

CITY OF OAKLAND

AGENDA REPORT

2010 MAR 11 PM 4:00

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Public Works Agency
DATE: March 23, 2010

RE: **Resolution Adopting The Second Amendment To The City's Non-Disposal Facility Element, Which Describes Solid Waste, Recycling, And Processing Facilities That Assist The City To Reduce Materials Sent To Landfills, And Approving Its Submittal To The California Department Of Resources Recycling And Recovery (CalRecycle) For Approval**

SUMMARY

A resolution has been prepared adopting the City of Oakland Second Amendment to the Non-Disposal Facility Element (NDFE) for submission to the California Department of Resources Recycling and Recovery (CalRecycle), formerly the California Integrated Waste Management Board, for approval. The NDFE, a required planning document, identifies and describes existing and planned facilities to be utilized by the City of Oakland in implementing the waste reduction programs identified in the City's Source Reduction and Recycling Element (SRRE).

The proposed NDFE amendment adds Commercial Waste & Recycling, LLC (CWR) and deletes Capitol Companies (Capitol Recycling). CWR is a processing facility for construction and demolition debris located at 725 Independent Road. Capitol Recycling has ceased to operate in the City of Oakland.

To amend the NDFE, State law requires the City to conduct a public hearing to be held on April 20, 2010 to receive testimony, prior to amendment adoption by City Council. This report provides the legislative background for amending the NDFE.

FISCAL IMPACT

No fiscal impacts are associated with adopting the Second Amendment to the NDFE.

BACKGROUND

The California Integrated Waste Management Act of 1989 (AB939) required every city and county in California to adopt a SRRE outlining plans to comply with the mandated waste diversion goal of 50 percent by 2000. Assembly Bill 3001 (1992) mandated every city and county in the State to prepare and adopt a NDFE to identify and describe existing and planned non-disposal facilities used to assist in implementing the waste reduction programs outlined in the SRREs.

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To change the existing NDFE, the City Council must adopt an amendment through a public hearing process, and authorize the submittal of the amended NDFE to CalRecycle for approval, pursuant to Title 14 California Code of Regulations, Division 7, Chapter 9, Article 7, Section 18766(b) (1).

In March 2006 through Resolution No. 80286 C.M.S. the City Council adopted a zero waste strategic plan to achieve the City's Zero Waste goal by year 2020. Strategy No. 1 in the strategic plan recommends providing for local and regional recycling infrastructure, which includes siting processing and composting facilities in Oakland. Approving the resolution to adopt the amended NDFE facilitates the development of the recycling infrastructure.

KEY ISSUES AND IMPACTS

CWR is proposing to increase its processing capacity to a level that requires it to be permitted as a medium-sized Construction and Demolition and Inert Debris (CDI) processor under CalRecycle tiered permitting requirements. CWR currently processes a limited amount of CDI, which includes but is not limited to lumber, gypsum wallboard, cardboard and plant debris generated from construction and demolition work. CWR is proposing to increase its processing capacity from 25 tons to 150 tons per day.

CalRecycle requires that CWR be listed in the City's NDFE before CWR may be permitted to operate as a medium-sized CDI facility. A medium-sized CDI facility handles between 25 and 175 tons of CDI debris daily.

POLICY DESCRIPTION

CWR is located at 725 Independent Road in Oakland, which is zoned IG (General Industrial Zone Regulations). CWR submitted a request to the City for a zoning determination for expanding their CDI operations. CEDA Planning and Zoning staff reviewed the request and determined that the expansion of CWR's operations is consistent with the Planning Code, Title 17, Section 17.10.586B (Recycling and Waste-Related Industrial Activities), and meets the Zoning Guidelines set forth as part of 17.73.035 Special Regulations for Primary Collection Centers in the Industrial Zones.

The draft Second Amendment to the NDFE adds CWR as a CDI processing facility and deletes Capitol Recycling from the existing NDFE as this company has ceased to operate in Oakland. The draft Second Amendment to the NDFE was submitted to the Alameda County Waste Management Authority Local Task Force (LTF) for review as required by the Public Resource Code, Section 41734. Comments from the LTF were incorporated into the amendment.

SUSTAINABLE OPPORTUNITIES

Economic: Adopting the Resolution stimulates the expansion of markets for recyclable materials and creation of sustainable businesses, including companies that haul and broker processed recyclable materials, and manufacturers that use the recovered feedstock to make and distribute new products.

Environmental: Recycling and waste reduction provide an environmental benefit by reducing the impacts of natural resource depletion and greenhouse gas emissions.

Social Equity: Recycling Collection Centers increase employment opportunities. Recycling processing facilities located in Oakland employ Oakland and Bay Area residents.

DISABILITY AND SENIOR CITIZEN ACCESS

This report and resolution has no impact on access for persons with disabilities or senior citizens.

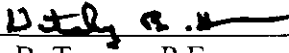
RECOMMENDATION(S) AND RATIONALE

Staff recommends that the City Council (1) conduct a public hearing on April 20, 2010, (2) approve the Resolution adopting the Second Amendment to the NDFE and (3) authorize submittal of the Amended NDFE to CalRecycle for approval. Amendment of the NDFE furthers the City's development of recycling infrastructure for waste reduction activities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the Council approve the Resolution adopting the Second Amendment to the NDFE and authorize submittal of the Amended NDFE to CalRecycle for approval.

Respectfully submitted,



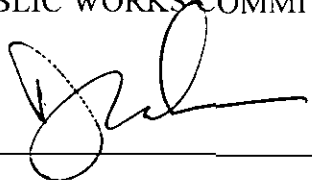
Vitaly B. Troyan, P.E.
Interim Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director

Reviewed by:
Susan Kattchee, Environmental Services Manager

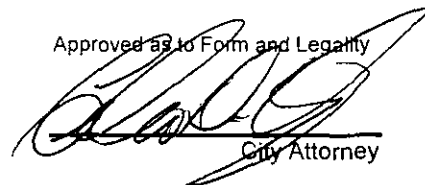
Prepared by:
Ferial Mosley, Recycling Specialist
Environmental Services Division

APPROVED AND FORWARDED TO THE
PUBLIC WORKS COMMITTEE



Office of the City Administrator

Item: _____
Public Works Committee
March 23, 2010



City Attorney

2010 MAR 11 PM 4:07 RESOLUTION No. _____ C.M.S.

**RESOLUTION ADOPTING THE SECOND AMENDMENT TO THE CITY'S
NON-DISPOSAL FACILITY ELEMENT, WHICH DESCRIBES SOLID
WASTE, RECYCLING, AND PROCESSING FACILITIES THAT ASSIST
THE CITY TO REDUCE MATERIALS SENT TO LANDFILLS, AND
APPROVING ITS SUBMITTAL TO THE CALIFORNIA DEPARTMENT OF
RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) FOR
APPROVAL**

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

WHEREAS, changes to the NDFE require the City Council to adopt a NDFE amendment that is submitted to CalRecycle for approval; and

WHEREAS, Commercial Waste and Recycling, LLC, a construction and demolition processing facility operating in Oakland, is requesting to be added to the City's NDFE in order to be permitted as a Construction Demolition and Inert Debris (CDI) facility under the State's Construction and Demolition tiered permitting regulations; 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 Commercial Waste and Recycling adds to Oakland's recycling infrastructure; and

WHEREAS, Capitol Companies (Capitol Recycling), a facility previously identified in the City's NDFE, has ceased to operate in the Oakland, and therefore should be removed from the NDFE; and

WHEREAS, the City's draft Second Amendment to the NDFE was submitted to the Alameda County Integrated Waste Management Authority Local Task Force (LTF) for review pursuant to Public Resources Code § 41734 and comments from the LTF were incorporated into the Amendment; and

WHEREAS, State guidelines for amending NDFE require a jurisdiction to adopt the amendment by resolution, at a public hearing that has been publicly noticed by being published in a newspaper of general circulation, at least three days in advance of the hearing pursuant to Title 14 California Code of Regulations, Division 7, Chapter 9, Article 7, Section 18766(b) (1); and

WHEREAS, the City has properly noticed and conducted a public hearing on April 20, 2010, to receive testimony from the general public, affected governmental entities and private industries regarding the Second Amendment to NDFE; now, therefore be it

RESOLVED: that the Council of the City of Oakland, hereby adopts the Second Amendment to the NDFE attached as *Exhibit 1*, adding Commercial Waste and Recycling and deleting Capitol Recycling; and be it

FURTHER RESOLVED: that the City Council approves the submittal of the Second Amendment to the NDFE to CalRecycle for approval.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT 1

SECOND AMENDMENT CITY OF OAKLAND NON-DISPOSAL FACILITY ELEMENT

SECOND AMENDMENT

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

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

- adding Commercial Waste & Recycling, LLC (CWR), which processes limited amounts of Construction and Demolition (C&D) including Inert Debris. CWR is proposing to be permitted as a medium-sized Construction and Demolition Debris and Inert Debris (CDI) processing facility under the Cal Recycle CDI tiered permitting requirements. CWR may increase its processing capacity for C&D debris from twenty-five (25) up to one-hundred and fifty (150) tons per day, when permitted as a CDI processing facility.
- deleting Capitol Recycling, which has ceased to operate in the city of Oakland.

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. In addition, the Alameda County Waste Management Local Task Force must make a determination of conformance as to whether or not proposed new or expanded NDFs conform to the Countywide Element of County Integrated Waste Management Plan (CoIWMP).

The following section provides detailed information about CWR as identified in the Second Amendment to NDFE.

EXHIBIT 1

SECOND 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: COMMERCIAL WASTE & RECYCLING, LLC

Facility Name, Address, and Type

Commercial Waste & Recycling, LLC
725 Independent Road
Oakland, CA 94621

Commercial Waste Recycling (CWR) is a small volume Construction and Demolition Inert (CDI) Debris processing facility.

Type of Materials accepted for Diversion from Landfill Disposal

CWR is proposing to expand its CDI Debris processing capacity to a maximum of one-hundred and fifty (150) tons per day under the Construction and Demolition tier permitting regulations. CWR will continue to accept CDI Debris including but not limited to lumber, gypsum wallboard, cardboard and plant debris generated by construction and demolition work. CWR also will continue to receive clean wood and green waste generated from non-construction activities. Materials will be sorted and transferred to appropriate recycling facilities.

Anticipated Diversion Rate

CWR anticipates diverting sixty-five (65%) of all incoming materials. The remaining residue will be transferred to a landfill that implements further recycling and reuse.

Participating Jurisdictions

Alameda County jurisdictions including the City of Oakland and Contra Costa County jurisdictions.

Land Use Designation

The site is currently Zoned IG (General Industrial Zone Regulations), General Plan Designated as General Industrial. The IG zone allows for heavy industrial and manufacturing uses, transportation facilities, and warehousing and distribution.

Land Use Permit Status

CWR has met the City's zoning requirements for land use and is in compliance with the IG performance standards.

Facility Size

Facility size is approximately 28,800 square feet.

EXHIBIT 1

**SECOND AMENDMENT
CITY OF OAKLAND NON-DISPOSAL FACILITY ELEMENT**

Facility Capacity

The facility is expected to have up to one-hundred and fifty (150) tons per day processing capacity for CDI debris.

DELETE: CAPITOL COMPANIES (CAPITOL RECYCLING)

Capitol Companies (known as Capitol Recycling) is deleted from the City's NDFE as this company has ceased to operate in Oakland. This facility was permitted under the CDI tiered permit and accepted CDI materials for processing. The facility was located at 440-High Street Oakland, CA 94601.