



Legislation Text

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Report to Carson Reclamation Authority

Tuesday, January 03, 2023

Consent

SUBJECT:

CONSIDER CONTRACTUAL SERVICES AGREEMENT WITH THE NATELSON-DALE GROUP, INC. FOR A PROJECT FEASIBILITY STUDY RELATED TO THE CAL REUSE GRANT, IN AN AMOUNT NOT TO EXCEED \$10,000

I. SUMMARY

At the April California Pollution Control Financing Authority ("CPCFA") Board meeting related to the status of the CRA's CALReUSE grant ("Grant"), Board Member Schaefer asked for, among other things, information about the financial capacity of the Developer of Cell 2, which is the portion of the 157 Acre site defined as the "Project" for the purposes of the Grant. CRA staff provided that information.

In September, the CPCFA Board approved an extension of the Grant term but requested the CRA file a Novation Application in February 2023 (essentially a new, clean application for the old grant), and also prepare a feasibility study by an outside economic consultant demonstrating that the proposed Cell 2 project would be financially feasible under the deal terms negotiated in 2022 in the current cost environment.

In response, CRA staff negotiated a scope for the study with the Natelson-Dale Group, Inc., ("TNDG") which is part of the team preparing the City's Economic Development Strategic Plan. TNDG's not-to-exceed amount for the study is \$10,000.

II. RECOMMENDATION

1. APPROVE a Contractual Services Agreement with The Natelson-Dale Group, Inc. for the economic feasibility of the Cell 2 project, at a cost not to exceed \$10,000.
2. AUTHORIZE the Chair to execute the Agreement and any other associated documents.

III. ALTERNATIVES

TAKE another action the Board deems appropriate.

IV. BACKGROUND

The CRA inherited the obligations of a \$5 million CALReUSE grant when it acquired the Former Cal Compact Landfill in 2015 from Carson Marketplace, LLC, including meeting certain performance milestones in the original grant agreement. These milestones have been amended as follows:

Timeline of Events

- November 2008 - The CPCFA Board approved a \$5 million CALReUSE grant for Carson Marketplace for the remediation of a 157-acre former landfill, and the development of 400 housing units (61 affordable).
- November 2009 - The entire \$5 million CALReUSE Grant is disbursed to Carson Marketplace.
- June 2015 - CPCFA staff learned that the 157-acre site was sold without CPCFA Board consent to an entity proposing an NFL stadium on the site. Additionally, the property was transferred to the CRA for pollution liability reasons.
- October 2015 - The CPCFA Board approved the transfer of the CALReUSE Grant to the CRA and a Grant extension from October 2015 until April 2016. The CRA also agreed to submit an Amended Application detailing the new brownfield Remediation project and the associated infill Housing project by February 2016.
- January 2016 - The NFL ownership group declined the proposal by the Oakland Raiders and San Diego Chargers to develop a shared stadium at the 157-acre Brownfield Site.
- February 2016 - The CRA delivered an amended application to CPCFA staff. Staff's assessed that the application lacked a development timeline and that the proposed affordable housing did not meet the CALReUSE Remediation Program's requirements to produce or promote housing.
- April 2016 - The CPCFA Board provided the CRA with a six-month extension to the CALReUSE Grant to provide it time to amend the application and address CPCFA staff's concerns.
- August 2016 - The CPCFA Board approved the CRA's request provided in the amended application to: extend the project from October 2016 to December 31, 2020; redefine the Brownfield Site from the 157-acre site to the 42-acre portion known as Cell 2; and develop 86 housing units (84 affordable). The CPCFA Board also approved four specific

milestones for the CRA to meet.

- January 2019 - The CRA met the first two milestones. Due to delays in approvals for the phased development of the Brownfield Site and the CRA's inability to meet the next two milestones, the CPCFA Board approved the CRA's request for a modification of the milestones and a one-year extension of the CALReUSE Grant until December 31, 2021.
- December 2019 - The CRA completed both housing projects.
- January and March 2020 - Due to a funding shortage, the CRA was unable to complete the Remediation and consequently missed the January 31, 2020, and March 30, 2020, milestones.
- June 2020 - The CPCFA Board held the CRA in default for the missed January 2020 and March 2020 milestones but provided the CRA with an opportunity to cure the default by providing the CPCFA Board with a feasible plan to fund the Remediation by the October 2020 CPCFA Board meeting and presenting the CPCFA Board with alternative milestones to consider at the November 2020 CPCFA Board meeting.
- September 2020 - The CRA provided a plan to fund the Remediation, which identified two potential funding sources. The primary funding source identified was potential proceeds from the sale of Cells 3, 4, and 5 that could be used to cover the cost of remediating Cell 2. The alternative funding source identified by the CRA was proceeds from the sale of \$90 million in bonds as a result of an enforceable obligation, which requires DOF approval.
- October 2020 - In recognition of the completed affordable Housing projects, the considerable effort and funding necessary to complete the Remediation, and the uncertainty with the funding plan, the CPCFA Board provided the CRA with an extension of the cure period until the January 19, 2021, CPCFA Board meeting.
- January 2021 - The CPCFA Board approved an additional extension to the cure period to the July 20, 2021, CPCFA Board meeting due to ongoing uncertainties caused by the COVID-19 pandemic and the still evolving timeline for resolving the funding and litigation issues.
- July 2021 - The CPCFA Board approved an extension of the Infill Grant Agreement to April 30, 2022, and a further extension of the cure period until the April 22 Board meeting, in order to allow progress of a strategic plan to move forward.

CPCFA Staff found the history of physical challenges of this site, compared to sites for some other CALReUSE Remediation Infill Grant Agreements, are not related to increased contamination found as development proceeds, but to the geotechnical limitations of a former landfill and the necessity of integrating the systems that will complete the Remediation with the facilities to be constructed upon the site. The interaction and sequencing of remedial systems and site construction is part of the Remediation Action Plan approved and overseen by DTSC, and each time there is a change in the intended

use of the site various controlling documents must be revised and approved again, at a cost of both funds and time. Therefore, this project is an inherently slow-turning ship and exemplifies the challenges of brownfield development.

Staff noted that the financial liability of holding the site undeveloped, including monthly O&M costs, ensures that the CRA will proceed with development and the oversight of DTSC ensures that the work in the RAP will proceed as the site is developed. (The RAP addresses the entire 157-acre former landfill and therefore it would not be possible for only some cells to be developed while leaving others unremediated.)

Extension of the Expiration Date and Project Milestones

In September 2022 the CRA requested that the grant expiration date be extended to June 30, 2025. Since it began negotiating the Amendments to the Project Agreements with CAM earlier this year, CAM has used November 2024 as their completion date of the project, but that date needs to be confirmed and updated during our 90-day due diligence period. After this period, construction work could commence, but contractors need to be rehired and remobilized, the estimated time to complete the remedial systems is 3 months of “rework” and 5 months of completion, and the original construction estimate of the vertical construction of the mall itself was 20 months. That adds up to at least 30 months, which would put the completion into Q2 2025. The actual milestone would not be the full completion of the outlet mall, but the preparation of a Cell-specific Remedial Action Completion Report (“RACR”), which would begin following installation of the Remedial Systems and BPS (where necessary). The Cell-specific RACR is DTSC’s indication of the completion of active remedial work and implementation of the RAP on the Cell.

The Board allowed for the extension of time but directed the CRA to file a “Novation Application” for the Grant, essentially a new, clean grant application for the project as currently defined, amending and restating all the various amendments in scope, schedule, and milestones into a new application for consideration. Staff has begun to pull together all the elements of the new application for submittal by February 6. There are about 30 sections in the grant, and some will remain unchanged, but the CEQA/Specific Plan sections and some of the Infill Housing Sections will differ. Other material, such as letters of support, will be new (the others are now 12-13 years old).

Finally, the Board asked for a feasibility study of the mall project, answering the question of whether the project would/could be financially feasible under its current configuration and financing structure. The developer is trying to answer the same question through the due diligence process, but the CRA will engage a financial analyst to look at the historic deal structure and update it given the current facts as we know them.

CRA staff negotiated a scope for the study with the Natelson-Dale Group, Inc., (“TNDG”) which is part of the team preparing the City’s Economic Development Strategic Plan. TNDG’s not-to-exceed amount for the study is \$10,000. The contract itself will be a short-form contractual services agreement prepared by the Authority Counsel but because the deadline to complete the report it is on the agenda for approval because time is of the

essence.

V. FISCAL IMPACT

The \$10,000 is in the CRA's professional services account.

VI. EXHIBITS

None.

Prepared by: John S. Raymond, Executive Director