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Title: CONSIDER ESCROW AGREEMENT BETWEEN THE CITY OF CARSON, COUNTY SANITATION DISTRICT NO. 2, A SPECIAL DISTRICT, AND U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, A NATIONAL BANKING ASSOCIATION, IN ITS CAPACITY AS ESCROW AGENT FOR A SUPPLEMENTAL ENVIRONMENTAL PROJECT (CALAS PARK STORMWATER AND WATER QUALITY IMPROVEMENTS)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Draft Calas Park SEP Escrow Agreement, 2. Calas Park SEP Fact Sheet, 3. DMS-#7132298-v1-Final_Stipulated_Order_R4-2023-0088

Date	Ver.	Action By	Action	Result
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Report to Mayor and City Council

Tuesday, February 06, 2024

Consent

SUBJECT:

CONSIDER ESCROW AGREEMENT BETWEEN THE CITY OF CARSON, COUNTY SANITATION DISTRICT NO. 2, A SPECIAL DISTRICT, AND U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, A NATIONAL BANKING ASSOCIATION, IN ITS CAPACITY AS ESCROW AGENT FOR A SUPPLEMENTAL ENVIRONMENTAL PROJECT (CALAS PARK STORMWATER AND WATER QUALITY IMPROVEMENTS)

I. SUMMARY

This action would approve an Escrow Agreement (“Agreement”) between the County Sanitation District No. 2, a special district organized and existing under the provisions of Health and Safety Code sections 4700 et seq. (the “District”) in its capacity as the Administrative District for the Joint Outfall System; the City of Carson (the “City”); and U.S. Bank Trust Company, National Association, a national banking association, in its capacity as escrow agent (“Escrow Agent”). The purpose is to administer funds paid by the District toward a Supplemental Environmental Project (“SEP”) in the City of Carson.

The Calas Park Stormwater SEP is located at Calas Park and is designed to capture and pre-treat 2.8 acre-feet of stormwater annually, and then infiltrate the stormwater onsite

through the use of underground storage vaults, bioswales, rain gardens, and infiltration galleries. It is a smaller, simpler version of the stormwater capture project constructed in Carriage Crest Park. Such projects are an element of the City of Carson's Stormwater Master Plan. The Calas Park Stormwater SEP will reduce pollutants such as zinc and bacteria in stormwater from the drainage area and will reduce the volume and magnitude of stormwater runoff to the Dominguez Channel.

Funding for the SEP, from the District, comes via Order No. R4-2023-0088, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order ("ACL Order") signed by the California Regional Water Quality Control Board - Los Angeles Region ("Regional Water Board") on January 17, 2024, issued against the District for a series of sewer spills, including the largest one on December 30-31, 2021, which resulted in 8.6 million gallons of untreated wastewater released into the Dominguez Channel.

The funding from the District is expected to fully cover the project cost for the stormwater capture facility. Work must be completed within 48 months.

II. RECOMMENDATION

1. **APPROVE** an Escrow Agreement between the City of Carson, County Sanitation District No. 2, a Special District, and U.S. Bank Trust Company, National Association, a National Banking Association, in its capacity as escrow agent for a Supplemental Environmental Project (Calas Park Stormwater and Water Quality Improvements)
2. **AUTHORIZE** the Mayor to execute the Escrow Agreement approved as to form by the City Attorney and all associated documents.

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III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

This action would approve an Escrow Agreement ("Agreement") between the County Sanitation District No. 2, a special district organized and existing under the provisions of Health and Safety Code sections 4700 et seq. (the "District") in its capacity as the Administrative District for the Joint Outfall System; the City of Carson (the "City"); and U.S. Bank Trust Company, National Association, a national banking association, in its capacity as escrow agent ("Escrow Agent"). The purpose is to administer funds paid by the District toward a Supplemental Environmental Project in the City of Carson, described below.

Between January 25, 2018 and September 6, 2022, an amount in excess of 8.6 million gallons of untreated domestic and municipal wastewater were inadvertently discharged by the Joint Outfall System from its collection system to waters of the United States, including the inadvertent discharge of approximately 8,507,790 gallons of untreated wastewater to the Dominguez Channel on December 30-31, 2021, and an additional approximately 108,414 gallons of untreated wastewater during 13 separate spills that took place between

January 25, 2018 and September 6, 2022 to Rio Hondo, Dominguez Channel, Los Angeles River, Alhambra Wash, San Jose Creek, Machado Lake, Arroyo Seco Channel, and Malaga Creek.

On January 17, 2024 the California Regional Water Quality Control Board - Los Angeles Region (“Regional Water Board”) issued Order No. R4-2023-0088, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (“ACL Order”) under Water Code section 13385 for the spills that occurred between January 25, 2018 and September 6, 2022. Now that the Executive Officer has signed the ACL Order the SEP timetable begins and the funds must be deposited into escrow within 30 days.

Under the ACL Order, the District agreed, among other things, to contribute the sum of \$5,980,000.00 (the “District’s SEP Contribution”) to a Supplemental Environmental Project (“SEP”) for the development of the Calas Park Stormwater and Water Quality Improvements Supplemental Environmental Project (“Calas Park Stormwater SEP”). The ACL Order further provides that, if the Calas Park Stormwater SEP is not completed due to circumstances outside the control of the District and/or the City, as determined by the Executive Officer of the Regional Water Board (“Regional Water Board’s Executive Officer”), and the Regional Water Board does not move to collect payment of the value of the District’s SEP Contribution to the State Water Pollution Cleanup and Abatement Account, a Replacement SEP may be proposed within 60 days by the District, subject to approval the Regional Water Board’s Executive Officer in accordance with the terms and provisions of the ACL Order. The District’s SEP Contribution will be deposited into escrow and funds will be withdrawn in accordance with the terms of the Agreement.

The Calas Park Stormwater SEP is located in the City of Carson and is designed to capture and pre-treat 2.8 acre-feet of stormwater annually, and then infiltrate the stormwater onsite through the use of underground storage vaults, bioswales, rain gardens, and infiltration galleries. It is a smaller, simpler version of the stormwater capture project constructed in Carriage Crest Park. Such projects are an element of the City of Carson’s Stormwater Master Plan. This project is located within 2 miles of the community that was affected by the December 2021 sewage spill. The Calas Park Stormwater SEP will reduce pollutants such as zinc and bacteria in stormwater from the drainage area and will reduce the volume and magnitude of stormwater runoff to the Dominguez Channel. In addition, the construction of the project, and the included stormwater education signage, will promote public awareness and education regarding urban runoff and the need to prevent pollution and protect water quality. The Calas Park Stormwater SEP must be completed within 4 years from the effective date of the proposed ACL Order (estimated completion date = ~end of 2027 or early 2028).

V. FISCAL IMPACT

The City will receive the amount of \$5,980,000 from the District for the construction of the project in Calas Park. This amount is sufficient to cover the estimated cost of design and construction of the project. The City may spend some Measure W Stormwater funds sooner to complete some of the preliminary site investigation and per-design work before the order is in effect in order to create some room in the project schedule.

This is likely to be in the range of \$25,000.

VI. EXHIBITS

1. Escrow Agreement (pgs. 4-23)
2. Calas Park SEP Fact Sheet (pg. 24)
3. Order No. R4-2023-0088, Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (pgs. 25-75)

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