



SANTA BARBARA COUNTY

Resource Recovery &

Waste Management Division

Innovative Environmental Solutions

Hearing to Consider Termination of the Agreement with MSB Investors

for Development and Operation of the Tajiguas Resource Recovery Project

Staff Recommendations

- Direct the Public Works Director or designee to:
 - Issue a letter terminating the agreement with MSB Investors, LLC
 - Take actions necessary to transition to new operator(s) of the ReSource Center
 - Work with MSB Investors, LLC to transition operation of the ReSource Center
 - Notify and exercise application of the direct agreements approved by the Board on February 14, 2017 for continuity of service at the ReSource Center.
 - Enter into an agreement with Bekon Energy Technologies, Inc. for operation of the ADF and CMU.
- Determine that the proposed actions are not a “project” under CEQA
- Provide other direction to staff

Background

- Located at the Tajiguas Landfill
- MSB Investors, LLC to develop and operate in 2016
- Revised Tajiguas Resource Recovery Project (ReSource Center) approved in 2017
- Commissioning started in 2021



Material Recovery Facility

Facility Production:

- Municipal Solid Waste (~136,000 tons last fiscal year)
- Source Separated Recyclables (~39,000 tons last fiscal year)
- Organics from Municipal Solid Waste to Anaerobic Digestion Facility (~61,000 tons last fiscal year)



Anaerobic Digestion Facility

Facility Production:

- Organics from MRF (~57,000 tons last fiscal year)
- Source separated organics from restaurants, schools, hotels, etc. (~3,300 tons last fiscal year)
- Energy derived from biogas (~0.9 MW last year, 45% of contract capacity)



Compost Management Unit

Facility Production:

- Organics from the Anaerobic Digestion Facility (~60,000 tons last fiscal year)
- Finished Compost (~640 tons last fiscal year)
- Unfinished Compost (~38,500 tons last fiscal year)
- ADF and CMU is achieving half of the diversion needed to pass Acceptance Testing

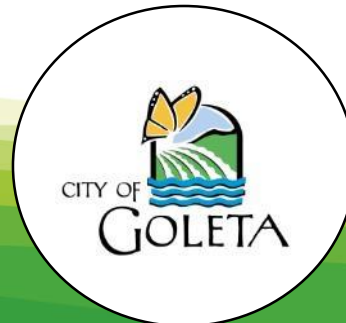


The Tajiguas ReSource Center

- Crucial in managing regional waste and recycling processing as well as achieving greenhouse gas reduction and organic diversion goals set locally and by the State.
- Communities served by the facility:
 - Unincorporated County of Santa Barbara areas
 - City of Santa Barbara
 - City of Goleta
 - City of Solvang
 - City of Buellton



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Basis for Termination of Agreement

Basis for Termination

1. Failure to complete final acceptance testing in a timely manner
(Sections 4.3 D and 4.8 D of the Agreement)
 - Failure to complete project by November 2021
 - Failure to pass final Acceptance Tests and not attained Full Operations, two years after project commissioning / startup in 2021
 - Performance guarantees have not been met
 - Project delays have contributed to the issuance of violations from multiple regulatory agencies

Basis for Termination

2. Failure to cure material breach of the Agreement
(Sections 14.2 B.9, B.10, and B.11 of the Agreement)
 - Failure to rectify violations issued by the Central Coast Regional Water Quality Control Board on March 17, 2023 and June 20, 2023
 - Failure to cure breach by July 6, 2023 deadline
 - Failure to cure breach by October 1, 2023 revised deadline
 - MSB continues to operate the Compost Management Unit in violation of the Waste Discharge Requirements for Commercial Composting Operations

Basis for Termination

3. Failure to pay liquidated damages (Section 14.9)

- In April 2023, County staff issued a Notice to Assess Liquidated Damages for failure to pass Acceptance Tests and for Water Board violations
- County staff met with MSB on several occasions between April and September 2023 to discuss a Compliance Plan for the ReSource Center
- As of November 1, 2023, MSB has incurred over \$1.1 million in liquidated damages for failure to pass Acceptance Tests and for Water Board violations
- MSB has not paid the County any of the assessed liquidated damages (\$3.7 million as of December 7, 2023)

Basis for Termination

4. Failure to pay subcontractors and regulatory agencies (Sections 4.1 A and C)

- As of November 15, 2023, MSB reported an outstanding balance owed to subcontractors of \$5.9 million
- As of November 15, 2023, MSB reported an outstanding balance of \$62,952 owed to the Santa Barbara County Air Pollution Control District
- Non-payment to subcontractors jeopardizes the ReSource Center's ability to meet Performance Guarantees, permit and revenue requirements

Basis for Termination

4. Failure to pay subcontractors and regulatory agencies (Sections 4.1 A and C)

- County compensation to MSB includes
 - Pre-development and development costs totaling \$15.9 million
 - Processing Payments totaling \$14.7 million
 - Cash Flow Assistance for recyclable revenues shortfall totaling \$2.4 million last FY
- County contracted directly with vendors in the amount totaling \$5.1 million in order to address outstanding violations and permit non-compliance

Basis for Termination

5. Failure to maintain a safe site for employees and visitors
(Section 5.1 C.15, Section 5.7 B.1 through B.7, Section 7.1K, and Section 11.1.A)
 - Failure to maintain site safety has resulted in accidents, injuries, and hazardous conditions for employees and visitors.
 - Inadequate safety measures were the cause of the May 12, 2022 compost fire that led to equipment damage and pause of composting activities

Basis for Termination

6. Interference with County's ability to obtain permits for County projects

- Non-payment of fees owed to the Santa Barbara County Air Pollution Control District may result in the non-issuance of permit modifications required for the ReSource Center
- MSB's outstanding violations will impact needed modifications to the Solid Waste Facility Permit

Staff Recommendations

- Direct the Public Works Director or designee to issue a letter terminating the agreement;
 - Effective immediately for the Materials Recovery Facility and within 90 days for the Anaerobic Digestion Facility and Compost Management Unit
- Delegate authority to the Public Works Director or designee to take actions necessary for the wind down of the Agreement and transition to new operator(s) of the ReSource Center, subject to the Board's ability to rescind this delegated authority at any time;
- Direct staff to work with MSB Investors, LLC to transition operation per the terms of the Agreement;

Staff Recommendations (Continued)

- Authorize the Public Works Director or designee to notify and exercise application of the direct agreements with MarBorg Recovery, LP, Diani Building Corporation, Van Dyk Baler Corporation, and Bekon Energy Technologies, Inc. approved by the Board on February 14, 2017 as needed for continuity of service at the ReSource Center;
- Authorize the Public Works Director or designee to enter into an agreement, with Bekon Energy Technologies, Inc. for operation of the ADF and/or CMU for a subject to approval by Auditor Controller, Risk Management, and County Counsel;

Staff Recommendations (Continued)

- Determine that the proposed actions are not a “project” under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15378(b)(2), as they involve administrative and other general policy and procedure making activities that will not result in direct or indirect physical changes to the environment; and
- Provide other direction to staff.

Thank you!



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www.LessIsMore.org/ReSourceCenter