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Report to Carson Reclamation Authority

Monday, March 06, 2023

Discussion

SUBJECT:

CONSIDER RECOMMENDING THE CREATION OF AN ADMINISTRATIVE ANALYST AND A TYPIST CLERK II POSITION BY THE CITY OF CARSON, TO BE FUNDED BY THE CARSON RECLAMATION AUTHORITY, AND CONSIDER RESOLUTION NUMBER 23-05-CRJPA, AMENDING THE FISCAL YEAR 2022-2023 BUDGET, AS PART OF THE SUPPLEMENTAL CONTRACTING AND STAFFING PLAN FOR THE CARSON RECLAMATION AUTHORITY TO TRANSITION FROM A COMPREHENSIVE DEVELOPMENT MANAGEMENT AGREEMENT

I. SUMMARY

On January 3, 2023, staff made a presentation to the Board a plan to replace the services received under the Authority's Amended and Restated Development Management Agreement ("DMA") with its Horizontal General Contractor, RE| Solutions, LLC ("RES") with additional consultants, new staff, or some combination of the two.

Staff recommended a plan in January, as outlined below:

1. Contracting separately with the current on-site manager and the on-site secretary to allow them to continue to perform their current duties;
2. Expanding the contract with the current O&M contractor, WSP, Inc., to provide the environmental advisory and design oversight services separate from their O&M services;
3. Adding three new City employees with specific skills to address the project management needs of the Authority;
4. Bidding the construction management of the Lenardo Road construction project through the City.

Staff is currently scoping the services and negotiating the agreements for the on-site manager (No. 1) and for the supplemental environmental services (No. 2), but several factors have changed the timing of the creation of the staff positions in No. 3, including

budget considerations and working through issues associated with professional liability risk. The construction management of the Lenardo Road construction project will be bid through the CRA and not the City and will occur later in 2023.

This recommendation is to request the City Council create two new FTE positions to be funded from the Authority: Administrative Analyst and Typist Clerk II. The Typist Clerk II position was originally recommended to be contracted with the on-site manager but is now recommended to be a City position while performing mostly the same on-site duties; the Administrative Analyst will handle several of the new demands on the Authority such as the collateral assignment and administration of contracts currently held by RES; working on the Authority's website update and data management needs, and other tasks. The other two positions, the Development Manager and Environmental Engineer, will be recommended in the Fiscal Year 2023-24 budget.

The contractual on-site manager would continue to oversee the continued O&M activity on the Site which will need to adapt to changing Site conditions based on construction activity; manage Site access, regulatory compliance and workflow from up to four general contractors on the Site (Cell 2; Cells 3, 4, and 5; Cell 1; the responsibility to construct the on-site infrastructure such as Lenardo and Stamps and Site utilities); and oversee the post-construction O&M activities on the Site once all the projects are completed.

II. RECOMMENDATION

1. **RECOMMEND** the City Council create two new FTE positions to be funded from the Authority: Administrative Analyst and the Typist Clerk II.

2. **APPROVE** RESOLUTION NUMBER 23-05-CRJPA, AMENDING THE FISCAL YEAR 2022-2023 BUDGET in the amount of \$77,575.11 to fund the new positions through the end of the current fiscal year.

1.

III. ALTERNATIVES

1. TAKE any other action the Board deems appropriate.

IV. BACKGROUND

The Carson Reclamation Authority ("Authority" or "CRA") acquired the former Cal Compact Landfill in 2015 to enable its remediation and future development. To construct the necessary remedial systems and perform its related obligations with respect to the Site, including, to operate the remedial systems, to manage the construction process for future development of the Site, and provide various related expert services, the Authority contracted with RES (the Horizontal Master Developer) for the entire 157 Acre Site pursuant to a Development Management Agreement (as amended, the "DMA").

The Authority entered into an Agreement with RES to enable the termination of the DMA

and the wind-down of all activities and services that RES has been providing to the Authority with respect to the Site and the various projects proposed for the Site. The Authority now needs to replace the overall site management structure that has existed under RES, possibly with a combination of new professional (environmental) service vendors and newly created City staff positions. On January 3, 2023, staff made a presentation to the Board a plan to replace the services received under the DMA with a combination of new staff and contractual services.

Wind-Down of RES' Work on the Property and Termination of the DMA

Under the DMA, nearly all the contractors, designers, engineers, and consultants working on the Site are contracted to RES and not directly to the Authority. However, the Authority may directly assume the obligations of RES under each project subcontract by notice to such project subcontractor. On or before the expiration or termination of the Wind-Down Period, the Authority shall give notice to each project subcontractor of the Authority's election to terminate the DMA and require performance of the subcontractor under the applicable subcontract, in favor of the Authority.

Some of these contracts, like WSP, Mayfield (field work), Labor Compliance Management and Securitas will transfer to the Authority as they provide for the operation and maintenance of the Site with or without construction. Other contracts, such as Antieri (electrical design) and Twining (inspection), are more construction-related and these contractors may already be hired by the developers and their contractors working on the Site.

Upon or prior to the expiration of the Wind-Down Term, RES shall also transfer/assign all DMA Permits, trailer or equipment leases and other Site "general condition" items to the Authority.

Contracting and Staffing

Replacing RES represents a significant challenge to the Authority, which since its creation in 2015 has generally operated with a part-time Executive Director, some shared administrative support, and an Administrative Specialist responsible for tracking the current bills and invoicing developers for expenses associated with the Authority's ownership of the Site. The Authority also uses other City services such as the Finance Department, Treasurer, City Clerk, Planning, and Public Works on an as-needed basis.

The Authority's staffing and administrative support do not have the construction experience to manage the on-site activities associated with the Site, nor the scientific expertise to oversee the environmental testing and design of the remedial systems and site development improvements on the Site and other aspects of DTSC compliance. These functions will either need to be new positions, new contracts, or a combination of both.

Proposed Contracting and Staffing Plan for the Authority

In January, Authority Staff proposed an approach to handling the Authority's responsibilities over the next several years and which responds to new demands on the Authority (such as the collateral assignment and administration of contracts currently held by RES);

overseeing the continued O&M activity on the Site which will need to adapt to changing Site conditions based on construction activity; managing the Site access, regulatory compliance and workflow from up to four general contractors on the Site (Cell 2; Cells 3, 4, and 5; Cell 1; the responsibility to construct the on-site infrastructure such as Lenardo and Stamps and site utilities); and the post-construction O&M activities on the Site once all the projects are completed.

Since January, the plan has been modified somewhat and is now as follows:

1. Contracting separately with the current on-site manager to perform his current duties;
2. Expanding the contract with the current O&M contractor, WSP, Inc., to provide the environmental advisory and design oversight services separate from their O&M work;
3. Adding two new City employees with specific skills to address the project management needs of the Authority: Administrative Analyst and Typist Clerk II;
4. Bidding the construction management of the Lenardo Road construction project through the Authority later in 2023.

On-Site Management

RES has employed a permanent On-Site Manager who has performed various tasks as provided for in the DMA, including, generally overseeing the Site, security, general maintenance and upkeep, and overseeing the O&M obligations on the Site. The On-Site Manager (and the secretary) also monitor all persons on site and verifies the HAZWOPER status of all workers on the Site, per DTSC requirements.

Additionally, the On-Site Manager coordinates with the vertical developers of Cells 1, 2, 3, 4, and 5, to assist with the development of their projects, including by leading tours and distributing specific information as requested from potential developers/users of the various cells and providing information to support their entitlement and remediation planning work.

RES has also provided Insurance Management/OCIP administration services (OCIP includes enrollment and disenrollment by contractors for GL, Builders Risk and CPL and also assists with Claims Administration for the Authority). The enrollment work is typically performed by the secretary.

RES has also conducted community outreach and managed public participation, including revising and updating the Authority's project web site, coordinating with DTSC on Notices of Work Activity, and managing public outreach for noise and vibration monitoring before and during construction. Much of this would be done by the Analyst.

Expanding the WSP, Inc. Contract

This contract expansion or even new contract would have to be drafted in a way that the contractor isn't asked to provide the oversight over its own O&M work, which is one of the reasons to retain the on-site manager.

Instead, one of RES' tasks is to manage and coordinate regulatory approvals, including

monthly O&M meetings with DTSC, coordinate with DTSC's public participation staff on response to community comments and public participation plan, submitting and coordinating with DTSC on the 5-year review, and coordinating with DTSC on approval of all developer work plans (e.g. bottom of trash, top of trash studies). Examples of these were described above (e.g. top of trash, bottom of trash workplans, revised pile driving workplans, changes to landfill cap design, etc.). This would be a relatively small, on-call contract with the environmental contractor to provide the technical expertise DTSC requires.

Expanding the Authority Staffing

The Authority does not have employees of its own and, though its bylaws allow it to have employees, was functionally never set up to have staff because of all the legal, financial, PERS, and administrative requirements of managing separate employees. Instead, the Authority reimburses the City for staff time.

There are some short-term factors and long-term factors that drive the decision to staff up the Authority (through the City). First, the collateral assignment of all RES contracts to the Authority will require a certain amount of administrative work to set up purchase orders and handle the individual invoicing and payment instead of the single RES Master Invoice, but staff will be needed to track the contract performance as well, which is beyond the duties of current administrative staff. Second, the Authority needs to begin to prepare itself for the completion of construction when the landfill will have achieved closure and the only responsibility will be overseeing the O&M contractor and regular reporting under the Authority's permits.

Staff recommends that these latter, post-closure tasks such as overseeing the O&M contractor and providing regular reports to the environmental regulators, will be best performed by City staff and not contractors. These will essentially be part-time duties and City staff are less expensive than contractors. Since the post-closure obligations will be paid for by the vertical developers (property owners) through a Community Facilities District levy on the property, the Authority and City need to be as economical as possible.

V. FISCAL IMPACT

Since March 2020, the pay structure with RES has been on an amended basis from the original DMA and RES has been paid hourly for their work, plus the pass-through of all the contractual costs such as security and the O&M contractor. In the past twelve months (prior to the start of the Wind-Down period), the RES Monthly Hourly fees have averaged about \$100,000 per month, and the combined other carrying costs are about \$300,000 per month (O&M, security, etc.). These are paid 60% by CGO and will be paid 30% by CAM once they complete the due diligence period.

The O&M expenses are unlikely to change during the construction period, so the hourly management fee currently being paid and reimbursed by the developers is the "budget" for the combination of staff, the on-site manager, and supplemental environmental services this plan. All of these items still need to be negotiated but the combination of the first three

- the On-Site Manager, the City Staff positions, and the environmental advisory services - should be slightly less than the current amount paid to RES, so will have no net new cost. Part of the delay in creating the two higher level City positions is the need to negotiate the contractual services first.

VI. EXHIBITS

1. Resolution No. 23-05-CRJPA (pgs. 7-8)

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