



Legislation Text

File #: 10-0657, **Version:** 1

Recommendation to authorize City Manager to execute a Federal Cost-Share Agreement (FCSA) with the United States Army Corps of Engineers for the East San Pedro Bay Ecosystem Restoration Feasibility Study (Long Beach Breakwater Feasibility Study) and any necessary amendments, in an amount not to exceed \$4,145,700, for a term of four years; and provide direction to staff on the funding options for the Feasibility Study. (Citywide)

The Long Beach Breakwater (Breakwater) is a federally-owned and operated structure originally built to protect Navy operations in Long Beach, but which also provides current protection to navigation, commerce, coastal zones, property, oil operations, naval ammunition loading operations, and many other operations. The Breakwater also significantly reduces wave heights along the Long Beach shoreline, leaving Long Beach without significant surf most times during the year, and is believed to be one of the factors that negatively affect water quality in the East San Pedro Bay.

As a federal project, the United States Army Corps of Engineers (Army Corps) maintains jurisdiction over the Breakwater, including any potential modification. On July 24, 2007, the City Council directed staff to fund a Reconnaissance Study of the Long Beach Breakwater at a cost of up to \$100,000 to determine if there is federal interest in a reconfiguration of the Breakwater or other changes in the East San Pedro Bay. Through a competitive bidding process, Moffatt & Nichol was selected to conduct the Reconnaissance Study. The City of Long Beach seeks to improve water quality and increase recreational opportunities while ensuring that surrounding infrastructure and operations remain protected and viable. The City's Reconnaissance Study proposed five potential alternatives. The City's study concluded that based on preliminary analysis, it may be possible to increase wave activity, improve water quality and improve the ecosystem, all without compromising existing infrastructure or operations. The City's Reconnaissance Study was completed in July 2009.

The City's final Reconnaissance Study report was reviewed by the Army Corps, funded through a \$90,000 FY 10 federal appropriation secured by Senator Dianne Feinstein and Congresswoman Laura Richardson. The Army Corps' own Reconnaissance Study of the Breakwater utilized a great deal of the information provided by the City's Reconnaissance Study, but it is notable that the Army Corps has modified a few key areas in the scope of study. The Army Corps' final Reconnaissance Study document is expected to be released by the Army Corps on June 18, 2010, and is expected to differ from the City's Reconnaissance Study in the following ways:

1. Broader Alternatives: The Army Corps' study broadens the alternatives selected by the City. Instead of looking at specific alternatives to modify the Breakwater or Los Angeles River, the Army Corps' study suggests possible alternatives as modifying the Breakwater (without identifying specific proposals), modifying the Los Angeles River, constructing rocky reef! kelp habitat, and no action. Specific alternatives would be identified in the Feasibility Study through another public participation process.

2. Enhanced Los Angeles River Focus: The Army Corps' study includes the ability to examine the

Los Angeles River and suggest potential changes that could improve the ecosystem in the East San Pedro Bay. The extent of the Los Angeles River inclusion in the study will be determined in the Feasibility Study phase.

3. Enhanced Ecosystem Focus: The Army Corps' study prioritizes restoring lost ecosystem as its main goal. However, the study continues to focus on recreation, wave action, water quality, and protection of homes, property, current operations and infrastructure. Further, the study allows the City and Army Corps to investigate other opportunities in the Feasibility Study such as coastal erosion and enhanced flood protection.

4. Simplified Document: Many of the extra features included in the City's study, such as the economic analysis and wave/water quality monitoring, has been excluded in the Army Corps' study. However, the Army Corps has agreed to use that data in the Feasibility Study.

As previously mentioned, the purpose of the Reconnaissance Study was to determine whether or not there is federal interest for reconfiguration of the Breakwater. The determination of federal interest is a function only the Army Corps could perform. The local office of the Army Corps has determined that federal interest under the Army Corps mission of ecosystem restoration has been found. The final approved report confirming federal interest is expected to be released by the Army Corps on June 18, 2010.

This Feasibility Study would provide Long Beach an opportunity to consider Breakwater reconfiguration as a part of an ecosystem restoration study, to improve water quality to sustain newly restored aquatic habitat, and to enhance wave activity along some of the City's shoreline. The City has also maintained that infrastructure protection is absolutely necessary and Long Beach will make all efforts to ensure that port operations, oil operations, and homes and local businesses remain protected

Should the City Council wish to proceed with a Feasibility Study, the next step in this study process will be to agree upon a Project Management Plan and Federal Cost-Share Agreement (FCSA). These two components are necessary to begin the Feasibility Study. The Feasibility Study is estimated to cost \$8,291,400 and take at least four years to complete if fully funded; however, the study costs and timeline may change as the study is conducted, depending on the scope of the study. Long Beach and the Army Corps will be partners in this process and spend funds equally and concurrently with each entity responsible for 50 percent of the project costs. Assistance from the City's federal delegation will be required to secure federal appropriations to pay for the federal share of the Feasibility Study before the study may begin. Once the Feasibility Study has concluded, if the City and Army Corps wish to proceed with the final project, Congress will need to authorize the project in the federal Water Resources Development Act and then appropriate funds to construct the project. The federal government will fund 65 percent of the final project, with 35 percent to be funded by the non-federal sponsor.

This matter was reviewed by Deputy City Attorney Richard F. Anthony on June 9, 2010, and Budget Management Officer Victoria Bell on June 8, 2010.

City Council action is requested on June 22, 2010 in order to ensure a timely execution of the Feasibility Cost Sharing Agreement, should the City Council wish to proceed to the Feasibility Study

phase.

The Feasibility Study will cost \$8,291,400 and require a minimum of four years to complete. A Federal Cost-Share Agreement (FCSA) stipulates the Army Corps is responsible for 50 percent of study costs using federal dollars and the local-sponsor is responsible for the remaining 50 percent using non-federal dollars. The FCSA allows the local-sponsor to meet cost-share responsibilities with cash and/or in-kind services. The FCSA will state that either entity may suspend or terminate the study if funds are not available. City staff has identified the following possibilities for funding the \$4,145,700 non-federal share over the next four years:

In-Kind Services:

Based on an analysis of department capability and Army Corps requirements, the City believes that staff can provide up to \$825,000 in in-kind services. These services will be listed in detail in the Army Corps' Project Management Plan. As the study progresses, there is a chance that the City may be able to provide additional in-kind services to help lower the City's cash commitment. Additionally, while Army Corps rules do not allow the City to get credit for studies performed prior to the beginning of a Feasibility Study, the City may be able to use those studies to help reduce the overall scope of the study. If the study progresses, the City will work with the Army Corps to attempt to reduce the overall cost of the Feasibility Study by providing past studies that the City has conducted.

Grants:

The City has not been able to secure any firm grant commitments for the Feasibility Study. Grant opportunities are limited at this time, as the City may not fund the non-federal share with federal grants (unless permission is expressly granted by the federal agency) and State grant opportunities are significantly limited due to the State budget crisis. The City has pursued opportunities with the Rivers and Mountains Conservancy, the California Coastal Conservancy, the Oceans Protection Council and has researched other opportunities, but no grant dollars are currently available for this project. If the State Water Bond on the November 2010 ballot passes, both Coastal Conservancy and the RMC would be awarded new sources of funds for projects. The City will continue to pursue grant opportunities if the project moves to the Feasibility Stage to help fund future years' costs.

Future One-Time Tidelands Oil Funds:

The City Council has set a policy for Tidelands oil operations that any funds in excess of \$45 per barrel are set-aside for one-time purposes. The City Council may use future one-time dollars from Tidelands Oil revenue (should additional revenue materialize) towards its share of the Feasibility Study. This decision would result in less funding available for Tidelands capital improvement projects.

One-Time Port Transfer Funds:

In Fiscal Year 2011, the City is requesting a one-time Port of Long Beach Tidelands Transfer estimated in the amount of \$12,423,706. If the City Council chooses, a portion of these dollars could be set-aside for the Feasibility Study. This decision would result in less funding available for Tidelands capital improvement projects.

Port of Long Beach Support:

The City Council has the option of requesting direct financial assistance from the Port of Long Beach for the Feasibility Study. The Board of Harbor Commissioners must approve any request before dollars could be committed for this use.

Approve recommendation.

PATRICK H. WEST
CITY MANAGER
