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OAKLAND

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AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Non-Disposal Facility Element

DATE: May 24, 2012

City Administrator
Approval

Date

6/10/12

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council approve a resolution adopting the Third Amendment to the City's Non-Disposal Facility Element (a recycling planning document required by the State of California), which describes and identifies solid waste, recycling, and processing facilities that city residents, businesses and members of the public use to reduce materials sent to landfills, to add a new facility.

OUTCOME

Approval of this resolution would amend the Non-Disposal Facility Element (NDFE) to add a new facility operated by Recology East Bay Organics (REBO). The draft Third Amendment to the NDFE (*Exhibit 1*) adds the Preprocessing Facility that will be operated by REBO at the East Bay Municipal Utility District (EBMUD) Main Wastewater Treatment Plant at 2020 Wake Avenue. Although the proposed organic-rich materials Preprocessing Facility is located within the land-use jurisdiction of the Port of Oakland, the NDFE is the responsibility of the City. State law requires that a NDFE amendment be adopted by resolution of the City Council, and that the City notifies California Department of Resources Recycling and Recovery (CalRecycle) of the amendment adoption.

BACKGROUND/LEGISLATIVE HISTORY

The California Integrated Waste Management Act of 1989 (AB939) required every city and county in California to adopt a Source Reduction and Recycling Element (SRRE) outlining plans to comply with the mandated waste diversion goal of 50% by 2000. Assembly Bill 3001 (1992) mandated every city and county in the state to prepare and adopt NDFEs to identify and describe existing and planned non-disposal facilities used to assist in implementing the waste reduction programs outlined in the SRREs. To amend a NDFE, the governing body of the local jurisdiction must adopt an amendment through a resolution, pursuant to Title 14 California Code of Regulations, Division 7, Chapter 9, Article 7, Section 18766(b) (1).

Item: _____
Public Works Committee
June 26, 2012

Oakland's NDFE was approved in 1994. It was first amended in 2005 to add facilities operated by Capitol Recycling, Smurfit-Stone Recycling, and California Waste Solutions. The NDFE was amended a second time in 2010 to remove the Capitol Recycling facility and add a construction and demolition debris recycling facility operated by Commercial Waste & Recycling. The third amendment would add a preprocessing facility for organic materials operated by Recology East Bay Organics (REBO).

Over the last several years, EBMUD has been testing the use of one of its sewage digesters for the anaerobic digestion of commercial and industrial food scraps, putting to work underutilized infrastructure at the Main Wastewater Treatment Plant (MWWTP) to create and capture methane to meet on-site energy needs. REBO has been one of the main providers of the digester feedstock, delivering commercial food scraps collected in Oakland and elsewhere. In addition, REBO and EBMUD have collaborated on testing methods for preparing this organic-rich feedstock to maximize digester performance.

The proposed Non-Disposal Facility Element (NDFE) amendment adds the REBO Organic-Rich Materials Preprocessing Facility (Preprocessing Facility). The Preprocessing Facility is described by REBO as a covered structure that they will build and operate at the MWWTP at 2020 Wake Avenue. The Preprocessing Facility will process source separated organic-rich waste material, including food scraps, for EBMUD's existing anaerobic digester. REBO has requested the City to add this facility to the NDFE in order to obtain a Solid Waste Facility Permit from CalRecycle.

ANALYSIS

The draft Third Amendment to the NDFE (*Exhibit I*) adds the Preprocessing Facility that will be operated by REBO at the EBMUD Main Wastewater Treatment Plant at 2020 Wake Avenue. The closest residence is located over 3,000 feet from the proposed Preprocessing Facility. The facility is expected to be operational by September 2012 and would process organic-rich materials collected from Oakland businesses and from other Bay Area jurisdictions. Organic-rich materials include food scraps and a minimal amount of yard trimmings, recyclables and garbage.

The proposed use is classified as Industrial Transfer/Storage Facility which is consistent with the City of Oakland General Plan Land Use designation for the site IG (General Industrial Zone Regulations). Since the project site is located within the land use jurisdiction of the Port of Oakland, the project requires approval of a Port of Oakland Development Permit which is currently under consideration.

The Preprocessing Facility will be designed, constructed, and operated by REBO under a 10-year land-lease agreement with EBMUD. The Preprocessing Facility is designed to receive, sort, process, and appropriately route up to 600 tons per day of organic-rich materials. These materials will be screened and ground for digestion. The resulting pre-processed material will be

delivered to the adjacent EBMUD anaerobic digester for methane production. Non-organic materials that are captured by the screening process will be loaded into transfer trailers and transported to a recycling or disposal facility.

Of the maximum 600 tons per day of materials that the Preprocessing Facility anticipates receiving and processing, approximately 250 tons would be delivered to EBMUD. The remaining materials, at least 230 tons per day would be hauled to a commercial compost facility, and up 90 tons per day would be hauled to landfill, resulting in 80 to 90% diversion rate for all incoming material. The facility will be open seven (7) days a week, 24-hours a day, although REBO plans for most activity to occur during weekdays with minimal activity on the weekends. The facility will not be open to the public.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

The Office of the City Attorney, the Department of Planning, Building & Neighborhood Preservation and the Office of Neighborhood Investment were consulted for the preparation of this report.

COST SUMMARY/IMPLICATIONS

No fiscal impacts are associated with adopting the City's independent CEQA-related findings and conclusions or adopting the Third Amendment to the NDFE.

SUSTAINABLE OPPORTUNITIES

Economic: Adopting the Resolution will increase organics processing capacity that may stimulate local recyclers to provide organics collection to Oakland businesses. A new preprocessing facility will potentially create new employment opportunities for Oakland and Bay Area residents.

Environmental: Recycling and waste reduction provide an environmental benefit by reducing greenhouse gas emissions.

Social Equity: The planned location of this facility has the potential to provide jobs to the immediate neighborhood, which may be often under-served.

CEQA

EBMUD, as the Lead Agency under CEQA, prepared an Environmental Impact Report (EIR) that evaluated the environmental impacts of its MWWTP Master Plan, one component of which is the Preprocessing Facility Project (Project). EBMUD certified the EIR and approved the Project on June 28, 2011. No legal actions were filed challenging the EIR or Project.

The City is considered a Responsible Agency under CEQA because it has some responsibility for carrying-out or approving the Project – here, the adoption of the Third Amendment to the City’s Non-Disposal Facility Element. As such, it must rely on the EIR prepared by EBMUD, conduct its own environmental review or challenge the legal adequacy of EBMUD’s EIR no later than 30 or 180 days after its adoption.¹ If the City Council relies on the EIR, as staff recommends, it must adopt CEQA-related findings, including that it has reviewed and considered the EIR, rejected alternatives as being infeasible and adopted a Statement of Overriding Considerations (finding that the benefits of the Project outweigh its environmental impacts).

The MWWTP EIR concluded that all direct impacts of the project could be mitigated to less than significant levels. The only potentially significant unavoidable impact identified in the EIR related to cumulative air quality community risks and hazards because of existing circumstances in the project area. While impacts from projects identified in the proposed Master Plan were determined to be less than significant with mitigation, cumulative emissions of diesel particulate matter from existing sources (primarily freeways adjacent to the MWWTP) are substantial. Thus, even though the impact from the MWWTP Master Plan is less than significant with mitigation, cumulative community risk and hazard impacts within 1,000 feet of the project site have been determined to be significant because they exceed the Bay Area Air Quality Management District (BAAQMD) thresholds of significance. The impact would be significant with or without implementation of the MWWTP Master Plan.

In accordance with Section 15093 of the CEQA Guidelines, EBMUD’s Board adopted a Statement of Overriding Considerations, finding that the economic, legal, social, technological and service-related benefits of the Project outweighed the potentially significant and unavoidable adverse environmental impact; these benefits included:

- Improved odor control through implementation of the odor control upgrades that are part of the MWWTP Master Plan;
- Improved safety at the MWWTP;
- Flexibility to construct advanced treatment facilities to meet future regulations;
- Maintenance of reasonable wastewater user rates through revenue generation at the MWWTP;

¹ Per California Code of Regulations (CCR), Title 14, Chapter 3, Section 15112. Statutes of Limitations is 30 days (if a Lead Agency has filed a notice of determination in compliance with CCR, Title 14, Ch.3, Sections 15075 or 15094; or 180 days if no NOD has been filed.

- Potential creation of local jobs;
- Increased solid waste diversion; and
- Production of renewable energy, including biodiesel, which may be used in heavy-duty trucks that access the Port of Oakland.

As part of its compliance with CEQA, EBMUD studied three alternatives for the Project, in addition to the No Project Alternative. EBMUD ultimately found that these alternatives failed to meet stated project objectives as well as the Project; and furthermore, there was no clearly environmentally superior alternative to the Project. Direct Project-related impacts were similar across all of the alternatives on balance; the one significant and unavoidable cumulative air quality community risks and hazards impact identified is a result of existing adjacent uses so none of the project alternatives could eliminate it.

The City is in agreement with the conclusions of EBMUD's MWWTP EIR, however, staff requested more information from REBO relating to further reducing PM10 emissions. REBO responded in a letter to the City dated May 21, 2012 that they will comply with all mitigation measures identified in the EIR. They will also undertake the following additional measures:

- Use B20 biodiesel in the fleet vehicles resulting in 10% Diesel Particulate Matter (DPM) reduction over regular diesel.
- Implement advanced emission control technology as it becomes available to achieve Tier 4 DPM emissions standards for non-road diesel engines.
- Phase out diesel vehicles in favor of natural gas vehicles over time.
- Limit vehicle idling to no more than five minutes for all trucks on the premises.
- Distribute information to non-Recology trucks educating them about ways to reduce their DPM emissions.

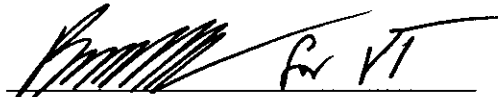
The monitoring and reporting of CEQA mitigation measures in connection with the Project will be conducted in accordance with the Mitigation Monitoring and Reporting Program, which is also to be adopted. Adoption of this Program will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of the Public Resources Code. All proposed mitigation measures are capable of being fully implemented by the efforts of EBMUD or other identified entities.

The EIR, EBMUD Staff Report and CEQA findings were previously provided to the City Council under separate cover and are located in the Office of the City Clerk, the Planning Department, and on the Web at

<http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157>.

For questions regarding this report, please contact Wanda Redic, Recycling Specialist, at (510) 238-6808.

Respectfully submitted,



Vitaly B. Troyan, P.E.
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
Susan Katchee, Environmental Services Manager

Prepared by:
Wanda Redic, Recycling Specialist
Environmental Services Division

Attachments –
Exhibit 1 – Third Amendment City of Oakland Non-Disposal Facility Element

Item: _____
Public Works Committee
June 26, 2012

EXHIBIT 1

THIRD AMENDMENT CITY OF OAKLAND NON-DISPOSAL FACILITY ELEMENT

THIRD AMENDMENT

This is the Third Amendment to the City of Oakland's Non-Disposal Facility Element (NDFE), which was approved in 1994, and amended in 2005 and 2010.

This Third Amendment to the NDFE describes changes only to facilities within the City of Oakland and includes:

- Adding Recology East Bay Organics Organic-Rich Materials Preprocessing Facility

There are no changes to facilities operating outside the City of Oakland that are used to implement the selected programs identified in Oakland's Source Reduction and Recycling Element (SRRE).

NON-DISPOSAL FACILITY ELEMENT OBJECTIVES

The purpose of the NDFE is to identify and describe existing and/or planned Non-Disposal Facilities (NDFs) to be utilized by the City of Oakland in attaining the waste reduction goals identified in the City's SRRE. NDFs include transfer and processing stations, material recovery facilities (MRFs) that receive unsorted waste, and composting facilities. MRFs that receive sorted materials and other facilities that do not require County solid waste facility permits normally do not fall under this definition of NDFs.

A proposed new or expanded NDF in Oakland cannot be considered for development until it has been identified and described in the City's NDFE. Each proposed NDF must also comply with appropriate project-specific CEQA review, the land use permitting process, and the permit processes of various other federal, state, regional and countywide agencies.

The following section provides detailed information about Recology East Bay Organics as identified in the Third Amendment to NDFE.

EXHIBIT 1

THIRD AMENDMENT CITY OF OAKLAND NON-DISPOSAL FACILITY ELEMENT

CHANGES TO EXISTING NON-DISPOSAL FACILITIES WITHIN THE CITY OF OAKLAND USED TO IMPLEMENT THE CITY OF OAKLAND'S SRRE PROGRAMS

ADD: RECOLOGY EAST BAY ORGANICS

Facility Name, Address, and Type

Recology East Bay Organics
Organic-Rich Materials Preprocessing Facility
2020 Wake Avenue
Oakland, CA 94607

The Organic-Rich Materials Preprocessing Facility will be utilized as an on-site preprocessing operation to remove non-digestible materials from source-separated food scraps in order to provide organic-rich feedstock directly to East Bay Municipal Utility District's anaerobic digester.

Type of Materials Accepted for Diversion from Landfill Disposal

The Preprocessing Facility will be designed to receive, process, and route up to 600 tons of organic-rich materials per day. These organic-rich materials include food scraps and a minimal amount of yard debris materials such as yard clippings and trimmings. The food scraps will consist of raw and cooked vegetables and animal materials. These materials will be source-separated, processed, and dispatched to EBMUD's adjacent Front-End Processing Facility for anaerobic digestion.

Anticipated Diversion Rate

The Preprocessing Facility is anticipated to divert approximately 80 to 90 percent of the incoming materials each operating day. Dependent on the characteristics of the material, the remainder will be dispatched to a Municipal Recycling Facility and/or landfill as appropriate. Materials diverted to a MRF would include any recyclables captured during processing.

Participating Jurisdictions

The Preprocessing Facility is anticipated to serve Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties.

Land Use Designation

The City of Oakland General Plan Land Use designation for the site is "General Industry and Transportation". This classification supports a variety of uses including: heavy industrial and manufacturing uses, distribution and warehousing, food processing, heavy impact research, and other uses of a similar nature.

EXHIBIT 1

THIRD AMENDMENT CITY OF OAKLAND NON-DISPOSAL FACILITY ELEMENT

Land Use Permit Status

The current zoning for the project site is Industrial General (IG). The proposed use is classified as Industrial Transfer/Storage Facility under the City of Oakland Zoning Ordinance. However, the project site is located within the land use jurisdiction of the Port of Oakland, and requires approval of a Port of Oakland Development Permit which is currently under consideration. Land uses on surrounding properties include: wastewater treatment plant, vacant land, major highways, industrial uses, materials and container storage, trucking, and port operations. The closest residence is located over 3,000 feet from the Preprocessing Facility.

Environmental review and analysis per the requirements of the California Environmental Quality Act (CEQA) is complete, and a combined Program/Project Environmental Impact Report (EIR) for EBMUD's Main Wastewater Treatment Plant Land Use Master Plan was prepared and adopted by EBMUD Board of Directors on June 28, 2011 which included the Preprocessing Facility.

Facility Size

Facility size is approximately 59,680 square feet.

Facility Capacity

The facility is expected to have up to six hundred (600) tons per day processing capacity for organic rich material.

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

City Attorney

A RESOLUTION ADOPTING THE THIRD AMENDMENT TO THE CITY'S NON-DISPOSAL FACILITY ELEMENT (A RECYCLING PLANNING DOCUMENT REQUIRED BY THE STATE OF CALIFORNIA), WHICH DESCRIBES AND IDENTIFIES SOLID WASTE, RECYCLING, AND PROCESSING FACILITIES THAT CITY RESIDENTS, BUSINESSES AND MEMBERS OF THE PUBLIC USE TO REDUCE MATERIALS SENT TO LANDFILLS, TO ADD A NEW FACILITY.

WHEREAS, in 1992 the City Council adopted the Source Reduction and Recycling Element (SRRE), pursuant to the California Integrated Waste Management Act of 1989 (Act); and

WHEREAS, Assembly Bill 3001 (Cortese, 1992) required every city and county in the State to prepare and adopt a Non-Disposal Facility Element (NDFE) that identified and described existing and planned non-disposal facilities to be used by cities and counties to assist in implementing programs identified in the SRREs; and

WHEREAS, in February 1994 through Resolution No. 70748 C.M.S. the City Council adopted the NDFE, and in February 2005 through Resolution No. 79083 C.M.S., and in April 2010 through Resolution No. 82689 C.M.S., the City Council adopted the First and Second Amendments to the NDFE; and

WHEREAS, State law requires that amendments to the NDFE be adopted by City Council by Council Resolution; and

WHEREAS, Recology East Bay Organics proposes to build and operate a facility in Oakland, at EBMUD'S Main Waste Water Treatment Plant (MWWTP), that would pre-process organic-rich materials for anaerobic digestion, and is requesting that the facility be added to the City's NDFE in order to obtain a Solid Waste Facility Permit from CalRecycle; and

WHEREAS, in 2006 through Resolution No. 80286 C.M.S. the City Council approved the Zero Waste Strategic Plan, which calls for developing recycling infrastructure to achieve the Zero Waste goal and Recology East Bay Organics adds to Oakland's recycling infrastructure; and

WHEREAS, EBMUD, as the Lead Agency under CEQA, prepared an Environmental Impact Report (EIR) that evaluated the environmental impacts of its MWWTP Master Plan, one component of which is the Preprocessing Facility Project (Project); and

WHEREAS, EBMUD certified the EIR and approved the Project on June 28, 2011; and

WHEREAS, The City is considered a Responsible Agency under CEQA because it has some responsibility for carrying-out or approving the Project – here, the adoption of the Third Amendment to the City's Non-Disposal Facility Element; and

WHEREAS, the City has independently reviewed and considered the EBMUD Master Plan EIR, the June 28, 2011 EBMUD Staff Report, Resolution No. 33834-11 and CEQA findings, now, therefore be it

RESOLVED: The City Council hereby adopts the amended Non-Disposal Facility Element attached as Exhibit 1 and hereby incorporated by reference; and be it

FURTHER RESOLVED: That the City's Environmental Review Officer is directed to cause to be filed a Notice of Determination with the county Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation _____