

**MEMORANDUM OF AGREEMENT  
REGARDING FUNDS ADVANCED  
FOR COLORADO LAGOON MITIGATION CREDITS  
31499**

This Memorandum of Agreement (the "Agreement") is entered into on December 21, 2009 between the City of Long Beach acting by and through its City Council ("City") and the City of Long Beach acting by and through its Board of Harbor Commissioners ("Port").

**RECITALS**

1. For the past three years the Port has been working with the City and stakeholder organizations on the Colorado Lagoon Restoration Project (the "Project"), which is being conducted by the City's Department of Community Development in concert with the Department of Parks, Recreation and Marine.

2. Port staff believes that the Project could provide an as-yet unknown number of mitigation credits generated by increased habitat value.

3. The City recently received a low bid of \$3.7 million for Phase I of the Project, compared with a budget of \$2.9 million, resulting in a shortfall of approximately \$1.8 million.

4. The City has requested an advance of \$1.3 million from the Port to move forward with the Project. This advance funding would be applied toward the value of future mitigation credits and would serve as matching funds for a grant from the State Water Resources Control Board.

5. There is urgency in the request since the grant will expire, with a loss of the funds, by December 30, 2009, if the Phase I contract is not entered into and the construction commenced.

**AGREEMENT**

The City and Port hereby agree that the Port will advance \$1.3 million for use in Phase I of the Project, on the following conditions:


(a) If the resource agencies determine that no mitigation credits are generated by the Project, then the City must refund the advanced funds within one year of the resources agencies' decision.

(b) The Port reserves the right not to proceed with the Project if it deems the cost per acre credit is not cost-effective. The Board can then request a full refund of the funds advanced.

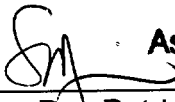
(c) Provision of these funds does not create a precedent for additional funding for the Project.

(d) The City must construct the entire Project or refund the entire amount advanced by the Port.

**City of Long Beach acting by and  
through its Board of Harbor  
Commissioners**

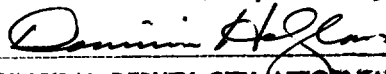
  
By: Richard D. Steinke  
Executive Director

**City of Long Beach acting by and  
through its City Council**

  
Assistant City Manager  
By: Patrick West  
City Manager

**EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.**

APPROVED AS TO FORM

2/16, 2010  
ROBERT E. SHANNON, City Attorney  
By   
PRINCIPAL DEPUTY CITY ATTORNEY