



Legislation Text

File #: 19-0804, **Version:** 1

Recommendation to authorize City Manager, or designee, to execute a Memorandum of Understanding, and any other necessary documents, with the Harbor Department, to implement the Colorado Lagoon Open Channel Restoration Phase 2A Project (Project);

Authorize City Manager, or designee, to execute a Bank Enabling Instrument, and any other necessary documents, with the State and Federal Resource Agencies, to create a mitigation bank at the Colorado Lagoon to finance the Project and sell the established mitigation credits;

Authorize City Manager, or designee, to execute an amendment to Contract No. 34377, and any subsequent amendments, with Anchor QEA, LLC, of Huntington Beach, CA, to increase the contract amount by \$2,800,000, for a revised total contract amount not to exceed \$3,100,000, and extend the term to January 1, 2024; and

Increase appropriations in the Tidelands Operating Fund Group in the Public Works Department by \$26,300,000, offset by a transfer from the Harbor Department. (District 3)

The Colorado Lagoon Open Channel Restoration Phase 2A Project (Project) is the last phase of the restoration effort that will naturally reconnect the Colorado Lagoon to Marine Stadium and allow full tidal exchange to further improve water quality (Attachment A). Previous phases of the restoration effort have cleaned up the incoming water supply by diverting urban runoff into the sanitary sewer system and collecting trash at the storm drain outlets. Contaminated soils within the lagoon have been dredged and native flora have been planted around the perimeter of the lagoon. The previous work continues to exceed expectations, but tidal exchange at the lagoon continues to be stunted. The existing concrete culvert was not built deep or wide enough to allow for full water circulation. The Project will resolve these remaining constraints.

Memorandum of Understanding with the Harbor Department

The Harbor Department has been an active partner as City staff worked through the planning, conceptual design, first phase of restoration, and the creation of the Bank Enabling Instrument (BEI). In exchange for their participation in the Colorado Lagoon Restoration, the Harbor Department was provided with first right of refusal for the purchase of mitigation credits created by the BEI, as outlined in the June 30, 2016 MOU with the Harbor Department. On July 8, 2019, the Board of Harbor Commissioners approved a revised MOU between the Public Works Department and the Harbor Department to exercise their right to purchase 19.7 mitigation credits for a not to exceed amount of \$26,300,000.

Bank Enabling Instrument

A mitigation bank is a wetland, or other aquatic resource, that is restored, enhanced, or established for the purpose of providing compensation for unavoidable impacts to other aquatic resources that are permitted under Section 404 of the Federal Clean Water Act. A mitigation bank is created when a party undertakes these restoration and enhancement activities under a formal agreement with a regulatory agency for the purposes of compensating a project with unavoidable impacts. The formal agreement is called a Bank Enabling Instrument (BEI).

The City has been working collaboratively over the last five years with the U.S. Army Corps of Engineers and the other members of the Interagency Review Team (IRT) to establish the Colorado Lagoon/Open Channel Compensatory Mitigation BEI. New federal mitigation regulations were implemented in 2008 and this is one of the first BEIs established under these new criteria. Development of the BEI and sale of the mitigation credits is critical for funding the restoration project.

Contract Amendment

The Request for Proposals No. RFP CM16-028 was distributed for Professional Design Services for the Colorado Lagoon Open Channel Restoration Phase 2A Project (Project) and Anchor QEA, LLC, was selected for the Project. On August 16, 2016, the City Council awarded Contract No. 34377 to Anchor QEA, LLC, in the amount of \$300,000 to begin conceptual design and engineering services for the purposes of establishing the BEI and obtaining the required California Coastal Commission (CCC) permit. The conceptual design and BEI are complete, and the CCC permit has been obtained. The Project is now ready to proceed through design development and their engineering design and regulatory expertise is required for the next phase of the Project.

This matter was reviewed by Deputy City Attorney Amy R. Webber on July 31, 2019, and by Purchasing Agent Tara Yeats and Budget Analysis Officer Julissa José-Murray on August 7, 2019.

SUSTAINABILITY/ENVIRONMENTAL

Colorado Lagoon is a unique wetland restoration project in an urban setting that supports various sensitive habitats. The future open channel modifications are engineered to address various sea level rise scenarios. Eelgrass, a sensitive aquatic plant species, will be monitored and new eelgrass will be planted. The plant palette for the Project consists of native, low-water use species and coastal wetland species.

The Project is in conformance with the Final Environmental Impact Report (FEIR), State Clearinghouse Number 2007111034, which was certified by the City Council on October 14,

2008. The City Council certified an addendum to the FEIR on November 16, 2010. The CCC and the U.S. Army Corps of Engineers have approved the BEI and required permits. The Los Angeles Regional Water Quality Control Board has also issued a required permit for the Project.

City Council action is requested on August 20, 2019, to proceed with the Project expeditiously.

The total Project cost is estimated at \$26,976,449 and includes design, construction, construction management, labor compliance and project oversight. Of the total project cost, \$676,449 is already budgeted in the Tidelands Operating Fund Group in the Public Works Department. An appropriation increase in the amount of \$26,300,000 is requested in the Tidelands Operating Fund Group in the Public Works Department, offset by a transfer from the Harbor Department. The State Lands Commission (SLC) has been notified of the additional expenditures required for the Project. All SLC requirements have been met and the City is ready to proceed with the Project. Approval of this recommendation is expected to have a minimal impact on staff hours beyond the normal budgeted scope of duties and a minimal impact on existing Council priorities. The number of additional local jobs created by this project will not be known until a construction contract has been awarded and the contractors have completed their hiring and construction has commenced.

Approve recommendation.

CRAIG A. BECK
DIRECTOR OF PUBLIC WORKS

APPROVED:

PATRICK H. WEST
CITY MANAGER