

**CITY OF SANTA BARBARA  
CITY COUNCIL**

**Helene Schneider**  
*Mayor*  
**Frank Hotchkiss**  
*Mayor Pro Tempore*  
**Grant House**  
*Ordinance Committee Chair*  
**Dale Francisco**  
*Finance Committee Chair*  
**Cathy Murillo**  
**Randy Rowse**  
**Bendy White**



**James L. Armstrong**  
*City Administrator*

**Stephen P. Wiley**  
*City Attorney*

**City Hall**  
735 Anacapa Street  
<http://www.SantaBarbaraCA.gov>

**DECEMBER 18, 2012  
AGENDA**

**ORDER OF BUSINESS:** Regular meetings of the Finance Committee and the Ordinance Committee begin at 12:30 p.m. The regular City Council meeting begins at 2:00 p.m. in the Council Chamber at City Hall.

**REPORTS:** Copies of the reports relating to agenda items are available for review in the City Clerk's Office, at the Central Library, and <http://www.SantaBarbaraCA.gov>. In accordance with state law requirements, this agenda generally contains only a brief general description of each item of business to be transacted or discussed at the meeting. Should you wish more detailed information regarding any particular agenda item, you are encouraged to obtain a copy of the Council Agenda Report (a "CAR") for that item from either the Clerk's Office, the Reference Desk at the City's Main Library, or online at the City's website (<http://www.SantaBarbaraCA.gov>). Materials related to an item on this agenda submitted to the City Council after distribution of the agenda packet are available for public inspection in the City Clerk's Office located at City Hall, 735 Anacapa Street, Santa Barbara, CA 93101, during normal business hours.

**PUBLIC COMMENT:** At the beginning of the 2:00 p.m. session of each regular City Council meeting, and at the beginning of each special City Council meeting, any member of the public may address the City Council concerning any item not on the Council's agenda. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that public comment is taken up by the City Council. Should City Council business continue into the evening session of a regular City Council meeting at 6:00 p.m., the City Council will allow any member of the public who did not address them during the 2:00 p.m. session to do so. The total amount of time for public comments will be 15 minutes, and no individual speaker may speak for more than 1 minute. The City Council, upon majority vote, may decline to hear a speaker on the grounds that the subject matter is beyond their jurisdiction.

**REQUEST TO SPEAK:** A member of the public may address the Finance or Ordinance Committee or City Council regarding any scheduled agenda item. Any person wishing to make such address should first complete and deliver a "Request to Speak" form prior to the time that the item is taken up by the Finance or Ordinance Committee or City Council.

**CONSENT CALENDAR:** The Consent Calendar is comprised of items that will not usually require discussion by the City Council. A Consent Calendar item is open for discussion by the City Council upon request of a Councilmember, City staff, or member of the public. Items on the Consent Calendar may be approved by a single motion. Should you wish to comment on an item listed on the Consent Agenda, after turning in your "Request to Speak" form, you should come forward to speak at the time the Council considers the Consent Calendar.

**AMERICANS WITH DISABILITIES ACT:** In compliance with the Americans with Disabilities Act, if you need special assistance to gain access to, comment at, or participate in this meeting, please contact the City Administrator's Office at 564-5305 or inquire at the City Clerk's Office on the day of the meeting. If possible, notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements in most cases.

**TELEVISION COVERAGE:** Each regular City Council meeting is broadcast live in English and Spanish on City TV Channel 18 and rebroadcast in English on Wednesdays and Thursdays at 7:00 p.m. and Saturdays at 9:00 a.m., and in Spanish on Sundays at 4:00 p.m. Each televised Council meeting is closed captioned for the hearing impaired. Check the City TV program guide at [www.citytv18.com](http://www.citytv18.com) for rebroadcasts of Finance and Ordinance Committee meetings, and for any changes to the replay schedule.

## **ORDER OF BUSINESS**

12:30 p.m. - Finance Committee Meeting, David Gebhard Public Meeting Room,  
630 Garden Street

2:00 p.m. - City Council Meeting

### **FINANCE COMMITTEE MEETING - 12:30 P.M. IN THE DAVID GEBHARD PUBLIC MEETING ROOM, 630 GARDEN STREET (120.03)**

**Subject: Comprehensive Annual Financial Report (CAFR) For The Fiscal Year Ended June 30, 2012**

Recommendation: That the Finance Committee recommend that Council:

- A. Receive a report from staff on the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012; and
- B. Accept the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012.

(See Council Agenda Item No. 12)

### **REGULAR CITY COUNCIL MEETING – 2:00 P.M.**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**CHANGES TO THE AGENDA**

**PUBLIC COMMENT**

## CONSENT CALENDAR

1. **Subject: Adoption of Ordinance of the Council of the City of Santa Barbara Adopting the 2012-2013 Memorandum of Understanding Between the City of Santa Barbara and the Santa Barbara Police Management Association (440.02)**

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adopting the 2012-2013 Memorandum of Understanding Between the City of Santa Barbara and the Santa Barbara Police Management Association.

2. **Subject: Adoption of Erosion And Sedimentation Control Ordinance (640.04)**

Recommendation: That Council adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Adding Chapter 22.85 to the Santa Barbara Municipal Code Relating to Erosion and Sedimentation Control Standards for Construction.

3. **Subject: Self Insured Workers' Compensation Program Annual Report (350.08)**

Recommendation: That Council receive the Annual Self Insured Workers' Compensation Program Annual Report for the year ended June 30, 2012.

4. **Subject: November 2012 Investment Report (260.02)**

Recommendation: That Council accept the November 2012 Investment Report.

5. **Subject: Contract For Development Of Wastewater Collection System Strategic Management Program - Phase IV (540.13)**

Recommendation: That Council authorize the Public Works Director to execute a contract, subject to approval as to form by the City Attorney, with Brown and Caldwell, in the amount of \$249,409 for Wastewater Collection system maintenance-related business process development and related Sewer System Management Plan update, and authorize the Public Works Director to approve expenditures of up to \$24,941 for extra services of Brown and Caldwell that may result from necessary changes in the scope of work, for a total of \$274,350.

## **CONSENT CALENDAR (CONT'D)**

### **6. Subject: Tactical Patrol Rifle Project: Motor Detail (330.05)**

Recommendation: That Council:

- A. Accept a donation in the amount of \$8,000 from the Santa Barbara Police Foundation; and
- B. Approve an increase in appropriations and estimated revenues in the amount of \$8,000 in the Fiscal Year 2013 Miscellaneous Grants Fund for the purchase and installation of tactical patrol rifles on additional patrol motorcycles funded by a donation received from the Santa Barbara Police Foundation.

### **7. Subject: Memorandum Of Understanding With Santa Barbara County And Concerned Citizens For Safe Passage (530.04)**

Recommendation: That Council authorize the City Administrator to enter into a Memorandum of Understanding, approved as to form by the City Attorney, with Santa Barbara County and Concerned Citizens for Safe Passage to develop a plan to improve pedestrian circulation in the lower Mission Canyon area.

### **8. Subject: Approval Of Emergency Purchase Order For Airport Emergency Response Vehicle (330.05)**

Recommendation: That Council authorize the General Services Manager to approve an emergency purchase in the amount of \$66,071 to Palmer Johnson Power Systems for the emergency repair made to the transmission system of a highly specialized aircraft rescue and firefighting (ARFF) vehicle, stationed at the Santa Barbara Airport.

## **NOTICES**

- 9. The City Clerk has on Thursday, December 13, 2012, posted this agenda in the Office of the City Clerk, on the City Hall Public Notice Board on the outside balcony of City Hall, and on the Internet.
- 10. Cancellation of the regular City Council meetings of December 25, 2012 and January 1, 2013.
- 11. Receipt from the Housing Authority of the City of Santa Barbara of its 2012 Annual Report (660.03).

**This concludes the Consent Calendar.**

## REPORT FROM THE FINANCE COMMITTEE

### CITY COUNCIL ADMINISTRATIVE AND ATTORNEY REPORTS

#### FINANCE DEPARTMENT

**12. Subject: Comprehensive Annual Financial Report (CAFR) For The Fiscal Year Ended June 30, 2012 (250.02)**

Recommendation: That Council:

- A. Receive a report from staff on the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012; and
- B. Accept the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012.

**13. Subject: Authorize City Administrator To Sign A Term Sheet With Mustang Renewable Power Ventures, LLC (630.01)**

Recommendation: That Council authorize the City Administrator to sign a non-binding Term Sheet between the City, the County of Santa Barbara and the City of Goleta with Mustang Renewable Power Ventures, LLC for the proposed Resource Recovery Project, in a form of Term Sheet acceptable to the City Attorney.

### COUNCIL AND STAFF COMMUNICATIONS

### COUNCILMEMBER COMMITTEE ASSIGNMENT REPORTS

### CLOSED SESSIONS

**14. Subject: Conference With Labor Negotiator (440.05)**

Recommendation: That Council hold a closed session, per Government Code Section 54957.6, to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with the new Fire Management Association, and regarding discussions with certain unrepresented managers about salaries and fringe benefits.

Scheduling: Duration, 15 minutes; anytime

Report: None anticipated

### ADJOURNMENT

CITY OF SANTA BARBARA

**FINANCE COMMITTEE**

MEETING AGENDA

DATE: December 18, 2012

Dale Francisco, Chair

TIME: 12:30 P.M.

Bendy White

PLACE: David Gebhard Public Meeting Room  
630 Garden Street

Cathy Murillo

James L. Armstrong  
City Administrator

Robert Samario  
Finance Director

**ITEM TO BE CONSIDERED:**

**Subject: Comprehensive Annual Financial Report (CAFR) For The Fiscal Year Ended June 30, 2012**

Recommendation: That the Finance Committee recommend that Council:

- A. Receive a report from staff on the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012; and
- B. Accept the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012.

(See Council Agenda Item No. 12)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF  
SANTA BARBARA ADOPTING THE 2012-2013  
MEMORANDUM OF UNDERSTANDING BETWEEN THE  
CITY OF SANTA BARBARA AND THE SANTA BARBARA  
POLICE MANAGEMENT ASSOCIATION

THE COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. The Memorandum of Understanding between the City of Santa Barbara and the Santa Barbara Police Management Association entered into as of July 1, 2012 and attached hereto and incorporated herein by reference as Exhibit "A" is hereby adopted.

SECTION 2. During the term of the agreement, the City Administrator is hereby authorized to implement the terms of the Memorandum of Understanding between the City of Santa Barbara and the Santa Barbara Police Management Association without further action by the City Council, unless such further action is explicitly required by state or federal law. This authorization shall include, but not be limited to, the authority to implement employee salary increases and publish changes to the salary schedule(s) adopted with the annual operating budget.

**CITY OF SANTA BARBARA  
AND  
SANTA BARBARA POLICE MANAGEMENT ASSOCIATION**

***MEMORANDUM OF UNDERSTANDING***  
**JULY 1, 2012, THROUGH DECEMBER 31, 2013**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF SANTA BARBARA  
AND THE  
SANTA BARBARA POLICE MANAGEMENT ASSOCIATION**

THIS AGREEMENT, SIGNED ON \_\_\_\_\_, IS ENTERED INTO AS OF JULY 1, 2012, BETWEEN THE CITY OF SANTA BARBARA, HEREINAFTER REFERRED TO AS THE "CITY," AND THE SANTA BARBARA POLICE MANAGEMENT ASSOCIATION, HEREINAFTER REFERRED TO AS THE "ASSOCIATION."

Pursuant to Section 3.12 of the Municipal Code of the City of Santa Barbara and Section 3500 et. seq. of the Government Code, the duly authorized representatives of the City and the duly authorized representatives of the Association, having met and conferred in good faith concerning wages, hours, and terms and conditions of employment of Unit employees, declare their agreement to the provisions of this Memorandum of Understanding.

**FOR THE CITY:**

**FOR THE ASSOCIATION:**

\_\_\_\_\_  
Kristine Schmidt  
Employee Relations Manager

\_\_\_\_\_  
David Whitham  
Police Captain

\_\_\_\_\_  
Frank Mannix  
Deputy Police Chief

\_\_\_\_\_  
Gil Torres  
Police Captain

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| **1. Scope of Representation**

The Association represents the following management job classifications:

Police Lieutenant  
Police Captain

| **2. Base Salaries**

- A. Base salary ranges for each classification will increase by three percent (3%) effective January 12, 2013.
- B. During the term of the agreement, the existing ability of the Police Chief to recommend merit increases for eligible employees will not be changed. The intent of this section is that the Police Chief not be directed to reduce or eliminate merit increases during the term of the agreement based on economic conditions.

| **3. Compensation Analysis**

Beginning no later than September 1, 2013, the parties will meet and confer in order to attempt to reach agreement about the position of Police Captain and Police Lieutenant compensation within the labor market and within the organization for purposes of discussion during labor negotiations for a successor agreement. This shall include examining:

- 1. Compaction Data: Internal compensation relationships between the City's management and non-management classifications.
- 2. Labor Market Data:
  - i. The relative position of City of Santa Barbara's police management compensation within the applicable public sector labor market, and
  - ii. The compensation differentials between comparable management and non-management classifications within the same labor market.

| **4. Overtime**

Overtime will be accrued only when assigned by the Police Chief to emergency duty, disasters, mutual aid, or similar situations. Overtime will be accrued or paid out at the rate of time and one-half.

| **5. Educational Incentive (POST) Pay**

Employees will receive advanced Police Officers Standards and Training (POST) pay in the same amount, and under the same conditions, as established for police sergeants under their labor agreement in effect at the time.

| **6. Spanish Language Premium Pay**

Employees who establish proficiency in Spanish to the satisfaction of the Police Chief and the Human Resources Manager will be eligible for Spanish language premium pay in the same amount, and under the same conditions, as established for police officers under their labor agreement in effect at the time.

| **7. Uniform Allowance**

Employees will receive a uniform allowance in the same amount, and under the same conditions, as established for a Police Officer under their labor agreement in effect at the time.

| **8. Cafeteria Plan Contribution**

- A. Employees will receive a monthly contribution to the cafeteria plan for the purchase of health and welfare benefits and/or optional cash-out. The cafeteria plan contribution will be \$1,560.00 per month. Effective January 1, 2013, this amount will increase to \$1676.00 per month. This increase will not be considered a qualifying event allowing benefit changes to selections made during the most recent open enrollment period.
- B. Information about the benefits available and their cost will be distributed to all employees at the beginning of each benefit year (i.e. calendar year).
- C. The City retains full and complete control over the selection, approval and administration of the City's group insurance program.
- D. The benefits will be subject to the following rules:
  - 1) Benefit selections must be made prior to the beginning of each benefit year. Employee changes in benefit plan selections, such as adding or deleting coverage and/or dependents, may only be made in accordance with Section 125 of the Internal Revenue Code and City policy.
  - 2) All benefits selected from the cafeteria plan must be paid for in full from the maximum benefit provided except when the maximum is insufficient to cover all insurance coverage selected. In such cases, the premium amount not funded by the City-provided benefit will be paid through an employee deduction applied against the medical premiums.
  - 3) No unexpended dollar amounts associated with selected benefits may be disbursed to a terminating employee.
  - 4) All benefit selections are subject to State and Federal rules, regulations, and laws regarding employee benefits and tax status. No guarantee is made regarding the tax-exempt status of any and all benefits presented or selected.
  - 5) Employees will be eligible for benefits coverage and the monthly cafeteria plan contribution, on the first day of the month following their hire date.

| **9. Domestic Partnership Benefits**

The cafeteria plan allowance can be used toward same sex and opposite sex domestic partner dependent coverage under the medical, dental, and vision plans, and any other plan where such coverage is allowed. In order to receive this benefit, domestic partners must be registered with the City Clerk's Office and/or the Secretary of State of California, and the employee must provide proof of registration. The affected employee(s) will be responsible for all tax consequences of this benefit.

Additionally, Domestic Partners who are registered with the City Clerk's Office and/or the Secretary of State of California are treated the same as spouses under all City policies related to employees' families.

| **10. Life Insurance**

Life Insurance will be provided equal to an amount of one times annual salary. An equal amount will be provided for accidental death and dismemberment (ADD) coverage. This amount will not be counted against the cafeteria plan allowance.

**11. Long Term Disability**

Each employee will receive City-paid coverage under a long term disability insurance program. This amount will not be counted against the cafeteria plan allowance.

**12. Short Term Disability**

Employees will be eligible to participate in an optional Short-term Disability plan at their own cost.

**13. Accident/Critical Illness Insurance**

Employees will be eligible to participate in an optional Supplemental Accident and Critical Illness insurance plan at their own cost.

**14. Tax-Qualified Expense Accounts**

The City will continue to offer several tax-qualified arrangements to allow employees to set aside money to pay for eligible expenses on a pre-tax basis. These include:

- Medical Flexible Spending Account
- Dependent Care Account

**15. Vacation**

A. Employees will accrue vacation as follows:

0-2	15	Days	(120 hours)
3-5	20	Days	(160 hours)
6-7	25	Days	(200 hours)
8+	28	Days	(224 hours)

B. Effective September 30, 2012, the normal maximum vacation accrual will be increased from 352 hours to 392 hours (49 days). A employee whose vacation balances exceed the maximum accrual hours will not be eligible to accrue further vacation until such time as the employee has reduced his or her accrued leave balances through time off or catastrophic leave donation , to below the maximum accrual. There is no retroactive grant of vacation compensation for the period of time the vacation compensation was at the cap.

C. The maximum vacation accrual may be waived if scheduled vacations are cancelled by the City for emergencies or cancelled by the employee due to the illness, injury, or personal emergency. The employee will submit to the City Administrator, via the Department Head, a memo requesting approval for the accrual beyond the maximum. The City Administrator may establish a deadline by which the employee must reduce the vacation accrual to at or below the maximum, or be subject to the accrual discontinuance as outlined in Section B, above.

**16. Vacation Cash-Out**

There will be a one-time cash-out of up to 80 hours of vacation to be paid on or before the December 28, 2012 paycheck. City will notify employees of the procedure to request such vacation cash out. Any hours cashed out during 2012 under the continuation of the expired 2010-2012 MOU shall be credited against these 80 hours.

City will provide notice to employees about how an employee can complete the paperwork necessary to increase deferrals to deferred compensation accounts during the pay period in which vacation cash-out occurs.

**17. Vacation & Sick Leave Advanced Credit Upon Hire**

- A. An employee who is appointed from outside City of Santa Barbara government service within one (1) year of leaving employment with either the City of Santa Barbara or another city, county, state agency, federal agency or special district and who, in the opinion of the Human Resources Manager, possesses government experience directly related to the position to which he or she has been appointed, may be offered credit for years of prior service with the City of Santa Barbara and/or his or her immediate previous government employer in the following ways:
- i. Vacation Accrual: At the discretion of the Human Resources Manager, the employee may be offered credit for up to the total number of prior full years of service at the City of Santa Barbara and/or his or her immediate previous government employer toward the initial vacation accrual rate. The employee will not be eligible to progress to a higher accrual rate until employee has the normal required minimum amount of City of Santa Barbara service for that accrual rate.
  - ii. Sick bank: At the discretion of the Human Resources Manager, the employee may be credited with up to 96 hours of sick leave. Thereafter, employee will accrue sick leave at the normal rate.
- B. A former City of Santa Barbara employee reemployed within one year under Santa Barbara Municipal Code Section 3.16.320 will automatically qualify for the full vacation accrual credit under (i), above, for his or her prior City of Santa Barbara service. However, under no circumstance will prior accrued vacation balances cashed out to the employee upon termination be reinstated.

**18. Holidays**

Employees shall accrue 4.33 hours of holiday leave each biweekly pay period (24 pay periods). Said hours shall be credited to the employee's Holiday Bank.

- 1. The following days are included in the Holiday Bank:
  - January 1st (New Year's Day)
  - 3<sup>rd</sup> Monday in January (Martin Luther King Jr.'s Birthday)
  - 3rd Monday in February (President's Day)
  - Last Monday in May (Memorial Day)
  - July 4th (Independence Day)
  - 1st Monday in September (Labor Day)
  - 4th Thursday in November (Thanksgiving)
  - The Friday immediately following Thanksgiving Day
  - December 25th (Christmas Day)
- 2. Four additional days (32 hours) each fiscal year are included in the holiday bank and may be designated by the employee as holidays

For employees hired or promoted into the bargaining unit on or after July 1, 2013 only: If an employee's holiday bank exceeds 120 hours, the City shall have the option to either require the employee to take the holiday time off or to pay the employee for the hours at straight time. The option of time off or pay in lieu of holiday hours shall be at the sole discretion of the City. Employee in the bargaining unit before July 1, 2013 will not be subject to this provision.

**19. Management Leave**

- A. Full-time regular employees designated as being exempt from the overtime provisions of the Fair Labor Standards Act will be eligible for management leave, subject to the Police Chief's approval.
- B. Each eligible management employee is awarded management leave for the fiscal year as follows:

- Employees on the payroll July 1 (inclusive) 40 hours
- Employees hired between July 2 and October 1 (inclusive) 30 hours
- Employees hired between October 2 and January 1 (inclusive) 20 hours
- Employees hired between January 2 and April 1 (inclusive) 10 hours

- C. An employee on a Leave of Absence without Pay on July 1st will receive the Management Leave hours (prorated) when s/he returns to work
- D. The Police Chief may grant additional paid Management Leave to each eligible management employee during the year. The amount of additional paid leave, if any, will be subject to discretion of the Police Chief.
- E. Management Leave is scheduled like vacation.
- F. Management Leave is not related to hours worked nor subject to accrual, and may not be carried over beyond the end of the fiscal year. Upon resignation or termination, an employee will not be entitled to any payout of management leave.
- G. Administration of Management Leave is subject to the discretion and approval of the Police Chief. Final resolution of any disputes arising with regard to Management Leave will rest with the City Administrator.

**20. Sick Leave**

Sick leave allowance will accrue at the rate of 8 hours per month.

**21. Non-Replenishable Sick Leave**

- A. After five (5) years of continuous service, an employee may accumulate additional “non-replenishable” sick leave at the rate of sixteen (16) hours at full salary for each additional year of continuous service.
- B. The maximum accumulation is two hundred and forty (240) hours and is not replenishable.
- C. Non-replenishable sick leave hours may only be used after the employee’s entire regular sick leave bank is exhausted.

**22. Catastrophic Leave**

Employees will be eligible to donate vacation time to the applicable leave banks of full-time and part-time employees who are incapacitated due to a catastrophic illness or injury or who must care for a spouse or child who has a catastrophic illness or injury under the Management Catastrophic Leave Policy.

**23. Leaves of Absence**

- A. Employees may request a medical leave of absence of up to one year under the City’s FMLA/CFRA Family Medical Leave Policy, the Leave without Pay (Medical Reasons) Policy, the Maternity Leave Policy, and/or the Parental Leave Policy.
- B. The City Administrator may grant an extra leave of absence, in addition to that provided under the various sick leave policies to an employee who has been continuously employed by the City for five (5) years or more. When all sick leave has been exhausted, the employee can make a request, in writing, for extra leave and attach a report from his/her medical doctor stating the extent of the illness and the approximate time required for recovery. If approved the request shall be based on the following schedule:

Service in Years (active & continuous):	Maximum # of Months of Extra Leave Allowable:
5- 10	3
10-15	6 (including the 3 above)
15-20	9 (including the 6 above)
20 +	12 (including the 9 above)

During such period of extra leave, the employee shall receive an amount equal to 50% of his/her regular salary (MC 3.08.210).

- C. Non-Medical Leave: Employees may also request a personal leave of absence of up to one year for non-medical reasons under the City's Leave of Absence without Pay (Non-medical reasons) Policy. A sabbatical may constitute a reason for a leave of absence. An approved leave of absence without pay will not constitute a break in continuous service.

**24. PERS Retirement**

- A. Retirement Formula: Employees will be covered under the Police Safety contract under the Public Employees' Retirement System (PERS) with a 3% at age 50 benefit formula and with a final compensation measurement period of the highest single (1) year.

Effective January 1, 2013, new employees and/or members as defined by California Public Employees' Pension Reform Act of 2013 (hereinafter "AB 340") shall be covered under the 2.7% at 57 retirement formula, with a final compensation measurement period of the average of the highest three (3) consecutive years, as well as all other statutory requirements of AB 340.

- B. Member Contributions: Prior to January 12, 2013, the City will continue to contribute the entire employee's portion of the PERS contribution rate on behalf of bargaining unit members. Effective January 12, 2013, the City will contribute 6.12% of the 9.0% PERS member contribution rate on behalf of bargaining unit members; the employee will pay 2.88% of the member contribution. All such sums as required by law shall be credited to the individual member's account.

Notwithstanding the above, effective January 1, 2013, new employees and/or members as defined by AB 340 shall contribute the greater of what other employees contribute, or half the normal cost as defined by AB 340; the City will not pay any portion of these employees' contributions.

- C. Reporting Employer Paid Member Contributions: The City shall report the value of any Employer Paid Member Contributions (EPMC) to PERS as compensation earnable pursuant to Government Code Section 20636(c)(4).
- D. Employees will also have the option, at their own expense, to receive PERS service credit for any military service time or other service time eligible for service credit purchase under the PERS Police Safety plan.
- E. The parties agree that any provisions of this Agreement that are contrary to or inconsistent with the lawful provisions of AB 340, shall be modified so as to cause them to be consistent with those lawful provisions through letter of understanding to amend the Agreement.

**25. Deferred Compensation**

In addition to the City's retirement plans, employees may elect to participate in a tax-qualified Section 457 government defined contribution retirement program.

**26. Service Credit For Sick Leave Upon Retirement**

- A. At the time of retirement, the City purchases an annuity for the retiring employee that pays a monthly benefit similar to the PERS amendment that provides service credit for sick leave.
- B. The following conditions apply to this benefit:
  - 1. In order to qualify for service credit for sick leave upon retirement, the retiring employee must have at least 500 sick leave hours;
  - 2. The conversion rate of 0.004 years of service credit for each day of sick leave is utilized;
  - 3. The retiring employee may take the cash purchase value of the annuity in lieu of the monthly annuity;
  - 4. 90% PERS retirement limit
    - a. Prior to December 21, 2010, safety group members who obtained 90% of final compensation upon retirement were not eligible for this benefit. All safety group PERS contract evaluations limit a safety member's maximum annual pension to no more than 90% of final compensation regardless of the length of service and this benefit carried the same restriction. This provision was not intended to provide a benefit when a similar benefit would not be available from PERS under the service credit for sick leave contract amendment.
    - b. Effective December 21, 2010, employees who are eligible to receive an annuity under this program shall no longer be subject to reduction of that annuity based on the 90% PERS retirement limit. This shall not apply, however, to any employee who was already subject to a reduced annuity as of December 21, 2010 .
  - 5. If the City amends its PERS Police contract evaluation to include service credit for sick leave upon retirement, employees will be included in that PERS contract amendment and the annuity program will be discontinued.

**27. Retiree Medical Insurance Contribution**

- A. This provision is applicable to employees who retire from City service and
  - 1. Have 10 or more years of classified or unclassified service; or
  - 2. Retire from the City with an industrial disability retirement.
- B. The City will contribute \$10.50 per month, per year of service, toward the purchase of retiree medical insurance, up to a maximum of 35 years (i.e. \$315 per month).
- C. The retiree is not limited to the purchase of a City sponsored plan, provided however, that if the retiree purchases another insurance plan, the retiree must supply the City with adequate proof of insurance coverage prior to any contribution from the City. Proof of such coverage will be provided to the City on a periodic basis, as reasonably determined by the City.
- D. The City will continue to make its contribution until the retiree reaches age 65 or dies, whichever occurs first, provided however, that if the retiree dies before reaching the age of 65 and there is a surviving spouse or registered domestic partner, the City's contribution will cease when the retiree would have reached 65. Thereafter, the spouse may remain on the insurance plan, at his/her cost, subject to the conditions set forth by the insurance company.

**28. Educational Reimbursement Programs**

The Citywide Educational Reimbursement Policy and the Management Master's Degree Program were suspended effective July 1, 2009. Employees will not be eligible for these benefits until such time as the program has been reinstated by the City Administrator Citywide.

**29. Layoff and Rehire**

- A. In cases of the abolition of a position which results in the layoff of personnel or reduction in force, the individual with the least time in classification will be the first laid off.
- B. Where individuals possess equal time in classification, total time with the Santa Barbara City Police Department will be used to determine seniority.
- C. The individual affected will have the right to "bump" downward to the next lower sworn classification such that the last hired employee in the lowest sworn rank will be the first employee laid off.
- D. Rehiring will be accomplished pursuant to Municipal Code Section 3.16.350.

**30. City Rights**

- A. The City shall retain, whether exercised or not, solely and exclusively, all express and inherent rights and authority pursuant to law, except to the extent such authority is explicitly waived by the express terms of this agreement.
- B. The City's rights shall include the right to determine the level of, and the manner in which, the City's activities are conducted, managed, and administered. The Association recognizes the exclusive right of the City to establish and maintain rules and procedures for the administration of its departments. Such rights include, but are not limited to, the exclusive right to: determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of economic reasons or for cause as provided in Section 1007 of the City Charter; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.
- C. The Association recognizes that the City Administrator retains, whether exercised or not, exclusive management decision-making authority over matters within the rights of the City.
- D. The Association recognizes that all bargaining unit members are "unclassified" employees as that term is defined in Article X of the City Charter.

**31. Term, Waiver, and Severability**

- A. The term of this agreement shall be eighteen (18) months commencing July 1, 2012 and ending at midnight on December 31, 2013. The term of this agreement may be extended by mutual agreement.
- B. The Association acknowledges that it had the unlimited right to bargain with regard to issues within the scope of representation. For the term of this Agreement, unless otherwise provided in this Agreement, the City shall not be further obligated to meet and confer. All terms and conditions of employment not covered by this agreement shall continue to be subject to the City's direction and control.
- C. If any provision of this Agreement is declared by judicial authority to be unlawful, unenforceable, or not in accordance with applicable provisions of state, federal or local laws or regulations, such part of the provision will be suspended and superseded by the applicable law or regulation and

the remainder of this Agreement shall remain in full force and effect for the duration of this Agreement.

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA ADDING CHAPTER 22.85 TO THE SANTA BARBARA MUNICIPAL CODE RELATING TO EROSION AND SEDIMENTATION CONTROL STANDARDS FOR CONSTRUCTION

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 22.85 is added to the Santa Barbara Municipal Code to read as follows:

22.85.010 Permit Required for Grading.

It shall be unlawful for any person to perform any grading or for any property owner to allow anyone to perform any grading on any lot within the City that requires a grading permit under the provisions of the California Building Code, as adopted and amended pursuant to Section 22.04.020 of this Code, without first obtaining a grading permit or building permit from the Building Official.

22.85.020 Erosion and Sediment Control Plan.

The Building Official shall not issue any grading permit or building permit unless the applicant has submitted an erosion and sediment control plan prepared in accordance with the City of Santa Barbara Erosion and Sedimentation Control Program adopted by resolution of the City Council and the Building Official has approved the erosion and sediment control plan.

22.85.030 Installation of Erosion and Sediment Control Measures.

It shall be unlawful for any person to perform any work pursuant to a grading permit or building permit or for any property owner to allow anyone to perform any work pursuant to a grading permit or building permit on any lot within the City without installing or implementing the erosion and sediment control measures required for such work in accordance with the approved erosion and sediment control plan.

22.85.040 Maintenance of Erosion and Sediment Control Measures.

It shall be unlawful for any person to perform any work pursuant to a grading permit or building permit or for any property owner to allow anyone to perform any work pursuant to a grading permit or building permit on any lot within the City without maintaining the erosion and sediment control measures required for such work in accordance with the approved erosion and sediment control plan. No person shall be deemed to have satisfied the requirements of an approved erosion and sediment control plan until a final inspection of the work has been approved.

22.85.050 Additional Erosion and Sediment Control Measures.

The Building Official may require additional erosion and sediment control measures to be installed or implemented if an inspection of the lot demonstrates that the erosion and sediment control measures shown on the approved erosion and sediment control plan are insufficient to prevent sediment or other materials from leaving the lot or the construction activities occurring on the lot differ from those indicated on the approved erosion and sediment control plan. Any additional erosion and sediment control measures required by the Building Official shall be incorporated into the approved erosion and sediment control plan.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012  
**TO:** Mayor and Council members  
**FROM:** Risk Management Division, Finance Department  
**SUBJECT:** Self Insured Workers' Compensation Program Annual Report

### RECOMMENDATION:

That Council receive the Annual Self Insured Workers' Compensation Program Annual Report for the year ended June 30, 2012.

### DISCUSSION:

California Labor Code Section 3702.6(b) requires staff to advise Council annually about two items relating to the City's self-insured workers' compensation program: (1) the value of the total accrued claim liabilities reported by the City on the State's Self Insurers Annual Report; and (2) whether current accounting and financial reporting of those liabilities is in compliance with the requirements of Government Accounting Standards Board (GASB) Statement 10.

The California Department of Industrial Relations requires all self-insured public agencies to submit an annual report before October 1<sup>st</sup> that identifies the workers' compensation liabilities as of the prior fiscal year-end. Risk Management staff submitted the Fiscal Year 2012 annual report on September 26, 2012. The City's report listed 175 open indemnity claims with total liabilities of \$6,928,481, consisting of \$1,543,098 for indemnity (disability payments) and \$5,385,383 for medical payments.

The City accounts for its risk management operations in a separate Internal Service Fund. Every two years, the City contracts with a risk management actuarial firm to prepare an actuarial valuation of the accrued liabilities in the City's self-insured workers' compensation program. The City uses the results of this actuarial valuation as well as claims information from our third party administrator (claims adjuster) to report the workers' compensation accrued liabilities in both the City's annual audit report (the "Comprehensive Annual Financial Report" or "CAFR") and the State's required annual report. The City is fully funded for all of its actuarially determined workers' compensation claim liabilities.

GASB Statement 10 established accounting and financial reporting standards for all City claims, including workers' compensation claims. GASB Statement 10 requires governments to recognize a claim as an expense and liability if both of the following conditions are met:

1. Information available indicates that it is probable that a liability has been incurred; and,
2. The amount of the loss can be reasonably estimated.

In addition, it requires certain disclosures in the footnotes to the financial statements. All of the City's workers' compensation claims have been accounted for and reported in accordance with GASB Statement 10.

In summary, the City has met its obligation to file the State's annually required report for public agencies that self-insure for workers' compensation. With this report, the City has also met the State law requirement to report the program liabilities to the City Council. A more complete description of the City's self-insured workers' compensation program can be found in the City's CAFR for the fiscal year ended June 30, 2012.

**PREPARED BY:** Mark W. Howard, Risk Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Treasury Division, Finance Department

**SUBJECT:** November 2012 Investment Report

**RECOMMENDATION:**

That Council accept the November 2012 Investment Report.

**DISCUSSION:**

The attached investment report includes Investment Activity, Interest Revenue, a Summary of Cash and Investments, and Investment Portfolio detail as of November 30, 2012.

**ATTACHMENT:** November 2012 Investment Report

**PREPARED BY:** Jill Taura, Treasury Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office

**CITY OF SANTA BARBARA**  
**Activity and Interest Report**  
November 30, 2012

**INVESTMENT ACTIVITY**

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**PURCHASES OR DEPOSITS**

11/8 Federal National Mortgage Association (FNMA)	\$ 2,000,000
11/8 Federal National Mortgage Association (FNMA)	2,000,000
11/29 LAIF Deposit - City	<u>2,000,000</u>
<b>Total</b>	<b>\$ 6,000,000</b>

**SALES, MATURITIES, CALLS OR WITHDRAWALS**

11/7 LAIF Withdrawal - City	\$ (2,000,000)
11/8 LAIF Withdrawal - City	(2,000,000)
11/9 Federal National Mortgage Association (FNMA) - Call	(2,000,000)
11/19 LAIF Withdrawal - City	(4,000,000)
11/28 Federal Home Loan Bank (FHLB) - Call	<u>(2,000,000)</u>
<b>Total</b>	<b>\$ (12,000,000)</b>

**ACTIVITY TOTAL**

**\$ (6,000,000)**

**INVESTMENT INCOME**

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**POOLED INVESTMENTS**

Interest Earned on Investments	\$ 197,031
Amortization	(15,034)
Interest on SBB&T Accounts	<u>443</u>
<b>Total</b>	<b>\$ 182,440</b>

**REDEVELOPMENT SUCCESSOR AGENCY INVESTMENTS**

Interest Earned on Investments (LAIF)	<u><b>\$ 1,834</b></u>
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**INCOME TOTAL**

**\$ 184,274**



**CITY OF SANTA BARBARA**

**Investment Portfolio**

**November 30, 2012**

DESCRIPTION	PURCHASE	MATURITY	QUALITY RATING		STATED	YIELD AT	FACE	BOOK	MARKET	BOOK	COMMENTS
	DATE	DATE	MOODY'S	S & P							
<b>LOCAL AGENCY INVESTMENT FUNDS</b>											
LOCAL AGENCY INVESTMENT FUND	-	-	-	-	0.333	0.333	34,000,000.00	34,000,000.00	34,000,000.00	0.00	
LOCAL AGENCY INV FUND/RDAS	-	-	-	-	0.333	0.333	6,700,000.00	6,700,000.00	6,700,000.00	0.00	
<b>Subtotal, LAIF</b>							40,700,000.00	40,700,000.00	40,700,000.00	0.00	
<b>CERTIFICATES OF DEPOSIT</b>											
MONTECITO BANK & TRUST	11/18/11	11/18/13	-	-	0.800	0.800	2,000,000.00	2,000,000.00	2,000,000.00	0.00	
SANTA BARBARA BANK & TRUST	08/31/12	08/31/15	-	-	1.230	1.247	2,000,000.00	2,000,000.00	2,000,000.00	0.00	
SANTA BARBARA BANK & TRUST	08/31/12	08/31/17	-	-	1.490	1.511	4,000,000.00	4,000,000.00	4,000,000.00	0.00	
<b>Subtotal, Certificates of deposit</b>							8,000,000.00	8,000,000.00	8,000,000.00	0.00	
<b>TREASURY SECURITIES - COUPON</b>											
U S TREASURY NOTE	10/25/12	10/31/15	Aaa	AA+	1.250	0.397	2,000,000.00	2,049,376.70	2,053,600.00	4,223.30	
U S TREASURY NOTE	10/25/12	03/15/15	Aaa	AA+	0.375	0.342	2,000,000.00	2,001,496.13	2,004,700.00	3,203.87	
<b>Subtotal, Treasury Securities</b>							4,000,000.00	4,050,872.83	4,058,300.00	7,427.17	
<b>FEDERAL AGENCY ISSUES - COUPON</b>											
FEDERAL FARM CREDIT BANK	02/10/11	02/10/14	Aaa	AA+	1.375	1.375	2,000,000.00	2,000,000.00	2,027,480.00	27,480.00	
FEDERAL FARM CREDIT BANK	03/01/12	03/01/17	Aaa	AA+	1.260	1.260	2,000,000.00	2,000,000.00	2,005,620.00	5,620.00	Callable 03/01/13, then cont.
FEDERAL FARM CREDIT BANK	08/15/12	08/15/17	Aaa	AA+	0.980	0.980	2,000,000.00	2,000,000.00	2,008,960.00	8,960.00	Callable 08/15/13, then cont.
FEDERAL FARM CREDIT BANK	03/05/09	03/04/13	Aaa	AA+	2.600	2.600	2,000,000.00	2,000,000.00	2,012,360.00	12,360.00	
FEDERAL FARM CREDIT BANK	05/08/09	04/08/13	Aaa	AA+	2.200	2.200	2,000,000.00	2,000,000.00	2,014,200.00	14,200.00	
FEDERAL FARM CREDIT BANK	02/16/11	02/16/16	Aaa	AA+	2.570	2.570	2,000,000.00	2,000,000.00	2,138,540.00	138,540.00	
FEDERAL FARM CREDIT BANK	09/13/12	09/13/17	Aaa	AA+	1.020	1.020	2,000,000.00	2,000,000.00	2,000,460.00	460.00	Callable 12/13/12, then cont.
FEDERAL HOME LOAN BANK	04/15/10	10/15/13	Aaa	AA+	2.000	2.000	2,000,000.00	2,000,000.00	2,031,420.00	31,420.00	
FEDERAL HOME LOAN BANK	08/05/10	09/12/14	Aaa	AA+	1.375	1.375	2,000,000.00	2,000,000.00	2,038,640.00	38,640.00	
FEDERAL HOME LOAN BANK	09/17/09	12/13/13	Aaa	AA+	3.125	2.440	2,000,000.00	2,013,360.37	2,060,060.00	46,699.63	
FEDERAL HOME LOAN BANK	04/05/10	11/29/13	Aaa	AA+	2.000	2.000	2,000,000.00	2,000,000.00	2,035,660.00	35,660.00	
FEDERAL HOME LOAN BANK	09/26/11	08/28/13	Aaa	AA+	1.000	0.381	1,000,000.00	1,004,572.18	1,006,020.00	1,447.82	
FEDERAL HOME LOAN BANK	09/17/09	09/13/13	Aaa	AA+	4.375	2.272	2,000,000.00	2,031,326.35	2,065,100.00	33,773.65	
FEDERAL HOME LOAN BANK	02/22/10	12/13/13	Aaa	AA+	3.125	2.130	2,000,000.00	2,019,639.21	2,060,060.00	40,420.79	
FEDERAL HOME LOAN BANK	02/09/11	01/29/15	Aaa	AA+	1.750	1.750	2,000,000.00	2,000,000.00	2,061,480.00	61,480.00	
FEDERAL HOME LOAN BANK	04/15/11	05/27/15	Aaa	AA+	2.000	2.000	2,000,000.00	2,000,000.00	2,081,840.00	81,840.00	
FEDERAL HOME LOAN BANK	09/26/11	10/30/13	Aaa	AA+	2.000	0.400	1,500,000.00	1,521,821.34	1,524,690.00	2,868.66	
FEDERAL HOME LOAN MTG CORP	03/28/12	03/28/17	Aaa	AA+	1.210	1.210	2,000,000.00	2,000,000.00	2,005,680.00	5,680.00	Callable 03/28/13, once
FEDERAL HOME LOAN MTG CORP	01/06/11	02/25/14	Aaa	AA+	1.375	1.375	2,000,000.00	2,000,000.00	2,027,720.00	27,720.00	
FEDERAL HOME LOAN MTG CORP	03/28/12	03/28/17	Aaa	AA+	1.350	1.350	2,000,000.00	2,000,000.00	2,032,900.00	32,900.00	Callable 03/28/14, once
FEDERAL HOME LOAN MTG CORP	02/21/12	02/21/17	Aaa	AA+	1.300	1.300	2,000,000.00	2,000,000.00	2,025,580.00	25,580.00	Callable 02/21/14, once
FEDERAL HOME LOAN MTG CORP	04/23/12	04/17/15	Aaa	AA+	0.500	0.534	2,000,000.00	1,998,390.02	2,008,140.00	9,749.98	

**CITY OF SANTA BARBARA**

**Investment Portfolio**

**November 30, 2012**

DESCRIPTION	PURCHASE DATE	MATURITY DATE	QUALITY RATING MOODY'S	S & P	STATED RATE	YIELD AT 365	FACE VALUE	BOOK VALUE	MARKET VALUE	BOOK GAIN/(LOSS)	COMMENTS
FEDERAL HOME LOAN MTG CORP	06/12/12	06/12/17	Aaa	AA+	1.250	1.250	2,000,000.00	2,000,000.00	2,023,920.00	23,920.00	Callable 06/12/14, then qtrly
FEDERAL HOME LOAN MTG CORP	07/24/12	07/24/17	Aaa	AA+	1.125	1.125	2,000,000.00	2,000,000.00	2,009,380.00	9,380.00	Callable 07/24/13, then qtrly
FEDERAL HOME LOAN MTG CORP	05/24/12	05/24/17	Aaa	AA+	1.200	1.200	2,000,000.00	2,000,000.00	2,007,420.00	7,420.00	Callable 05/24/13, then qtrly
FEDERAL HOME LOAN MTG CORP	08/28/12	08/28/17	Aaa	AA+	1.030	1.030	2,000,000.00	2,000,000.00	2,003,560.00	3,560.00	Callable 02/28/13, then qtrly
FEDERAL HOME LOAN MTG CORP	09/12/12	09/12/17	Aaa	AA+	1.000	1.000	2,000,000.00	2,000,000.00	2,007,560.00	7,560.00	Callable 09/12/13, then qtrly
FEDERAL HOME LOAN MTG CORP	02/11/11	04/02/14	Aaa	AA+	4.500	1.615	2,000,000.00	2,074,850.57	2,110,520.00	35,669.43	
FEDERAL HOME LOAN MTG CORP	06/07/12	06/07/17	Aaa	AA+	1.300	1.300	2,000,000.00	2,000,000.00	2,009,680.00	9,680.00	Callable 06/07/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	12/28/11	12/28/16	Aaa	AA+	1.125	1.641	2,000,000.00	2,000,000.00	2,001,280.00	1,280.00	SU 2% Callable 12/28/12, then qtrly
FEDERAL NATL MORTGAGE ASSN	10/28/11	10/28/16	Aaa	AA+	1.500	1.521	2,000,000.00	1,999,091.67	2,022,500.00	23,408.33	Callable 10/28/13, once
FEDERAL NATL MORTGAGE ASSN	01/25/12	01/25/17	Aaa	AA+	1.000	1.256	2,000,000.00	1,999,850.00	2,003,160.00	3,310.00	SU 1.5%, Callable 01/25/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	11/17/10	11/17/14	Aaa	AA+	1.300	1.300	2,000,000.00	2,000,000.00	2,039,680.00	39,680.00	
FEDERAL NATL MORTGAGE ASSN	06/27/11	06/27/16	Aaa	AA+	2.000	2.000	2,000,000.00	2,000,000.00	2,015,780.00	15,780.00	Callable 06/27/13, once
FEDERAL NATL MORTGAGE ASSN	08/28/12	08/28/17	Aaa	AA+	1.150	1.150	2,000,000.00	2,000,000.00	2,011,920.00	11,920.00	Callable 08/28/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	04/12/12	04/12/17	Aaa	AA+	1.400	1.400	2,000,000.00	2,000,000.00	2,009,620.00	9,620.00	Callable 04/12/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	11/08/12	11/08/17	Aaa	AA+	1.000	1.000	2,000,000.00	2,000,000.00	2,004,380.00	4,380.00	Callable 05/08/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	11/08/12	11/08/17	Aaa	AA+	1.000	1.000	2,000,000.00	2,000,000.00	2,004,380.00	4,380.00	Callable 05/08/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	12/28/11	12/28/16	Aaa	AA+	1.625	1.625	2,000,000.00	2,000,000.00	2,002,040.00	2,040.00	Callable 12/28/12, once
FEDERAL NATL MORTGAGE ASSN	03/28/12	03/28/17	Aaa	AA+	1.125	1.332	2,000,000.00	2,000,000.00	2,007,840.00	7,840.00	SU 1.125%-2.25%, Call 03/28/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	09/21/10	09/21/15	Aaa	AA+	2.000	2.000	2,000,000.00	2,000,000.00	2,091,340.00	91,340.00	
FEDERAL NATL MORTGAGE ASSN	12/10/10	10/26/15	Aaa	AA+	1.625	2.067	2,000,000.00	1,975,696.01	2,072,440.00	96,743.99	
FEDERAL NATL MORTGAGE ASSN	04/18/11	04/18/16	Aaa	AA+	2.500	2.500	2,000,000.00	2,000,000.00	2,016,120.00	16,120.00	Callable 04/18/13, once
FEDERAL NATL MORTGAGE ASSN	01/30/12	01/30/17	Aaa	AA+	1.300	1.300	2,000,000.00	2,000,000.00	2,004,120.00	4,120.00	Callable 01/30/13, then qtrly
FEDERAL NATL MORTGAGE ASSN	06/01/12	05/29/15	Aaa	AA+	0.650	0.650	2,000,000.00	2,000,000.00	2,002,940.00	2,940.00	Callable 05/29/13, once
<b>Subtotal, Federal Agencies</b>							<b>88,500,000.00</b>	<b>88,638,597.72</b>	<b>89,754,190.00</b>	<b>1,115,592.28</b>	
<b>CORPORATE/MEDIUM TERM NOTES</b>											
BERKSHIRE HATHAWAY FIN	12/15/10	12/15/15	Aa2	AA+	2.450	2.530	2,000,000.00	1,995,441.67	2,105,160.00	109,718.33	
GENERAL ELECTRIC CAPITAL CORP	11/10/10	11/09/15	A1	AA+	2.250	2.250	2,000,000.00	2,000,000.00	2,067,720.00	67,720.00	
GENERAL ELECTRIC CAPITAL CORP	01/07/11	01/07/14	A1	AA+	2.100	2.100	2,000,000.00	2,000,000.00	2,034,040.00	34,040.00	
PROCTOR & GAMBLE	09/20/11	11/15/15	Aa3	AA-	1.800	1.085	2,000,000.00	2,041,207.76	2,077,560.00	36,352.24	
TOYOTA MOTOR CREDIT	09/26/11	09/15/16	Aa3	AA-	2.000	1.800	2,000,000.00	2,014,425.31	2,073,720.00	59,294.69	
<b>Subtotal, Corporate Securities</b>							<b>10,000,000.00</b>	<b>10,051,074.74</b>	<b>10,358,200.00</b>	<b>307,125.26</b>	
<b>SB AIRPORT PROMISSORY NOTE (LT)</b>											
SANTA BARBARA AIRPORT	07/14/09	06/30/29	-	-	7.000	7.000	5,789,184.34	5,789,184.34	5,789,184.34	0.00	
<b>Subtotal, SBA Note</b>							<b>5,789,184.34</b>	<b>5,789,184.34</b>	<b>5,789,184.34</b>	<b>0.00</b>	
<b>TOTALS</b>							<b>156,989,184.34</b>	<b>157,229,729.63</b>	<b>158,659,874.34</b>	<b>1,430,144.71</b>	

Market values have been obtained from the City's safekeeping agent, Santa Barbara Bank and Trust (SBB&T). SBB&T uses Interactive Data Pricing Service, Bloomberg and DTC.



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Contract For Development Of Wastewater Collection System Strategic Management Program – Phase IV

### **RECOMMENDATION:**

That Council authorize the Public Works Director to execute a contract, subject to approval as to form by the City Attorney, with Brown and Caldwell, in the amount of \$249,409 for Wastewater Collection system maintenance-related business process development and related Sewer System Management Plan update, and authorize the Public Works Director to approve expenditures of up to \$24,941 for extra services of Brown and Caldwell that may result from necessary changes in the scope of work, for a total of \$274,350.

### **DISCUSSION:**

The City of Santa Barbara owns and operates a 257-mile municipal wastewater collection system. Sewer mains in this system range in size from 6 to 42 inches in diameter. In order to minimize the occurrence of sanitary sewer overflows from this system, it is imperative that sewer system management activities are conducted efficiently and effectively. Staff has identified that there are opportunities to be gained through better utilization of technology to both plan and assess its current wastewater collection system Capital Improvement Program project and maintenance work.

The City issued a Request for Proposals and received three proposals from engineering firms interested in performing this work. On October 21, 2010, staff, along with a Water Commissioner, interviewed three qualified firms. From this competitive process, the firm of Brown and Caldwell was selected as the most qualified consultant for this work effort.

Brown and Caldwell has completed three contract phases of work totaling \$604,454 over the past two years. Phase I of this contract work was approved by City Council on January 11, 2011, and focused on the development of a comprehensive maintenance management program for City field staff use. Phase II contract work was approved by City Council on June 7, 2011. It focused upon the development of Capital Improvement Program prioritization schedules for sewer main rehabilitation and replacement projects, wastewater lift station construction projects, improvements to the City's restaurant

grease inspection program, and updates to the City's existing Sewer System Management Plan documentation. Phase III contract work was approved by City Council on July 17, 2012. It focused upon additional updates to the Wastewater Collection System Work Plan and Sewer System Management Plan documentation; priority process improvements related to pipe repair/replacement and closed-circuit television activities; and sewer main cleaning work order planning process refinements.

The proposed Phase IV Contract scope of work will consist of the following:

- Wastewater Collection System Work Plan and Sewer System Management Plan documentation update and finalization;
- Food Service Establishment Inspection Program process updates, and related Cartegraph computer maintenance management program (CMMS) scheduling and compliance activity improvements and updates;
- Capital Improvement Program-related (CIP) closed circuit television data review, and sewer main prioritization and selection for upcoming CIP project work.
- Sanitary Sewer Overflow (SSO) Program process updates, and related Cartegraph computer maintenance management program (CMMS) scheduling and compliance activity improvements and updates;
- Priority Process Improvements related to Pipe Repair/Rehabilitation/Replacement, and related closed-circuit television (CCTV) activities;
- Mobile technology selection, and implementation for field crew work associated with CMMS-related maintenance work completion, documentation, and analyses; and
- Sewer main cleaning process activity support, cleaning schedule CMMS database adjustments, and related activities.

At their meeting on November 12, 2012, the Board of Water Commissioners voted 5-0-0 to concur with staff's recommendations.

#### **BUDGET/FINANCIAL INFORMATION:**

This project was anticipated, and there are adequate appropriated funds in the Wastewater Capital Fund for this professional consultant work.

#### **SUSTAINABILITY IMPACT:**

Business process changes in Wastewater Collection system management and related planning activities will result in more efficient heavy vehicle usage, allowing the City to reduce vehicle fuel consumption and greenhouse gas emissions over time.

**PREPARED BY:** Christopher Toth, Wastewater System Manager/CJT/avb

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Patrol Division, Police Department

**SUBJECT:** Tactical Patrol Rifle Project: Motor Detail

**RECOMMENDATION:** That Council:

- A. Accept a donation in the amount of \$8,000 from the Santa Barbara Police Foundation; and
- B. Approve an increase in appropriations and estimated revenues in the amount of \$8,000 in the Fiscal Year 2013 Miscellaneous Grants Fund for the purchase and installation of tactical patrol rifles on additional patrol motorcycles funded by a donation received from the Santa Barbara Police Foundation.

### **DISCUSSION:**

In March 2002, the Santa Barbara Police Department deployed the AR-15 semi-automatic rifle in all black and white patrol units. The AR-15 was issued to field officers in order to provide superior stand-off capability to protect themselves and citizens when coming into contact with heavily armed criminals.

Santa Barbara Police Department Officers assigned to motorcycle duty are considered, "first responders" and have the same need for a patrol rifle as officers assigned to black and white patrol vehicles. Motorcycle units are often dispatched and respond to the same high priority calls as patrol officers, often being the first to arrive on scene due to their mobility. Currently most of the police Motorcycles are equipped with the rifles and this funding will equip the new motorcycles in our fleet with the same weapons. Equipping our motor officers with a patrol rifle will provide them additional officer safety and give them a tactical advantage against armed suspects in order to protect the citizens of our community.

### **BUDGETARY/FINANCIAL INFORMATION:**

A total of \$26,200 has previously been appropriated to purchase rifles for the full motorcycle fleet and secure racks and covers. The donation of \$8,000 from the Santa Barbara Police Foundation will pay for rifles, racks and covers for additional motorcycle units added to the fleet. No City funds will be necessary to complete this project.

**PREPARED BY:** Brent Mandrell, Police Lieutenant

**SUBMITTED BY:** Camerino Sanchez, Chief of Police

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Transportation Division, Public Works Department

**SUBJECT:** Memorandum Of Understanding With Santa Barbara County And Concerned Citizens For Safe Passage

### RECOMMENDATION:

That Council authorize the City Administrator to enter into a Memorandum of Understanding, approved as to form by the City Attorney, with Santa Barbara County and Concerned Citizens for Safe Passage to develop a plan to improve pedestrian circulation in the lower Mission Canyon area.

### DISCUSSION:

At the request of Mayor Schneider and Councilmember Francisco, a community group known as Concerned Citizens for Safe Passage (Safe Passage) made a presentation to Council in September 2012. This community group desires to improve pedestrian circulation in the lower Mission Canyon area. Pedestrian concerns are focused on Mission Canyon Road and Los Olivos Street, between the Santa Barbara Mission and Natural History Museum. This corridor spans both the City and Santa Barbara County (County) limit. Council directed staff to work with Safe Passage and the County to create a plan that will work towards developing a community consensus for solutions to improve pedestrian circulation in that area, and to return to Council.

### Background

Staff has met with Safe Passage representatives and County staff to develop the attached bullet point list of roles and responsibilities required to further investigate and present possible pedestrian circulation solutions within the community. This list will be the basis of a Memorandum of Understanding (MOU) between the City, County, and Safe Passage representatives. If Council authorizes the City Administrator to execute the MOU, City staff will work with the County and Safe Passage to elicit community feedback and prepare a short and long-term list setting forth the community consensus for pedestrian safety and circulation improvements developed for the Mission Canyon area. The City's role in this process is to provide a staff member to act as a resource at all meetings, and to coordinate and give presentations to City boards and commissions

for preliminary review and comment as appropriate. Rob Dayton, Principal Transportation Planner, will be the sole staff member assigned to represent the City in this planning process unless the County, the City, and Safe Passage, jointly decide to contract paid assignments to engineering staff members in the Public Works Department.

**BUDGET/FINANCIAL INFORMATION:**

This collaborative planning effort and process is funded by a recently County acquired Caltrans grant in the amount of \$89,000. The City's in-kind contribution is staff support. Once community consensus solutions are developed, funding the short and long-term improvements is the next step. Funding for such improvements is not currently identified in the City's Capital Improvement Program.

**ATTACHMENT:** Outline of Roles and Responsibilities for Improved Mission Park to Mission Canyon Pedestrian Circulation

**PREPARED BY:** Browning Allen, Transportation Manager/RD/kts

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office

**Outline of Concerned Citizens for Safe Passage, Santa Barbara County, and  
City of Santa Barbara Roles and Responsibilities  
for Improved Mission Park to Mission Canyon Pedestrian Circulation**

**Pre-Caltrans Grant Award to Conduct Community Stakeholder Process (Fall 2012 – Spring 2013)**

County

- Respond to Caltrans program conditions request by October 15, 2012 (complete)
- Prepare Board of Supervisor's agenda letter and present project to Board of Supervisors on October 16, 2012 (complete)
- Meeting between County, Safe Passage, and City (hereinafter the "project team"), to discuss grant objectives and plan for developing a community consensus for pedestrian circulation improvements, and each entities roles and responsibilities (complete)
- Review and approve contract between Caltrans and County
- Participate in "brainstorm" community stakeholder meeting(s) facilitated by Safe Passage
- Create project webpage

City

- Meet with project team to discuss grant objectives and plan for developing a community consensus for pedestrian circulation improvements, and each entities roles and responsibilities (complete)
- Respond to City Council's motion to scope out a work plan and return to Council in December 2012/January 2013 (In process)
- Participate in "brainstorm" community stakeholder meeting(s) facilitated by Safe Passage

Safe Passage

- Present project to City Council and Board of Supervisors (complete)
- Meet with project team to discuss grant parameters and scope of work
- Determine volunteer expertise and time available to assist County and City to fulfill grant objectives  
Organize and facilitate community stakeholder brainstorming meeting(s)

**Grant Funded Project (Spring 2013 – Feb 2015)**

County

- Manage project including schedule, budget, consultant contracts (if used), and invoicing, quarterly reports to Caltrans etc.
- Organize and attend Kick Off Meeting with Caltrans (within 10 days of contract approval)

- Hold monthly project team status meetings with City and County staff representatives
- Prepare Request for Proposal and select consultant (if necessary) or approve/schedule staff resources for tasks
- Conduct project team walking tour (with consultant if selected)
- Conduct outreach strategies (webpage, mailing list, noticing)
- Organize and lead three community meetings
- Prepare portions and/or review multimodal concept plan(s) and illustrations
- Prepare staff reports and present concept plan(s) and illustrations to County HLAC, SBAR and Planning Commission
- Prepare and review County and City administrative memorandum of understanding

#### City

- Attend project team status meetings
- Assist with Request for Proposal and consultant selection (if necessary)
- Attend project team walking tour (with consultant if selected)
- Attend community stakeholder meetings
- Review and comment on draft multimodal concept plan(s) and illustrations
- Prepare staff reports and present concept plan(s) and illustrations to City Historic Landmarks Commission, Transportation and Circulation Committee, and Planning Commission
- Prepare/review administrative memorandum of understanding

#### Safe Passage

- Attend project team status meetings
- Assist with Request for Proposal and consultant selection (if necessary) or provide staff resources for tasks
- Attend project team walking tour (with consultant if selected)
- Assist with and attend community stakeholder meetings
- Prepare portions and/or review multimodal concept plan(s) and illustrations
- Attend staff presentation to various boards and committees
- Review County and City administrative memorandum of understanding



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Fleet Management Division, Public Works Department

**SUBJECT:** Approval Of Emergency Purchase Order For Airport Emergency Response Vehicle

### RECOMMENDATION:

That Council authorize the General Services Manager to approve an emergency purchase in the amount of \$66,071 to Palmer Johnson Power Systems for the emergency repair made to the transmission system of a highly specialized aircraft rescue and firefighting (ARFF) vehicle, stationed at the Santa Barbara Airport.

### DISCUSSION:

Recently, the City's ARFF vehicle, number 2245, Oshkosh Striker 1500, experienced transmission failure, which placed the vehicle out of service. During the initial diagnosis, the repairs were determined to be beyond the resources of Fleet Management staff. The ARFF vehicle is a 58,000 lb. oversized vehicle, not drivable on public streets; therefore the vehicle was transported to Palmer Johnson Power Systems, LLC, in Santa Fe Springs, CA, the only factory-authorized repair facility in Southern California.

This vehicle is one of two ARFF vehicles stationed at the Santa Barbara Airport. Federal Aviation Administration (FAA) regulations require the Airport to provide aircraft rescue and fire fighting services during air carrier operations. If the second ARFF vehicle were to be incapacitated while ARFF number 2245 was being repaired, the Santa Barbara Airport would have been closed to any air carrier operations for the duration.

Palmer Johnson Power Systems technicians confirmed the transmission system failure. An estimate of \$24,154.53 was provided to disassemble the transmission and determine the extent of damage. Due to the urgent nature of this repair, an emergency sole source purchase order was issued on October 24, 2012, and the vendor was given notice to proceed with the disassembly.

Upon disassembly, metal debris was found throughout the interior of the transmission, and the hydraulic system, and the transmission torque converter had come apart. The total estimate to rebuild the existing transmission and torque converter, including the initial disassembly was \$66,071. Because of the urgent nature of this repair, the vendor was given notice to proceed.

The Purchasing Code allows staff to bypass the formal bidding processes for selecting a contractor and executing contracts in emergency situations such as this instance. The Purchasing Code also requires staff to bring the contract to Council for after-the-fact approval as soon as is practical.

**BUDGET/FINANCIAL INFORMATION:**

There are sufficient funds in the Fleet Management Maintenance Operations budget to cover the cost of these repairs.

**PREPARED BY:** Gary Horwald, Fleet Manager/mh

**SUBMITTED BY:** Christine F. Andersen, Public Works Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Accounting Division, Finance Department

**SUBJECT:** Comprehensive Annual Financial Report (CAFR) For The Fiscal Year Ended June 30, 2012

**RECOMMENDATION:** That Council:

- A. Receive a report from staff on the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012; and
- B. Accept the Comprehensive Annual Financial Report for the Fiscal Year ended June 30, 2012.

### **DISCUSSION:**

Pursuant to City Charter, Finance Department staff has prepared the City's annual financial statements for the fiscal year ended June 30, 2012. Each year, financial statements are prepared to report on the financial condition of the City as a whole, as well as individual funds/operations that are included within the City's operations.

While only certain financial statements and schedules are required by both state law and the City Charter, other information and elements needed to be considered for an award for excellence in financial reporting from the Government Finance Officers Association (GFOA), which recognizes the highest standards of financial reporting. As such, the expanded financial statements and other information included in the report are collectively referred to as a Comprehensive Annual Financial Report ("CAFR"). In addition to allowing the CAFR to be considered for the GFOA award for financial reporting, the financial statements are expanded to enable the community and other interested parties to obtain a better and more complete understanding of the City's finances and operations.

The financial statements were audited by the independent public accounting firm of Lance, Soll & Lunghard, LLP (LSL), whose unqualified opinion is included within the financial section of the report. An unqualified opinion indicates that the financial statements present fairly the financial position of the City of Santa Barbara as of June 30, 2012, and the results of operations, in accordance with generally accepted accounting principles. As part of the audit, LSL also reviewed and performed tests of the City's internal accounting control procedures to determine if there are any material weaknesses or instances of non-

compliance. Based on the audit, no instances of non-compliance or material weaknesses were noted.

The primary purpose of the CAFR is to allow readers to assess the financial condition of the City at the end of each year, and demonstrate whether its financial condition has improved or deteriorated in relation to the prior year. Starting in fiscal year 2002, the City implemented new accounting standards issued by the Governmental Accounting Standards Board Statement, which dramatically changed the reporting requirements of governments nationwide. One of the key changes was the addition of government-wide reporting. Previously, the level of financial reporting was at the fund level. In contrast, the government-wide statements consolidate all City funds and operations into two major categories and require the use of accrual accounting. These changes are designed to align government accounting and reporting to the private sector and, thus, allow readers to better assess the financial health of a government.

The CAFR is divided into three major sections: the introductory section, the financial section, and the statistical section. The introductory section includes the letter of transmittal, a directory of City officials, and an organizational chart. The financial section includes the independent auditors' report (as noted above), management's discussion and analysis (MD&A), and the financial statements, including notes. The statistical section includes financial trend information as well as demographic information about the City.

Staff will present the CAFR to the Finance Committee just prior to the Council's afternoon session. A representative from LSL will be present to provide the Finance Committee and Council with a summary of the audit and the results thereof.

The Comprehensive Annual Financial Report (CAFR) for the Fiscal Year Ended June 30, 2012 is available for review in the City Clerk's Office and the Finance Department. An electronic version of the CAFR will be available on the internet at <http://www.santabarbaraca.gov/Government/Finance/> no later than December 20, 2012.

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** Environmental Services Division, Finance Dept.

**SUBJECT:** Authorize City Administrator To Sign A Term Sheet With Mustang Renewable Power Ventures, LLC

### RECOMMENDATION:

That Council authorize the City Administrator to sign a non-binding Term Sheet between the City, the County of Santa Barbara and the City of Goleta with Mustang Renewable Power Ventures, LLC for the proposed Resource Recovery Project, in a form of Term Sheet acceptable to the City Attorney.

### 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. 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 to be digested; and, residual to be buried in a landfill; and,
2. An anaerobic digestion (AD) facility to digest organic materials separated by the MRF to produce electricity and compostable material of varying grades and uses.

### Term Sheet

As is common with large and complex public-private projects, Mustang Renewable Power Ventures, LLC, the "preferred vendor," (as selected by the County Public Works staff upon completion of the County's RFP process for this Project,) and the Public Agency Participants have drafted a non-binding memorandum of understanding or "Term Sheet," for this Project included as Attachment 1 to this report. In view of recent case law related to the California Environmental Quality Act (CEQA), the Term Sheet is a non-binding summary of the proposed RRP Project; it does not preclude the

possibility that Public Agency Participants may take actions contrary to the current stated project description in order to comply with CEQA or other provisions of law nor does it necessarily contractually obligate the public agencies to approve the RRP Project in a manner consistent with these terms or to move forward with the construction of the RRP Project.

The purpose of the Term Sheet is primarily to accomplish the following:

- Outline a timeline and framework for negotiation of the necessary Project contracts upon the completion of the environmental review process; and
- Negotiate and outline the key business terms and significant Project variables to be agreed upon before a binding, long-term Project Agreement can be submitted to and approved by and between the participating public agencies and Mustang.

These business terms and other variables include the size and scale of the RRP 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, as well as the possible different south county locations for various physical aspects of the Project.

Affirmative votes by a majority of the elected officials from the cities of Goleta and Santa Barbara and from the County of Santa Barbara are required to authorize the staff execution of the Term Sheet between all of the Public Agency Participants and Mustang. To date, the Goleta City Council and the County Board of Supervisors have authorized their staff to execute the RRP Project Term Sheet with Mustang.

### **Exclusive Right to Negotiate For the RRP at County-Owned Locations**

The Term Sheet also grants to Mustang, an exclusive right to negotiate (ERTN) business terms with the Public Agency Participants for the RRP Project as described on possible County-owned sites. This aspect of the Term Sheet is contractually binding on the public agencies; however, it is subject to the following limitations:

- The ERTN will terminate 12 months following certification of the environmental impact report (EIR) by the County Board of Supervisors or after 48 months following its execution by the City, the County and the city of Goleta (whichever occurs first) unless the final Project agreements have been executed and approved; and,
- The 48 month period would be tolled for up to an additional 18 months while any CEQA litigation over the RRP EIR remains pending in Superior Court.

In other words, under the “exclusivity” terms of the ERTN, neither the City nor other Public Agency Participants may negotiate with other vendors for a similar RRP project to be located on County-owned land unless the above ERTN deadlines have expired. At that time, the County or the City and the other public agencies would be free to

negotiate with other vendors for the same or similar projects on any County-owned properties. Nevertheless, the Term Sheet allows each Public Agency Participant the right, in its sole discretion, to terminate its participation in the RRP project without penalty at any time.

It is also important to note that the ERTN applies only to project components for those aspects of the RRP Project which are being proposed on County-owned properties such as Tajiguas Landfill. Should an alternative project site be selected through the CEQA process or at the discretion of the public agencies that is not located on County-owned real property, the Public Agency Participants will have the unrestricted right to negotiate directly with the owner of that property for its use in connection with all or some lesser portion of the RRP Project. However, any project component selected on County-owned property would continue to be governed by the terms and conditions of the ERTN with Mustang.

**BUDGET/FINANCIAL INFORMATION:**

Execution of the Term Sheet would not have any financial impact on the City.

**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 (equivalent to removing 22,000 vehicles) when compared to current landfill disposal.

**ATTACHMENT:** Term Sheet with Mustang Renewable Power Ventures, LLC

**PREPARED BY:** Matt Fore, Environmental Services Manager

**SUBMITTED BY:** Robert Samario, Finance Director

**APPROVED BY:** City Administrator's Office

## TAJIGUAS RESOURCE RECOVERY PROJECT TERM SHEET

This **TERM SHEET** ("Term Sheet") is entered into by and between the COUNTY OF SANTA BARBARA, ("County"), the CITY OF SANTA BARBARA, a California municipal corporation and charter city ("Santa Barbara"), the CITY OF BUELLTON, a California municipal corporation ("Buellton"), the CITY OF GOLETA, a California municipal corporation ("Goleta"), the CITY OF SOLVANG, a California municipal corporation ("Solvang") (collectively "Public Participants") and MUSTANG RENEWABLE POWER VENTURES, LLC, a California limited liability company ("Mustang" or "Contractor"). The Term Sheet is based on the Request for Proposals ("RFP") issued in October 2009 by the Public Participants for a Resource Recovery Project. It sets forth basic terms of a proposed transaction to modify the existing Tajiguas Landfill, which is owned by the County and which receives solid waste from residents, businesses and other entities within the jurisdictions of the Public Participants, to include the development of a solid waste resource recovery facility. Public Participants and Contractor are sometimes collectively referred to herein as the "Parties". The use of the terms "will" or "shall" or "may" or use of the passive or active voice in any description in this document is meant to be merely descriptive, pending CEQA review and final decisions and negotiations of terms and procedures mentioned herein, and shall not, in any way, change the speculative nature of the description of the project or terms thereof in this document.

### I. INTRODUCTION

The purpose of this Term Sheet is to memorialize the preliminary terms contained in the RFP, as modified through discussions among the parties, and to inform the public regarding the goals and principles identified by the Santa Barbara County Multi-Jurisdictional Solid Waste Task Group that will guide the proposal to develop the proposed Resource Recovery Project (as defined below) throughout the public review process. As further described below, the Resource Recovery Project shall not proceed unless and until the parties have negotiated, executed and delivered mutually acceptable contractually binding agreements based upon information produced from the CEQA environmental review process and other public review and hearing processes, subject to all applicable governmental approvals. If agreement can be reached, these negotiations may result in definitive binding agreements ("Definitive Agreements") which also may include leases, issuance of bonds and other legal documents.

This Term Sheet is intended to memorialize the present intent of the parties in the manner approved by the California Court of Appeal in the case of *Cedar Fair v City of Santa Clara*, 194 Cal.App.4th 1150, in that it is a non-binding statement of intent and does not preclude the possibility that the Public Participants may take actions at their legislative discretion contrary to the current stated intent of the parties in order to comply with the California Environmental Quality Act (CEQA), state statutes, or their municipal charters and other provisions of law.

The Resource Recovery Project (also referred to as "Project") is a modification of the currently existing operation at the Tajiguas Landfill. The Project, as presently envisioned, will include two

components: a Materials Recycling Facility (“MRF”) and an Anaerobic Digestion facility (“AD”). The AD facility will also include one or more combined heat and power units (“Power Plant”) that is estimated to convert methane rich biogas to approximately 1+ megawatts of renewable power that will be sold to So Cal Edison via a long term power purchase agreement. The Project is based upon the landfilled municipal solid waste and waste characterization study of 2008 as included in the project Request for Proposals (RFP).

The Resource Recovery Project will be designed, built, owned, operated and, after its primary operational period, potentially transferred to the County by Contractor via a private-public partnership structure, pursuant to Government Code Section 5956.4 *et seq* and other provisions of law. Other than initial CEQA costs, no Public Participant funds are anticipated to be used for the permitting, development, ownership or operation of the Resource Recovery Project. The Resource Recovery Project will process mixed municipal solid waste (MSW) generated by the Public Participants as well as potentially process Commingled Source Separated Recyclables and Source Separated Organic (food & green) Waste (as such terms are defined herein) into valuable commodities (recyclables, compost, soil amendments & energy) diverting an estimated 62% or more of the processed material from disposal at the Tajiguas Landfill consistent with the goals of the Public Participants.

The Resource Recovery Project is intended to provide at least a 20 year solid waste management plan for the region that will help all participating jurisdictions achieve a variety of unfunded State mandates. Since the passage of AB 939 in 1990, which required the diversion of 50% of all waste generated, there has been a considerable legislative effort to limit and mitigate the environmental impact of the handling and disposal of waste. The most prominent of these new laws is AB 341, which sets a state recycling rate goal of 75% or higher. The Resource Recovery Project will allow all participating communities to substantially increase diversion rates. The state also requires that all communities plan for at least 15 years of disposal capacity (California Public Resources Code Div. 30, Part 2, Chap. 4, Sec. 41701). This project would give the Public Participants at least 20 years of disposal capacity without expanding the landfill or exportation of the waste to another community.

Other important State requirements that the Resource Recovery Project will help Public Participants achieve are AB 32, the Global Warming Solutions Act and SB 2X – 33% Renewable Energy by 2020. MSW is a significant cause of greenhouse gases. When buried municipal solid waste decomposes and methane gas is generated. Although over 75% of the gas generated at the Tajiguas Landfill is captured through best management practices, the remaining 25% of the gas is still generating the same amount of CO<sub>2</sub> as 22,000 passenger vehicles on the road every year. The Resource Recovery Project is planned to largely eliminate all future methane potential of the region’s landfilled waste; greatly reducing local greenhouse gas emissions and helping participating jurisdictions achieve the reduction mandated by AB 32. The Tajiguas Landfill currently generates 2.5 MW of green energy from the methane it collects. The Resource Recovery Project would add an estimated 1 MW of green energy to its existing production, enough to power approximately 1,000 homes here in Santa Barbara County and helping the state get to 33% of renewable energy by 2020.

The Public Participants are considering forming a joint powers authority (JPAuthority) or entering into a five public agency joint powers agreement (JP Agreement) to administer the relationship between the Public Participants and the Contractor over the anticipated 20 year term of the Definitive Agreements. The County intends to execute a Site Lease with the Contractor for the Project Site(s) located at the Tajiguas Landfill to facilitate the construction and operation of the Resource Recovery Project and the transfer of the project facilities to the County at the end of the term.

The County will be the Lead Agency for CEQA purposes, and the County's Public Works Department Resource Recovery & Waste Management Division will be the project applicant in order to complete the CEQA Process.

No new or increased taxes will be required to finance the development of the Resource Recovery Project. The Definitive Agreements to be executed between the proposed JPAuthority or parties to the JP Agreement and the Contractor will provide for delivery of the waste streams in volumes and at tip fees agreed upon by the Public Participants that will be less than \$100 per ton, as specified in the Resource Recovery Project Request for Proposals, for the term of the agreement with Contractor.

The Public Participants have defined the following requirements for the Project ("Project Goals"):

***Increase Diversion of Post-Recycled MSW for Affected Jurisdictions.*** The Resource Recovery Project must increase the diversion of post-recycled MSW intended for landfill disposal through pre-processing (or post-processing) and/or conversion of post-recycled MSW into beneficial products such as energy, fuels, or other marketable products (e.g., compost, aggregate, metals).

***Reduce Environmental Impacts of Landfilling MSW.*** Modification of current landfill operations to include the Resource Recovery Project must limit and/or mitigate environmental impacts of landfilling MSW, including but not limited to water quality and greenhouse gas emissions.

***Provide Financial Feasibility and Sustainability.*** The Resource Recovery Project must have capital and operating costs that result in a feasible, cost-competitive tipping fee, with long-term financial stability that would limit financial impacts to affected rate payers.

***Produce Green Energy and Other Marketable Products.*** The Resource Recovery Project must include a component of green energy and/or fuel production, along with other marketable products, as applicable, such as recovered metals and compost.

***Provide a Humane Work Environment.*** The Project will be dedicated to maintaining humane working conditions, and will not consider any Resource Recovery that is deemed to have an unjust or unsafe impact on workers.

***Result in a Long-Term Waste Disposal Plan.*** The Resource Recovery Project must result in a long-term waste disposal alternative for participating jurisdictions within Southern Santa Barbara County (with a 20 year minimum lifespan required).

**II. TERM SHEET NON-BINDING; CEQA COMPLIANCE REQUIRED**

**A. EFFECT OF TERM SHEET.** This Term Sheet is intended to provide a general non-contractual framework for the subsequent negotiation of definitive agreements regarding the development and operation of the Resource Recovery Project and does not create any binding contractual obligations on any Party or to commit any Party to a particular course of action. A transaction of this type involves many essential terms and conditions that have not yet been agreed upon, and it is expressly contemplated by the Parties that, in order to effectuate the Resource Recovery Project, binding Definitive Agreements will have to be negotiated, agreed to by the Parties and ultimately submitted to the elected official boards of the Public Participants for appropriate reviews and approvals in accordance with the applicable statutory and municipal code requirements for such approvals. As a result, all terms and issues set forth in this Term Sheet are subject to further discussion, revision and approvals. Contractor and the Public Participants each acknowledge and agree that all binding contracts, transactional documents, leases and land use entitlements must be approved in the future in accordance with the provisions of state and local law, and all other applicable legal requirements ("Applicable Requirements").

**B. NO IMPACT ON CALIFORNIA ENVIRONMENTAL QUALITY ACT PROCESS.** In order to comply with the California Environmental Quality Act ("CEQA") and give the public the opportunity to be aware of the environmental consequences of the Resource Recovery Project, and to fully participate in the CEQA process, the County, on behalf of the Public Participants, retains the discretion to (i) modify the transaction, create and enter into transactional documents, and modify the project as may, in their sole discretion, be necessary to comply with CEQA, (ii) identify and select other feasible alternatives to avoid significant environmental impacts, (iii) balance the benefits of the Resource Recovery Project against any significant environmental impacts prior to taking final action if such significant impacts cannot otherwise be avoided, and/or (iv) determine not to proceed with the Resource Recovery Project. No legal obligations will exist unless and until the parties have negotiated, executed and delivered mutually acceptable agreements based upon information produced from the CEQA environmental review process and on other public review and hearing processes, subject to all applicable governmental approvals.

In accordance with California Code of Regulations, Title 14, section 15084(d)(3), the County will serve as Lead Agency, with its Public Works Department Resource Recovery & Waste Management Division, ("RRWMD") serving as Project Applicant for both permitting and CEQA process purposes. Contractor will serve as a Vendor to the Project Applicant, and shall be responsible for permitting, constructing and operating the Project. Public Participants, as Responsible Agencies under CEQA, may take discretionary action on behalf of their individual agency to determine their level of participation in the resulting project. The County shall subject the EIR prepared by the Consultant hired by the County to the County's own review and analysis, and the conclusions and findings of the

final EIR shall reflect the County's independent judgment. Contractor shall bear all of the costs associated with the preliminary and final engineering and design for the Project and of the preliminary feasibility studies required by Contractor for the project's preliminary engineering and design. County shall issue a request for proposal for an EIR consulting firm to prepare the environmental document for the Project. County understands and acknowledges that prior to entering into the Definitive Agreements each of the Public Participants will exercise their independent judgment by reviewing and considering the final EIR and approving the Project.

### **III. OVERVIEW OF PROJECT**

#### **A. PROJECT HISTORY TO DATE**

The Public Participants formed the Santa Barbara County Multi-Jurisdictional Solid Waste Task Group ("MJSWTG") in 2002 to provide a forum to discuss and plan regional long-term solid waste management strategies and facilities. The MJSWTG identified various areas of interest and appointed representatives to serve on Subgroups, including the Conversion Technology (CT) Subgroup, to specifically research the feasibility of anaerobic digestion facilities and thermal gasification facilities for the communities served by the Tajiguas Landfill.

In February 2004, the MJSWTG developed a long-term waste management plan for the County. The plan was adopted by the jurisdictions served by the Tajiguas Landfill and included the development of a conversion technology (CT) facility which is essentially a facility that further recovers materials from the wastestream and converts those materials into energy, fuels, and other potentially marketable products.

In March 2007, the CT Subgroup of the MJSWTG was re-initiated and established a technical working subgroup comprised of staff from each of the participating jurisdictions (the cities of Buellton, Goleta, Santa Barbara, Solvang, and the County). This technical subgroup has met regularly over the last five years and was instrumental in hiring a consultant to evaluate the feasibility of conversion technologies, preparing the request for proposals for the project, reviewing the proposals submitted, conducting presentations to the general community regarding the project, and selecting the recommended project.

In August 2007, County staff provided a solid waste management update to the Santa Barbara County Board of Supervisors which included the request for direction for staff to work with its regional partners to evaluate the feasibility of constructing a facility that would reduce our community's reliance on landfilling. Technologies are available that would further process waste to remove recyclables and convert the majority of the remaining material into synthetic fuels, electricity, compost, soil amendments or other usable products. The benefits of this type of facility include providing a long-term waste management plan, minimizing the environmental effects of waste disposal, providing financial stability, maximizing recycling rates for participating jurisdictions, and potentially generating green energy for our community.

In October 2007, the City Council of Santa Barbara and the County Board of Supervisors approved the recommendation made by the Subgroup to hire Alternative Resources, Inc. (ARI) to proceed with the evaluation of a CT facility to be established on the South Coast, most likely at the Tajiguas Landfill. ARI was recommended to the Santa Barbara County Board of Supervisors based on a RFP process and selection committee that contained staff members from the County of Santa Barbara, the City of Santa Barbara, the City of Goleta, and the Montecito Sanitary District.

During the Fall and Winter of 2007/2008, staff from the County and City of Santa Barbara conducted a comprehensive outreach effort speaking directly to over 40 community organizations, agencies, and jurisdictions including the City Councils of Goleta, Buellton and Solvang. The purpose of the effort was to make the community more aware of the current rates of waste generation and the need for a long-term waste management plan and how CT may fit in the plan. In addition, the potential benefits of further processing recyclables and converting waste to an energy source were explained. Based on community feedback, the CT Subgroup and ARI drafted goals that were used as guiding principles in the evaluation process as well as evaluation criteria that were used to screen potential technologies for suitability at the Tajiguas Landfill.

In January 2008, both the City of Santa Barbara City Council and the Santa Barbara County Board of Supervisors approved the project goals and criteria to be used when preparing the feasibility report.

In April 2008, a feasibility report was completed and identified eight potential CT contractors, representing three different processes (anaerobic digestion, thermal processing, and refuse derived fuel). Each of the contractors met all of the criteria and expressed their ability to achieve 60-100% diversion at a rate of less than \$100 per ton (an assumed cost to dispose at an alternative facility in the future). Due to the breadth of contractor types and capabilities, it was determined by the consultant and Subgroup that there were feasible alternatives that could result from a competitive procurement process.

In May 2008, County staff presented the Feasibility Report and its findings to the Santa Barbara County Board of Supervisors and requested direction to begin drafting a Request for Proposals (RFP) to solicit project proposals from the short-listed conversion technology vendors identified in the feasibility report, directions for staff to continue to make presentations to the community on the results of the report, and to hold a public forum for elected officials from the potential partner cities to discuss the legal arrangement for the facility.

In August 2008, the CT Subgroup held a two-day public forum to discuss ownership, operation, financing, and contract administration of this potential facility. These meetings were attended by elected officials of the cities of Santa Barbara, Goleta and Buellton as well as the County of Santa Barbara. Feedback from this forum was formally presented and approved by the Santa Barbara County Board of Supervisors in October 2008.

During the summer of 2009, the City Councils of each jurisdiction proposed to participate in the project (cities of Buellton, Goleta, Santa Barbara, and Solvang) approved letters of interest and intention to commit material to the project if the facility was able to meet each of the project goals.

In October 2009, an RFP to modify existing operations at Tajiguas Landfill and establish a facility that would reduce our community's reliance on landfilling was released by the Santa Barbara County Board of Supervisors. The City of Santa Barbara City Council also received an update on the release of the RFP. In June 2010, the County received five proposals submitted by four vendors (one vendor, Mustang Renewable Power Ventures, submitted a Base and an Alternative proposal). In October 2010, each of the vendors made oral presentations of their proposals to the Subgroup. During 2010 to 2011, ARI and the Subgroup reviewed the proposals submitted and held four public official forums to discuss the proposals including their opportunities, weaknesses and their strengths.

In June 2011, the Public Participants advised Mustang that the Public Participants represented by the CT Subgroup, as well as comments from previously held public official forums, preferred Mustang's base proposal and thus would recommend Mustang as the preferred Project Contractor and the Base Proposal as the Preferred Project.

In January 2012, the Santa Barbara County Board of Supervisors agreed with the CT Subgroup and directed County Staff to proceed with the environmental review of Mustang's proposal.

In June 2012, a meeting of City managers from the respective jurisdictions directed that the environmental review process be funded through a surcharge at the Tajiguas Landfill rather than by Mustang.

## **B. IMPLEMENTATION OF PROJECT GOALS.**

1. No Public Participant funds will be used for the Entitlement/Permitting Process, construction, financing, commissioning, operation, management, or decommissioning and deconstruction of the Project;

2. The Definitive Agreements to be negotiated by the parties may include, as further specified below, a Joint Powers Authority or a five party JPAgreement between the Public Participants, Construction and Operation (C&O) terms, and a Site Lease.

3. The C&O terms will provide for Contractor to design, build, own, and operate the Project to, for and on behalf of the Public Participants on the selected County site(s) for the Project. The C&O terms are anticipated to include a waste delivery agreement[s] between the Public Participants and Contractor which shall provide for a minimum and maximum annual delivery of MSW and potentially other waste streams within the control of the Public Participants to the Project for processing.

4. Project revenues will be generated from a combination of Tip Fees, Power Sales, Product Sales, Carbon Credit and/or Renewable Energy Credit Sales as such terms are defined herein or in Contractor's RFP Submittal will be sufficient in time and amount to pay debt service on any Bonds issued for the Project as set forth herein.

5. Only those Project revenue sources identified below (which shall be limited to the specified portion of demonstrated total net incremental municipal revenues, and those other dedicated Project revenues identified below, generated by the Project) shall be used to support any tax-exempt or taxable bonds or other state and local obligations issued by the California Pollution Control Finance Authority ("CPCFA") or any other appropriate state or local agency for the Project ("Bonds"). The term of the Bonds shall be coterminous with or have a final maturity date earlier than the initial term of the Definitive Agreements and the Site Lease. The Public Participants will have no liability or any other responsibilities or obligations for any debt service of the Project.

6. Contractor will provide a guaranty or a combination of credit support, including a letter of credit, bond insurance, pledge of leasehold interest and/or assets, and such other mechanisms or combinations of these and other mechanisms, as described below, on terms acceptable to the legal counsels of the Public Participants, in order to ensure that no Public Participants' funds, shall be used to satisfy the Project's obligations with respect to the Bonds or the permitting and construction of the Project. The form and amount of such guaranty or other credit support may change throughout the term of the Bond financing as more specifically set forth below.

7. The County will retain fee ownership and will continue to operate the Tajiguas Landfill throughout the construction, operation and decommissioning, if any, of the Project.

**C. PUBLIC PARTICIPANTS' RESPONSIBILITIES.** The following discussion represents the Parties' concepts and intention at the time of approval of this Term Sheet, which may change as CEQA alternatives review, design studies and negotiations proceed.

1. **JPA Formation or Negotiator of JPAgreement.** The Public Participants will consider the formation of a Joint Powers Authority ("JPAuthority") or entering into a five agency Joint Powers Agreement ("JPAgreement"). The JPAuthority or JPAgreement is anticipated to enter into the definitive and binding agreements with the Contractor as provided herein. The JPAuthority or JPAgreement will provide for the policies and procedures for implementing the Resource Recovery Project mutually agreed upon by the Public Participants and all necessary commitments by the Public Participants.

2. **Site Lease.** The County shall negotiate and execute a Site Lease with Contractor on terms as materially contemplated in Section B herein following completion of the CEQA Process and Entitlement Process and concurrent with execution of Definitive Agreements between the JPAuthority or parties to the JPAgreement and Contractor. The County will make space available for this project at no cost other than the Regional Waste Infrastructure Fee as defined in Section E 4. Should the final project include the use of real property that is not owned by the County, the Public Participants will negotiate with the owner of such property for the acquisition, lease and/or use of such other properties in a manner

consistent with this Term Sheet and such property agreements that will provide for the payment of a Regional Waste Infrastructure Fee.

3. **Construction and Operation (C&O) Terms.** The Public Participants and/or the JPA Authority or the parties to a JPA Agreement intend to begin negotiating these terms and conditions during the environmental review of the Resource Recovery Project contemplated herein. The C&O terms will provide for the Parties' mutually agreed upon commitments as detailed herein, in the RFP, and in Contractor's RFP Submittal Response. If the project goes forward, such C&O terms will be finalized after certification of the Final EIR by the Board of Supervisors and approval of the Project by the Public Participants and receipt of all necessary entitlements and included in the Definitive Agreements.

4. **Waste Services Commitment Terms.** The Public Participants intend to begin negotiating these terms and conditions during the environmental review of the Resource Recovery project contemplated herein. The Waste Services terms shall be reviewed and properly approved by each Public Participant and will provide for the Parties' mutually agreed upon waste stream delivery commitments. Consistent with the RFP and in the Contractor's RFP Submittal Response. If the project goes forward the Waste Services terms will be finalized after certification of the Final EIR by the Board of Supervisors and approval of the Project by the Public Participants and receipt of all necessary entitlements and included in the Definitive Agreements.

5. **Financial Structure.** Unless specifically indicated, the financial structure, including mechanisms and amounts ("Financing Plan"), is preliminary and subject to additional analysis, audits, and modifications. The current Financing Plan for the Project is based on Contractor's analysis, Contractor's RFP Submittal, and financial market conditions and other reasonable assumptions as of July 2012 that require further verification and confirmation. The parties understand and agree that the final Financing Plan may require revisions based on the results of continuing analysis and audits, including MSW characteristic surveys completed periodically or annually and the financial market conditions at the time the Project is ready to be financed, which is currently anticipated to occur in 2014 following completion of the CEQA Process and Contractor's receipt of all necessary and required Entitlements to construct the Project. The final Financing Plan will be subject to the mutual agreement of the parties, the review and approval of the County's Board of Supervisors and the other required decision-makers of Public Participants prior to the issuance of any bonds for the Project.

**D. PROPOSED RESOURCE RECOVERY PROJECT FACILITIES.** The following discussion represents the Parties' concepts and intention at the time of approval of this Term Sheet, which may change as CEQA alternatives review, design studies and negotiations proceed.

1. **Resource Recovery Project.** Contractor will, at its own cost, construct the Project, including its MRF and AD components subject to completion of the CEQA Process and Contractor's receipt of all necessary and required approvals and Entitlements, as such term is defined herein, and the suggested negotiation and execution of binding Definitive Agreements. The Resource Recovery Project will be constructed at the Tajiguas Landfill on a Site or other location determined to be appropriate as a result of the CEQA environmental review process to be specified by the County with mutual approval by

Contractor. If constructed at Tajiguas, the Project will have a site plan generally consistent with the Project site plan attached as Exhibit A, it being the intent of the parties that the Project shall encompass an approximately 6 acre site known as the "380 Operations Deck Site". In addition, approximately 4-6 acres of additional site are required for composting material produced by the AD facility to be provided to Contractor at one or more locations at the Tajiguas Landfill by the County comparable to the location set forth on Exhibit B. The final Project site plan shall be subject to any conditions in the final Entitlements and mutual agreement of the parties, and shall be attached as an exhibit to the Definitive Agreements.

2. **Design.** Contractor shall have complete responsibility for the design and construction of those components of the Project located at a County site. The proposed design of the Project will be in accordance with the provisions of RFP Appendix F and shall be consistent with the site plan, floor plans, elevations and perspective drawings of the Project included in Contractor's RFP Submittal. Final design of the Project shall be approved by the Public Participants and the County's RRWMD and shall be subject to the CEQA Process and the Entitlement Process.

3. **Construction.** Contractor and its designated general contractor, Diani Building Corp., ("GC") will construct those components of the Project located on County property in strict accordance with plans and specifications in the final Entitlements, approvals and building permits issued by the County's Building & Safety Division of the Planning & Development Department. Contractor and its GC shall be responsible for complying with all requirements imposed by Applicable Law relating to the design and construction of the Project.

4. **Technologies.** If applicable, Contractor will construct those components of the Project located on County property using the MRF and AD technologies described in detail in its RFP Submittal. The MRF technology will be supplied by Van Dyke Baler-Bollegraaf based in the Netherlands. The MRF facility is designed to recover valuable recyclables (glass, metal paper, plastic, etc.) The recyclable recovery fraction is estimated to be ~37% of the MSW waste stream. The AD technology will be supplied by Bekon Energy Technologies, Inc. based in Munich, Germany or a comparable dry fermentation AD technology company to be approved by the Public Participants. The AD component is designed to process organic waste (~25%) into compost, soil amendments and electricity. The total landfill diversion rate for the Resource Recovery Project is estimated to exceed 62% of the MSW delivered to the Project for processing. The anticipated recovery and diversion percentages are dependent upon the characteristics of the waste delivered to the Project. As discussed in Section F 3 Waste Stream Characteristics, the target recovery and diversion percentages may be adjusted up or down based upon completion of a Waste Characteristics study to be completed prior to completion of the Definitive Agreement

5. **Visitor Center.** Contractor has proposed to construct a visitor's center as a key component of the Project consistent with the provisions of the RFP and as described in Contractor's RFP Submittal. The Visitor Center will be staffed by the Contractor and open to the public during normal business hours.

6. **Bonding & Insurance.** Contractor, the General Contractor and the Project Operator (as such terms are defined herein) shall provide any and all surety, bonds and insurance related to the Project's design, construction, operations & maintenance as required by the RFP, as specified Contractor's RFP Submittal and as will likely be required in connection with the Project Financing, or as otherwise required by law.

E. **SITES(S); LEASE.** The following discussion represents the Parties' concepts and intention at the time of approval of this Term Sheet, which may change as CEQA alternatives review, design studies and negotiations proceed.

Final selection of the Site(s) for the Project will depend on the outcome of the EIR review Process and the Entitlement Process.

1. **Tajiguas Landfill.** If the CEQA Process and the Entitlement Process results in approval of the Tajiguas Landfill as a location for portions of the Project, the County will enter into a Site lease with Contractor for one or more Tajiguas Landfill Site(s). These Tajiguas Landfill Site(s) may include the approximately 6 acre 380 Operations Deck Site and approximately 4-6 acres for compost curing at a location to be mutually agreed upon by the parties ("Tajiguas Composting Site"). The 380 Operations Deck Site and the Tajiguas Composting Site are referred to as the "Tajiguas Landfill Sites."

2. **Other Sites.** If the CEQA and Entitlement Process identify an alternative Site for the Project, or any components of the Project, the Parties may negotiate for the acquisition or lease of such other properties and the use thereof with the owner of such property in a manner consistent with this Term Sheet and the County or JPAuthority (if such an Authority is created) may enter into a Site lease with Contractor for use of that property. The terms and conditions of a Site lease for the alternative Site, if any, must be compatible with the terms of the Site lease in the RFP and in paragraph C.2. (above).

3. **Term.** The initial term of the Site lease(s) shall be for a period of 20 years. The Public Participants shall have an option to extend the term for at least one additional ten-year extension upon providing 365 days written notice to Contractor of their intent to extend.

4. **Regional Waste Infrastructure Fee/.** The Regional Waste Infrastructure Fee ("Fee") is estimated to be \$4,400,000 per year total for all approved Project site(s), adjusted annually by the Project CPI. The Contractor shall pay the Fee for the entire lease term and shall be payable in equal monthly installments. The Fee shall be payable to the County or its designee. The Regional Waste Infrastructure Fee is a fee understood by the participating jurisdictions to be intended to cover the reallocated cost for the closure/post closure of the landfills, environmental monitoring and controls required by regulating agencies, retirement of current debt service at the Tajiguas Landfill, reasonable administrative overhead.

5. **Environmental.** The Site lease will include standard environmental indemnity provisions. The County will indemnify Contractor for any and all pre-existing environmental conditions prior to the construction of the Project. Contractor will indemnify the County and the Public Participants for any and all environmental impacts caused by the construction, use of the site and operation of the Project.

6. **Access.** In conjunction with the execution of the Site lease(s) the County and Contractor will execute reciprocal easement agreements allowing Contractor and its operations to access the County Project Site(s) and any other areas of the Tajiguas Landfill Sites or any other approved Project Site(s) required for the normal operation of the Project.

7. **Buy-out Option. Improvements.** Upon the expiration of the Term(s) of the Site Lease(s), the County (or the JPAuthority, if such an Authority is created) shall have the exclusive option, at their sole discretion, to acquire the Project improvements made by Contractor for a payment of \$1.00. If the County (or the JPAuthority) determines not to purchase the Project improvements after the expiration of the Term(s), Contractor shall remove the Project improvements and restore the Site(s) to the condition reasonably equivalent to its condition before construction of the Project within 365 days from written notice from the County of the decision not to acquire the Project improvements or the JPAuthority's decision not to exercise the extension of the Definitive Agreements including the Site Lease. If the County elects to acquire the Project, any and all decommissioning, demolition and removal reserves established by Contractor shall be disbursed to Contractor.

Sites. In order to protect the Public Participants and the rate payers and to comply with the Project's Financial Feasibility and Sustainability goals, should an alternative Project Site(s), not owned by the County, be required by CEQA, operational necessity or at the discretion of the parties, an alternative arrangement shall be established granting the County or the JPAuthority the option of acquiring such Site(s) for a payment of \$1.00 or an equivalent long-term lease.

8. **Possessory Interest Taxes.** Contractor acknowledges and agrees that this Site Lease may create a possessory interest subject to property taxation and that Contractor may be subject to the payment of property taxes levied on such interest. Contractor will covenant and agree to pay all taxes, including possessory interest tax and assessments, which may be levied upon any taxable interest in the land or improvements.

**F. WASTE STREAM COMMITMENTS.** The following discussion represents the Parties' concepts and intention at the time of approval of this Term Sheet, which may change as CEQA alternatives review, design studies and Project negotiations proceed regarding the final terms of the Project and the Public Agency participation in the Project.

1. Pursuant to Section 5.1.4 Minimum and Maximum Deliveries Specified in the RFP, the public participants requested proposals for a facility designed to process a minimum of 192,102 and a maximum of 222,756 tons of municipal solid waste over the 20 year period of time. Since the release of the RFP, the public participants have requested that the potential optional element of processing source-separated commingled recyclables and organics at the same facility be included in the CEQA analysis as a means of enhancing the cost-effectiveness and efficiency of the community's existing and future waste management programs. Two scenarios will be evaluated for purposes of CEQA and are included in the Notice of Preparation released by the County in April 2012. The first scenario is considered the Base Project and includes up to 250,000 tons per year of MSW entering the MRF, and up to 73,000 tons per year of organics entering the AD. The second scenario is referred to as the Optional Element and includes

up to 40,000 tons per year of source-separated commingled recyclables. Specific waste flow commitments made by each jurisdiction will be finalized at the time of contract negotiations with the Contractor.

2. **Delivery Reset.** Pursuant to Section 5.1.5 of the RFP, the public participants included the ability for Periodic Delivery Resets to be a potential term of the Definitive Agreements. After proposal review, the Public Participants envision the possibility of a single Reset at Year 10 of no more or less than 10%. The public participants will determine the need for a Delivery Reset at the time of Definitive Agreement negotiations with the Contractor. For purposes of CEQA, the Public Participants have set a maximum amount of material that could possibly be received by the proposed facility.

3. **Acceptable Waste Characteristics.** The Definitive Agreement between the parties shall provide that the MSW delivered to the Project each year by the Public Participants shall be comprised of waste having characteristics (higher heating value-(HHV), moisture content-(MC) and or biomethane potential-(BMP), individually or collectively "Acceptable Waste Characteristics") comparable to the MSW described in the Waste Characterization Study included in the RFP. The specific acceptable Waste Characteristics of the MSW to be delivered to the Project will be specified in the Definitive Agreement and shall additionally be determined by a study to be conducted prior to the completion of the Definitive Agreement. All parties acknowledge that changing the characteristics of the waste delivered to the facility can increase or decrease the amount of revenue achieved from the sale of commodities and the importance of not changing the characteristics without prior approval of the other parties.

4. **Spot Market Waste.** The Definitive Agreement between the parties shall provide that Contractor shall be permitted to acquire spot market MSW of other acceptable waste for processing at the Project at Tip Fees comparable to the Tip Fees charged to the Public Participants. Contractor's acquisition of spot market MSW is intended to utilize the Project's available processing capacity in the event the Public Participants' MSW delivery volumes are less than the Project's maximum processing capacity. Spot market MSW may be acquired by Contractor from any private or public source located within the County if the Project has unutilized processing capacity. Spot market MSW may be acquired by Contractor from any private or public source located outside of the County only with specific review and legal approvals of the Public Participants or the JPA.

5. **Tip Fees.** The Definitive Agreement between the parties shall provide that the Public Participants shall pay Contractor a Tip Fee as negotiated by the Public Participants. Such Tip Fee to be determined based on the specific waste processing components constructed at the Project (i.e. MRF and AD), each Project component's operating capacity, the volume of material committed to be delivered, , the Resets, the Acceptable Waste Characteristics, and any other criteria defined and agreed upon by the parties as set forth in the Definitive Agreements. The Public Participants have conducted financial due diligence of the revised proformas submitted by the Contractor dated July 17, 2012 and have found that the proposal meets the financial goals of the Project. At completion of the CEQA process and Contractor's receipt of necessary approvals and Entitlements, the final tipping fee will be negotiated and included in the Definitive Agreements. **Regional Waste Infrastructure Fee Payment.** The Definitive Agreement between the parties shall provide that the MSW Tip Fees per ton charged the Public Participants may include the Regional Waste Infrastructure Fee as described in Section E 4.

6. **Tip Fee Variable Cost Component Adjustment.** The Definitive Agreement between the parties shall provide that the MSW Tip Fees per ton charged the Public Participants in year two and thereafter shall also include adjustment amounts intended to cover the cost of living increases for certain costs and expenses as more specifically detailed in the RFP (“Adjustment Factor” or “Project CPI”).

7. **Contractor’s Tip Fee Revision.** In the event that the Public Participants determine the need to revise any of the waste streams, resets, capacity or other operational parameters, or to materially modify any of the Project components, Contractor reserves the right to revise the Pricing set forth in their July 17, 2012 Submittal. Additionally, changes in other factors such as interest rates, market-accepted debt to equity ratios, and the value of biogas and recyclables may affect Pricing and will be negotiated prior to approval of the Definitive Agreements.

8. **Reconciliation/True-up Process.** The Definitive Agreement between the parties shall provide for an annual reconciliation process for each contract year between the payments made by Contractor to the Public Participants and payments made by the Public Participants to Contractor. Such reconciliation process is set forth and described in detail in the RFP, subject to approval by the JPA or Public Participants if JPA is not formed.

**G. OTHER CONSIDERATION TO PUBLIC PARTICIPANTS.**

The Definitive Agreement between the parties shall provide for the following additional payments to the County and the Public Participants:

1. **Grant Fund Payments.** Contractor shall make an annual Grant Fund Payment of \$20,000 to the County payable upon completion of the Project Financing and adjusted annually by the Adjustment Factor. The annual Grant Fund Payment shall be used at the sole discretion of the Public Participants for activities related to the operation of the Project such as, but not limited to, intern programs, educational programs and outreach activities concerning the Project.

2. **Contract Administration Payments.** A payment of \$50,000 per year shall be made by the Contractor to the County for contract administration and day to day operational oversight on behalf of the Public Participants commencing upon the completion of the Project financing and continuing until the commercial operation date at which point it shall increase to \$160,000 per year, which values shall be adjusted by the Adjustment Factor as specified in the RFP.

3. **Revenue Sharing.** As requested in the RFP and as specified in Contractor's RFP Submittal, Contractor agrees to share 50% of any excess revenue generated by the Project with the Public Participants as specified in Contractor's RFP Submittal. Revenue Sharing with the Public Participants will include, but not be limited to, the following list of potential sources as defined in the RFP and as specified in Contractor’s RFP Submittal: Energy Revenues; Regulatory-Driven Revenues (post-RFP Submittal); Materials Revenues from both MSW recyclable recovery and commingled source separated recyclables, each subject to a different formula as specified in Contractor's RFP Submittal; Spot Market Waste Revenues and Fees upon achieving Revenue Sharing hurdle levels and amounts all as specified in Contractor's RFP Submittal. Specific revenue sharing formulas will be negotiated at the time of tip fee

negotiations and will be included in the Definitive Agreements. **Cost Savings Sharing.** As requested in the RFP and as specified in Contractor's RFP Submittal, Contractor agrees to share 50% of any revenue generated by the Project with the Public Participants as specified in Contractor's RFP Submittal as a result of cost savings from one or more potential sources. Cost Savings Sharing with the Public Participants includes, but is not limited to, the following list of potential sources as defined in the RFP and as specified in Contractor's RFP Submittal: Reduction in Facility Construction Costs; Reduction in Financing Costs; Reduction in Operations & Maintenance Costs upon achieving Revenue Sharing hurdle levels and other amounts all as specified in Contractor's RFP Submittal. Specific cost sharing formulas will be negotiated at the time of tip fee negotiations and will be included in the Definitive Agreements.

## **H. PROJECT FINANCING.**

1. **Contractor's Financing Obligation.** The Definitive Agreements executed by the parties shall provide that Contractor shall be responsible for 100% of the Project's debt and equity financing as required by the RFP. The Public Participants shall have the option to review, audit and perform due diligence at any time on Contractor's debt and equity financing proposals, and obligation(s).

2. **CPCFA Bond Debt Financing.** Contractor anticipates that the Project's debt financing shall be funded through the issuance and sale of California Pollution Control Finance Authority ("CPCFA") Industrial Development Waste Bonds ("Bonds"). Contractor anticipates approximately 60-80% of the Project's total cost shall be financed through the sale of CPCFA Bonds at market interest rates to be fully amortized over an 11-20 year schedule. As specified in Contractor's RFP Submittal, the debt amortization schedule will be determined based on the Resets mutually agreed upon by the Public Participants and Contractor upon completion of the CEQA Process and all necessary and required Entitlements prior to commencement of the Project Financing.

3. **Equity Financing.** Contractor anticipates that the Project's equity financing may be funded through a combination of the sale of a 10% Investment Tax Credit ("ITC") applicable to eligible Project costs and the placement of institutional equity for the balance.

4. **No Public Participant Obligations.** The Public Participants shall have no liability or responsibility for any portion of the Project Financing other than the timely payment of Tip Fees to the Project for the delivered waste stream volume, as specified in the Definitive Agreements.

5. **Financing Commitment Term.** If Contractor has not obtained Project Financing within twelve months from the date of completion of the CEQA Process and Contractor's receipt of all necessary and required Entitlements to construct the Project, the Public Participants shall have the right to terminate the Definitive Agreements at their sole discretion.

## **I. OPERATIONS & MAINTENANCE.**

The Definitive Agreements to be executed between the parties shall provide for the Operations & Maintenance of the Project as specified in the RFP and as specified in Contractor's RFP Submittal.

1. **Project Operator.** Contractor shall enter into a Project Operating Agreement with a qualified firm experienced in the day-to-day operations and management of facilities comparable to the Project ("Project Operator"). Contractor shall consult with the Public Participants in the selection process and shall not enter into any Project Operating Agreement with the Project Operator without the express written approval of such firm and the specific terms and conditions of the Project Operating Agreement from the County (or the JPA). The Project Operator shall be required to meet any and all specific criteria as specified in the RFP including bonding and insurance.

2. **Manager.** Except as provided below, Contractor shall, throughout the term of the Definitive Agreements, coordinate and supervise the Project Operator as the Project's Manager and shall remain liable to the Public Participants for 100% of all performance obligations as specified in the RFP, as specified in Contractor's RFP Submittal, as such obligations will be delineated in the Definitive Agreements. Contractor shall not sell, assign or hypothecate its ownership interest in the entity acting as Project Manager without the express written approval of the County and Public Participants (or the JPA), with any such approval not to be unreasonably withheld. In such an event of a proposed transfer, Contractor is to furnish to the Public Participants all information available to Contractor as to the responsibility, reputation, financial standing and business of any proposed assignee, subcontractor or other third party contemplated in this section. If Contractor fails to provide such information or the Public Participants, acting reasonably, are not satisfied as to the responsibility, reputation, financial standing and business of any proposed assignee, subcontractor or other third party, such shall constitute grounds for a reasonable withholding of consent. Public Participants' approval of the transfer of the management function or ownership interest of the Contractor may include a provision for the reimbursement of any actual expenses incurred by the County and Public Participants (or the JPA) in the review of any such assignment.

3. **Project Employees.** As specified in the RFP and as specified in Contractor's RFP Submittal, Contractor, and or its Project Operator, shall use its/their best efforts to recruit, train and employ any County staff currently employed at the Tajiguas Landfill to work at the Project during operations.

4. **Start-up & Testing.** Following the completion of construction of the Project, start-up testing of all of the Project's components, equipment and systems will be completed to demonstrate that each is installed correctly, functions as intended, and meets the applicable conditions specified in the RFP. Start-up testing will occur once the equipment or system has been installed and is mechanically and electrically complete. The Public Participants or their representatives shall have the right to observe any start-up testing.

5. **Acceptance.** Upon successful completion of the startup testing, the Acceptance Test will occur. Contractor, its GC and the Project Operator shall prepare an Acceptance Test Plan and conduct the Acceptance Test. The Acceptance Test is to demonstrate that the Project and all of its components (MRF & AD) function as intended to meet Performance Standards & Guarantees, including permit limits. The Acceptance Test shall include, but not be limited to, the following sub-tests: Facility Reliability Test; Facility Capacity Tests; Environmental Compliance Test; Net Electric Output Test; Material Recovery Test; Residue Test; Ambient Noise; and, Ambient Odor. The Performance Standards & Guarantees all

are specified in the RFP and Contractor's RFP Submittal and as such shall be delineated in the Definitive Agreements.

6. **Performance.** Contractor shall meet the Performance Guarantees for the Project as specified in the RFP and as specified in Contractor's RFP Submittal. The performance guarantees include the following: Waste Throughput Guarantee; Availability Guarantee; Annual Waste Throughput Guarantee; Minimum Electric Output Guarantee; Net Electric Generating Guarantee; Material Recovery Guarantee; Residue Quantity Guarantee; Residue Quality Guarantee; Environmental Performance Guarantee; and Scheduled Acceptance Date Guarantee. As specified in Contractor's RFP Submittal, all of the above performance guarantees are subject to the Public Participants' delivery of the Minimum Annual Delivery Tonnage of MSW meeting Acceptable Waste Characteristics. The specifics of each Performance Guarantee as well as compliance and remedies for each Performance Guarantee will be defined in the Definitive Agreements. The Performance Guarantees are dependent upon the characteristics of the waste delivered to the Project. As discussed in Section F 3 Waste Stream Characteristics, Performance Guarantees are likely to be revised upon completion of a Waste Characteristics study to be completed prior to completion of the Definitive Agreements.

7. **Reports.** Contractor and the Project Operator shall maintain records and prepare reports as described in RFP Appendix F, including reports to the Public Participants documenting operation and maintenance of the Project, regulatory activities, and other relevant information. Reports shall include monthly and annual operations and maintenance reports, and a monthly complaint log reporting any and all complaints relating to the Project and a description of the response.

8. **Bonding & Insurance.** Contractor, the General Contractor and the Project Operator shall provide any and all surety, bonds and insurance related to the Project's design, construction, operations & maintenance as required by the RFP, as specified in Contractor's RFP Submittal, as required in connection with the Project Financing, or as otherwise required by law. Such surety, bonds and insurance shall be provided by Contractor, General Contractor and the Project Operator in a form acceptable to the appropriate legal counsel.

**J. PERMITTING.**

The Definitive Agreements to be executed between the parties, based on applicable law and all federal, state and local regulatory agency requirements shall provide for the Entitlement processing of the Project as specified in the RFP and as specified in Contractor's RFP Submittal.

1. **Lead Agency.** The County of Santa Barbara acting through its Public Works Department will be the lead agency for the permitting of the Project and for ensuring compliance with CEQA. The other Public Participants shall be Responsible Agencies. The County's Public Works Resource Recovery and Waste Management Division will be the Project Applicant for permitting and CEQA purposes with the Contractor acting as the County's vendor. The County's Building & Safety Division will be responsible for the issuance of Building Permits required to construct the Project, if any. The County's Public Works Resource Recovery and Waste Management Division will be responsible for an amendment to the County's Non-Disposal Facility Element (NDFE) and or the County Siting Element (CSE).

2. **Entitlement Process.** As used in this Term Sheet, "Entitlement" shall refer to any permit or approval necessary for the project and "Entitlement Process" shall refer to the procedures, hearings, applications, approvals and decisions from any agency or entity necessary to accomplish the goals of this project.

3. **Contractor Obligations.** Contractor will additionally be responsible for obtaining the following permits from the relevant state or local agencies:

- a) Solid Waste Facility Permit- California Department of Resources Recycling and Recovery (CalRecycle)
- b) Air Permits (Construction and Operation) - Santa Barbara County Air Pollution Control District (SBCAPCD)
- c) Industrial Wastewater Discharge Permit-Central California Regional Water Quality Control Board (CCRWQCB )
- d) Septic System Permit-Santa Barbara County Public Health Department (SBCPHD)
- e) Stormwater NPDES Permit (Construction and General Industrial)-State Water Resources Control Board (SWRCB)
- f) California Department of Fish & Game Permit (if necessary) (CDFG)
- g) Renewable Portfolio Standard (RPS) Pre-Certification & Certification - California Energy Commission (CEC)
- h) Power Purchase Agreement (PPA) approval - California Public Utilities Commission (CPUC)
- i) Hazardous waste permitting, health risk assessment and Unified Program requirements - California Department of Toxic Substances Control (DTSC)

Contractor shall prepare, file and process applications for the above permits with the relevant state or local agency in parallel with the County's CEQA Process & Entitlement Process. Commencing with the date on which this Term Sheet is executed, Contractor shall bear 100% of the going-forward cost of preparing, review, filing and processing such applications and the applications for the the Entitlement

Process. County shall provide Contractor with reasonable access to the County Sites for the Project as required by Contractor in order to complete the Entitlement Process.

4. **Contractor Termination.** Contractor reserves the right, in the exercise of its sole discretion, to withdraw from and terminate the Entitlement Process for the Project described above without penalty Contractor shall provide notice of withdrawal/termination in writing.

5. **Public Participant Termination.** Each Public Participant reserves the right, in the exercise of its sole discretion, to withdraw from and terminate its participation in the Project described above without penalty. Said Public Participant shall provide notice of withdrawal/termination in writing to the Contractor and all other public agencies.

**K. INDEMNIFICATION.**

The Definitive Agreements to be executed between the parties shall provide for the indemnification of the Public Participants as specified in the RFP and as specified in Contractor's RFP Submittal. To the extent that any indemnification provision in the RFP conflicts with provisions herein, the provisions herein shall take precedence.

1. **Contractor Indemnity.** Contractor shall protect, indemnify and hold harmless the Public Participants and their representatives, officers, employees and subcontractors (the "Indemnified Public Participant Parties") from and against all liabilities, damages, claims, judgments, expenses, including attorney's fees, or actions, and will defend the Indemnified Public Participant Parties in any suit for personal injury to, or death of, any person, or loss or damage to property arising out of the ownership, lease, use or operation of the Project, environmental harm resulting from the Project and/or the Sites for the duration of the Definitive Agreements Term, performance or non-performance of Contractor's obligations under the contract, or breach of its obligations there under.

2. The County (or any successor or participating agency) may, in its sole and absolute discretion, elect to defend any third party litigation or suits challenging any action taken by the County with regard to any procedure or substantive aspect of the County's approval of development of the Resource Recovery Project or related projects, the environmental review process under the California Environmental Quality Act (hereinafter "CEQA") for the Project.

3. The Contractor may, however, in its sole and absolute discretion appear as real party in interest in any such third party action or proceeding.

4. If the County or any participating agency elects to actively defend such third-party action or proceeding, the Contractor shall be responsible for and fully reimburse the County for whatever reasonable legal fees and costs, in their entirety, which may be incurred by the County in defense of such action or proceeding and actually paid by the County to third parties (i.e., not to County or City officers, employees, staff or consultants). The County shall have the absolute right to retain such independent legal counsel as the County may deem necessary and appropriate.

5. In the event of an award of attorney fees and costs to any third party challenging the approval of the Project, under CEQA or for any other reason, the Contractor shall pay such an award and the County and other Public Participants shall have no responsibility or obligation to do so. Contractor shall also fully and completely reimburse County and other Public Participants in the event of any award of court costs and/or attorney fees is made directly against County and/or the Public Participants in favor of any third party challenging the Final EIR for the Project.

#### **L. MISCELLANEOUS PROVISIONS**

1. **Contractor Affiliates.** Elements of the Project may be undertaken by Mustang-Santa Barbara, LLC and/or B Mortgage Acceptance Corp. dba The Dewey Group, both of which are entities affiliated with Contractor. All references to "Mustang" or "Contractor herein shall refer equally, individually and collectively, to Mustang Renewable Power Ventures, LLC, Mustang-Santa Barbara LLC, and/or B Mortgage Acceptance Corp. dba The Dewey Group.

2. **(a) Exclusive Right to Negotiate Definitive Agreements.** The parties acknowledge that Mustang as the Project Contractor is granted an exclusive right to negotiate (ERTN) the Definitive Agreements with the Public Participants for the County-owned Project sites, subject to provisions of subparagraph L.2.(b) below. The exclusive right to negotiate shall commence upon the execution of this Term Sheet by at least the County and the cities of Santa Barbara and Goleta and shall continue for a period of 12 months following certification of Final EIR by the Board of Supervisors (BOS). No Project commitments of any kind have been made to Contractor nor will any be made until execution of Definitive Agreements. Notwithstanding the above, this ERTN shall terminate forty-eight months after execution of this Term Sheet. The 48 month period shall be tolled for up to an additional 18 months during pending CEQA litigation by a third party. Pending CEQA litigation begins when a CEQA challenge is filed in Superior Court and ends when final judgment is issued.

**(b) Following certification of the Final EIR by the Board of Supervisors,** and should an alternative site(s) (pursuant to paragraph E.2) for any component of the Project be selected which is not located on County-owned real property, Contractor understands and acknowledges that the Public Participants shall have the right to negotiate for the use of the non-county site directly with the property owner(s) of the alternative site(s) and the ERTN in the preceding paragraph for that component of the Project shall not apply to such separate negotiations. However, the ERTN shall still be in effect for all other components and County-owned sites for the Project pursuant to paragraph L.2.(a). The property owner(s) shall be afforded 12 months following certification of the Final EIR to negotiate mutually acceptable contracts for the use of the alternative non-County site or to provide a purchase option for such property held by the Public Participants. Should the property owner(s) fail within those 12 months or any extension thereof granted by the Public Participants to negotiate acceptable terms for such suitable alternative non-County site(s) for that Project component, the Board of Supervisors may reevaluate the selection of alternative sites identified in the certified Final EIR.

3. **Implementation of this Term Sheet.** This Term Sheet authorizes County staff, with the assistance and consultation of the County Counsel, and the assistance of the staff of the Public Participants, to negotiate Definitive Agreements consistent with the terms and conditions of this Term

Sheet with Contractor and to report to the County Board of Supervisors and the elected board of each Public Participant.. Contractor understands that any and all contracts, leases, bonds and Definitive Agreements must be approved in accordance with the requirements of applicable CEQA law, the Santa Barbara County code and policy and any other applicable Public Participants' Charters and applicable codes and must be reviewed and approved by the applicable Public Participants' respective decision-makers.

4. **Cooperation.** In connection with this Term Sheet, the parties shall reasonably cooperate with one another to achieve the objectives and purposes of this Term Sheet. In an effort to accomplish the parties' Goals set forth above, the parties will negotiate over the proposed terms and conditions related to the Project as set forth in this Term Sheet, it being understood and agreed that in drafting the Definitive Agreements, in the event of any inconsistency between any of the parties' Goals and any more of the specific provisions contained in this Term Sheet, the parties shall look to, and be guided by, the more specific applicable provision in the RFP and/or Contractor's RFP Submittal. The County's Public Works Department agrees to apply for and to reasonably expedite the processing of entitlements and approvals for the Project, including the commencement of the CEQA Process and the Entitlement Process. Notwithstanding the foregoing, any Party to this Term Sheet may exercise their prerogatives pursuant to paragraphs J.4. or J.5. to terminate negotiations at their discretion.

5. **NONDISCRIMINATION:** Contractor shall comply with County laws, rules and regulations regarding nondiscrimination as such are found in the Santa Barbara Code and federal and state law and as such may from time to time be amended. These provisions are incorporated herein as if they were fully set forth. Noncompliance with provisions of this section shall constitute a material breach of this Agreement and in addition to any other remedies provided by law, County shall have the right to terminate the Agreement and the interest thereby created without liability therefore.

6. **Effect of Signatures.** By signing below, the parties evidence their general agreement with the provisions of this Term Sheet and agree to use this Term Sheet as the framework for the negotiations on binding Definitive Agreements. Any agreements resulting from negotiations will become effective only if and after such agreement has been considered and approved by the necessary Public Participants, following conduct of all legally required statutory and municipal charter review procedures, including any necessary CEQA Process and Entitlement Process. This paragraph remains a statement of general intent and does not create a legal or contractual obligation for any party to enter into any agreement described in or contemplated in this Term Sheet.

IN WITNESS WHEREOF, the parties executed this TERM SHEET on the dates indicated.

**COUNTY OF SANTA BARBARA:**

Attest \_\_\_\_\_  
Clerk

By: \_\_\_\_\_  
Chair

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**  
County Counsel

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

**CITY OF SANTA BARBARA:**

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
City Finance Director

Date: \_\_\_\_\_

By: \_\_\_\_\_  
City of Santa Barbara  
City Administrator

Date: \_\_\_\_\_

APPROVED AS TO FORM:

City of Santa Barbara  
City Attorney

By: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF GOLETA**

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Tim W. Giles, City Attorney  
City Attorney

By: \_\_\_\_\_  
Daniel Singer, City Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Deborah Constantino, City Clerk

Date: \_\_\_\_\_

**CITY OF BUELLTON:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF SOLVANG:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**MUSTANG RENEWABLE POWER VENTURES, LLC**

By: \_\_\_\_\_

John Dewey

Its: Managing Member

Date: \_\_\_\_\_

**B MORTGAGE ACCEPTANCE CORP. DBA  
THE DEWEY GROUP**

By: \_\_\_\_\_

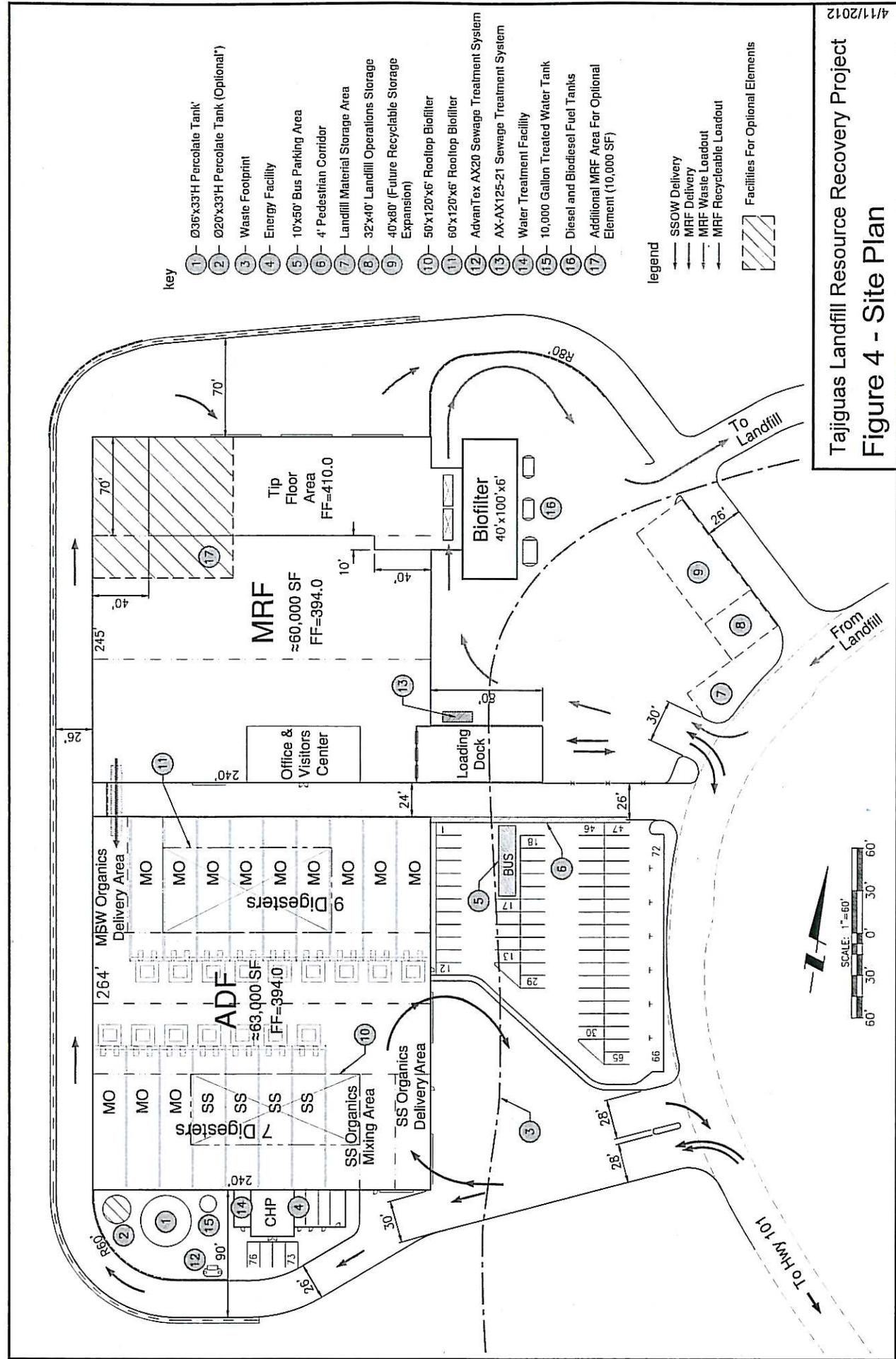
John Dewey

Its: President & CEO

Date: \_\_\_\_\_

**APPENDIX A**

**PROJECT SITE PLAN  
TAJIGUAS LANDFILL 380 OPERATIONS DECK SITE**



- key
- 1 - Ø36"x33"H Percolate Tank
  - 2 - Ø20"x33"H Percolate Tank (Optional)
  - 3 - Waste Footprint
  - 4 - Energy Facility
  - 5 - 10'x50' Bus Parking Area
  - 6 - 4' Pedestrian Corridor
  - 7 - Landfill Material Storage Area
  - 8 - 32'x40' Landfill Operations Storage Expansion
  - 9 - 40'x80' (Future) Recyclable Storage
  - 10 - 50'x120'x6' Rooftop Biofilter
  - 11 - 60'x120'x6' Rooftop Biofilter
  - 12 - AdvanTex AX20 Sewage Treatment System
  - 13 - AX-AX125-21 Sewage Treatment System
  - 14 - Water Treatment Facility
  - 15 - 10,000 Gallon Treated Water Tank
  - 16 - Diesel and Biodiesel Fuel Tanks
  - 17 - Additional MRF Area For Optional Element (10,000 SF)

- legend
- SSOW Delivery
  - MRF Delivery
  - MRF Waste Loadout
  - MRF Recyclable Loadout
  - Facilities For Optional Elements

Tajiguas Landfill Resource Recovery Project  
Figure 4 - Site Plan

**APPENDIX B**

**PROJECT SITE PLAN  
TAJIGUAS LANDFILL COMPOST CURING AREA(S)**





# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** December 18, 2012

**TO:** Mayor and Councilmembers

**FROM:** City Administrator's Office

**SUBJECT:** Conference With Labor Negotiator

**RECOMMENDATION:**

That Council hold a closed session, per Government Code Section 54957.6, to consider instructions to City negotiator Kristy Schmidt, Employee Relations Manager, regarding negotiations with the new Fire Management Association, and regarding discussions with certain unrepresented managers about salaries and fringe benefits.

**SCHEDULING:** Duration, 15 minutes; anytime

**REPORT:** None anticipated

**PREPARED BY:** Kristy Schmidt, Employee Relations Manager

**SUBMITTED BY:** Marcelo López, Assistant City Administrator

**APPROVED BY:** City Administrator's Office