



Legislation Text

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Report to Carson Reclamation Authority

Monday, June 05, 2023

Discussion

SUBJECT:

CONSIDER RESOLUTION NO. 23-11-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION JOINT POWERS AUTHORITY ADOPTING THE FISCAL YEAR 2023/24 BUDGET AND APPROVING APPROPRIATIONS FOR THE 2023/24 FISCAL YEAR

I. SUMMARY

This action approves the Fiscal Year 2023/24 Budget for the Carson Reclamation Authority.

II. RECOMMENDATION

1. WAIVE FURTHER READING AND APPROVE Resolution No. 23-11-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION JOINT POWERS AUTHORITY ADOPTING THE FISCAL YEAR 2023/24 BUDGET AND APPROVING APPROPRIATIONS FOR THE 2023/24 FISCAL YEAR

III. ALTERNATIVES

Take another action the Board deems appropriate.

IV. BACKGROUND

On January 20, 2015, the governing Boards of the Housing Authority and Carson Community Facilities Districts Nos. 2012-1 and 2012-2 ("CFDs") approved each Board's authority to enter into an agreement for the formation of the Carson Reclamation Joint Powers Authority ("CRA") for the purpose of overseeing and facilitating the remediation of contaminated properties in the City of Carson; this was achieved pursuant to the Joint Exercise of Powers Act, commencing with Section 6500 et seq. of the Government Code. The CRA may facilitate and fund the environmental study, investigation, remediation, and reclamation of any and all contaminated properties in the City, or the acquisition and subsequent reclamation of contaminated properties. These powers include any improvements on property related to environmental clean-up and any negotiations or

processing of property reclamation required in connection with the California Department of Toxic Substances Control ("DTSC") or any other State or Federal environmental agency. The Authority's powers may extend beyond mere property remediation to development planning and implementation, such as with the Cal Compact Landfill, currently owned by the CRA and where remedial construction has been partially completed.

This year's budget follows and is largely similar to the Fiscal Year 2022/23 budget, generally presenting expenditures by General Administration; Permits, Legal, and Insurance; Utilities; Construction Costs on Cell 2; Construction Costs on Lenardo Road; and O&M costs. Last year costs were also broken out for Sitewide Coordination, as the CRA will be responsible for coordinating the construction work by several different developers and their contractors. This segmentation provides more explanation of the different tasks undertaken by the CRA and clarifies expenditures where one contractor (or type of contractor) may have expenditure line items in different parts of the budget, and then allows the reader to look at anticipated revenue, some of which is on a project basis, against the estimated expenditures.

Additional clarification follows:

General Administration/Professional Services

1. Administrative Services (Secondment) Agreement. This is the arrangement whereby the City charges the CRA for staff time. With the wind-down of the contract with RE|Solutions, LLC (RES) as Development Manager, post-closure tasks such as overseeing the O&M contractor and providing regular reports to the environmental regulators will be best performed by CRA (City) staff and not contractors as City staff are generally less expensive than contractors. This would include absorbing the onsite secretary as a Senior Clerk and adding three new positions: (1) an Administrative Analyst to work on day-to-day contracting issues; (2) an Environmental Engineer to work with the on-site manager, O&M contractor, and Environmental Advisor on permits and regulatory issues related to the landfill systems; and (3) a Development Manager to oversee the broad range of real-estate, contractual, and regulatory responsibilities of the Authority.
2. CRA Travel. Most previous travel has been to Sacramento for CPCFA/CALReUSE meetings; because of the pandemic there was no travel in the past year but there could be scheduled for this year, once the State returns to in-person meetings.
3. Project Management/On-Site Management. The On-Site Development Manager on the site, includes the O&M work (now under contract with WSP-Golder USA, Inc.). The contract with RES is now winding down, and the line item is included in General Administration for the hourly services portion of the contract. The remainder of the Site Management and O&M work is included separately in other sections as over the next year the work will be performed by RES, CRA staff, or other contractors as the transition occurs. These represent different costs for different portions of the contract.

Permits, Fees, Legal, Insurance

4. CRA pays permit fees to Water Board and AQMD and pays DTSC for project oversight. CRA also has a lease with the Flood Control District for use of the Torrance Lateral access road.
5. Aleshire & Wynder (“A&W”) legal services. This is for general administration, construction-related (and reimbursed) expenditures, and litigation. Most of the cost of the CAM-Carson litigation has been covered by the CRA’s D&O policy by Chubb, the insurer, who engaged Cozen O’Connor for litigation services related to the claim. The CRA paid the self-insured retention (“SIR”) last year. A&W does all the transactional work such as agreements with developers and review of all subcontractor contracts, and the CEQA work on the development projects. Much of this work is subject to the Reimbursement Agreements with developers such as Carson Goose Owner, LLC (“CGO”), though these expenditures are not reflected in the CRA budget as the reimbursement deposits are made to and payments processed by the City.
6. Greenberg Traurig legal services. In the past year the CRA’s insurance counsel has worked on renewing policies for D&O, Property, and Contractor’s Pollution Liability (“CPL”) insurance; incorporating CGO into the PLL insurance programs and other policies in the Insurance Administration Agreement; drafting the environmental language on the mechanism for CGO to take over the construction and development of Cells 3, 4 and 5; and working with DTSC on the Land Use Covenant, Enterprise Fund, and other issues. Some of this is reimbursed by developers under the same deposit arrangement described above, and some of it is not.
7. Marsh USA (D&O, Property, and CPL policies). Marsh is the CRA’s insurance broker of record. There are now three policies that are annually renewed: the Public Officials Liability (D&O) policy, property insurance, and the CPL policy. The D&O policy renews in June and the Property policy renews in September/October. The Insurance Administration Agreement with CGO provides for some cost sharing or policy substitution of the property policy so the amount may be reduced in the coming year.

Utilities

8. These amounts reflect the historic averages of utility payments. This is for utility service only (not construction) and paid directly by the CRA. Over the past two years the cost of gas nearly doubled, so the budget for last year was increased, and then the price declined somewhat. Gas is used to supplement landfill gas in the flaring process to burn clean and hot enough to meet AQMD guidelines; last year, the O&M contractors began using another technology (granulated activated charcoal filtering, or “GAC”) that does not use the flare to handle the landfill gas during these price escalations, so the gas budget has been reduced. The GAC is cost effective during high gas prices; the flare is more cost-effective when gas is cheaper. Electricity and water costs have also risen but not as much as gas.

Construction-Related Costs (Cell 2)

9. Like in the prior year, the CRA has budgeted \$32,500,000 as a single line item for the completion of the Cell 2 work. In this year, for the purpose of the cost estimating on the Cell 2 work, the \$32,500,000 anticipated from CGO as payment for Cells 3, 4, and 5 is shown as a contribution toward Cell 2, its original purpose.

Some of the engineers, designers and consultants are shown in the Sitewide Coordination section, including Antieri & Associates, electrical engineers, who need to be fully engaged to complete the electrical system design for Cell 2 to accommodate getting service to the 405 embankment (for signage), as well as completing the design for electrical on Cells 3, 4, and 5 for the CGO project. If the street is constructed in this fiscal year, all the utility designs need to be complete so that there are no delays in construction. A portion of this cost, \$300,000, was advanced by CGO as part of the extension of their Option Agreement and another 30% would be reimbursed by the Cell 2 developer.

Construction-Related Costs - Lenardo Road

10. The CRA has been working on a scope and cost estimate of the Lenardo Construction since early 2019. In October 2019 Snyder Langston produced a cost estimated as a Potential Change Order (PCO) to commence the work. RES then worked to incorporate all the non-Snyder Langston costs into an overall estimate. These estimates were updated this year by the City's Engineering Division, and a premium for potential compliance with the City's Project Labor Agreement was added. Like with Cell 2, there are some assumptions that should be explained:

- a. The cost estimates still contain several exclusions, meaning project costs that are not part of the general contractor's scope. The largest exclusion is the environmental cost. While Lenardo is on "native" soil, the site is still located within the overall Cal Compact Landfill site and subject to the DTSC Health & Safety Plan. A separate contractor typically provides that service. In addition, because Lenardo could be constructed ahead of the cells on at least one side of the street (now assumed to be Cell 2), we are concerned about the buffer on Cell 2 to protect Cells 3, 4 and 5 because of the uncertain status of the CAM-Carson project. If a Cell 2 buffer is required on behalf of the Cell 3, 4, and 5 project, the estimated cost for the Cell 2 buffer zone would be \$8.5 million. That work is shown in the budget under the "Cell 2 work" (to be paid from the \$32,500,000) and not shown in the Lenardo line items for street work. This would be part of the CAM-Carson work if they proceed with their project; if not, the CRA would need to undertake that work at its cost.
- b. A similar Cell 1 buffer would still be needed, as the Cell 1 developer would not be far enough along in either the project design/entitlement or financing process to be able to undertake a buffer zone project. The previously (2019) estimated cost

is \$2.5 million and the design cost is estimated at \$250,000.

- c. Other line items include plan check fees and permits, including those obtained from the Utility Providers; testing and site inspection; geotechnical, structural engineering, and oversight.
- d. The payment bond, required because the project is a Public Works project and not a development project, is estimated between 1.25% and 2% of the construction cost. This estimate is at 1.5%.
- e. Street-Specific Project Management reflects the need for overall project management for the construction of the street (vs. Site Management) and will likely be a construction manager procured through a bidding process.

11. O&M Costs. The first 3 line-items reflect the estimated cost of O&M including operation of the Landfill Operation Center (the groundwater system and the gas collection system) and other daily testing and monitoring; the basic contractual cost to WSP-Golder is \$111,000 a month plus up to \$1,000,000 annually in “time and materials” allowances.

- a. Monthly Site Management Costs. These are pass-through costs for the site, including trailer rental, fencing, and basic maintenance. These are pass-through costs and not compensation to RES and will be directly paid by the CRA when the RES contract fully winds down.
- b. Site Security. Because of its status as an unclosed landfill with active O&M facilities and operations, the CRA maintains 24/7 security on the site.
- c. Mayfield is the contractor that provides for weed abatement, and assists during the rainy season with SWPPP compliance, managing the stormwater.
- d. MBI is the CRA’s Qualified SWPPP Practitioner, meaning they produce the annual stormwater management plan and maintain the records with the Water Board.

Revenue Estimates

Estimating revenue has been one of the biggest budgeting challenges last year and this year, as there remains pending litigation with CAM-Carson, LLC and no revenue at this point from that project, and the CGO project received its entitlements at the beginning of FY 2022/23. Once the transaction with CGO closes based on the closing conditions, the CRA will receive its residual land proceeds for Cells 3, 4, and 5.

Once again, this budget includes both projects as anticipated revenue sources: if the CAM due diligence period closes during the fiscal year and work resumes, it should be on terms

already discussed which include the CRA making a fixed contribution toward the Cell 2 work and the developer contributing up to \$10 million toward the infrastructure work of the CRA. In addition, CAM would also pay a pro rata share of the CRA's O&M costs (30%). Likewise, CGO makes about \$3 million in O&M reimbursements (60% of the O&M costs, up to \$250,000 per month). Additionally, staff expects about \$880,000 in payment from CGO toward participation in the PLL insurance policy.

Finally, the budget does include the \$22.4 million in Measure M/Measure R bonds issued by the City, to be used for the construction of Lenardo, and a contribution from CGO and CAM toward the construction of all site infrastructure.

V. FISCAL IMPACT

The proposed expenditure budget for FY2023/24 has increased from \$76,890,048 in FY 2022/23 to \$80,680,941. This mainly reflects an increased estimated cost of Lenardo and additional funding for stormwater management. The Revenue estimates also fell from FY 2022/23. This is largely attributable to how Cell 2 is anticipated to be completed: previous years' budgets included an estimate for the remaining CRA obligations for the remedial systems plus the CRA contracting for the remaining horizontal work to be reimbursed by CAM-Carson, for a total of nearly \$63 million. The current year's budget only appropriates the \$32,500,000 due from CGO for the residual land payment for Cells 3, 4, and 5 to Cell 2 and limits the CRA's obligation to that amount. The reimbursement and litigation settlement revenue were also removed from the budget on the revenue side, except for the \$10 million infrastructure commitment.

Certain operating costs, such as utilities, after increasing dramatically in the past year, have levelled off, as has the insurance. Legal costs are anticipated to be about the same this year.

VI. EXHIBITS

1. Resolution No. 23-11-CRJPA (pgs. 7- 8)
2. FY 2023/24 Expenditure Budget (pg. 9)
3. FY 2023/24 Revenue Estimates (pg. 10)

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Prepared by: John Raymond, Executive Director