



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 24, 2013

TO: Mayor and Councilmembers

FROM: Environmental Services Division, Finance Department

SUBJECT: Status Report On Resource Recovery Project

RECOMMENDATION:

That Council receive a report from the Environmental Services Manager regarding the status of the Resource Recovery Project.

DISCUSSION:

For several years, staff from multiple jurisdictions, including the County of Santa Barbara and the cities of Santa Barbara, Goleta, Buellton and Solvang (hereinafter referred to as the "Public Participants") have worked together to explore the development of a Resource Recovery Project (RRP) at the Tajiguas Landfill. The project, as currently envisioned, includes the following components:

1. A materials recovery facility (MRF) to sort incoming materials into three streams: recyclables to be sold; organics; and residual to be buried in a landfill; and,
2. An anaerobic digestion (AD) facility to digest the organic materials separated by the MRF to produce electricity and compostable material of varying grades and uses.

Since the last presentation to Council on December 18, 2012, there have been further developments that staff believes are appropriate to bring to Council's attention. These developments include the addition of MarBorg Industries, Inc. (MarBorg) as a potential vendor for the MRF component of the project, the selection of MarBorg by Mustang Renewable Power Ventures, LLC (Mustang) as the operator of the MRF built on County-owned land, and the potential creation of a Joint Powers Authority for the administration of the final contract if and when a vendor (or vendors) is ultimately selected. Each of these developments is discussed below.

MarBorg Proposal

After the closing of the original request for proposals (RFP) issued by the County in October of 2009, and in response to the Notice of Preparation of the forthcoming environmental impact report (EIR) for the Project, MarBorg requested that its properties

located within the City also be considered as potential locations for the MRF component of the RRP. In November of 2012, staff notified Council that these properties would be studied in the EIR to a detailed level of analysis such that the County Board of Supervisors, as lead agency, could use this additional information to select the “environmentally preferable” location(s) for the Project.

To determine the financial feasibility of siting the MRF on the MarBorg properties, the Public Participants, at the direction of the Multi-Jurisdictional Solid Waste Task Group (MJSWTG), invited MarBorg to submit a proposal, consistent with the relevant terms of the original RFP, to construct the MRF on its City-located properties. MarBorg submitted its proposal to the County on May 1, 2013 and shortly thereafter its proposal security in the amount of \$100,000.

Consistent with the original RFP process, the County requested that the consulting firm of Alternative Resources, Inc. (ARI) perform the following initial analyses of the proposal: 1) a review of MarBorg's compliance with the nine minimum evaluation criteria listed in the RFP; 2) a comparison of the MarBorg proposal to the Mustang proposal with regard to various operational and performance specifications (e.g. proposed technology, diversion performance, etc.); and, 3) a comparison of the MarBorg proposal to the Mustang proposal with regard to various cost and financial variables (e.g. proposed financing structure, capital and operating costs, Internal Rate of Return, etc.).

ARI has requested additional information from MarBorg. Staff anticipates that ARI will conclude its analysis by fall of 2013. At that point, staff from the Public Participants will conduct a more detailed technical and financial due diligence review of MarBorg's proposal, similar to that conducted on the Mustang proposal in summer of 2012.

Selection of MarBorg by Mustang as Operator of the MRF

In its original proposal submitted in 2009, Mustang did not name a project operator. However, in July of 2013, Mustang notified staff of the Public Participants that it had selected MarBorg as its operator for the MRF. Mustang has yet to name its operator for the AD facility, but indicated it might select MarBorg as the operator for this facility as well.

Despite Mustang's selection of MarBorg as its operator, it should be noted that MarBorg's stand-alone proposal for a MRF within City limits is still in play. According to MarBorg staff, the company reserves the right to withdraw its own proposal should Mustang and MarBorg consummate the owner-operator relationship described above.

Such a withdrawal could complicate the environmental review process. For example, if the EIR concluded that the City-located MarBorg property is deemed the environmentally preferable location for the MRF, without MarBorg's proposal the environmentally preferable option would suddenly be infeasible. To prevent this type of disruption, staff from the Public Participants hope to persuade MarBorg to choose its

final course of action prior to the release of the administrative draft of the environmental impact report, tentatively scheduled for the first quarter of Calendar Year 2014.

Potential Creation of Joint Powers Authority

Since the inception of the RRP, the Public Participants have investigated various cooperative structures that could be employed to resolve matters that may arise in the administration of the long-term contract with the vendor. In 2008, the MJSWTG expressed support for the execution of a Joint Powers Agreement to define the roles and responsibilities of each participating jurisdiction and to establish appropriate mechanisms for addressing issues related to the vendor contract. However, the County and Goleta have recently expressed their intent to establish a separate legal entity, called a Joint Powers *Authority*, for the same purpose. City staff believes that the creation of a Joint Powers Authority, which is a new legal governmental entity with the attendant administrative and legal requirements of any governmental entity, would be less efficient, more costly than a Joint Powers Agreement, and is not necessary to address any legal concerns.

However, staff recognizes the value of all jurisdictions working under a common arrangement. For this reason, if the County and other jurisdictions do move forward with the formation of a Joint Powers Authority, City staff would be willing to be part of the Authority provided that the City retained reasonable control over potential changes to the final 20-year contract with the vendor once executed.

To that end, staff would propose a voting structure that would require approval by the three largest waste generators (City, County and City of Goleta) for any amendment to the contract with the RRP vendor. However, other decisions of the Joint Powers Authority board could require a simple majority. Such a voting structure would provide adequate protection to the City and its ratepayers while not imposing undue restrictions on the day to day operations of the RRP and related decision-making.

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 becomes operational. In addition, the project would generate renewable energy (equivalent to approximately 1,000 homes) and would reduce greenhouse gas emissions when compared to current landfill disposal (equivalent to removing 22,000 vehicles from the road).

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SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office



Update on Status of Resource Recovery Project

City Council

September 24, 2013



PRESENTATION OUTLINE

- ◆ Background
- ◆ Status of MarBorg Proposal
- ◆ Selection of MarBorg as Mustang MRF Operator
- ◆ Potential Creation of Joint Powers Authority
- ◆ Status of Environmental Review

BACKGROUND

What is the RRP?

- ◆ RRP as proposed consists of:
 - ◆ Materials Recovery Facility (MRF)
 - Processes incoming trash into:
 - Recyclables, Organics, and Residual
 - ◆ Anaerobic Digestion Facility (AD)
 - Would convert organics recovered from trash into compostable material and biogas for energy
 - ◆ Landfill disposal of remaining waste

BACKGROUND

Key Milestones Completed

1. Complete Technical and Financial Due Diligence on Mustang Project - (complete)
2. Execute Term Sheet with Mustang as preferred vendor - (complete)
3. Initiate Environmental Review - (complete)
4. Initiate Due Diligence on MarBorg Proposal - (complete)

BACKGROUND

Key Milestones Remaining

5. Complete Environmental Review
6. Develop Framework and Key Terms of Joint Powers Agreement/Authority
7. Negotiate Final Business Terms with vendor(s)
8. Execute Contract with Vendor
9. Construct Facility
10. Begin Processing Waste



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STATUS OF MARBORG PROPOSAL

- ◆ Inclusion of MarBorg in Process
 - MarBorg requested their properties be considered for location of the MRF
 - Will be studied to a detailed level in EIR
 - AD Facility would remain at Tajiguas
- ◆ MJSWTG invited MarBorg to submit formal proposal consistent with RFP
 - Enables formal analysis similar to that performed on Mustang's proposal

STATUS OF MARBORG PROPOSAL

- ◆ MarBorg submitted its proposal on May 1, 2013
- ◆ ARI was requested to review the MarBorg proposal:
 - Determine compliance with minimum evaluation criteria listed in RFP
 - Compare technological, operational and financial assumptions used by MarBorg and Mustang

STATUS OF MARBORG PROPOSAL

- ◆ ARI conducted initial review and requested additional information from MarBorg by September 13, 2013
- ◆ ARI will likely conclude its review by Fall 2013



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SELECTION OF MARBORG AS MUSTANG MRF OPERATOR

- ◆ Mustang did not name operator in its original RFP submittal
- ◆ In July 2013, Mustang named MarBorg as its MRF operator for County-owned sites
- ◆ Participating jurisdictions deemed MarBorg an “acceptable choice” in August 2013
- ◆ Mustang to name operator of AD facility
- ◆ This development does not affect MarBorg’s proposal for a MRF on its own properties

SELECTION OF MARBORG AS MUSTANG MRF OPERATOR

Location	Vendor(s)	MRF Operator	AD Operator
County-Owned Sites	Mustang	MarBorg	TBD
MarBorg Properties	MarBorg (MRF) Mustang (AD)	MarBorg	TBD By Mustang



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POTENTIAL CREATION OF JOINT POWERS AUTHORITY

- ◆ Framework needed for oversight of vendor and RRP by participating jurisdictions
- ◆ In 2008, MJSWTG preferred Joint Powers *Agreement* over a Joint Powers *Authority*
- ◆ In July 2013, MJSWTG supported the creation of an *Authority*
- ◆ Goleta and County elected officials and management have expressed specific interest in an Authority
 - Cities of Solvang and Buellton have not yet committed



POTENTIAL CREATION OF JOINT POWERS AUTHORITY

- ◆ City of SB staff believes that Joint Powers Authority is less desirable
 - Creates a new government entity
 - Additional cost
 - Objectives could be met through a Joint Powers Agreement

POTENTIAL CREATION OF JOINT POWERS AUTHORITY

- ◆ Staff recognizes value of cooperative arrangement
- ◆ Could support Authority membership if City retained control over amendments to RRP contract
- ◆ Proposed Voting Arrangement:
 - Contract amendments unanimously approved by appointed board members of County, Goleta and City (3 largest generators)
 - All other decisions by majority vote of JPA board



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STATUS OF ENVIRONMENTAL REVIEW

- ◆ Notice of Preparation for EIR released in April of 2012
- ◆ County staff and City Planning staff gathering additional information on MarBorg properties to be studied
- ◆ Draft EIR to be released for public review between January and March 2014
- ◆ MarBorg proposal could complicate environmental review



QUESTIONS?