

Issue Date: December 16, 2013

Via Email – MCaprio@republicservices.com & USPS

Michael Caprio
Area President
Republic Services of Santa Clara County
1601 Dixon Landing Road
Milpitas CA 95035

**RE: NOTICE OF VIOLATION - Commercial Solid Waste & Recyclable
Materials Collection Franchises Agreement**

Dear Mike:

I received Mr. Thomas Bruen's letter dated December 11, 2013 sent on behalf of Republic Services of Santa Clara County (Republic). Based on the information the Office of Equality Assurance (OEA) has received to date, we have determined that Republic has not complied with the City of San Jose's living wage requirements of the Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement Between the City of San Jose and Allied Waste Services of North America LLC dba Allied Waste Services of Santa Clara County dated September 6, 2011 (Franchises Agreement). All affiliates and subcontractors that have provided services and wished to continue to provide services under the Franchises Agreement are required to pay its employees the minimum wage rates established by the City of San Jose. In addition, Exhibit E contains worker retention, job fair and labor peace provisions, and documentation and reporting requirements.

Order to Pay Restitution

The OEA has determined that Republic and its affiliates and subcontractors failed to pay its workers performing work under the Franchises Agreement a City of San Jose living wage as required under the Franchises Agreement.

The attached restitution calculation is based on the following best available information:

- Republic's October 2013 staffing levels provided to the Environmental Services Department. Based on titles and count, **193** workers were paid less than the City's established living wage rates.
- There are 173.33 workable hours in a month. Since July 1, 2012, the estimated number of workable hours is 2,946.61. These hours do not include overtime or any holiday hours.

- The City's living wage rate for July 1, 2012 through June 20, 2013 was \$15.98 per hour.
- The City's living wage rate for July 1, 2013 through June 30, 2014 is \$17.03 per hour.
- The State of California minimum wage rate is \$8.00 per hour.
- The City's minimum wage rate, effective March 11, 2013 is \$10.00 per hour.
- The average percentage of San Jose tons delivered and processed at the NIRRP MRF for the period July 2012 through July 2013 is 65% of all tons delivered and processed through NIRRP MRF.

Based on the above, Republic is ordered to pay **\$13,396.94** in restitution to each worker. Total gross restitution for 193 workers is **\$2,585,608.59**.

Liquidated Damage for Violation of Living Wage Requirement

In accordance with the City of San Jose's Franchises Agreement, Franchisee shall pay to the City as liquidated damages the amount of **\$7,756,825.77**, the sum of three (3) times the difference between the actual amount of wages paid and the living wage. Republic is directed to remit a check payable to the City of San Jose no later than twenty (20) days from the date of the issuance of this Notice of Violation. The check is to be delivered or mailed to the following address: City of San Jose, Nina Grayson, Office of Equality Assurance, 200 East Santa Clara Street, Fifth Floor, San Jose CA 95113.

Payment Process Information

Republic must deliver the restitution checks for all underpaid workers by mail or in person to Nina Grayson, 200 East Santa Clara Street, Fifth Floor, San Jose CA 95113 no later than twenty (20) days from the date of the issuance of this Notice of Violation. OEA will disperse the restitution checks to the affected workers.

Notice of Violation Review Process

Republic has the right to contest this Notice of Violation. Republic is afforded the opportunity to provide additional information and relevant documentation to the OEA no later than ten (10) days from the date of the issuance of this Notice of Violation.

The additional information and relevant documentation will be reviewed and responded to by the OEA. If Republic is still not satisfied with the result, Republic is afforded the opportunity to speak with the Director of Public Works no later than ten (10) days following a response from the OEA. The Director of Public Works' decision will be final.

Failure to Comply

Should Republic fail to comply within the time required by this Notice of Violation or within the time required by the decision of the Director of Public Works, the City reserves all rights to take

Michael Caprio

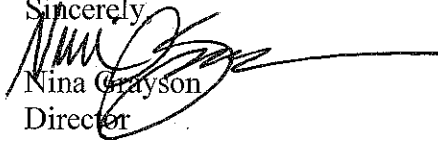
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appropriate enforcement action.

Sincerely,

A handwritten signature in black ink, appearing to read "Nina Grayson", with a long horizontal line extending to the right.

Nina Grayson
Director

Attachments

- c Tom Bruen Esq.
- Gil Cheso, Republic Services, Inc.
- Joan Gallo Esq.
- Kerrie Romanov, Environmental Services Department
- Rosa Tsongtaatarii, City Attorney's Office
- Jo Zientek, Environmental Services Department

Operations

NIRRP's permit allows it to operate 24 hours per day, 7 days per week. Current operating hours are 4 a.m. to 11 p.m. Monday through Friday and Saturday 4 a.m. to midnight. The facility is closed on the following holidays: New Year's Day, Independence Day, Thanksgiving Day, and Christmas Day. No further changes to the operating hours or holiday schedule are currently being contemplated.

Staffing by Title		
Title	Count	Responsibility
General Manager	1	Oversee all activity and personnel
Supervisors	7	Oversee Facility, Maintenance, Safety, Shifts
Administrative	3	Accounting and clerical
Maintenance	✓ 11	Maintain Equipment
Scale House Operators	✓ 3	Conduct scale house operations
Truck Drivers	11	Material movement on site and to ZWED
Equipment Operators	✓ 10	Loaders, Material Handlers, Sort Line
Lift Truck Operators	✓ 6	Conduct shipping dock operations
Load Check/Spotters	✓ 5	Inspect loads, direct traffic
Sorter - Dry CDR Pre-Sort - Day	✓ 4	Hand sort materials
Sorter - Dry CSS Pre-Sort - Day	✓ 6	Hand sort materials
Sorter - WET Pre-Sort - Day	✓ 7	Hand sort materials
Sorter - Residential Pre-Sort - Day	✓ 6	Hand sort materials
Sorter - Dry Post Sort - Day	✓ 9	Hand sort materials
Sorter - Shared Fiber QC - Day	✓ 20	Hand sort materials
Sorter - Shared Container Line - Day	✓ 10	Hand sort materials
Sorter - Shared Bale Cleaning - Day	✓ 3	Hand sort materials
Sorter - Line Leads - Day	✓ 4	Supervise the Sort Staff
Sorter - Dry CDR Pre-Sort - Swing	✓ 4	Hand sort materials
Sorter - Dry CSS Pre-Sort - Swing	✓ 6	This crew is need during peak volumes
Sorter - WET Pre-Sort - Swing	✓ 7	Hand sort materials
Sorter - Residential Pre-Sort - Swing	✓ 6	Hand sort materials
Sorter - Dry Post Sort - Swing	✓ 9	Hand sort materials
Sorter - Shared Fiber QC - Swing	✓ 20	Hand sort materials
Sorter - Shared Container Line - Swing	✓ 10	Hand sort materials
Sorter - Shared Bale Cleaning - Swing	✓ 3	Hand sort materials
Sorter - Line Leads - Swing	✓ 4	Supervise the Sort Staff
Sorter - Manager	1	Manage all sorter operations
Quality Control Sorter	✓ 1	Test incoming and outgoing material quality
Housekeepers	✓ 19	Clean property and equipment
	(193)	

Month	Total SJ Tons Inbound to NIRPP	% of SJ tons at NIRRP MRF
Jul-12	6,200	not available
Aug-12	16,285	68%
Sep-12	14,490	65%
Oct-12	17,968	67%
Nov-12	17,037	65%
Dec-12	16,734	65%
Jan-13	16,268	63%
Feb-13	14,433	66%
Mar-13	15,918	66%
Apr-13	16,122	65%
May-13	16,634	66%
Jun-13	15,227	63%
Jul-13	16,506	65%
Aug-13	15,070	not available
Sep-13	14,292	not available

Average 65%

Republic Restitution Calculations

Commercial Solid Waste and Recyclable Materials Collection Franchises Agreement

Month	Workable Hours By Month	Living Wage Rate	Rate Paid by Republic/Affiliate/Subcontractor	Difference/Living Wage Rate & Rate Paid	Restitution Owed Each Worker
Jul-12	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Aug-12	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Sep-12	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Oct-12	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Nov-12	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Dec-12	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Jan-13	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Feb-13	173.33	\$15.98	\$8.50	\$7.48	\$1,296.51
Mar-13	173.33	\$15.98	\$10.00	\$5.98	\$1,036.51
Apr-13	173.33	\$15.98	\$10.00	\$5.98	\$1,036.51
May-13	173.33	\$15.98	\$10.00	\$5.98	\$1,036.51
Jun-13	173.33	\$15.98	\$10.00	\$5.98	\$1,036.51
Jul-13	173.33	\$17.03	\$10.00	\$7.03	\$1,218.51
Aug-13	173.33	\$17.03	\$10.00	\$7.03	\$1,218.51
Sep-13	173.33	\$17.03	\$10.00	\$7.03	\$1,218.51
Oct-13	173.33	\$17.03	\$10.00	\$7.03	\$1,218.51
Nov-13	173.33	\$17.03	\$10.00	\$7.03	\$1,218.51
Subtotal Per Worker					\$20,610.67
Total Per Worker @ 65%					\$13,396.94
Total - 193 Workers					\$2,585,608.59
LD Assessment					\$7,756,825.77