPERATIONS

WHEREAS, HF&H has prepared separate reports, see Exhibits A and B, for the review of the 2010 Allied Waste closeout rate applications for Collection and Shoreway operations; and

WHEREAS, HF&H has provided the final balancing account surplus/(shortfall) for each Member Agency for collection operations and the final balancing account surplus/(shortfall) for the SBWMA for Shoreway Operations; and

WHEREAS, Any surplus owed by Allied Waste to the Member Agencies or the SBWMA shall be paid over a one-year period and any shortfall will also be paid over a one year period; and

NOW, THEREFORE, BE IT RESOLVED, that the SBWMA Board accepts and approves the attached HF&H rate reports.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the this 22nd day of September, 2011, by the following vote:

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

I HEREBY CERTIFY that the foregoing Resolution No. 2011-22 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on September 22, 2011.

ATTEST:

Brian Moura, Chairperson of SBWMA

Cyndi Urman, Board Secretary



Agenda Item 4B
Approving Allied Waste 2010 Closeout Rate Applications
for Collection and Shoreway

Exhibit A: Allied Waste Draft 2010 Collection Rate Report
Exhibit B: Allied Waste Draft 2010 Shoreway (Transfer Station)
Rate Report

- Exhibit A -- Allied Waste Draft 2010 Collection Rate Report
- Exhibit B -- Allied Waste Draft 2010 Shoreway (Transfer Station) Rate Report

Files too large to include with Packet

Posted on Website: www.rethinkwaste.org



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Marshall Moran, Finance Manager
Date: September 22, 2011 Board of Director's Meeting
Subject: Resolution Approving 2011 South Bay Recycling Compensation Application

Recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2011-23 attached hereto authorizing the following action:

1. Approve the SBWMA Final Report (Report – **see Exhibit A**) on Review of the 2012 South Bay Recycling (SBR) Compensation Application delineating the contractor's basic compensation for 2012 which includes the following components:
 - Transfer Station Payment per ton of \$11.12.
 - Recyclable Materials Processing Payment per ton of \$74.96 (\$70.53 net of residue).
 - Transportation Payment per Ton-Mile of \$0.933 (blended average). Separate payments per ton-mile for transportation of materials from the Shoreway facility to the Designated Disposal Site, and the Designated Processing Facilities for inerts, Construction and Demolition Debris, Plant Materials and Organics. Specific fees are shown on page 1 (Summary of Fees) of Appendix B to the Report.
 - Annual interest expense of \$282,260.

The other financial information included in the Report for pass-through costs, except interest expense, are estimates at this time and the Board is not being asked to approve them. Also, the Board is not being asked to approve the Shoreway tipping fee assumptions used in the Report.

Analysis

Review of 2011 SBR Compensation Application

Article 7.04 and Attachment 12-A of the Shoreway Operations Agreement (Agreement) approved by the Board on July 29, 2009 prescribes a detailed cost adjustment methodology based predominantly on applying changes in various cost indices. As noted further in the attached Report, there are some cost adjustments based on actual CBA wage and benefit rates. This methodology was the basis for cost changes in the 2012 SBR Compensation Application submitted on July 1 and SBWMA staff's subsequent review for completeness, accuracy, and consistency with the requirements of the Agreement. The methodology is used to adjust SBR's 2011 fees to 2012 fees (rate year two).

As noted on page 3 of the attached Report, per Article 7.07 of the Agreement, SBR receives twenty five percent of the commodity revenue after the revenue guarantee is met. In 2011, the revenue guarantee is \$6.5 million, but the guarantee is subject to a one-time proration due to interim MRF operations. The revenue guarantee is adjusted by the number of days of interim operations ($93 / 365 = 25\%$). This reduction is captured in the cash flow projections shown in **Table 8** in the attached report.

There is also a revenue guarantee adjustment for lower or higher tons than estimated in the RFP (i.e., 74,022 tons) based on actual tons delivered to the buyback center and the MRF in 2011. Our current tonnage projections show receipt of 63,925 tons in 2011 which would result in a 14% reduction in the revenue guarantee; this reduction is also captured in the cash flow projections shown in **Table 8 in the attached report**.

There are also minor cost adjustments, noted on page five of the attached Report, reflected in the recommended compensation to address a true up to the actual costs as follows:

- The payment per ton was adjusted in 2012 retroactively for 2011 for final CBA agreements benefit costs which are not known until December. The adjustment from the estimates used for 2011 is \$12,000 or \$0.16 per ton.
- The VRS contract was not final in 2010 and the variance in the final terms to the cost estimate was retroactively adjusted in 2012 back to 2011. The adjustment was \$82,000 or \$1.10 per ton (of the MRF fee).

Total SBWMA Financial Projections For 2012

A critical and related step in the annual rate review analysis is to determine tipping fees to be charged to franchised customers using the Shoreway Facility, commencing January 1, 2012. In addition to SBR's approved annual compensation, tipping fees must cover the annual cost of: 1) disposal at Ox Mountain Landfill and other processors; 2) debt service payments for revenue bonds issued in 2009 for the demolition, construction, and renovation of the Shoreway Facility; 3) the costs for the management of the SBWMA; and 4) franchise fees paid to the City of San Carlos. Commodity revenue is used to offset these costs to determine appropriate tip fees. Other factors affecting setting tip fees are the projected tonnage volume and achieving debt service covenants. All of these factors will determine the revenue requirement for 2012.

The tip fees at the Shoreway facility become the basis for setting the disposal expense for the franchised tonnage collected by Recology in 2012. The franchise tipping fees and projected tonnage are included as a pass through expense (i.e., see "Disposal and Processing Fees" in Table 8 of the Recology rate report) in the calculation of each Member Agency's total revenue requirement for setting solid waste collection rates. The tip fees are preliminary estimates at this time and are expected to be considered at the November 17th Board meeting.

Background

In 2005, the SBWMA and its Member Agencies initiated a five and a half year contractor selection process for new franchised collection services and Shoreway operations. SBR was selected as the new facility operator on April 23, 2009 and a final Shoreway Operations Agreement ("Agreement") was approved by the Board on July 23, 2009. This 2012 rate report adjusts 2011 base year fees to 2012 fees.

Article 7.04 and Attachment 12-A of the Agreement prescribe a detailed cost adjustment methodology based predominantly on various cost indices. As noted further in this Report, there are some cost adjustments based on actual CBA wage and benefit rates. This methodology was the basis for SBR's Application submittal on July 1 and SBWMA staff's subsequent review for completeness, accuracy, and consistency with the requirements of the Agreement.

Article 7.05 and Attachment 13-A of the Agreement, address the compensation methodology for adjusting compensation for rate years two to ten (i.e., 2012-2020).

Fiscal Impact

The Table on the next page details the recommended adjustments to SBR's base compensation from 2011 to 2012, including showing pass-through costs and one-time only adjustments for 2012. Approval of the

recommended adjustments will result in a 1.3% increase in SBR's compensation, excluding commodity revenue sharing. The three cost component fees shown below are what SBR will actually be paid "per ton" or "per ton-mile," though the figure shown for "Transport" is a blended figure for all transportation services, for operating the Shoreway facility. Specific transport fees by end destination (e.g., Ox Mountain Landfill) are shown on the first page (Summary of Fees) of Appendix B to the attached Report.

Total operating cost figures shown are estimates only based on tonnage assumptions in the original RFP. The estimated total increase in annual compensation, before pass-through costs, from 2011 to 2012 of \$209,969 (\$16,785,262--\$16,575,293) is comprised of the following:

Non-index adjustments associated with CBA wages and benefits	=	\$443,781
Index adjustments	=	\$310,093
Other adjustments (e.g., power)	=	\$108,825
Total interest	=	\$(25,860)
Construction Management	=	\$(276,462)
Interim Operations	=	\$(350,408)

Table 1					
2011 Year Payment/ton vs. 2012 Adjusted Payment/Ton					
South Bay Recycling	2011		Rate Adjustment	2012	
Operating Cost	Total Cost	Payment/ton	%	Payment/ton	Total Costs
Transfer Station	\$ 3,715,946	\$ 10.39	7.0%	\$ 11.12	\$ 3,978,881
Recyclable Materials Processing, net of Residue	\$ 4,918,602	\$ 66.45	6.1%	\$ 70.53	\$ 5,220,996
Transport (<i>cost/ton-mile</i>)	\$ 5,683,526	\$ 0.89	5.3%	\$ 0.933	\$ 5,980,895
<i>Transport (cost/ton)</i>		\$ 15.89	5.2%	\$ 16.72	
Total Operating Cost	\$ 14,318,073		6.0%		\$ 15,180,772
Contractor Pass-Through Costs					
Total Interest	\$ 308,120				\$ 282,260
Construction Management	\$ 276,462				\$ -
Interim Operations	\$ 350,408				\$ -
Buyback Payments	\$ 1,322,230				\$ 1,322,230
Total Contractor Pass-Through Cost	\$ 2,257,220				\$ 1,604,490
Total Compensation	\$ 16,575,293		1.3%		\$ 16,785,262

Attachments:

Resolution No. 2011-23

Exhibit A – SBWMA Final Report on Review of 2012 South Bay Recycling Compensation Application



RESOLUTION NO. 2011-23

**RESOLUTION OF THE SOUTH BAYSIDE WASTE
MANAGEMENT AUTHORITY BOARD OF DIRECTORS
APPROVING THE SBWMA FINAL REPORT ON REVIEW OF THE 2012 SOUTH BAY
RECYCLING COMPENSATION APPLICATION**

WHEREAS, The South Bayside Waste Management Authority (SBWMA) prepared and issued to the SBWMA Board of Director's on September 1, 2011 the SBWMA Draft Report on Review of the 2012 South Bay Recycling (SBR) Compensation Application (Report); and

WHEREAS, SBWMA staff requested Board Member and Member Agency review of the Draft Report concurrent with review of the Draft Report on the 2012 RSMC Compensation Application and requested comments, questions and concerns to be submitted by September 11, 2011; and

WHEREAS, SBWMA revised the Draft Report based on comments received from Board Members and Member Agencies and additional information provided by SBR and issued the Final Report (**Exhibit A**) to the Board of Directors on September 15, 2011; and

WHEREAS, The Final Report recommends adjustments to SBR's compensation from its 2011 base costs to 2012.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the SBWMA Final Report on Review of the 2012 South Bay Recycling Compensation Application.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the this 22nd day of September, 2011, by the following vote:

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

I HEREBY CERTIFY that the foregoing Resolution No. 2011-23 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on September 22, 2011.

ATTEST:

Brian Moura, Chairperson of SBWMA

Cyndi Urman, Board Secretary



**Agenda Item 4C
Approving 2012 South Bay Recycling Compensation
Application**

**EXHIBIT A: Final Report on Review of 2012 South Bay
Recycling Compensation Application**

- EXHIBIT A: Final Report on Review of 2012 South Bay Recycling Compensation Application

File too large to include with Packet

Posted on Website: www.rethinkwaste.org



STAFF REPORT

To: SBWMA Board Members
From: Cliff Feldman, Recycling Programs Manager
Marshall Moran, Finance Manager
Date: September 22, 2011 Board of Director's Meeting
Subject: Resolution Approving 2012 Recology San Mateo County Compensation Application

Recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2011-24 attached hereto authorizing the following action:

1. Approve the SBWMA Final Report on Review of the 2012 Recology San Mateo County (Recology) Compensation Application (Final Report) which delineates the recommended base contractor's compensation due to Recology for 2012 as follows:
 - a. Total Annual Cost of Operations and Profit – \$51,091,278
 - b. Total Contractor Pass-Through Costs – \$2,240,951

This Final Report (see **Exhibit A**) is to address the contractor's compensation for 2012. It does not include the total rate impact which would need to include the following other issues: the 2011 Revenue Reconciliation, continued cart migration, and the final 2010 adjustments to Member Agency balancing accounts with Allied Waste/Republic Services. The total rate impact from all issues is addressed in the staff report for agenda item 4E.

Analysis

Review of 2012 RSMC Compensation Application

The results of implementing the cost adjustment methodology prescribed in the Member Agencies Franchise Agreements for Solid Waste, Recyclable Materials and Organic Materials Collection Service (Agreements) with Recology to change the Rate Year Two (i.e., 2012) compensation includes the following:

- Total Annual Cost of Operations and Profit = \$51,091,278
- Total Contractor Pass-Through Costs = \$2,240,951
- Total Contractor's Compensation = \$53,332,229

These adjustments represent an increase in the Annual Cost of Operations and Profit of 5.0% or \$2,439,488 over 2011. With the inclusion of Contractor Pass-Through Costs, the Total Contractor's Compensation increased 3.8% or \$1,948,476 over 2011.

Three special issues or one time cost adjustments have been applied to the 2012 Recology Compensation Application. These include adjustments related to a change in the mechanics collective bargaining agreement (CBA), discontinuing providing service to non-franchise public schools, and a negotiated cost adjustment for Hillsborough, as follows:

Mechanics CBA - The Agreements prescribe that Recology is entitled to receive compensation for CBA covered employees based on the wages and benefits costs contained in the CBA's in place at the time the Agreements were executed for the full term of those CBA's. The Agreements also state that any changes or amendments to these CBA's prior to the expiration date of these contracts would result in the company's compensation for CBA covered

employees to revert to an index based cost adjustment methodology also set forth in the Agreements. Since the CBA covering the mechanics contained an opening clause to increase wages on July 1, 2011 and the company anticipates increasing wages effective July 1, 2011, commencing with the 2012 rate year these costs will be adjusted for the full term of the Agreements annually based on the related index prescribed in the Agreements for this cost category. The CPI adjustment for 2012 is 1.94%.

SBWMA Initiated Changes to the 2012 Recology Compensation Application

In addition to the above change in the Mechanics CBA, the following two other one time cost adjustments were initiated by the SBWMA:

Removing the Cost to Provide Service to Non-Franchise Public Schools - The scope of services of the Agreements does not include providing service to public schools since these accounts are State agencies and non-franchised. Even though the public schools in the SBWMA service area have historically been provided service by Allied Waste/Republic Services, commencing on July 1, 2011 Recology has discontinued providing service to these accounts through franchised operations. Therefore, a cost adjustment has been calculated for 2011 and 2012 to provide a credit to the Member Agencies cost for Recology providing service to public schools. The total cost reduction is \$205,014. Recology does not agree with this cost reduction.

Hillsborough Cost Adjustment - In 2009, the Town of Hillsborough negotiated a lower cost for back yard service of \$378,157. When Recology submitted the 2012 Rate Application, the company provided a lower cost by removing \$57,334 for truck depreciation. The SBWMA discovered this change and the Town of Hillsborough does not accept this change; therefore, the truck depreciation was restored to the Town's cost reduction for back yard service. However, Recology does not agree with this change because it claims it is needed to reconcile an error in their original proposal that was accepted by Hillsborough.

Cost Allocation

It is important to note that the factors used to apply the Member Agency Cost Allocation process per Attachment K of the Franchise Agreements are based on actual operational metrics from 2012 in lieu of assumptions used in the 2011 compensation application. The cost allocation for Rate Year One (i.e., 2011) was based on the company's assumptions included in its 2008 proposal submitted in response to the RFP issued in 2007. The 2008 assumptions were then updated based on data provided by Allied in mid-2010 (for the current routes) as the first of two service level adjustments over the term of the Agreement. Thus, Rate Year One was based on assumptions made in 2008, then updated based on data received from Allied in mid-2010, whereas commencing with Rate Year Two (i.e., 2012) and for Rate Years Three through Ten (i.e., 2013-2020), the cost allocation will be based on Recology's actual operating metrics.

Rate Setting and Approval Process

This SBWMA Final Report and recommendation is to establish the compensation owed to Recology for services in 2012. It is not establishing the final revenue requirement that will be used as the basis for setting 2012 rates. This Report only provides information on the Recology component (and associated pass-through costs) of the total revenue requirement for 2012 for solid waste, recycling and organic materials collection and processing services.

Article 11 of the Franchise Agreements states the following:

- Each Member Agency is obligated to set rates as necessary to generate annual gross revenues billed by Recology equal to the approved compensation amount plus all approved pass-through costs.
- If an Agency sets a rate that is below the approved recommendation contained in the Final Report, or if an Agency delays imposing a rate increase effective January 1, 2012, and net revenues billed by Recology in 2012 are less than needed to cover the approved total contractor's compensation delineated in the Final Report, the Agency will be obligated to pay interest to Recology on the difference.

Background

In 2005, the SBWMA and its Member Agencies initiated a five and a half year collection services contractor selection process that resulted in Recology and the Member Agencies executing Franchise Agreements (“Agreements”) for Collection Services. Eleven of the twelve SBWMA Member Agency Agreements have the same methodology used to calculate the compensation paid to RSMC. One Member Agency (i.e., City of Belmont) used a different compensation methodology; however, use of this different methodology has no bearing on the costs or services provided to the other eleven Member Agencies. Inclusion of the City of Belmont in the cost calculations with the other eleven Member Agencies is necessary in order to accurately implement the cost allocation process prescribed in the Agreements.

The compensation methodology provisions in the Member Agency Agreements are contained in Article 11, Attachment K and Attachment N. Article 11 provides an overview of the methodology and describes the process by which aspects of the compensation adjustment process shall be implemented. As described in Article 11 of the Agreements, Recology’s compensation includes three components: Annual Cost of Operations, Profit and Contractor Pass-Through Costs. The Final Report is primarily focused on the first two components of Recology’s compensation, the Annual Cost of Operations and Profit, although, other pass-through costs are included in order to calculate projected rate impacts.

Fiscal Impact

Rate revenue from the Member Agencies is calculated to require an increase of 7.3% for 2012 rates to cover only the Recology cost and pass-through costs (please refer to Table 8 in the attached Final Report). A table showing the components of the 2012 rate adjustments and associated percentage of each is included in the Final Report as **Appendix C – Member Agency Components of Rate Adjustments**.

Important Note: This staff report is solely related to the Recology cost and other pass-through costs. Please refer to staff report 4E for the full rate impacts which include all components that comprise the revenue requirement.

Attachments:

Resolution No. 2011-24

Exhibit A – SBWMA Final Report on Review of the 2012 Recology San Mateo County Compensation Application



RESOLUTION NO. 2011- 24

RESOLUTION OF THE SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY BOARD OF DIRECTORS APPROVING THE SBWMA FINAL REPORT ON REVIEW OF THE 2012 RECOLOGY SAN MATEO COUNTY COMPENSATION APPLICATION

WHEREAS, The South Bayside Waste Management Authority (SBWMA) prepared and issued to the SBWMA Board of Director's on September 1, 2011 the SBWMA Draft Report on Review of the 2012 Recology San Mateo County (RSMC) Compensation Application (Report); and

WHEREAS, The Member Agencies Franchise Agreement for Collection of Recyclable Materials, Organic Materials and Solid Waste with RSMC specifies that the SBWMA Board of Directors' was required to submit comments, questions and concerns on the Draft Report to the SBWMA by September 11, 2011; and

WHEREAS, SBWMA revised the Draft Report based on comments received from the Member Agencies and additional information provided by RSMC and issued the Final Report (**Exhibit A**) to the Board of Directors on September 15, 2011; and

WHEREAS, The Final Report recommends a **7.8%** increase over one year in the total contractor's compensation when compared to the 2011 costs approved by the SBWMA Board of Director's on September 23, 2010 per SBWMA Resolution No. 2010-28.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby approves the SBWMA Final Report on Review of the 2012 Recology San Mateo County Compensation Application.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the this 22nd day of September, 2011, by the following vote:

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

I HEREBY CERTIFY that the foregoing Resolution No. 2011-24 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on September 22, 2011.

ATTEST:

Brian Moura, Chairperson of SBWMA

Cyndi Urman, Board Secretary



**Agenda Item 4D
Approving 2012 Recology San Mateo County
Compensation Application**

**EXHIBIT A: SBWMA Final Report on Review of the 2012
Recology San Mateo County Compensation Application**

- EXHIBIT A: SBWMA Final Report on Review of the 2012 Recology San Mateo County Compensation Application

File too large to include with Packet

Posted on Website: www.rethinkwaste.org



STAFF REPORT

To: SBWMA Board Members
From: Kevin McCarthy, Executive Director
Marshall Moran, Finance Manager
Date: September 22, 2011 Board of Director's Meeting
Subject: Consolidated 2012 Rate Report

Recommendation

This staff report is for discussion purposes only and no formal action is requested of the Board of Directors. Staff will supplement this staff report with a PowerPoint presentation at the Board meeting.

Attachment A is a model staff report for use by Member Agencies for their 2012 solid waste rate setting. Staff looks forward to working with you individually to tailor this report as each Member Agency has a different rate scenario.

Analysis

The 2012 rate year is another transition year as the new collection services Franchise Agreement(s) with Recology San Mateo County (Recology) commences its second year and the final Allied Waste/Republic Services balancing account is finalized. The rate adjustment for 2012 covers the contractually required revenue requirement for Recology and also includes revenues sufficient to pay off the Allied Waste balancing account in its entirety. There is some discretion on the timing or frequency of the payment (e.g., quarterly payment, one lump sum, etc.) to Allied based on each Agency's review of this issue; however, this payment is due within twelve months after approval by the Board of Allied's final compensation. Therefore, payments will need to be made in total by October 2012. In addition, it is important to note that the Recology Franchise Agreement does not provide for a balancing account as did the Allied agreement. Thus depending on how each Agency set rates in the past, there may be some "catching up" with rates to generate revenues sufficient to pay off the old balance owed to Allied.

The rate adjustment for 2012 has two main components as shown in **Attachment B**: 1) the 2012 collection rate adjustment for Recology (section A); and 2) the Final 2010 Allied Waste/Republic Services Balancing Account (section B).

Attachment B can be summarized as follows

- a. 2012 Recology Collection Services Rate Adjustment (Section A). The 2012 total SBWMA collection rate adjustment of **8.3%**.
- b. Final 2010 Allied Balancing Account (Section B). The total shortfall needed to reconcile the final 2010 balancing account with Allied is \$2,784,579 or a **3.2%** rate impact.
- c. 2012 Required Revenue Adjustment (Section C of spreadsheet). Delineates the total 2012 Required Revenue Adjustment or the revenue required by totaling sections A and B.
- d. 2011 Estimated Revenue Reconciliation (Section D). Provides an estimate of the 2011 Recology Revenue Reconciliation, which is not required to be paid until 2013 after it is reconciled in 2012. The company will provide a report to the SBWMA by March 31, 2012 noting the shortfall or surplus of revenue generated in 2011 and the net amount shall be included in the company's 2013 compensation application due on July 1, 2012.

- e. Residential Cart Migration (Section E). This has been provided for Agency's to include a revenue impact associated with cart migration in 2012.
- f. Total Rate Impact (Section F). Denotes the total 2012 rate impact by combining sections C, D and E.

Table 1 (below) provides a detailed break out of section A in **Attachment B**. This table provides a detailed SBWMA-wide variance analysis comparing the 2012 revenue requirement with the approved 2011 revenue requirement. It shows the variance and percent change in revenue for the cost categories that comprise the Collection Services rate impact. The variance is converted to a percent rate impact required for 2012 by category and in total.

Table 1

2012 COLLECTION RATE VARIANCE ANALYSIS	SBWMA					
	2012 Variance					
	2011 Estimated (*1)	2012 Estimated	2011 vs 2012 Change	2011 vs 2012 %	Percent Rate Impact	
Estimated Net Revenue	\$84,213,744	\$85,849,645				
2012 Base Revenue Surplus / <Shortfall>			(\$2,996,482)		3.5%	a
Total Contractor's Compensation	\$51,371,839	\$53,316,941	\$1,945,102	3.8%	2.3%	b
Other Pass-Through Costs						
Disposal & Processing Fees	\$24,475,800	\$25,484,802	\$1,009,003	4.1%	1.2%	
Agency Franchise Fees	\$12,998,488	\$13,340,080	\$341,592	2.6%	0.4%	
Subtotal Other Pass-Through Costs	\$37,474,288	\$38,824,882	\$1,350,594	3.6%	1.6%	c
TOTAL REVENUE REQUIREMENT	\$88,846,126	\$92,141,823	\$3,295,697	3.7%		
2011 Estimated Revenue Reconciliation	(\$4,632,383)					
2012 Rate Adjustment		(\$6,292,179)				
Rate Adjustment		7.3%			7.3%	a+b+c
All numbers above are current estimates except the 2011 Contractor's (Recology) Compensation and the 2012 Contractor's Compensation (which is subject to Board approval).						
*1 Current 2011 Estimate Data (July YTD plus projection Aug-Dec)						

It is important to note that Table 1 above does not include the rate impact (i.e., 1.0% or \$936,043) associated with Member Agency fees collected on the additional rate revenue, as this is shown in **Attachment B**, SBWMA-wide Components of 2012 Rate Adjustment (Variance Analysis). Similar detail as provided in Table 1 can be found for each Member Agency in Attachment C to the SBWMA Final Report on Review of the 2012 Recology Compensation Application (see agenda item 4D).

Background

On September 23, 2010 the Board approved the 2011 South Bay Recycling Compensation Application and the 2011 Recology San Mateo County Compensation Application. The 2012 compensation applications for these companies will be considered by the Board on September 22, 2011. The approved 2012 Recology application is binding on the Member Agencies in terms of establishing the final revenue requirement by Member Agency for setting 2012 solid waste rates.

On October 8, 2010 SBWMA staff sent all Member Agencies the 2010 Allied Waste preliminary balancing account figures. Revised final balancing account figures are included in the staff report for agenda item 4B, Allied Waste/Republic Services 2010 Collection Rate Application.

During 2011, Allied's actual revenue and expenses were compared to the projected revenue and expenses to determine the final year's (2010) operating surplus/shortfall, by Member Agency. In accordance with Section VI.J of Exhibit D – SBWMA Compensation Adjustment Guidelines of the agreement "Any surplus owed to the Member Agencies shall be paid by [Allied] to the [Member Agency] over a one-year period. Any shortfall owed to [Allied] will be paid to [Allied] over a one-year period."

Attachments:

Attachment A – Model Staff Report

Attachment B – Total Collection Rate Impact by Member Agency – 2012



**Agenda Item 4E Attachment A
Consolidated Rate Report Model Staff Report**

**Attachment A: Consolidated Rate Report Model Staff
Report Available 9/16/11**

Attachment A: Consolidated Rate Report will be available 9/16/11 via email and will be Posted on Website: www.rethinkwaste.org

Report EMAILED 9/16/11 and POSTED at www.rethinkwaste.org

SBWMA								
TOTAL COLLECTION RATE IMPACT BY MEMBER AGENCY - 2012								
(Includes Allied 2010 Balancing Account)								
	2012 Rate Year							
	2012 Total	Atherton	Belmont	Burlingame	East Palo Alto	Foster City	Hillsborough	Menlo Park
2012 Collection Revenue @ 2011 Rates	\$ 87,373,776	\$ 2,388,459	\$ 5,250,933	\$ 8,570,031	\$ 4,593,991	\$ 5,274,808	\$ 2,519,401	\$ 9,824,869
Less Estimated Revenue for Allied Balancing Account in 2011 Rates	\$ (1,524,132)	\$ -	\$ -	\$ (394,221)	\$ -	\$ -	\$ -	\$ (353,695)
2012 Net Collection Revenue	\$ 85,849,645	\$ 2,388,459	\$ 5,250,933	\$ 8,175,809	\$ 4,593,991	\$ 5,274,808	\$ 2,519,401	\$ 9,471,174
Total Contractor's Compensation	\$ 53,332,232	\$ 1,396,175	\$ 3,401,886	\$ 4,947,591	\$ 2,112,040	\$ 3,314,602	\$ 1,894,549	\$ 5,561,577
Other Pass-Through Costs								
Disposal & Processing Fees	\$ 25,484,802	\$ 966,819	\$ 1,190,587	\$ 2,880,613	\$ 1,356,588	\$ 1,702,751	\$ 769,536	\$ 2,845,806
Agency Franchise Fees	\$ 13,340,080	\$ 256,334	\$ 1,434,468	\$ 1,338,773	\$ 727,843	\$ 394,350	\$ 251,625	\$ 2,174,760
Agency Specific Contract Changes	\$ (15,291)						\$ (31,562)	\$ 23,002
Total Other Pass-Through Costs	\$38,809,591	\$1,223,153	\$2,625,056	\$4,219,387	\$2,084,431	\$2,097,101	\$989,599	\$5,043,568
RSMC REVENUE REQUIREMENT	\$92,141,823	\$2,619,328	\$6,026,942	\$9,166,977	\$4,196,471	\$5,411,703	\$2,884,148	\$10,605,145
A. 2012 RATE YEAR REVENUE REQUIREMENT								
A.1 Subtotal Year Surplus/(Shortfall)	(\$6,292,179)	(\$230,870)	(\$776,010)	(\$991,168)	\$397,520	(\$136,895)	(\$364,747)	(\$1,133,971)
A.2 Agency Fees on A.1	(\$936,043)	(\$23,087)	(\$201,763)	(\$172,463)	\$23,454	(\$6,845)	(\$36,475)	(\$147,416)
A.3 Rate Adjustment Percentage <i>(See Rate Variance Analysis for detail.)</i>	8.3%	10.6%	18.6%	13.6%	-9.2%	2.7%	15.9%	13.0%
B. ALLIED 2010 BALANCING ACCOUNT	<i>(Paid back over one year after final balance approved in 2011)</i>							
B.1 Allied Balancing Account	(\$10,617,000)	(\$337,000)	(\$1,019,000)	(\$682,000)	(\$976,000)	(\$502,000)	(\$341,000)	(\$737,000)
B.2 Less Agency Funds	\$4,631,614					\$650,000		\$170,025
B.3 Less Estimated Revenue in 2011 Rates (2 years)	\$3,200,807	\$ -	\$ -	\$ 670,361	\$ -	\$ -	\$ -	\$ 496,975
B.4 Net Unfunded Allied Balance	(\$2,784,579)	(\$337,000)	(\$1,019,000)	(\$11,639)	(\$976,000)	\$148,000	(\$341,000)	(\$70,000)
B.5 Rate Adjustment Percentage	3.2%	14.1%	19.4%	0.1%	21.2%	-2.8%	13.5%	0.7%
C. 2012 REQUIRED REVENUE ADJUSTMENT (A+B)								
C.1 Cumulative Revenue Requirement	\$95,862,445	\$2,979,415	\$7,247,705	\$9,351,079	\$5,149,017	\$5,270,548	\$3,261,622	\$10,822,561
C.2 SubTotal Year Surplus/(Shortfall)	(\$10,012,800)	(\$590,957)	(\$1,996,772)	(\$1,175,270)	(\$555,026)	\$4,260	(\$742,221)	(\$1,351,387)
C.3 Rate Adjustment Percentage	11.5%	24.7%	38.0%	13.7%	12.1%	-0.1%	29.5%	13.8%
D. 2011 ESTIMATED REVENUE RECONCILIATION*								
D.1 Subtotal Year Surplus/(Shortfall)	(\$4,632,383)	(\$647,599)	\$44,195	(\$970,882)	\$509,995	(\$178,948)	(\$637,108)	(\$487,674)
D.2 Agency Fees on B.1	(\$633,673)	(\$64,760)	\$11,491	(\$168,934)	\$30,090	(\$8,947)	(\$63,711)	(\$63,398)
D.3 Rate Adjustment Percentage <i>(See Rate Variance Analysis for detail)</i> <i>*2011 actual revenue reconciliation covered in 2013 rates</i>	6.0%	29.8%	-1.1%	13.3%	-11.8%	3.6%	27.8%	5.6%
E. RESIDENTIAL CART MIGRATION ESTIMATED FUTURE REVENUE SHORTFALL								
E.1 Can Migration Impact	#REF!							
E.2 Rate Adjustment Percentage	#REF!							
F. TOTAL RATE IMPACT (C+D+E)**								
F.1 TOTAL REVENUE IMPACT	\$101,128,501	\$3,691,774	\$7,192,019	\$10,490,895	\$4,608,932	\$5,458,444	\$3,962,441	\$11,373,632
F.2 Total Year Surplus/(Shortfall)	(\$15,278,856)	(\$1,303,315)	(\$1,941,087)	(\$2,315,086)	(\$14,941)	(\$183,636)	(\$1,443,040)	(\$1,902,458)
F.3 Cumulative Rate Adjustment Percentage	17.5%	54.6%	37.0%	27.0%	0.3%	3.5%	57.3%	19.4%

SBWMA						
TOTAL COLLECTION RATE IMPACT BY MEMBER AGENCY - 2012 (Includes Allied 2010 Balancing Account)						
	2012 Rate Year					
	North Fair Oaks	Redwood City	San Carlos	San Mateo	West Bay	Unincorporated County - Total
2012 Collection Revenue @ 2011 Rates	\$ 2,480,309	\$ 16,066,119	\$ 7,217,752	\$ 19,492,294	\$ 1,103,248	\$ 2,591,563
Less Estimated Revenue for Allied Balancing Account in 2011 Rates	\$ -	\$ -	\$ (55,000)	\$ (721,215)	\$ -	\$ -
2012 Net Collection Revenue	\$ 2,480,309	\$ 16,066,119	\$ 7,162,752	\$ 18,771,080	\$ 1,103,248	\$ 2,591,563
Total Contractor's Compensation	\$ 1,495,593	\$ 9,643,977	\$ 4,692,464	\$ 11,880,598	\$ 911,367	\$ 2,079,813
Other Pass-Through Costs						
Disposal & Processing Fees	\$ 646,481	\$ 4,707,280	\$ 1,937,774	\$ 5,399,265	\$ 356,716	\$ 724,586
Agency Franchise Fees	\$ 131,331	\$ 2,193,025	\$ 876,267	\$ 3,344,059	\$ 73,816	\$ 143,430
Agency Specific Contract Changes			\$ (6,731)			
Total Other Pass-Through Costs	\$777,812	\$6,900,305	\$2,807,310	\$8,743,324	\$430,531	\$868,015
RSMC REVENUE REQUIREMENT	\$2,273,405	\$16,544,282	\$7,499,774	\$20,623,922	\$1,341,898	\$2,947,829
A. 2012 RATE YEAR REVENUE REQUIREMENT						
A.1 Subtotal Year Surplus/(Shortfall)	\$206,904	(\$478,162)	(\$337,022)	(\$1,852,842)	(\$238,650)	(\$356,266)
A.2 Agency Fees on A.1	\$10,345	(\$65,269)	(\$33,702)	(\$250,690)	(\$14,319)	(\$17,813)
A.3 Rate Adjustment Percentage <i>(See Rate Variance Analysis for detail)</i>	-8.8%	3.4%	5.1%	10.8%	22.9%	14.4%
B. ALLIED 2010 BALANCING ACCOUNT	<i>(Paid back over one year after final balance approved in 2011)</i>					n/a
B.1 Allied Balancing Account	\$15,000	(\$2,136,000)	(\$540,000)	(\$3,551,000)	\$189,000	
B.2 Less Agency Funds		\$1,711,589		\$2,100,000		
B.3 Less Estimated Revenue in 2011 Rates (2 years)		\$354,411	\$540,000	\$1,139,060		
B.4 Net Unfunded Allied Balance	\$15,000	(\$70,000)		(\$311,940)	\$189,000	
B.5 Rate Adjustment Percentage	-0.6%	0.4%		1.6%	-17.1%	
C. 2012 REQUIRED REVENUE ADJUSTMENT (A+B)						
C.1 Cumulative Revenue Requirement	\$2,248,060	\$16,679,551	\$7,533,476	\$21,186,551	\$1,167,217	\$2,965,642
C.2 Total Year Surplus/(Shortfall)	\$232,249	(\$613,432)	(\$370,725)	(\$2,415,472)	(\$63,969)	(\$374,079)
C.3 Rate Adjustment Percentage	-9.4%	3.8%	5.1%	12.4%	5.8%	14.4%
D. 2011 ESTIMATED REVENUE RECONCILIATION*						
D.1 Subtotal Year Surplus/(Shortfall)	\$129,746	(\$409,095)	(\$238,189)	(\$1,685,504)	(\$121,686)	\$60,366
D.2 Agency Fees on b.1	\$6,487	(\$55,841)	(\$23,819)	(\$228,049)	(\$7,301)	\$3,018
D.3 Rate Adjustment Percentage <i>(See Rate Variance Analysis for detail)</i> <i>*2011 actual revenue reconciliation covered in 2013 rates</i>	-5.5%	2.9%	3.6%	9.8%	11.7%	-2.4%
E. RESIDENTIAL CART MIGRATION ESTIMATED FUTURE REVENUE SHORTFALL						
E.1 Can Migration Impact						
E.2 Rate Adjustment Percentage						
F. TOTAL RATE IMPACT (C+D+E)**						
F.1 TOTAL REVENUE IMPACT	\$2,111,827	\$17,144,487	\$7,795,485	\$23,100,104	\$1,296,204	\$2,902,258
F.2 Total Year Surplus/(Shortfall)	\$368,482	(\$1,078,368)	(\$632,733)	(\$4,329,024)	(\$192,956)	(\$310,695)
F.3 Total Rate Adjustment Percentage	-14.9%	6.7%	8.8%	22.2%	17.5%	12.0%
**If include estimated 2011 revenue reconciliation						
Note: Revenue is based on 2011 monthly revenue since the last rate increase through June 2011. Revenue and Collection Cost exclude Attachment Q services. Agencies need to add revenue to cover any unbilled Att. Q services. This rate adjustment assumes a January 1, 2012 rate change date. The rate adjustment will need to be prorated for a later start date. Agencies are encouraged to consider additional Residential cart migration and adjust rates accordingly. Does not include any "surplus" funds available from Allied Balancing Account to use for other purposes.						



STAFF REPORT

To: SBWMA Board Members
From: Hilary Gans, Facility Operations Contracts Manager
Date: September 22, 2011 Board of Directors Meeting
Subject: Resolution Approving Pricing Agreement between SBWMA and SBR for Processing Third-Party MRF tonnage.

Recommendation

It is recommended that the SBWMA Board of Directors approve Resolution No. 2011- 25 attached hereto authorizing the following action:

- o Authorize the SBWMA Executive Director to negotiate and enter into an agreement(s) with SBR for processing third-party MRF tonnage in accordance with the Core Terms in this staff report.

Analysis

SBWMA and SBR have analyzed the potential for processing additional tonnages at the Shoreway Environmental Center (SEC) MRF. This analysis has shown the following:

1. **That the tonnage of recyclable materials delivered to the SEC MRF over the past 8 months is trending below the tonnage anticipated by the SBWMA and SBR.** The MRF single stream system processing equipment was designed with the capacity to process ~78,000 tons of material per year which is equivalent to approximately 300 tons per day or one operational shift. The MRF tonnage has been trending lower than was originally anticipated (see **Table 1**) so that there is a gap in the capacity of the plant vs. the actual tonnage of approximately 14,000 tons/year.

Table 1.

SEC MRF TOTAL FACILITY TONS													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Planned MRF Tons	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	6,500	78,000
Actual MRF Tons	<i>6,012</i>	<i>4,970</i>	<i>5,751</i>	<i>4,965</i>	<i>5,235</i>	<i>5,435</i>	<i>4,921</i>	<i>5,327</i>	<i>5,327</i>	<i>5,327</i>	<i>5,327</i>	<i>5,327</i>	63,925
Delta	<i>(488)</i>	<i>(1,530)</i>	<i>(749)</i>	<i>(1,535)</i>	<i>(1,265)</i>	<i>(1,065)</i>	<i>(1,579)</i>	<i>(1,173)</i>	<i>(1,173)</i>	<i>(1,173)</i>	<i>(1,173)</i>	<i>(1,173)</i>	(14,075)

Italics represent estimates

2. **The tonnage gap between what was estimated and the actual MRF tonnage is causing unanticipated costs for SBR.** This gap has resulted in SBR having unanticipated operational expenses that are not supported by the inbound tonnage assumptions in the MRF processing fee in their RFP response. SBR would like to add additional tonnage to "round-out" their shift. Provided that the SBWMA would benefit from the processing of third-party tonnage, SBR should be allowed to add tonnage to the point that it fills the tonnage gap.
3. **Under an agreement with SBR for processing third-party MRF tons, the SBWMA stands to gain up to \$140,000 per year in new unbudgeted revenue.** Under the pricing arrangement presented in the Core Terms, SBR will pay the SBWMA approximately \$10 per ton for each third-party MRF ton it processes at the SEC MRF. For example, if SBR is able to receive 14,000 new additional tons (bring the

annual facility tonnage from a current of 64,000 tons to a facility capacity of 78,000 tons) the revenue gain to the SBWMA would be \$140,000.

4. **Under an agreement with SBR for processing third-party MRF tons, the SBWMA would have no costs.** Since SBR pays for all operational costs and residue disposal, there are no cost impacts to the SBWMA. Additionally, since the bond pro forma based interest and depreciation on a nearly "full" facility (74,000 tons/year) these costs have already been "baked-in" to the costs covered by the JPA and would not apply to new tonnage up to 78,000 tons/year processing capacity.
5. **Offering the MRF processing capacity to the market place is a good facility marketing tool.** Since many communities do not have a MRF, cities are periodically looking for processing capacity. Processing small tonnage on an as-needed basis provides the SBWMA the ability to market the MRF's capacity to cities that may commit to a long-term processing contract that could benefit the SBWMA Member Agencies by providing additional outside revenue to the JPA.

Third-Party MRF Tons Processing Core Terms

With the approval by the Board, Staff will negotiate an agreement with SBR for the processing of third-party tons. The Core terms of an agreement with SBR for the processing of third-party MRF tons will abide by the Core Terms presented in the table below.

Core Terms for Agreement with SBR for Processing Third-Party MRF tonnage at the SEC

1. SBR will need SBWMA approval before entering into any third-party MRF processing contracts.
2. Payment of a "host fee" to the SBWMA will be on a per ton received basis and structured as follows: \$8.00 flat fee payment per ton plus \$2.00 variable fee tied to a commodity market index.
3. SBR will make the host fee payment directly to the SBWMA on a monthly basis, by the 15th of the following month.
4. SBR will pay all operational cost, equipment repair costs and residue disposal resulting from third-party tonnage processed at the MRF.
5. SBR is responsible for any lost revenues that might result from third-party materials impacting the quality and marketability of the SBWMA's commodities.
6. SBWMA will have the right to cancel any third-party agreement that interferes with daily operations or effectiveness of the processing of the SBWMA's recyclable materials.
7. The processing of third-party tons can be terminated by the SBWMA if the facility or SBR receives any regulatory violations.
8. The processing of third-party tons can be terminated immediately by the SBWMA if SBR is found to have violated or breached the terms of the Shoreway Operations Agreement.
9. Total third-party tonnage will not exceed 100 tons on any one day or 15,000 tons per year without SBWMA Board approval.

Background

Dating back to the release of the Shoreway facility operations RFP in 2007 and the writing of the Facility Operations Agreement, SBWMA staff has anticipated the potential for the MRF to serve the recycling processing needs of cities and private collectors outside of the JPA (together referred to in this report as third-party MRF tons). In fact, there is language in the Facility Operations Agreement that allows the Facility Operator (SBR) to bring in third-party tonnage provided SBR has obtained Board Approval. (Facility Operations Agreement; Section 5.03 SHOREWAY CENTER FACILITY OPERATIONS – GENERAL; “Neither the Contractor nor an Affiliated Company may bring materials from outside the Service Area without prior written approval of the Authority”.)

Since the start of SBR’s facility operation, Staff has been in discussion with the company about the shortfall of franchise tonnage into the SEC MRF and about the opportunity for recruiting and processing third-party tons. At the January of 2011 Board meeting (see Item 4.C - Discussion on Third-Party Pricing Approach for New MRF Tonnage), Staff provided an presentation on the opportunity and benefits of recruiting and processing third-party tons to the SEC facility. On August 23rd, Newby Island MRF, owned by Republic Services, issued an RFP requesting proposals for recyclable material processing services. The Newby Island facility will be undergoing renovations starting in January 2012, and similarly to the SBWMA, is seeking off-site single stream processing capacity during the +6 month construction period. The SBWMA has met with Newby staff and determined that the SEC MRF is has the processing capacity to handle approximately 50 tons/day of materials generated by the cities of Half Moon Bay and Daly City. Currently, Republic transfers the recyclables from these cities to Newby through Ox Mountain Landfill and the Mussel Rock transfer station. The proximity of the SEC facility to these two cities gives SBR the opportunity to offer cost savings to Republic.

In an effort to meet Newby’s RFP submittal deadline of September 16th, SBWMA and SBR staff have been negotiating the terms of an arrangement that would; 1) meet the goals of both the JPA and of SBR; 2) provide the framework for an agreement that would allow SBR to offer a proposal to Newby with confidence that the SBWMA would approve the use of the SEC MRF for the processing Newby’s (or other third-party) tons. SBR and SBWMA staff has negotiated a financial arrangement (see Core Terms) that would provide SBR the latitude to provide a competitive response to the Newby RFP (as well as other opportunities). This arrangement establishes the terms by which SBR can market the roughly 14,000 ton/year surplus capacity at the SEC MRF and charge potential third-party customers a processing fee, while paying a host fee to the SBWMA for the use of the facility.

Fiscal

Potential of \$140,000 per year depending on quantity of third-party tons that can be recruited by SBR and are approved for processing by the SBWMA. All operational costs and depreciation / interest expenses are included in the current rate structure and the new tonnage discussed in this report would not add any costs.

Attachments:

Resolution 2011- 25



RESOLUTION NO. 2011-25

**RESOLUTION OF THE SOUTH BAYSIDE WASTE
MANAGEMENT AUTHORITY BOARD OF DIRECTORS
APPROVING PRICING AGREEMENT BETWEEN THE SBWMA AND SBR FOR
PROCESSING THIRD-PARTY MRF TONNAGE**

WHEREAS, the SBWMA owns as Materials Recovery Facility (MRF) that has surplus processing capacity; and

WHEREAS, the SBWMA is interested in having SBR market this surplus capacity for the processing of third-party MRF tonnage in exchange for the payment of a host fee that would be paid by SBR to the SBWMA; and

WHEREAS, the Core Terms of a third-party MRF processing arrangement with SBR presented in the Staff report have been reviewed by the SBWMA Board.

NOW, THEREFORE BE IT RESOLVED that the South Bayside Waste Management Authority hereby authorizes the Executive Director to enter into an agreement with SBR for the processing of third-party tons.

PASSED AND ADOPTED by the Board of Directors of the South Bayside Waste Management Authority, County of San Mateo, State of California on the this 22nd day of September, 2011, by the following vote:

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

I HEREBY CERTIFY that the foregoing Resolution No. 2011- 25 was duly and regularly adopted at a regular meeting of the South Bayside Waste Management Authority on **September 22, 2011**.

ATTEST:

Brian Moura, Chairperson of SBWMA

Cyndi Urman , Board Secretary