



DATE: December 22, 2010

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **BUDGET APPROPRIATION FOR THE REMEDIATION AND RESTORATION OF FRENCH FIELD AKA VISTA BURN DUMP**

SYNOPSIS

Staff recommends that the City Council approve a budget appropriation in the amount of \$2,573,616 in the FY 10-11 Capital Improvement Project (CIP) budget for the remediation and restoration of the French Field Project located at the 1300 block of Lee Avenue, APNs 161-501-09 and 161-501-10.

BACKGROUND

On June 23, 2010, the City Council adopted Resolution No. 10-R0472-1, which exempted this project from competitive bidding, and authorized a design-build agreement with Brickman Chargers, Inc., of San Diego for a Guaranteed Maximum Price (GMP) contract amount of \$2,573,616 to remediate and restore French Field.

French Field had been in use by the Vista Bobby Sox Softball and Vista Bobby Sox Little Leagues from 1974 to 1989 and by the Vista American Little League (VALL) from 1993 through 2005, pursuant to a 1993 Joint Use Agreement between the City of Oceanside and the City of Vista. Use of the site was suspended in 2005 in order to investigate the potential health risks from deposits placed prior to 1967 when the site was known as the Vista Burn Dump.

A June 2002 Solid Waste Water Quality Control Assessment Test (SWAT) order by the California Regional Water Quality Control Board (CRWQCB) found the presence of contaminated soils and physical hazards at the site. In April 2004, the County of San Diego commenced litigation to determine an equitable distribution of investigation and cleanup costs among various parties who had owned the site or were believed to have contributed to the contamination of the site. The SWAT was cause for the City of Oceanside, as the owner of the site, to enter into a Voluntary Cleanup Agreement with the Department of Toxic Substances Control (DTSC), a department of the California Environmental Protection Agency (Cal/EPA). Under this agreement, a Preliminary Endangerment Assessment (PEA) was performed in June 2008 to further analyze risks and future site use. The findings of the PEA were the basis of a Removal Action Workplan (RAW) prepared in May 2010 for DTSC approval. The final conclusions and

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recommendations of the RAW define the scope of work for the site remediation, Phase I of the design-build agreement.

ANALYSIS

The remediation and restoration of French Field are proposed in Phase I and Phase II of the design-build agreement with Brickman Chargers, Inc. Phase I is the remediation of the site as recommended by the RAW. Phase II is the design and restoration of the ball fields; the scope of work for Phase II is contingent upon the balance of GMP remaining after completion of Phase I. The cost of Phase I as shown in the current plan is \$1,719,414 leaving \$854,202 of the GMP for the restoration of the ball fields. The cost of Phase II is \$557,482 excluding electrical service, ball field lighting, and the building (concessions, restrooms, storage). Given this latest pricing for Phase I and Phase II, the remaining GMP balance is \$296,720 to which the design/build team will apply value engineering during construction to minimize unforeseen costs and best restore the ball fields.

FISCAL IMPACT

The project will be funded by a grant and proceeds from settlement of litigation. On February 24, 2009, the California Integrated Waste Management Board ("CIWMB") awarded a matching grant of up to \$729,900 to the City of Oceanside to help fund remediation of the site. The City Council had earlier adopted Resolution No. 09-R0075-1, appointing William Snyder of Murchison & Cummings, LLP, as agent of the City Council to execute the CIWMB grant.

Subsequently, the lawsuit for equitable distribution of the SWAT and associated remediation expenses filed by the County in 2004 resulted in a settlement agreement among the County, the City of Oceanside, the City of Vista, the Vista Sanitation District, and Lee's Recycling Center ("Lee's"). The settlement agreement provides for the parties, or their insurers, to contribute to the remediation and restoration of French Field in the following amounts:

City of Vista:	\$315,000
Vista Sanitation District:	\$578,716
Lee's Recycling Center:	\$100,000
County of San Diego:	\$800,000
City of Oceanside:	<u>\$ 50,000</u>
 Total settlement funds:	 \$1,843,716

Given no funds other than the settlement and grant are available for this project, staff determined that a maximum price design-build agreement was the best means to remediate and restore the site. As a result, the total settlement funds combined with the CIWMB grant equal the \$2,573,616 Guaranteed Maximum Price of the Design-Build Agreement with Brickman Chargers, Inc., approved by City Council on June 23, 2010.

Settlement amounts have been received from Lee's and the County of San Diego. Settlement proceeds from insurers for the City of Vista, the Vista Sanitation District, and the City of Oceanside are expected to be received by mid-January, 2011. The budget appropriations of settlement agreement funds totaling \$1,843,716 to General Capital Projects, French Field Remediation account (912118600501) and of grant funds totaling \$729,900 to a separate account to be established by the Finance Department provide for the \$2,573,616 for the remediation and restoration of the French Field Project.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

Does not apply.

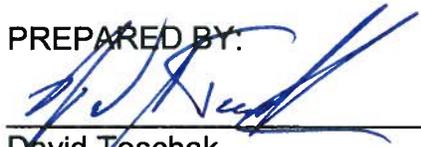
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

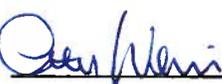
Staff recommends that the City Council approve a budget appropriation in the amount of \$2,573,616 in the FY 10-11 Capital Improvement Project (CIP) budget for the remediation and restoration of the French Field Project located at the 1300 block of Lee Avenue, APNs 161-501-09 and 161-501-10.

PREPARED BY:



David Toschak
Senior Civil Engineer

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
Scott O. Smith, City Engineer
Teri Ferro, Financial Services Director



Attachments:

Resolution No. 09-R0075-1
Resolution No. 10-R0472-1
Summary of Bid Pricing
Grant Agreement

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RESOLUTION NO. 09-R0075-1

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD SOLID WASTE DISPOSAL AND CODISPOSAL SITE CLEANUP PROGRAM FOR CAP INSTALLATION OVER THE VISTA BURN SITE

WHEREAS, the people of the State of California have enacted Assembly Bill 2136 that authorizes the California Integrated Waste Management Board (the Board) to initiate and administer a program for cleanup of solid waste disposal sites and for cleanup of solid waste at codisposal sites where the responsible party either cannot be identified or is unable or unwilling to pay for timely remediation, and where cleanup is needed to protect public health and safety or the environment;

WHEREAS, said procedures established by the Board require the applicant to certify by resolution the approval of the submittal of the application before submission to the State of California; and

WHEREAS, the applicant will enter into an agreement with the State of California for the site cleanup.

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

SECTION 1. Approves the filing of an application for the cleanup of solid waste using funds from the Solid Waste Cleanup Program for the project specified above.

SECTION 2. Certifies that said applicant has or will have matching funds for the project, plus funds to pay for all ineligible work and eligible work in excess of the grant awarded.

SECTION 3. Certifies that said applicant has or will have sufficient funds to operate and maintain the project.

SECTION 4. Appoints William Snyder of Murchison & Cumming LLP, or his designee, as agent of the City Council of the City of Oceanside to conduct all negotiations, execute and submit all documents including, but not limited to applications, grant agreements, amendments, payment requests and so on, which may be necessary for the completion of the

1 aforementioned project.

2 **PASSED AND ADOPTED** by the City Council of the City of Oceanside, California,
3 this 4th day of February, 2009, by the following vote:

4 **AYES:** WOOD, CHAVEZ, FELLER, KERN, SANCHEZ

5 **NAYS:** NONE

6 **ABSENT:** NONE

7 **ABSTAIN:** NONE

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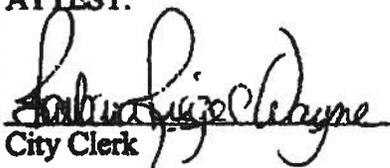
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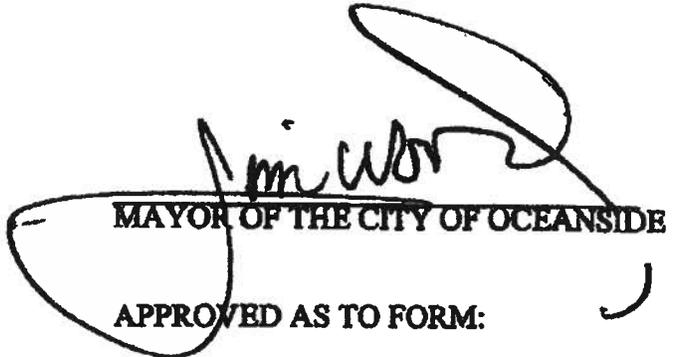
11 **ATTEST:**

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City Clerk


MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:


City Attorney

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1 RESOLUTION NO. 10-R0472-1

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE PURSUANT TO PUBLIC CONTRACT CODE
4 SECTIONS 20168 AND 22050 AUTHORIZING EXEMPTION
5 FROM COMPETITIVE BIDDING REQUIREMENTS FOR THE
6 REMEDIATION AND RESTORATION OF FRENCH FIELD
7 AKA FORMER VISTA BURN DUMP

8 WHEREAS, the former Vista Burn Dump site, located in Oceanside, California, near the
9 1300 block of Lee Drive (the "Site"), is currently owned by the City of Oceanside and is the
10 subject of pending environmental litigation, several site investigation reports and a voluntary
11 clean-up agreement with the California Department of Toxic Substances Control ("DTSC");

12 WHEREAS, the Site was improved with baseball fields, which Vista American Little
13 League used from 1993 until the Site was closed for environmental investigation in 2005;

14 WHEREAS, on February 24, 2009, the California Integrated Waste Management Board
15 ("CIWMB") awarded a matching grant of up to \$729,900.00 to the City of Oceanside to help
16 fund the remediation of the Site, and on March 12, 2009 the City entered a Grant Agreement
17 with CIWMB under the 2008/2009 Illegal Dump Site and Land Fill Cleanup Remediation
18 Matching Grants Program;

19 WHEREAS, the Grant Agreement requires the City of Oceanside to enter into all
20 necessary contracts for the work by October 30, 2009, which date has been extended twice, to a
21 firm and final date of June 29, 2010;

22 WHEREAS, the City of Oceanside expects to fund the Site remediation work pursuant
23 to a Removal Action Workplan ("RAW") approved by DTSC, using proceeds from settlement
24 of the pending litigation;

25 WHEREAS, a proposed RAW has been submitted to DTSC for review, and final
26 approval of the RAW by DTSC remains pending;

27 WHEREAS, a final settlement of the litigation remains pending;

28 WHEREAS, three proposals for remediation and restoration of the Site have been
obtained and evaluated in the context of the pending litigation, and the proposal from Brickman
Chargers, Inc. and Nowell & Associates has been determined to provide the highest value and

1 flexibility while maximizing use of the CIWMB matching grant funds;

2 WHEREAS, the CIWMB deadline for entering all necessary contracts for the Site
3 remediation work will not permit a delay resulting from a competitive solicitation for bids; and

4 WHEREAS, it is necessary to enter into a design-build agreement for remediation and
5 restoration of the Site before June 29, 2010, in order to preserve the availability of the CIWMB
6 grant funds.

7 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as
8 follows:

9 SECTION 1. A design-build contract with Brickman Chargers, Inc. for remediation
10 and restoration of French Field in an amount not to exceed \$2,608,616.00, contingent upon
11 DTSC's approval of a final RAW and upon the City's receipt of sufficient proceeds from
12 settlement of the litigation, is hereby approved.

13 SECTION 2. The City Manager is authorized to sign the agreement upon receipt of all
14 supporting documentation.

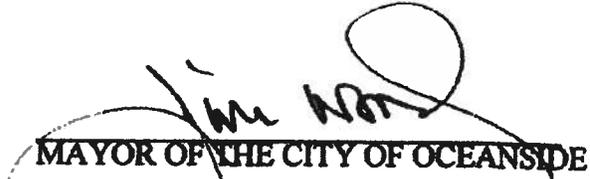
15 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
16 this 23rd day of June, 2010, by the following vote:

17 AYES: WOOD, FELLER, KERN, SANCHEZ

18 NAYS: NONE

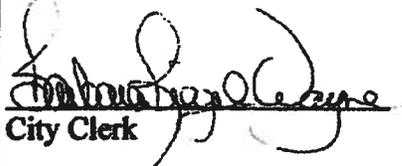
19 ABSENT: NONE

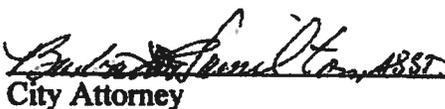
20 ABSTAIN: NONE

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MAYOR OF THE CITY OF OCEANSIDE

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24 ATTEST:

APPROVED AS TO FORM:

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27 City Clerk


28 City Attorney

SUMMARY OF BID PRICING

12/14/10

Item	Description	Bid Price	per submitted grading plan	Variance	Notes:
Phase 1					
Site Remediation Work					
1	Professional Services	\$436,860.00	\$326,926	(\$109,934)	
1a	Added Professional Fees		\$111,092	\$111,092	New Item
Mobilization & Field Services During Construction					
2	City Permit and Inspection Fees	\$39,800.00	\$39,800	\$0	Budget - Need feedback form City
3	Erosion Control Measures	\$54,457.00	\$48,925	(\$5,532)	Revised per submitted grading plan
4	Job Site Safety / Hazardous Materials Safety	\$33,753.00	\$19,955	(\$13,798)	Revised down based on fewer people needing HAZWOPER
5	Construction Fencing	\$7,150.00	\$7,150	(\$0)	no change
Demolition					
6	Removal of Existing Improvements	\$126,175.00	\$119,174	(\$7,001)	Revised based on tel. poles being used on-site
7	Weed Abatement	\$131,711.00	\$131,711	(\$0)	no change
	Removal of Concrete at NE corner of site		\$33,251	\$33,251	this is an added item
Soil Import & Grading					
8	Imported Soil Cap for Future Ballfield Areas	\$200,580.00	\$309,251	\$108,671	Revised per submitted grading plan
9	Imported Soil Cap for Future Parking Areas	\$137,916.00	\$46,373	(\$91,543)	Revised per submitted grading plan
10	Placement & Finish Grading of Imported Soils	\$41,543.00	0	(\$41,543)	Included in import numbers
	Grade Markers required by DTSC		\$4,829	\$4,829	New Item per DTSC
Drainage					
11	Drainage	\$36,251.00	\$27,182	(\$9,069)	Revised per submitted grading plan
Asphaltic Concrete					
12	Asphalt Concrete Paving	\$50,276.00	\$32,496	(\$17,780)	Revised based on overlay of existing ac only
Concrete					
13	Shotcrete	\$123,257.00	\$151,896	\$28,639	Revised per submitted grading plan
Fencing					
14	Perimeter Security Fencing	\$109,397.00	\$63,267	(\$46,130)	
15	Interior Safety Fencing	\$23,934.00	\$40,480	\$16,546	
16	Gates	\$17,569.00	\$10,557	(\$7,012)	
Electrical					
17	Temporary Construction Power	\$17,360.00	\$7,500	(\$9,860)	Revised based on removal only
Landscaping					
18	Irrigation	\$71,303.00	\$84,542	\$13,239	Revised per submitted grading plan
19	Hydroseeding	\$54,051.00	\$66,867	\$12,816	Revised per submitted grading plan
20	90-Day Establishment Period	\$4,028.00	\$6,416	\$2,388	Revised per submitted grading plan
Clean-Up & Demobilization					
21	Final Completion	\$15,000.00	\$5,000	(\$10,000)	Revised down
Total All Phase 1 Bid Items		\$1,732,371.00	\$1,694,641.03	(\$37,729.97)	\$0
Performance & Payment Bonds		\$24,772.91	\$0	(\$24,772.91)	\$0
Design-Builders Contingency		\$86,618.55	\$0	(\$86,619)	Used to help cover added items above
Total Phase 1 Bid Price		\$1,843,762.46	\$1,719,414.04	(\$124,348.42)	

Phase 2

Restoration of Little League Ball Park

22	Design-Build Portion of Project	\$685,759.00
	Total All Phase 2 Bid Items	\$685,759.00

Professional Services	\$ 161,505.00
Turf Repairs and Additional 90 Day Maint	\$ 11,618.38
Infield Mix	\$ 36,038.41
Dugouts	\$ 69,710.42
Fencing at ball fields	\$ 27,025.00
Players Benches	\$ 5,269.04
Backstops at Little League Fields	\$ 15,395.17
Backstops at T-Ball Fields	\$ 5,962.36
Asphalt	\$ 113,324.34
Concrete and Curbs at NE parking	\$ 67,540.00

Electrical Service to Site

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Ballfield Lighting

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Building (Concessions, Restrooms, Storage)

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Total All Phase 2 Bid Items	\$ 513,388.12	(\$172,370.88)
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Performance & Payment Bonds	\$9,806.35	
Design-Builders Contingency	\$34,287.95	
Total Phase 2 Bid Price	\$ 557,482.12	(\$172,371.18)

Total Project Price (Phase 1 + Phase 2)	\$2,276,896.16	(\$296,719.60)
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The Following DTSC Oversight Fees are not included above:

DTSC Review & Processing Fees - 2010	\$ 14,000.00
DTSC Oversight Fees - 2011 estimated	\$ 32,000.00

Savings for non-prevailing wage:

Phase 1	(\$103,429)
Phase 2	(\$45,485)
total saving if non-prevailing:	(\$148,914)

EXCLUSIONS:

- Improvements / Widening of Lec Drive
- Additional Trees and shrubs
- DTSC Oversight Fees

GRANT AGREEMENT

CIWMB110 (Revised 10/07)

GRANT NUMBER
SWC26-08-2 Amend #1

NAME OF GRANT PROGRAM

2008/2009 Illegal Disp. Site & LF Cleanup Remediation Matching Grants

GRANTEE NAME

City of Oceanside

TAXPAYER'S FEDERAL EMPLOYER IDENTIFICATION NUMBER

TOTAL GRANT AMOUNT NOT TO EXCEED

\$729,900.00

TERM OF GRANT AGREEMENT

FROM: March 1, 2009

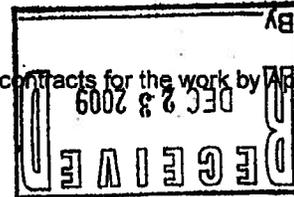
TO: July 1, 2011

THIS AGREEMENT is made and entered into on this 14th day of December 2009, by the State of California, acting through the Executive Director of the California Integrated Waste Management Board (the "State") and City of Oceanside (the "Grantee"). The State and the Grantee, in mutual consideration of the promises made herein, the above referenced agreement is amended as follows:

Section 1.04 of the Procedures and Requirements is amended as follows:

"Time is of the essence in this Agreement. Grantee shall enter into all necessary contracts for the work by April 30, 2010."

All other terms, conditions and requirements remain the same.



The State agrees to fund work done by the Grantee in accordance with this Agreement up to the Total Grant Amount Not to Exceed specified herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates entered below.

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD		GRANTEE' NAME (PRINT OR TYPE) City of Oceanside	
SIGNATURE OF CIWMB'S AUTHORIZED SIGNATORY: 		SIGNATURE OF GRANTEE: (AS AUTHORIZED IN RESOLUTION OR LETTER OF DESIGNEE AUTHORIZATION) 	
Mark Leary, Executive Director	DATE 1/25/10	TITLE Counsel for City of Oceanside (Authorized representative)	DATE 12-21-09
		GRANTEE' ADDRESS (INCLUDE STREET, CITY, STATE AND ZIP CODE) 300 N. Coast Highway Oceanside, CA 92054	
CERTIFICATION OF FUNDING			
AMOUNT ENCUMBERED BY THIS AGREEMENT \$0.00	PROGRAM/CATEGORY (CODE AND TITLE) 2008/2009 Illegal Disp. Site & LF Cleanup Remediation Matching Grants		FUND TITLE SWDSCF
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$729,900.00	(OPTIONAL USE)		
TOTAL AMOUNT ENCUMBERED TO DATE \$729,900.00	ITEM 3910-516-0388	CHAPTER 655	STATUTE 1993
	FISCAL YEAR 2008/2009		
	OBJECT OF EXPENDITURE (CODE AND TITLE) 1000-14390-418.03		
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.
SIGNATURE OF CIWMB ACCOUNTING OFFICER: 		DATE 12/14/09	