



**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:** December 4, 2012  
**Placement:** Departmental  
**Estimated Time:** 20 minutes  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Scott McGolpin, Public Works Department Director, ext 3010  
Director(s)  
Contact Info: Mark Schleich, Public Works Deputy Director, ext 3605  
**SUBJECT: Approval of Tajiguas Resource Recovery Project Term Sheet  
First, Second and Third Districts**

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**County Counsel Concurrence**

As to form: Yes

Other Concurrence: N/A

**Auditor-Controller Concurrence**

As to form: N/A

**Recommended Actions:**

That the Board of Supervisors:

Approve the attached Tajiguas Resource Recovery Project Term Sheet on behalf of the County with Mustang Renewable Power Ventures

**Summary Text:**

The Public Works Department Resource Recovery & Waste Management Division, in collaboration with its partner cities of Buellton, Goleta, Santa Barbara and Solvang, has completed a four-year comprehensive procurement process to identify a project and technologies to process municipal solid waste currently being disposed at the Tajiguas Landfill. The Board of Supervisors endorsed the recommended project in January 2012 and directed staff to initiate CEQA and return with a non-binding Term Sheet between the County and Mustang Renewable Ventures (Mustang) to set the basic terms for a contract to be negotiated after the completion of the CEQA process. On November 13, 2012 staff returned to request your Board's approval of two contracts with consulting firms to prepare the environmental review of the recommended project and the item discussed in this Board Letter is the Term Sheet.

As part of the proposal review process, the vendor (Mustang) requested that each of the participating jurisdictions acknowledge the basic terms for a future contract with the preferred vendor and demonstrate their continued interest in the project through the approval of a Term Sheet. The attached Term Sheet largely reiterates the terms contained in the Request for Proposals (RFP) distributed by the

County in October 2009. In consideration of the recent court case related to CEQA, *Cedar Fair v City of Santa Clara*, 194 Cal.App.4<sup>th</sup> 1150, the Term Sheet is a non-binding statement of intent and does not preclude the possibility that the participating jurisdictions may take actions contrary to the parties' current stated intent (or proposed project) in order to comply with CEQA or other provisions of law.

Approval of the Term Sheet does not obligate the County in any way (financially or legally) and is more a demonstration of our continued interest in pursuing this project in a transparent way. Financial provisions of a future contract with the vendor will not be negotiated until the CEQA process is completed and the final project is determined.

**Background:**

The Public Works Department Resource Recovery & Waste Management Division, in collaboration with its partner cities of Buellton, Goleta, Santa Barbara and Solvang, has completed a four-year comprehensive procurement process to identify a project and technologies to process municipal solid waste currently being disposed at the Tajiguas Landfill. The proposed project will further recover recyclable materials to be sold, convert organics into beneficial products such as energy and soil amendments, and bury the residual. The project will enable the community to reduce the quantity of municipal solid waste to be landfilled by 50% potentially doubling the life of the Tajiguas Landfill based on its current permitted capacity. The project will provide a 20-year cost-effective solution for our community's waste management needs. The facility will be privately financed and funded through tipping fees paid by users of the facility. Exhibit 1 of the Board Letter submitted for the January 17, 2012 Board hearing provides a detailed description of the procurement process involving extensive collaboration with regional partners, comprehensive public outreach, and the rigorous evaluation process to identify the best project to meet our community's needs. (link to Exhibit 1:<http://santabarbara.legistar.com/View.ashx?M=F&ID=1687916&GUID=57908CEF-ABBB-48E7-9248-298282F7263>)

Implementation of the project will provide a host of benefits to the region in addition to assisting the South Coast and Santa Ynez Valley in meeting many state mandates as described below:

- 1) Provides a 20-year waste management plan
- 2) Is a cost-effective solution (rates currently proposed are comparable to projected landfill costs)
- 3) Provides infrastructure to support existing and future waste management programs (material recovery facility for recyclables, anaerobic digester for organics)
- 4) Meets CalRecycle's 15-year disposal capacity requirement (if built by 2016 would have enough disposal capacity until 2036 at current disposal rates)
- 5) Increases the region's diversion rate from 73% to 80%+ without any changes to current programs (meets AB 341 goal of 75% in 2020)
- 6) Ability to eliminate greenhouse gas equivalent to 22,000 vehicles/year (AB 32: greenhouse gas reductions by 2020)
- 7) Ability to generate 1 megawatt of renewable energy and eligible for renewable energy credits (SBX1 2: 30% of state's power to come from renewable energy sources)

In January 2012, the Board endorsed the recommended project proposed by Mustang Renewable Power Ventures (Mustang) and directed staff to initiate review of the project pursuant to the California Environmental Quality Act (CEQA). A description of the process undertaken by staff to initiate the CEQA process and the scope of the CEQA analysis is described in the Board Letter submitted for the

Board's November 13, 2012 hearing regarding the approval of contracts with two consulting firms to prepare the environmental analysis. Link:

<http://santabarbara.legistar.com/View.ashx?M=F&ID=2193447&GUID=A2FF709F-F746-4930-8812-C213F0762038>.

As part of the proposal review process, the vendor (Mustang) requested that each of the participating jurisdictions acknowledge the business terms for a future contract with the preferred vendor and demonstrate their continued interest in the project through the approval of a Term Sheet. The attached Term Sheet largely reiterates the terms contained in the Request for Proposals (RFP) distributed by the County in October 2009. In consideration of the recent court case related to CEQA, *Cedar Fair v City of Santa Clara*, 194 Cal.App.4<sup>th</sup> 1150, the Term Sheet is a non-binding statement of intent and does not preclude the possibility that the participating jurisdictions may take actions contrary to the current stated intent (or proposed project) of the parties in order to comply with CEQA or other provisions of law. Approval of the Term Sheet does not obligate the County in any way (financially or legally) and is more a demonstration of our continued interest in pursuing this project in a transparent way. Financial provisions of a future contract with the vendor will be negotiated once CEQA is completed and the final project is determined.

Revisions contained in the Term Sheet that are not contained in the RFP are the Exclusive Right to Negotiate provisions. During the Notice of Preparation process to initiate CEQA on this project, the County received several comments suggesting the analysis of a site in the urban area for the material recovery facility (MRF). Additionally, MarBorg Industries submitted a comment requesting that their site located in the City of Santa Barbara be reviewed as an alternative site for the MRF. Staff has included the MarBorg site in its list of alternatives to be studied in the environmental review and made a revision to the Exclusive Right to Negotiate provision in the Term Sheet that allows the County and the other participating public entities to negotiate directly with a private property owner, including MarBorg, if private property is selected as the preferred site for the MRF component of the project.

Each of the participating public entities will be asked to individually approve the Term Sheet. Once your Board and City Councils of Goleta and Santa Barbara approve the Term Sheet, the Exclusive Right to Negotiate provision will become effective and will continue for a period of 48 months. However, the 48 month period will be tolled for an additional 18 months in the event CEQA litigation is initiated by a third party. In addition, if any component of the project is sited on non-County owned property, the private property owner and the participating public entities will have 12 months to negotiate a contract to acquire use of such property after the Final EIR is certified by the Board of Supervisors.

Over the next 18 months, staff will complete the following:

- Preparation of the Environmental Impact Report
- Identification and preparation of a legal structure for the different participating jurisdictions and the vendor such as a Joint Powers Authority or Joint Powers Agreement
- Review of financial information to be provided by MarBorg Industries for the MRF component of the project, if their site is selected as a result of the environmental review

**Performance Measure:**

The ultimate project certified by the Board of Supervisors will, to the extent feasible, meet the objectives set out in the project's RFP as well as the project's Project Description which includes a tipping fee of no more than \$100 per ton, the assumed cost to use other solid waste management facilities in the future (including transportation costs).

**Fiscal and Facilities Impacts:**

Budgeted: N/A

**Fiscal Analysis:**

Narrative: The approval of the Term Sheet will not create any costs to the County. The CEQA analysis of the proposed project will be funded through a surcharge on the tipping fee charged at the Tajiguas Landfill of \$2.45 per ton (or equivalent to \$.20 per customer per month) over a three-year period, effective FY 13/14 as indicated in the Board Letter submitted for the November 13, 2012 hearing to award two contracts to prepare the environmental review of the project.

**Staffing Impacts:** None

**Special Instructions:**

Please send a copy of the minute order and a copy of the signed Term Sheet to Leslie Wells, Resource Recovery & Waste Management Division.

**Attachments:**

Tajiguas Resource Recovery Project Term Sheet

**Authored by:** Leslie Wells, Program Leader, Resource Recovery & Waste Management Div. ext. 3611