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DEPARTMENT OF  
PUBLIC WORKS  
SOLID WASTE DIVISION

CITY OF SACRAMENTO  
CALIFORNIA

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PHONE 916-264-5757

June 6, 1997

City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT:** City of Sacramento Solid Waste Processing, Transfer, Hauling and Disposal  
Project Update

**LOCATION AND COUNCIL DISTRICT:** All Districts

**RECOMMENDATION:**

This report recommends that the Council direct staff to continue the current RFP process for procurement of solid waste processing, transfer, hauling and disposal services without participation from Sacramento County. Further, the report recommends that the Council direct that if the RFP process and ultimate contract negotiations with a private provider are not successful, City staff should seek to negotiate a long-term agreement for solid waste services with Sacramento County.

**CONTACT PERSON:** Reina J. Schwartz, Manager, Solid Waste, 264-7043

**FOR COUNCIL MEETING OF:** June 17, 1997

**SUMMARY:**

In response to a request by the Council for a legal opinion regarding the County's request to participate in the current City solid waste services procurement process, the City Attorney has opined that the City would be exposed to liability if it decided to allow the county to enter the current RFP process either during or at the conclusion of the process.

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CITY OF SACRAMENTO

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However, the City Attorney has also opined that the City is not precluded from discussing with the County the City's ongoing usage of county waste disposal facilities. This report recommends that the Council direct staff to continue the current RFP process for procurement of solid waste processing, transfer, hauling and disposal services without participation from Sacramento County. The report further recommends that if the City is ultimately unsuccessful in its negotiations with the private sector, the Council direct staff to enter into negotiations with Sacramento County to continue its existing business relationship related to solid waste services.

Additionally, staff has been informed of some corporate changes within California Waste Recovery Systems, as described in the attached letter. In the near future, the City Attorney will be providing a legal opinion regarding these changes in status and any potential implications for the current RFP process.

**COMMITTEE/COMMISSION ACTION:**

None.

**BACKGROUND INFORMATION:**

At the May 13, 1997 Council meeting, the County of Sacramento provided the City Council with a letter requesting that the Council consider letting the County participate in some fashion in the current solid waste project to procure processing, transfer, hauling and disposal services from the private sector. At that meeting, the Council requested that the City Attorney report back on whether the City has liability exposure if the County is permitted to enter the RFP process and underbid the lowest bidder.

In anticipation of the City Attorney's opinion, the County of Sacramento forwarded a letter, dated May 30, 1997, to the City Attorney stating that the County desires to enter into discussions with the City regarding transfer and disposal services. The letter further stated that the matter would be going to the Board of Supervisors on June 10, 1997 with a recommendation that the County indemnify the City for any and all liability exposure incurred as a result of entering to such discussions or a subsequent abandonment of the RFP process. Staff has since been informed that this issue will be addressed by the Board of Supervisors during a special meeting on June 12, 1997. A copy of the County report to the Board of Supervisors and a copy of the most recent letter from the County are attached as Exhibit 1.

The County's May 30, 1997, letter proposes that discussions be conducted concurrently with the City's process of soliciting and evaluating best and final offers for these services

from three private-sector firms. The discussions with the County would conclude within 90 days. If the discussions are successful, the City could abandon the RFP process. If the City is not satisfied with the outcome of the discussions, it could conclude the RFP process and select the best of the final offers.

Based on the advice from the City Attorney, this report recommends that the Council direct staff to continue the current RFP process for procurement of solid waste processing, transfer, hauling and disposal services without participation from Sacramento County, in order to maintain the integrity of the process. The report further recommends that if the City is ultimately unsuccessful in its negotiations with the private sector, that the Council direct staff to enter into negotiations with Sacramento County to continue the existing business relationship related to solid waste services. If the City ultimately ends up in negotiations with the County for solid waste services, staff recommends that Kiefer Landfill be put through the same assessment process as the other landfills so that the Council will have that information when it makes its ultimate decision.

Additionally, staff has been informed of some corporate changes within California Waste Recovery Systems, as described in the attached letter. In the near future, the City Attorney will be providing the Council with a legal opinion regarding these changes in status and any potential implications for the current RFP process.

#### **FINANCIAL CONSIDERATIONS:**

Based on the initial proposals received by the City, City staff project that any of the private sector proposals would result in significant savings to the City over current costs to haul to Kiefer Landfill. If the City ultimately cannot successfully negotiate a contract with a private provider for solid waste transfer and disposal services, City negotiations with the County would focus on achieving the same level of savings for City residents.

#### **ENVIRONMENTAL CONSIDERATIONS:**

Compliance with CEQA will be required of any project ultimately chosen by the City in this process.

#### **POLICY CONSIDERATIONS:**

Although the County might be willing to agree to indemnify, hold harmless, and defend the City from any action or damages resulting from abandoning the RFP process or the rejection of bids or proposals, allowing the County to participate in the current process under any conditions exposes the City to liability. There is no liability exposure for

allowing the County to engage in discussions with the City outside the RFP process or to enter into negotiations with the County in the future if no agreements can be reached with the private sector.

**MBE/WBE:**

All of the top proposers indicated significant MBE/WBE participation in the project, based on the goals established in the initial RFP. The final level of MBE/WBE participation will be part of the contract negotiations and will depend on the outcome of legal challenges to Proposition 209.

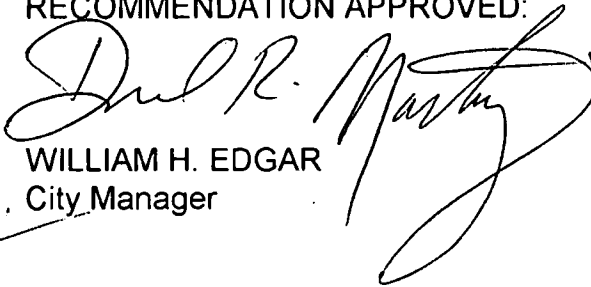
Respectfully submitted,



Reina J. Schwartz  
Manager, Solid Waste

RECOMMENDATION APPROVED:

Approved:



WILLIAM H. EDGAR  
City Manager



Michael Kashiwagi  
Director of Public Works

for...



# COUNTY OF SACRAMENTO

Public Works Agency - Department of District Engineering

Waste Management & Recycling Division

Richard D. Owings, Division Chief

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*Revised version  
6/6*

**Date:** June 12, 1997 - Special Session *9:30 A.M.*  
**To:** Board of Supervisors  
**From:** Public Works Agency  
Department of District Engineering

**SUBJECT:** Status of City of Sacramento Negotiations on Use of Kiefer Landfill

## RECOMMENDATION

1. Read and file this report
2. Direct PWA Administrator to attend June 17th City Council meeting to respond to Council inquires regarding Board position.

## DISCUSSION

On May 13, 1997, your Board sent a letter to the Sacramento City Council indicating the County's desire to continue parallel negotiations with the City during the City's process of seeking bids from private companies for long-term transfer and disposal of solid waste.

Attached is a letter from Michael Kashwagi, Director of Public Works, Sacramento City. The letter summarizes the action the City Council took at their May 13th Council meeting. It is your staff's understanding that the City:

- 1) Requested the City Attorney's opinion on inclusion of a County offer while seeking private offers through an RFP.
- 2) Possible inclusion of the Kiefer Landfill in an environmental evaluation by the City's independent landfill engineering consultant.
- 3) Took no final action on whether to continue to consider long-term transfer and disposal at County facilities.
- 4) Directed City staff to move forward on their RFP process.



Board of Supervisors  
June 12, 1997 - Special Session

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In regard to item #1 above, Robert Ryan, County Counsel, sent the attached May 30, 1997 letter to the City Attorney. In summary, the letter continues to confirm the County's desire to negotiate parallel to the City's RFP process and further the letter indicates the County Executive's office is prepared to recommend the Board offer to hold the City "harmless" from any action or damages resulting from the City's rejection of proposals from their RFP process.

On June 17, 1997, the City Council is scheduled to consider the City Attorney's opinion on parallel negotiations with the County as well as staff and consultant recommendations on environmental acceptability of landfills (other than Kiefer Landfill) that the City is considering for their long-term disposal site. It is our understanding that City staff will seek City Council's confirmation and direction on parallel negotiations with the County as well as inclusion of the Kiefer Landfill for consideration as a long-term disposal site.

### CONCLUSION

The City will continue to consider the Board's request to continue negotiations parallel to their RFP process on June 17th. In County Council's opinion the City and County may continue negotiations and is prepared to recommend same to the Board as well as holding harmless the City from actions from rejection of the City's proposals. If your Board supports the County's continuing to negotiate transfer and disposal service then the Board should direct the PWA Administrator to attend the June 17th City Council meeting to support that position and respond to questions regarding same.

Respectfully submitted,

Approval recommended:

Robert F. Shanks, Director  
Department of District Engineering

Robert P. Thomas  
County Executive

RFS:RO:sjc:jag  
Attachments

Contact for additional information:  
Rich Owings, Division Chief, (916) 875-6789, ext. 311



County of Sacramento  
Office of the County Council

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May 30, 1997

Mr. Sam Jackson  
City Attorney  
City of Sacramento  
U.S. Bank Plaza  
980 Ninth Street, Tenth Floor  
Sacramento, CA 95814

Re: Solid Waste Disposal

Dear Mr. Jackson:

This letter is to memorialize our conversations regarding the County's desire to reach agreement with the City of Sacramento regarding solid waste disposal services. As you are aware, Mr. Warren Harada has addressed the City Council regarding this matter. At that time, the Council was concerned regarding potential liability from those entities which have provided proposals for these services in response to a City RFP.

The County continues to desire to negotiate an agreement with the City for solid waste disposal services. These negotiations could be conducted concurrently with the City's process of evaluating its present proposals and negotiating with one or more of those entities. In the event a satisfactory agreement between the City and County was reached, the proposals which the City has received could be rejected. To facilitate the City's process, it has been proposed that negotiations with the County occur within a definite time period (90 days). If an agreement was not successfully reached during that period, the City could still avail itself of the results of its separate RFP process.

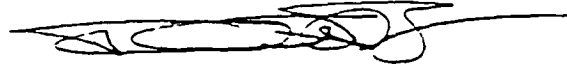
To alleviate any concern regarding liability, this Office and the County Executive are prepared to recommend to the Board of Supervisors that any contract with the County include a provision whereby the County would indemnify, hold harmless and defend the City from any action or damages resulting from the rejection of existing proposals.



Mr. Sam Jackson  
May 30, 1997  
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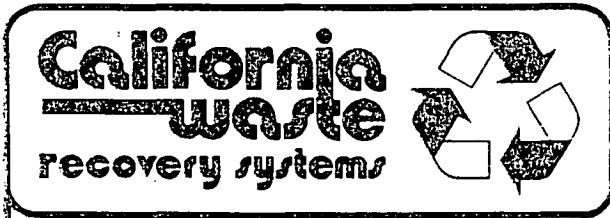
This matter is scheduled for additional discussion by the Board of Supervisors on June 10, 1997. Your further consideration of the concept proposed would be appreciated.

Sincerely,



ROBERT A. RYAN, JR.  
County Counsel

cc: Board of Supervisors  
Robert P. Thomas  
William Edgar  
Warren Harada  
Robert Shanks  
Rich Owings  
John Whisenhunt



RECEIVED  
JUN 10 1997  
CITY OF SACRAMENTO  
SOLID WASTE DIVISION

Ms. Reina Schwartz  
Manager, Solid Waste  
City Of Sacramento  
921 10th Street, Suite 600  
Sacramento, CA 95814

Dear Reina,

As you are aware, California Waste Recovery Systems is one of three companies being considered by the City of Sacramento to provide MRF and Transfer Station services. Because of this pending proposal, I want to bring you up to date regarding an exciting development that has recently occurred within my company.

After careful consideration, my sister Annette and I have made a personal family decision to retain a large portion of our business and to sell the remaining portion of our business to United Waste Systems.

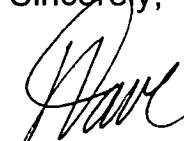
I want to assure you that California Waste Recovery Systems remains an independent and financially strong company. The sale of this portion of our business will provide an even stronger financial base for California Waste Recovery Systems. California Waste Recovery Systems is owned by my family, completely independent from United Waste Systems with no option or obligation to sell or merge. We are also going forward with our proposal completely independent from our previous proposal partner, USA Waste. California Waste Recovery Systems has the financial strength, the industry knowledge, the required operation experience and the best location to provide the best possible service for the City of Sacramento.

Ms. Reina Schwartz  
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It is important for you to know that I will build and operate the California Waste Recovery Systems Transfer Station that is being considered under the City's current RFP. As you know, that Transfer Station is currently the L & D Recycling facility on Elder Creek Road. We are in the process of re-permitting that facility as a comprehensive MRF and Transfer Station that will be a great resource to the City of Sacramento.

I will be contacting you soon to discuss these exciting new developments. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,



David Vaccarezza  
President