



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Health System



DATE: April 21, 2011
BOARD MEETING DATE: June 7, 2011
SPECIAL NOTICE/HEARING: None
VOTE REQUIRED: Majority

TO: Honorable Board of Supervisors

FROM: Jean S. Frasier, Chief, Health System
Dean D. Peterson, P.E., REHS, Director, Environmental Health

SUBJECT: Agreement with Visions Recycling, Inc.

RECOMMENDATION:

Adopt a Resolution authorizing the:

- A) President of the Board to execute an Agreement with Visions Recycling, Inc., to provide latex paint recycling services for the term August 1, 2011 through July 31, 2014, in the amount of \$550,000; and
- B) Chief of the Health System or designee to execute contract amendments which modify the County's maximum fiscal obligation by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

BACKGROUND:

The Environmental Health Division (EH) operates a Household Hazardous Waste (HHW) Program that enables residents to drop-off unused latex paint and other HHW at five latex paint drop-off locations throughout the County. The goal of the program is to recycle unused paint and to reduce improper disposal. The paint is consolidated by color into drums, recycled, and given back to the public free-of-charge. Over the last five years, the volume of latex paint the HHW Program collected ranged between 43,000 to 75,000 gallons per year. The program will improve the quality of recycled latex paint by producing a product that meets painting industry standards thereby attracting more demand for this paint product.

DISCUSSION:

In January 2011 Environmental Health conducted a Request for Proposals (RFP) to provide latex paint recycling services through the HHW Program. The criteria set forth in the RFP is that collected paint is reprocessed or re-blended according to specific industry standards for recycled paint products. Upon request, the final product may be transported back to EH for distribution to the public, government, or non-profit agencies

via the Re-Use Program. The proposal was sent to four paint companies, three of whom responded: Visions Recycling, Inc., Amazon Environmental, Inc., and Fremouw Environmental Services, Inc. Visions Recycling, Inc. met all the requirements of the RFP and was selected based on their ability to meet recycled-paint product standards and their thirteen years of experience in the industry. The HHW Program expects to collect an average of 52,000 gallons of paint per year. The quality of the recycled paint will serve as a suitable alternative to new paint and has the added benefits of cost savings and being an environmentally preferred alternative.

County Counsel has reviewed and approved the Agreement and Resolution as to form. The Contractor's insurance has been approved by Risk Management.

The contractor has assured compliance with the County's Contractor Employee Jury Service Ordinance, as well as all other contract provisions that are required by County ordinance and administrative memoranda, including but not limited to insurance, hold harmless, non-discrimination and equal benefits.

This Agreement contributes to the Shared Vision 2025 outcome of an Environmentally Conscious Community by ensuring that unwanted latex paint does not pose a health and safety danger to residents or cause environmental damage through improper disposal onto lands or waterways. It is anticipated that 140,000 gallons of household hazardous waste will be diverted from landfill disposal.

Performance Measure(s):

Measure	FY 2010-11 Estimate	FY 2011-12 Projected
Gallons of household hazardous waste diverted from landfill disposal	140,000	140,000

FISCAL IMPACT:

The term of the Agreement with Visions Recycling, Inc., is August 1, 2011 to July 31, 2014. The total obligation under this Agreement is \$550,000 and is funded through AB 939 fees. The appropriations and revenue are included in the FY 2011-12 Recommended Budget and will be included in the FY 2012-13 and FY 2013-14 budgets. There is no Net County Cost.

Request for Proposals Matrix

1.	General Description of RFP	To transport, bulk, consolidate and/or reprocess latex paint into an environmentally-preferred recycled latex paint product
2.	List key evaluation criteria	Meeting specific industry standards for recycled paint products
3.	Where advertised	On the Environmental Health website
4.	In addition to any advertisement, list others to whom RFP was sent	Acrylatex Coatings & Recycling, Inc. Amazon Environmental, Inc. E-Coat, Kelly-Moore Company Visions Recycling, Inc. Fremouw Environmental Services, Inc. (downloaded RFP from Environmental Health website)
5.	Total number sent to prospective proposers	4
6.	Number of proposals received	3
7.	Who evaluated the proposals	Waymond Wong, Program Supervisor; Elizabeth Rouan, HHW Program Coordinator; Wesley Won, Haz Mat Specialist
8.	In alphabetical order, names of proposers (or finalists, if applicable) and location	Amazon Environmental, Inc. 6688 Doolittle Avenue Riverside, CA 92503 Fremouw Environmental Services, Inc. P.O. Box 2875 Vacaville, CA 95696 Visions Recycling, Inc. 4481 Kilzer Street McClellan, CA 95652

RESOLUTION NO. _____

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

* * * * *

RESOLUTION AUTHORIZING THE A) PRESIDENT OF THE BOARD TO EXECUTE AN AGREEMENT WITH VISIONS RECYCLING, INC., TO PROVIDE LATEX PAINT RECYCLING SERVICES FOR THE TERM AUGUST 1, 2011 THROUGH JULY 31, 2014, IN THE AMOUNT OF \$550,000; AND B) CHIEF OF THE HEALTH SYSTEM OR DESIGNEE TO EXECUTE CONTRACT AMENDMENTS WHICH MODIFY THE COUNTY'S MAXIMUM FISCAL OBLIGATION BY NO MORE THAN \$25,000 (IN AGGREGATE), AND/OR MODIFY THE CONTRACT TERM AND/OR SERVICES SO LONG AS THE MODIFIED TERM OR SERVICES IS/ARE WITHIN THE CURRENT OR REVISED FISCAL PROVISIONS.

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, Environmental Health Division (EH) operates a Household Hazardous Waste (HHW) Program that enables residents to drop-off unused latex paint and other HHW at five latex paint drop-off locations throughout the County. The paint is consolidated by color into drums, recycled, and given back to the public free-of-charge; and

WHEREAS, a goal of the program is to improve the quality of recycled latex paint by producing a product that meets painting industry standards thereby attracting more demand for this paint product; and

WHEREAS, in January 2011 EH conducted a Request for Proposals (RFP) to provide latex paint recycling services through the HHW Program; and

WHEREAS, Visions Recycling, Inc., met all the requirements of the RFP and was selected based on its ability to meet recycled-paint product standards and its thirteen years of experience in the industry; and

WHEREAS, both parties now wish to enter into an Agreement to provide latex paint recycling services for the period of August 1, 2011 through July 31, 2014, for a total obligation of \$550,000; and

WHEREAS, this Board has been presented with a form of such Agreement and said Board has examined and approved same as to both form and content and desires to enter into said Agreement.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the President of this Board of Supervisors be and is hereby authorized to execute said Agreement for and on behalf of the County of San Mateo, and the Clerk of the Board shall attest the President's signature thereto.

BE IT FURTHER RESOLVED that the Board of Supervisors authorizes the Chief of the Health System or designee to execute contract amendments which modify the county's maximum fiscal obligation by no more than \$25,000 (in aggregate), and/or modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

* * * * *

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND
VISIONS RECYCLING, INC.**

THIS AGREEMENT, entered into this _____ day of _____ ,
2011, by and between the COUNTY OF SAN MATEO, hereinafter called "County,"
and VISIONS RECYCLING, INC., hereinafter called "Contractor";

W I T N E S S E T H:

WHEREAS, pursuant to Government Code, Section 31000, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof;

WHEREAS, it is necessary and desirable that Contractor be retained for the purpose of providing latex paint recycling services.

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

- Exhibit A—Services
- Exhibit B—Payments and rates
- Attachment I—§504 Compliance

2. Services to be performed by Contractor

In consideration of the payments set forth herein and in Exhibit "B," Contractor shall perform services for County in accordance with the terms, conditions and specifications set forth herein and in Exhibit "A."

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County's total fiscal obligation under this Agreement exceed FIVE HUNDRED FIFTY THOUSAND DOLLARS, (\$550,000).

4. Term and Termination

Subject to compliance with all terms and conditions, the term of this Agreement shall be from August 1, 2011 through July 31, 2014.

This Agreement may be terminated by Contractor, the Health System Chief or designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

The County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon unavailability of Federal, State, or County funds, by providing written notice to Contractor as soon as is reasonably possible after the County learns of said unavailability of outside funding.

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

8. Assignability and Subcontracting

Contractor shall not assign this Agreement or any portion thereof to a third party or subcontract with a third party to provide services required by contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without the County's prior written consent shall give County the right to automatically and immediately terminate this Agreement.

9. Insurance

The Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this paragraph has been obtained and such insurance has been approved by Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. The Contractor shall furnish the County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending the Contractor's coverage to include the contractual liability assumed by the Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to the County of any pending change in the limits of liability or of any cancellation or modification of the policy.

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

- (a) Comprehensive General Liability \$1,000,000
 . . .
- (b) Motor Vehicle Liability Insurance \$1,000,000
 . . .
- (c) Professional Liability \$1,000,000
 . . .

County and its officers, agents, employees and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that the insurance afforded thereby to the County, its officers, agents, employees and servants shall be primary insurance to the full limits of liability of the policy, and that if the County or its officers and employees have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the County of San Mateo at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work pursuant to this Agreement.

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

11. Non-Discrimination and Other Requirements

- A. *Section 504 applies only to Contractor who are providing services to members of the public.* Contractor shall comply with § 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

- E. *Compliance with Equal Benefits Ordinance.* With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.
- F. The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.

12. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

(c) CONTRACTOR agrees to provide to COUNTY, to any Federal or State department having monitoring or review authority, to COUNTY's authorized representatives, and/or their appropriate audit agencies upon reasonable notice, access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules and regulations, and this Agreement, and to evaluate the quality, appropriateness and timeliness of services performed.

14. Merger Clause

This Agreement, including the Exhibits attached hereto and incorporated herein by reference, constitutes the sole Agreement of the parties hereto and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement or specification set forth in this body of the agreement conflicts with or is inconsistent with any term, condition, provision, requirement or specification in any exhibit and/or attachment to this agreement, the provisions of this body of the agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

15. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United States mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt for transmittal, charges prepaid, addressed to:

In the case of County, to:

Environmental Health Division
2000 Alameda de las Pulgas, Ste. 100
San Mateo, CA 94403
Attn: Elizabeth Rouan.

In the case of Contractor, to:

Visions Recycling, Inc.
4481 Kilzer Street
McClellan, CA 95652
Attn: Jerry Noel

In the event that the facsimile transmission is not possible, notice shall be given both by United States mail and an overnight courier as outlined above.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors
San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

VISIONS RECYCLING, INC.

Contractor's Signature

Date: _____

Exhibit "A"

Description of Services to be performed by Contractor

County shall have the ability to choose from the following service options based on its needs. Contractor shall:

1. Provide weekly transportation of plastic cubic yard boxes (totes) containing latex paint in their original containers, accumulated at San Mateo County (County), Household Hazardous Waste Program Product Give-Away Warehouse (Warehouse), located at 310 Pine Street, Redwood City, CA 94063 or other locations as needed to Visions Recycling, Inc. (Contractor) .
2. Process latex paint to painting industry standards for retail recycled paint.
3. Provide a minimum of 16 totes for County's use while County totes are in transport.
4. Be responsible for the disposal of all empty containers.
5. Transport empty totes to the Warehouse weekly.
6. Deliver recycled paint to the County within thirty (30) days upon request from the County.
7. Coordinate all pick-ups of paint, deliveries of recycled paint and/or empty totes with County seventy-two (72) hours in advance.
8. Return any products transported to Contractor that do not fall under the latex paint category. These products will be placed in properly rated cardboard cubic yard boxes and either returned to the County for disposal or disposed of by Contractor as approved by the County. County shall be responsible for pre-approved costs of disposing non-latex paint products.

Submit a report to the County on a quarterly basis as to the percent of latex paint that is recycled and that is unusable.

9. Submit a copy of the Contractor's Transporter Contingency Plan and Safety Program to County, which includes driver safety policies and procedures within ninety days after execution of this contract.

10. Transport and handle latex paint in accordance with the terms of the operation and contingency plans approved by the Environmental Protection Agency (EPA), State, County and Municipal agencies as a condition of the Contractor's permit to operate.
11. Perform all services pursuant to this Agreement in accordance with all applicable federal, state, County and municipal laws, appropriate to licensure and certification regulations.

Exhibit "B"

1. County shall pay Contractor based on the following fee schedule:

Rates:

Transportation	\$154 per truckload
Recycling Fee	\$220 per tote or \$60 per pallet

2. Payments will be made upon submission and approval of invoices received from Contractor. The total payment for services of this agreement shall not exceed Five Hundred Fifty Thousand Dollars (\$550,000). County shall have the right to withhold payment if County determines that the quality and quantity of work performed is unacceptable.

ATTACHMENT I

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)



a. Employs fewer than 15 persons.



b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person - Type or Print

Visions Recycling, Inc.

Name of Contractor(s) - Type or Print

4481 Kilzer Street

Street Address or P.O. Box

McClellan, CA 95652

City, State, Zip Code

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



Signature

President

Title of Authorized Official

5-10-11

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."