

**City and County of San Francisco  
Department of the Environment  
11 Grove Street  
San Francisco, California 94102**

**Amended and Restated Facilitation Agreement between  
The City and County of San Francisco and  
Recology San Francisco**

This Amended and Restated Facilitation Agreement (this "Agreement") is made this 28th day of July, 2011, in the City and County of San Francisco, State of California ("San Francisco"), by and between: Recology San Francisco (f/k/a Sanitary Fill Company), a California corporation, hereinafter referred to as "Contractor," and the City and County of San Francisco, a municipal corporation, hereinafter referred to as "City," acting by and through its Department of the Environment.

**Recitals**

WHEREAS, City and Contractor are parties to that certain Agreement in Facilitation of Waste Disposal Agreement dated January 2, 1987 (the "Prior Facilitation Agreement"), which sets forth certain agreements between the parties regarding use of Contractor's transfer station, Contractor's transport of solid waste from the transfer station to the Altamont landfill, extraordinary expenses arising between rate proceedings, and other matters relating to the Prior Landfill Agreement;

WHEREAS, on February 9, 2009, City issued a Request for Proposals for Landfill Disposal Capacity ("RFP") to accommodate solid waste disposed of in San Francisco following exhaustion of City's existing landfill disposal capacity at the Altamont landfill, and in response, Contractor proposed to provide the desired disposal capacity at the Landfill;

WHEREAS, concurrently herewith, City and Contractor are entering into a Landfill Disposal Agreement regarding disposal of solid waste collected within San Francisco at the Landfill (such agreement, the "Landfill Agreement");

WHEREAS, consistent with its environmental goals and the terms of the RFP, City favors the development of a rail transport option for solid waste collected in San Francisco as a low-cost and environmentally friendly alternative to truck transport;

WHEREAS, Contractor is willing to incur the substantial financial commitments to third parties and capital investment costs necessary to develop such a transport option, provided that Contractor obtains assurances regarding reimbursement of such costs through the fees Contractor is permitted to charge Permitted Haulers for transport services, and the rates Permitted Haulers are permitted to charge customers;

WHEREAS, to induce Contractor to develop such a transport option, City is willing to provide such assurances regarding reimbursement, provided that Contractor makes certain commitments regarding such transport fees;

WHEREAS, City and Contractor wish to amend and restate the Prior Facilitation Agreement to set forth the aforementioned assurances and commitments and the parties' other agreements regarding use of Contractor's transfer station, transport of solid waste to the Landfill, extraordinary expenses arising between rate proceedings, funding of diversion activities, and other matters relating to the Landfill Agreement;

NOW, THEREFORE, the parties agree as follows:

**1. Definitions.**

Capitalized terms used but not defined herein shall have the meanings given to them in the Landfill Agreement.

- 1.1 "Applicable Landfill" means the Landfill, Back-Up Landfill or other landfill, as designated pursuant to the Landfill Agreement.
- 1.2 "Applicable Transfer/Transport Laws" means all laws, ordinances, orders, judgments, rules, regulations and interpretations of any federal, state or local governmental entity with which Contractor or its affiliates are required to comply in operating the Transfer Station or providing Transport Services.
- 1.3 "Collected Waste" means Solid Waste and/or Beneficial Use Material collected in San Francisco by or on behalf of Permitted Haulers or City.
- 1.4 "Transfer/Transport Force Majeure" means any (a) act of God, earthquake, fire, flood, storm, epidemic, landslide, lightning, explosion or similar occurrence; (b) act of public enemy, war, terrorism, riot, civil disturbance or disobedience, sabotage or similar occurrence; (c) labor action, strike, picketing, work stoppage, work slowdown, sickout or similar occurrence; (d) order, judgment, injunction, condemnation or other act of any federal, state, county or local court, administrative agency or governmental office or body, not the result of Contractor's willful or negligent action or omission; or (e) act, event or condition affecting Contractor, the Transfer Station or the Applicable Landfill which is beyond the reasonable control of Contractor and is not the result of Contractor's willful or negligent action or omission.
- 1.5 "Transfer/Transport Permits" means all licenses, permits, approvals and authorizations necessary for Contractor or its affiliates to obtain or maintain in order to operate the Transfer Station or provide Transport Services, and includes all permit conditions and obligations under the same.
- 1.6 "Rail Hauler" is defined in Section 2 hereof.
- 1.7 "Rail Transport Fee" is defined in Section 4 hereof.
- 1.8 "Rail Transport Services" is defined in Section 4 hereof.
- 1.9 "Reserve Fund" is defined in Section 7 hereof.
- 1.10 "Transfer Station" means a facility or facilities operated by Contractor in San Francisco that receives and temporarily stores City Waste, that processes Recyclable Material and/or Organic Material the residue of which constitutes City Waste, and/or that transfers City Waste from smaller to larger vehicles for transport to a landfill or other final disposal. The Transfer Station currently consists of the facilities located at 501 Tunnel Avenue and Pier 96, both of which include processing operations that produce residue that is City Waste.
- 1.11 "Transport Services" is defined in Section 4 hereof.

2. **Term of Agreement; Delay in Commencement Date.** This Agreement shall become effective upon signing and, subject to Section 25 (Rights and Duties upon Termination or Expiration), shall continue until the end of the Disposal Term. Upon the Commencement Date, the Prior Facilitation Agreement (other than the last two sentences of Section 5 thereof) shall be deemed amended and restated and superseded and replaced in its entirety by this Agreement, and shall be of no further force or effect. The parties acknowledge that the Commencement Date is uncertain, because the date of termination of the Prior Landfill Agreement depends (among other things) on the rate at which Solid Waste is disposed of in San Francisco in future years. The parties further acknowledge that, in the event that the Commencement Date occurs after the Target Date (as defined in Section 4.2), such delay may cause Contractor to become liable for certain amounts under Contractor's agreements with one or more third parties to provide Rail Transport Services (such parties, "Rail Haulers"). Such amounts are summarized in **Appendix A**. City understands that, in such event, Contractor will seek an order of the Director and, if applicable, the Rate Board to approve the inclusion of such amounts in the cost base used to set Rates. Upon Contractor's provision of substantial evidence that it has become liable for such amounts and of the amounts thereof, the City departments responsible for reviewing Rate applications under the Ordinance (currently the Department of Public Works and the Department of the Environment) shall, subject to their confirmation of such evidence and Contractor's supporting calculations, recommend that the Director and, if applicable, the Rate Board, approve the inclusion of such amounts in the cost base used to set Rates; *provided, however*, that said City departments may make independent recommendations regarding the timing and allocation of any resulting rate adjustment for the purpose of avoiding major rate fluctuations while compensating Contractor for its increased expense. City's obligations under this Section 2 shall survive the expiration or earlier termination of this Agreement until such time as Contractor has been reimbursed in full for such amounts.
3. **Operation of Transfer Station.** Contractor shall operate a Transfer Station for the duration of the Disposal Term. Pursuant to Section 5 of the Ordinance, by execution of this Agreement, City designates Contractor as the sole entity for receipt of all Collected Waste for the duration of the Disposal Term, and specifies that during such period all Collected Waste shall be delivered to Contractor at the Transfer Station or the Landfill (or Back-Up Landfill, if applicable) for disposal or beneficial reuse in accordance with the Landfill Agreement and the Ordinance. The only exception to the foregoing grant of exclusivity is that City may send de minimis amounts of Collected Waste to alternative disposal sites for the purpose of testing alternative waste handling technologies. Nothing in this Agreement shall prevent Contractor from accepting materials other than City Waste at the Transfer Station or the Landfill, or from utilizing the Transfer Station or the Landfill for purposes other than those contemplated by this Agreement, so long as those activities are conducted in compliance with Applicable Transfer/Transport Laws and do not conflict with this Agreement. Contractor reserves the right to enter into agreements with Permitted Haulers regarding matters relating to this Agreement or the Ordinance, provided that such agreements do not conflict with this Agreement (it being understood that any fees charged by Contractor to Permitted Haulers under such agreements shall be subject to approval by the Director and, if applicable, the Rate Board, pursuant to the Ordinance).
4. **Transport Services.**
- 4.1 During the Disposal Term, Contractor shall be responsible for transporting, or causing to be transported, from the Transfer Station to the Applicable Landfill, all City Waste delivered to the Transfer Station and accepted by Contractor (such services collectively, the "Transport Services"). It is contemplated that, as part of the provision of Transport Services, Contractor will enter into one or more agreements with one or more Rail Haulers to provide rail transport of City Waste and related services (collectively, "Rail Transport").

Services”). Contractor shall be entitled to include in the cost base used to set Rates in future rate proceedings under the Ordinance, a fee for Rail Transport Services (the “Rail Transport Fee”) in the amount set forth in Section 5, as adjusted from time to time in accordance with that section.

4.2 City acknowledges that, under Contractor’s agreements with Rail Haulers, (i) Contractor is required to provide certain notices to the Rail Haulers in order to give them sufficient time to complete preparations to haul City Waste, and (ii) the amounts for which Contractor may be liable under Section 2 or Section 8.2 depend, among other things, on the timing and content of such notices. On or before December 15, 2013, City shall provide Contractor with at least thirty-six (36) months’ prior written notice of City’s then best estimate of the Commencement Date. On or before June 15, 2015, City shall provide Contractor with at least eighteen (18) months’ prior written notice of City’s then best estimate of the Commencement Date (such estimated date, the “Target Date”). Such notices correspond to the Permitting Notice and Construction Notice referred to in **Appendix A**. Neither the estimated Commencement Dates nor the actual Commencement Date may be later than January 1, 2019.

## 5. Rail Transport Fee.

- 5.1 Components of Rail Transport Fee. The Rail Transport Fee consists of the sum of two components: (i) the Base Rate, which shall be Five Hundred Sixty Three Dollars and No Cents (\$563.00) per 20-foot container as of January 1, 2015, as adjusted pursuant to Section 5.2, and (ii) the Fuel Surcharge, which shall be as provided in Section 5.3. The number of containers and the amount of the Fuel Surcharge for which Contractor will be compensated will be determined through the rate process.
- 5.2 Index Adjustment of Base Rate. On January 1, 2016 and each January 1 thereafter throughout the term of this Agreement, the Base Rate shall be increased by one percent (1%) percent or, if greater, the year-over-year percentage change in the All-Inclusive Index Less Fuel, published by the Association of American Railroads.
- 5.3 Adjustment of Base Rate for Governmental Fees. If after the date hereof any federal, state or local governmental body or agency imposes or increases any fees or charges on any Rail Hauler that relate expressly to the transportation or handling of Solid Waste or Beneficial Use Material, and Contractor becomes liable for such new or increased fees or charges under its agreements with Rail Haulers, then the Base Rate shall be increased by the per-ton amount of such fees or charges. Such adjustment to the Base Rate shall occur to the extent possible concurrently with the effective date of such new or increased fees or charges. Upon Contractor’s provision of substantial evidence that such a new increased fee or charge has been or will be imposed on any Rail Hauler, and of the per-ton amount of such fee or charge for which Contractor is liable, the City departments responsible for reviewing Rate applications under the Ordinance (currently the Department of Public Works and the Department of the Environment) shall, subject to their confirmation of such evidence and Contractor’s supporting calculations, recommend that the Director and, if applicable, the Rate Board, approve the inclusion of such amounts in the cost base used to set Rates; *provided, however*, that said City departments may make independent recommendations regarding the timing and allocation of any resulting rate adjustment for the purpose of avoiding major rate fluctuations while compensating Contractor for its increased expense.

5.4 **Fuel Surcharge.** If the average price of diesel fuel, calculated as provided below (the "Fuel Price"), is less than \$2.30 per gallon, the Fuel Surcharge shall be zero. If the Fuel Price equals or exceeds \$2.30 per gallon, the Fuel Surcharge shall be the amount set forth on **Appendix B**. The Fuel Price for a given calendar month will be determined by adding the Weekly Retail On-Highway Diesel Prices – Average All Types (U.S. Average) reported on the U.S. Department of Energy website ([eia.doe.gov](http://eia.doe.gov)) for that month, dividing the result by the number of weeks so reported, and rounding the result to the nearest tenth of a cent. The resulting Fuel Surcharge, if any, will be applied in the second calendar month thereafter (e.g., the Fuel Surcharge applied in July would be based on the fuel prices reported for May). If the U.S. Department of Energy ceases reporting Retail On-Highway Diesel Fuel Prices, the Rail Hauler imposing the fuel surcharge on Contractor will determine a suitable substitute, and the parties hereto shall utilize that substitute index for the purposes of this Agreement.

6. **Transportation Alternatives; New Port Facilities.** The City and Contractor have discussed two possible changes to operations and facilities under this Agreement relating to utilization of the Port of San Francisco ("the Port"). Those possible changes are (1) utilizing modes of transportation other than, or in addition to, the Rail Transport Services contemplated by this Agreement ("Transportation Alternatives"); and (2) the development by Contractor of new facilities at the Port for the handling of waste, recyclables, organics and other refuse ("New Port Facilities"). During the term of this Agreement, the City will continue to investigate the financial, operational and environmental aspects of both Transportation Alternatives and New Port Facilities, including using barges. At such reasonable times as the City requests, but no later than the fifth anniversary of the effective date of this Agreement, the City and Contractor will meet to consider whether there are any Transportation Alternatives that would offer a more environmentally-beneficial and cost-effective option than Rail Transport Services. If any such Transportation Alternatives are identified, and if either party so requests, the parties shall engage in good faith negotiations regarding whether to amend this Agreement to utilize such Transportation Alternatives and to seek to incorporate into the Rates, or otherwise pay, any incremental costs to the City and Contractor from implementing such Transportation Alternatives. In addition, at such reasonable times as the City or Contractor requests, but no later than the fifth anniversary of the effective date of this Agreement, the City and Contractor will meet to consider the development of New Port Facilities. If any plans for New Port Facilities are identified by the City or the Contractor, the parties will engage in good faith negotiations regarding the feasibility of such facilities and whether to amend this Agreement to utilize such New Port Facilities and to incorporate into the Rates, or otherwise finance, the cost of such facilities.

7. **Reserve Fund.**

7.1 Subject to approval by the Director (and, if applicable, the Rate Board), City shall establish and maintain throughout the Disposal Term a special reserve fund (the "Reserve Fund") in an amount not less than \$10 million in 2010 dollars, as adjusted by the Consumer Price Index, All Urban Consumers, All Items, Not Seasonally Adjusted, San Francisco-Oakland-San Jose Metropolitan Area, published by the U.S. Department of Labor, Bureau of Labor Statistics. The Reserve Fund shall be funded from a one percent (1%) surcharge on all Collected Waste delivered to the Transfer Station or the Landfill (or Back-Up Landfill, if applicable), and/or by reallocation of funds from the reserve fund established under Section 5 of the Prior Facilitation Agreement, as determined by the Director (and, if applicable, the Rate Board). City shall use its best efforts to obtain the approval of the Director (and, if applicable, the Rate Board) for the creation of the Reserve Fund, and for its funding through such surcharge or reallocation of funds. The size of the Reserve Fund

and/or the amount of the surcharge may be changed if mutually agreed by the Director of the Department of the Environment and Contractor, subject to approval by the Director (and, if applicable, the Rate Board). If the monies in the Reserve Fund exceed \$10 million (or other agreed-upon size), then the Director (and, if applicable, the Rate Board) shall allocate the excess monies in the fund for the benefit of the then-current and future residential and/or commercial customers of the Permitted Haulers.

- 7.2 The Reserve Fund may be drawn upon from time to time by Contractor, subject to appropriate City controls as approved by the Director and, if applicable, the Rate Board. The sole purpose of the Reserve Fund is to reimburse costs arising out of this Agreement or the Landfill Agreement that have been or will be incurred by Contractor but have not been recovered (e.g., because a corresponding adjustment in Rates has not taken effect, or has taken effect but has not yet fully reimbursed Contractor for such costs). Such costs include without limitation (i) the Solid Waste Fee, the Organics-Free Waste Fee, the Beneficial Use Material Fee and the Rail Transport Fee, and all adjustments thereto, (ii) the amounts contemplated by Section 2 and Section 8.2, and (iii) subject to approval by the Director and, if applicable, the Rate Board, any other costs relating to the performance of this Agreement or the Landfill Agreement that City and Contractor agree may be reimbursed from the Reserve Fund.
- 7.3 It is not the intention of the parties that withdrawals from the Reserve Fund should take the place of normal ratemaking processes by which Rates are adjusted to reimburse Contractor's recoverable costs. Rather, the Reserve Fund is designed to ensure that Rates are not subject to major fluctuations, to streamline the ratemaking process by obviating the need for continuous adjustments to Rates as costs change, and to protect Contractor against events which cause actual costs to exceed the cost forecasts approved in the rate process. It is understood that nothing in this Section 7 shall limit Contractor's right to seek a special rate adjustment.
- 7.4 To the extent Rates are increased to cover the costs that gave rise to the withdrawal from the Reserve Fund, Contractor shall, as such increased Rates are collected, remit the monies derived from such increase to the Reserve Fund until the amount withdrawn has been repaid. If the amount in the Reserve Fund is insufficient to cover costs otherwise reimbursable through the Reserve Fund, then Contractor shall be entitled to interest at a rate equivalent to the U.S. Prime Rate plus two percent (2.0%) per annum (after the first 120 days, during which no interest shall accrue) for the period from the time Contractor incurred the cost until the time Contractor recovers the cost (through Rates or otherwise). Rates shall be appropriately adjusted to provide for any such interest.
- 7.5 After the end of the Disposal Term, the Director (and, if applicable, the Rate Board) shall determine whether there is any continuing need for the Reserve Fund. If the Director (and, if applicable, the Rate Board) determines there is no further need for the fund, then the Director (and, if applicable, the Rate Board) shall allocate the remaining monies in the fund for the benefit of the then-current and future residential and/or commercial customers of the Permitted Haulers.
- 8. Incorporation Into Rate Structure.**
- 8.1 For the purpose of assuring the ability of the Permitted Haulers to pay the fees, charges and expenses for which this Agreement provides, the City departments responsible for reviewing Rate applications under the Ordinance (currently the Department of Public

Works and the Department of the Environment) will recommend to the Director (or, in the event of an appeal under the Ordinance, the Rate Board), that (i) the obligations assumed by Contractor under this Agreement are prudent, reasonable and necessary for Contractor to incur in order to render its services to the public, (ii) the Fees in the amounts provided for in the Landfill Agreement (as adjusted from time to time in accordance with the provisions thereof) be included in the cost base used to set Rates, (iii) the Rail Transport Fee in the amount provided for in this Agreement (as adjusted from time to time in accordance with the provisions hereof) be included in the cost base used to set Rates, and (iv) the amounts contemplated by Section 2 and Section 8.2 be included in the cost base used to set Rates. The parties acknowledge that Contractor's obligation to provide the services set forth herein depends upon Contractor's receipt of the compensation contemplated by this Section 8.1. If and to the extent the Director (and, if applicable, the Rate Board) fails to approve the inclusion of all of the foregoing amounts in the cost base used to set Rates, then promptly thereafter, the parties shall meet and negotiate in good faith for a period of thirty (30) days regarding the nature, extent and timing of Contractor's reduction of services under this Agreement and/or the Landfill Agreement (and/or the amounts payable into the Zero Waste Account and/or the Reserve Fund), so that the same are commensurate with the amounts that have been so approved. With regard to all other costs, fees, charges and expenses incurred by Contractor in order to perform its obligations hereunder, to the extent they have been or will be reasonably incurred, the City shall not unreasonably oppose their inclusion in the cost base used to set Rates.

**8.2** The parties acknowledge that, under the Landfill Agreement and this Agreement, Contractor is the exclusive provider of landfill capacity for City Waste, and the exclusive transporter of City Waste from the Transfer Station to the place of final disposal or deposit (subject to City's right to send de minimis amounts of Collected Waste to alternative disposal sites for the purpose of testing alternative waste handling technologies). The parties further acknowledge that if, notwithstanding contrary provisions in this Agreement and the Landfill Agreement, changes in City ordinances or policies or other City actions directly or indirectly cause some or all City Waste not to be transported by Contractor to the Landfill, Contractor may become liable for certain amounts under Contractor's agreements with Rail Haulers, which amounts depend, among other things, upon whether the notices contemplated by Section 4.2 have been provided, and the number of years after the Commencement Date that such agreements have been performed. Such amounts are summarized in **Appendix A**. In such event, Contractor will have a duty to mitigate such amounts, and City understands that Contractor will seek an order of the Director and, if applicable, the Rate Board to approve the inclusion of such amounts in the cost base used to set Rates. Except to the extent that Contractor has breached its duty to mitigate, upon Contractor's provision of substantial evidence that it has become liable for such amounts and of the amount of such liability, the City departments responsible for reviewing Rate applications under the Ordinance (currently the Department of Public Works and the Department of the Environment) shall, subject to their confirmation of such evidence and Contractor's supporting calculations, recommend that the Director and, if applicable, the Rate Board, approve the inclusion of such amounts in the cost base used to set Rates; *provided, however*, that said City departments may make independent recommendations regarding the timing and allocation of any resulting rate adjustment for the purpose of avoiding major rate fluctuations while compensating Contractor for its increased expense. City's obligations under this Section 8.2 shall survive the expiration or earlier termination of this Agreement until such time as Contractor has been reimbursed in full for such amounts.

9. **Hazardous Waste and Designated Waste.** Contractor agrees to use reasonable efforts to identify and remove from the City Waste stream Hazardous Waste or Designated Waste it may receive from Permitted Haulers, City or self-haulers at the Transfer Station. "Reasonable efforts" shall include, but not be limited to, employee training and inspection by qualified personnel, as well as working cooperatively with City on public education, particularly to educate self-haulers. Contractor agrees to ensure compliance with the Waste Acceptance Control Program attached hereto as **Appendix C**, as the same may be amended or updated from time to time. The parties recognize that, notwithstanding Contractor's reasonable efforts and compliance with the Waste Acceptance Control Program, it is possible that Hazardous Waste or Designated Waste may be delivered to the Applicable Landfill. Accordingly, delivery of Hazardous Waste or Designated Waste to the Applicable Landfill shall not in itself evidence Contractor's failure to comply with this Section 9.
10. **Force Majeure.** If Contractor or any of its affiliates or subcontractors is unable to perform any of Contractor's obligations hereunder, in whole or in part, by reason of an event of Transfer/Transport Force Majeure or the effect thereof, then such obligations shall be suspended for the duration of such event of Transfer/Transport Force Majeure and the effect thereof, and such failure to perform shall not be deemed a breach or default hereunder. If Contractor intends to rely upon this Section 10 to suspend its obligations, it shall notify City as soon as reasonably practicable, describing in reasonable detail the event of Transfer/Transport Force Majeure, and shall again notify City when the effect of the event of Transfer/Transport Force Majeure has ceased.
11. **Compliance with Laws.** In the performance of this Agreement, Contractor shall comply with all Applicable Transfer/Transport Laws, provided that Contractor may contest the validity or applicability of any provision of Applicable Transfer/Transport Laws so long as such contest (if against a party other than City) is conducted without prejudice, liability, damage or expense to City. Contractor agrees to use its best efforts to maintain all Transfer/Transport Permits. Notwithstanding any other provision of this Agreement, nothing in this Agreement shall require Contractor (or its affiliates) to violate any provision of Applicable Transfer/Transport Laws or any Transfer/Transport Permit, and no failure by Contractor (or its affiliates) to perform any obligation under this Agreement shall be deemed a breach or default hereunder if such failure to perform is required in order to comply with Applicable Transfer/Transport Laws or any Transfer/Transport Permit.
12. **Enforcement.** City agrees to make its best effort to take any administrative or legal action as is reasonable and necessary for the continued enjoyment of all parties of the benefits of this Agreement during its full term for as long as Solid Waste is being produced in San Francisco, regardless of any change in the identity of persons collecting, transporting or consolidating for transport any Solid Waste, or of any change in the manner in which these acts are performed.
13. **No Duplication of Liquidated Damages.** Liquidated damages or penalties payable by the Contractor under the terms of this Agreement shall be in lieu of, and not in addition to, liquidated damages or penalties payable by the Contractor under the Municipal Code of the City with respect to the same event or circumstance. Under no circumstances shall the Contractor be liable for liquidated damages or penalties under both the Municipal Code and this Agreement with respect to the same event or circumstance.
14. **Submitting False Claims; Monetary Penalties.** Pursuant to San Francisco Administrative Code Section 21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code, is available on the web at



<http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

15. **Taxes.** Payment of any taxes, including possessory interest taxes and California sales and use taxes, levied upon or as a result of this Agreement, or the services delivered pursuant hereto, shall be the obligation of Contractor.
16. **Payment Does Not Imply Acceptance of Work.** The granting of any payment by City, or the receipt thereof by Contractor, shall in no way lessen the liability of Contractor to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment or materials may not have been apparent or detected at the time such payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and in such case must be replaced by Contractor without delay.
17. **Qualified Personnel.** Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of Contractor or its affiliates or subcontractors.
18. **Responsibility for Equipment.** City shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to Contractor by City.
19. **Independent Contractor.** Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Contractor or any agent or employee of Contractor shall not have employee status with City, nor be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Contractor's performing services and work, or any agent or employee of Contractor providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Contractor or any agent or employee of Contractor. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Contractor performs work under this Agreement.
20. **Insurance.**

(a) Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, Contractor must maintain in force, during the full term of the Agreement, insurance in the following amounts and coverages:

(i) Workers' Compensation, in statutory amounts, with Employers' Liability Limits not less than \$1,000,000 each accident, injury, or illness; and

(ii) Commercial General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations; and

(iii) Commercial Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable.

(iv) Professional liability insurance, applicable to Contractor's profession, with limits not less than \$1,000,000 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.

(b) Commercial General Liability and Commercial Automobile Liability Insurance policies must be endorsed to provide:

(i) Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees.

(ii) That such policies are primary insurance to any other insurance available to the Additional Insureds, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

(c) Regarding Workers' Compensation, Contractor hereby agrees to waive subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

(d) All policies shall provide thirty days' advance written notice to the City of reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address:

Department of the Environment  
Attn: Rachel Buerkle  
11 Grove Street  
San Francisco, CA 94102

(e) Should any of the required insurance be provided under a claims-made form, Contractor shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made during such three-year period, such claims shall be covered by such claims-made policies.

(f) Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

(g) Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated by the end of the notice and cure period provided for in Section 24.1(b), the City may, at its sole option, terminate this Agreement immediately upon notice to Contractor.

(h) Before commencing any operations under this Agreement, Contractor shall furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement, subject to the notice and cure period provided for in Section 24.1(b).

(i) Approval of the insurance by City shall not relieve or decrease the liability of Contractor hereunder.

(j) If a subcontractor will be used to complete any portion of this agreement, the Contractor shall ensure that the subcontractor shall provide all necessary insurance and shall, to the extent possible, name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insureds.

**21. Indemnification.** Contractor shall indemnify and save harmless City and its officers, agents and employees from, and, if requested, shall defend them against, any and all loss, cost, damage, injury, liability, and claims thereof for injury to or death of a person, including employees of Contractor, or loss of or damage to property, arising directly or indirectly from Contractor's performance of this Agreement, including, but not limited to, Contractor's use of facilities or equipment provided by City or others, regardless of the negligence of City, and regardless of whether liability without fault is imposed or sought to be imposed on City, except to the extent that this Section 21 is void or otherwise unenforceable under applicable law in effect on or validly retroactive to the date of this Agreement, and except where such loss, cost, damage, injury, liability or claim is the result of the active negligence or willful misconduct of City and is not contributed to by any act of, or by any omission to perform some duty imposed by law or agreement on Contractor, its subcontractors or either's agent or employee. The foregoing indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and City's costs of investigating any claims against the City. Without prejudice to the foregoing limitations on Contractor's obligation to indemnify, save harmless and defend, Contractor specifically acknowledges and agrees that such obligation includes the obligation to defend City from any claim which falls within this indemnification provision, even if the allegations are or may be groundless, false or fraudulent, which obligation arises at the time such claim is tendered to Contractor by City and continues at all times thereafter.

**22. Incidental and Consequential Damages.** Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions.

23. **Liability of City.** THE CITY SHALL HAVE NO PAYMENT OBLIGATIONS UNDER THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CITY BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

24. **Default; Remedies; Termination.**

24.1 Each of the following shall constitute an event of default ("Event of Default") under this Agreement:

(a) Contractor fails or refuses to perform or observe any term, covenant or condition contained in any of the following Sections of this Agreement:

14. Submitting False Claims

27. Proprietary or Confidential Information of City

31. Assignment

34. Drug-Free Workplace Policy

48. Protection of Private Information

(b) Contractor fails or refuses to perform or observe any other term, covenant or condition contained in this Agreement, and such default continues for a period of 30 days after written notice thereof from City to Contractor, *provided, however*, that if such breach cannot reasonably be cured within such 30-day period, then Contractor shall not be deemed to be in default if Contractor commences efforts to cure such default within such 30-day period and thereafter diligently pursues such cure to completion.

(c) Contractor (a) is generally not paying its debts as they become due, (b) files, or consents by answer or otherwise to the filing against it of, a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction, (c) makes an assignment for the benefit of its creditors, or (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property.

(d) A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property material to this Agreement, (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction or (c) ordering the dissolution, winding-up or liquidation of Contractor, and, in each case, such order remains in effect for more than 60 calendar days.

(e) Contractor defaults on the Landfill Disposal Agreement, dated July 28, 2011, and such default is not cured as provided in such agreement, *provided, however*, that nothing herein shall be deemed to imply that Contractor shall be entitled to additional notice or cure rights with respect to such default other than as may be provided in such agreement.

On and after any Event of Default, City shall have the right to exercise its legal and equitable remedies, including, without limitation, the right to terminate this Agreement upon 90 days prior written notice to Contractor (except in the event of an uncured breach of Section 20 (Insurance), which shall entitle City to terminate this Agreement immediately upon notice to Contractor, pursuant to Section 20(g)), or to seek specific performance of all or any part of this Agreement. In addition, City shall have the right (but no obligation) to cure (or cause to be cured) on behalf of Contractor any Event of Default; Contractor shall pay to City on demand all costs and expenses incurred by City in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. City shall have the right to offset from any amounts due to Contractor under this Agreement or any other agreement between City and Contractor all damages, losses, costs or expenses incurred by City as a result of such Event of Default and any liquidated damages due from Contractor pursuant to the terms of this Agreement or any other agreement. All remedies provided for in this Agreement may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

**24.2** If City terminates the Landfill Agreement before the end of the Disposal Term by reason of Contractor's default thereunder, then Sections 4 (other than the first sentence of Section 4.1), 5, 8.1(ii) and 7.1(iii) of this Agreement shall terminate and be of no further force or effect. For purposes of interpreting the remaining provisions of this Agreement, "Applicable Landfill" shall mean the landfill or other location designated by City for the disposal or deposit of City Waste, and "Disposal Term" shall mean the period until the later of December 31, 2025, the 10-year anniversary of the Commencement Date, and the termination date of City's subsequent agreement for the disposal or deposit of City Waste..

**25. Rights and Duties upon Termination or Expiration.** This section and the following sections of this Agreement shall survive termination or expiration of this Agreement:

- |   |   |
|---|---|
| 7. Reserve Fund                               | 27. Proprietary or Confidential Information of City     |
| 14. Submitting False Claims                   | 29. Audit and Inspection of Records                     |
| 15. Taxes                                     | 48. Modification of Agreement.                          |
| 16. Payment Does Not Imply Acceptance of Work | 49. Administrative Remedy for Agreement Interpretation. |
| 18. Responsibility for Equipment              | 50. Agreement made in California; Venue                 |
| 19. Independent Contractor                    | 51. Construction  |
| 20. Insurance                                 | 52. Entire Agreement                                    |
| 21. Indemnification                           | 54. Severability  |
| 22. Incidental and Consequential Damages      | 55. Protection of Private Information                   |
| 23. Liability of City                         |   |

Subject to the immediately preceding sentence, upon termination of this Agreement prior to expiration of the term specified in Section 2, this Agreement shall terminate and be of no further force or effect. This subsection shall survive termination of this Agreement.

**26. Conflict of Interest.** Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts

which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

**27. Proprietary or Confidential Information of City.** Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Contractor agrees that all proprietary or confidential information disclosed by City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data. Information will not be, or will cease being, proprietary or confidential information of City if or when (i) it enters the public domain other than by Contractor's breach of this Section 27, (ii) it is rightfully communicated to Contractor free of any obligation of confidentiality, or (iii) it is independently developed by Contractor without use of any proprietary or confidential information of City.

**28. Notices to the Parties.** Unless otherwise indicated elsewhere in this Agreement, or otherwise legally required, all communications required or permitted hereunder shall be in writing and shall be sent by e-mail, facsimile, registered U.S. mail, or nationally recognized overnight courier, and shall be addressed as follows:

To City: Melanie Nutter, Director, San Francisco Department of the Environment, 11 Grove Street, San Francisco, CA 94102, Fax: 415-554-6393, E-Mail: melanie.nutter@sfgov.org.

To Contractor: John Legnitto, Vice President and Group Manager, San Francisco Region, Recology San Francisco, 250 Executive Park, Suite 2100, San Francisco, CA 94134, Fax: 415-468-2209, E-Mail: jlegnitto@recology.com.

with a copy to:

Teresa L. Johnson, Howard Rice Nemerovski Canady Falk & Rabkin, A Professional Corporation, 3 Embarcadero Center, 7th Floor, San Francisco, CA 94111, Fax: 415-677-6262, E-Mail: tjohnson@howardrice.com.

Notices shall be deemed effective upon confirmation of receipt or, in the case of registered mail, three (3) business days after proper deposit in the U.S. mail. Each party may change the foregoing contact information by prior written notice to the other party given in accordance with this section.

**29. Audit and Inspection of Records.** Contractor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Contractor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after a final audit commenced during such five-year period has been completed, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this section.

30. **Subcontracting.** Contractor is prohibited from subcontracting this Agreement or any part of it to any party other than an affiliate of Contractor or a Rail Hauler, unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.
31. **Assignment.** The services to be performed by Contractor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Contractor to any party other than an affiliate of Contractor or a Rail Hauler unless first approved by City by written instrument executed and approved in the same manner as this Agreement.
32. **Non-Waiver of Rights.** Nothing in this Agreement shall constitute a waiver or limitation of any rights that either party may have under applicable law. The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.
33. **Earned Income Credit (EIC) Forms.** Administrative Code Section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Agreement becomes effective (unless Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in the preceding sentence shall constitute a material breach by Contractor of the terms of this Agreement, subject to the notice and cure period provided for in Section 24.1(b). If, within thirty days after Contractor receives written notice of such a breach, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Agreement or under applicable law. Any Subcontract entered into by Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.
34. **Local Business Enterprise Utilization; Liquidated Damages.**
- (a) **The LBE Ordinance.** Contractor, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively, the "LBE Ordinance"), provided such amendments do not materially increase Contractor's obligations or liabilities, or materially diminish Contractor's rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Contractor's willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Contractor's obligations under this Agreement and shall entitle City, subject to the notice and cure period provided for in Section 24.1(b), to

exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Contractor shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

**(b) Compliance and Enforcement.** By entering into this Agreement, Contractor acknowledges and agrees that any liquidated damages assessed by the Director of the San Francisco Human Rights Commission ("HRC") for non-compliance with the LBE Ordinance shall be payable to City upon demand. Contractor further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Contractor on any contract with City. Contractor agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three (3) years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

**35. Nondiscrimination; Penalties.**

**(a) Contractor Shall Not Discriminate.** In the performance of this Agreement, Contractor agrees not to discriminate against any employee, City employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

**(b) Subcontracts.** Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement, subject to the notice and cure period provided for in Section 24.1(b).

**(c) Nondiscrimination in Benefits.** Contractor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by City, or where work is being performed for City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

**(d) Condition to Contract.** As a condition to this Agreement, Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form



(form HRC-12B-101) with supporting documentation and secure the approval of the form by the HRC.

(e) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Contractor and/or deducted from any payments due Contractor.

36. **MacBride Principles—Northern Ireland.** Pursuant to San Francisco Administrative Code §12F.5, City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. City urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Contractor acknowledges and agrees that he or she has read and understood this section.
37. **Tropical Hardwood and Virgin Redwood Ban.** Pursuant to §804(b) of the San Francisco Environment Code, City urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.
38. **Drug-Free Workplace Policy.** Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1988, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Contractor agrees that any violation of this prohibition by Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement, subject to the notice and cure period provided for in Section 24.1(b).
39. **Resource Conservation.** Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Contractor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract, subject to the notice and cure period provided for in Section 24.1(b).
40. **Compliance with Americans with Disabilities Act.** Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement, subject to the notice and cure period provided for in Section 24.1(b).
41. **Sunshine Ordinance.** In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has

been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by the first sentence of this paragraph will be made available to the public upon request.

**42. Limitations on Contributions.** Through execution of this Agreement, Contractor acknowledges that it is familiar with Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six (6) months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Contractor further agrees to provide to City the names of each person, entity or committee described above.

**43. Requiring Minimum Compensation for Covered Employees.**

(a) Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance ("MCO"), as set forth in San Francisco Administrative Code Chapter 12P ("Chapter 12P"), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Contractor's obligations under the MCO is set forth in this section. Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this section.

(b) The MCO requires Contractor to pay Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this section. It is Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this section against Contractor.

(c) Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(d) Contractor shall maintain employee and payroll records as required by the MCO. If Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

(e) The City is authorized to inspect Contractor's job sites and conduct interviews with employees and conduct audits of Contractor

(f) Contractor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fails to comply with these requirements. Contractor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(g) Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(h) Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(i) If Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Contractor later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and this department to exceed \$25,000 in the fiscal year.

**44. Requiring Health Benefits for Covered Employees.** Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized

terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

(a) For each Covered Employee, Contractor shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Contractor chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

(b) Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Contractor's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

(d) Any Subcontract entered into by Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this section. Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Contractor shall be responsible for its Subcontractors' compliance with Chapter 12Q. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this section against Contractor based on the Subcontractor's failure to comply, provided that City has first provided Contractor with notice and an opportunity to obtain a cure of the violation.

(e) Contractor shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Contractor's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(f) Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

(g) Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

(h) Contractor shall keep itself informed of the current requirements of the HCAO.

(i) Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) Contractor shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

(k) Contractor shall allow City to inspect Contractor's job sites and have access to Contractor's employees in order to monitor and determine compliance with HCAO.

(l) City may conduct random audits of Contractor to ascertain its compliance with HCAO. Contractor agrees to cooperate with City when it conducts such audits.

(m) If Contractor is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Contractor later enters into an agreement or agreements that cause Contractor's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Contractor and the City to be equal to or greater than \$75,000 in the fiscal year.

#### 45. **First Source Hiring Program.**

(a) **Incorporation of Administrative Code Provisions by Reference.** The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this section by reference and made a part of this Agreement as though fully set forth herein. Contractor shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

(b) **First Source Hiring Agreement.** As an essential term of, and consideration for, any contract or property contract with City, not exempted by the FSHA, and subject to the exclusion in San Francisco Administrative Code Section 83.15 for existing labor agreements (to the extent any collective bargaining agreements to which Contractor is a party satisfy the requirements of that section), Contractor shall enter into a first source hiring agreement ("agreement") with the City, on or before the date services are first performed under the contract or property contract. Subject to the same exemptions and exclusions, Contractor shall also enter into an agreement with the City for any other work that it performs in San Francisco. Such agreement shall:

(i) Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs may be certified as meeting the requirements of Chapter 83. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of Chapter 83.

(ii) Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

(iii) Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

(iv) Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

(v) Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of Chapter 83. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of Chapter 83, that employer shall be subject to the sanctions set forth in Section 83.10 of Chapter 83.

(vi) Set the term of the requirements.

(vii) Set appropriate enforcement and sanctioning standards consistent with Chapter 83.

(viii) Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with Chapter 83.

(ix) Require the developer to include notice of the requirements of Chapter 83 in leases, subleases, and other occupancy contracts.

(c) **Hiring Decisions.** Contractor shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

(d) **Exceptions.** Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with Chapter 83 would cause economic hardship.

(e) **Liquidated Damages.** Contractor agrees:

(i) To be liable to the City for liquidated damages as provided in this section;

(ii) To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by Chapter 83 as set forth in this section;

(iii) That the contractor's commitment to comply with Chapter 83 is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by Chapter 83 will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

(iv) That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

(v) That in addition to the cost of investigating alleged violations under this section, the computation of liquidated damages for purposes of this section is based on the following data:

(A) The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

(B) In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of

employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year;

therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

(vi) That the failure of contractors to comply with Chapter 83, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

(vii) Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

(f) **Subcontracts.** Any subcontract entered into by Contractor shall require the subcontractor to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this section.

46. **Prohibition on Political Activity with City Funds.** In accordance with San Francisco Administrative Code Chapter 12.G, Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in the performance of the services provided under this Agreement. Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement pursuant to Section 24, and (ii) prohibit Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Contractor's use of profit as a violation of this section.

47. **Preservative-Treated Wood Containing Arsenic.** Contractor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Contractor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Contractor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.



48. **Modification of Agreement.** This Agreement may not be added to, amended or otherwise modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement, *provided, however*, that the Director of the Department of the Environment may enter into any additions, amendments, or other modifications to, or waivers of any terms of, this Agreement (including, without limitation, changes to the exhibits) that the Director, in consultation with the City Attorney, determines are in the best interests of the City, do not materially decrease the benefits of this Agreement to the City, do not materially increase the obligations or liabilities of the City, and are necessary and advisable to carry out the purpose of this Agreement, which determination shall be conclusively evidenced by the execution and delivery by the Director of this Agreement and of such additions, amendments, or other modifications to, or waivers of any terms of, this Agreement.
49. **Administrative Remedy for Agreement Interpretation.** Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Director of the Department of the Environment, who shall decide the true meaning and intent of the Agreement.
50. **Agreement Made in California; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.
51. **Construction.** All paragraph captions are for reference only and shall not be considered in construing this Agreement.
52. **Entire Agreement.** This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This contract may be modified only as provided in Section 48, "Modification of Agreement."
53. **Compliance with Laws.** Contractor shall keep itself fully informed of the City's Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time, provided that Contractor may contest the validity or applicability of any such law, code, ordinance, order or regulation so long as such contest (if against a party other than the City) is conducted without prejudice, liability, damage or expense to the City. Notwithstanding anything to the contrary in this Agreement, Contractor's obligations under the sections of this Agreement that refer to or incorporate by reference sections of City's Municipal Code are subject to any applicable qualifications, limitations, exceptions and exemptions available under or applicable to such sections of the Municipal Code; it is not the intention of the parties to expand Contractor's obligations under such sections of this Agreement beyond the obligations set forth in the corresponding sections of the Municipal Code.
54. **Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.
55. **Protection of Private Information.** Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and

12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Contractor agrees that any failure of Contractor to comply with the requirements of Section 12M.2 of the Administrative Code shall be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement pursuant to Section 24 hereof, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

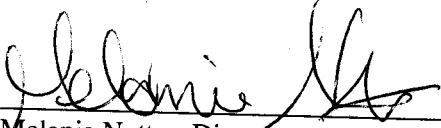

- 56. Graffiti Removal.** Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on San Francisco and its residents, and to prevent the further spread of graffiti. Contractor shall make a good faith effort to remove all graffiti from any real property owned or leased by Contractor in San Francisco within forty eight (48) hours of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works, and shall in all cases remove graffiti from any real property owned or leased by Contractor in San Francisco within five (5) business days of the earlier of Contractor's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Contractor to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.). Notwithstanding the other provisions of this Section 56, if Contractor, in good faith, is uncertain as to whether something is graffiti, it shall not be required to remove the item until a good faith determination can be made, in accordance with Article 23 of the San Francisco Public Works Code, that the item is graffiti.
- 57. Food Service Waste Reduction Requirements.** Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Contractor agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of

the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Contractor's failure to comply with this provision.

- 58. Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

*[Remainder of this page intentionally left blank]*

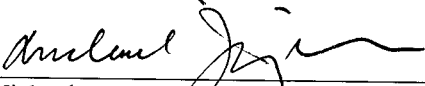
IN WITNESS WHEREOF, the parties hereto have executed this Amended and Restated Facilitation Agreement on the day first mentioned above.

CITY	CONTRACTOR
<p>Recommended by:</p> <p> _____ Melanie Nutter, Director Department of the Environment</p> <p>Approved as to Form:</p> <p>Dennis J. Herrera City Attorney</p> <p>By  _____ Thomas J. Owen Deputy City Attorney</p>	<p>Recology San Francisco</p> <p>By signing this Agreement, I certify that Recology San Francisco complies with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.</p> <p>I have read and understood paragraph 35, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.</p> <p>_____ Michael J. Sangiacomo President and Chief Executive Officer</p> <p>City vendor number: [vendor number]</p>

**Appendices**

- A: Contingent Payments to Rail Haulers
- B: Fuel Surcharge
- C: Waste Acceptance Control Program

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**Appendices**

- A: Contingent Payments to Rail Haulers
- B: Fuel Surcharge
- C: Waste Acceptance Control Program

**Appendix A**  
**Contingent Payments to Rail Haulers**

## Appendix A

### SUMMARY OF CONTINGENT PAYMENTS UNDER CONTRACTOR'S AGREEMENTS WITH RAIL HAULERS

Contractor may become liable for certain contingent payments under its agreements with Rail Haulers under two scenarios: (i) a breach by City of the exclusive rights granted to Contractor under the Landfill Agreement and this Agreement to provide landfill capacity and transport services, or (ii) a delay in the Commencement Date.

As provided in Sections 2 and 8.2 of the Facilitation Agreement, the appropriate City departments will not be obligated to recommend that the amounts set forth in this Appendix A be included in the cost base used to set Rates unless Contractor becomes liable to pay such amounts, and subject to any duty by Contractor to mitigate.

Capitalized terms used but not defined in this Appendix shall have the meanings given to them in the Facilitation Agreement.

#### 1. RELEVANT NOTICE PROVISIONS

City's Request for Proposals for Landfill Disposal Capacity, dated February 9, 2009, set forth three scenarios of when City would exhaust its remaining landfill disposal capacity at the Altamont landfill. The earliest of those scenarios projected that City would need to begin utilizing capacity under the new landfill agreement in January 2014. At least three (3) years' lead time is required for Rail Haulers to complete the necessary infrastructure to haul City Waste.

Contractor's agreements with Rail Haulers require Contractor to provide certain notices to proceed with permitting and construction of that infrastructure. The timetable for these notices is designed to give City the flexibility to accommodate an early or late start date, depending on the rate at which Altamont capacity is utilized in future years. Such notices also affect the amount of the contingent payments for which Contractor may become liable in the event of a breach by City or a delay in the Commencement Date.

In particular, before January 1, 2014, Contractor must give Rail Haulers at least 36 months' advance written notice of the anticipated Commencement Date (the "Permitting Notice"). Before July 1, 2015, Contractor must give Rail Haulers at least 18 months' advance written notice of the anticipated Commencement Date (the "Construction Notice").

The anticipated Commencement Date set forth in the Construction Notice is the "Target Date." Both the Target Date and the actual Commencement Date must be before January 1, 2019. (The "Commencement Date," as defined in Section 1.7 of the Landfill Agreement is the date, as designated by City, when all or substantially all the City's solid waste is first accepted at the Landfill or Back-Up Landfill, as defined in the Landfill Agreement.)

Because the Commencement Date depends on City's utilization of its existing landfill disposal capacity at the Altamont landfill, and because City is in the best position to monitor

such information, Contractor will be dependent on City to provide it timely and accurate estimates of the Commencement Date so that Contractor can, in turn, provide required notices to Rail Haulers.

## **2. CONTINGENT PAYMENTS FOR REDIRECTION OF CITY WASTE**

Section 8.2 of the Facilitation Agreement provides that Contractor may become liable for certain amounts under its agreements with Rail Haulers in the event that “notwithstanding contrary provisions in this Agreement and the Landfill Agreement, changes in City ordinances or policies or other City actions directly or indirectly cause some or all City Waste not to be transported by Contractor to the Landfill . . . .” (such event, a “City Redirection”).

Examples of a City Redirection could include, without limitation: (i) City deciding to incinerate or use “conversion” or other high-temperature disposal processes for all or a material portion of City Waste, (ii) City allowing a party, other than one holding a permit under the Ordinance to service one or more San Francisco collection routes, to transport all or a material portion of City Waste to the Landfill or Back-Up Landfill or other location, and (iii) City causing all or a material portion of City Waste to be disposed someplace other than the Landfill or Back-Up Landfill. City programs to promote source reduction, reuse, recycling, composting or other low-temperature mechanical/biological material processing for recovery shall not be deemed a City Redirection. An annual amount of City Waste less than one percent (1%) of the previous year’s tonnage of City Waste shall not be deemed “material” for purposes of this paragraph.

The amounts payable to Rail Haulers in the event of a City Redirection are to compensate Rail Haulers for the cost of reserving certain real property for Contractor’s use and the cost of later constructing an intermodal facility there (the “Facility”). Such amounts are summarized below (without taking into account Contractor’s duty to mitigate).

The following milestones in Contractor’s agreements with Rail Haulers establish the structure for determining such amounts:

### **A. July 1, 2011 — Facility Reservation Fee Milestone**

A City Redirection that occurs between July 1, 2011 and the Commencement Date results in a “Facility Reservation Fee” in an amount calculated as follows:



<u>Date of City Redirection:</u>	<u>Amount of Facility Reservation Fee:</u>
Jul. 1, 2011 – Dec. 31, 2012	\$507.21 for each day after June 30, 2011 and prior to January 1, 2013
Jan. 1, 2013 – Dec. 31, 2013	\$277,697 <i>plus</i> \$1,420.18 for each day after Dec. 31, 2012 and prior to January 1, 2014
Jan. 1, 2014 – Dec. 31, 2014	\$796,063 <i>plus</i> \$2,079.54 for each day after Dec. 31, 2013 and prior to January 1, 2015
Jan. 1, 2015 – Dec. 31, 2015	\$1,555,095 <i>plus</i> \$2,789.63 for each day after Dec. 31, 2014 and prior to January 1, 2016
Jan. 1, 2016 or later	\$2,573,310 <i>plus</i> \$3,296.84 for each day after Dec. 31, 2015

**B. January 1, 2014 – Latest Date for Permitting Notice**

A City Redirection that occurs between the date of the Permitting Notice (which must be given before January 1, 2014) and the Commencement Date results in contingent payments equal to Rail Haulers' actual costs for permitting and engineering of the Facility, up to a maximum of \$500,000 ("Permitting Costs").

Such amounts are in addition to the Facility Reservation Fee.

**C. July 1, 2015 – Latest Date for Construction Notice**

A City Redirection that occurs between the date of the Construction Notice (which must be given before July 1, 2015) and the Commencement Date results in contingent payments equal to Rail Haulers' actual costs for construction of the Facility, up to a maximum of \$10 million ("Construction Costs").

Such amounts are in addition to the Facility Reservation Fee and Permitting Costs.

**D. January 1, 2019 – Latest Date for Commencement Date**

A City Redirection that occurs after the Commencement Date (which must occur on or before January 1, 2019) results in contingent payments equal to the following:

- (1) The remaining (unamortized) balance of Rail Haulers' actual costs for construction of the Facility, up to a maximum of \$10 million, assuming amortization over 120 monthly periods at an annual interest rate equal to Rail Haulers' effective interest rate plus 2%;

*plus*

- (2) An amount calculated by multiplying \$120 (or \$79, depending on the circumstances) by the difference between the number of containers of City Waste actually transported by Rail Haulers during the calendar year in which the City Redirection occurs, and the number that would have been transported had the City Redirection not

occurred. Currently, a container holds approximately 22 tons of City waste, but this number may change if the composition of the City waste stream changes.

Such amounts are in lieu of the Facility Reservation Fee, Permitting Costs and Construction Costs.

**E. Alternative Contingent Payments After Commencement Date**

If a City Redirection occurs after the Commencement Date, and Contractor does not terminate its agreements with Rail Haulers (because of Contractor's commitments to third parties or otherwise), then Contractor may become liable for contingent payments equal to an amount calculated by multiplying \$120 (or \$79, depending on the circumstances) by the number of containers of City Waste that would have been transported by Contractor, had the City Redirection not occurred, from the effective date of the City Redirection through the expiration of the Disposal Term (assuming no early termination).

**3. CONTINGENT PAYMENTS FOR DELAY IN COMMENCEMENT DATE**

Section 2 of the Facilitation Agreement provides that Contractor may become liable for certain amounts under its agreements with Rail Haulers if the Commencement Date occurs after the Target Date. Such amounts are to compensate Rail Haulers for the Facility being idle. Such amounts would be in addition to any amounts that may result from a City Redirection.

The amounts payable to Rail Haulers in the event of a delay in the Commencement Date depend on the number of days between the Target Date and the actual Commencement Date. No amounts are payable for a delay of less than 4 months after the Target Date. Each day of delay beyond 4 months results in contingent payments of \$6,800 per day, subject to Rail Haulers' right to terminate their agreements if the Commencement Date does not occur within 16 months after the Target Date.

**Appendix B  
Fuel Surcharge**

<b>Fuel Price</b>	<b>Fuel Surcharge</b> <i>(cents per mile per rail car, for eastbound mileage only)</i>
Less than \$2.30	\$0.00
\$2.30 to \$2.349	\$0.05
\$2.35 to \$2.399	\$0.06
\$2.40 to \$2.449	\$0.07
\$2.45 to \$2.499	\$0.08
\$2.50 to \$2.549	\$0.09
\$2.55 to \$2.599	\$0.10
\$2.60 to \$2.649	\$0.11
\$2.65 to \$2.699	\$0.12
\$2.70 to \$2.749	\$0.13
\$2.75 to \$2.799	\$0.14
\$2.80 to \$2.849	\$0.15
\$2.85 to \$2.899	\$0.16
\$2.90 to \$2.949	\$0.17
\$2.95 to \$2.999	\$0.18
\$3.00 to \$3.049	\$0.19
\$3.05 to \$3.099	\$0.20
\$3.10 to \$3.149	\$0.21
\$3.15 to \$3.199	\$0.22
\$3.20 to \$3.249	\$0.23
\$3.25 to \$3.299	\$0.24
\$3.30 to \$3.349	\$0.25
Each \$0.05 per gallon thereafter	Additional \$0.01 per mile

**Appendix C**  
**Waste Acceptance Control Program**

# **Waste Acceptance Control Program Manual**

for the City & County of San Francisco  
and SF Recycling & Disposal, Inc.

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## 1.0 INTRODUCTION

### 1.1 Preamble and Program Objective

On January 2, 1987, the City and County of San Francisco (City) and SF Recycling & Disposal, Inc. (SFRD) entered into: (1) a long-term Waste Disposal Agreement (Disposal Agreement) with Oakland Scavenger Company and (2) an Agreement in Facilitation of Waste Disposal Agreement between themselves (Facilitation Agreement).

The Facilitation Agreement required the City and SFRD to prepare a program regarding hazardous and designated wastes as those terms are defined in the Disposal Agreement<sup>1</sup>, to submit that program to the Refuse Collection and Disposal Rate Board (Rate Board) for approval, and to begin implementation of the program on or before November 1, 1988. After extensive effort and discussion between SFRD and the City, a Waste Acceptance Control Program (WACP) was developed jointly by the City and SFRD and submitted to the Rate Board.

The WACP was designed to identify and remove from the City's municipal waste stream prohibited wastes that are delivered to the San Francisco Solid Waste Transfer and Recycling Center (SFSWTRC) operated by SFRD. The WACP has the following goals:

- To encourage the proper disposal of prohibited wastes
- To reduce the quantity of prohibited wastes entering the municipal solid waste stream
- To identify actual generators of prohibited wastes in the municipal solid waste stream, in order to require them to assume responsibility for the proper management of their wastes
- To provide for an effective enforcement program against recalcitrant generators, requiring them to properly manage their prohibited wastes

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<sup>1</sup> The Waste Acceptance Control Program addresses prohibited wastes, as defined herein. See Section 2.2. Hazardous and designated wastes are included within the definition of prohibited waste

- To assist with the proper management of prohibited wastes delivered to the Transfer Station

The joint effort and cooperation of the City and SFRD is required to implement each of these goals. Accordingly, the WACP Manual includes a description of measures that both the City and SFRD will implement in an effort to achieve these goals.

During the program, the City and SFRD will: (1) gather data regarding the nature and sources of prohibited wastes in the municipal waste stream, and (2) consider effective methods for achieving the goals of the WACP.

As more information becomes available, the parties will reevaluate the WACP and, if necessary, modify or eliminate existing programs, and/or implement new programs to address identified concerns. The parties will continue to meet periodically to discuss the status of the program and the need for revisions to the WACP. The parties will also meet periodically to develop specific waste management procedures consistent with all the WACP programs described herein.

Minor changes in procedures will be implemented by SFRD and reported to the City. Any substantial changes in the program will be discussed and agreed to by the parties prior to implementation. Notwithstanding the above, all changes are subject to the rights of the City pursuant to the Facilitation Agreement to determine what the WACP program shall be and, therefore, to effect changes. Any change in the WACP which requires additional expenditures that may materially affect SFRD's maximum lawful rate for refuse disposal will be submitted to the Rate Board for approval before implementation.

The City and SFRD will routinely review the WACP document at least once every five years. This routine review will precede the regular five year review of the Solid Waste Facility Permit issued to the SFSWTRC. See Section 1.2, below; see also Cal. Public Resources Code 44015. SFRD must submit a permit review application (Report of Station Information) to the Local Enforcement Agency (LEA) at least 120 days before the Solid Waste Facility Permit five year review date.

The implementation of the WACP may impact the SFSWTRC's Transfer and Processing Report (TPR). Accordingly, the parties will complete a routine review of the WACP at least 240 days before SFRD must submit a TPR to the LEA. This schedule will provide SFRD with sufficient time to assess the effect of any revisions to the WACP, in the TPR.

In addition to the routine review of the WACP, one or both parties may initiate non-routine reviews to the WACP. Such reviews may be necessary for a number of reasons, including without limitation: (1) significant changes in the operation of the WACP, (2) changes in the regulatory requirements applicable to the implementation of the WACP, and (3) changes in the operation of the SFSWTRC that may impact the WACP. Should either the City or SFRD determine that a non-routine review of the WACP is warranted, the party initiating such review will notify the other in writing of the need for such review. The parties will endeavor to undertake the review within 120 days before SFRD must submit new documentation to the LEA for the SFSWTRC as a whole.

References are made throughout this document to the routine five-year review of the WACP. Such references shall be deemed to include non-routine review(s) that may be initiated by either the City or SFRD. Where a decision or action set forth in this WACP is specifically noted as one that will be reviewed in five years, such decision or action also may be reviewed and revised at an earlier date, as part of the non-routine review of the WACP.

## 1.2 Background

In accordance with the Initiative Refuse Collection and Disposal Ordinance adopted by the City of San Francisco on November 8, 1932, all of the refuse generated in the City and County of San Francisco is delivered to the SFSWTRC owned and operated by SFRD and located in the southern portion of the City, west of Highway 101 (Figures 1 and 2). The SFSWTRC consists of the following areas:

- Transfer station
- Recycle Pad / C&D Sort Line

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- Public Disposal and Recycling Area
- Other recycling areas
- Household Hazardous Waste Collection Facility

### 1.3 Site Description

The majority of municipal solid waste (compacted and uncompact) from the City and County of San Francisco is delivered to the SFSWTRC by the local refuse collection services, commercial haulers, and the City. Most of the solid waste arriving at the Transfer Station is unloaded directly into a large pit within the Transfer Station building (Figure 3), where it is crushed and pushed by a bulldozer into open-top transfer trailers for transfer to the Altamont Landfill.

Additional information on the Transfer Station's operation is provided in the 2001 Transfer/Processing Report. The Transfer Station's operation is generally regulated by the Solid Waste Facility Permit No. 38-AA-0001 (Appendix A), approved and issued by the San Francisco Department of Public Health Environmental Health Section, Local Enforcement Agency, and approved by the California Integrated Waste Management Board.

A separate public unloading area is located west of the Transfer Station (Figures 2 and 4). This area is referred to as the Public Disposal and Recycling Area (PDRA). Wastes received at this location are uncompact; they are subsequently processed through the Transfer Station or segregated for recycling.

Selected waste loads with recyclable materials (wood, metal, and clean-fill material) are routed to the Construction and Debris (C&D) Sort Line at the Recycling Pad, a sorting area just northeast of the transfer station, for materials separation (Figures 2 and 3).

The PDRA and the C&D Sort Line enable SFRD to reduce the tonnage of municipal solid waste requiring disposal at Altamont Landfill and thus to meet the City's and SFRD's joint recycling objectives.

Another component of the SFSWTRC is the Household Hazardous Waste Collection Facility (HHWCF) which is located adjacent to the PDRA (Figure 4). The HHWCF offers the community a means of safely disposing of a variety of household hazardous wastes.

The SFSWTRC annually transfers approximately 700,000 tons of refuse to the Altamont Landfill in Alameda County. The Transfer Station, Recycling Pad, and PDRA are open to the public and to commercial accounts 7 days per week, excluding certain holidays. The Transfer Station is open 24 hours a day, while the PDRA is generally open 10 hours a day.

#### **1.4 Site Security**

SFRD has established numerous security measures to control access to the SFSWTRC. By controlling access to the property, SFRD reduces the likelihood of inadvertent or intentional dumping or disposal of prohibited wastes. Security measures include the following:

- Control structures surrounding the property (e.g. gates, fences, walls), and building alarm systems
- Control of access to the property
- Security guards monitoring the property and controlling traffic
- Employee training in maintaining property security

##### 1.4.1 Control Structures

The SFSWTRC is entirely surrounded by physical structures that allow SFRD to control access during the hours of operation and to prohibit unauthorized access during non-operational hours. During operational hours, entry gates are opened to allow access to the site. Guards are stationed at the gates to monitor and direct traffic.

The HHWCF is secured by a perimeter fence. The fence and doors to the HHWCF are locked during all non-operational hours. Keys to the HHWCF are distributed only to the WACP and HHWCF staff. SFRD management personnel have access to the keys to the HHWCF in the event of an emergency situation.

The administrative offices are equipped with an intruder alarm system. Should unauthorized entry occur, the monitoring system will alert the local police department who in turn will notify SFRD management.

#### 1.4.2 Access To Site

During off-hours, access to the SFSWTRC is limited to the main gate on Visitation Avenue (also called Recycle Road) west of the public scalehouse (Figure 2). This gate is always controlled by either the scalemaster or the security guard on duty. Access to the Transfer Station is controlled 24 hours a day by the scalemaster and sweepers. Access is generally limited to the following categories of persons: (1) customers dumping solid waste at either the Transfer Station or Recycling Pad, (2) persons conducting official business, (3) escorted tour groups, or (4) employees of SFRD. Incoming vehicles must weigh in at one of the incoming scales. The general public is directed to the PDRA during normal business hours. Guests are not allowed on the property during off-hours unless accompanied by authorized SFRD personnel.

During normal business hours, visitors to the SFSWTRC are required to sign a visitor's log located at the main office. Tours of the SFSWTRC require an escort by SFRD personnel. Tours are generally arranged in advance through the main office at 501 Tunnel Avenue.

#### 1.4.3 Security Service

A private security service is under contract to provide SFRD with guards. During business hours, they control traffic. During non-operational hours, including weekends, the guards patrol key areas of the site—including all buildings, recycling areas, and access roads—to ensure that all areas are secure and that no unusual events have occurred. Should anything unusual occur, security guards are instructed to promptly notify their supervisor. SFRD management personnel can be contacted, if necessary.

#### 1.4.4 Employee Security Training

Employees are instructed to notify their supervisors should they identify any unfamiliar persons on the property.

Employees with responsibility for maintenance survey the property and access roads, including Tunnel Avenue and Beatty Road. Select material handlers are responsible for picking up litter throughout the SFSWTRC, on access roads, and in the Little Hollywood Neighborhood. Should prohibited wastes be abandoned in any of these areas, SFRD employees report their findings to the WACP staff. The WACP staff take appropriate action to manage the prohibited wastes. Such measures may include collecting and managing the prohibited waste at the Household Hazardous Waste Collection Facility. In addition WACP staff also may take further measures such as seeking to (1) identify the generator, (2) obtain the generator's cooperation in arranging for the proper management of the prohibited waste, and (3) notify the City should enforcement proceedings be considered advisable.

### **1.5 Off-Site Facilities (San Francisco Regional Companies)**

Other solid waste management companies exist in San Francisco. The companies identified below are owned in whole or in part by Norcal Waste Systems Inc. and are referred to herein as the "San Francisco Regional Companies", or each individually, as a "San Francisco Regional Company". As part of its WACP responsibilities SFRD through the WACP staff participates in waste management programs with the San Francisco Regional Companies.

#### 1.5.1 Golden Gate Disposal

Golden Gate Disposal is located at 900 7th Street in San Francisco. The company is responsible for the collection of municipal solid waste in the downtown region of San Francisco. Golden Gate Disposal delivers the waste to the SFSWTRC in front and rear loader trucks, roll off compactor boxes and debris boxes.

#### 1.5.2 Sunset Scavenger Company

Sunset Scavenger Company is located adjacent to the SFSWTRC at Tunnel and Beatty Road in San Francisco. Sunset Scavenger Company collects municipal



solid waste in the outlying areas of San Francisco. The waste is brought to the SFSWTRC in front and rear loader trucks, roll-off compactor boxes and debris boxes. Sunset Scavenger Company is also responsible for the collection of municipal solid waste for the Super Recycler Day Program and the collection of recyclable material for the Curbside Recycling Program.

### 1.5.3 West Coast Recycling

West Coast Recycling has the following three waste processing facilities. First, the Pier 96 Facility in San Francisco recycles paper products collected by Golden Gate Disposal and Sunset Scavenger Company. Second, the Bayshore plant situated adjacent to Sunset Scavenger Company, processes all the San Francisco curbside paper, as well as corrugated metal from the Sunset Scavenger commercial accounts. It also houses a public buy-back center. Third, the Total Urban Recycling Facility (TURF), located opposite SFRD, processes glass, aluminum, tin cans, empty aerosol and paint cans, #1 and #2 plastic containers, and plastic soda bottles from the Sunset curbside program. West Coast also operates seven public buy-back centers located at supermarkets in San Francisco and San Mateo counties.

## **2.0 WASTE IDENTIFICATION**

This chapter describes (1) the types of wastes that can be accepted at the SFSWTRC, (2) the types of wastes that are prohibited, and (3) the methodology for determining whether a particular waste type can be accepted.

### **2.1 Permissible Wastes**

Pursuant to the Solid Waste Facility Permit (Appendix A), contractual documents, and applicable laws and regulations, the SFSWTRC accepts the following nonhazardous solid wastes:

- Refuse, including garbage and rubbish
- Nonhazardous solid waste from industrial sources
- Demolition waste
- Empty and dried household hazardous waste containers, five gallons or less in quantity
- Other nonhazardous solid wastes not prohibited from being accepted at the SFSWTRC under its operating permits, or relevant contractual agreements

Used motor oil and other petroleum-based oil is currently accepted, provided that it is segregated from other solid wastes. This oil is collected in an aboveground double-walled tank located adjacent to the Public Disposal Area, (Figure 4).

Household hazardous wastes are accepted at the HHWCF. These wastes include paint and paint products, solvents, acids, caustics, pool chemicals, household cleaners, automotive products, and pesticides. The HHWCF is described in Section 5.0.

### **2.2 Prohibited Wastes**

With the exception of the hazardous waste storage areas designated in this document (e.g. the HHWCF), the SFSWTRC is prohibited by its Solid Waste Facility Permit (Appendix A), contractual documents, and applicable laws and regulations, from accepting the following wastes:

- Hazardous waste
- Designated waste
- Untreated medical waste
- Liquid waste
- Dead animals or parts
- Septic tank pumpings or sewage sludge of any origin
- Radioactive waste
- Compressed gases
- Other wastes, as determined by the WACP staff, the landfill owner, or federal, state, or local regulations

Common examples of prohibited wastes include: paints, solvents, other flammables, pesticides, asbestos, acid and caustic solutions, PCBs, inks, photographic and pool chemicals, oxidizers, gasoline, explosives, and water reactives. Pressurized gas cylinders, pharmaceuticals, radioactives, and medical wastes also are prohibited. A representative list of materials that the SFSWTRC is prohibited from accepting is included in Appendix A.

Presented below is a discussion of the characteristics of hazardous, designated, and medical wastes. The discussion is based upon the parties' present understanding of federal, state and local laws and regulations. Should such requirements change, the parties will modify WACP procedures to conform to new standards.

### 2.2.1 Characteristics of Hazardous Wastes

Hazardous wastes include those wastes that exhibit any of the criteria set forth in Article 3 of Chapter 11, Title 22 of the California Code of Regulations (CCR). Hazardous waste criteria include toxicity (22 CCR Section 66261.24), ignitability (22 CCR Section 66261.21), reactivity (22 CCR Section 66261.23), and corrosivity (22 CCR Section 66261.22). See also 22 CCR chapter 11 Appendix X, for a list of common chemical wastes and their respective potential hazardous properties. In addition, materials considered hazardous wastes pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. Section 6901 *et seq.*, also are considered hazardous wastes under state law (California Health and Safety Code, Sections 25143.2 and 25159.5).

Common examples of hazardous wastes include the following:

Toxic wastes

- Pesticides
- PCBs
- Cleaners
- Arsenic
- Heavy metals

Ignitable wastes

- Solvents
- Oil-based paints
- Gasoline
- Brake Fluid

Reactive wastes

- Pyrophorics
- Cyanides
- Explosives
- Sulfides

Corrosive wastes

- Car batteries
- Ammonia and ammonia-based cleaners
- Oven cleaners
- Sulfuric and hydrochloric acid

### 2.2.2 Characteristics of Designated Wastes

Pursuant to Section 2522 of Title 23 of the CCR, designated wastes are defined as:

- (1) nonhazardous waste which consists of or contains pollutants which, under ambient environmental conditions at the waste management unit, could be released at concentrations in excess of applicable water quality objectives, or which could cause degradation of waters of the state,
- (2) hazardous waste which has been granted a variance from hazardous waste management requirements pursuant to Section 66260.210 of Title 22 of the CCR.

Common examples of designated wastes include oil-field drilling fluids, sewage sludge, incinerator ash, and non-friable asbestos. Pursuant to Section 2522 of Subchapter 15 of Title 23 of the CCR, designated wastes must be managed at special facilities classified by the California Regional Water Quality Control Board as Class I or Class II waste management units. Class II units must be approved for the specific designated waste.

### 2.2.3 Characteristics of Medical Wastes

In 1990 the legislature adopted the Medical Waste Management Act, Chapter 6.1 Division 20 of the Health and Safety Code. Pursuant to the Medical Waste Management Act, the following types of waste are now regulated as medical waste:

- Laboratory wastes
- Cultures of infectious agents
- Waste from production of bacteria, viruses or spores
- Human surgical specimens
- Animal parts, tissues fluids, or carcasses
- Contaminated equipment, instruments, utensils, and other disposable materials
- Waste which contains recognizable fluid blood, fluid blood products
- Excretion, exudate or secretions from humans requiring isolation
- Sharps waste, including hypodermic needles, syringes, blades, and needles with attached tubing

The Medical Waste Management Act establishes general requirements pertaining to the management of medical wastes, including but not limited to the following:

- Medical wastes shall be segregated from other waste at the point of origin in the producing facility
- Medical wastes shall be separately contained from other wastes
- Enclosures or containers used for the containment of medical wastes shall be secured so as to deny access to unauthorized persons and shall be marked by prominent warning signs
- Sharps waste shall be contained in a sharps container, which is leak proof and has a tight fitting lid

## **2.3 Determining Acceptability of Wastes**

### 2.3.1 Methodology

A key component of the WACP is determining whether wastes can be accepted at the SFSWTRC, based on the contractual and/or regulatory criteria described in Sections 2.1 and 2.2. The decision making process typically involves one or more activities, ranging from questioning of customers to performing waste characterization in the field. These waste identification activities include:

- Responding to customer inquiries
- Questioning of customers by WACP staff
- Physical assessment/review of product labels
- Waste characterization in the field
- Additional assessment, as needed

The WACP staff are responsible for conducting the waste identification activities at a number of locations at the SFSWTRC, including the office areas, scalehouses, Public Unloading Area, Transfer Station, HHWCF, and Recycling Pad. The control mechanisms for the waste identification activities include (1) responding

to inquiries from customers, (2) surveillance of incoming wastes, and (3) deliberate waste inspection on a random basis.

### 2.3.2 Waste Identification Activities

The concepts associated with each of the waste identification activities are summarized below. Information derived from these activities is considered when evaluating various aspects of the WACP. Note that there is no fixed sequence to these activities and that several activities may be undertaken simultaneously (e.g., questioning of customers and physical assessment). Once the wastes are identified, WACP staff check existing lists of permissible and prohibited wastes to determine whether the SFSWTRC can accept the wastes.

Customer Inquiries. Customers at any one of the waste control points on the property (e.g. scalehouse, public unloading area) occasionally have questions concerning the acceptability of specific wastes. In addition, customers and the public regularly call the WACP staff to determine waste acceptance criteria. When such inquiries involve a known waste (e.g., waste oil or empty, dried paint cans), WACP staff can refer to the lists of permissible and prohibited wastes to respond to the customer's question. (See Appendix B for customer flyer). On the other hand, if there is any uncertainty on the part of either the customer or WACP staff concerning the identification of the waste in question, additional waste identification activities, such as physical assessment, may be required.

Questioning of Customers by WACP staff. At any waste control point within the SFSWTRC where a load is suspected of containing prohibited wastes, customers are questioned by work crews or WACP staff concerning the contents of the load. If a suspicious load is observed by a member of the work crew, he or she can request that WACP staff conduct the questioning. In some cases, questioning takes place after the customer has dropped off the waste. WACP staff may contact a customer and inquire about (1) the kind of materials that are typically delivered to the SFSWTRC and (2) the nature of the customer's business, if relevant. In many cases the questioning of customers by WACP staff simultaneously involves several of the activities listed below.

Physical Assessment/Review of Product Labels. As noted above, the WACP staff reviews product labels and physically assesses the waste at the same time that they are questioning a customer concerning the contents of a given waste. In examining a product label, the staff member may determine that the product is classified as a prohibited waste. Warning labels such as flammable or poison are often useful in identifying the waste type.

In some cases, physical signs such as odor or color may indicate the presence of a prohibited waste. This observation, coupled with a customer's response to questions, often provides sufficient data to determine that the waste is prohibited.

When assessing a waste load, WACP staff may note a waste type that draws attention to the rest of the load; an example would be one or more 55-gallon drums within a load of residential or other refuse. Once noted, the customer would be questioned, and, if needed, additional assessment undertaken.

Waste Characterization in the Field If the waste cannot be identified by the above procedures, WACP staff may characterize the waste at the SFSWTRC by means of qualitative analysis. The Waste Identification and Classification Test (WICT) was developed by a HHWCF chemist. The WICT is used to determine the chemical constituents and the proper DOT waste stream for packaging and disposal of the waste. The WICT system is approved by the transport, storage and disposal facility (TSDF) which accepts the WACP prohibited waste for disposal. The tests are used to determine whether the waste is ignitable, corrosive, reactive and toxic. When wastes are chemically analyzed, the waste container is labelled with a unique number and a corresponding WICT Data Sheet is stamped with the same number. The WICT test results are sent to the TSDF for approval before the wastes are shipped. A copy of the WICT Data Sheet is kept on file at SFRD.

Additional Assessment In some cases the steps outlined above may be insufficient to identify whether the waste can be accepted or otherwise managed at the SFSWTRC. Since it is the customer's responsibility to ensure that a waste is permissible, the WACP staff may require additional measures to be undertaken by the customer at his/her expense prior to acceptance of the waste. When this



occurs, the WACP staff will assist the customer in exercising one or more of the following options:

- Written clarification by regulatory agencies
- Written clearance by Waste Management, Inc., owners of the Altamont Landfill
- Analysis by a state-certified hazardous waste laboratory

The ultimate responsibility and cost associated with obtaining the laboratory analysis rests with the customer.

### **3.0 WASTE MANAGEMENT PROCEDURES**

As part of the WACP, SFRD and the City undertake the following waste acceptance control measures:

- Customer Notification
- Public Notification
- Site Surveillance
- Waste Inspection Program for Prohibited Wastes
- Management of Prohibited Wastes Found at the SFSWTRC
- Management of Prohibited Waste Found at Off-Site Locations
- Procedures to Obtain the Cooperation of Recalcitrant Generators

SFRD may develop and revise, as necessary, internal guidelines pertaining to such matters as the management of specific waste types, training topics, and routine activities associated with the WACP.

#### **3.1 Customer Notification Program**

The customer notification program is designed to describe and to explain to SFRD customers the policies and procedures of the Waste Acceptance Control Program. It consists of:

- Notification of customers
- WACP staff response to customer and public inquiries
- Posting of signs
- Training programs offered to commercial customers

##### 3.1.1 Customer Notification

Notices describing the policy of nonacceptance of prohibited wastes periodically are sent to SFRD's major customers (e.g., commercial haulers, local collection

services, City agencies, and residents using the SRSWTRC). These notices may include examples of the types of products that are prohibited from disposal at the SFSWTRC. Examples of these notices are provided in Appendix B. Notices also alert customers that their incoming wastes are subject to waste inspection by the WACP staff. Copies of such notices are posted at each scalehouse and are available for distribution.

Examples of the kind of information to be included in these notices include the following:

- Hazardous wastes and certain other types of wastes described in the notice are not accepted at the SFSWTRC (with the exception of the HHWCF) and may not be placed in refuse containers
- A waste inspection program is in effect at the SFSWTRC for detecting hazardous and other unacceptable wastes
- If hazardous or other unacceptable wastes are delivered to the SFSWTRC (with the exception of the HHWCF) either (1) these wastes will not be accepted, or (2) the customer will be requested, in accordance with procedures approved by the City, to remove and dispose of the waste in accordance with law and at the customer's expense.

In addition, the WACP staff cooperates with various major customers to develop similar notices regarding waste acceptance policies as needed. Thus, for example, WACP staff assists collection companies in developing for their customers billing statements, flyers, and other notices. Examples of such notices are provided in Appendix B.

### 3.1.2 Response to Customer and Public Enquiries

The WACP staff regularly receives calls from customers and from the public concerning policies and procedures for delivering wastes to the SFSWTRC. In the course of responding to these calls, the staff (1) clarifies for the customer, and or members of the public, which wastes are prohibited from acceptance at the SFSWTRC and (2) offers assistance on a wide range of waste disposal questions. Where appropriate, WACP staff refer customers to the City's Hotline, or to

appropriate City officials, for information concerning City programs. See Section 3.2.1.

The WACP staff also is questioned about waste acceptance policies and procedures by customers at the SFSWTRC. This presents an additional opportunity to educate customers concerning prohibited wastes.

### 3.1.3 Posting of Signs

Signs describing the policy of not accepting prohibited wastes are prominently posted at (1) the public scalehouse, (2) the PDRA, (3) the main scalehouse, and (4) the Transfer Station. Signs list examples of prohibited wastes and inform the customer that any load brought to the SFSWTRC is subject to a waste inspection. Signs may be modified periodically, as needed. Similar signs are also posted at the San Francisco Regional Companies. Signs at Golden Gate Disposal and Sunset Scavenger inform the public and employees that hazardous wastes are not accepted at the site. Signs at West Coast Salvage and Recycling, and San Francisco Consolidated Debris Box also inform customers that all loads are subject to inspection.

### 3.1.4 Container Notices

Decals are placed on large waste containers owned by the City and the San Francisco Regional Companies to inform customers that the disposal of prohibited waste is not acceptable in the waste container. An example of a waste container decal is presented in Appendix B. Decals are replaced, as necessary, during routine maintenance of waste containers.

### 3.1.5 Training of Companies which use the SFSWTRC

Training programs are made available to the San Francisco Regional Companies, and to customers of SFRD who are found disposing of waste improperly. The goal of these training programs is to encourage the proper disposal of prohibited wastes. Training programs include the following topics:

- Identification of prohibited and potentially prohibited wastes

- The need for the proper disposal of prohibited wastes
- An overview of the WACP, including the City's enforcement program
- Emergency and other resources available to customers (e.g. local and state emergency response agencies, City enforcement officers, and WACP staff)
- Other information regarding specific waste streams or particular problems encountered by the customer, as required

Where necessary, training may vary to address specific job functions.

Companies, including Golden Gate Disposal and Sunset Scavenger, interested in receiving information regarding training are requested to contact WACP staff.

Training is provided to such personnel as collectors, supervisors, dispatchers, administrative personnel, and management. WACP staff provide training covering the objectives of the WACP program, and periodic training updates (approximately once every twelve months) to the collection companies.

Refresher training generally focuses on specific problems identified by collectors or WACP staff in the course of undertaking various WACP programs. Abstracts for these trainings and a typical training outline are included in Appendix D. WACP staff training is discussed in Section 7.0 of this document.

#### 3.1.6 Training of City Employees

The City implemented a training program for its employees in 1988 to explain the goals of the WACP program. In addition, SFRD staff present specific information about how the program keeps hazardous waste out of the garbage. Training is provided to supervisors, collectors of solid waste, dispatchers, and administrators. For example, the City most recently trained the Department of Public Works, which generates, stores, and disposes of hazardous or medical wastes. City personnel are encouraged to help prevent the improper disposal of hazardous wastes.

The trainings parallel the topics covered in the training offered by SFRD for its major customers (see Section 3.1.5 for training topics). Where necessary, training is tailored to specific job functions. The City conducts refresher trainings

approximately every two years to address specific problems identified by City employees.

### **3.2 Public Notification Programs**

Public notification programs, administered by the City and SFRD, provide information about the proper management of prohibited wastes and the goals of the WACP. The scope and priority of the public notification programs are mutually determined by the City and SFRD as WACP resources permit. Some of the following programs were developed in January 1990 as part of the Compacted Waste Stream Project, (See Section 3.4.2):

- City Hotline
- Public Meetings
- Identification of Generators of Prohibited Waste
- Development of Notices and Informational Packages
- Workshops
- Community Outreach
- Site Visits

#### 3.2.1 City Hotline

In January 1988, the City established a hazardous waste hotline. The function of this hotline is to provide information to residents of San Francisco regarding the proper disposal of household hazardous waste. The hotline is operated Monday through Friday, 9:00 a.m. to 6:00 p.m. The hotline includes a tape-recorded message that is available 24 hours per day, 7 days a week.

Calls received from non-residents are referred to appropriate government agencies for further information. Similar referrals are made when persons call with questions pertaining to non-household hazardous wastes.

#### 3.2.2 Public Meetings

The City organizes and conducts informational meetings to inform the public of the existence of the WACP and of the need to properly dispose of prohibited

wastes. These programs may range from a general discussion to a focused presentation on specific elements such as an overview of the HHWCF. At the request of the City, WACP staff attend these meetings and describe various aspects of the WACP.

### 3.2.3 Identification of Generators of Prohibited Waste For Educational Programs

As part of the WACP public notification program, WACP staff provide information to hazardous waste generators about safe and legal options for hazardous waste disposal.

In order to help identify hazardous waste generators in need of educational programs, WACP staff may (1) examine past WACP records, (2) consult with various City agencies including the City Administrator's Office, the Department of Public Health and the Department of Public Works and (3) consult with various state agencies, including Cal-EPA's Toxic Substances Control Department. Using information gathered from such sources, WACP staff compile a list of the types of businesses that sell hazardous materials and businesses that generate hazardous waste, including garages, paint shops, hardware stores, drug stores, dry cleaners, printing and plating shops, hospitals, and photochemical stores.

### 3.2.4 Site Visits

After WACP staff and the City have identified particular groups of generators who require or have requested education, WACP staff conduct site visits to particular business locations. At these site visits WACP staff (1) provide information about the WACP and SFSWTRC waste acceptance policies, (2) give notice of the WACP waste inspection policies, (3) provide general information concerning responsibilities associated with the disposal of prohibited wastes and (4) distribute general information about the correct disposal of prohibited wastes.

In the case of stores that sell hazardous materials, WACP staff and the City, through the Point of Purchase Program, encourage store managers to distribute information to their customers about the proper disposal of hazardous waste,

including use of the HHWCF. Such information makes it clear that the HHWCF cannot accept prohibited waste from non-residential sources.

### 3.2.5 Development of Notices and Informational Packages

WACP staff produce informational flyers in response to identified needs and changing regulations. These flyers target San Francisco residents or businesses, and typically describe the types of waste that are prohibited from disposal in the municipal solid waste stream. They also provide general information about appropriate waste management options. These flyers may be mailed to specific businesses, distributed at outreach events, or handed out during site visits. Some may be given out to customers at the HHWCF or PDRA, or distributed to VSQG participants.

The City assists SFRD in the development and the distribution of these notices and informational packages when appropriate. See the Appendix B for examples of the type of information included in these packages.

Where appropriate, WACP notices concerning the management of hazardous and prohibited wastes are translated into Chinese and Spanish. WACP staff also contact ethnic community organizations in an effort to distribute information notices to Chinese and Spanish speaking residents of San Francisco. (See Appendix B).

In support of the San Francisco Safe Needle Disposal Program described in Section 4.7 above, WACP staff prepare ads, flyers, and posters for distribution to participant pharmacies and health centers. These materials instruct San Francisco residents in the proper disposal of used needles. The City may also assist in this outreach effort. A sample flyer is included in Appendix B.

### 3.2.6 Community Outreach

Meetings and tours of the SFSWTRC are offered to neighborhood associations and trade organizations. The purpose of these tours is to inform people about the HHWCF and the SFSWTRC waste acceptance policies. WACP staff attend fairs and public gatherings, such as Earth Day, to provide similar information to the



general public. In addition, SFRD places advertisements and articles in local magazines that address the issue of household hazardous waste disposal by San Francisco residents. A sample article is included in Appendix B.

### 3.3 Site Surveillance

Site surveillance is an essential component of the WACP in that it allows a high degree of visual inspection of incoming wastes by both the work crews and the WACP staff. Surveillance serves as a deterrent for the customer who may deliver prohibited waste to the SFSWTRC. It occurs, in varying degrees, at all SFSWTRC control points and allows for expeditiously checking waste loads. The control points are:

- Public Scalehouse
- Public Disposal and Recycling Area/Public Unloading Area
- Main Scalehouse
- Recycling Pad / C&D Sort Line
- Transfer Station/Tipping Floor
- Transfer Station/Loading Bay

A brief description of surveillance activities at each of these areas is presented below:

#### 3.3.1 PDRA & HHWCF Control Points

Incoming wastes are observed from two control points: the public scalehouse and the public unloading area.

Public Scalehouse. Initially, the scalehouse weighmaster observes incoming vehicles for an indication of the presence of prohibited wastes. If a suspicious-looking load is observed, the weighmaster calls the WACP staff to determine the acceptability of the waste. If prohibited wastes are identified during the inspection of a load, either the entire load or, when appropriate, the prohibited portion is rejected, and not allowed into the public unloading area.

If the waste appears acceptable, it is directed to the PDRA for dumping (Figure 5).

Public Disposal and Recycling Area. At the PDRA, customers manually unload their wastes into roll-off boxes or onto the cement floor (Figure 5). Trained SFRD employees generally are present to observe the waste material being unloaded by the customer. Materials suitable for recycling are segregated from the load by the work crew.

This activity provides an opportunity for work crews and WACP staff to conduct a visual inspection of the waste. If a WACP staff member is not available, the work crew surveys the waste for evidence of prohibited wastes. Questionable wastes discovered by the WACP staff and/or work crews are removed from the waste stream and returned to the customer, in accordance with procedures approved by the City, or set aside for further identification.

Household Hazardous Waste Collection Facility. The HHWCF serves as a control point because it allows WACP staff to survey potential prohibited wastes from the public. Prohibited wastes other than household hazardous wastes from San Francisco residents are not accepted at the HHWCF by the WACP or HHWCF staff. See Section 5 for a detailed description of the HHWCF.

### 3.3.2 Transfer Station Control Points

Trucks delivering uncompacted or compacted wastes to the Transfer Station unload their wastes at one of several areas of the Transfer Station (Figure 6a-c). The process of routing these trucks to a particular location provides an opportunity to check incoming loads for suspected prohibited wastes. Each of the Transfer Station control points is briefly described below.

Main Scalehouse. The weighmaster at the scalehouse observes incoming commercial loads for an indication of the presence of prohibited waste, and if necessary, questions the driver about the load, and in some cases, visually inspects parts of the load. Visual inspections are limited because all incoming loads are required to be tarped. If the scalemaster suspects that prohibited wastes are contained within the incoming load, the scalemaster informs the customer

that the wastes cannot be accepted, and/or contacts the WACP staff for assistance.

Recycling Pad / C&D Sort Line. Select loads containing potentially recyclable material are unloaded at the Recycling Pad (Figure 6) and then processed through the C&D Sort Line. Prohibited wastes and materials that might jam the conveyor belt are removed by the loader and the materials handlers before they are fed into the sort line. The rest of the material is run through the sort line's in-feed belt, shaker screen, and main sorting belt, where it is manually sorted for recyclables by the material handlers stationed there.

When potentially prohibited wastes are identified, the work crews and/or WACP staff attempt to return such wastes to the customer, in accordance with procedures approved by the City. This activity provides an opportunity for WACP staff to expeditiously inspect the entire load in an area well-suited for this work.

Transfer Station / Tipping Floor. Vehicles dump their loads from the tipping floor into the pit. In some cases, work crews and WACP staff are able to survey the load when it falls into the pit, (Figure 6b). When possible, WACP staff or work crews attempt to retrieve detected potentially prohibited wastes, for further management by WACP staff. In addition, an area has been designated in the Transfer Station where loads can be selected at random, dumped and inspected. This area is known as the Waste Inspection Station.

Transfer Station / Loading Bay. The dozer operator and the crane operator are in a position to survey some of the waste as it is being processed for transfer, (Figure 6c). The dozer operator compacts and moves the waste, while the crane operator in the tower above the waste directs the loading of the transfer trailers. The equipment operators attempt to remove detected prohibited wastes, for further management by WACP staff.

Materials Recovery Facility (Proposed). Plans are under consideration to expand the materials recovery operations into a large scale Materials Recovery Facility (MRF). It is anticipated that the MRF will consist of one or more industrial-type buildings, conveyors to handle waste material, and processing equipment to

upgrade the quality of recovered materials. Such a facility would provide opportunities to inspect significantly greater quantities of public refuse and uncompacted refuse from debris boxes than is currently possible. The increased inspection of incoming wastes could, in turn, contribute to the identification of sources (e.g., generators) of prohibited wastes, and to the segregation and proper disposal of detected wastes.

### **3.4 Waste Inspection Program for Prohibited Wastes**

The City and SFRD agreed that the primary focus of the waste inspection program during the initial phase of the WACP would be the uncompacted waste stream. During the second year of the WACP, the City and SFRD agreed to examine and address the issue of the improper disposal of prohibited wastes in the compacted waste stream and develop programs to respond to this condition. This project, known as the Compacted Waste Stream Project, was implemented November 1, 1990.

#### **3.4.1 Uncompacted Waste**

Uncompacted waste arrives at the SFSWTRC in debris boxes and in private and commercial vehicles. The contents of selected debris boxes which contain considerable amounts of recyclable materials are dumped at the Recycling Pad to be run through the C&D Sort Line and separated into recyclable wood, metal, construction debris and non-recyclable waste. Non-recyclable waste is then dumped in the SFSWTRC pit where it is compacted and loaded for transfer to Altamont Landfill.

Waste delivered to the SFSWTRC in private vehicles is usually directed to the Public Disposal Area of the SFSWTRC. (When traffic to the PDRA backs up, customers are occasionally rerouted to the transfer station.) Where possible, recyclable material is removed from this waste stream and the remaining waste is deposited in roll-off boxes which are dumped in the pit for transfer to Altamont Landfill. Customers are provided with information about WACP and SFSWTRC waste acceptance policies. Information concerning the types of waste which cannot be disposed of in the municipal solid waste stream is attached to the side of the debris boxes, (see Appendix B).

WACP staff randomly select incoming loads of uncompacted wastes for inspection, in accordance with procedures agreed upon by the City and SFRD. WACP staff inspect various incoming loads of uncompacted wastes, including loads from both private and commercial sources. An average of five loads per week of uncompacted wastes are inspected and documented by WACP staff, in accordance with procedures agreed upon by the City and SFRD. If, in the course of inspection of a load of uncompacted waste, the WACP staff has any doubts concerning the acceptability of a given waste, the WACP staff will require the customer to prove the waste is acceptable.

Each waste inspection is documented by WACP staff and entered into a computer data base. A record of each inspection includes the following types of information: (1) date; (2) time of inspection; (3) location; (4) name of hauling firm or vehicle identification; (5) address and phone number of source, if known; (6) type of business, if known; and (7) type of prohibited waste identified.

#### 3.4.2 Compacted Waste (Compacted Waste Stream Project)

San Francisco's compacted waste stream consists of waste which is compacted either by the equipment with which it is collected (front loader or rear loader garbage trucks) or by compactor boxes located at the source of waste generation (e.g., office buildings, hotels, hospitals). Compacted waste may be delivered to West Coast Salvage and Recycling Company if it consists of recyclable paper, or to the SFSWTRC if it consists of solid waste.

The compacted waste stream constitutes approximately 75% of San Francisco's municipal solid waste stream that is delivered to the SFSWTRC. Including large apartment complexes, 70% of the compacted waste stream is of residential origin. Another 28% of the City's compacted waste originates from large single source and commercial customers. The remaining 2% of the compacted waste stream originates from City cans (i.e. pole baskets and monument cans located on city streets).

Sunset Scavenger Company and Golden Gate Disposal Company deliver approximately 60% and 40% of the City's compacted waste to the SFSWTRC

respectively. Approximately 70% of the compacted waste stream collected by Sunset Scavenger Company is residential in origin; the remaining 30% is commercial. Approximately 40% of the compacted waste stream collected by Golden Gate Disposal Company is residential, and the remaining 60% is commercial.

Sources of municipal solid waste in San Francisco that contribute to the compacted waste stream include:

- Industries
- Businesses
- Service institutions (e.g hospitals)
- Households
- San Francisco street cleaning activities and disposal of wastes by the public in City cans

Each of these sources is a potential source of hazardous waste. (See San Francisco's Draft County Hazardous Waste Management Plan).

A primary focus of the Compacted Waste Stream Project is small quantity generators (SQGs)<sup>2</sup> of hazardous waste. According to San Francisco's Draft *County Hazardous Waste Management Plan*, approximately 4,000 SQGs produce about 15,000 tons of hazardous waste each year. This accounts for approximately 60% of the total estimated quantity of hazardous waste generated in San Francisco. These numbers represent estimates based on limited information. (See San Francisco's Draft *County Hazardous Waste Management Plan*). It is believed that many SQGs are unaware that they produce hazardous waste or are unable to afford the high cost of legally disposing of such materials and, accordingly are not participating in the existing hazardous waste management system. Educational efforts are also directed towards large quantity generators (LQGs)<sup>3</sup> of prohibited wastes.

The Compacted Waste Stream Project has the following goals:

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<sup>2</sup> SQGs are those businesses that generate no more than 1000 kg of hazardous waste per month.

<sup>3</sup> LQGs are those businesses that generate more than 1000 kg of hazardous waste per month

- To review available information concerning generators of prohibited wastes in San Francisco, and identify categories and types of generators most in need of education.
- To conduct site visits to provide information and guidance regarding WACP procedures and the proper disposal of prohibited wastes.
- To conduct educational workshops designed to provide particular types of generators with information regarding WACP procedures and the proper disposal of wastes typically associated with their businesses or operations.
- To develop and distribute notices, information packages, and other mailings regarding WACP procedures.
- As necessary or appropriate, to conduct inspections of selected loads of compacted waste.
- To provide information to the general public (e.g. through tours of the SFSWTRC and appearances at fairs and expositions) regarding WACP procedures, the proper disposal of prohibited wastes, and the Household Hazardous Waste Collection Facility (HHWCF).
- To develop reasonable alternatives for generators to safely manage prohibited wastes.
- To educate and train collection personnel on surveillance techniques to identify prohibited wastes in the precompacted municipal solid waste stream.
- To encourage generators of prohibited wastes to develop and implement waste reduction and minimization measures.

The educational programs are described in detail above in Section 3.2.

The City and SF Recycling & Disposal, Inc. meet on a periodic basis to review and revise as necessary the goals discussed above.

As part of the Compacted Waste Stream Project, WACP staff select and inspect individual boxes from specific single source customers prior to compaction, (these individual boxes are normally collected by front loader trucks). SFRD develop procedures for the selection of boxes with the City. In addition, WACP staff inspect (1) compacted waste from single source compactor boxes from various customers and (2) uncompacted waste collected from City cans. WACP

staff also inspect individual waste containers from the types of businesses that have been identified as problem customers under the load checking programs of the WACP. Municipal solid waste that is collected in rear loader trucks is currently checked for the presence of prohibited waste by the garbage collectors. Prohibited waste that is found on the routes is tagged with a Garb Tag, (see Appendix B), and efforts are made to return the waste to the generator and recommend proper disposal procedures. The Garb Tag provides information to the customer about the correct disposal of hazardous wastes in English, Spanish and Chinese. If the waste is from a commercial source the customer can call the Department of Public Health. If the waste is from a household the customer can bring the waste to the HHWCF.

WACP staff inspect individual containers in response to reports of improper waste disposal from the San Francisco Regional Companies. Inspection of selected loads utilizes existing WACP load checking procedures agreed upon by the City and SFRD. WACP staff keep detailed records of the inspections, including but not limited to, (1) date, (2) time of inspection, (3) address of source, (4) type of business, if known, and (5) type, volume, and number of prohibited wastes found. Each documented waste inspection is entered into a computer data base by WACP staff. These records provide the City and SFRD with information to identify problem generators of prohibited waste, and enable SFRD and the City to develop further programs to address the issue of the improper disposal of prohibited waste in the municipal solid waste stream.

As appropriate, the City and SFRD develop general notices to the public, regarding load inspections. These notices inform customers that their solid waste is subject to inspection for prohibited waste.

If prohibited wastes are identified during the waste inspection program and the generator is present, WACP staff inform the generator that the wastes cannot be accepted and must be removed from the municipal solid waste stream, in accordance with procedures approved by the City and SFRD.

If prohibited wastes are identified during the waste inspection program and the generator is not present, the WACP staff may remove the prohibited wastes from the municipal solid waste stream and attempt to ascertain the identity of the



generator. The WACP staff will, with the help of the City, seek to obtain the cooperation of identified generators. See Section 3.7 below. Pending the return of prohibited waste to the generator, SFRD stores the prohibited wastes in a specially designed Haz Bin, or otherwise manages the wastes in a manner deemed appropriate by the City and SFRD, (see Section 3.5).

SFRD is authorized by its Permit-by-Rule provisions to store abandoned hazardous wastes in the HHWCF. Any other permits or authorizations to store WACP wastes at the SFSWTRC which may be required in the future by local, state, and federal government agencies will be sought by SFRD, with the City's cooperation. During any period of time required to apply for and obtain such permits or authorizations SFRD will not, for purposes of the City's assessment of the WACP, be deemed to be in noncompliance with those aspects of the WACP program which, if performed, would result in the unauthorized storage of WACP waste.

#### 3.4.3 Cesar Chavez (Army) Street Corporation Yard Operations

Refuse collected by the Department of Public Works (DPW) is delivered to the City's Cesar Chavez Street Corporation Yard (except for one DPW truck per week as noted below). The refuse is consolidated and loaded into SFRD long haul trucks. City employees receive periodic training and are instructed to remove hazardous waste from the garbage prior to consolidation. SFRD transports DPW's refuse directly to Altamont Landfill.

Once per week, a randomly chosen DPW truck delivers a load to the San Francisco Solid Waste Transfer and Recycling Center, where it is inspected by a WACP Technician. If prohibited waste is discovered, it is returned to the City for proper disposal. WACP maintains a record of these weekly inspections and any findings.

#### 3.4.4 Off-Site Inspections

A hazardous materials response van (Haz Van) is available to conduct waste inspections and respond to minor incidents involving potentially prohibited wastes at the SFSWTRC and in the City. The Haz Van is not designed to respond

to emergency situations. The van is outfitted with reference materials, waste characterization equipment, and safety equipment (Section 8.3).

### 3.4.5 Development of Disposal Options

SFRD and the City work together to identify and develop reasonable alternatives for generators to safely manage their prohibited wastes. These alternatives may include waste minimization, reuse strategies, recycling technologies, and the VSQG Program for small businesses (see Section 4.5).

## **3.5 Management of Prohibited Waste Found at the SFSWTRC**

- Prohibited waste discovered as a result of any of the waste inspection activities is separated from the municipal solid waste stream and identified as WACP waste. WACP waste includes: (a) Generator-Identified Waste: prohibited waste that is discovered during a load inspection and the generator of the waste is known; (b) De Minimus Waste: prohibited waste of household origin discovered in small volumes in the municipal solid waste stream and (c) Abandoned Waste: prohibited waste generated by an unidentified person that is either, i) discovered at the SFSWTRC, or ii) discovered as a result of related waste management activities (see Section 4.0), or iii) discovered at facilities operated by the San Francisco Regional Companies. This Section 3.5 describes WACP waste found at the SFSWTRC; Section 3.6 provides a description of the management of WACP waste found at facilities operated by the San Francisco Regional Companies in the course of their waste management activities.

### 3.5.1 Generator-Identified Waste

If prohibited wastes are found during an inspection at the SFSWTRC and the generator is present, WACP staff inform the generator that the waste cannot be accepted and must be removed from the SFSWTRC, in accordance with procedures approved by the City and SFRD.

If the generator is not present, WACP staff track the generator through the San Francisco Regional Companies that brought the load to the SFSWTRC for disposal. WACP staff then contact the generator and ask him or her to manage the waste. If the waste is generated by a business or by a non San Francisco resident, the generator is required to remove the waste. If the waste is of household origin and the generator is a San Francisco resident, the generator is informed that the waste can be taken to the HHWCF, (see Section 3.5.2). Prior to obtaining the cooperation of the generator, the waste is stored in the WACP Haz Bins located opposite the Public Scalehouse (See figure 4).

There are two WACP Haz Bins. Each has three compartments, four of which are used to store hazardous waste. Three compartments are used for flammables, and the fourth compartment is divided into acids and bases. The Haz Bins have double containment (grated floor), ample ventilation, and shelving. The Haz Bins are also equipped with emergency fire and spill equipment. Views of the Haz Bins are shown in figure 7. Waste that is to be returned to the generator is stored in plastic tubs on numbered shelves and the location of the containers is recorded in a computer data base.

### 3.5.2 Generator-Identified Waste of Household Origin

If WACP staff find any prohibited wastes while conducting load inspections that are believed to be of household origin, and the generator is known, the following steps are used to allow the waste to be transferred to the HHWCF:

- WACP staff call the San Francisco Regional Company that delivered the waste to the SFSWTRC and ask for the address and name of the customer. From this information, together with any other information gathered about the customer, WACP staff determine whether the waste was generated by a resident or business.
- WACP staff notify the customer that prohibited waste was found in their municipal solid waste. WACP staff ask where the waste was generated to determine the disposition of the waste.
- WACP staff may use the reverse directory to determine where the waste was generated.

- WACP staff may conduct site visits to determine whether the waste was generated by a resident or a business

If it is determined that the waste is of household origin and generated by a San Francisco resident, WACP staff phone the resident and ask him or her to fax or mail some proof of residency, such as a photocopy of a driver's license or utility bill showing a San Francisco address. WACP staff then fill out the HHWCF Data Sheet and Special Circumstances Form, shown in Appendix C. WACP waste awaiting transfer to the HHWCF is stored in the Haz Bin. WACP staff transfer the waste to the HHWCF for disposal as household hazardous waste once all pertinent documentation is received.

Prohibited waste that is found through the Curbside Recycling Program and Super Recycler Day Program is deemed by the City and SFRD to be of household origin. The HHWCF manages prohibited waste from the Curbside Recycling Program and the Super Recycler Day Program according to the procedures approved by the City and SFRD, described in Sections 4.1 and 4.2.

### 3.5.3 Management of De Minimus Waste

The City and SFRD have designed certain general procedures to stream line the management of de minimus quantities of prohibited waste discovered in the solid waste stream. The goal of these procedures, agreed to by the City and SFRD, is to efficiently and properly manage small quantities of typical household hazardous waste without using extensive and costly follow-up procedures agreed to by the City and SFRD.

#### Criteria for Establishing Waste as De Minimus Quantity

To qualify as a de minimus quantity the total volume of prohibited waste in each incident shall not exceed 15 gallons or 125 pounds.

#### Disposition of De Minimus Quantities of Waste

If prohibited waste is discovered at the SFSWTRC and SFRD determines that the waste qualifies as a de minimis quantity set forth above, SFRD may choose, at its discretion, to manage the de minimus quantity as (1) a WACP abandoned waste or (2) a household hazardous waste.

(1) Disposition of De Minimus Quantities as WACP Waste.

If SFRD chooses to manage de minimus quantities of prohibited waste as a WACP abandoned waste, SFRD shall have no obligation to attempt to track the generator or the origin of the waste. The de minimus quantity of waste shall be handled as an abandoned waste in accordance with the procedures set forth in Section 3.5.4. SFRD shall provide for the disposal of the waste in compliance with all applicable laws and regulations.

(2) Disposition of De Minimus Quantities as Household Hazardous Waste.

If SFRD chooses to manage the de minimus waste as household hazardous waste, the waste must satisfy the criteria set forth below and SFRD must follow the procedures set forth below to verify that the waste is of household origin.

Criteria for De Minimus Quantities to be managed in the HHWCF.

1. The quantity of prohibited waste in each situation must not exceed 15 gallons or 125 pounds (the de minimus quantity set forth above).
2. No individual container shall exceed more than 5 gallons in volume.
3. The prohibited waste must be a typical household product. A typical household product means a product made available to the general public at retail outlets. A Good Housekeeping seal is sufficient but not necessary evidence that the waste is a typical household product for the purpose of this section.

Procedures for Establishing Household Origin of Waste

1. WACP staff record the following information where possible: the date and time the waste was delivered to the SFSWTRC, the name of the person checking the load, the company or person that delivered the load, the vehicle identification number, and a description of the prohibited waste found. Waste is listed by category with the size of the container, percent full, total number of containers, and volume recorded. Brand names are also recorded for same-size containers of the same product.

2. If the waste meets the volume and size criteria described above and is a typical household product, WACP staff will verify that the waste came from a residential location using the procedures set forth in (a) or (b) below:
  - a. WACP staff call the San Francisco Regional Company that delivered the waste to the SFSWTRC and obtain the name and address of the customer. The name and address of the customer are recorded to verify that the load came from a residential location.
  - b. Alternatively, WACP staff may obtain information about the source of the waste from the driver. WACP staff then check in the reverse telephone directory and contact the person listed at the address. The person is then asked about the source of the waste. The address, along with the name and phone number of the customer, are recorded to verify that the load was generated by a resident.
3. Except as provided in paragraph 4 below, wastes meeting the volume, size, and household product criteria which have been verified to be from a residential location are transferred to the HHWCF for management as household hazardous waste.
4. De Minimus quantities of waste from a repeater are not transferred to the HHWCF unless the repeater signs an affidavit certifying that the waste is of San Francisco household origin (i.e., the household questionnaire or SCF). For the purposes of these procedures, a repeater is a San Francisco resident who was found to deposit prohibited waste in the solid waste stream within the previous three years and did not collect the waste when requested by the WACP staff.

#### Record Keeping

SFRD provides the City with a six-month summary of the loads that have been transferred to the HHWCF using the de minimus criteria. All records are maintained by WACP staff for three years and are available to the City upon request.

#### City Right to Withdraw.

The City reserves the right to withdraw its undertaking in this section (i.e., the management at the HHWCF of de minimus quantities of prohibited waste determined to be of household origin) at any time.

#### 3.5.4 Abandoned Waste

Abandoned waste is taken directly to the HHWCF for management according to procedures that have been established by the City and SFRD. WACP abandoned waste stored in the HHWCF is marked with yellow paint to ensure that the waste is managed separately from waste delivered to the HHWCF by San Francisco residents.

Abandoned wastes are stored on shelves in the HHWCF until they can be properly characterized, labpacked, containerized, or consolidated into drums which are marked with yellow paint around the lids and sides. All waste is stored in drums in the appropriate containment bay in the HHWCF.

WACP abandoned waste removed to the HHWCF for temporary storage is handled in accordance with the terms and conditions of the DTSCÆs Permit-by-Rule provisions for the HHWCF, which allows for the storage of WACP loadchecking waste at the HHWCF, in a manner that is consistent with applicable laws and regulations pertaining to the storage of hazardous wastes. The waste is shipped from the HHWCF to appropriate off-site locations for further management within the time period required by law and the Permit-by-Rule provisions. The quantity of combined WACP waste and HHWCF waste stored at the HHWCF shall not exceed maximum quantity storage limits established in the Permit-by-Rule notification to the DTSC.

SFRD continues to provide for the disposal, in compliance with applicable laws and regulations, of the hazardous waste described in this WACP document.

#### 3.5.5 Handling Special Wastes

In the event that explosives, compressed gas cylinders, asbestos and medical wastes are found in the municipal solid waste stream and the generator is known, then the generator is required to assume responsibility for the waste and

manage it in accordance with all appropriate laws and regulations. In cases where such wastes are found in the municipal solid waste stream and the generator is unknown, the following procedures are followed:

Explosives. Procedures for handling explosives were developed by Cal-EPA, San Francisco Department of Public Health (DPH), San Francisco Police Department Bomb Squad and SFRD. Explosives include, but are not limited to, fireworks, flares, smoke bombs, shotgun shells, and bullets.

When an explosive is found, WACP staff place it in a bucket inside the HHWCF explosive magazine, which is stored inside a shed with one-hour firewalls located in the alcove next to the household facility.

HHWCF staff notify the SFPD Bomb Squad to pick up the explosives, according to procedures outlined in the *HHWCF Operations Plan* (see Section 5.2). A log sheet is maintained that records the dates the explosives are received and removed.

Medical Waste. WACP staff notify the San Francisco Department of Public Health, package the waste in infectious waste boxes, and arrange for the off-site transportation of the waste for disposal.

Due to reported incidents of needle injuries to sanitation workers, SF Recycling & Disposal, Inc. helped to develop the San Francisco Safe Needle Disposal Program. This program, described in Section 4.7, provides needle containers to various pharmacies and health centers throughout the city for use by their customers or other San Francisco residents. The HHWCF is also permitted to distribute and accept needle containers for San Francisco residents. A sample flyer for the Safe Needle Disposal Program is included in Appendix B.

Asbestos. WACP staff wet the asbestos-containing material and put it into special bags dedicated to the management of asbestos. The asbestos-containing waste is then stored in closed containers until it is shipped to an appropriate landfill for disposal.

### **3.6 Management of Prohibited Waste Found at Off-Site Locations**



Prohibited waste discovered as a result of any solid waste handling activities at the facilities operated by San Francisco Regional Companies are separated from the solid waste stream. The prohibited waste is managed in accordance with the following procedures:

#### 3.6.1 Generator Identified waste

If prohibited waste is found at any of the facilities operated by the San Francisco Regional Companies as a result of their solid waste handling activities, company employees try to identify the generator of the prohibited waste. Staff then contact the generator and ask him or her to remove the waste. If the waste is of household origin and the generator is a San Francisco resident, the generator is informed that the waste can be taken to the HHWCF. Prior to obtaining the cooperation of the generator, the waste is stored in a special designated area at each company, in accordance with applicable laws and regulations.

#### 3.6.2 Abandoned Waste

In situations where the generator cannot be identified, the waste is treated as WACP abandoned waste and delivered to the HHWCF for management according to the procedures outlined in Section 3.5.4. The wastes are removed to appropriate off-site locations for further management within the time period required by law.

For the next five years, SFRD will provide for the disposal, in compliance with applicable laws and regulations, of the hazardous waste identified and removed from the municipal solid waste stream by the San Francisco Regional Companies, except where the generator can be identified and the waste returned.

Incidents involving waste abandoned at the perimeter of the facilities operated by the San Francisco Regional Companies are referred to the San Francisco Department of Public Health for further action.

### **3.7 Programs to Obtain the Cooperation of Recalcitrant Generators**

One of the primary goals of the WACP is to ensure that the generators of prohibited wastes assume responsibility for their wastes. The City and SFRD believe that placing responsibility for the proper management of prohibited wastes with the generator deters others from sending prohibited wastes to the SFSWTRC. Accordingly, both the City and SFRD are developing and implementing programs designed to identify the generators of prohibited wastes, and to encourage such generators to assume responsibility for the proper management of prohibited wastes. These programs include the following:

3.7.1 Programs to be Undertaken by SF Recycling & Disposal, Inc.

A key feature of the waste inspection program (described above) is to enlist the assistance of identified generators of prohibited wastes in properly disposing of their wastes. When prohibited wastes are delivered to the SFSWTRC and cannot be returned to the generator (e.g. in cases wherein prohibited wastes are (1) discovered after the generator has left the SFSWTRC or (2) have been unlawfully abandoned at the SFSWTRC), the WACP staff take one or more of the following steps to contact the identified generator and seek his/her cooperation in arranging for the proper transportation and disposition of prohibited wastes:

- Make telephone calls to the generator
- Send letters to the generator
- Conduct site visits from the WACP staff to the generator
- Refer the generator to the City and other relevant government agencies

Depending upon the circumstances, some or all of these measures may be employed to obtain the cooperation of the identified generator.

WACP staff also maintain a record of all generators who deliver or attempt to deliver prohibited wastes to the SFSWTRC. WACP staff increase surveillance of municipal solid wastes generated by repeat offenders, and, if necessary, refer such matters to the City for further action.

3.7.2 City Enforcement Programs

A key aspect of the City's role in the WACP is to ensure that identified generators of prohibited waste do not improperly dispose of such wastes in the municipal solid waste stream. The goal of the City's enforcement effort is an effective system for (1) obtaining the informal cooperation of identified generators in proper waste management procedures, and (2) pursuing more formal actions through enforcement of applicable laws, regulations, and ordinances as the enforcing City departments determine are necessary and appropriate.

The following describes enforcement programs of various City departments through which the City assists SFRD in reducing the quantity of prohibited wastes placed for disposal in the municipal solid waste stream.

Department of Public Health (DPH). A number of divisions within DPH are charged with enforcing local ordinances which pertain to the management of prohibited wastes. Enforcement of these ordinances supports the WACP programs which the City and SFRD are developing and implementing. DPH programs and enforcement efforts include the following:

Hazardous Materials Certified, Unified Program Agency (CUPA). This department within DPH regulates businesses that store hazardous materials exceeding 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet for gases. These businesses must apply for a Certificate of Registration, which is valid for two years. In addition, businesses that generate hazardous waste must also inform the CUPA.

The City and SFRD may access these business files to learn about the types and quantities that businesses store. This information supports efforts to have businesses assume responsibility for the proper management of their prohibited wastes.

Emergency Response and Response to Community Complaints. The CUPA responds to emergencies involving hazardous materials or wastes and investigates community complaints involving hazardous materials and wastes.

These response actions may lead to identification of hazardous waste generators engaging in unlawful waste disposal practices.

Enforcement of the Medical Waste Management Act. The Bureau of Toxics, Health and Safety Services, within DPH enforces state laws and regulations pertaining to the management of medical waste. As a part of this program, the Bureau of Environmental Health inspects facilities that generate and dispose of medical waste and investigates complaints of illegal disposal of medical waste. These inspections are conducted by the Bureau of Environmental Health upon receipt of a complaint or upon a request of certain State agencies. Accordingly, SFRD or the Solid Waste Management Program continues to refer incidents of alleged improper disposal of medical wastes in the municipal solid waste stream to DPH for investigation and, where appropriate, enforcement action.

Public Utilities Commission. The Public Utilities Commission monitors the City's sewer system and pursues enforcement actions against businesses that violate federal, state and local industrial sewage pretreatment standards. Investigation and enforcement actions may identify businesses which engage in the unauthorized disposal of prohibited wastes in the municipal solid waste system.

Fire Department. Various provisions of the City's Fire Code pertain to the storage and management of hazardous, flammable, and combustible materials (including wastes). As part of its responsibilities, the Fire Department may inspect businesses which store such materials and investigate alleged violations of the City's Fire Code. Investigations and enforcement actions conducted pursuant to the City's Fire Code may identify businesses which also engage in the unauthorized disposal of prohibited wastes to the municipal solid waste stream. Thus, administration and enforcement of the San Francisco Fire Code supports efforts by the City and SFRD to have businesses assume responsibility for the proper management of prohibited wastes which they generate.

Offices of the District Attorney and City Attorney

District Attorney's Consumer and Environmental Protection Unit. This unit enforces criminal violations of City ordinances and, pursuant to state law, prosecutes criminal and civil cases under the Hazardous Waste Control Act.

Referrals pertaining to the alleged improper management of prohibited wastes which are received from various City Departments, SFRD, the collection companies, and the public are investigated and, where appropriate, prosecuted by this office.

City Attorney's Code Enforcement Section. The City Attorney's Office enforces civil violations of City ordinances and may bring civil enforcement actions pursuant to state laws that the City is authorized to enforce. Referrals pertaining to the alleged improper management of prohibited wastes which are received from various City departments, SFRD, the collection companies, and the public are investigated and, where appropriate, prosecuted by this office.

Solid Waste Management Program. The Solid Waste Management Program is part of the City Administrator's Office (CAO). Solid Waste Management Program staff are responsible, in part, for oversight of the WACP. (See Section 6.1.)

Enforcement. The City has established an environmental crimes unit charged with investigating and pursuing, where appropriate, enforcement actions against persons who illegally dispose of prohibited wastes in the municipal solid waste stream.

Development of Interdepartmental Enforcement Procedures. The Solid Waste Management Program develops and implements interdepartmental protocols, as necessary, for identifying and seeking the cooperation of generators who improperly dispose of prohibited wastes.

#### **4.0 RELATED WASTE MANAGEMENT ACTIVITIES**

A number of waste management activities, sponsored by the City, SFRD, and/or the San Francisco Regional Companies, offer opportunities to implement the concepts of the WACP. These activities supplement the WACP and function, in part, to discourage the disposal of prohibited wastes in the municipal solid waste stream. These waste management activities also enable the City and SFRD to expand the public's understanding of the need to prevent prohibited wastes from entering the solid waste stream.

SFRD's participation in related waste management activities described in this section constitutes a part of its WACP responsibilities, as required by the Facilitation Agreement

Specific activities which encourage proper management of prohibited wastes by generators include the following:

- Super Recycler Day Program
- Curbside Recycling Program
- Customer Site Visits
- Survey of Collection Routes
- Very Small Quantity Generator Program
- One-Day Household Hazardous Waste Collection Events
- San Francisco Safe Needle Disposal Program
- Waste Reduction Assistance Program
- Subsidized Milk Run Waste Collection Services
- Other Hazardous Waste Services

#### **4.1 Super Recycler Day Program**

The Super Recycler Day Program was developed by the City, with the cooperation of Sunset Scavenger Company. Sunset Scavenger is responsible for the management of the program and the collection of the waste generated in connection with this program. The program provides San Francisco residents with an opportunity to dispose of bulky items, such as furniture, appliances, tree branches, and scrap lumber.

Sunset Scavenger Company services each neighborhood in the city every six to eight months. In advance of the pickup, Sunset Scavenger distributes notices throughout the targeted neighborhood informing residents of the cleanup program and of the types of wastes that are acceptable for collection. The notices also inform residents that prohibited wastes are not accepted.

#### 4.1.1 Management of Prohibited Waste

Sunset Scavenger and the City implement the following steps when prohibited wastes are identified in the course of the Super Recycler Day Program:

- Any prohibited waste is moved to a location on the resident's property away from pedestrian and vehicular traffic.
- An attempt is made to return the waste to the resident immediately.
- If the resident cannot be contacted, Sunset Scavenger attaches a Garb Tag to the waste informing the resident that (1) such wastes cannot be delivered to the SFSWTRC, and (2) proper arrangements for disposal must be made. A record of the incident is recorded on the removable portion of the tag and this record is kept on file.
- When *emergency situations* arise, collection personnel notify WACP staff. Sunset Scavenger personnel remain near the waste until WACP staff arrive to direct appropriate response measures. If WACP staff *cannot reach the resident*, WACP staff contact the DPH and the appropriate emergency response agencies.

- Where necessary, WACP staff and/or DPH officials refer incidents to the Solid Waste Program Manager and/or the San Francisco Police Department for further action.
- A record of each emergency involving prohibited waste is kept on file. This record includes information on where the prohibited waste was found, a description of the substance, and the manner in which the incident was resolved (e.g., return to resident or removal by the City).

If hazardous wastes are inadvertently collected during Super Recycler Day, they are transferred to the HHWCF, provided the following criteria are met:

- The containers in which the hazardous wastes are found are 1 gallon or less in volume, and
- The containers in which the hazardous wastes are found are of the type that can be purchased by the general public for home use through retail outlets.

Hazardous wastes that do not meet the criteria set forth above are managed as WACP abandoned waste in accordance with Section 3.5.4.

SFRD provides Super Recycler Day Program personnel with training concerning the identification of prohibited wastes and appropriate response measures.

#### **4.2 Curbside Recycling Program**

The City, Golden Gate Disposal & Recycling Company, and Sunset Scavenger company provide a comprehensive residential recycling program for the residents of San Francisco. The Program includes a combination of curbside or household pick-ups, drop-off centers, and buy-back centers

Collection of materials from the curbside program is the responsibility of Sunset Scavenger Company. Paper, cardboard, glass, aluminum, tin, and plastic containers are collected as part of this program, as well as empty metal paint and aerosol cans.



#### 4.2.1. Management of Prohibited Waste

All curbside drivers and material handlers are trained by WACP staff in the identification and management of prohibited wastes. Whenever prohibited wastes are identified by the drivers, they affix a Garb Tag to the prohibited waste explaining why the waste was refused and informing residents that household hazardous wastes should be delivered to the HHWCF.

Since the original contract was signed, the City, Golden Gate Disposal & Recycling, and Sunset Scavenger have modified the procedures for handling prohibited wastes that are inadvertently collected during curbside recycling program operations and delivered to the facilities operated by West Coast Recycling Company, such as Pier 96, Bayshore, and the Total Urban Recycling Facility (TURF). Such wastes are transferred to the HHWCF for further management as household hazardous waste in accordance with HHWCF procedures, provided that the following criteria are met:

- The containers in which the hazardous wastes are found are 1 gallon or less in volume.
- No more than 15 gallons or 125 pounds shall be transferred per month.
- The containers in which the hazardous wastes are found are of the type that can be purchased by the general public for home use through retail outlets.

Wastes which do not meet the criteria set forth above shall be transferred to the HHWCF for management as WACP abandoned waste, according to the procedures described in Section 3.5.4. Records are maintained of wastes transferred to both the HHWCF and the WACP programs.

Outreach is extended to Small Business Recycling customers who recycle through the curbside program to ensure they are informed that hazardous wastes must not be placed in recycling containers.

#### **4.3 Customer Site Visits**

In response to specific requests by the San Francisco Regional Companies, City agencies, or other parties, the WACP staff may conduct site visits to assess various specific problems or concerns. SFRD's hazardous materials response van is available for these site visits. (See Section 8.3).

#### **4.4 Survey of Collection Routes**

Periodically, the WACP staff may conduct a survey of collection routes in San Francisco. In cooperation with the San Francisco Regional Companies, a WACP staff member rides on the collection vehicles as the companies collect municipal wastes on their routes. This program allows WACP staff to conduct training in hazardous waste identification and handling for collection personnel. Where necessary, any identified potentially prohibited wastes is returned to the collection companies' customers, in accordance with procedures approved by the City.

#### **4.5 Very Small Quantity Generator Program**

In conjunction with the City, SFRD operates a Very Small Quantity Generator (VSQG) Program for businesses that generate less than 100 kilograms (about 27 gallons, or 220 pounds) of hazardous waste per month. These businesses are considered Conditionally Exempt Small Quantity Generators. They can call SFRD to schedule an appointment to bring their wastes to the HHWCF on special VSQG Collection Days, held once a month on a day when the HHWCF is not open for normal residential service. VSQG businesses typically include painting contractors, small auto repair and body shops, printers, and dry cleaners.

The City signs the shipping manifests for the off-site treatment and disposal of hazardous wastes brought to the HHWCF as part of the VSQG program.

#### **4.6 One-Day Household Hazardous Waste Collection Events**

Each year, to provide household hazardous waste disposal opportunities for residents who might not otherwise use the HHWCF, the City and SFRD host satellite One-Day Household Hazardous Waste Collection Events at various locations throughout San Francisco.

#### **4.7 San Francisco Safe Needle Disposal Program**

The San Francisco Safe Needle Disposal Program (SFSNDP) is the culmination of efforts by SFRD, the City, and local hospitals and advocacy groups to remove potentially dangerous needles from the household waste stream. Under this program, San Francisco residents can pick up a free sharps container at over 40 participating locations in the city, including Walgreens pharmacies, district health clinics, and General Hospital. After the sharps container is filled, it can be dropped off at any one of these locations for free disposal. The program currently gives out 13,000 sharps containers and disposes of approximately 2 million needles a year.

#### **4.8 Waste Reduction Assistance Program**

The City Administrator's Office has implemented a Waste Reduction Assistance Program for SQGÆs. This program includes (1) conducting workshops to inform small quantity generators about waste minimization technologies, (2) performing waste audits, (3) developing checklists for performing self waste audits, (4) developing a prioritized list of waste reduction options and (5) developing ways to monitor the effectiveness of the program. WACP staff and the City coordinate their efforts to provide small quantity generators with information concerning the minimization and disposal of hazardous waste.

#### **4.9 Subsidized Milk Run Waste Collection Services**

The CityÆs Solid Waste Management Program is seeking a contractor to collect hazardous waste from VSQGs. VSQGs are those businesses that generate less than 100 kilograms (220 pounds) of hazardous waste per month. The hauler would pick up and dispose of hazardous waste from businesses that the City identifies to be having difficulty taking wastes to the HHWCF. If successful, this service will be ongoing.

#### **4.10 Other Hazardous Waste Services**

Door-to-Door Pick-Up Service: The City collects household hazardous waste from elderly and handicapped residents and delivers them to the HHWCF and other permitted treatment, storage, and disposal facilities.

Latex Paint Collection Sites: The City has contracted with a number of hardware stores and other businesses so they accept waste latex paint from residents. The paint is picked up by a registered hazardous waste hauler and delivered to a recycling facility.

Certified Used Oil Collection Centers: The City has established over 50 used oil collection centers accepting used oil from residents.

Household Battery Collections: The City has established a number of battery collection sites where residents may properly dispose of waste household batteries. SFRD currently picks up the batteries and delivers them to the HHWCF.

## 5.0 HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

### 5.1 Purpose

On January 21, 1988, the City and SFRD opened the Household Hazardous Waste Collection Facility as a pilot program. The HHWCF offers the community a safe program for disposing of a variety of household hazardous wastes. Due to the success of this program, the City and SFRD have decided to continue operating the HHWCF permanently. Some of the benefits of the HHWCF are:

- Provide San Francisco residents with the opportunity to dispose of small quantities of household hazardous waste
- Develop data regarding the magnitude of the household hazardous waste problem
- Assist in determining permanent and long-term waste management options
- Reduce the potential for injuries to sanitation workers
- Allow examination of the solid waste stream for development of waste reduction or recycling programs

### 5.2 Operations

The HHWCF is located immediately to the southeast of the Public Disposal and Recycling Area (Figure 4). Information on the management procedures at the HHWCF is provided in a June 1987 report entitled *Operating Information for a Permit Variance for a Household Hazardous Waste Collection Facility*. A copy of this report is on file at the HHWCF. For more information about the HHWCF, please refer to the *HHWCF Operations Plan* on file at SFRD and the City's Hazardous Waste Management Program.

The HHWCF currently operates under general Permit-by-Rule provisions administered by CUPA. In addition, the HHWCF is required to abide by a Hazardous Materials Storage Permit, which sets waste storage parameters and limits.

## **6.0 PROGRAM MANAGEMENT AND PERSONNEL**

### **6.1 Management Structure**

The WACP is managed by the WACP Manager under the direction of the General Manager of SFRD. The WACP Manager reports to the General Manager on the status and effectiveness of the program and on any proposed modifications to the program.

Prior to implementation, the WACP document was submitted to the San Francisco Board of Supervisors and to the Refuse Collection and Disposal Rate Board (Rate Board) for approval. The Rate Board is responsible for reviewing any material changes in the WACP, to the extent such changes require additional expenditures which affect SFRD's maximum lawful rate for refuse disposal.

Administration of the City's participation in the WACP rests primarily with the City Administrator's Office. The participation of the City Administrator's Office and staff includes (1) coordination of the participation of other City offices in the WACP (e.g. the Departments of Public Health and Public Works, the City Attorney's Office, etc.), (2) development and coordination of enforcement efforts relating to prohibited wastes identified as a result of the WACP, (3) WACP program inspections, review, and assessment, and (4) development of additional WACP programs, as appropriate, in cooperation with SFRD.

### **6.2 Responsibilities of Waste Acceptance Control Program Staff**

The WACP staff consists of a Manager, Supervisor, Specialists, Technicians, Coordinators, and work crews. A description of the WACP staff is presented below.

#### 6.2.1 General Manager

Is responsible for the overall management of SFRD, including the HHWCF and the WACP.

#### 6.2.2 WACP Manager

Oversees staff and operations of the WACP in areas of outreach, employee training and load checking; plans and develops new programs; attends City/company meetings; fosters good relations with Little Hollywood Neighborhood, maintains WACP budget; compiles data and produces reports; supports VSQG, HHWCF, Tour Program, and hazardous waste One-Day events as necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

### 6.2.3 WACP Supervisor

Supervises WACP operations and SFRD union work crews who conduct load checking; develops and implements effective methods of waste inspection; develops load checking schedules; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

### 6.2.4 Chemist Specialist

Analyzes unknown wastes abandoned on property or found through load checking; packages WACP abandoned waste designated for disposal; maintains WACP drum inventories and shipment files; prepares WACP profile sheets and manifests; analyses all unknown wastes; schedules shipments; backs-up load checking; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

### 6.2.5 Specialist

Prepares and tracks necessary permits; monitors operations for compliance with all environmental laws and regulations; assists customers with waste profiling and disposal of special wastes; conducts weekly WACP and hazardous materials inspections; administers respiratory protection program; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary; responds to

hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.6 Technician

Traces waste found through load checking on property to the generator; contacts generator and arranges for collection of waste; informs generator of options to properly manage waste; stores and inventories waste awaiting collection by generator; maintains computer data base of loads checked and the amount of prohibited waste found; participates in public outreach events; conducts random load inspections; properly stores waste that is abandoned on property; inspect compacted loads; neutralizes beverages for discharge into sanitary sewer; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.7 Trainer Specialist

Trains employees of the San Francisco Garbage Companies, including SFRD employees, about how to identify hazardous waste, how it may endanger their health and safety, and the procedures to follow if found; initiates and conducts public outreach events; designs displays for fairs; coordinates site visits to customers to explain issues of hazardous waste storage and disposal; writes publications for internal and public use; coordinates the design of educational flyers; distributes flyers and educational pamphlets; interacts with the press and other media representatives; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary, responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.8 VSQG/One-Day Collection Event Coordinator

Advises customers of hazardous waste generator requirements and waste disposal options for hazardous and prohibited wastes; makes VSQG Day appointments; generates and mails collection day paperwork to customers; supervises hazardous waste staff during VSQG collection days; ensures proper



classification and storage of collected wastes; maintains VSQG database; produces monthly and quarterly reports; interacts with local and State agencies; produces and distributes flyers for One-Day events; writes operations plans; notifies agencies; interacts with City and collection event site representatives; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.9 Tour Program Coordinator / Technician

In addition to Technician duties: fields questions about the HHWCF; enters data from the HHWCF questionnaires and load checking documents into computer database; provides tour groups with informational packages; schedules and oversees tour guides; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.10 Safe Needle Disposal Program / Pilot Battery Collection Program Coordinator / Technician (part time position)

In addition to Technician duties: coordinates purchasing, distribution, and disposal of sharps containers; develops program advertising and outreach information; coordinates Safe Needle Disposal Program coalition; follows up garbage worker reports of needles in the garbage and needle stick incidents; coordinates pilot battery collection with collection sites; picks up used alkaline batteries for recycling from pilot collection sites; supports VSQG, HHWCF, and hazardous waste One-Day events as necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.11 Technical Writer

Prepares and produces documents and reports; writes and designs presentations and forms; designs and produces flyers for internal and public distribution; participates in external informational exchanges through committees and task forces; supports VSQG, HHWCF, and hazardous waste One-Day events as

necessary; responds to hazardous waste incidents on and off property during all hours as member of Hazardous Materials Emergency Response Team.

#### 6.2.12 Work Crew

Employees with responsibilities under the Waste Acceptance Control Program include the following work crew:

- Scalehouse Weighmasters
- Material Handlers -- Public Disposal and Recycling Area and Recycling Pad
- Transfer Station Sweepers
- Dozer Operators
- Transfer Station Crane Operators

These positions provide an opportunity for examination of the waste stream for prohibited wastes at various control points throughout the facility. Typical WACP responsibilities of the work crew include the following:

Scalehouse Weighmasters are responsible for checking incoming loads at the scalehouse for potentially prohibited wastes. This includes questioning the driver about the contents of the load. If prohibited wastes are suspected, customers are notified that those materials are unacceptable. Because the visual observation of incoming loads is hindered by the mandatory tarping requirement, additional checks are needed. See below.

#### Material Handlers - Public Disposal and Recycling Area and Recycling Pad.

Laborers oversee the unloading of vehicles, sort wastes for recyclable materials, and assist with directing traffic when needed. Any potential prohibited materials detected are returned to the customer in accordance with procedures approved by the City. If the source of the prohibited wastes is unknown, the material is held for examination by the WACP staff.

Load checking is undertaken by a lead man from SFRDÆs material handlers, under the supervision of WACP technicians. The responsibilities include inspecting incoming loads of solid waste; identifying and removing hazardous

and prohibited waste found; returning waste to the generator where possible; preparing load checking documentation; identifying waste with date and time of arrival and source; storing used oil received for recycling. The material handlers keep the WACP staff informed of their load checking activities and their load checking documentation is passed on to WACP staff.

Transfer Station Sweepers observe incoming loads at the transfer station. They direct traffic within the Transfer Station and watch for potentially prohibited materials or recyclable materials as they are dumped into the pit.

Dozer Operators view the tipping of wastes into the pit. They use dozers to compact and load the waste into the transport trucks. The operator is able to contact WACP and segregate large amounts of potentially prohibited material from the waste stream.

Transfer Station Crane Operators observe the tipping of wastes into the pit and watch the material as it is being loaded into transfer trailers. From this position, the operator may contact WACP and use the crane to pull potentially prohibited materials and recyclable items from the waste stream for appropriate handling.

WACP staff supervise and guide work crews in carrying out their obligations under the WACP. Additional support is provided as needed.

## 7.0 EMPLOYEE TRAINING

Training for the WACP is tailored to suit each employee according to his or her respective responsibilities under the program. In general, the minimum training required for the various program participants is as follows:

### Work Crew

- These SFSWTRC personnel receive initial training by the WACP staff in identifying prohibited wastes. Additional or refresher training is under the supervision of the General Manager.
- Training for these personnel include (1) procedures for identifying prohibited materials and containers, including asbestos, PCBs, caustics, solvents, flammables, medical wastes, etc; and (2) notification and response procedures.

### WACP Technicians

- The Technicians receive the above initial training and, training in the following: (1) education in the effects of hazardous substances on human health and the environment, (2) an overview of relevant regulations and definitions of prohibited waste, (3) waste-handling procedures, (4) procedures and equipment for safety and emergency response, (5) personal protective equipment, and (6) recordkeeping.
- The Technicians receive OSHA 40-Hour Hazardous Waste Operations Training shortly after hire.
- The Technicians are typically given annual in-house refresher training. Additional training is to be provided on an "as-needed" basis.

### WACP Manager and Supervisor

- The WACP Manager and Supervisor receive the above training, in the following: (1) waste characterization analysis, (2) methods for the containment and removal of prohibited materials, (3) identification and

classification of prohibited materials, and (4)regulatory reporting requirements.

- The WACP Manager and/or Supervisor periodically may attend refresher courses offered by colleges or universities, consulting firms, or professional hazardous waste management organizations. They also may attend waste management conferences at the discretion of the General Manager of SFRD.

Full-time WACP staff are required to undergo a medical evaluation prior to starting work and thereafter on a yearly basis.

## **8.0 EMERGENCY RESPONSE**

### **8.1 Emergency Assistance from Agencies**

The WACP staff evaluates all emergency situations and seeks assistance from emergency-response agencies, as needed. Agencies that may be called upon for assistance, depending on the extent of the emergency, include the following:

- California Highway Patrol
- CHEMTREC (Chemical Transportation Emergency Center)
- HAZMAT Emergency Response Unit of the San Francisco Fire Department
- Poison Control Center
- San Francisco Fire Department
- San Francisco General Hospital (Emergency)
- San Francisco Department of Public Health
- San Francisco Police Department
- California Department of Public Health Radiologic Health Branch

### **8.2 Emergency Procedures**

Emergency response procedures are undertaken by trained WACP staff, or the SFRD work crews (in the event of a release of prohibited or hazardous materials or other emergency situations not involving prohibited material). If necessary, public agencies with responsibilities for emergency response may also be called upon for assistance. Current WACP staff have received 32-hour Incident Command System Training.

Although specific response actions depend on actual hazard conditions, the general actions undertaken in the event of a release or an emergency include the following:

- Removal of unauthorized persons from the area until cleanup has been completed
- Notification of response personnel and/or relevant public agencies
- Immediate response by trained personnel properly equipped with protective devices
- Mitigation of the hazard

- Containment and removal of the waste from the area
- Documentation of the incident

A copy of the SF Recycling & Disposal, Inc. Emergency Response Plan is filed with CUPA, covering basic evacuation and emergency response procedures. A more detailed plan, specifically tailored to hazardous waste incident responses, has been incorporated into the HHWCF Operations Plan for the hazardous waste staff.

### 8.3 Emergency Equipment

A variety of emergency and safety equipment is located throughout the property, including fire hoses, fire extinguishers and, emergency alarms. The following emergency equipment is available at the HHWCF and is checked weekly to insure that equipment is present and operational:

- Running water and hoses
- Fire extinguishers
- Communication equipment
- First aid kit
- Safety shower/eyewash
- Personal protection equipment
- Hazard characterization kit (i.e., WICT)
- Hazardous waste containers
- Noncombustible absorbent material
- Barrier cones and caution tape to barricade an area
- Plug and dike material
- Absorbent pads and pillows
- Decontamination solutions
- Hazardous materials recovery containers with lids
- Plastic tarps
- Aluminum shovels
- Brooms
- Plastic bucket
- Drum pump
- Carts and tubs

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- Basic tool box
- SCBAs
- Draeger air monitors
- Handheld radiation monitors

The following emergency equipment is available to the WACP staff and is part of the regular inventory used to supply the hazardous materials response van:

- Absorbent material
- Fire extinguishers
- Communication equipment
- First aid kit
- Personal protection equipment
- Hazard characterization kit (e.g., WICT)
- Plastic bags



## 9.0 RECORDKEEPING

The WACP program generates a variety of records, including those required by applicable regulations and operating permits. Such records are maintained by WACP staff in compliance with applicable regulatory requirements. In addition, they provide a data base for use in evaluating the WACP program.

Records compiled as a result of WACP activities are available to the appropriate City agencies. It is anticipated that the form and content of these records may change as the WACP evolves. A WACP Six-Month Report is currently filed with the City.

Records maintained by the WACP staff include:

- Permits and Variances
- Surveillance/Waste Inspection Documentation
- Incident Records
- Training Records
- Hazardous Waste Shipment Records

A brief description of the nature of selected records and/or reports is presented below.

Permits and Variances. Copies of all applicable permits and variances are maintained by WACP staff where necessary. Permits and variances (e.g. the HHWCF Variance from the Department of Health Services) are posted in accordance with applicable requirements.

Surveillance/Waste Inspection Documentation. Site surveillance and waste inspections are documented by WACP staff. Facility records of surveillance and inspections include, but are not limited to the following information:(1)date, (2)time of inspection, (3)location at which the inspection was conducted, (4)name of hauling firm or vehicle identification, (5) address and phone number of source (if known), (6) type of business, if known, (7) type of prohibited waste identified, (8) type of alleged activity at issue (e.g. dumping, leaking, spillage), (9) brief summary of the incident. These records are stored in a computer data based

especially designed to meet the needs of the WACP. Surveillance/waste inspection activities are summarized monthly and are made available to City agencies. In addition, WACP staff maintain a list of customers who repeatedly attempt to dispose of prohibited wastes in the municipal waste stream. Appropriate action is taken by the City and SFRD when customers repeatedly fail to observe established protocols.

Incident Records. Records of any emergency or special incident are maintained for at least 3 years, or for any other minimum retention period required under applicable law, whichever is longer.

Training Records. As described in the Employee Training Section (7.0), the WACP staff and work crew are required to successfully complete a training program with periodic refresher training. Training records documenting the successful completion of this program are maintained at the SFRD offices for a period of 3 years. Training session records identify (1) the topics covered, (2) the date of the training session, (3) the length of the course, (4) instructor's name/title, (5) employee's names, (6) employee's job title, and (7) documentation by the trainer of successful completion. See Appendix D for an example of the training records.

Hazardous Waste Shipment Records. All records pertaining to the shipment of hazardous waste that was found through WACP activities are kept on file at SFRD. The records include waste profiles, shipment manifests, drum inventories and results from any analysis including WICT results conducted on different wastes.

## **10.0 PROGRAM ASSESSMENT**

The following assessment procedures are recommended: (1) periodic evaluation of the WACP by the City and SFRD, (2) bimonthly review of WACP records and activities, and (3) comparison evaluation with other community programs, and (4) cost assessments.

The City and SFRD also meet regularly to develop additional means for evaluating the surveillance, inspection, and management of prohibited wastes by the WACP. Such evaluation forms a part of the City's assessment of the WACP. For example, the City, with the assistance of SFRD, may design, develop and review studies concerning (1) the disposal of prohibited wastes in the compacted waste stream and, (2) the efforts of SFRD's major customers to identify and remove prohibited wastes from the compacted waste stream. (If these studies result in major costs, approval of the San Francisco Collection and Disposal Rate Board may be required.) Such studies may be used by the City to make recommendations to SFRD regarding the training programs that SFRD provides to its major customers.

### **10.1 Periodic Evaluation of WACP**

The City and SFRD meet periodically to discuss the status of the program and the need, if any, for substantive revisions to WACP procedures. Periodic evaluation is conducted according to the guidelines set out in Section 1.1.1.

### **10.2 Bimonthly Review of WACP Records and Activities**

In order to determine that SFRD has materially complied with the WACP, the City conducts a bimonthly review of the WACP, including but not limited to, review of the records and forms maintained in accordance with the WACP and observation of activities carried out pursuant to the WACP. This bimonthly review is similar to the City's monthly review of the HHWCF. The City has access to files and records generated by the WACP staff pursuant to the WACP. Records are checked for completeness and accuracy. After each review, SFRD shall be deemed to have complied in all material respects with the WACP for the preceding two months unless SFRD is notified in writing within twenty-five (25)

calendar days of the end of the second month being reviewed that it has failed to comply with the WACP in a material way. The particular alleged material failure, if any, shall be identified and explained. In the event that (1) the City determines that there has been a material failure to comply with the WACP, and (2) SFRD disagrees with that determination, the City's determination shall be submitted to arbitration for resolution. The determination of the arbitrator, which shall be selected jointly by the City and SFRD, shall be final and binding. The burden of proof of compliance rests on SFRD in any arbitration proceeding.

If it is ultimately determined pursuant to the provisions of the foregoing paragraph that SFRD has materially failed to comply with the WACP, the question of whether such failure directly and proximately causes a claimed liability for which SFRD seeks reimbursement pursuant to the Facilitation Agreement shall be left to proof at the time such a claim arises.

### **10.3 Assessment of Enforcement Programs**

As part of its assessment of the WACP, the Solid Waste Management Program staff consults with SFRD to determine whether existing enforcement programs adequately support SFRD's efforts to identify and obtain the cooperation of generators who improperly dispose of prohibited wastes in the municipal solid waste stream. Where appropriate, as determined by the Solid Waste Management Program staff, the development of additional programs or interdepartmental procedures to improve the City's enforcement efforts is proposed. The Solid Waste Management Program also recommends to the appropriate enforcing authorities or legislative bodies additional programs or laws that it determines are desirable to support the City's and SFRD's efforts with respect to the WACP.

### **10.4 WACP Cost Assessment**

The WACP program assessment also includes a periodic review of operating costs. This review may include an examination of the cost-effectiveness of various WACP activities if the costs of such activities are readily quantifiable. Changes to the WACP are evaluated to determine which of the following potential impacts on costs might occur: 1) minor cost changes with no significant

impact on collection rates, 2) significant changes with no impact on collection rates, and 3) significant changes that would require a rate increase.

As provided for in the Facilitation Agreement, all costs incurred in connection with the transportation, processing and disposal of prohibited wastes, including but not limited to, potential investigative and remedial costs arising out of environmental responses required by local, state or federal law, are to be included in operating expenses for SFRD for rate-making purposes or, if the cost is extraordinary, reimbursed directly to SFRD from the Reserve Fund, established pursuant to paragraph 5 of the Facilitation Agreement, so long as SFRD has materially complied with the WACP.

Access to the Reserve Fund shall be allowed in the same manner established for access to the impound account previously created by the Rate Board for other funding purposes.