



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:** September 18, 2018  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** Department Scott D. McGolpin, P.E., Director, ext. 3010  
Director  
Contact Info: Mark A. Schleich, P.E., Deputy Director, ext. 3605  
**SUBJECT:** Consider Recommendations Regarding the Third Amendment to the Amended Contract with MSB Investors, LLC for the Tajiguas Resource Recovery Project, Third Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the Third Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC for Development and Operation of the Tajiguas Resource Recovery Project, which addresses changes to the costs and construction schedule of the Tajiguas Resource Recovery Project; and
- b) Determine that the previous Final Subsequent EIR SCH #2012041068 and Subsequent EIR Revision Letter and Errata dated May 27, 2016 certified by the Board of Supervisors on July 12, 2016 and Final Subsequent EIR Addendum dated August 11, 2017 (revised October 26, 2017) considered by the Board of Supervisors on November 14, 2017 are adequate review pursuant to California Environmental Quality Act Guidelines Section 15162, no substantial changes are proposed, and no new information of substantial importance has come to light regarding environmental effects of the project or of the sufficiency or feasibility of mitigation measures, and therefore this third amendment to the contract with MSB Investors, LLC is within the scope of the project covered by the prior environmental review and no subsequent Environmental Impact Report or Negative Declaration shall be prepared for this action.

**Summary Text:**

This item is on the agenda in order to consider recommendation regarding the 3<sup>rd</sup> amendment to the Tajiguas Resource Recovery Project (TRRP). Your Board approved the Second Amendment to the

Amended Contract between the County of Santa Barbara and MSB Investors, LLC for Development and Operation of the TRRP on November 14, 2017 to accommodate the relocation of the anaerobic digester and the costs associated with that change. A litigation challenge to the project filed in December 2017 delayed project financing, which litigation was subsequently settled in June 2018. The delay between the November 14, 2017 approval and resolution of the litigation has led to project cost increases that are reflected in this proposed Third Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC for Development and Operation of the Tajiguas Resource Recovery Project.

**Background:**

Your Board approved the Second Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC for Development and Operation of the Tajiguas Resource Recovery Project (TRRP) on November 14, 2017 to accommodate the relocation of the anaerobic digester and the costs associated with that change.

The Second Amendment contained both construction and operational costs assuming the financing of the project by April 30, 2018. A provision was included in the amendment that indicated if financing occurred after April 30, 2018 the construction costs would be increased by Consumer Price Index (“CPI”) with a cap of 2% per annum or a maximum percentage change of 0.1667% or \$212,372 per month. Based on the financing schedule starting in June, it is estimated that the financing for the project will be complete by November 30, 2018. The requested increased cost to the construction budget as a result of the financing delay is \$1,508,000.

In addition, the import duties on steel and aluminum increased in March 2018. MSB has requested an additional \$1,956,000 as a result of this increased cost for steel. These two changes result in new construction costs of \$3,464,000 or a total project cost of \$133,977,000.

During this same time period, County Public Works applied for and received a grant for construction (\$3,200,000) and operation (\$800,000) of the anaerobic digester from CalRecycle for the increased diversion of organics, which will assist with these new construction costs.

Operational costs due to the project delay increased minimally related to a CPI adjustment for labor and supplies from \$16.23 to \$18.55 per ton. A more significant change in operating costs is the projected revenue from recyclables. Nationally, communities have relied on China to further process and sell mixed paper and plastics from curbside recycling programs. China, however, has significantly increased requirements related to the quality of material it is willing to accept. As a result, domestic recyclables processors are investing in new equipment and more labor to produce a cleaner material for sale in the commodities market at a much higher processing cost.

Locally, the vendors contracted to process recyclables collected in the County have increased their rates for processing material and have been able to continue to market mixed paper from our communities but are receiving a significantly lower price for this material. Plastics #3-7 (such as plastic film and food containers) currently have a volatile market. These plastics #3-7 represent less than 1% of the total recyclable material collected by our community programs though. Markets for metals, plastics #1 & 2, and cardboard continue to be strong. Because of these market changes, the County has reduced the projected revenue from the recyclables associated with the TRRP by 25% or \$1,954,000, which will

increase the tipping fee at the future facility by \$10 per ton. This type of recyclables market fluctuation and subsequent cost to the ratepayer will occur with or without the TRRP. Markets may improve in the future and provisions are contained in the agreement with MSB that will allow this increased revenue to return back to the jurisdictions as an offset for a future tipping fee. As a result of these two factors, the total per ton processing fee paid to MSB will be \$28.80.

Upon completing preliminary financial information, staff has met with City Managers of the participating jurisdictions as well as key financial staff from these jurisdictions to share the update to project costs and resulting tip fee. Acknowledging the potential change in bond interest rates and the credit rating at the time of the financial offering, the estimated overall tip fee is approximately \$144-\$150 per ton or approximately \$6 per month increase to the rate payer from today's trash bill. Future years will see a more typical increase of approximately \$1 per month.

A robust financing team has begun work to review the financial model and prepare associated documents necessary for financing of the project. These documents will be shared with the County's Debt Advisory Committee, Finance Corporation and your Board for approval in the coming months.

The attached Third Amendment contains the referenced changes in construction and operational costs as well as updated exhibits related to project costs, construction schedule, permits, and other required documents.

Pursuant to the requirements of the California Environmental Quality Act, construction and operation of the Tajiguas Resource Recovery Project was analyzed in Subsequent EIR No. 12EIR-00000-00002, SCH #2012041068 certified by the Board of Supervisors on July 12, 2016, Subsequent EIR Revision Letter and Errata dated May 27, 2016 and Addendum dated August 11, 2017 (revised October 26, 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>.

**Performance Measure:**

The contract with MSB Investors contains several performance guarantees related to the contracted service to be provided.

**Fiscal and Facilities Impacts:**

The Material Delivery and Service Agreements approved by the Board of Supervisors in December 2016 and the rates paid by County ratepayers for trash service provide the revenue necessary for the Resource Recovery & Waste Management Division Enterprise Fund to meet the debt obligations associated with financing the construction and operation of the TRRP. Based on projected facility tipping fees, staff expects to remain in compliance with these previously approved agreements with the partner jurisdictions. Specific financing documents will be provided at a future Board of Supervisors hearing for consideration.

Subject: Consider Recommendation Regarding the 3<sup>rd</sup> Amendment to the Tajiguas Resource Recovery Project

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**Key Contract Risks:**

The contract with MSB Investors contains construction and performance bonds and insurance requirements to mitigate project risk.

**Special Instructions:**

Please send a copy of the signed Third Amendment (Attachment A) to the Resource Recovery & Waste Management Division of the Public Works Department, attn.: Leslie Wells.

**Attachments:**

Attachment A: Third Amendment to the Amended Contract between the County of Santa Barbara and MSB Investors, LLC for Development and Operation of the Tajiguas Resource Recovery Project.

**Authored by:**

Leslie Wells, Program Manager, Resource Recovery & Waste Management Division, ext. 3611.