




Office of the City Manager

CONSENT CALENDAR  
November 27, 2007

To:  Honorable Mayor and Members of the City Council

From: Phil Kamlarz, City Manager

Submitted by: Claudette Ford, Director, Department of Public Works

Subject: Contract: East Stockton Transfer Recycle for Construction and Demolition Waste Processing

RECOMMENDATION

Adopt a Resolution authorizing the City Manager to enter into a contract with East Stockton Transfer Recycle to sort construction and demolition waste for an annual amount not to exceed \$1,382,500 in FY 2008 and a total contract amount not to exceed \$5,727,500 for FY 2008, FY 2009 and FY 2010, for the period November 12, 2007 to June 30, 2010.

FISCAL IMPACTS OF RECOMMENDATION

The FY 2008 budget includes \$3,222,410 for refuse disposal in account 820- 5607-432-30-38. The price quoted by East Stockton Transfer Recycle (East Stockton) for sorting and disposing demolition waste is \$39.50 per ton. The projected tonnage for FY 2008 is 35,000 and is based on the remaining seven months of the fiscal year as the contract will not begin until November 2007. The contract amount based on this tonnage totals \$1,382,500. The tonnage for FY 2009 and FY 2010 is expected to be 55,000 per year, resulting in estimated contract costs totaling \$2,172,500 per year or \$4,345,000. The CMS number is LXHXX.

CURRENT SITUATION AND ITS EFFECTS

The City's transfer station at 1201 - 2<sup>nd</sup> Street accepts approximately 100,000 tons per year of refuse. A significant portion, approximately 50,000 tons per year, is classified as rubbish, or dry non-putrescent discards. It consists of many of the same materials that are classified as the "construction and demolition" or "C&D" waste stream. This includes drywall, dirt, brick, rock and various aggregate; various forms of wood waste such as roofing, siding, posts and dimensional lumber; various types of garden waste, like shrubbery and tree trimmings; and metals, cardboard, and some concrete and cement. This waste stream is currently sent to the landfill for disposal. This material is ideal for diversion since many of the waste stream components are marketable once they are separated from each other. This addition will help the City reach its mandated 75% diversion goal.

## BACKGROUND

The City sent a request for proposals (RFPs) in September 2007 to the 25 vendors, 6 of whom are the only facilities in the greater Bay Area that can sort this type of material. The RFP schedule had a two-week public comment period and 10-day post-comment period before the proposal deadline. Only East Stockton responded to the RFP. East Stockton's \$39.50 per ton rate is far less than the rates of other Bay Area C&D material recovery facilities, which typically range between \$60 and \$110 per ton. Although only one bid was received, City staff felt it reasonable to recommend contracting with East Stockton based on their program and pricing.

East Stockton estimates it can recover 50% of Berkeley's dry rubbish waste stream. Moreover, it does not market any of its material as Alternative Daily Cover (ADC) or as Direct Land Application. ADC consists of using wood chips, shredded green waste, or other fine material to cover garbage at a landfill. Direct Land Application is used by firms who, rather than clean and market their organic material for recycling, plow the material back into large tracts of their own landfill property. City staff believes neither of these processes constitutes true recycling.

After the RFP closed, Urban Ore, a current contractor with the City of Berkeley, raised issues about the RFP and East Stockton's bid:

- 1) The Zero Waste Commission (ZWC) did not oversee the RFP process;
- 2) East Stockton diverts material for ADC;
- 3) Urban Ore can better provide the required services at the City's transfer station;
- 4) East Stockton's sorting method for clean wood sorting method may violate the City's 1982 Ordinance banning refuse incineration, and also may violate Alameda County's 1989 Measure D, which has a similar ban; and
- 5) Urban Ore believes the contract is exclusive; violates the General Plan, the precautionary principal, the highest and best use policy; and the City's Source Recycling and Resource Element (SRRE); and triggers the possible need for CEQA review.

Staff response to Urban Ore's position on these issues is explained below.

### **Lack of Zero Waste Commission RFP Oversight**

Urban Ore states that the ZWC did not endorse the RFP or the recommended response. However, staff did announce the RFP as well as the recommended contract at the September and October meetings. The ZWC will be asked to formally vote on whether to agree with staff's recommended contract at its November 26, 2007 meeting. We will report ZWC's formal action at the Council meeting.

### **East Stockton Diverts for Alternative Daily Cover (ADC)**

The second issue Urban Ore raised was that East Stockton uses sorted recyclable material for ADC. However, East Stockton does not divert any material to ADC, and makes that statement distinctly in its response to the City's RFP.

### **Urban Ore Sorting Recyclables on the Floor**

Urban Ore sorts about 700 tons per year of reusables from the City's transfer station, and is paid \$38 per ton for this service (the transfer station accepts about 100,000 tons of material destined for a landfill annually). Urban Ore feels a better option for the City is to have Urban Ore sort the recyclables at the City's transfer station. While staff agrees that sorting on the City's facility is preferable to hauling material to another destination, it does not believe that the capacity of the transfer station at this point allows for this expanded service at this time for the following reasons:

#### Safety

The City's transfer station is not designed to sort recyclables from the main dumping floor. The area is very compact, and it receives on average of more than 400 vehicles off-loading material Monday through Saturday from 8:00 am to 4:30 pm. The small area is designed to move customers and City trucks in and out quickly, with the material being loaded into trailers in 2 pits for transfer to compost plants, landfills, or in this case a Construction and Demolition Recycling Plant.

To increase the number of people necessary to sort the amount of cardboard, metal and wood from the dry pile of material envisioned in this RFP would be create an extremely unsafe work environment. There would be too much close interaction between humans on the ground and large front-end loaders that push material and load transfer trailers, and the chances of people being crushed would increase dramatically. Senior Public Works managers and the City's Occupational and Health Safety Coordinator share this opinion.

#### Urban Ore Did Not Respond to the RFP

The RFP was open for almost four weeks, advertised on the City's website, and announced at the September Zero Waste Commission meeting, which Urban Ore attended. Urban Ore stated in writing "Urban Ore will not respond to this bid" on October 2, 2007, the day on which responses were due. It was not until the last week of October that Urban Ore presented the idea of its desire to sort all the recyclables to City staff.

#### Productivity

There are other considerations besides safety regarding whether or not Urban Ore should sort large volumes of recyclables on the transfer station tipping floor. Sorting recyclables on the current floor will be very unproductive for the same reasons that it is very unsafe: very high levels of incoming traffic, small amounts of open floor space to sort, and no automated conveyor lines or other mechanized equipment to boost productivity.

Currently, City staff and Urban Ore recover about 2,250 tons per year of reusables and recyclables from a total incoming stream of about 100,000 tons, barely 2% of the incoming amount. Mechanized upgrades, such as a conveyor system for sorting, is not

envisioned by management staff due to the small tipping floor and the large capital outlay. Between the absence of mechanization and the fact that over 400 customers dump at the tipping floor each day, on average, staff feels it would be difficult for Urban Ore or the City to increase its sorting productivity by 20,000 to 25,000 tons per year.

### Experience

Urban Ore currently recovers less than 1,000 tons per year of reusables from the transfer station. It does not perform this type of work anywhere else currently. In the past, Urban Ore recovered reusables and some recyclables from the City's landfill. Urban Ore has had little, if any, experience with C&D recycling. It has never performed C&D recycling at any other facility, nor has it managed a permitted solid waste facility in the last 15 years. Indeed, City staff has handled the bulk of floor recycling for the past 15 years, and currently sorts twice as much tonnage as Urban Ore.

### **Wood Sorted for BioFuel**

Urban Ore has expressed concerns that East Stockton sorts clean wood waste in its operation, grinds it into chips, and sells this material to energy plants in Tracy and Woodland. Urban Ore states this violates the City's 1982 Ordinance banning refuse incineration, and also violates Alameda County's 1989 Measure D, which has a similar ban. Further, they claim that identifying wood chips burned for energy as recycling would violate Berkeley's "highest and best use" policy. However, these ordinances were passed to prohibit incinerating garbage for energy in Alameda County, not specifically wood. Also, identifying wood for energy does not violate the "highest and best use" creed.

The Alameda County Waste Management Authority (ACWMA) informed staff that wood diverted for fuel does not violate either the County Measure or the City Ordinance. ACWMA also claims diverting wood for fuel is certainly a legitimate recycling endeavor and maintains the "highest and best use" platform. Berkeley's ordinance and Measure D were seeking to ban incineration of unsorted garbage for energy in Alameda County. The C&D sorting RFP and the proposed contract do not seek to burn garbage. Moreover, diverting wood from the landfill is certainly a higher and better use than landfilling, and claiming it is not warps the whole intent of Measure D, which was written to increase incentive for diverting material from the landfill.

### **Other Issues**

Urban Ore also contends that the proposed contract is exclusive, violates a host of City policies, from the General Plan to the Precautionary Principle to the Highest and Best Use policy, to the City's Source Reduction and Recycling Element, to the possible need for the contract to undergo CEQA review. Staff does not agree.

The General Plan issue is made since this contract may impact the public health of Berkeley's citizens. Staff believes this material that is currently being hauled to a landfill in Livermore will not impact public health if half of that material is hauled 36 miles further

to Stockton for recycling. The same conclusion holds for the Precautionary Principal and CEQA review.

Regarding the City's Source Reduction and Recycling Element (SRRE) and the City's unwritten policy for Highest and Best Use, Urban Ore misunderstands what the SRRE is and how it is used. Per California's Integrated Waste Management Board's website, "The California Integrated Waste Management Act...requires each California city and county to prepare, adopt, and submit to the California Integrated Waste Management Board a SRRE that demonstrates how the jurisdiction will meet the...mandated diversion goals of 25 percent by January 1, 1995, and 50 percent on and after January 1, 2000." Since Berkeley has already reached the 50% goal, the SRRE no longer applies.

The proposed contract further does not violate the Highest and Best Use policy. The material in question, approximately 50,000 tons per year of dry rubbish, is currently landfilled. The RFP and recommended contractor propose to divert 50% of this material for recycling. The recycling in question is not ADC, and is not Direct Land Application, adhering to Highest and Best Use. The one market in question – wood for boiler fuel – also does not violate the principal because the alternative here is landfilling. The Alameda County Waste Management stated position is that boiler fuel is a much higher and better use than landfilling. Staff agrees with this perspective.

Berkeley's immediate recycling goal is to achieve a 75% diversion rate by 2010. The last reporting year on file with the State's Integrated Waste Management Board shows Berkeley at a 57% diversion rate. If Berkeley had sent 50,000 tons of dry refuse then to a C&D material recovery facility, and if that material recovery facility diverted 50% of those tons, Berkeley's diversion rate would have been 67%. If the material recovery facility diverted 75%, the City's overall rate would have been 72%. Put another way, the City currently recycles almost 50,000 tons per year through its curbside recycling, commercial recycling, drop-off recycling, and other recycling programs. Contracting with east Stockton to sort 25,000 tons from the City's rubbish waste stream increases the City's amount of recycling tonnage more than 50%. To put it simply, diversion from the C&D waste stream offers Berkeley the cheapest and easiest path towards reaching the City's recycling goals.

#### RATIONALE FOR RECOMMENDATION

The proposed contractor responded to the City's RFP with the lowest price and the best overall recycling/marketing system. East Stockton Transfer Recycle estimates it can recover 50% of Berkeley's dry rubbish waste stream. Moreover, it does not market any of its material as Alternative Daily Cover or as Direct Land Application. Alternative Daily Cover consists of using wood chips, shredded green waste, or other fine material to cover garbage at a landfill; Direct Land Application has been utilized by firms that, rather than clean and market its organic material for recycling, it plows it back into large tracts of its facility's property. City staff believes neither of these processes constitutes true recycling.

The City should be especially concerned about worker safety. Safety is a primary issue for the use of the compact, already extremely busy tipping floor. Outsourcing recyclables sorting for the next three years will free up City staff to concentrate on ensuring overall floor safety, identifying hazardous materials that require recovery from the floor, and other materials management (mattresses, electronic waste) and assisting Urban Ore in recovering reusable materials. . Local 790 fully supports the proposed contract and the change in operations at the transfer station.

There are also sound financial reasons supporting the proposed contract. The \$39.50 sorting/tipping fee charged by East Stockton is \$7.50 per ton more than the City's current landfill charge. Based on 50,000 tons sorted per year, the annual incremental cost for recycling is \$375,000 versus continuing to landfill the material. This cost can be absorbed by the Solid Waste Management Division's disposal budget, and is a very inexpensive amount for such a large amount of recycling.

Urban Ore did not respond to the RFP sent out in September.

#### ALTERNATIVE ACTIONS CONSIDERED

Staff could reissue the original RFP. This was considered, but because the East Stockton bid was very reasonable compared to other known local rates, staff felt justified to propose a contract with the company.

Staff could allow Urban Ore to sort recyclables on the floor, but as this report delineates, this option is rejected first and foremost for safety reasons.

Staff could do nothing, but would lose the opportunity for Berkeley to greatly increase its recycling rate and get closer to meeting its diversion goal.

#### CONTACT PERSON

Peter Holtzclaw, Manager, Division of Solid Waste and Recycling, 981-6359

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

CONTRACT: EAST STOCKTON TRANSFER RECYCLE FOR CONSTRUCTION  
AND DEMOLITION WASTE PROCESSING

WHEREAS, the City of Berkeley is committed to a 75% diversion rate by 2010 and to Zero Waste by 2020; and

WHEREAS, the City issued a request for proposals (RFP) for construction and demolition sorting, considering that diverting this waste stream from the landfill can increase the City's diversion rate substantially; and

WHEREAS, a 50% diversion rate of the City's C&D waste stream will increase the overall diversion rate to nearly 70%; and

WHEREAS, East Stockton Transfer Recycle was the only vendor responding to the RFP out of the six Bay Area vendors providing such services; and

WHEREAS, East Stockton Transfer Recycle submitted a competitive proposal that maximizes the amounts diverted to solid recycling markets; and

WHEREAS, the price for sorting and disposing demolition waste is \$39.50 per ton and the projected tonnage for FY 2008 is 35,000 based on the contract starting November 2007; the contract amount based on this tonnage totaling \$1,382,500; and

WHEREAS, the tonnage for FY 2009 and FY 2010 is estimated to be 55,000 per year, resulting in estimated contract costs totaling \$2,172,500 per year or \$4,345,000; and

WHEREAS, the funding for the FY 2008 not to exceed contract amount of \$1,382,500 is available in Fund 820 (820-5607-432-3038); CMS number LXHXX.

NOW THEREFORE BE IT RESOLVED by the Council of the City of Berkeley that the City Manager is authorized to execute a contract and any amendments with East Stockton Transfer Recycle to sort construction and demolition waste for an annual amount not to exceed \$1,382,500 in FY 2008 for a total contract amount not to exceed \$5,727,500 for FY 2008, FY 2009 and FY 2010, for the period November 12, 2007 to June 30, 2010.

