

NB-41

May 24, 2022

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt Plans and Specifications No. 3002120001 REBID and award a contract to Reyes Construction, Inc., of Pomona, CA, for construction of the Colorado Lagoon Open Channel Phase 2A Project (Project), in the amount of \$20,817,600, authorize an 18 percent contingency in the amount of \$3,747,168, for a total contract amount not to exceed \$24,564,768, and authorize the City Manager, or designee, to execute all documents necessary to enter into the contract, including any necessary amendments;

Authorize the City Manager, or designee, to amend the Memorandum of Understanding between the Public Works and Harbor Departments to accept an additional contribution of \$5,700,000 for the Project; and,

Increase appropriations in the Tidelands Operating Fund Group in the Public Works Department by \$5,700,000, offset by a transfer from the Harbor Fund Group in the Harbor Department. (District 3)

DISCUSSION

City Council approval is requested to Adopt Plans and Specifications No. 3002120001 REBID and enter into a contract with Reyes Construction Inc., to provide construction services for the Colorado Lagoon Open Channel Phase 2A Project (Project), and increase appropriations in the Tidelands Operating Fund.

Background

Improvements to the Colorado Lagoon were undertaken through a phased approach. Phase 1, Part 1 was completed in September 2009 and Phase 1, Part 2 was completed in August 2012. The phased improvements consisted of several components to reduce point source contamination, remove contaminated sediments, and improve water quality. Phase 2 consists of two subphases, Phases 2A and 2B. Construction of Phase 2B involved creating new subtidal and intertidal habitat through dredging and site work, addressing residual sediment contamination, planting eelgrass, restoring native vegetation, extending the pedestrian footbridge, installing new pedestrian paths, and removing an asphalt access road to create habitat and further enhance water quality.

Phase 2B was fully funded, and therefore was completed prior to Phase 2A on August 15, 2017.

These previous restoration efforts have significantly improved the habitat quality of the aquatic resources by diverting urban runoff into the sanitary system and collecting trash at the storm drain outlets. Contaminated sediment within the lagoon has been dredged and native flora around the perimeter of the lagoon continues to thrive. While the previous work continues to exceed expectations, tidal exchange at the lagoon remains muted because the existing underground concrete culvert connecting the lagoon to Alamitos Bay is not deep or wide enough to allow for full tidal exchange between the lagoon and Alamitos Bay. The proposed work for Phase 2A seeks to remedy this deficiency by replacing the existing culvert with a natural waterway connection (open channel). Restoring full tidal exchange between Alamitos Bay and the lagoon is necessary to achieve continued ecological success and functioning of the restored coastal lagoon habitats (Attachment A).

The City of Long Beach (City) established a regulatory mitigation bank associated with the enhancements and habitat creation resulting from the lagoon and proposed open channel work. Credits from established mitigation banks can be used in the regulatory review process to offset unavoidable habitat impacts or losses created by other projects which are subject to regulatory review and approvals. As outlined in the Legislation Text and MOU (HD-22-232), the Port of Long Beach has agreed to purchase the resulting mitigation bank credits for a sum of \$32,000,000, which creates the vehicle to conduct these habitat improvements (Attachment C).

Construction Contract

The Phase 2A Project will construct an open channel that will naturally reconnect Colorado Lagoon to Alamitos Bay and allow full tidal exchange to further improve water quality. To accommodate the open channel and maintain vehicular access, the Project includes construction of bridges at East Colorado and East Eliot Streets and the relocation of existing utilities at both bridge locations. The Phase 2A Project also includes recreational and public access improvements in, and adjacent to Marina Vista Park. A pedestrian overlook will be constructed at the corner of East Colorado and East Eliot Streets to provide a viewpoint of the open channel and traffic calming features will be constructed at the intersection. A walking path with benches will be constructed along the eastern side of the open channel and native trees will be planted along the path. The open space on the western side of Marina Vista Park will be leveled and new turfgrass and irrigation will be installed. A new youth baseball field and an accessible outdoor exercise area will be constructed in the park (Attachment B). The construction on Phase 2A is expected to be complete within 18-24 months.

To avoid delays to the overall project, reduce conflict associated with multiple prime contractors on the project site, and maintain the project schedule, the Water Department has agreed to reimburse the Department of Public Works (Public Works) for performing

the relocation of potable and reclaimed water lines along East Colorado Street. An internal agreement between the Public Works and the Water Departments related to the relocation of water lines is pending approval and may be appropriated as part of a quarterly budget adjustment or separate City Council action.

Memorandum of Understanding with the Harbor Department

The Harbor Department has been an active partner since the Project's feasibility study, environmental review, and design of the earlier restoration phases, as well as in the creation of the Bank Enabling Instrument (BEI or mitigation bank). 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 Memorandum of Understanding (MOU) with the Harbor Department. On July 8, 2019, the Board of Harbor Commissioners approved a revised MOU between the Public Works and Harbor Departments to exercise their right to purchase 19.7 mitigation credits for a not to exceed amount of \$26,300,000. On May 23, 2022 the Board of Harbor Commissioners is anticipated to approve a first amendment to the revised MOU to increase the purchase price by \$5,700,000 for a total purchase price of \$32,000,000. The additional funding will cover increased project costs related to escalation, market factors, additional permitting requirements and conditions of approval received from the regulatory agencies, and construction management, inspections, and oversight costs.

Project Advertisement

The bid was advertised in the Long Beach Press-Telegram on December 9, 2021 and 96 potential bidders specializing in construction services were notified of the bid opportunity. Of those bidders, 97 downloaded the bid via PlanetBids, an electronic bid system. The specifications were made available on the Purchasing Division's website at www.longbeach.gov/purchasing. A bid announcement was also included in the Purchasing Division's weekly update of Open Bid Opportunities, which is sent to 43 local, minority-owned, and women-owned business groups. Three (3) bids were received on January 18, 2022. Of those three bidders, one was a Minority-owned Business Enterprise (MBE), none were Women-owned Business Enterprises (WBEs), one was a certified Small Business Enterprise (SBE), and none were Long Beach businesses (Local). Reyes Construction, Inc., of Pomona, CA (not an MBE, WBE, SBE or Local), was the lowest responsible bidder.

Local Business Outreach

To align with the City's outreach goal, Long Beach businesses are encouraged to submit bids for City contracts. The Purchasing Division also assists businesses with registering on the PlanetBids database to download bid specifications. Through outreach, 46 Long Beach vendors were notified to submit bids, of which 6 downloaded and 3 submitted a

HONORABLE MAYOR AND CITY COUNCIL

May 24, 2022

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bid. The Purchasing Division is committed to continuing to perform outreach to local vendors to expand the bidder pool.

This matter was reviewed by Deputy City Attorney Erin Weesner-McKinley, City Purchasing Agent Michelle Wilson and Budget Management Officer Nader Kaamouh on May 19, 2022.

SUSTAINABILITY

In October 2009, the State adopted a Total Maximum Daily Load (TMDL) for the Colorado Lagoon due to toxins, pesticides, heavy metals, and hydrocarbons impairing the water body, and jointly issued a Cleanup and Abatement Order effective July 2011. Since then, investments from Federal, State, Regional agencies helped bring about the restoration of the lagoon, one of the last unique coastal lagoons in an urban environment. These restoration efforts have significantly improved water and sediment quality, which have resulted in an increased presence of marine species, flora and fauna within and around the lagoon.

The future open channel modifications are engineered to address various sea level rise scenarios. Eelgrass, a sensitive and protected aquatic plant species that provides immense habitat value, currently thrives in the lagoon. The plant species will continue to be monitored, as required by the regulatory agencies, to ensure its success. Additionally, the plant palette for the project consists of native marsh and native plants in the transitional, upland areas. These plants can adapt with rising tides making the lagoon even more resilient to changing environmental conditions.

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, and completes the necessary environmental analysis as required pursuant to provisions of the California Environmental Quality Act (CEQA). The City Council certified an addendum to the FEIR on November 16, 2010. The California Coastal Commission and the U.S. Army Corps of Engineers have already approved the Bank Enabling Instrument (BEI). The Los Angeles Regional Water Quality Control Boards has also issued a required permit for the Project.

TIMING CONSIDERATION

City Council action to adopt Plans and Specifications No. 3002120001 REBID and award a contract concurrently is requested on May 24, 2022, to ensure the contract is in place expeditiously.

FISCAL IMPACT

The total cost of the requested construction contract will not exceed \$24,564,768, inclusive of an eighteen percent contingency. The total cost of the Project is currently

estimated at \$32,539,205, which includes all project delivery costs such as design, construction contract, construction management and oversight, environmental monitoring, and labor compliance.

The project is supported by \$26,300,000, from the Harbor Department MOU as approved in 2019 and \$539,205 of Tidelands funding already budgeted in the Tidelands Operations Fund Group in the Public Works Department. Additionally, \$5,700,000 is anticipated to be approved on May 23, 2022 (Attachment C) by the Harbor Board of Commissioners in which an appropriations increase is being requested in the Tidelands Operations Fund Group. On December 2, 2013, the State Lands Commission (SLC) approved expenditures for the Project to be consistent with the Granting Statutes of Chapter 138 as amended by Chapter 941. The SLC was notified of the additional Tidelands Oil Revenue expenditures utilized for the Project. All SLC requirements have been met and the City is ready to proceed with the Project.

The Department of Parks, Recreation and Marine will be responsible for maintenance and operation of the Colorado Lagoon and Marina Vista Park. It is anticipated that by replacing an aged system, maintenance and operating cost may decrease once the project is complete. If funding is required beyond the existing maintenance and operations budget for this area, an enhancement will be requested as part of a future budget development process. This recommendation has no staffing impact beyond the normal budgeted scope of duties and is consistent with existing City Council priorities. The number of additional local jobs created by this project will be unknown until a construction contract has been awarded, the contractors have completed their hiring, and construction has commenced.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



ERIC LOPEZ
DIRECTOR OF PUBLIC WORKS

APPROVED:



THOMAS B. MODICA
CITY MANAGER

DRAFT

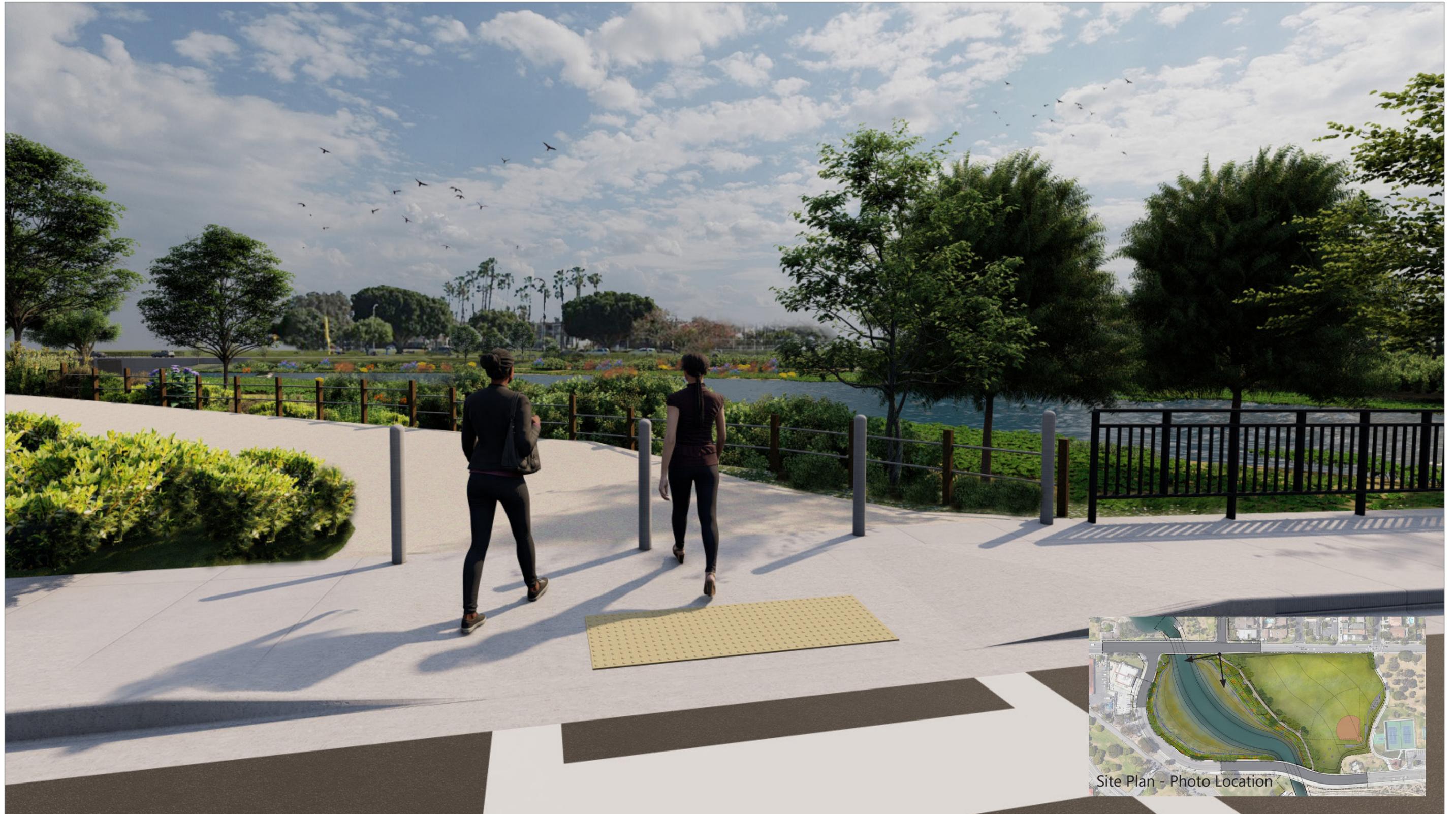


Publish Date: 03/12/21
Filepath: C:\Users\CW\OneDrive - ANCHOR QEA\Documents\Colorado Lagoon\Renderings\Site Plan.indd



ATTACHMENT A

Site Plan Rendering
Colorado Lagoon Open Channel Phase 2A
City of Long Beach



Publish Date: 10/26/20
Filepath: C:\Users\CWee\OneDrive - ANCHOR QEA\Documents\Colorado Lagoon\Renderings\Ground Level Renderings.indd

**FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
THE PUBLIC WORKS DEPARTMENT AND
THE HARBOR DEPARTMENT**

THIS FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING ("First Amendment") is made by and between the City of Long Beach Public Works Department ("Public Works") and the City of Long Beach Harbor Department acting by and through its Board of Harbor Commissioners ("Harbor") with regard to restoration of the Colorado Lagoon and the resulting generation of mitigation credits therefrom.

1. Recitals.

This First Amendment is made with reference to the following facts and objectives:

1.1 On September 9, 2019, Public Works and Harbor entered into a Memorandum of Understanding regarding restoration and enhancement of the Colorado Lagoon including reconnecting the Colorado Lagoon Wetlands located in the eastern part of the City of Long Beach, California to Alamitos Bay and the Pacific Ocean to improve the aquatic resources and habitat functions (the "Project"), and the generation of mitigation credits resulting therefrom (Harbor Department Document No. HD-9095) (the "MOU").

1.2 The MOU provided that Harbor would fund, subject to a cap and offset by Public Works' receipt of any grant funding awards, the work conducted by Public Works in connection with the Project, and in exchange, Harbor would receive the mitigation credits for the purpose of compensatory mitigation for future development within the Long Beach Harbor District.

1.3 At the time of execution of the MOU, the Project was in the conceptual stages. Since that time, Public Works has been faced with increased design and regulatory costs, as well as increased construction costs for the Project

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totaling \$8.7 million above the previous Project budget.

1.4 Public Works and Harbor have examined and discussed the increased Project budget, and now wish to amend the MOU to increase the amount of the Purchase Price (as defined in the MOU) by \$5.7 million, and Public Works reaffirms its commitment to secure grant funding for the Project to offset the Purchase Price as provided in Paragraph 2.6 of the MOU.

2. Paragraph 2.2 of the MOU is amended in its entirety as follows:

“2.2 Subject to paragraph 2.3 below, Harbor agrees to pay to Public Works for expenses (i) reasonably incurred for the Project and (ii) approved by Public Works and Harbor (the “Approved Costs”); provided, however, that the Approved Costs payable by Harbor shall not exceed a total of thirty-two million dollars (\$32,000,000, the “Purchase Price”) inclusive of the Loan. Subject to this \$32,000,000 cap, and upon receipt and approval by Harbor’s Director of Environmental Planning or his designee of invoices approved, Harbor shall pay such invoices; provided, however, that Project expenses shall first be credited towards repayment of the Loan. Following satisfaction of the Loan, Public Works shall submit Project expenses to Harbor once per calendar quarter, or whenever unpaid Project expenses exceed two million dollars (\$2,000,000).”

3. Paragraph 2.3 of the MOU is amended in its entirety as follows:

“2.3 Public Works, as manager of the Project, assumes responsibility for the cost of completion of the Project and the risk of mitigation underperformance and therefore agrees to deliver all Project Mitigation Credits, regardless of how many are actually generated, to Harbor. Should the number of credits actually conveyed to Harbor be less than 19.7, the Purchase Price shall be adjusted by \$1,624,365.48 per credit.”

4. Paragraph 2.8 of the MOU is hereby deleted.

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5. Except as expressly provided in this First Amendment, the terms and conditions of the MOU shall remain unchanged and in full force and effect.

CITY OF LONG BEACH, a municipal corporation

_____, 2022 By: _____
Tom Modica
City Manager

PUBLIC WORKS DEPARTMENT

_____, 2022 By: _____
Director of Public Works Department

PUBLIC WORKS

The foregoing document is hereby approved as to form.

CHARLES PARKIN, City Attorney

_____, 2022 By: _____
Gary Anderson, Assistant City Attorney

CITY OF LONG BEACH, a municipal corporation, acting by and through its Board of Harbor Commissioners

_____, 2022 By: _____
Mario Cordero
Executive Director
Long Beach Harbor Department

HARBOR

The foregoing document is hereby approved as to form.

CHARLES PARKIN, City Attorney

_____, 2022 By: _____
David R. Albers, Deputy



Legislation Text

File #: HD-22-232, **Version:** 1

DATE: 5/23/2022

TO: Board of Harbor Commissioners

FROM: Matthew Arms, Director of Environmental Planning

SUBJECT: Approve First Amendment to Memorandum of Understanding with the City of Long Beach to Purchase Colorado Lagoon Mitigation Credits

EXECUTIVE SUMMARY

The Port of Long Beach (Port) is empowered by the State Tidelands Grant to foster the orderly and necessary development of the Port, including the development of new land in the Harbor District. The development of new land results in the permanent loss of marine fish and wildlife habitat and other aquatic functions that requires compensation/mitigation through the creation or restoration of equivalent habitat. Given that adequate areas for mitigation are not present within the Harbor District, the Port participates in off-site restoration projects to provide the necessary mitigation credits to construct new port land. On September 9, 2019 the Port and City of Long Beach Public Works (Public Works) entered into a Memorandum of Understanding (MOU) to restore Colorado Lagoon generating mitigation credits. The MOU provided the Port would fund the project in the amount of \$26.3 million dollars in exchange for the 19.7 mitigation credits generated by the project. Since execution of the MOU, the project has faced increased costs totaling \$8.7 million dollars. Port staff have reviewed the increased costs and are recommending the Port contribute an additional \$5.7 million to the project with the intent that any grant dollars received by Public Works be used to offset the Port's additional contribution.

KEY POINTS

- The Port has been participating with the City of Long Beach on the restoration of Colorado Lagoon in anticipation of purchasing mitigation credits.
- In 2019, the Port and Public Works finalized an MOU for Public Works to restore the Lagoon, and convey to the Port the resulting mitigation credits for a not to exceed amount of \$26.3 million.
- Since execution of the original MOU, design plans have gone from conceptual to final design drawings and Public Works has received actual bids to construct the project. Despite significant efforts undertaken by Public Works to reduce costs, project costs now exceed the original budget by \$8.7 million.
- Port staff have reviewed the increased costs and consulted with Public Works. Staff is recommending the Port contribute an additional \$5.7 million to the project.
- Public works is seeking additional grant funding for the project, and if received, the grant dollars will be used to offset the Port's contribution.
- If approved by the Board, the First Amendment will be taken to the City Council for consideration.
- This requested action supports multiple strategic goals and objectives. Goal 1: To develop and maintain state-of-the-art infrastructure that enhances productivity and efficiency in goods movement. Objective 2: Identify and plan for future investment that needs to support operational efficiency, environmental and energy sustainability, and technology requirements. Goal 3: Improve the environment through sustainable practices and the reduction of environmental impacts from Port operations and development. Objective 4: Leverage the Port's role as a regional leader to promote sustainable and innovative

environmental practices that complement the economic, regulatory and quality of life needs of industry, government agencies and the public. Objective 5: Employ the principals of sustainable development at every stage of project development, including environmental review, design, construction and operation.

REQUESTED ACTION(S) ..Title

Approve First Amendment to a Memorandum of Understanding with the City of Long Beach Public Works department providing an additional \$5.7 million in funding to purchase 19.7 mitigation credits from the Colorado Lagoon Restoration project for a total of \$32 million.

The original purchase price of the 19.7 mitigation credits was \$26.3 million. This amendment would provide an additional \$5.7 million in funding for a total purchase price of \$32 million. The funds are paid to the Public Works as reimbursement for actual cost incurred per the terms of the MOU. Funding for the project will be included in the Board approved annual budgets according to anticipated project spending.

DISCUSSION

The Port is obligated under federal and state law to compensate for unavoidable impacts to ecological habitat resulting from Port development through the application of mitigation credits. To that end, since 1986 the Port has participated in three restoration projects (Upper Newport Bay, Anaheim Bay, and Bolsa Chica) providing 541.2 credits to be used on Port projects. Of those credits, approximately 206 credits remain available in the Port’s Mitigation Bank.

For over 10 years, the Port has been working with the City and stakeholder organizations on the Colorado Lagoon Restoration Project. In 2005, the Colorado Lagoon Restoration Plan (Feasibility Study) was finalized, and since then restoration efforts have been ongoing. Phase 1, which focused on improving water quality in the lagoon was completed in August 2012, and the results are surpassing expectations.

The Open Channel (Phase 2) portion of the Colorado Lagoon Restoration Project aims to create an open tidal connection between Colorado Lagoon and Alamitos Bay through the construction of an open channel through Marina Vista Park. Currently the lagoon is connected to Alamitos Bay through a 933-foot long underground tidal culvert. The open channel restoration will result in approximately 19.7 mitigation credits.

At the time of execution of the MOU in 2019, the Project was in the conceptual stages. Since that time, Public Works has been faced with increased design and regulatory costs, as well as increased construction costs for the project totaling \$8.7 million above the previous project budget. Port staff has examined and discussed the increased budget with Public Works, and now recommends to amend the MOU to increase the amount of the Purchase Price (as defined in the MOU) by \$5.7 million, with Public Works reaffirming its commitment to seek grant funding for the Project to offset the Purchase Price as provided in Paragraph 2.6 of the MOU.

If approved by the Board, the Amendment will be taken to the City Council for consideration. If approved by the City Council, Port and Public Works, staff will update the estimated cash flow and continue with the reimbursement process consistent with the terms of the MOU.

Date	Item	Action	Comments
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7/08/2019	MOU	Approve	Request to enter into Memorandum of Understanding with City of Long Beach Public Works for the Colorado Lagoon Project
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Attachment:

Attachment - First Amendment to Colorado Lagoon MOU

REQUEST TO ADD AGENDA ITEM

Date: May 20, 2022

To: Monique De La Garza, City Clerk

From: Thomas B. Modica, City Manager 

Subject: Request to Add Agenda Item to Council Agenda of May 24, 2022

Pursuant to Municipal Code Section 2.03.070 [B], the City Councilmembers signing below request that the attached agenda item (due in the City Clerk Department by Friday, 12:00 Noon) be placed on the City Council agenda via the supplemental agenda.

The agenda title/recommendation for this item reads as follows:

Adopt Plans and Specifications No. 3002120001 REBID and award a contract to Reyes Construction, Inc., of Pomona, CA, for construction of the Colorado Lagoon Open Channel Phase 2A Project (Project), in the amount of \$20,817,600, authorize an 18 percent contingency in the amount of \$3,747,168, for a total contract amount not to exceed \$24,564,768, and authorize the City Manager, or designee, to execute all documents necessary to enter into the contract, including any necessary amendments;

Authorize the City Manager, or designee, to amend the Memorandum of Understanding between the Public Works and Harbor Departments to accept an additional contribution of \$5,700,000 for the Project; and,

Increase appropriations in the Tidelands Operating Fund Group in the Public Works Department by \$5,700,000, offset by a transfer from the Harbor Fund Group in the Harbor Department. (District 3)

Council District	Authorizing Councilmember	Signed by
3	Suzie Price	(Digital – attached email)
4	Daryl Supernaw	(Digital – attached email)
2	Cindy Allen	(Digital – attached email)

Attachment: Staff Report dated May 24, 2022