

34155

AMENDMENT NO. 2

TO

AGREEMENT

BETWEEN

THE DEPARTMENT OF THE ARMY

AND

THE CITY OF LONG BEACH

FOR THE

EAST SAN PEDRO BAY ECOSYSTEM RESTORATION, CA STUDY

THIS AMENDMENT NO. 2 is entered into this 31st day of March, '20, by and between the Department of the Army (hereinafter the "Government"), represented by the U.S. Army Engineer, Los Angeles District (hereinafter the "District Engineer"), and the City of Long Beach (hereinafter the "Non-Federal Sponsor"), represented by the City Manager.

WITNESSETH, THAT:

WHEREAS, the Government and the Non-Federal Sponsor entered into an agreement on November 10, 2010 (hereinafter the "Agreement"), to conduct a feasibility study of ecosystem restoration and recreation improvements for East San Pedro Bay at Long Beach, California (hereinafter the "*Study*");

WHEREAS, on January 20, 2016, the Government and the Non-Federal Sponsor entered into Amendment No. 1 to the Agreement to accelerate use of a portion or all of the Non-Federal Sponsor's required contribution of funds for the *Study* and to contribute funds voluntarily for the *Study*;

WHEREAS, on January 10, 2020, the Deputy Commanding General for Civil and Emergency Operations granted an exemption to the 3x3x3 Rule for the *Study* to allow a thirty-month study extension and an increase of \$1,121,000 in the estimated total study costs;

WHEREAS, the Government and Non-Federal Sponsor intend to document the increase in estimated total study costs to \$4,235,000, consistent with the exemption to the 3x3x3 Rule;

NOW, THEREFORE, the Government and the Non-Federal Sponsor agree to amend the Agreement as follows:

1. ARTICLE IV – METHOD OF PAYMENT is amended as follows:

a. Article IV.A.1 is deleted in its entirety and replaced with the following:

"1. As of the effective date of Amendment No. 2 to this Agreement, *total study costs* are projected to be \$4,235,000; the value of the Non-Federal Sponsor's

contributions under Article III and Article VI is projected to be \$34,000; the amount of funds determined in accordance with Article II.C. I.a. of this Agreement is projected to be \$2,083,500; the costs included in *total study costs* for the *non-Federal in-kind contributions* determined in accordance with Article II.E. of this Agreement are projected to be \$150,000; the credit to be afforded for the *non-Federal in-kind contributions* pursuant to Article II.F. of this Agreement is projected to be \$150,000; the Non-Federal Sponsor's contribution of funds required by Article II.C.I.b. of this Agreement is projected to be \$1,933,500; and the *non-Federal proportionate share* is projected to be 49.58 percent. In addition, the Non-Federal Sponsor has provided *Contributed Funds* of \$750,000 for the Study. These amounts and percentage are estimates subject to adjustment by the Government, after consultation with the Non-Federal Sponsor, and are not to be construed as the total financial responsibilities of the Government and Non-Federal Sponsor.

4. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 2, which shall become effective upon the date it is signed by the District Engineer.

DEPARTMENT OF THE ARMY

CITY OF LONG BEACH

BY: BARTA.AARON.CH Digitally signed by BARTA.AARON.CHARLES.11284 20416 Date: 2020.03.31 20:30:51 -07'00'
ARLES.1128420416

Aaron Barta
Colonel, U.S. Army
District Engineer
Los Angeles District

DATE: 3/31/2020

BY: Rebecca G. Garner

Tom Modica
City Manager
**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

DATE: 3/26/2020

APPROVED AS TO FORM

March 24, 2020
CHARLES PARKIN, City Attorney

By [Signature]
ERIN WEESNER-MCKINLEY
DEPUTY CITY ATTORNEY

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Rebecca H. Gouner

Tom Modica
Acting City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

DATE: 3/26/2020

APPROVED AS TO FORM

March 24, 2020

CHARLES PARKIN, City Attorney

By

[Signature]

ERIN WEESNER-MCKINLEY
DEPUTY CITY ATTORNEY

CERTIFICATE OF AUTHORITY

I, Charles Parkin hereby certify that I am the principal legal officer of the City of Long Beach, that the City of Long Beach is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement, as amended, between the Department of the Army and the City of Long Beach in connection with the East San Pedro Bay Ecosystem Restoration, CA Study, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the City of Long Beach have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 24
day of March, 2020.

Charles Parkin

Charles Parkin
City Attorney

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TO
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BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE CITY OF LONG BEACH
FOR THE
EAST SAN PEDRO BAY ECOSYSTEM RESTORATION, CA STUDY

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DEPARTMENT OF THE ARMY

CITY OF LONG BEACH

BY: BARTA.AARON.CH
Digitally signed by BARTA.AARON.CHARLES.11284
20416
Date: 2020.03.31 20:31:33 -0700'
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Aaron Barta
Colonel, U.S. Army
District Engineer
Los Angeles District

BY: Rebecca G. Garner

Tom Modica
Acting City Manager
EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

DATE: 3/31/2020

DATE: 3/26/2020

APPROVED AS TO FORM

March 24, 2020
CHARLES PARKIN, City Attorney

By: [Signature]
ERIN WEESNER-MCKINLEY
DEPUTY CITY ATTORNEY

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(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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Tom Modica
Acting City Manager

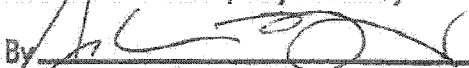
EXECUTED PURSUANT
TO SECTION 301 OF
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DATE: 3/26/2020

APPROVED AS TO FORM

March 24, 2020

CHARLES PARKIN, City Attorney

By 

ERIN WEESNER-MCKINLEY
DEPUTY CITY ATTORNEY

CERTIFICATE OF AUTHORITY

I, Charles Parkin, hereby certify that I am the principal legal officer of the City of Long Beach, that the City of Long Beach is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement, as amended, between the Department of the Army and the City of Long Beach in connection with the East San Pedro Bay Ecosystem Restoration, CA Study, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement and that the persons who have executed this Agreement on behalf of the City of Long Beach have acted within their statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this 24
day of March, 2020.

Charles Parkin

Charles Parkin
City Attorney



DEPARTMENT OF THE ARMY
SOUTH PACIFIC DIVISION, U.S. ARMY CORPS OF ENGINEERS
Phillip Burton Federal Building
Post Office Box 36023
450 Golden Gate Avenue
SAN FRANCISCO, CALIFORNIA 94102

MAR 10 2020

CESPD-DE

MEMORANDUM FOR Commander, Los Angeles District, ATTN: CESPL-PM (Maricris Lee)

SUBJECT: Approval of the Feasibility Cost Sharing Agreement Amendment no. 2 between the Department of the Army and the City of Long Beach for the East San Pedro Bay Ecosystem Restoration Feasibility Study

1. References:

a. Memorandum, CESPL-PM, 5 FEB 2020, subject: Request for Review and Approval to Execute Amendment for the No. 2 Agreement between the Department of the Army and the City of Long Beach for the East San Pedro Bay Ecosystem Restoration Feasibility Study.

b. Memorandum, CECW-SPD, 10 JAN 2020, Subject: East San Pedro Bay Ecosystem Restoration Feasibility Study, 3x3x3 Rule Exemption

c. Memorandum, CESPD-DE, 21 OCT 2010, subject: Delegation of Approval to Execute Model Feasibility Cost Sharing Agreement for Studies of Proposed Projects That Will Require Specific Authorization, for Studies of Modifications That Are Beyond the Scope of the Existing Project Authorization, and for Studies of Projects Authorized Without a Feasibility Study.

2. The District Support Team (DST) reviewed the Feasibility Cost Sharing Agreement Amendment (FCSA) no. 2 package. This FCSA Amendment documents an increase in estimated total study costs, consistent with Reference 1.b. The enclosed FCSA Amendment (Enclosure 1) contains non-substantive deviations, is policy compliant and legally sufficient. The enclosed FCSA Amendment is approved for execution by the Los Angeles District Commander.

3. The point of contact for this action is Mr. Caleb Conn, District Support Team Lead, CESPD-PDC, (415) 503-6558 or Caleb.Conn@usace.army.mil.

BUILDING STRONG!

Encl

KIMBERLY M. COLLOTON
Brigadier General, USA
Commanding

Total of
 \$2,683,500.00 +
 \$184,000.00 =
 \$2,867,500.00

	TOTAL		SPONSOR	
	FEDERAL	CASH	WIK	
Feasibility CSC796 CCS:144 & Proportionate Share	\$ 4,235,000.00	\$ 2,683,500.00	\$ 184,000.00	
IEPR Non-Cost Share	\$ 100,000.00	\$ -	\$ -	
	\$ 4,335,000.00	\$ 2,683,500.00	\$ 184,000.00	
Contributions to date				
Fiscal Year 2011	\$ 3,193.93	\$ -	\$ -	
Fiscal Year 2012	\$ -	\$ -	\$ -	
Fiscal Year 2013	\$ 10,000.00	\$ 10,000.00	\$ -	
Fiscal Year 2014	\$ 1.00	\$ -	\$ -	
Fiscal Year 2015	\$ 50,000.00	\$ 50,000.00	\$ -	
Fiscal Year 2016	\$ 76,871.93	\$ 750,000.00	\$ -	
Fiscal Year 2017	\$ 275,000.00	\$ 731,500.00	\$ -	
Fiscal Year 2018	\$ 194,000.00	\$ 252,000.00	\$ -	
Fiscal Year 2019	\$ 297,933.14	\$ 329,500.00	\$ -	
TOTAL Contributions to date	\$ 3,030,000.00	\$ 2,123,000.00	\$ -	
REMAINING Balance to contribute	\$ 1,305,000.00	\$ 560,500.00	\$ 184,000.00	

32%
63%
4%