



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: November 13, 2012

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: Status Of Resource Recovery Project At The Tajiguas Landfill

RECOMMENDATION:

That Council receive a report from staff regarding the Proposed Resource Recovery Park Project at the Tajiguas Landfill.

EXECUTIVE SUMMARY:

For the past several years, the County of Santa Barbara, in concert with the cities of Santa Barbara, Goleta, Buellton and Solvang, has investigated various municipal solid waste conversion technologies as possible future alternatives to landfilling. Since the previous presentation to the City Council in June of 2012, staff from the participating jurisdictions have completed additional due diligence on the technical and financial aspects of the County's Resource Recovery Park as it is being proposed by Mustang Renewable Power Ventures. Based upon this collective understanding, County staff is requesting authorization from the Board of Supervisors on November 13, 2012 to commence formal environmental review of the Resource Recovery Park project.

The forthcoming environmental impact report will evaluate the construction and operation of the following: 1) a materials recovery facility to sort recyclables from the trash stream; 2) an anaerobic digestion facility to digest organic materials separated from the trash stream to produce electricity as well as compostable material of varying grades and uses; and, 3) landfilling of the remaining residual material. As required by CEQA, other alternatives to be analyzed will include the "No Project" scenario, and an expansion of the Tajiguas Landfill. The use of other technologies such as gasification will also be studied as part of the environmental review.

The primary location proposed for the project is Tajiguas Landfill. However, other alternative potential project locations, including the construction/demolition debris materials recovery facility owned by MarBorg Industries, Inc. as well as another urban location will be studied to a level that will allow either the Board of Supervisors or the other participating jurisdictions to select these alternative sites as part of the "approved project"

after certifying the environmental impact report and using it as a basis for that Agency's participation in the project.

The environmental review process is anticipated to take at least 21 months to complete once authorization to proceed is given by the Board of Supervisors.

In addition to commencing the CEQA process, in the coming weeks, staff from each of the participating jurisdictions will be presenting to their elected bodies, a non-binding term sheet that outlines the key business terms that must be negotiated between the participating jurisdictions and Mustang in order to develop a long-term contract with Mustang Renewable Power Ventures for the RRP project for consideration and possible approval by the five participating public agencies. The Term Sheet also grants an exclusive right to negotiate with Mustang for a specified time period with respect to County-owned potential sites for the project and it outlines the rights and responsibilities of both Mustang and the participating jurisdictions if a non-County owned site for any component of the proposed project is ultimately selected.

In April of 2012, in response to the County's circulation of the Notice of Preparation of the forthcoming environmental impact report, MarBorg Industries, Inc. requested that the County also consider its properties as potential sites for the Materials Recovery Facility component of the Resource Recovery Park project. In the near future, the participating public agencies will draft an agreement with MarBorg that outlines the types of information and timelines for its submittal that would be needed to evaluate those properties through the RRP environmental review process. Consistent with the terms of the original County request for proposals for the Resource Recovery Park, the agreement with MarBorg will also request that MarBorg submit a refundable deposit of \$100,000 and a non-refundable late fee of \$4,200 for allowing MarBorg to participate in this process.

DISCUSSION:

For several years, staff from several jurisdictions, including the County of Santa Barbara and the Cities of Santa Barbara, Goleta, Buellton and Solvang (Public Participants), have worked together to explore the development of a Resource Recovery Park (RRP) at the Tajiguas Landfill. In the near future, two critical milestones in the development of the project will be reached: 1. initiation of the environmental review process for the RRP; and, 2. consideration of a non-binding business term sheet and exclusive right to negotiate with Mustang Renewable Power Ventures (Mustang), the preferred vendor of the RRP Project.

Environmental Review Process

On November 13, 2012, the County Board of Supervisors will consider awarding an EIR Consultant contract to Padre Associates, Inc. (Padre) to prepare the environmental impact report and associated technical reports that will be necessary to complete the environmental review process for the proposed RRP project pursuant to the California Environmental Quality Act (CEQA). The purpose of the project EIR will be to identify the

potentially significant adverse environmental impacts of a RRP “project.” The RRP CEQA Project description consists of the following components:

1. Materials Recovery Facility (MRF) – this facility would sort the municipal solid waste (MSW) that is currently received at Tajiguas Landfill into three streams:
 - Recyclables – that would be separated, baled and sold for reuse;
 - Organics – that would be recovered for processing in the Anaerobic Digestion Facility; and,
 - Residual – non-recoverable materials left over from the MRF and Anaerobic Digestion Facility, which would ultimately be landfilled.
2. Anaerobic Digestion Facility (ADF) – this facility would convert organics recovered from the MSW into compostable material and biogas. The compost would be marketed as a soil amendment or used for reclamation projects. The biogas would be combusted to generate electricity.

In addition to the proposed project (as described above), the Environmental Impact Report (EIR) will also analyze the potential environmental impacts of several project alternatives as required by state law. These alternatives include the “No Project” scenario, expanding the Tajiguas Landfill, and use of alternative technologies such as gasification, which was previously rejected as an option by the Public Agency Participants. In addition, as also required by CEQA, the following alternative project locations have been identified and will be studied:

- a. Siting the MRF at either: 1. the existing Construction and Demolition Debris Material Recovery Facility owned by MarBorg Industries, Inc. (MarBorg) located at 119 South Quarantina St. in Santa Barbara; and/or 2. the existing cement plant located on Quinientos St. in Santa Barbara.
- b. Siting the MRF at another urban location on the South Coast where the majority of waste and recyclables are currently generated.
- c. Transporting the organic fraction recovered from the trash to the Engel & Gray, Inc. composting facility in Santa Maria to be aerobically composted into a soil amendment or soil reclamation material. Engel & Gray has composted the City’s source-separated foodscraps collected from businesses since 2009.

Moreover, alternatives “a” and “b” will be studied in sufficient detail such that these locations could be selected as a preferred location when certifying the EIR and without further detailed environmental review being necessary. Alternative “c” will be studied in greater detail in two specific issue areas: traffic/circulation and air quality. If the analysis demonstrates that this alternative could be preferable to the proposed RRP project, then further detailed study could be conducted.

Staff estimates that the environmental review process will take approximately 21 months to complete once the contract with the environmental consulting firm is approved and executed. The Draft EIR will likely be released for public review and comment in the fall of 2013. City Planning Staff recommends that a hearing on the Draft EIR be held before the City Planning Commission consistent with the City's procedures for EIRs. Staff anticipates bringing the Final EIR to the City Council in summer of 2014 to make findings on the EIR as required by CEQA for a project applicant. Throughout the environmental review process, staff from County Environmental Services, Planning and Community Development and the City Attorney's Office will actively participate in the environmental review process to ensure the accuracy and appropriate scope and breadth of the Draft EIR. Further, in the event that an alternative is chosen that includes development within the City of Santa Barbara, it is likely to require design review from the Architectural Board of Review and possibly land use approvals from the City Planning Commission for a Development Plan or a City Coastal Development Permit.

Cost and Funding of the Environmental Impact Report

County staff estimates the cost to complete the environmental review process, including drafting the EIR and associated technical studies to be approximately \$1.25 million. The October 2011 Request for Proposals for the RRP Project specified that the successful bidder would fund 100% of all CEQA-related costs. However, if the vendor were to fund the EIR, the Public Agency Participants might be restricted in how they could use the environmental documents for other projects, should the Public Participants and Mustang fail to execute a long-term project agreement. For this reason, the Public Participants have opted instead to fund the CEQA process directly instead of through Mustang.

To pay for CEQA-related costs, the Public Participants propose to allow the County to assess a temporary surcharge of \$2.45 per ton to the tipping fee charged at Tajiguas Landfill. The surcharge would commence on July 1, 2013 and would terminate on June 30, 2016. In Fiscal Year 2017, the County would adjust the tipping fee to account for variances between the \$2.45 per ton surcharge and the actual costs incurred for the project. Staff estimates that the temporary surcharge could result in a City need to increase the rates charged to City customers for trash and recycling services provided by MarBorg by approximately 0.64%.

Term Sheet

Staff from the Public Agency Participants have performed due diligence on many of the technical and financial aspects of the Mustang proposal. Based upon this collective understanding of the Mustang proposal, staff have worked with Mustang to draft key provisions of the proposed project into a non-binding Term Sheet. The Term Sheet outlines the key business terms and significant variables to be negotiated before a binding, long-term contract could be approved between the participating jurisdictions and Mustang. These business terms and variables include the size and scale of the facility; materials to be processed; tipping fees to be charged; specific technologies to

be used; project financing; tonnage commitments; tonnage resets; performance standards, and revenue sharing formulas.

Staff plans to bring the proposed Term Sheet to the City Council in December of 2012 for possible authorization for staff approval. Affirmative votes by a majority of the elected officials from the cities of Goleta and Santa Barbara and from the County of Santa Barbara would be required to approve the execution of the Term Sheet between all of the Public Agency Participants and Mustang.

Exclusive Right to Negotiate

The proposed Term Sheet also grants an exclusive right to negotiate (ERTN) with the Public Participants to Mustang bounded by the following time constraints:

- The ERTN would terminate 12 months following certification of the EIR by the County Board of Supervisors or after 48 months following its execution regardless of whether the EIR is certified or not.
- The 48 month period would be tolled for an additional 18 months pending any CEQA litigation over the EIR.

It is important to note that the ERTN applies only to project alternatives proposed for County-owned properties such as Tajiguas Landfill and the South Coast Transfer Station. Should an alternative project site be selected for the Materials Recovery Facility (MRF) or Anaerobic Digester (AD) that is not County-owned, the Public Agency Participants would have the right to negotiate directly with the owner of that property in order to use that property for the project or to negotiate the possible purchase of the non-County owned property.

If the Board of Supervisors or any of the participating jurisdictions selects a non-County owned property as the preferred location for either the MRF or the AD facility, the ERTN granted to Mustang would remain in force only with respect to any County-owned property that is selected as the location for the remaining project components.

Inclusion of MarBorg in the Procurement Process

In April of 2012, the County released the Notice of Preparation (NOP) for the forthcoming EIR to solicit early scoping comments from interested stakeholders. Following release of the NOP, MarBorg requested that its City located properties also be considered as potential locations for components of the RRP. As stated above, two MarBorg sites will be studied to a sufficient level of analysis such that the Board of Supervisors could select the locations for the Project.

To ensure that the Public Agency Participants receive all of the information necessary to adequately evaluate the sites as part of the draft EIR, the Public Participants are drafting an agreement that will stipulate the types of information that MarBorg must

provide and timelines for their submittal. Consistent with the terms of the original RFP, the Agreement will also require MarBorg to submit a refundable deposit of \$100,000 and non-refundable participation fee of \$4,200 in a manner similar to that which was originally required of Mustang.

Next Steps

The CEQA environmental review process is expected to begin in November of 2012. City staff intends to present the Term Sheet to the City Council for its review and consideration in December 2012. In 2013, staff from the Public Participants will work to develop the framework for, and define key terms of, a joint powers agreement and a project agreement with Mustang.

BUDGET/FINANCIAL INFORMATION:

To pay for the environmental review process, staff is recommending that a temporary surcharge of \$2.45 per ton be added to the tipping fee charged at Tajiguas Landfill for all participating jurisdictions. The surcharge would commence on July 1, 2013 and would terminate on June 30, 2016. In Fiscal Year 2017, the County would adjust the tipping fee to account for variances between the \$2.45 per ton surcharge and the actual costs incurred during the environmental review process. Staff estimates that the temporary surcharge would result in an increase of approximately 0.64% to the rates charged to City customers for trash and recycling services.

The increased tipping fee will be reflected in the recommended Fiscal Year 2014 Solid Waste Fund budget, which will be factored into the trash rates.

SUSTAINABILITY IMPACT:

Construction of the Resource Recovery Project could significantly increase the City's waste diversion rate and would approximately double the number of years before Tajiguas Landfill reaches its permitted capacity depending upon disposal rates and when the facility became operational. The project would also reduce greenhouse gas emissions when compared to current landfill disposal and would generate renewable energy.

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APPROVED BY: City Administrator's Office