


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION APPROVING (A) DESIGN REVIEW AND A MAJOR CONDITIONAL USE PERMIT FOR THE DEVELOPMENT OF A RECYCLING FACILITY LOCATED AT 2308 WAKE AVENUE BY CALIFORNIA WASTE SOLUTIONS, INC AND, AND (B) ADOPTING REQUISITE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS AND CONDITIONS OF APPROVAL

WHEREAS, the City owns approximately 12.02 acres of land in the City of Oakland commonly known as the North Gateway Area of the former Oakland Army Base and holds an easement on approximately 2.36 acres of adjacent land (the "Property"); and

WHEREAS, in 2012, the City revised its Redevelopment Plan for the Oakland Army Base to include relocation of two recyclers, including CWS, from the West Oakland neighborhood to the Property; and

WHEREAS, the Property is designated for mixed use commercial and industrial uses, including recycling uses; and

WHEREAS, the project sponsor, CWS, is a local recycling company currently headquartered in West Oakland, with existing facilities at the parcels associated with 3300 Wood Street and 1819/1820 10th Street; and

WHEREAS, the City and CWS entered into an Exclusive Negotiating Agreement dated July 24, 2018 ("ENA"), to negotiate the sale and lease of the Property to CWS for relocation of its recycling uses from its existing facilities in the West Oakland neighborhood (Resolution No. 87308 C.M.S.); and

WHEREAS, the relocation of CWS's uses outside of the West Oakland neighborhood has been a key objective of the community benefits program identified for the Oakland Army Base in 2012 (Resolution No. 83933 C.M.S.); and

WHEREAS, in May 2019, CWS applied for a Major Conditional Use Permit (CUP) to construct a 170,765 square-foot recycling facility to accommodate an administrative office, an observation/education area, a material receiving area, a material recycling and recovery area with processing equipment, a bale storage area, a material shipping area, staff areas, a truck maintenance area with including a compressed natural gas fueling compressor, and a dispatch area with parking on 14.38-acre site (the “Project”); and

WHEREAS, the City prepared Addendum No. 2 to the 2002 Oakland Army Base Redevelopment Plan Environmental Impact Report (“EIR”), as amended by 2012 Addendum (together, the “2002 EIR/2012 Addendum”), and the Project qualifies for an Addendum because no new information about the site, changes to the project, or circumstances under which the project would be undertaken that would result in new or more severe adverse environmental impacts have occurred, and none of the conditions for preparation of a Subsequent EIR are met under the California Environmental Quality Act (“CEQA”); and

WHEREAS, CWS presented the design merits of the proposed Project to the Design Review Committee (DRC) at the December 11, 2019 and March 4, 2020 DRC meetings; and

WHEREAS, the DRC unanimously agreed to approve the design subject to Staff approval of a more detailed circulation plan and additional landscaping; and

WHEREAS, the Project sponsor submitted to Staff a revised set of plans on July 17, 2020, which Staff determined adequately reflected the revisions requested by the DRC; and

WHEREAS, Staff recommended to the Planning Commission, at its June 16, 2021 meeting, to find the proposed design to be substantially in compliance with the Gateway Industrial District Standards; and

WHEREAS, at the June 16, 2021 Planning Commission meeting, the Planning Commission accepted Staff’s recommendation and recommended that the City Council approve design review and the CUP for the Project, and adopt the requisite CEQA findings and conditions of approval shown on **Attachment A**; now, therefore, be it

RESOLVED: The City Council hereby finds and determines, on a separate and independent basis, that the anticipated environmental effects of the Project have been adequately evaluated by the 2002 EIR/2012 Addendum and Addendum No. 2, and in accordance with California Resources Code Section 2166 and CEQA Guidelines Section 15164, that the 2002 EIR/2012 Addendum and Addendum No. 2, collectively, comprise the full and complete CEQA analysis necessary for the proposed Project and that no further CEQA evaluation is required; and be it further

RESOLVED: As recommended by the Planning Commission at its June 16, 2021 meeting and relying on the 2002 EIR/2012 Addendum and Addendum 2, the City Council approves design review and approval of a CUP for the Project; and be it

FURTHER RESOLVED: That, specifically, the City Council further affirms and adopts as its own findings and determinations the July 6, 2021 City Council Agenda

Report, including without limitation the discussion, findings, conclusions, specified conditions of approval, and CEQA findings contained in **Attachment A**.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____
ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California

ATTACHMENT A

REQUIRED FINDINGS: **CWS RECYCLING FACILITY** **CONDITIONAL USE PERMIT**

Required findings include:

- California Environmental Quality Act
- Regular Design Review: Planning Code Section 17.136.050
- Conditional Use Permit Findings: Planning Code Section 17.134.050

California Environmental Quality Act Findings

The Planning Commission certified an Environmental Impact Report for the Oakland Army Base (OARB) Redevelopment Plan (2002 EIR) on July 29, 2002. The City Council and the Redevelopment Agency also took actions to certify/adopt the 2002 EIR in October of 2002. The 2002 EIR is available to the public at the Planning Department offices and on the web at: <http://www2.oaklandnet.com/oakcal/groups/ceda/documents/webcontent/oak036432.pdf>

Subsequently in 2012, the City and the Port of Oakland adopted the 2012 Addendum to the 2002 EIR (2012 Addendum). The 2012 Addendum is available to the public at the Planning Department Offices and on the web at: <https://cao-94612.s3.amazonaws.com/documents/Army-Base-Initial-Study-052912.pdf>.

Staff has determined that Addendum No. 2 to the 2002 EIR/2012 Addendum is appropriate because no new information about the site, changes to the project, or circumstances under which the project would be undertaken that would result in new or more severe adverse environmental impacts have occurred. The California Public Resources Code Section 21166 and CEQA Guidelines Section 15164 State CEQA Guidelines Section 15164 states that an Addendum to a certified EIR is allowed when minor changes or additions are necessary and none of the conditions for preparation of a Subsequent EIR are met.

Staff has determined that there is substantial evidence that the project would not require preparation of a Subsequent or Supplemental EIR and that an Addendum is the appropriate CEQA document, per the following conclusions:

(1) The proposed project adds project-level details to a site identified in the 2002 EIR/2012 Addendum for an existing recycling facility being relocated from a primarily residential neighborhood in West Oakland. The project would not result in new significant environmental effect or a substantial increase in the severity of impacts identified in the 2002 EIR/2012 Addendum because, the CWS Project as proposed, is consistent with the development assumptions for the project site in the 2012 Addendum.

(2) Although Addendum No. 2 takes into account current conditions, there would be no new significant environmental effect or a substantial increase in the severity of impacts identified in the 2002 EIR/2012 Addendum due to changes in circumstances.

(3) Although Addendum No. 2 takes into account new information, including updated transportation and emissions assessments per current guidelines and implementation of current SCAs, there would be no new significant environmental effect or a substantial increase in the severity of impacts identified in the 2002 EIR/2012 Addendum due to new information.

Therefore, in accordance with California Public Resources Code Section 21166 and CEQA Guidelines Section 15164, the 2002 EIR/2012 Addendum and Addendum No. 2, if adopted by

the City Council, will comprise the full and complete CEQA evaluation necessary for the proposed project and no further CEQA evaluation for the project will be required.

City of Oakland Design Review Findings

The proposed recycling facility design is subject to Planning Code Section 17.136.050 - Regular design review criteria. Accordingly, regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

17.136.050 Regular design review criteria.

Regular design review approval may be granted only if the proposal conforms to all of the following general design review criteria, as well as to any and all other applicable design review criteria:

For Nonresidential Facilities and Signs.

1. That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;

The proposed project creates a well-composed design in relationship to the existing and planned industrial facilities and the surrounding neighborhood. Visually, the proposed building conforms to the area design guidelines with regard to height, bulk, texture, materials and colors. The entrance area of the proposed building is two stories where most of the building is one-story at approximately 45 feet. The two-story portion of the proposed building is the primary façade and is treated with a mix of materials of different texture and colors. The main entrance coincides with the primary façade and is softened with an abundance of landscaping including various types of ground cover, shrubs and trees.

2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;

The proposed project transforms a vacant lot into a state-of-the-art recycling facility to replace an existing facility in West Oakland. The project will protect the value of the surrounding industrial area and the operators are committed to reducing environmental impacts, specifically air pollution, by implementing required mitigation measures stipulated in the Addendum to the 2002 EIR/2012 Addendum

1. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

The proposed project complies with the vision of the D-GI district and the Oakland General Plan. The project also complies with the Gateway Industrial Design Standards, providing recycling services in a building that is consistent with existing and planned development including other recycling companies, truck servicing operations and warehousing.

City of Oakland Major Conditional Use Permit Findings

The proposed recycling facility requires a Major CUP for development of a parcel greater than one acre and construction of a non-residential building greater than twenty-five thousand (25,000) square feet of floor area. Accordingly, a Major CUP approval may be granted only if the proposal conforms to all of the following general findings applicable to Major Conditional Use Permits:

17.134.050 Findings required.

A. Except as different criteria are prescribed elsewhere in the zoning regulations, a conditional use permit shall be granted only if the proposal conforms to all of the following general use permit criteria, as well as to any and all other applicable use permit criteria:

1. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development;

The location, size, design and operating characteristics of the CWS facility are compatible with adjacent uses which include an East Bay Municipal District (EBMUD) facility to the north, a vacant parcel now reserved for a metal recycling facility to the east, a roadway overpass to the south and a truck parking facility to the west. The facility as currently designed will meet all of the Gateway Industrial District Design Standards, which include height, bulk and façade design. Employee and truck traffic would be generated primarily during non-peak traffic hours and will therefore have no significant impact on weekday rush hour traffic. Also, CWS operations run at limited capacity during evenings and weekends and will therefore have no significant impact on weekend recreation activity which is expected to occur along Grand Avenue, Maritime Street and Burma Road.

2. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant;

The project is located in an industrial use district and is surrounded by compatible industrial activities, including a water treatment plant, truck parking and a vacant parcel currently planned for a heavy metal recycling facility. The proposed approximately 50-foot tall recycling facility is compatible with completed and planned structures in the general vicinity. The proposed project complies with the D-GI zoning district standards and is compatible with Gateway Industrial District Design Standards. The area is also within the Business Mix General Plan designation, which is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of businesses and commercial and industrial

establishments. Residential activity is expressly prohibited within the D-GI district; the closest residential neighborhood is approximately 0.5 miles from the subject site.

3. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region;

The surrounding area would be occupied by a mix of industrial use, including a water treatment plant, truck parking and a planned facility for recycling of metals. This concentration of truck intensive industrial use at the Gateway Industrial District, which were formerly located in the West Oakland residential neighborhood, is essential to improving livability and air quality in the nearby West Oakland community.

4. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.134.050

Design Review of the proposed facility occurred before the City's Design Review Committee (DRC) on during its December 11, 2019 and March 4, 2020 meeting dates. All project design concerns expressed by the DRC were adequately addressed during the March 4th DRC meeting and Staff believes the proposed project substantially conforms with the Gateway Industrial District Design Standards.

5. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan or development control map which has been adopted by the Planning Commission or City Council.

The proposed recycling facility conforms with the Business Mix General Plan designation by contributing to the mix of industrial business in the D-GI zoning district. The facility conforms with the siting guidelines and operating parameters contemplated and analyzed in 2002 EIR/2012 Addendum and conforms with all applicable and required design criteria found in the Gateway Industrial District Design Standards.

ATTACHMENT B

CONDITIONS OF APPROVAL

PROJECT: CALIFORNIA WASTE SOLUTIONS (CWS) RECYCLING FACILITY PROJECT SPONSORS: RPR ARCHITECTS/CALIFORNIA WASTE SOLUTIONS

Part 1: Standard Conditions of Approval – General Administrative Conditions

1. Approved Use

The project applicant / property sponsor, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”), shall construct and operate the project in accordance with the authorized use as described in the approved application materials dated April 15, 2020 and the approved plans, as amended by the following conditions of approval and standard conditions of approval/mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

This action includes the regulatory approvals set forth below (the “Approval”):

- a. Design Review.
- b. Conditional Use Permit (CUP) to establish recycling facility.

2. Effective Date, Expiration, Extensions and Extinguishment

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this Approval, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with the requirements of, and obtain required permits from all other applicable federal, state and regional environmental agencies including the California Department of Resources Recycling and Recovery (CalRecycle), the Alameda County Department of Environmental Health, acting as the Local Enforcement Agency (LEA) for CalRecycle, the Alameda County Waste Management Authority (aka StopWaste), the Bay Area Air Quality Management District and the Regional Water Quality Control Board, as necessary. The project applicant shall comply with local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Planning and Building Department, Fire Marshal, Department of Transportation, and Public Works Department. Compliance with other agency applicable requirements may require changes to

the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

Major changes include, but are not limited to, changes of any of the following: substantial change in operations, substantial increase in recycling capacity or a substantial increase in building footprint,

5. Compliance with Conditions of Approval

- a. The project applicant shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approval or alter these Conditions if it is found that there is violation of any of the Conditions or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within sixty (60) days of approval, unless an earlier date is specified elsewhere.

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called “City”) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys’ fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called “Action”) against the City to attack, set aside, void or annul this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys’ fees.
- b. Within ten (10) calendar days of the filing of any Action as specified in subsection (a) above, the project applicant shall execute a Joint Defense Letter of Agreement, or similarly termed document, with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if one or more of such Conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid Conditions consistent with achieving the same purpose and intent of such Approval.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Standard Conditions of Approval / Mitigation Monitoring and Reporting Program (SCA/MMRP)

- a. All mitigation measures identified in the Addendum No. 2 are included in the Standard Condition of Approval / Mitigation Monitoring and Reporting Program (SCA/MMRP), which is included in these Conditions of Approval and are incorporated herein by reference, as Attachment C, as Conditions of Approval of the project. The Standard Conditions of Approval identified in the Addendum No. 2 are also included in the SCA/MMRP, and are, therefore, incorporated into these Conditions by reference. To the extent that there is any inconsistency between the SCA/MMRP and these Conditions, the more restrictive Conditions, as determined by the City, shall govern. In the event a Standard Condition of Approval or mitigation measure recommended in the Addendum No. 2 has been inadvertently omitted from the SCA/MMRP, that Standard Condition of Approval or mitigation measure is adopted and incorporated from the Addendum No. 2 into the SCA/MMRP by reference, and adopted as a Condition of Approval. The project applicant shall be responsible for compliance with the requirements of any submitted and approved technical reports, all applicable mitigation measures adopted, and with all Conditions of Approval set forth herein at his/her sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or Condition of Approval, and subject to the review and approval by the City of Oakland. The SCA/MMRP identifies the timeframe and responsible party for implementation and monitoring for each Standard Condition of Approval and mitigation measure. Unless otherwise specified, monitoring of compliance with the Standard Conditions of Approval and mitigation measures will be the responsibility of the Bureau of Planning, with overall authority concerning compliance residing with the Environmental Review Officer. Adoption of the SCA/MMRP meets the City’s requirement set forth in section 21081.6 of CEQA to develop a monitoring and reporting program.
- b. Prior to the issuance of the first construction-related permit, the project applicant shall pay the applicable mitigation and monitoring fee to the City in accordance with the City’s Master Fee Schedule.

13. Compliance Matrix

The project applicant shall submit a Compliance Matrix, in both written and electronic form, for review and approval by the Bureau of Planning and the Bureau of Building that lists each Condition of Approval (including the SCA/MMRP measures) in a sortable spreadsheet. The Compliance Matrix shall contain, at a minimum, each required Condition of Approval, when compliance with the Condition is required, and the status of compliance with each Condition. For multi-phased projects, the Compliance Matrix shall indicate which Condition applies to

each phase. The project applicant shall submit the initial Compliance Matrix prior to the issuance of the first construction-related permit and shall submit an updated matrix upon request by the City.

OTHER STANDARD CONDITIONS

14. Employee Rights

The project applicant and sponsor shall comply with State and Federal laws regarding employees' right to organize and bargain collectively with employees and shall comply with the Oakland Minimum Wage Law (Chapter 5.92 of the Oakland Municipal Code).

When required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

PROJECT SPECIFIC CONDITIONS

15. Entry Gate

A schematic design of the proposed kiosk near the entry gate shall be reviewed and approved by Planning Staff prior to building permit submittal.

When required: Prior to submittal building permit application

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

16. Acceptable Materials

Only the following "Acceptable Materials" may be accepted at the facility: items collected in commercial recycling activities and municipal residential programs such as those collected by CWS under the *Residential Recycling Collection Service Contract* between City of Oakland and CWS: newspaper, mixed paper (including, but not limited to, white and colored paper, magazines, telephone books, chipboard, junk mail, and high grade paper), glass bottles and jars, metal cans including empty aerosol containers, aluminum foil and trays, milk and juice cartons, soup and juice boxes, narrow neck rigid plastic containers, non-bottle rigid plastics, and corrugated cardboard, which have been source-separated from other solid waste by residential and commercial generators for the purpose of recycling, as defined in California Public Resources Code 40180. Acceptable Materials also include materials collected by CWS under the Residential Recycling Collection Service Contract between City and CWS, including dry cell household batteries, used motor oil and used motor oil filters.

The recycling facility shall not allow drop-in recycling by the general public.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

17. Waste Quantities

The recycling facility may only receive, process, and transfer up to 850 tons per day of Acceptable Materials. The project applicant must provide sufficient space to receive and store materials during peak operating periods without infringing upon traffic flow or equipment operation. In instances of emergency situations where the inflow rate could be increased and/or additional waste storage is needed, the Lead Enforcement Agency (LEA) is to be contacted to coordinate the best procedures to minimize potential public health hazards for this type of short-term condition.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

18. Prohibited Wastes

Subject to Section 1. Above, the facility is expressly prohibited from receiving, processing, or transferring the waste defined in the following sections of Title 14, Division 7, Chapter 3 of the California Code Regulations, except for the amounts received incidental to source-separated recycling (e.g. E-wastes, propane cylinders, CO2 cylinders, fire extinguishers, medical wastes and the like), which shall be properly stored and disposed of at an appropriate disposal facility:

17225.8. Bulky Waste. “Bulky Waste” includes large items of solid waste such as appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

17225.15. Construction and Demolition Wastes. “Construction and Demolition Wastes” include the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

17225.30. Garbage. “Garbage” includes all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs.

17225.32. Hazardous Wastes. “Hazardous Wastes” include any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant, a strong sensitizer, which generates pressure through decomposition, heat or other means, if such a waste or mixture of wastes may cause substantial personal injury, serious illness or harm to humans, domestic animals, or wildlife, during, or as an approximate result of any disposal of such wastes or mixture of wastes as defined in Article 2, Chapter 6.5, Section 25117 of the

Health and Safety Code. The terms “toxic,” “corrosive,” “flammable,” “irritant,” and “strong sensitizer” shall be given the same meaning as in the California Hazardous Substances Act (Chapter 13 commencing with Section 28740 of Division 21 of the Health and Safety Code).

17407.5. “Hazardous, Liquid and Special Wastes” include wastes such as propane cylinders, CO2 cylinders, fire extinguishers and E-wastes.

17225.52. Putrescible Wastes. “Putrescible Wastes” include wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions, and include materials such as food wastes, offal and dead animals.

17408.2. Medical Wastes. “Medical Waste” includes untreated medical waste, including sharps waste.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

19. Material Handling

All material management, processing and storage shall be conducted entirely inside the enclosed building.

Used motor oil received through the recycling collection program is to be stored in a waste oil tank located in the vehicle maintenance facility and emptied and removed from the recycling facility by a certified oil recycling company.

Batteries are to be stored in a location within the recycling facility that would have a fire-safe barrier separating the battery storage from any bale or fuel storage.

Materials delivered to the facility for processing shall be processed and transported away from the facility in accordance with the amount of time allowed under the Solid Waste Facility Permit.

“Glass bottles and jars” included in “Acceptable Materials” shall be sorted and processed into glass and glass fines which shall be transported to glass beneficiation facilities for further processing for recycling.

Prohibited materials received incidental to source-separated recycling shall be separated, properly stored and transported to an appropriate disposal facility.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

20. Burning Waste

Open burning of solid waste at the facility is prohibited. If burning wastes are inadvertently received at the facility, they are to be immediately unloaded away from other materials where it can be spread and extinguished. If fire appears to be a greater threat, 911 is to be called immediately for assistance from the Fire Department. Smaller fires can be extinguished through use of accessible fire suppression equipment (e.g. fire extinguishers) operated by facility personnel who are trained in the proper procedures in the event of a fire. Any incidents of fire are to be noted in the Special Occurrence Log.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

21. Load Checking

In accordance with 14 CCR, Section 17409.5(a), the project applicant must implement a load checking program at the facility. Site personnel are to be trained in the recognition, proper handling and disposition of prohibited waste. In the event that a hazardous or prohibited waste is detected as part of the load checking program, it either must be rejected or, if the hauler cannot be identified, separated or cordoned off with traffic cones or similar devices, and properly disposed using licensed haulers.

All loads entering the facility are required to be covered (tarped). Each incident of an uncovered load is to be logged by date, and the customer's name and vehicle license numbers are documented. Repeat violators shall be refused entry.

Load checking records for the previous year are to be maintained for future reference at the facility office.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

22. Traffic

The maximum daily permitted truck trips at the facility is 308 one-way truck trips.

Collection trucks should depart the site before the peak morning traffic hour.

The number of trucks returning during peak afternoon hours shall not exceed seven trips.

Transfer trucks that transport recyclable material to market and non-recyclable material to the landfill or further processing shall be scheduled to travel during off-peak hours (5:00 a.m. to 7:00 a.m. and 11:00 a.m. to 3:00 p.m. weekdays).

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

23. Signs

Identification signs are to be posted at the main gate of the facility. Entry signs must provide the following information:

Delivery hours

Emergency phone numbers

Speed limit on site to prevent dust

Requirement that all loads entering the facility shall be covered (tarped).

Also, the facility is not open to the public therefore each point of access from a public road shall be posted with an easily visible sign indicating the operation or facility name and location of nearest public operation or facility.

In addition, warnings for exposure to loud noise are also to be clearly posted in appropriate locations.

When required: Prior to issuance of a Certificate of Occupancy (Temporary or Final, as the case may be)

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Building

24. Equipment Maintenance

The project applicant is required to implement a preventative maintenance program to ensure the reliability of all equipment and vehicles. Daily maintenance of both mobile and stationary equipment is to be conducted.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

25. Standby Equipment

The project applicant must have sufficient standby equipment available to meet requirements while equipment repairs are being made.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

26. Personnel

The project applicant must maintain adequate numbers of qualified personnel to ensure the proper operation of the facility. Facility personnel are required to attend monthly scheduled training meetings in proper facility operation and maintenance, hazardous waste recognition

and screening, environmental and nuisance controls, use of equipment, safety procedures, and emergency situation procedures.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

27. Safety

The project applicant must prepare a safety plan in accordance with SB 198 (Injury and Illness Prevention Program). This plan is to be maintained on site at the facility's main administration office.

When required: Prior to issuance of a Certificate of Occupancy (Temporary or Final, as the case may be)

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

28. Facility Maintenance and Cleaning

The project applicant must implement a maintenance program at the facility. The program must include daily monitoring for defective or deteriorated conditions, and the prompt repair of problems.

The buildings and facility grounds are to be cleaned of loose materials and litter daily. Litter pick-up within the facility yard and around the facility is to be conducted on a continual basis to prevent the tracking or off-site migration of waste materials.

The project applicant must conduct daily general housekeeping at the facility to minimize the accumulation of materials (i.e., fuel drums, used parts, inoperable equipment, tires, scrap and similar items) inherent in the operation of a recycling facility. The paved areas of the facility (including the entrance area) are to be repaired, as necessary.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

29. Odor

Areas utilized for processing and storage of recyclable must be cleaned on a regular basis to prevent odor generation. Constant monitoring of the processing and storage areas, including containers, by facility personnel must be implemented to prevent the creation of odors.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

30. Vector, Bird and Animal Control

In accordance with 14 CCR, Section 17410.4, the project applicant shall institute measures to control or prevent the propagation, harborage and attraction of flies, rodents or other vectors and animals, and to minimize bird attraction. A site-specific Integrated Pest Management and Maintenance Plan (IPMMP) must be prepared and submitted to the LEA as part of the Solid Waste Facility Permit application. Following approval by the LEA, the IPMMP must be implemented and maintained at the facility.

All containers are to be inspected and cleaned if they appear to be an attraction to any vectors. Proper drainage is to be designed to prevent any standing water from accumulating along the edge of the buildings, and/or paved areas of the facility. If fly larvae is observed, the area should be sprayed with an appropriate fly control agent and wet material removed so larvae does not return.

A maintenance program to prevent vector problems must be conducted, as necessary, by either site personnel or a professional pest control company, including setting, maintaining, and inspecting rodent traps by the professional pest control company. Bird control measures must be implemented to control bird attraction to the site. These measures include installation of spikes on buildings and light poles.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

31. Dust

The project applicant must implement dust control measures at the facility. The facility equipment and the building floor must be cleaned on a daily basis. **Automatic sprayers (mister system) must be utilized within the building to control dust.** Sweeping the exterior paved surfaces must be conducted daily to minimize the accumulation of dust and dirt, and setting speed limits for trucks to minimize dust.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

32. Noise

All collection vehicles and equipment used at the site are to be properly muffled. Workers are to be provided with ear protection, as necessary. Noise levels shall not exceed the maximum noise levels allowed in all industrial zones as described in Table 17.120.03 of the City's Planning Code, Signage is to be installed warning employees and visitors of potential exposure to loud noises.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

33. Public Complaints

The project applicant must maintain a record of any written public complaints, including the nature of the complaint, the date of the complaint, name, address, telephone number of the person(s) making the complaint, and any action(s) taken in response.

When required: Ongoing

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

34. Reporting

At the end of each quarter, the project applicant shall provide to the City and Alameda County Waste Management Authority (StopWaste) the following information regarding activities at the CWS North Gateway Recycling Facility during the preceding quarter: daily number of one-way truck trips; incidents of uncovered loads; inbound tonnage by local jurisdiction; outbound tonnage by commodity and facility destination; the tonnage of non-marketed materials (e.g. contaminants or rejects) that are sent to a landfill; the facility's diversion rate (including methodology); list personnel who are required to attend monthly scheduled training meetings in proper facility operation and maintenance, including hazardous waste recognition and screening, environmental and nuisance controls, use of equipment, safety procedures, and emergency situation procedures; and any public complaints.

When required: Quarterly

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

35. Relinquishment of Existing CUPs

By submitting the executed version of the form letter attached hereto as Exhibit A ("Termination and Relinquishment of CUP Rights Letter"), Project applicant shall unconditionally, fully and permanently (a) cease all recycling and other nonconforming operations at 1819 10th Street, 1820 10th Street (APNs: 006-0029-003-02; 006-0049-027-01; 006-0049-025-01) (collectively, "10th Street Parcels"); and such additional contiguous parcels that project applicant may own and use for its current operations (collectively, "10th Street Parcels"); and (b) relinquish all of its rights to conduct recycling or industrial operations under Conditional Use Permits CM04460 and CM92-222 for 1819 10th Street and 1820 10th Street ("Existing CUPs"). Submittal of the Termination and Relinquishment of CUP Rights Letter shall effectuate the relinquishment of the foregoing rights, in lieu of any other process that may be available.

When required: Prior to issuance of Certificate of Occupancy (Temporary or Final, as the case may be)

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

36. Cessation of Legal Nonconforming Uses

By submitting an executed version of the form letter attached hereto as Exhibit B (“Termination and Relinquishment of Legal Nonconforming Rights Letter”), Project applicant shall unconditionally, fully and permanently (a) cease all recycling and other nonconforming operations at 3300 Wood Street and/or the 10th Street Parcels; and (b) relinquish all of its legal non-conforming use rights at 3300 Wood Street (APN 007-0599-001-03) and/or the 10th Street Parcels to conduct recycling or industrial operations. Submittal of the Termination and Relinquishment of Legal Nonconforming Rights Letter shall effectuate the relinquishment of the foregoing rights, in lieu of any other process that may be available.

When required: Prior to issuance of Certificate of Occupancy (Temporary or Final, as the case may be)

Initial Approval: Bureau of Planning

Monitoring/Inspections: Bureau of Planning

Exhibit A

**FORM OF
TERMINATION AND RELINQUISHMENT
OF CUP RIGHTS LETTER**

[DATE]

Department of Planning
City of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: **Conditional Use Permits CM04460 and CM92-222 (collectively, the “Existing CUPs”) for Parcels Associated With 1819 10th Street and 1820 10th Street (respectively, APN Nos: 006-0029-003-02; 006-0049-027-01; 006-0049-025-01) (collectively, “Subject Properties”)**

Dear Sir/Madam:

Pursuant to Condition 35 of Conditional Use Permit PLN19158, this is to notify you that [ADD NAME OF LEGAL OWNER(S)], the sole fee title holders of the Subject Properties (“Owners”), hereby fully, permanently and unequivocally relinquish all rights, benefits and privileges related to or arising from the Existing CUPs. In addition, we represent and warrant that all recycling and/or nonconforming operations have been ceased at the Subject Properties. The foregoing is effective as of the date of this letter.

We further acknowledge and agree that this relinquishment letter (1) is in exchange for good and valuable consideration received by the Owners pursuant to that certain Lease/Disposition and Development Agreement by and between the City of Oakland and California Waste Solutions, approved by Ordinance No. [ADD ORDINANCE NO.] on date [ADD DATE]; (2) supersedes any other equitable or administrative revocation, abandonment or relinquishment process that may exist; and (3) shall apply to all successors and assigns of the Subject Properties.

Sincerely,

[ADD SIGNATURE BLOCK]
[SIGNATURE TO BE NOTARIZED]

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, 20__, before me, _____,
(Name of Notary)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Signature)

**FORM OF
TERMINATION AND RELINQUISHMENT
OF LEGAL NONCONFORMING RIGHTS LETTER**

[DATE]

Department of Planning
City of Oakland
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

Re: **Legal Nonconforming Rights to Conduct Recycling Operations and Other Nonconforming Uses (collectively, the “Legal Nonconforming Rights”) at Parcels Associated with 1819 10th Street, 1820 10th Street and 3300 Wood Street (respectively, APN Nos: 006-0029-003-02; 006-0049-027-01; 006-0049-025-01; 007-0599-001-03) (collectively, “Subject Properties”)**

Dear Sir/Madam:

Pursuant to Condition 36 of Conditional Use Permit PLN19158, this is to notify you that [ADD NAME OF LEGAL OWNER(S)], the sole fee title holders of the Subject Properties (“Owners”), hereby fully, permanently and unequivocally relinquish all rights, benefits and privileges related to or arising from the Legal Nonconforming Rights. In addition, we represent and warrant that all recycling and/or industrial operations have been ceased at the Subject Properties. The foregoing is effective as of the date of this letter.

We further acknowledge and agree that this relinquishment letter (1) is in exchange for good and valuable consideration received by the Owners pursuant to that certain Lease/Disposition and Development Agreement by and between the City of Oakland and California Waste Solutions, approved by Ordinance No. [ADD ORDINANCE NO.] on date [ADD DATE]; (2) supersedes any other equitable or administrative revocation, abandonment or relinquishment process that may exist; and (3) shall apply to all successors and assigns of the Subject Properties.

Sincerely,

[ADD SIGNATURE BLOCK]
[SIGNATURE TO BE NOTARIZED]

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, 20__, before me, _____,
(Name of Notary)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Signature)

Exhibit B

RECORDING REQUESTED BY:

**WHEN RECORDED MAIL TO:
CITY OF OAKLAND
PLANNING & BUILDING DEPARTMENT
BUREAU OF BUILDING
250 FRANK H OGAWA PLAZA, 2ND FLOOR
OAKLAND, CA 9412
ATTN: CODE ENFORCEMENT SERVICES**

(If other than "City of Oakland" the applicant
Only
shall ensure that a copy is provided to the City.)

Space Above This Line For Recorder's Use

**1. NOTICE OF TERMINATION AND
2. RELINQUISHMENT OF RIGHTS**

Subject Properties Address: 1819 10th Street, 1820 10th Street
Subject Properties APN: 006-0029-003-02; 006-0049-027-01; 006-0049-025-01
Planning Permit Numbers: Conditional Use Permits CM04460 and CM92-222
Building Permit Numbers: N/A

Notice is hereby given that Owner(s) of Record of the Subject Properties have fully, permanently and unequivocally terminated all existing operations and relinquished all rights, benefits and privileges related to the noted Planning Permits pursuant to that certain Termination and Relinquishment of CUP Rights Letter dated [ADD DATE]. Further notice is given that said letter (1) is in exchange for good and valuable consideration received by the Owner(s) pursuant to that certain Lease/Disposition and Development Agreement by and between the City of Oakland and California Waste Solutions, approved by Ordinance No. [ADD ORDINANCE NO.] on date [ADD DATE]; (2) supersedes any other equitable or administrative revocation, abandonment or relinquishment process that may exist; and (3) shall apply to all successors and assigns of the Subject Properties.

Owner(s) of Record: _____ Date: _____

Signed: _____ Print: _____



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of _____)

On _____, 20__, before me, _____,
(Name of Notary)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Signature)

RECORDING REQUESTED BY:

**WHEN RECORDED MAIL TO:
CITY OF OAKLAND
PLANNING & BUILDING DEPARTMENT
BUREAU OF BUILDING
250 FRANK H OGAWA PLAZA, 2ND FLOOR
OAKLAND, CA 9412
ATTN: CODE ENFORCEMENT SERVICES**

(If other than "City of Oakland" the applicant
Only
shall ensure that a copy is provided to the City.)

Space Above This Line For Recorder's Use

3. NOTICE OF TERMINATION AND 4. RELINQUISHMENT OF RIGHTS

Subject Properties Address: 1819 10th Street, 1820 10th Street; 3300 Wood Street
Subject Properties APN: 006-0029-003-02; 006-0049-027-01; 006-0049-025-01; 007-0599-001-03
Planning Permit Numbers: Legal Nonconforming Rights to Conduct Recycling and/or Nonconforming Operations
Building Permit Numbers: N/A

Notice is hereby given that Owner(s) of Record of the Subject Properties have fully, permanently and unequivocally terminated all existing operations and relinquished all rights, benefits and privileges related to their legal nonconforming rights to conduct recycling and/or nonconforming operations at the Subject Property, pursuant to that certain Termination and Relinquishment of Legal Nonconforming Rights Letter dated [ADD DATE]. Further notice is given that said letter (1) is in exchange for good and valuable consideration received by the Owner(s) pursuant to that certain Lease/Disposition and Development Agreement by and between the City of Oakland and California Waste Solutions, approved by Ordinance No. [ADD ORDINANCE NO.] on date [ADD DATE]; (2) supersedes any other equitable or administrative revocation, abandonment or relinquishment process that may exist; and (3) shall apply to all successors and assigns of the Subject Properties.

Owner(s) of Record: _____ Date: _____

Signed: _____ Print: _____

ACKNOWLEDGMENT

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State of California)

County of _____)

On _____, 20__, before me, _____,
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personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Notary Signature)