



## **AGENDA**

### **REGULAR MEETING OF THE CARSON RECLAMATION AUTHORITY**

“In accordance with the Americans with Disabilities Act of 1990, if you require a disability related modification or accommodation to attend or participate in this meeting, including auxiliary aids or services, please call the City Clerk’s office at 310-952-1720 at least 48 hours prior to the meeting.” (Government Code Section 54954.2)

**CALL TO ORDER: CARSON RECLAMATION AUTHORITY**

**ROLL CALL:**

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**CLOSED SESSION: (None)**

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**ORAL COMMUNICATIONS – CLOSED SESSION ITEMS ONLY**

**ANNOUNCEMENT OF CLOSED SESSION ITEMS**

**RECESS INTO CLOSED SESSION**

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**RECONVENE: OPEN SESSION**

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**REPORT ON CLOSED SESSION ACTIONS**

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**ORAL COMMUNICATIONS FOR MATTERS LISTED ON THE AGENDA– MEMBERS OF THE PUBLIC (LIMITED TO ONE HOUR)**

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The public may address the members of the Carson Reclamation Authority on any matters within the jurisdiction of the Carson Reclamation Authority or on any items on the agenda of the Carson Reclamation Authority, other than closed session matters, prior to any action taken on the agenda. Speakers are limited to no more than three minutes, speaking once. Oral communications will be limited to one(1) hour unless extended by order of the Chair with the approval of the Authority Board.

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**APPROVAL OF MINUTES:**

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**TUESDAY, SEPTEMBER 6, 2016 (REGULAR)**

**THURSDAY, SEPTEMBER 22, 2016 (SPECIAL)**

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**CONSENT (Items 1-3)**

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These items are considered to be routine items of AUTHORITY business and have, therefore, been placed on the CONSENT CALENDAR. If AUTHORITY wishes to discuss any item or items, then such item or items should be removed from the CONSENT CALENDAR. For items remaining on the CONSENT CALENDAR, a single motion to ADOPT the recommended action is in order.

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**Item No. 1. 2016-1050      CONSIDER APPROVAL OF RESOLUTION NO. 16-16-CRJPA RATIFYING CLAIMS AND DEMANDS IN THE AMOUNT OF \$516,288.10**

Recommendations: TAKE the following actions:

1. WAIVE further reading and APPROVE Resolution No. 16-16-CRJPA, "A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY OF THE CITY OF CARSON, CALIFORNIA, RATIFYING CLAIMS AND DEMANDS IN THE AMOUNT OF \$516,288.10."
2. AUTHORIZE the Chairman to execute the Resolution following approval as to form by the Authority Attorney.

**Item No. 2. 2016-1045      CONSIDER AMENDMENT NUMBER 1 TO A SPECIAL COUNSEL ENGAGEMENT AGREEMENT WITH GREENBERG TRAUIG, LLP FOR LEGAL SERVICES RELATED TO THE POLLUTION AND REMEDIATION LEGAL LIABILITY INSURANCE POLICY, THE ENVIRONMENTAL PROTECTION PROGRAM POLICY (AIG EPP POLICY NO. 7783922) AND OTHER RELATED MATTERS IN THE AMOUNT OF \$317,125.03**

Recommendations: APPROVE Amendment No. 1 to a Special Counsel Engagement Agreement with Greenberg Traurig, LLP for legal services related to the pollution and remediation legal liability insurance policy, the environmental protection program policy (AIG EPP policy no. 7783922) and other related matters in the amount of \$317,125.03.

**Item No. 3. 2016-1046 APPROVAL OF WORK ORDER REQUESTS 41, 42, 43, 44, AND 45, FROM TETRA TECH, INC. BY THE CARSON RECLAMATION AUTHORITY, AUTHORIZING ADDITIONAL TASKS IN THE TOTAL AMOUNT OF \$943,612**

Recommendations: APPROVE Work Orders 41, 42, 43, 44, and 45, listed and described below, which have been reviewed and approved by the CRA's project manager and the environmental consultant, in the amount of \$943,612.

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**SPECIAL ORDERS OF THE DAY (None)**

Public testimony is restricted to three minutes per speaker, speaking once (excepting applicants who are afforded a right of rebuttal, if desired), unless extended by order of the Chair with the approval of the Authority.

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**DISCUSSION (None)**

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**ORDINANCE SECOND READING (None)**

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**ORAL COMMUNICATIONS FOR MATTERS NOT LISTED ON THE AGENDA (MEMBERS OF THE PUBLIC)**

The public may at this time address the members of the Carson Reclamation Authority on any matters within the jurisdiction of the Carson Reclamation Authority. No action may be taken on non-agendized items except as authorized by law. Speakers are requested to limit their comments to no more than three minutes each, speaking once.

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**ORAL COMMUNICATIONS (AUTHORITY MEMBERS)**

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**ANNOUNCEMENT OF UNFINISHED OR CONTINUED CLOSED SESSION ITEMS (AS NECESSARY)**

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**RECESS TO CLOSED SESSION**

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**RECONVENE TO OPEN SESSION**

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**ADJOURNMENT**

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File #: 2016-1050, Version: 1

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## Report to Carson Reclamation Authority

Tuesday, October 04, 2016

Consent

### SUBJECT:

**CONSIDER APPROVAL OF RESOLUTION NO. 16-16-CRJPA RATIFYING CLAIMS AND DEMANDS IN THE AMOUNT OF \$516,288.10**

### I. SUMMARY

This action authorizes and/or ratifies payment of invoices in the amount of \$516,288.10 submitted for completed work pursuant to contracts and agreements previously approved by the Carson Reclamation Authority (CRA) Board.

### II. RECOMMENDATION

TAKE the following actions:

1. WAIVE further reading and APPROVE Resolution No. 16-16-CRJPA, "A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY OF THE CITY OF CARSON, CALIFORNIA, RATIFYING CLAIMS AND DEMANDS IN THE AMOUNT OF \$516,288.10."
2. AUTHORIZE the Chairman to execute the Resolution following approval as to form by the Authority Attorney.

### III. ALTERNATIVES

TAKE another action the Authority deems appropriate.

### IV. BACKGROUND

Since May, 2015 the CRA Board has taken a number of actions to move forward the remediation of the former Cal-Compact Landfill project and to create systems that allow the review and approval of the work undertaken by the remediation contractor, Tetra Tech, and

other contractors and consultants in a fair and transparent manner.

This action includes the approval of a claims and demands under Resolution No. 16-16-CRJPA approving several Tetra Tech invoices (payment request nos. 170, and 183-198), which have been reviewed and approved by the CRA's Project Manager (SEG Advisors) and Environmental Services Advisor (SCS Engineers), prior to staff approval. It also includes payments to other approved consultants and contractors of the CRA. Details of the payments are delineated in Resolution No. 16-16-CRJPA, attached to this report as Exhibit No. 1.

## **V. FISCAL IMPACT**

The total expenditure in this period is \$516,288.10. Funds for all the items are included in the FY 2016/17 budget of the Carson Reclamation Authority.

## **VI. EXHIBITS**

1. Resolution No. 16-16-CRJPA. (pgs. 3-4)

Prepared by: Trini H. Catbagan, Controller

## RESOLUTION NO. 16-16-CRJPA

RESOLUTION NO. 16-16-CRJPA, A RESOLUTION OF THE CARSON RECLAMATION AUTHORITY RATIFYING CLAIMS AND DEMANDS IN THE AMOUNT OF \$ 516,288.10.

THE CARSON RECLAMATION AUTHORITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: The following claims and demands have been audited as required by law and are hereby ratified in the amount hereinafter set forth:

Payee Name	Payment Number	Purpose	Invoice Number	Payment Amount
Tetra Tech	170	W0 28: Redesign Lenardo Depression	51059014	\$ 2,684.83
Tetra Tech	183	W0 28: Redesign Lenardo Depression	51078456	\$ 685.27
Tetra Tech	184	W0 23: Storage Yard Maintenance	51078462	\$ 1,695.39
Tetra Tech	185	W0 16: Import of Fill and Stockpiling	51078459	\$ 12,110.75
Tetra Tech	186	W0 18: Evaluate & Design New Mall Plan	51078453	\$ 5,779.89
Tetra Tech	187	W0 27: SWPPP	51078464	\$ 11,938.25
Tetra Tech	188	W0 39: Support for AIG Negotiations	51078469	\$ 13,707.24
Tetra Tech	189	W0 30: Design & Complete-Perimeter Road	51078472	\$ 4,716.27
Tetra Tech	190	W0 29: Weed Abatement	51078473	\$ 30,557.83
Tetra Tech	191	W0 19: Perimeter Air Monitoring	51078856	\$ 5,160.95
Tetra Tech	192	W0 20: Vector Control	51078861	\$ 3,150.00
Tetra Tech	193	W0 34: Perimeter Air Monitoring	51078858	\$ 34,856.02
Tetra Tech	194	W0 35: Vector Control	51078864	\$ 4,224.95
Tetra Tech	195	W0 31: Site Security and Maintenance	51078866	\$ 59,115.58
Tetra Tech	196	W0 33: Watering Prescriptive Cover	51079156	\$ 19,676.20
Tetra Tech	197	W0 38: Project Management	51079157	\$ 66,934.58
Tetra Tech	198	W0 37: LFGETS OM & M	51079163	\$ 88,575.27
<b>Total Tetra Tech</b>				<b>\$ 365,569.27</b>
Michael Baker International		Civil engineering services – 5/1-29/16	945758	\$ 12,060.00
Michael Baker International		Civil engineering services – 5/30-7/3/16	949175	\$ 2,219.93
SEG Advisors, LLC		Project Management – July 2016	2016-00029	\$ 20,000.00
SEG Advisors, LLC		Project Management – August 2016	2016-00032	\$ 20,000.00
SEG Advisors, LLC		E & O Insurance	2016-0003	\$ 6,777.40
SCS Engineers		Environmental Consulting – July 2016	0284143	\$ 27,972.50
Greenberg Traurig		Counsel for EPP & Other Pollution Ins.	4261038	\$ 61,689.00
<b>Total Other Invoices</b>				<b>\$ 150,718.83</b>
<b>TOTAL OF ALL INVOICES</b>				<b>\$ 516,288.10</b>

Section 2. On October 4, 2016, the Carson Reclamation Authority ratified the above demands and the City Treasurer is hereby directed to pay, out of the Authority funds, to each of the claimants listed above, the amount of claims appearing opposite their respective names, for the purpose stated on the respective demands, making a total of \$516,288.10.

[MORE]

Section 3. That the Authority Deputy Secretary shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED THIS 4<sup>th</sup> DAY OF OCTOBER, 2016.

CARSON RECLAMATION AUTHORITY, a  
public body

By: \_\_\_\_\_  
Chairman Albert Robles

ATTEST:

\_\_\_\_\_  
Deputy Secretary Joy Simarago

APPROVED AS TO FORM:

\_\_\_\_\_  
Authority Counsel

CERTIFICATION

In accordance with Section 37.202 of the California Government Code, I hereby certify that the above demands are accurate and that funds are available for payment thereof. I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_ AT CARSON, CALIFORNIA

\_\_\_\_\_  
EXECUTIVE DIRECTOR  
JOHN RAYMOND



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File #: 2016-1045, Version: 1

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## Report to Carson Reclamation Authority

Tuesday, October 04, 2016

Consent

### SUBJECT:

**CONSIDER AMENDMENT NUMBER 1 TO A SPECIAL COUNSEL ENGAGEMENT AGREEMENT WITH GREENBERG TRAUIG, LLP FOR LEGAL SERVICES RELATED TO THE POLLUTION AND REMEDIATION LEGAL LIABILITY INSURANCE POLICY, THE ENVIRONMENTAL PROTECTION PROGRAM POLICY (AIG EPP POLICY NO. 7783922) AND OTHER RELATED MATTERS IN THE AMOUNT OF \$317,125.03**

### I. SUMMARY

This Authority contracted in May, 2016 with Greenberg Traurig, LLP to provide it and the Authority's legal counsel specific legal assistance in the procurement of a new Pollution Legal Liability Policy, and associated negotiations on the Environmental Protection Program Policy (the "EPP Policy") that Carson Marketplace has purchased from American International Special Lines Insurance Company ("Insurer" or "AIG"), and with Tetra Tech, the environmental contractor. Most of the tasks under the original Agreement have been accomplished and this Amendment extends the engagement for several months to complete the work on the AIG EPP, the DTSC Financial Assurance, and the work transitioning the Authority from the Tetra Tech contract into a new time and materials based contract with another vendor for the installation of the remedial systems under the RAP as well as the future OM&M of those systems. It also finalizes work on the Bridge PLL, helps secure the CPL replacement and begins the larger Development PLL program, including working with one selected developer (Macerich) and a prospective "Master Developer" on the balance of the site.

### II. RECOMMENDATION

1. APPROVE Amendment No. 1 to a Special Counsel Engagement Agreement with Greenberg Traurig, LLP for legal services related to the pollution and remediation legal liability insurance policy, the environmental protection program policy (AIG EPP policy no. 7783922) and other related matters in the amount of \$317,125.03.

### III. ALTERNATIVES

TAKE another action the Authority deems necessary.

### IV. BACKGROUND

When the 157-acre Cal-Compact Landfill Site was purchased in 2006, the original developers, Carson Marketplace, purchased environmental liability insurance from Indian Harbor Insurance Company (“XL”) and Chubb. Among other things, the Pollution and Remediation Legal Liability Policy issued by XL and the Excess Liability Insurance Policy issued by Chubb (collectively, the “PARLL Policy”) provides \$100 million of coverage for third party property damage and personal injury claims arising from historical pollution conditions at the Site. The Policy is due to be renewed on September 29, 2016. The amount of future liability limit will be based on the proposed use once the project is developed; these policies typically sold in 10-year increments, so a forward look at future land uses will be necessary. This policy is also required as part of the financial assurance portion of the DTSC permit.

The Authority also renewed a separate Contractor’s Pollution Liability policy in the amount of \$25 million on December 21, 2015. It covers Tetra Tech, Snyder Langston and their subcontractors.

The PARLL policy needs to be renewed by September 29, 2016. If the Authority chose to renew the policy at the \$100 million limit, changes in the pollution liability market may have required that as many as four companies would have needed to be procured to obtain the desired coverage. Pollution liability coverage is an extraordinarily narrow sub-specialty in the insurance market, and Greenberg Traurig was engaged by Carson Marketplace to both advise on and procure such a policy.

Part of the challenge of securing new PLL coverage today was to write into the coverage the ability to undertake phased development, since the Authority now has an Exclusive Negotiating Agreement with Macerich for only Cell 2, and is undertaking an RFQ process for the balance of the site, and has seven other developer proposals. The inclusion of phased development in the PLL, and the submission of a Phased Development Plan to DTSC (anticipated November, 2016) involved getting the consent of AIG and Tetra Tech, which is the beneficiary of the AIG EPP policy.

The terms and conditions of Tetra Tech’s obligations are set forth in two agreements, the Fixed Price Design and Construction Environmental Assurance Agreement and the Fixed Price Operation and Maintenance Environmental Assurance Agreement (collectively “EAAs”). Under Section X of the EAAs, Tetra Tech has provided a broad indemnity to Carson Marketplace and its assignees (including, now, the Carson Reclamation Authority) for claims and losses arising from Tetra Tech’s performance of the services. Any action taken by the Authority that would affect future claims on the EPP, with a resulting effect on the EAAs, requires the cooperation of Tetra Tech.

One of the options would be to cancel the EPP for operation and maintenance of the remedial systems and seek a return of money designated for future payments (a

“commutation.”) This is further complicated by the EPPs providing the financial assurance to DTSC that the work is able to be completed; any change would also require the consent of DTSC.

In May, as part of the original proposal from Greenberg Traurig, the Authority anticipated amending the Tetra Tech contract to allow for the phased development of the site and for assistance with the commutation of the AIG policy. It was anticipated that if the AIG policy was commuted, the Authority and Tetra Tech could mutually determine an OM&M strategy that was much more cost effective than the cost structure under the existing EAA with Tetra Tech. This renegotiation could also apply to the design and construction work under the D&C EAA. This scope included:

1. Work with Tetra Tech and CRA staff to determine whether a consensual arrangement for reducing PLL insurance obligations in existing Tetra Tech contracts is plausible, or whether commutation of EPP and new contract structure is required.
2. Address lack of coverage for ongoing Landfill Gas System (LFGS) O&M costs with AIG and CRA staff. Engage AIG and Tetra Tech in cost evaluation for OM&M activities and potential cost reductions.
3. Evaluate remaining D&C contract work and cost. Engage Tetra Tech and CRA staff in discussion over benefits of continuing D&C work outside of current contract structure. Potential restructuring of remaining D&C work under existing contract structure.
4. Evaluate potential restructuring of OM&M contract to permit use of third party subcontractors, increase CRA control of cost structure and reduce out-of-pocket costs. Scope may require a restructuring of the existing OM&M contract and commutation or potential restructuring of the EPP program with AIG. Work with CRA staff and Tetra Tech and its insurance counsel on options and alternatives. If commutation option is selected, evaluate possibility of an alternative contract structure outside of the EPP but with limited “target price” or risk transfer components. Evaluate insurance structure and layering of risk transfer in any revised remediation contract with new PLL and CPL programs.

Once those tasks were completed, the next steps were to be the negotiation and documentation of the EPP commutation, including negotiation and documentation of Commutation and Release Agreement with AIG representatives and counsel and negotiation of use of commutation proceeds and flow of funds for commutation. Negotiation of payment, if any, required to Tetra Tech for consensual commutation and engagement with potential third party purchaser of site regarding potential benefits and limitations of EPP policy, including structure of financial assurance and risk mitigation program for ongoing landfill gas and groundwater OM&M operations.

Not fully appreciated was Tetra Tech’s reluctance to remain in the contract under a phased development program, since the structure of the EAAs was that they are the holders of the environmental risk. One way of managing the risk was for them to hold very firmly to the

original provisions of the EAA (no phasing), secured by AIG's EPP (only the original site plan, and no phasing) and memorialized in the Compliance Framework with DTSC. Even with a release of liability from the Authority, Tetra Tech feels strongly enough about their risk exposure that they are willing to discuss termination of the Remediation Agreements. Most of the scope in the original Engagement Letter, then, shifted to the negotiation of a potential Termination and Release Agreement with Tetra Tech, subject to a number of conditions that would need to occur prior to becoming effective.

The Authority plans to proceed with alternative contracting mechanisms for completion of the RAP and preparation of the Property for development. The Authority and its selected environmental contractor will oversee the remaining remedial activities, including, but not limited to installation of piles, groundwater monitoring and landfill gas monitoring.

The new Scope of Work includes the negotiation of a final, definitive Termination Agreement with Tetra Tech:

AIG EPP Program; Tetra Tech D&C and OM&M Contracts

A. Scope of Work:

1. Draft, negotiate and execute definitive Termination and Release Agreement with Tetra Tech, including limitation of liability, required insurance terms and applicable schedules and exhibits.
2. Negotiation and documentation of EPP commutation, including negotiation and documentation of Commutation and Release Agreement with AIG representatives and counsel and negotiation of use of commutation proceeds and flow of funds for commutation.

B. Timing: 3 months, dated as of September 1.

C. Total Cost: \$93,562.52

Financial Assurance Replacement.

With the potential termination of the Tetra Tech contract, one of the options would be to cancel the EPP for operation and maintenance of the remedial systems and seek a return of money designated for future payments (the "commutation"); however, the EPPs provide the financial assurance to DTSC that the work is able to be completed and therefore, any change would also require the consent of DTSC and would need to demonstrate a replacement financial assurance. The evidence to DTSC is included in the following scope, which is the same scope provided in the original agreement, but the work was supplanted by the Tetra Tech negotiation:

A. Scope of Work (75 hours):

1. Work with CRA staff to evaluate potential alternatives to current financial assurance structure in lieu of EPP policy. Formulate new financial assurance proposal for DTSC staff and engage with DTSC staff and with

CRA to evaluate use of lower cost surety and insurance products, including Guaranteed Investment Contracts and specific annuities including elements of risk transfer, and use of “present value” calculation for financial assurance for Carson landfill.

2. Work with prospective purchaser to determine best alternative and document the same in a new, more flexible O&M Agreement with DTSC that can be assigned to a prospective purchaser and supported with appropriate risk transfer products.

B. Timing: 4 months.

C. Total cost: \$39,375.

#### New Pollution Legal Liability Program and CPL

Part of the Task was to select an environmental insurance broker for new PLL placement and prepare the market solicitation regarding the project, regulatory and risk transfer status, EPP and financial assurance structure and prepare policy specifications for primary and excess layers; evaluate potential for quota share program among multiple markets depending on limit required and need for full \$100 million of ongoing coverage; and, evaluate excess markets and bidding process for market solicitation to prevent market avoidance of primary participation.

The attorneys also coordinated with Macerich regarding insurance needs and key elements of PLL program, including repair/modification of existing systems, seismic coverage and coverage for third party claims, and regarding “intended use” provision and required development program flexibility for underwriting. The Task of securing the Bridge PLL Policy was completed and it was placed with Beazley Eclipse for the following reasons:

1. Beazley currently has four other Lloyd’s of London companies (syndicates) that subscribe to Beazley’s underwriting and share in the risk on certain policies, including this one. When the CRA needs to move forward with the Development PLL program, it will be able to directly call upon those syndicates’ capacity (i.e., additional limits) to support the Development PLL program. This arrangement has numerous benefits, including: having access to existing companies who already understand the risk, and who rely upon Beazley for the detailed underwriting; avoiding gaps in coverage as a result of exclusions imposed by numerous separate and distinct excess carriers; having one insurance company (Beazley) handle all claims and policy endorsements for the Development PLL, regardless of size or amount; and easier access to other companies within Lloyd’s of London for increased capacity, which will be needed for the Development PLL.
2. Beazley has offered the most flexibility in crafting coverage around the Phased Development Plan.

3. Beazley has offered the most flexibility in allowing a cancellation of the Bridge PLL program, without penalty, to be rolled into a Development PLL program.
4. At \$771,799 for five years of coverage and a \$25 million limit of liability, the Beazley quote is competitively priced. All of the other quotes for similar coverage were within 15% of this price, with the exception of XL, which was almost double the price in premium.

The Beazley policy will provide coverage for both pre-existing and new pollution conditions for Remediation Expenses, Third Party Bodily Injury, Third Party Property Damage, Legal Defense Expenses, Emergency Response Costs, Catastrophe/Crisis Management Costs, Transportation (First party and Third party carrier), Non-owned Disposal Sites, Business Interruption, including loss of rent (which has been specifically requested by Macerich), and Diminution of Value coverage, including first-party Diminution of Value coverage.

The CRA will have has a right to cancel and rewrite the policy for a longer term and at a higher dollar amount, under the terms described in this report above. The newly negotiated premium is a relatively small percentage of likely cost of the full Development PLL, and therefore represents a substantial cash flow savings to the CRA at this time.

There is still additional work to be done with the PLL policy. While it was bound on September 29, the payment must be made within 30 days. During that time, all of the “manuscripting” is completed and documents executed. The scope for finalizing the PLL includes:

Bridge PLL

A. Scope of Work:

1. Finalize placement of “bridge PLL” program and key manuscript policy language terms
2. Finalize SCS performance review and impacts

B. Timing: 2 months.

Cost: \$35,812.50

CPL Policy Replacement

Current CPL program expires on December 21, 2016 and will need to be renewed pending Development PLL and OCIP program.

A. Scope of Work (25 hours):

1. Work with JLT and Macerich to place a new “bridge” CPL program pending finalization of terms with Macerich and structuring of new

Development PLL and OCIP programs.

2. Solicit markets and carriers; negotiate CPL terms.

B. Timing - 1 month.

Cost: \$13,125.00.

### Macerich and Master Developer Transaction, Development PLL and OCIP

The Bridge PLL program will serve as a “bridge” to the ultimate development of the property according to the mixed-use development plan. Once the development of the Insured Property begins, the CRA seeks the right to cancel and rewrite the Bridge PLL into a “Development PLL.” In that manner, the pollution program will serve as a bridge between the expiring XL/Chubb program and any new pollution insurance program that is specifically tailored to support multiple developers and end users during development of the Insured Property. To that end, the Authority opted to buy a lower limit of liability and shorter term than the original 10 year/\$100 million acquired in 2006 from XL and Chubb. These terms and limits are permitted by the term sheet Authority and Tetra Tech have negotiated. With the option to cancel the Bridge PLL and rewrite for more limit (to accommodate the multiple developers seeking dedicated limits) and a full 10 years (if available), the Authority saves premium in the short term by purchasing less limit and shorter term. The Bridge PLL program would remain in place until large-scale site development begins.

Nevertheless, over the next several months the Authority will need to reconcile the insurance needs provided by Macerich, as well as the anticipated insurance needs of a future “Master Developer” on the balance of the site. As a large, public company, Macerich has a number of insurance requirements that will impact the Development PLL, as well as a potential OCIP. It is anticipated that the other developer will have similar requests.

There are also additional insurance requirements that arose out the Tetra Tech negotiation, including professional liability insurance (PLI) and other coverages.

A. Scope of Work:

1. Assist in negotiation, structuring and documenting transaction with Macerich regarding insurance provisions, allocation of environmental liabilities, Tetra Tech release, installation of remedial systems and allocation of costs for OCIP and Development PLL and related matters.
2. Support negotiations with new Master Developer regarding allocation of environmental liabilities, installation of remedial systems, OCIP and Development PLL and allocation of costs.
3. Begin development of Owner-controlled contractor PLI insurance to overlay Tetra Tech limitation of liability and structuring of OCIP for larger

development work and installation of remedial systems. Negotiations with Macerich, support for CRA in selection of remedial contractors and engagement with JLT and insurance markets.

4. Engagement with JLT, Macerich and key reinsurance markets and Lloyds syndicates for reinsurance capacity for Development PLL

B. Timing: 3 months (ongoing beyond 12/31/2016 as well).\$110,250.

Travel Cost Estimate for travel to CA and NY for meetings and insurer negotiations (\$12,500). No travel time included as per engagement letter; only out-of-pocket costs in accordance with terms of engagement letter.

## **V. FISCAL IMPACT**

The Total Cost of the engagement would be \$317,125.03, payable by the CRA. Funds are available in the line item budgeted for Insurance in FY 2016-17. All of the other terms of Special Counsel Engagement Letter remain in effect.**VI. EXHIBITS**

1. Scope of Work. (pgs. 9-11)
2. Special Counsel Engagement Letter. (pgs. 12-20)

Prepared by: John Raymond, Executive Director

**GREENBERG TRAUIG, LLP**

Scope of Work for Carson Reclamation Authority

October 1, 2016 – December 31, 2016

I. New Pollution Legal Liability Program and CPL. **NOTE: CURRENT POLLUTION PROGRAM EXPIRES BY ITS TERMS ON SEPTEMBER 29, 2016 AND MUST BE REPLACED PURSUANT TO THE EXISTING TETRA TECH CONTRACTS.**

A. Scope of Work:

1. Finalize placement of “bridge PLL” program and key manuscript policy language terms (30 hours)
2. Finalize SCS performance review and impacts (15 hours)

B. Timing: 1-2 months.

C. Cost: 45 hours; \$23,625.

D. Additional work from 9/1/2016 to 9/30/2016: \$12,187.50

II. AIG EPP Program; Tetra Tech D&C and OM&M Contracts.

A. Scope of Work:

1. Draft, negotiate and execute definitive Termination and Release Agreement with Tetra Tech, including limitation of liability, required insurance terms and applicable schedules and exhibits (125 hours).
2. Negotiation and documentation of EPP commutation, including negotiation and documentation of Commutation and Release Agreement with AIG representatives and counsel and negotiation of use of commutation proceeds and flow of funds for commutation. (30 hours).

B. Timing: 2 months.

C. Total Cost: 155 hours; \$81,375.

D. Additional work from 9/1/2016 to 9/30/2016: \$12,187.50

III. Financial Assurance Replacement.

A. Scope of Work (75 hours):

1. Work with CRA staff to evaluate potential alternatives to current financial assurance structure in lieu of EPP policy. Formulate new financial assurance proposal for DTSC staff and engage with DTSC staff and with

CRA to evaluate use of lower cost surety and insurance products, including Guaranteed Investment Contracts and specific annuities including elements of risk transfer, and use of “present value” calculation for financial assurance for Carson landfill.

2. Work with prospective purchaser to determine best alternative and document the same in a new, more flexible O&M Agreement with DTSC that can be assigned to a prospective purchaser and supported with appropriate risk transfer products.

B. Timing: 3 months.

C. 75 hours; \$39,375.

IV. CPL Policy Replacement. **NOTE: CURRENT CPL PROGRAM EXPIRES ON DECEMBER 21, 2016 AND WILL NEED TO BE RENEWED PENDING DEVELOPMENT PLL AND OCIP PROGRAM.**

A. Scope of Work (25 hours):

1. Work with JLT and Macerich to place a new “bridge” CPL program pending finalization of terms with Macerich and structuring of new Development PLL and OCIP programs.
2. Solicit markets and carriers; negotiate CPL terms.

B. Timing – 1 month.

C. 25 hours; \$13,125.

V. Macerich and Master Developer Transaction, Development PLL and OCIP.

A. Scope of Work:

1. Assist in negotiation, structuring and documenting transaction with Macerich regarding insurance provisions, allocation of environmental liabilities, Tetra Tech release, installation of remedial systems and allocation of costs for OCIP and Development PLL and related matters (80 hours).
2. Support negotiations with new Master Developer regarding allocation of environmental liabilities, installation of remedial systems, OCIP and Development PLL and allocation of costs (50 hours).
3. Begin development of Owner-controlled contractor PLI insurance to overlay Tetra Tech limitation of liability and structuring of OCIP for

larger development work and installation of remedial systems.  
Negotiations with Macerich, support for CRA in selection of remedial contractors and engagement with JLT and insurance markets (40 hours).

4. Engagement with JLT, Macerich and key reinsurance markets and Lloyds syndicates for reinsurance capacity for Development PLL (40 hours).

B. Timing: 3 months (ongoing beyond 12-31 as well).

C. 210 hours; \$110,250.

- Travel Cost Estimate for travel to CA and NY for meetings and insurer negotiations (\$12,500). No travel time included as per engagement letter; only out-of-pocket costs in accordance with terms of engagement letter.

Curtis B. Toll  
Tel 215.988.7804  
Fax 215.717.5241  
TollC@gtlaw.com

April 13, 2016

**VIA EMAIL**

John S. Raymond  
Executive Director  
Carson Reclamation Authority  
701 E. Carson Street  
Carson, CA 90745

Re: Special Counsel Engagement.

Dear John:

Thank you for agreeing to engage Greenberg Traurig, LLP (“GT” “we” or “us”) as your attorneys. We appreciate the opportunity to provide legal services to Carson Reclamation Authority (“you” or “Client(s)”). This letter amends and restates in its entirety our prior engagement letter of November 25, 2015.

**1. Our Agreement.** This letter sets forth the terms and conditions by which our firm will represent you. It, together with our attached Billing Policies, constitutes the retainer and engagement agreement (the “Agreement”) between you and GT. This is our only agreement for this engagement.

If this Agreement is acceptable, please sign and return a copy to me at your earliest convenience; the original is for your files. While we request a signed copy of this Agreement for our records, this Agreement will constitute and state the contract between us if and when we begin rendering any services and such services are accepted.

**2. Scope of Engagement:**

a. **The engagement and matter.** Our representation of Client will include only advice and counsel to Client and its client, the Carson Reclamation Authority, with respect to matters pertaining to the AIG EPP Policy, No. EPP 7783922 (“AIG Policy”) and the other pollution insurance programs on which the Carson Reclamation Authority (“JPA”) is a Named Insured (the “Subject Matter”). You and we may agree to limit or expand the scope of the Subject Matter, but that will occur and be effective only if agreed in writing by both of us, with a specific mutual understanding as to the nature and scope of any such further services. Further, we or another affiliate of GT and you or one of your affiliates may also agree upon other or further representations by GT. If that occurs, unless otherwise agreed in writing, this Agreement will also apply to and govern such other or further representations.

b. **The client.** The client for this engagement is Client. Because of the proliferation of entities partially or wholly owned or owning other entities, and the confusion and problems this creates vis-à-vis potential ethical and business conflicts of interest, GT does not and will not regard an affiliate of a client entity (i.e., parent, subsidiary or other entity or other entity partially or wholly owned by or owning it) or a person owing or connected with the client (e.g. officers, director, member, partner, shareholder, owner, employee, etc.) other than the City of Carson, Carson Redevelopment Agency, Carson Finance Authority, Carson Financing Districts Nos. 2012-1 and 2012-2 and Carson Housing Authority as a client of GT for any purpose unless a client-lawyer relationship has been established by an express written understanding as to that matter and that specific entity or person. Similarly, GT will not regard a representation that is adverse to such an affiliate or person as adverse to the client being represented by GT under this Agreement (or any other matter to which it applies). Accordingly, if there is such an affiliate or person that you wish GT to regard as a client for conflict purposes, please specify it or him/her before you and we sign this Agreement; if such entity or person is not expressly accepted by us in writing as a client, it or she will be a client.

c. **Nature of services.** We will provide only legal services in connection with this engagement. We are not providing, and you will not look to GT or rely on GT for, business, investment, insurance, accounting or other such non-legal services, including without limitation advice, decisions, investigation (e.g. as to the character or credit of persons with whom you may be dealing) or other such non-legal services. Further, our acceptance of this engagement and representation of you is not an undertaking or acknowledgement that GT is or will be your general counsel or advisor, or that GT is representing you or will represent you or your interest in any matter other than the Subject Matter or as otherwise described above.

3. **Conflicts.** With the exception to the provisions related to our existing representations with various clients set forth in Section 4 below, this Agreement confirms:

GT has no present or contemplated employment which is adverse to the Client. GT agrees that it shall not represent clients in matters either litigation or non-litigation against the Client. GT will disclose the undertaking of this representation to such parties as required by the Rules of Professional Responsibility.

Subject to the terms of Section 4 below with respect to the prior representation of Carson Holdings, LLC, GT may have past and present clients or may have future clients, which, from time to time, may have interests adverse to Client, and GT shall have the right to represent such clients in matters not connected with its representation of Client. If, however, a conflict of interest arises in GT's representation of another client and GT's representation of Client in the Subject Matter, GT shall seek waivers from each client with regards to such representation or shall withdraw from representing either client in the matter adverse to Client.

It is understood and agreed to that GT's representation is for the Subject Matter and the specific purposes set forth in Section 2 above. The parties are informed and believe that no actual conflict(s) of interests exists as of the time of executing this Agreement. The parties have

thereby waived any conflict(s) of interests. If actual conflict(s) of interest later arise, including without limitation, in connection with GT's engagement for Carson Holdings, LLC, this Agreement shall be terminated and GT and Client agree that GT may continue to represent its existing clients other than Client.

**4. Representation of Carson Holdings.** Tetra Tech, Inc. and Carson Holdings, LLC. We were previously retained to represent Carson Holdings, LLC ("Carson Holdings") with respect to insurance matters, including the Subject Matter.

a. **No conflict.** Based on the facts currently known to us, we see no actual conflict between you and Carson Holdings with respect to the Subject Matter and have determined that we can adequately represent the interests of each client provided that, as we have been advised, each client has knowingly consented.

[i] While we see no current conflict in your respective positions, your interest may diverge in the course of the representation or facts may come to light suggesting an actual or potential conflict between you with respect to the matters in controversy. If that occurs, we will bring the actual or potential conflict to your attention; and we ask that you do the same if you become aware of facts or circumstances that suggest that to you. If such occurs, we will discuss the conflict or potential conflict with you as well as whether a waiver of the conflict may be possible to allow us to continue the representation. If the circumstances do not permit such a waiver or if you are unwilling to give such a waiver, we will be compelled to terminate the representation of Client.

[ii] You previously consented to GT's prior representation of Carson Holdings with respect to the Subject Matter. GT no longer represents Carson Holdings with respect to the Subject Matter and Carson Holdings has consented to our ongoing representation of Client in this regard.

[iii] During the course of our representation, we will send invoices for our fees and expenses to Client. Client shall be responsible for payment for any fees or expenses associated with work that is the subject of this Agreement. GT will provide task budgets and periodic updates of the same to Client upon request.

[iv] GT has in the past and continues to represent Tetra Tech, Inc. ("Tetra Tech") in matters unrelated to the Subject Matter. GT will not be adverse to Tetra Tech in any dispute resolution proceeding or litigation between the Client, Carson Holdings or the, JPA, respectively, and Tetra Tech. In the event such a dispute arises, GT will continue to represent Client with respect to the Subject Matter.

[v] GT has in the past represented Carson Marketplace, LLC ("Carson Marketplace") in connection with the Subject Matter. GT retains the right to represent Carson Marketplace in the future with respect to the AIG Policy and other pollution liability policies on which Carson Marketplace is a Named Insured and Client hereby consents to such representation.

5. **Staffing.** I will be the attorney principally responsible in and for this engagement. At present, we expect to include and enlist the assistance of other lawyers, generally associates and paralegals. That may change and additional or different attorneys and paralegals may participate or replace others in this engagement, depending on the circumstances during the engagement, as to the Subject Matter.

If there are changes in staffing, you will be advised; and, of course, if you wish different persons to be involved, we will discuss that with you to attempt to assure that you are satisfied with the staffing.

6. **Fees and Expenses.** Unless otherwise agreed between us in writing, our fees for the services being provided will be based upon the time spent by our personnel in accordance with the attached Billing Policies. My current billing rate for 2016 is \$695 per hour and my colleague, Grant Nichols, bills at \$595 per hour. As an accommodation to you and the JPA, however, we have both agreed to bill our time at \$525 per hour. We will also discount the rates of all other timekeepers on this matter by ten percent (10%) from their usual 2016 rates. Our rates are subject to change at the beginning of each calendar year but we will in all cases notify you in advance of any rate increase and obtain approval of the JPA Board for the same.

7. **Termination of Representation.** Subject to any limitations imposed by court or the applicable Ethics Rules, GT or you may terminate this engagement and our representation at will. That includes without limitation termination pursuant to and in accordance with the attached Billing Policies.

Otherwise, our engagement and attorney client relationship will terminate automatically upon the completion of our services for the Subject Matter.

8. **Miscellaneous:**

a. **Binding effect.** This Agreement is personal to us and is not assignable by either of us without the written consent of the other.

b. **Modification.** This Agreement may not be changed, amended, or otherwise modified, in whole or in part, except by a writing executed by all parties to this Agreement. No unilaterally proposed or announced change, supplementation, interpretation, guideline or other statement or pronouncement (by either GT, you or anyone else), whether inconsistent with any provision of the Agreement or otherwise, will be effective or binding or will otherwise suffice to modify or add to this Agreement unless accepted in writing by the other of us and/or, as applicable, any other person or entity sought to be bound by or otherwise affected by it.

c. **No waiver.** No waiver of any of the provisions of this Agreement (including without limitation the Billing Policies) will be effective or binding unless made in writing and signed by whoever is claimed to have given the waiver.

d. **Partial invalidity.** If any provision of this Agreement is found to be unenforceable, invalid, or illegal, it shall be interpreted in such manner as to be enforceable, valid and legal to the maximum extent possible to fulfill the intent of such provision. The validity or enforceability of the remainder of the Agreement shall not be affected by the invalidity or unenforceability of any provision.

e. **Entire agreement, etc.** This Agreement contains and sets forth the entire agreement between us, and supersedes any and all prior or other agreements or understandings (written and oral) that may exist or have existed as to this engagement and the Subject Matter. Neither of us has relied on any representation, warranty or other statement or promise concerning this engagement and the Subject Matter which is not stated in this writing.

f. **Governing law, etc.** This Agreement shall be construed and interpreted both as to validity and performance of the parties in accordance with the laws of the State of California. In the event of any dispute hereunder, forum shall be the Superior Court, Los Angeles County.

g. **Headings.** The headings on paragraphs and subparagraphs of this Agreement are for convenience only, and shall have no effect other for convenience of reference.

h. **Effectiveness and execution.** Except for those provisions expressly calling for execution or as may be required by law or ethical rules, this Agreement will become effective and govern this engagement and our relationship as to it and the Subject Matter, whether or not it is executed, upon our rendering of any services for you as to the Subject Matter.

Nevertheless, we do ask that you execute and return this Agreement for our records, and that you also keep it in and for your records. In that regard, this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute together one and the same instrument. Electronic, PDF and facsimile signatures shall be as effective as original ink signatures.

i. **Errors and Omissions Insurance.** The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that GT does maintain such insurance coverage.

j. **Indemnification.** GT agrees to indemnify Client, its officers, employees and agents against, and will hold and save each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of the work, operations or activities of GT, its agents or employees, which claims arise from the acts or omissions of GT in the performance of or failure to perform any term, provision, covenant or condition of this Agreement, except to the extent such claims or liabilities arises from the negligence or willful misconduct of Client, its officers, agents or employees.

John S. Raymond  
Engagement of GT  
April 13, 2016  
Page 6

If the foregoing accurately states our Agreement, please countersign and return a copy of this letter with your retainer payment to so indicate and confirm your assent to its terms. For your convenience, we have enclosed a self-addressed, stamped envelope.

Very truly yours,

GREENBERG TRAURIG, LLP

By:   
Curtis B. Toll

**ACCEPTED AND AGREED WITH  
CONSENTS AND WAIVERS GRANTED:**

CARSON RECLAMATION AUTHORITY

By: \_\_\_\_\_  
Albert Robles, Mayor

Dated: \_\_\_\_\_

**REVIEWED AND APPROVED BY:**

ALESHIRE & WYNDER, LLP

By: \_\_\_\_\_  
Sunny Soltani, Esq.

Dated: \_\_\_\_\_

Enclosure

## BILLING POLICIES

### Introduction

We look forward to doing business with you. This document outlines our standard billing practices.

### Fees

Our fees are based on the time required to handle the matter at our normal individual lawyer/paralegal hourly rates. The rates of our lawyers and paralegals are subject to change. Any new rates would be implemented immediately after they are adopted and would apply to services rendered after the effective date thereof.

Whenever appropriate and consistent with the proper representation of our clients, we may use paralegals, junior attorneys, contract attorneys and staff members in order to minimize the impact of the hourly rates of the more senior attorneys. We believe the utilization of junior attorneys, paralegals or staff members, in consultation with and under supervision of more experienced attorneys in the Firm as appropriate, may enable us to maintain economically and efficiently the high quality of our legal representation, while permitting us to both avoid sacrificing the quality of our work for lower fees and to avoid assigning senior attorneys tasks which can be performed efficiently by junior attorneys, paralegals or other staff members.

We will charge for all time spent representing your interests, including, by way of example, telephone and office conferences with you or your representatives, co-counsel, opposing counsel, fact witnesses, consultants (if any), and others; conferences among our legal and paralegal personnel; participation in discovery; factual investigation; legal research; responding to your requests for us to provide you or your representatives with additional information; responding to clients' requests to provide information to auditors in connection with reviews or audits of financial statements; preparation of letters, pleadings, and other documents; and attendance at depositions, hearings, mediations, closings, trials, or other proceedings; and travel (both local and out of town). Hourly charges will not be applied to time spent on out-of-town travel. No first-class travel will be billed to Client.

### Costs and Expenses

We have established prevailing rates for all charges that will be incurred during the course of this representation. We believe that rates charged are competitive with charges established by comparable law firms. You will be responsible for all reasonable charges that we incur in the course of this representation and will be responsible for reimbursing us for any actual costs advanced on your behalf. Greenberg is committed to remaining at the cutting edge of modern computer and communications technology so as to provide our clients with optimum competitive advantage and technological efficiencies. Our charges include, but are not limited to reasonable travel (not first-class), copying, facsimile charges, messenger services, long distance phone calls, computer research services, secretarial overtime and filing fees. These charges may also include any sales or service tax that may be applicable.

### **Expenses of Outside Contractors**

Generally, expenses of outside contractors, such as court reporters, surveyors, title companies, will be directly billed or directed to the client pursuant to retainers in which payment and indemnification terms remain strictly between the client and the vendor. Greenberg Traurig will not be responsible for payment of such services. It is important to note that the prompt payment of these charges to outside contractors is essential to be able to provide timely and efficient service to you in the future, with the assistance of such contractors. If desired, with sufficient expense deposits in advance, we will directly pay the outside contractors. The amount of the retainer and deposit may be increased as circumstances require (for example, at the time of trial), but in any event will be applied to the payment of our final bill or refunded, as applicable.

### **Type of Invoice**

Unless otherwise agreed, we will send you a monthly invoice which reflects the amount of our fees and expenses attributable to the matter. At your option, the invoice will be either generalized or detailed. The generalized invoice will indicate total fees due for legal work accomplished and the total costs charged to the file. In the alternative, the invoice will have a detailed backup sheet showing the attorney that worked on the matter; the work performed; the time spent on the task; and, the total fee amount due.

### **Payment of Invoices**

We will bill our time charges on a monthly basis. Each invoice is payable upon receipt. Any unpaid balance not paid within forty-five (45) days of the billing date may be cause for postponement by GT of ongoing services. In the event we receive a payment from a client at a time when more than one invoice is outstanding on any one or more matters for that client, we will apply that payment to any such invoice(s), unless the payment is accompanied by the remittance copy of the invoice(s) being paid or by some other written indication from the client directing how the payment is to be applied. It is the policy of the Firm to discontinue representation, in a manner in accordance with applicable Rules of Professional Responsibility, for any client whose account is more than ninety (90) days in arrears, unless special arrangements in writing are approved by Greenberg's Chief Executive Officer. Individual attorneys are not authorized to make such arrangements or to waive this policy.

### **Retainers**

For certain types of matters, our policy is to require that our clients provide us with an initial fee retainer and expense deposit. The exact amount of this retainer and deposit will be agreed to by the client and the billing attorney. Unless other arrangements are made, the retainer for legal fees and expenses will be held throughout the engagement and will be applied against payment of the last invoice on the matter or refunded if the account is up to date. The cost and expense deposit will be retained in our trust account, with interest on that account to be paid in accordance with governing law or, if this matter is subject to special requirements of another State, those requirements.

### **Different Billing Arrangements**

Individual billing arrangements that differ from these general policies will be discussed and agreed to between the client and the billing attorney and will be set forth in a retention letter.

### **Mutual Right to Terminate Relationship**

Of course, every client has the right to terminate our representation at any time for any reason. We have the same right upon giving the client reasonable notice so that suitable arrangements can be made by the client to obtain alternative representation, in accordance with the applicable Rules of Professional Responsibility. Among the reasons for which we may terminate representation are: (1) nonpayment of our fees, charges or costs; (2) the client's failure or refusal to be forthright, cooperative or supportive of our efforts; (3) the client's misrepresentation of, or failure or refusal to disclose material facts; (4) the client's failure or refusal to accept our advice; (5) discovery of a conflict with another client of Greenberg, or (6) any other reason permitted or required under applicable Rules of Professional Responsibility.

Subject to any limitations imposed by a court, Greenberg or you may terminate Greenberg's representation upon ten (10) days' written notice. Following termination, we will continue to provide representation in the matter for a reasonable time, at your request, until arrangements can be made for alternate representation. However, our services will consist of only those necessary to protect your interests and prevent prejudice. Moreover, if substitute counsel have not been located within ten (10) days of the termination of the representation, you nonetheless agree that appropriate papers allowing Greenberg to withdraw may be filed. We will be entitled to be paid for all services rendered and other charges accrued on your behalf to the date of our withdrawal.

### **Official Inquiries**

It is possible that because we have been appointed in a matter, or because we have received documents or information in the course of, or in connection with, a matter, we may be required in the future to participate in an inquiry, commission or proceedings arising out of, or in connection with, the matter. This may, for example, involve us producing documents, seeking to claim or defend your privilege to resist inspection or disclosure of certain documents or information or giving evidence at an inquiry. We will seek your instructions if these circumstances arise, but you agree to reimburse us for out-of-pocket expenses and for the time we spend at hourly rates then current.

### **Questions Regarding Billings**

Any questions regarding billing should be immediately directed to the billing attorney or to our Accounting Department.



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File #: 2016-1046, Version: 1

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## Report to Carson Reclamation Authority

Tuesday, October 04, 2016

Consent

### SUBJECT:

**APPROVAL OF WORK ORDER REQUESTS 41, 42, 43, 44, AND 45, FROM TETRA TECH, INC. BY THE CARSON RECLAMATION AUTHORITY, AUTHORIZING ADDITIONAL TASKS IN THE TOTAL AMOUNT OF \$943,612**

### I. SUMMARY

These work orders requested by Tetra Tech are related to activities required by regulators (41, 42), installation of utilities (43) and cooperation with the CRA on obtaining consents from AIG and DTSC on different matters (44,45).

### II. RECOMMENDATION

APPROVE Work Orders 41, 42, 43, 44, and 45, listed and described below, which have been reviewed and approved by the CRA's project manager and the environmental consultant, in the amount of \$943,612.

### III. ALTERNATIVES

TAKE another action the Reclamation Authority deems appropriate.

### IV. BACKGROUND

Pursuant to Sections 4.a. and 4.b. and Section 8 of a Settlement, Release and Indemnity Agreement ("Agreement") by and between the City of Carson ("City"), the Carson Reclamation Authority ("Authority"), the Successor Agency to the Carson Redevelopment Agency ("Successor Agency"), and Carson Marketplace, LLC, a Delaware limited liability corporation ("CM"), "Assignment and Assumption of Obligations" and "Remediation Work", the Authority assumed the obligation to continue the remediation of the 157-acre project site under a Fixed Price Operations and Maintenance Environmental Assurance Agreement ("EAA") dated December 31, 2007 with Tetra Tech, Inc.

The contract issued under the original EAA with Carson Marketplace is the baseline scope of work. Direct remediation construction costs under the original EAA are paid through a Trust Account held with Wells Fargo Bank. Work beyond the original scope is considered a "Change Order" and subject to the review and approval of the CRA Board. The CRA's Change Order approval process commenced after it took title to the Property on May 18, 2015. Since October, 2015, Change Orders have been referred to as Work Orders, as they generally reflect new scopes of work.

The following Work Order Requests are recommended for approval:

Work Order #	Description	Requested Amount
41	Abandonment of obsolete soil gas wells ordered by the Water Board.	27,388
42	Implementation, maintenance and management of the Stormwater Pollution Prevention Program (SWPPP)	750,580
43	Work on communications and data lines.	32,258
44	Labor and incidental costs related to Tetra Tech's cooperation and efforts to support the CRA to negotiate and optimize the commutation of the existing AIG EPP Policy.	49,362
45	Cooperation and efforts to support the CRA in negotiating with the DTSC to obtain DTSC's approval of the CRA's proposed Phased Development Plan.	84,024
	<b>TOTAL</b>	<b>\$943,612</b>

The descriptions of the Work Order requests are as follows:

Work Order 41. There are 11 soil gas monitoring wells on site installed under DTSC supervision and that need to be abandoned as they are now obsolete. These wells have been on site for several years, but Tetra Tech has now installed gas probes per the AQMD 1150.1 permit and these are being monitored regularly. Hence, the old DTSC soil gas monitoring wells are no longer required. The Water Board requires the abandonment of these wells if there is no need to monitor them, otherwise they could potentially act as conduits for contamination of the ground water. This WO-41 is to reimburse Tetra Tech the costs incurred in abandoning these 11 wells.

Work Order 43. In order to properly run the SCADA and remote notification systems on the groundwater and landfill gas treatment systems, the systems need to be connected to hardline phone and data communications lines. The conduits (about 3000 feet) and vaults (6) for the telephone and data systems were previously installed by Snyder Langston several years ago; however, the actual phone and data communications lines have not been installed by AT&T. AT&T has indicated that all vaults from Main Street to the Operations Center in Area A3 need to be located, opened, and inspected. Once the vaults are inspected the conduit connecting each vault needs to be rodded to check its integrity and pulling ropes need to be back pulled through the conduit. Finally a NEMA 3R weather resistant equipment enclosure needs to be installed in the Operations center along with

supplied mains power and grounding. This enclosure will be used by AT&T to house the needed telecommunications equipment to provide phone and data services. Once all of this site work is conducted AT&T will install the fiber and copper phone and data lines from the Main Street point of entry to the new service location in the Operations Center. Once the phone and data service has been installed the monitoring and notification systems for the two treatment systems can be connected to the system to allow the systems automation and notification to work properly as designed. This Work Order Request 43 is to reimburse Tetra Tech for costs involved in completing the task of doing the AT&T required Site preparation work and then to provide oversight of AT&T while the new service lines are being installed and connected.

Work Order 42. This work order is to reimburse Tetra Tech for continued implementation, maintenance and management of the Stormwater Pollution Prevention Program (SWPPP) is required. This work order request (WO -42) covers 6 months commencing 10-01-2016, and is necessary to comply with the State Resource Board permit requirements for a Risk Level-2 site. Tetra Tech's previous work order request COR 27 for this work was from Apr 1, 2016 through Sep 30, 2016 and will be completed by Oct 1, 2016. Since the project is still on hold until a new development plan is selected and finalized, a new WO is required to keep the site compliant with the State Resource Board permit requirements.

Work Order 44. This Work Order (WO) request is for reimbursement of all labor and incidental costs related to Tetra Tech's cooperation and efforts to support the CRA to negotiate and optimize the commutation of the existing AIG EPP Policy consistent with the Termination and Release Letter of Intent, signed 9-15-16.

Work Order 45. This Work Order (WO) request is for reimbursement of all labor and incidental costs related to Tetra Tech's cooperation and efforts to support the CRA in negotiating with the DTSC to obtain DTSC's approval of the CRA's proposed phased development plan for the project. This will include assisting in amending the Compliance Framework Agreement including its financial assurance requirements. The costs for Tetra Tech to assist the CRA in taking assignment of the D-C EAA Trust account will be paid for under this work order as well. This work is pursuant to the Termination and Release Letter of Intent, signed on 9-15-16 by the CRA and Tetra Tech.

## **V. FISCAL IMPACT**

These Work Orders are budgeted in the 2016-2017 CRA budget. Staff wants to note that previously approved WO-21 has over \$145,000 in unspent funds; the WO was approved for the removal of the test piles in Cell 2. Since this will not be done in the near future, these funds may be unencumbered and made available for future Work Orders.

## **VI. EXHIBITS**

None.

Prepared by: John S. Raymond, CRA Executive Director