



INDIAN RIVER COUNTY
SOLID WASTE DISPOSAL DISTRICT



BOARD MEMORANDUM

Date: July 12, 2017
To: Jason E. Brown, County Administrator
Thru: Vincent Burke, Director of Utility Services
From: Himanshu H. Mehta, P.E., Managing Director, Solid Waste Disposal District
Subject: Termination of Feedstock Supply Agreement and Landfill Gas Agreement with INEOS New Planet BioEnergy, LLC

BACKGROUND:

On July 15, 2011, the Indian River County Solid Waste Disposal District (SWDD) entered into a Feedstock Supply Agreement (FSA) with INEOS New Planet BioEnergy, LLC (INPB) for supplying vegetative waste for the production of bioethanol energy product and renewable power. The term of the agreement was for a period of twenty (20) years. The Indian River BioEnergy Center operated by INPB has ceased operations of its facility at 925 74th Avenue SW effective December 31, 2016.

On December 20, 2016, the SWDD Board approved the Ninth Amendment with INPB that provided for a transition of vegetative waste from the Indian River BioEnergy Center to SWDD's vegetative processing area from January 2, 2017, through March 30, 2017.

On March 7, 2017, the SWDD Board approved the agreement for yard waste processing and disposal services to Mr. Mulch, Inc. to provide services on SWDD's vegetative processing area beginning April 1, 2017.

Overall, the transition from the INPB facility to SWDD's facility was smooth, and staff and INEOS have been mutually working on officially terminating the existing FSA and the accompanying Landfill Gas Agreement (LFGA). Staff has also been coordinating with Arbor One, ACA (Arbor One), who is the bank that provided the bond guaranteed in part by the U.S. Department of Agriculture to INPB for their project.

ANALYSIS:

Staff and INPB personnel have mutually agreed to the provisions in the attached Termination of Feedstock Supply Agreement and Landfill Gas Interconnect Agreement and as highlighted below.

RETURN A PORTION OF PERFORMANCE CASH DEPOSIT - On July 12, 2017, staff received a letter from Arbor One authorizing the release of \$51,551.55 to INPB to cover the fees for a three (3) year environmental tail coverage policy of the former INPB property. Staff recommends that the remaining balance of

\$148,448.45 and any applicable interest be disbursed to Arbor One once the property transfer has been completed.

LANDFILL GAS ASSETS AND EASEMENTS – INPB has removed all of their assets on SWDD’s property related to the transmission of landfill gas to the INPB property with the exception of the pipeline between our properties. Both parties agree that this pipeline may provide a beneficial use in the future and wish to maintain the existing easement associated with the pipeline.

TERMINATION OF FSA AND LFGA – Staff recommends approval for the termination of the FSA and LFG agreements noting the following provisions:

- a. INPB, or its authorized representative, is required to provide utility and inspection services on the INPB site until all the vegetative waste is removed from the property or the property is sold.
- b. INPB is required to maintain water and electric connections to the site until the property is sold.
- c. INPB is required to ensure that the vegetative waste piles are maintained in accordance with the approved site plan.
- d. INPB is required to and has provided a certificate of insurance for both pollution and environmental remediation extending three years beyond the termination date, which is April 1, 2017.

Staff is in support of returning a portion of the deposit to INPB as they have met all of their contractual requirements and have provided the necessary insurance. However, staff recommends that we hold off on the disbursement of the remaining deposit with interest to Arbor One until the property transfer has been completed.

FUNDING:

In accordance with Section 2 and Section 3 of the 2nd Amendment to the Feedstock Supply Agreement, dated April 25, 2012, a cash deposit in the amount of \$200,000 was provided by INPB as security to ensure the performance under the agreement. The cash deposit has been held by SWDD in an escrow fund account. Per the Termination to the FSA and LFG agreements, staff is recommending release of the funds as follows:

DESCRIPTION	ACCOUNT NO.	AMOUNT
Reimbursement to INPB	Escrow Fund 601-220-003	\$ 51,551.55 without Interest
Reimbursement to Arbor One*	Escrow Fund 601-220-003	\$148,448.45 with Interest
Total Security Deposit to be Reimbursed		\$200,000.00 with Interest

* Once property transfer is complete.

RECOMMENDATION:

SWDD staff recommends that its Board approve the following:

- a) Approve the Termination to the Feedstock Supply Agreement and Landfill Gas Interconnect Agreement with INEOS New Planet BioEnergy, LLC.
- b) Authorize the Indian River County Finance Department to disburse \$51,551.55 to INPB with no interest.
- c) Authorize the Indian River County Finance Department to disburse \$148,448.45 and any applicable interest to Arbor One once the property transfer has been completed.
- d) Authorize the Chairman to execute the same, as presented.

ATTACHMENT(s):

- 1. Termination to the Feedstock Supply Agreement and Landfill Gas Interconnect Agreement with INEOS New Planet BioEnergy, LLC.
- 2. July 12 Letter from Arbor One and Certificate of Insurance and associated invoice.