



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Works
Department No.: 054
For Agenda Of: March 17, 2020
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from: N/A
Vote Required: Majority

TO: Board of Supervisors

FROM: Department Scott D. McGolpin, P.E., Director, (805) 568-3010
Director(s)
Contact Info: Leslie Wells, Deputy Director, (805) 882-3605

SUBJECT: **Second Amendment to Landfill Gas Lease and Operating Agreement with NEO Tajiguas, LLC for the Tajiguas Landfill, County Project No. 129903, Third Supervisorial District**

County Counsel Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the Second Amendment to the Landfill Gas Lease and Operating Agreement with NEO Tajiguas, LLC which addresses changes to the Agreement terms for liquid disposal costs and allows the County to terminate the Agreement as early as July 30, 2020 in exchange for a \$1.85 million payment to NEO Tajiguas, LLC for the contract buyout and equipment to be left in place upon termination;
- b) Find that the proposed action does not constitute a "Project" within the meaning of the California Environmental Quality Act pursuant to 15378(b)(5), organizational or administrative activities of governments that will not result in direct or indirect physical changes to the environment.

Summary Text:

This Second Amendment to the Landfill Gas Lease and Operating Agreement (Agreement) between the County of Santa Barbara (County) and NEO Tajiguas, LLC (NEOT) incorporates changes to the disposal of landfill gas well-derived liquids in excess of 50,000 gallons, the termination provisions, and the ownership of certain equipment upon termination of the Agreement. The County and NEOT entered into the original Agreement on March 10, 1998 for the development and operation of the landfill gas

collection system and conversion of the landfill gas to electricity for sale to Southern California Edison. The Agreement was later amended on August 18, 2009 to update the legal description and add a visual depiction showing the County's landfill utilities within and near the NEOT lease area.

The Agreement is being amended a second time in order to allow the Department of Public Works, Resource Recovery and Waste Management Division (RRWMD) the ability to time the termination of the Agreement with the startup of the new ReSource Center at the Tajiguas Landfill, formerly referred to as the Tajiguas Resource Recovery Project (TRRP). The existing Tajiguas Landfill Energy Project engine and flare, operated by NEOT, will be decommissioned in place and the new ReSource Center engines and flare will be connected to the existing LFG collection system, as studied in the Environmental Impact Report and Addendum for the TRRP. The energy generated from the landfill gas will be used to power portions of the ReSource Center providing an operational savings of approximately \$200,000 per month.

Background:

The RRWMD is responsible for the management of solid waste resources in Santa Barbara County including the operation of the Tajiguas Landfill and construction of the ReSource Center. Facilities that support operation of the Tajiguas Landfill include the existing landfill gas (LFG) collection system, comprised of a network of wells and pipelines installed in the buried solid waste which are connected to an engine that converts LFG to energy and a gas-burning flare (Tajiguas Landfill Energy Project). The primary purpose of the LFG collection system is to reduce LFG emissions from buried waste, specifically methane, and minimize air quality and groundwater quality impacts. The ReSource Center includes modifying operation of the existing Tajiguas Landfill to include the construction and operation of a Materials Recovery Facility (MRF), an Anaerobic Digestion Facility (ADF), a Composting Management Unit, and the decommissioning of the existing Tajiguas Landfill Energy Project.

The County and NEOT entered into the Agreement on March 10, 1998 for the development of the existing Tajiguas Landfill Energy Project, the operation of the LFG collection system and utilization of the LFG for sale to Southern California Edison. NEOT later subleased the facilities to MM Tajiguas Energy, LLC (MM) on June 30, 1998. Decommissioning of the existing Tajiguas Landfill Energy Project engine and flare will be timed with the operation of the new ReSource Center LFG engines and flare, located adjacent to and used by the MRF. The Second Amendment to the Agreement gives the County flexibility on timing termination of NEOT's services. Upon termination, the County will pay NEOT the sum of \$1,850,000 for the reasonable value of the equipment left in place (LFG collection system, flare facility, and condensate system) and the buy-out of the contract.

The Second Amendment also resolves any dispute between the County and NEOT related to disposal of LFG well-derived liquids by having NEOT continue to dispose of quantities of condensate and leachate up to 50,000 gallons per month, at NEOT's sole cost. The cost for disposal of well-derived liquids in excess of 50,000 gallons per month will be the responsibility of the County. NEOT will provide disposal manifests and receipts for quantities disposed of in excess of 50,000 gallons per month to the County and NEOT may deduct any such costs from rent payments owed to the County. In addition, the Second Amendment specifies the equipment to be left in place by NEOT upon contract termination.

Finally, the Second Amendment addresses NEOT's concern regarding a Power Purchase Agreement that it has with Southern California Edison related to the site that expires January 1, 2027. NEOT has provided a \$1,752,280 letter of credit under that Agreement. In the event that NEOT is unable to secure return of the letter of credit following termination of this Agreement and a dispute arises between the County and NEOT over the letter of credit, the County and NEOT will agree to try in good faith to resolve the dispute through negotiation. If the County and NEOT are unable to resolve the dispute through negotiation within 30 days of notice of such dispute, then either party may elect to submit the dispute to non-binding arbitration in accordance with the Dispute Resolution Procedure set forth in Section 11 C of the Agreement.

Energy generated from the LFG will be used to operate the ReSource Center at a cost significantly less than buying the energy off of the grid resulting in long-term savings to the facility. This savings, the liquid disposal issue, and the contract buyout were contemplated in the Feasibility Study and Official Statement for the TRRP construction financing.

The Second Amendment to the Agreement does not constitute a "Project" within the meaning of the California Environmental Quality Act pursuant to 15378(b)(5). The LFG Energy Project was permitted through County Planning and Development (95-CP-046 and 95-CDP-118) and subject to CEQA review. The decommissioning and relocation of the engines and flare was analyzed in the Addendum to the certified Final SEIR (12EIR-00000-00002, SCH #2012041068) dated August 11, 2017 and revised October 26, 2017, and considered by the Board of Supervisors on November 14, 2017. Copies of these documents are available at <https://santabarbara.legistar.com/LegislationDetail.aspx?ID=3208879&GUID=8FD06D70-FE83-4AA1-982A-2CA8EA03B506&Options=ID|Text|&Search=Tajiguas+Resource+Recovery+Project>.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

Costs are budgeted in the RRWMD Enterprise Fund, Engineering Program and estimated to be incurred in fiscal year 20/21. These costs were anticipated and included in the Feasibility Study conducted for the financing for construction of the Tajiguas ReSource Center.

Key Contract Risks:

The risk rating level for this Second Amendment is estimated to be low. The risk factors have been evaluated and staff believes the Second Amendment should be authorized because SCE has previously implemented the interconnection between the existing LFG to the new ReSource Center MRF at the Tajiguas Landfill. The County also is not required to pay the \$1.85 million that would be due under the Second Amendment until NEOT has removed its personal property from the existing Tajiguas Landfill Energy Project site.

Subject: Second Amendment to Landfill Gas Lease and Operating Agreement with NEO Tajiguas, LLC for the Tajiguas Landfill, County Project No. 129903
Agenda Date: March 17, 2020
Page 4 of 4

Special Instructions:

Please forward signed contracts and a certified, stamped Minute Order approving this action to Jeanette Gonzales-Knight, PE in the Public Works Department, Resource Recovery and Waste Management Division, 130 E. Victoria Street, Suite 100, Santa Barbara, CA 93101.

Attachments:

Attachment A: Second Amendment to the Landfill Gas Lease and Operating Agreement (3 originals)

Authored by:

Jeanette Gonzales-Knight, PE, Compliance Manager, (805) 882-3627