



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING
SERVICES DIVISION

EJ Ivaldi, Deputy Director

MEMORANDUM

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP
Agency Director

By Brett Storey, Senior Management Analyst

DATE: August 26, 2014

SUBJECT: CABIN CREEK BIOMASS FACILITY UPDATE, BIO-CHAR PURCHASE AND CABIN CREEK BIOMASS FACILITY DEVELOPMENT AGREEMENTS

ACTION REQUESTED

1. Receive an update on the Cabin Creek Biomass Facility,
2. Approve a ten-year contract for a Bio-Char Purchase Agreement, and
3. Approve a Development Agreement for the Cabin Creek Biomass Facility.

There is no net County cost associated with these actions today however there will be future County obligations should the facility be constructed and operational.

BACKGROUND

Beginning in 2007, staff was directed by the Board to analyze and develop the potential for a biomass-to-energy facility within Placer County. After several years of analyses, design, and environmental work, a public/private project for the construction and operation of a biomass plant, to be located at the Cabin Creek Materials Recycling facility (Cabin Creek Biomass Facility or CCBF), was developed. On May 7, 2013, the Board of Supervisors certified the Final Environmental Impact Report including an Addendum for the Cabin Creek Biomass Facility project, adopted a Statement of Findings, and adopted a Mitigation Monitoring and Reporting Plan for the project. Several milestones must be reached before the project can be funded and begin construction. The County has been working with the Tahoe Regional Power Company (TRPC) to achieve these milestones for the Cabin Creek Biomass Facility project.

In April 2014, TRPC and Liberty Utilities reached an agreement on a tentative term sheet to develop a full Power Purchase Agreement (PPA) to sell 2MW of green electricity to Liberty Utilities. However, since that time, staff has learned that Liberty has been investigating the option of investing in or owning outright the Cabin Creek facility. Whether Liberty or the current TRPC private investor group owns the facility should be neutral to the County. Liberty has informed the County, through TRPC, that it has decided to sign the agreement to finalize the PPA soon, and submit the PPA to the California Public Utilities Commission. The current project timeline would allow construction to begin in May 2015 (or as soon as site conditions permit) and the facility to generate electricity and bio-char by March 2016. The signed PPA would need Public Utility Commission approval before operations could begin. Typical timing of such agreement approval could take a year.

The Cabin Creek Biomass Facility will generate approximately one-third of its annual income from the sale of the bio-char co-product. Bio-char is the carbonized wood chip product remaining after the gasification process. The bio-char will be sold for soil amendments, as a filter media for water treatment and other systems, and other potential uses. Bio-char has been designated as a specialty agricultural mineral and as such is not subject to sales tax under current California state tax regulations. In order to assist in the development of the CCBF, the County will also be involved in the purchase and sale of bio-char. On April 22, 2014, your Board approved the material terms for a proposed Bio-Char Purchase Agreement and authorized the CDRA Director, or designee, to negotiate a final Bio-Char Purchase Agreement consistent with the Board-approved material terms (including approval of County Counsel and Risk Management). The agreement includes a 10-year term, an obligation by the County to purchase a maximum of 500 tons of bio-char per year with an initial purchase price of \$0.35 per pound. The agreement has been set at the minimum price and minimum quantity to enable to the project to maintain positive cash flow. At present, Phoenix Energy, who represents TRPC, states that its bulk price for bio-char sold from its Merced facility is \$0.79 per pound. This provides the potential to mitigate risk of a price decline between the signing of this agreement and the production cycle of the facility in 2016. Furthermore there is a clause within the agreement that provides for additional material to be provided to Placer County should the price drop below the agreed upon rate to make up any potential shortfall. Staff has reviewed market conditions, bio-char use and resale opportunities, and has concluded the amount and purchase price for bio-char is supportable.

Lastly, staff has negotiated a proposed Developer Agreement with TRPC to ensure that a strong relationship remains for the future of the project, and that the citizens of Placer County receive the potential for recovering the investment of the work to date. The proposed Developer Agreement provides for the County to pay to TRPC on a reimbursement basis up to \$1.5 million in United States Department of Energy grant funds for the purpose of developing and constructing the facility. In exchange, TRPC would agree to pay to the County on an annual installment basis up to \$2 million based on the financial performance of the facility.

All future financial operations surrounding these agreements will be developed according to the Auditor's standards to ensure full accountability for each fund. The transactions of purchasing and selling bio-char will be accomplished using available funding which will be provided both by the facility's purchases of fuel from TRPC, estimated at over \$415,000 per year as well as interest and principal payments from the Developer agreement to the facility, which will provide an estimated \$120,000 in additional funds annually. Furthermore, to allow for any financing risk at project start-up TRPC has agreed to pre-fund \$100,000 of fuel purchases.

TRPC's investor group is finalizing the information to acquire a loan for the expected investment to purchase the equipment, build the building, and prepare for operations. TRPC has informed the County that the Bio-Char Purchase Agreement and Developer Agreement are an essential part of this process and must be in place before funding. Also, the Placer County Air Pollution Control District is currently processing TRPC's permit request for operations.

FISCAL IMPACT

Upon the construction and operational status of the Cabin Creek facility (projected to be March of 2016) Placer County will become obligated to purchase bio-char annually for a total cost of \$350,000, sales of the bio-char should provide a higher amount of revenue at current market rates (estimated to be \$790,000). In addition, fuel purchases for up to \$415,000 from TRPC and the potential for annual payments to the County from the developer agreement could be as much as an additional \$120,000 annually based upon an agreed upon financial formula.

Copies of the Bio-char Purchase Agreement and the Development Agreement are on file with the Clerk of the Board.

cc: Holly Heinzen, Chief Assistant CEO
Rob Sandman, Deputy County Counsel

