

CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY
BOND FINANCING PROGRAM
Meeting Date: July 15, 2014
Request for Initial Resolution

Prepared by: *Tom Dear*

Applicant:	Bay Counties Waste Services, Inc. dba Bay Counties SMaRT and/or its Affiliates	Amount Requested:	\$8,820,000
		Application No.:	875(SB)
Project Location:	City of Sunnyvale (Santa Clara County)	Initial Resolution No.:	14-03

Summary: Bay Counties Waste Services, Inc. dba Bay Counties SMaRT and/or its Affiliates (the “Company”) requests approval of an Initial Resolution for an amount not to exceed \$8,820,000 to finance the purchase of solid waste processing equipment. The Company provides refuse processing services at the Sunnyvale SMaRT facility for solid waste collected within the cities of Sunnyvale, Palo Alto and Mountain View. The Company anticipates that the project will provide waste diversion, air quality, water quality and recycling benefits.

Borrower: Bay Counties Waste Services, Inc., doing business as Bay Counties SMaRT, was incorporated in California on April 18, 1960. The company provides solid waste collection, recycling, and disposal services for homes, businesses, and industries throughout Santa Clara County. Bay Counties Waste Services, Inc. is affiliated with Alameda County Industries, Inc., Mission Trail Waste Systems, Inc. and Santa Clara Valley Industries, LLC. Additionally some of the individual owners of the Company own interests in Pleasanton Garbage Services and South San Francisco Scavenger Co., Inc., but no shared financial obligations on major equipment exist between the entities.

The principal stockholders of the Company are as follows:

Robert J. Molinaro	24.2%
Anthony Macchiano	10.6%
William Dobert	9.1%
Brian Storti	6.1%
Doug Button	5.0%
Jerry Nabhan	5.0%
Paul Formosa	5.0%
Ron Fornesi	5.0%
John Rossi	5.0%
Michael Achiro	5.0%
Craig Stagnaro Trust	5.0%
Richard Gotelli	5.0%
Joanne Bortoli	5.0%
Stephanie Uccelli-Menner	5.0%
Total:	<u>100.0%</u>

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Legal Questionnaire. The Staff has reviewed the Company's responses to the questions contained in the Legal Status portion of the Application. No information was disclosed in the Legal Status portion of the Application that raises questions concerning the financial viability or legal integrity of this applicant.

Project Description. The Company has recently been awarded an additional contract to operate the Material Recovery Facility and Transfer Station owned by and located in the City of Sunnyvale. The Company will be processing solid waste initially for the cities of Sunnyvale, Palo Alto and Mountain View. In order to meet its contractual obligations, the Company will need additional equipment such as containers, conveyors and rolling stock to service the anticipated waste volume.

Volume Cap Allocation. The Company anticipates applying to the Authority for volume cap allocation in September 2014.

Financing Details. The Company anticipates the issuance of negotiated tax exempt bonds.

Financing Team.

Underwriter: Westhoff, Cone & Holmstedt

Bond Counsel: Law Offices of Leslie M. Lava

Issuer's Counsel: Office of the Attorney General

Staff Recommendation. Staff recommends approval of Initial Resolution No. 14-03 for Bay Counties Waste Services, Inc. dba Bay Counties SMaRT and /or its Affiliates for an amount not to exceed \$8,820,000.

Note: An Initial Resolution approval is not a commitment that the Board will approve a Final Resolution and bond financing of the proposed Project.

**RESOLUTION OF OFFICIAL INTENT TO ISSUE BONDS TO
FINANCE SOLID WASTE DISPOSAL/RECYCLING FACILITIES FOR
BAY COUNTIES WASTE SERVICES, INC., DOING BUSINESS AS
BAY COUNTIES SMaRT, AND/OR ITS AFFILIATES**

July 15, 2014

WHEREAS, the California Pollution Control Financing Authority (“Authority”), a public instrumentality, is authorized and empowered by the provisions of the California Pollution Control Financing Authority Act (“Act”) to issue bonds for the purpose of defraying the cost of facilities for the disposal of solid and liquid waste products, including solid waste disposal recovery and recycling facilities; and

WHEREAS, Bay Counties Waste Services, Inc., doing business as Bay Counties SMaRT, a California corporation (“Applicant”), has requested that the Authority assist in financing solid waste disposal/recycling facilities to be owned and operated by the Applicant and/or its Affiliates (as hereinafter defined) (collectively, “Company”), which are expected to be comprised of the acquisition and installation, if any, of equipment for the collection, processing and transfer of solid waste, including screens, conveyors, sorters, rolling stock, drop boxes, bins, carts and/or containers, and other equipment functionally related thereto (collectively, “Facilities”), and has presented an estimate of the maximum cost of such Facilities as shown in Exhibit “A” attached hereto; and

WHEREAS, the Authority desires to encourage the Company to provide solid waste disposal/recycling facilities which will serve the public of the State; and

WHEREAS, the Authority deems it necessary and advisable to further the purposes of the Act that the Facilities be acquired at the earliest practicable date, but the Company requires satisfactory assurances from the Authority that the proceeds of the sale of bonds of the Authority will be made available to finance such Facilities; and

WHEREAS, the Company expects to incur or pay from its own funds certain expenditures in connection with the Facilities prior to the issuance of indebtedness for the purpose of financing costs associated with the Facilities on a long-term basis; and

WHEREAS, subject to meeting all the conditions set forth in this resolution the Authority reasonably expects that debt obligations in an amount not expected to exceed \$8,820,000 will be issued and that certain of the proceeds of such debt obligations will be used to reimburse the Company for its prior expenditures for the Facilities; and

WHEREAS, Section 1.103-8(a)(5) and Section 1.150-2 of the Treasury Regulations require the Authority to declare its reasonable official intent to reimburse prior expenditures for the Facilities with proceeds of a subsequent borrowing;

NOW, THEREFORE, BE IT RESOLVED by the California Pollution Control Financing Authority as follows:

Section 1. The Authority finds and determines that the foregoing recitals are true and correct. For purposes of this Resolution, an “Affiliate” of the Applicant means any person or entity which meets the definition of “participating party” in the Act and controls, is controlled by, or is under common control with, the Applicant, as shown by the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through majority equity ownership, contract or otherwise.

Section 2. The Authority declares its official intent to issue, at one time or from time to time, an aggregate of up to \$8,820,000 principal amount of bonds of the Authority for the Facilities; including for the purpose of reimbursing to the Company costs incurred for the Facilities prior to the issuance of the bonds.

Section 3. The bonds will be payable solely from the revenues to be received by the Authority pursuant to a loan agreement or other agreements to be entered into between the Authority and the Company in connection with the Facilities. Each bond shall contain a statement to the following effect:

“Neither the faith and credit nor the taxing power of the State of California or any political subdivision thereof or any local agency is pledged to the payment of the principal of, premium, if any, or any interest on this bond.”

Section 4. The bonds shall be issued subject to the conditions that (i) the Authority and the Company shall have first agreed to mutually acceptable terms for the bonds and of the sale and delivery thereof, and mutually acceptable terms and conditions of the loan of the proceeds thereof to the Company; (ii) all requisite governmental approvals shall have first been obtained; (iii) a Final Resolution shall have been received from the Authority; and (iv) an allocation shall have been received from the California Debt Limit Allocation Committee.

Section 5. The Executive Director of the Authority is hereby directed to indicate the willingness of the Authority to proceed with and effect such financing in order to assist the Company by defraying the cost of the Facilities, subject to due compliance with all requirements of the law and the obtaining of all necessary consents and approvals and meeting all other requirements of the Authority.

Section 6. It is intended that this Resolution shall constitute “some other similar official action” towards the issuance of bonds within the meaning of Section 1.103-8(a)(5) of the Treasury Regulations and “official intent” within the meaning of Section 1.150-2 of the Treasury Regulations, each as applicable under Section 103 of the Internal Revenue Code of 1986, as amended. It is also intended that this statement of “official action” or “official intent” by the Authority shall continue in full force and effect even if this Resolution ceases to be effective for other purposes.

Section 7. This Resolution shall take effect immediately upon its passage and remain in full force and effect thereafter; provided that, subject to Section 6, this Resolution shall cease to

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be effective on July 15, 2017 unless prior thereto the Authority specifically adopts a further resolution extending the effective date of this Initial Resolution, which it will do only after receiving a specific request for such action from the Company, accompanied by an explanation of the status of the project and any additional information requested by the Authority to supplement the Company's application.

EXHIBIT A

NUMBER: 14-03

LOCATIONS: 301 Carl Road
Sunnyvale, California 94089

TYPE: Solid Waste Disposal/Recycling

AMOUNT: Up to \$8,820,000