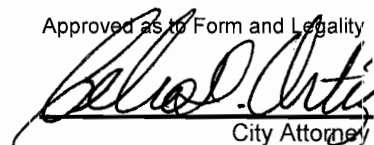


FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

RESOLUTION No. 84205 - C.M.S.

Approved as to Form and Legality


City Attorney

2013 JAN 17 AM 9:50

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 AT THE EAST BAY MUNICIPAL UTILITY DISTRICT'S MAIN WASTE WATER TREATMENT PLANT

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, Recology East Bay Organics (REBO) proposes to build and operate a facility in Oakland, at the East Bay Municipal Utility District (EBMUD) 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 REBO adds to Oakland's recycling infrastructure; and

WHEREAS, REBO made commitments in their letter dated June 27, 2012 to voluntarily hire 50 percent or more of its workforce during construction from within the West Oakland area and work closely with the City to hire 50 percent of the permanent workforce from Oakland; 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, in this case, 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 as its own independent findings and conclusions, and incorporates herein by reference, the CEQA-related findings adopted by EBMUD, including rejection of alternatives as being infeasible, the Statement of Overriding Considerations (finding that the benefits of the Project outweigh its environmental impacts), and the Mitigation Monitoring and Reporting Program; and be it

FURTHER RESOLVED: As a separate and independent basis, adoption or updates to Non-Disposal Facility Elements are statutorily exempt from CEQA pursuant to Public Resources Code Section 41735(a); and be it

FURTHER RESOLVED: REBO has voluntarily agreed, to the maximum extent permitted by law, to hire (a) 50 percent or more of its workforce during construction from within the West Oakland area; and (b) 50 percent or more of its permanent workforce from Oakland, as stated in its letter dated June 27, 2012, attached as *Exhibit B* and hereby incorporated by reference; and be it

FURTHER RESOLVED: REBO has voluntarily agreed to institute additional Diesel Particulate Matter reduction measures as detailed in its letter dated June 27, 2012, attached as *Exhibit B* and hereby incorporated by reference; and be it

FURTHER RESOLVED: REBO has voluntarily agreed to institute additional odor controls as detailed in its letter dated May 21, 2012, attached as *Exhibit C* and hereby incorporated by reference; and be it

FURTHER RESOLVED: To the maximum extent permitted by law, REBO shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Public Works Agency and its 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, (1) an approval by the City relating to this Non-Disposal Facility Element matter, City's CEQA approvals and determination, and/or notices in the Non-Disposal Facility Element matter; or (2) implementation of such. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees; and be it

FURTHER RESOLVED: Within ten (10) calendar days of the filing of any Action as specified above, REBO shall execute a Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter of Agreement does not relieve REBO of any of the obligations contained in this Section or any other requirements or conditions of approval that may be imposed by the City; and be it

FURTHER RESOLVED: That the City's Environmental Review Officer is directed to cause to be filed a Notice of Determination/Exemption with the County; and be it

FURTHER RESOLVED: That the City Council hereby adopts the amended Non-Disposal Facility Element attached as Exhibit 1 and hereby incorporated by reference.

FEB 5 2013

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

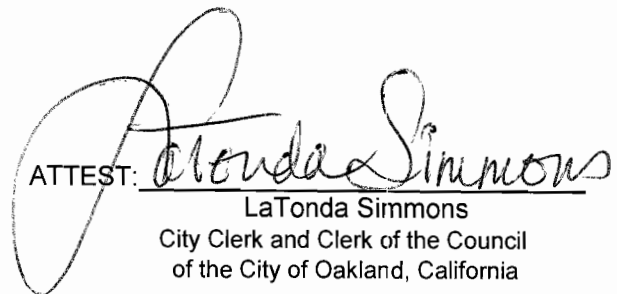
PASSED BY THE FOLLOWING VOTE:

AYES - ~~Brooks, Reid~~, GALLO, KALB, KAPLAN, McELHANEY, ~~Reid~~, SCHAAF and PRESIDENT KERNIGHAN - 6

NOES - Brooks, Reid - 2

ABSENT - 0

ABSTENTION - 0

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

Date of Attestation _____



June 27, 2012

Ms. Becky Dowdakin
 Solid Waste & Recycling Program Supervisor
 City of Oakland Public Works Agency
 Environmental Services Division
 250 Frank Ogawa Plaza, Suite 5301
 Oakland, CA 94612

**Re: Recology Organic-Rich Materials Preprocessing Facility at EBMUD
 Follow-up on Comments from the June 26, 2012 Public Works Committee Meeting**

Dear Ms. Dowdakin:

On behalf of Recology East Bay Organics (REBO), this letter responds to the City of Oakland's Public Works Committee request on June 26, 2012 for additional information on REBO's Organic-Rich Materials Preprocessing Facility, and specifically local hiring practices and odor controls.

Local Hire Commitment

Recology has a long history and commitment to hiring local members of the community in which we operate. At our Pier 96 facility in San Francisco, we hire local residents from within the three (3) adjacent zip codes. As part of this project, Recology is open to and willing to hire local residents. As the Committee acknowledged, this may not be a requirement that the city can impose. Nevertheless, it is something that we voluntarily commit to because it is part of our business practice to help local residents find employment.

There are two components to the local hire commitment:

1. **Employment during the construction phase.** Recology will work closely with the City of Oakland to hire 50 percent or more of the construction workforce from within the West Oakland area, and specifically within the 94607 postal code. If it is the preference of the City Council, we will include local residents from other economically disadvantaged neighborhoods.
2. **Long term employment.** Recology will work closely with the City of Oakland to hire 50 percent of the permanent workforce from Oakland residents as long as there is a pool of people who meet the state and federal licensing requirements needed to operate a facility of this kind.

In order to make this commitment, we need this pool of candidates to be available before the construction and operation phases of the project begin. If the pool of available candidates is limited, we can hire candidates as positions become available. We would be happy to provide updates on this project in this regard.

Odor Mitigation Commitment

As an operator of numerous compost facilities, transfer stations, and landfills, Recology is keenly aware of the importance of odor management. Based on decades of experience, and after careful consideration and much discussion, we concluded that the proposed design will effectively minimize potential on-site and off-site odor impacts as follows. First, the proposed preprocessing facility is located 3,000 feet from the nearest

resident. Our experience with the "Organics Annex" in San Francisco indicates that with proper management, as Council Member Schaaf experienced first hand during her visit to our San Francisco facility, odors are not detectable until one is almost at the entrance.

Key design controls for REBO include:

- Full enclosure, whereas San Francisco's facility is only three quarters enclosed
- Covered, leak-proof trucks to transport all materials to REBO
- Delivery of all materials within the building envelope, and no outside delivery or storage
- Piping of all processed materials directly to the EBMUD digester, not trucked outside.

Operational controls include:

- First in, first out processing of materials
- Daily clean-up and facility wash down, and
- Processing of material within 48 hours of receipt.

During operations, the solid waste facilities permit (SWFP) gives both the Alameda County Local Enforcement Agency (LEA) and CalRecycle the responsibility and authority to monitor and enforce compliance with the nuisance provisions of California regulations (odor, noise, dust, etc.). Once operational, the LEA then conducts monthly inspections to ensure full compliance with the terms and conditions of the regulations, SWFP, including an odor impact minimization plan (OIMP).

Our experience in San Francisco and other transfer facilities gives us confidence that this carefully designed next generation pre-processing facility will prevent off-site malodor migration. If, however, a persistent off-site malodor condition is created, Recology will work with regulatory agencies to determine what operational or engineering changes are needed and will implement them to mitigate the malodor events. We would like to keep our rates as affordable as possible, and avoid installing control systems that we do not believe are necessary. These systems could increase costs by \$1,000,000, which would be passed on to rate payers.

Council Member Nadel expressed some concern that such additional activities could take a long period of time. Based on our experience, most regulatory agencies work rapidly with operators seeking to add on new control systems. If additional controls were required, we would seek the support from the City to streamline the permitting process at City, County and State level.

Recology prides itself on being responsive to the communities that we serve. We hope we have addressed your concerns in this letter and made our commitments clear.

If you have any additional questions, please contact me at 415-626-4000.

Sincerely,



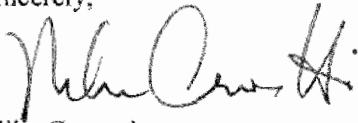
Gary Foss
General Manager
Recology East Bay

cc: V. DeLange, EBMUD
M. Thorne, Recology

As a leader in resource recovery and landfill diversion, Recology is committed to sustainability, being a responsible corporate partner, and to reducing our overall impacts. The measures noted above enhance Recology's efforts to reduce air emissions, including PM at the facility and demonstrate Recology's commitment to reducing air emissions.

Thank you for your assistance with this project. If you have any questions, please contact me at (415) 657-4050 or by email at microsetti@recology.com.

Sincerely,



Mike Crosetti
General Manager – Recology East Bay Organics

cc: W. Redic, City of Oakland
A. Chakrabarti, EBMUD
M. Thorne, Recology