



CITY OF LONG BEACH

DEPARTMENT OF PARKS, RECREATION & MARINE



2760 N. Studebaker Road, Long Beach, CA 90815-1697
(562) 570-3100 • FAX (562) 570-3109
www.LBParks.org

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May 6, 2014

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Authorize the City Manager to execute a revised Use Agreement No. 13-01 with the Los Angeles County Flood Control District for the use of Flood Control District property in Long Beach for a 40-year term. (Districts 8 and 9)

DISCUSSION

The Los Angeles County Flood Control District (LACFCD) owns the fee title to certain properties (Premises) along the east side of the Los Angeles River, between Osgood Street and Market Street (Attachment A). The City of Long Beach (City) desires to develop, construct, maintain, and operate these Premises in connection with the DeForest Wetlands project. The City and the LACFCD are mutually interested in providing quality public parkland for the benefit of the Long Beach community. The LACFCD is willing to cooperate with the City to open the Premises for parkland, as long as the primary function of the LACFCD property is maintained for flood control purposes.

The City Council authorized the City Manager to execute a use agreement between the City and the LACFCD for the use of LACFCD property on March 20, 2012 (Attachment B). Use Agreement No. 13-01 was fully executed on June 28, 2012, by the LACFCD.

Subsequent to execution of Use Agreement No. 13-01, the California Coastal Conservancy, one of the DeForest Wetlands project granting agencies, requested to review and revise Use Agreement No. 13-01 in order to protect their \$1.5 million grant investment. The following terms of Use Agreement No. 13-01 have been revised based on input from the California Coastal Conservancy:

- Authorized Use: If LACFCD conveys an easement or other interest in the Premises for any and all lawful purposes, such easements shall not interfere with the City's use and shall be for the minimum period of time necessary to permit construction and installation of other facilities.

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May 6, 2014

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- Termination of Use: If the City is notified by LACFCD that City amenities interfere with a proposed LACFCD flood control project, and that said amenities will be removed, the City shall be provided with a reasonable opportunity to propose modifications to the LACFCD project in order to keep the City's amenities in place.
- Removal of Improvements and Restoration of Premises: LACFCD shall provide 60-days advance written notice of determination that the City's amenities interfere with the ability of the LACFCD or Army Corps of Engineers to inspect, construct, reconstruct, operate, or maintain its flood control improvements.
- California Coastal Conservancy: Copies of all notices of alleged breach of Use Agreement No. 13-01, and proposed termination or suspension of Use Agreement No. 13-01 shall be sent to the Executive Officer of the California Coastal Conservancy in a timely manner.

This matter was reviewed by Deputy City Attorney Kendra L. Carney on April 14, 2014, and by Budget Management Officer Victoria Bell on April 15, 2014.

TIMING CONSIDERATIONS

City Council action is requested on May 6, 2014, in order to execute the revised Use Agreement No. 13-01 in a timely manner and proceed with the DeForest Wetlands project bidding and construction phases.

FISCAL IMPACT

There is no fiscal impact associated with the execution of the revised Use Agreement No. 13-01 with the LACFCD. However, if the site is developed as recreational open space, there will be future maintenance costs associated with the overall project. Although passive recreational space and native habitat requires less maintenance than active park space, there will be maintenance costs associated with the constructed project. Those costs have not been determined at this time and will be developed when plans are completed. There is no impact to jobs associated with the recommended action.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



GEORGE CHAPJIAN

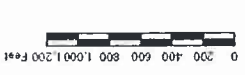
DIRECTOR OF PARKS, RECREATION AND MARINE

GC:AMM
Attachments

APPROVED:



PATRICK H. WEST
CITY MANAGER



DeForest Park and DeForest Wetlands





CITY OF LONG BEACH

DEPARTMENT OF PARKS, RECREATION & MARINE

R-15



March 20, 2012

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RECOMMENDATION:

Authorize the City Manager to execute a Use Agreement with the Los Angeles County Flood Control District for the use of LACFCD property in Long Beach for a 40-year term. (Districts 8 and 9)

DISCUSSION

The Los Angeles County Flood Control District (LACFCD) owns the fee title to certain properties along the east side of the Los Angeles River (Premises), between Osgood Street and Market Street (Attachment). The City of Long Beach (City) desires to develop, construct, maintain, and operate these properties in connection with the DeForest Wetlands Project. The City and the LACFCD are mutually interested in providing quality public parkland for the benefit of the Long Beach community. The LACFCD is willing to cooperate with the City to open the Premises for parkland, as long as the primary function of the property is maintained for flood control purposes. A Use Agreement between the City and the LACFCD will establish the general terms and conditions applicable to the City's use of the Premises for the development, construction, operation, and maintenance of parkland.

Terms of the Use Agreement will include the following:

- Term: The term of the Use Agreement shall be for 40 years, subject to the LACFCD's right to terminate. The term may be extended upon written request by the City.
- Permit: Prior to commencing any specific use of the Premises, the City will obtain a permit outlining the specific use of each of the Premises, including approval of any and all plans and specifications of the proposed use. City use shall be subordinate to the LACFCD's primary use for flood control, water conservation, water management, and utility and transportation purposes.
- Maintenance: The City shall regularly inspect the Premises and maintain them in a safe, clean, and orderly condition. The City shall also be responsible for removing graffiti from the permitted area.
- Indemnification: The City agrees to indemnify, defend, and hold harmless the LACFCD and the County of Los Angeles for any and all claims related to the City's use of the Premises.

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March 20, 2012

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- Termination: The LACFCD shall have the right to cancel and terminate the City's permitted use of the Premises with 180 days prior written notice, if all of the following apply:
 1. The LACFCD proposes to implement a project for flood control purposes; and
 2. The City's use is incompatible with the proposed project; and
 3. The LACFCD notifies the City of the incompatibility and the City cannot modify the Premises.

The LACFCD retains the right to terminate the Use Agreement with 30 days notice, if the City breaches any term or condition of the agreement.

This matter was reviewed by Deputy City Attorney Gary J. Anderson on February 21, 2012, and Budget Management Officer Victoria Bell on February 23, 2012.

TIMING CONSIDERATIONS

City Council action is requested on May 24, 2011, in order to execute the Use Agreement in a timely manner.

FISCAL IMPACT

There is no fiscal impact associated with the execution of the Use Agreement with the Los Angeles County Flood Control District. However, if the Use Agreement is executed and the site is developed as recreational open space, there will be future maintenance costs associated with the overall project. Although passive recreational space and native habitat requires less maintenance than active park space, there will be maintenance costs associated with the constructed project. Those costs have not been determined at this time and will be developed when plans are completed. There is no impact to jobs associated with the recommended action. However, future jobs will be created with the construction of the project.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



GEORGE CHAPJIAN

DIRECTOR OF PARKS, RECREATION AND MARINE

GC:SJG:AMM

Attachment

APPROVED:



PATRICK H. WEST
CITY MANAGER

