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City of

LEMOORE
CALIFORNIA

Staff Report

Public Works Department

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Item #9

To: Lemoore City Council
From: Lauren Apone, Administrative Analyst
Date: December 13, 2011
Subject: Full Circle Renewables Lease Termination, Property Purchase Agreement, Early Access Agreement and Creation of Trust Agreement

Discussion:

In December 2009, the City leased 22 acres south of the wastewater treatment plant to Full Circle Renewables (FCR) for the installation of solar photovoltaic arrays. This property is a closed burn-pit landfill. Shortly after signing the lease, staff discovered that this property was supposed to have been transferred to Kings Waste and Recycling Authority (KWRA) in 1989 when KWRA was formed, but was never transferred. KWRA is not interested in taking over the lease, but is amenable to the City selling the property to FCR as long as KWRA was released of liability for any potential environmental cleanup. Staff and FCR have worked on the following documents to terminate the lease for this property and instead sell it to FCR.

To mitigate the liability associated with the potential cleanup costs of a closed landfill, the City asked that FCR place \$500,000 in a trust made payable to the City of Lemoore in the event that the property requires clean-up. Staff has researched similar cleanups in California and determined these amounts to be adequate. FCR has agreed and both the property purchase agreement and the agreement to form the trust are attached.

In addition, the current lease agreement for the wastewater treatment plant site needs to be terminated. The attached lease termination agreement would terminate the lease effective on the close of escrow for the property.

Also included in this property transaction is an early access agreement (attached) allowing FCR to enter the property before the close of escrow. Under the early access agreement, FCR is limited to activities that do not penetrate the ground. This early access agreement would allow FCR to meet their construction milestones. They have proposed placing temporary construction fencing and a construction trailer on the property.

Budget Impact:

The refuse fund stands to gain up to \$250,000 from the sale of the property. FCR has also agreed to place \$500,000 in a trust that would be payable to the City of Lemoore in the case that environmental cleanup is required on the site.

Recommendation:

That the Council does the following:

1. Authorize the City Manager to sign the Lease Termination agreement for the wastewater treatment plant site.
2. Approve the Purchase Agreement for the wastewater treatment plant site and authorize the City Manager to execute the agreement and other documents necessary to support the transaction.
3. Approve the Addendum to the Purchase Agreement, which would create a trust for the site and authorize the City Manager to execute the agreement and other documents necessary to support the transaction.
4. Approve the Early Access Agreement for the site and authorize the City Manager to execute the agreement.