



Legislation Text

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Report to Carson Reclamation Authority

Monday, June 07, 2021

Discussion

SUBJECT:

CONSIDER RESOLUTION NO. 21-06-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION JOINT POWERS AUTHORITY ADOPTING THE FISCAL YEAR 2021/22 BUDGET AND APPROVING APPROPRIATIONS FOR THE 2021/22 FISCAL YEAR

I. SUMMARY

This action approves the Fiscal Year 2021/22 Budget for the Carson Reclamation Authority.

II. RECOMMENDATION

1. WAIVE FURTHER READING AND APPROVE Resolution No. 21-06-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION JOINT POWERS AUTHORITY ADOPTING THE FISCAL YEAR 2021/22 BUDGET AND APPROVING APPROPRIATIONS FOR THE 2021/22 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 this 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 will 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 the Fiscal Year 2020/21 budget, which was presented in an easier-to-understand format, generally breaking up expenditures by General Administration; Permits, Legal, and Insurance; Utilities; Construction Costs on Cell 2; Construction Costs on Lenardo Road; and O&M costs. This segmentation provides more explanation of the different tasks undertaken by the CRA, and also 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. Secondment Agreement. This is the arrangement where the City charges the CRA for staff time.
2. CRA Travel. Most 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 two scheduled for later this year, once the State opens up to in-person meetings.
3. RE|Solutions, LLC ("RES"). The nature of the RES contract is that as the Horizontal Development Manager much of the work on the site is paid through the RES contract, such as the O&M work (now under contract with WSP-Golder USA, Inc.), many of the design professionals, and the previous construction of horizontal improvements and the remedial systems. Compensation to RES for their work has been embedded in the overall contract that includes the payment for O&M and future construction. Because the contract with RES is being renegotiated, this line item is included in General Administration for the hourly services portion of the contract, and the remainder of the Site Management and O&M work is included separately in other sections. They are different costs for different portions of the contract.
4. Other advisory services, such as SEG Advisors and Richmond Consulting, have been eliminated over the past two years.

Permits, Fees, Legal, Insurance

5. CRA pays permit fees to Water Board, AQMD, and pays DTSC for project oversight. CRA also has a lease with the Flood Control District.

6. Aleshire & Wynder fees. This is for general administration, construction-related (and reimbursed) expenditures, and litigation. Some of the cost of the CAM-Carson litigation could be covered by the City's insurer. Most of the CAM-Carson litigation is covered by the CRA's D&O policy by Chubb, the insurer, who has engaged Cozen O'Connor for litigation services related to the claim. Under the CRA's policy, it is responsible for the self-insured retention ("SIR"), shown in the line item below. Aleshire & Wynder also does all of the transactional work (such as the 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 Faring, though the reimbursement deposits represent "revenue" to the CRA and do not offset the expenditure, so the expenditures (both reimbursed and not) are all shown here.

7. Cozen O'Connor SIR. The D&O policy has a requirement for a \$250,000 SIR. Even though Cozen O'Connor has been working on the litigation for more than a year, the CRA was not been billed for it in Fiscal Year 2020-2021, so the amount is included in this year's budget.

8. Greenberg Traurig legal services. In the past year the CRA's insurance counsel has worked on making claims to insurers on the Builder's Risk and D&O policies; incorporating Faring into the PLL insurance programs; working to expend the CPL policy; drafting the environmental language on the mechanism for Faring to take over the construction and development of Cells 3, 4 and 5. Some of this is reimbursed.

9. Marsh USA (D&O and Builders Risk policies). Marsh is the CRA's insurance broker of record. There are two policies that are annually renewed: the Public Officials Liability (D&O) policy and builders' risk insurance. The D&O policy renews in June, at the end of the fiscal year. This year's policy has seen a considerable increase in D&O premiums, higher than the budgeted amount, and the budget for next year reflects the higher premium. Also, the Builder's Risk policy renews in September and the current

year's premium was \$82,611.30. The budgeted amount is proportional because this market has not been as volatile as the D&O market; however, last year the CRA believed the premium could be shifted to Faring (for Cells 3, 4, and 5) but because of the nature of the Builder's Risk policy structure Faring will pursue their own Builder's Risk program. This is solely for the CRA's improvements.

Utilities

10. These amounts are about the historic levels of utility payments. This is for the utility service only (not construction) and paid directly by the CRA. Over the past several months the cost of gas has nearly doubled, so the budget for next year is increased. Gas is used to supplement landfill gas in the flaring process to burn clean and hot enough to meet AQMD guidelines; the O&M contractors are looking at using other technologies that do not flare to handle the landfill gas during these price escalations. Electricity costs have also risen but not as much as gas.

Construction-Related Costs (Cell 2)

11. Just like in the prior year, these are the estimated and contracted costs for the Cell 2 work remaining. None of the estimates have changed, though a portion of the WO#2 and WO#3 work was paid for in the current fiscal year to settle claims by the contractors who performed the work. The CRA would budget for these, assuming litigation settles during the fiscal year (mediation is scheduled for July) and work picks up where it left off. While it is likely that there would be changes to the contracts, contractors, pricing and other aspects of the project that would show up in the budget; this provides a baseline of estimated costs. Page 2 of the budget provides some detail of these costs.
 - a. Snyder Langston WO #2 is the work of installing the piles and slab and is expected to be reimbursed to the CRA by CAM-Carson, LLC. There was an unpaid amount of \$6.7 million for work that was performed in or FY 2019-20, but that work was paid for by the CRA in the current fiscal year. The estimate to complete their work - largely pouring the remaining slab - is \$22.5 million.
 - b. Snyder Langston WO #3 is CRA-only work under the same contract, such as 48 piles for street lights and other civil construction work on the site. This would be CRA's responsibility and not reimbursed by CAM. A small portion of this was

constructed and paid as part of the same claims.

- c. Environmental General Contractor. This amount of \$37,021,709 estimated by TRC in December, 2019 represents about \$21 million of already-contracted work plus \$16 million or so of “new” work authorizations. TRC has now demobilized from the Site, meaning that picking up the work from this point would entail remobilizing them or another contractor at some additional cost. Most of the “new” work to be authorized is re-contracting for work that had to be deferred when dealing with the waste consolidation issue and significant increases in grading and trenching and the increase in pile driving support as a result of the pile driving work plan. This is a placeholder estimate.
- d. Engineers, designers and consultants. These dollar amounts reflect what was in their agreements at the same time work stopped in November, 2019. The exception is 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 Faring project. If the street is constructed in this fiscal year, all of the utility designs need to be complete so that there are no delays in construction. A portion of this cost (60% of the costs) would be reimbursed by Faring as part of their agreement.

Construction-Related Costs - Lenardo Road

12. 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 have not been updated since last year. Like with Cell 2, there are some assumptions that should be explained.

- a. Snyder Langston GC work. Snyder Langston took approved wet utilities plans and pre-bid this work with several subcontractors to get an estimated number. For Paving, Lighting, Landscaping, and Dry Utilities, their cost estimating team developed estimates. They also included their normal rollups (insurance, fees, etc.) to arrive at a cost of about \$25 million.
- b. The Snyder Langston PCO had a number of exclusions, meaning project costs that are not part of their contract. 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, such as TRC, typically provides that service. In addition, because Lenardo would be constructed ahead of the cells on at least one side of

the street (when we were working on Cell 2, it was assumed that we would have to address Cells 3, 4, and 5, but now it looks that sequence could be flipped, and we should be concerned about the buffer on Cell 2 to protect Cells 3, 4 and 5). TRC had originally estimated a cost of \$10 million for the Cells 3, 4, and 5 buffer, and later reduced it to \$5 million based on already being on the site and their General Conditions absorbed as part of the Cell 2 remediation contract, not the street project. (TRC is now demobilized and not on the site.) However, today a Cell 2 buffer may be required on behalf of the Cell 3, 4, and 5 project if the Faring project moved forward sooner than Cell 2. The estimated cost for the Cell 2 buffer zone would be \$8.5 million, but that work is already shown in the budget under the "Cell 2 work" and not shown in Lenardo.

- c. A similar Cell 1 buffer would still be needed. The estimated cost is \$2.5 million and the design cost is estimated at \$250,000.
 - d. 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.
 - e. The next two items relate to the project being a Public Works project and not a development project; the payment bond is estimated between 1.25% and 2% of the construction cost, and a premium for compliance with the City's Project Labor Agreement. The PLA Premium should be considered more like a contingency than an expenditure, as it could be relatively small or be reflected in fewer bidders bidding on the project, and therefore higher than expected pricing.
 - f. The last item in this section, for Project Management, reflects the need for overall project management, and could be RES, another project manager, or an allowance if Faring constructed the street as part of the Cell 3, 4, and 5 project, with a contribution from the City and not the other way around.
13. O&M Costs. The first three line items reflect the estimated cost 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 of \$111,000 a month plus up to \$1,000,000 annually in time and materials.
- a. RES Monthly Site Management Costs. These are pass-through costs for the site, including trailer rental, fencing, and basic maintenance. The detail is provided on Page 2 of this budget. These are pass-through costs and not compensation to RES. There is also one leased site vehicle.
 - b. Mayfield is the contractor that provides for weed abatement, and also assists during the rainy season with SWPPP compliance, installing the devices to manage storm water.

- c. MBI is the CRA's Qualified SWPPP Practitioner, meaning they produce the annual stormwater management plan and maintain the records with the Water Board. This line item has previously been rolled into the O&M or Site Management line items.

Revenue Estimates

Estimating revenue has been one of the biggest budgeting challenges last year and this year, as there is pending litigation with CAM-Carson, LLC and no revenue at this point from that project, and the Faring (Carson Goose Owner, LLC) project is in the entitlement process and it will be several months before the application and the accompanying SEIR reach the City Council, after which the CRA would be compensated for Cells 3, 4, and 5. The Option Agreement was approved in December and \$12.5 million toward the purchase price was deposited in January, plus a catch-up on the carry cost reimbursements.

Once again, this budget includes both projects as anticipated revenue sources: if the CAM litigation settles during the fiscal year and work resumes, it would be after the arrears have been settled (including over \$10 million in work funded by the CRA but not reimbursed by CAM, plus interest costs) and funds remitted to the CRA. Only then would work in the Cell 2 Construction section of the budget proceed. Likewise, Faring made a deposit of \$2 million for legal and entitlement costs in addition to the initial \$12.5 million Option payment (with \$32.5 million after the approval of the Development Agreement and certification of the SEIR) over \$3 million in O&M reimbursements (they pay 60% of the O&M costs, up to \$250,000 per month). Additionally, staff expects more than \$2.3 million and up to \$3.0 million in payment from the developer toward the insurance participation (PLL and CPL).

V. FISCAL IMPACT

The proposed budget for FY2021/22 has decreased from \$115,601,870 in the current year to \$109,410,600 in the new fiscal year. This largely reflects the payment by the CRA on CAM-Carson's behalf of over \$7.0 in construction claims from work performed at the end of 2019. That shows up as a receivable in the revenue projections. Other anticipated cost savings come from rebidding the O&M costs, which should save over \$500,000 per year. Certain operating costs, such as utilities, have increased dramatically in the past year, as has some of the insurance. Also, the CRA needs to budget for the Self Insured Retention for the litigation counsel Cozen O'Connor.

VI. EXHIBITS

1. Resolution No. 21-06-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION JOINT POWERS AUTHORITY ADOPTING THE FISCAL YEAR 2021/22 BUDGET AND APPROVING APPROPRIATIONS FOR THE 2021/22 FISCAL YEAR (Pages 9-10)

2. FY 2021/22 Expenditure Budget (Page 11)
3. FY 2021/22 Expenditure Budget Detail (Page 12)
4. FY 2021/22 Revenue Estimates (Page 13)

1.

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