



CITY COUNCIL AGENDA REPORT

MEETING DATE: : JULY 15, 2008

ITEM NUMBER:

SUBJECT: APPROVAL OF COOPERATIVE AGREEMENT WITH THE ORANGE COUNTY FLOOD CONTROL DISTRICT FOR THE FAIRVIEW PARK WETLANDS AND RIPARIAN HABITAT PROJECT

DATE: JULY 3, 2008

FROM: PUBLIC SERVICES DEPARTMENT

PRESENTATION BY: PETER NAGHAVI, DIRECTOR OF PUBLIC SERVICES

FOR FURTHER INFORMATION CONTACT: ERNESTO MUÑOZ, CITY ENGINEER, (714) 754-5335

RECOMMENDATION:

1. Approve the Cooperative Agreement (Attachment 1) with the Orange County Flood Control District (OCFCD) for the Fairview Park Wetlands and Riparian Habitat Project.
2. Authorize the Mayor and the City Clerk to execute the Cooperative Agreement.

BACKGROUND:

The design phase for the Fairview Park Wetlands and Riparian Habitat Project began in October 2005, and is currently in its final stages. This project consists of restoring the lower part of Fairview Park back to its historic habitat by developing wetlands with riparian and coastal plants. The project includes a water delivery system from the Greenville-Banning Channel Pumping Station to help sustain the constructed habitats and a system of ponds designed to treat this water naturally.

Due to funding limitations, the project is being designed to be constructed in three general phases. The design of phase 1A is 100% complete, and phases 1B, 2, and 3 are at the 90% completion stage (Attachment 2).

Phase 1A includes the design of a water delivery system from a reclaimed water source to be used to establish the new plantings and as a back up system once the permanent system from the Greenville-Banning Channel Pumping Station is constructed. This first phase of work also includes grading and hardscape improvements, treatment wetlands, streams, riparian habitat and native shrub plantings, signage, trails, and picnic areas.

The U.S. Army Corps of Engineers (Army Corps) is required to fulfill a mitigation obligation, imposed by the California Department of Fish and Game as a result of flood control improvements the Army Corps has undertaken in the Santa Ana River near Fairview Park. During the flood control improvement work on the Santa Ana River, 17 acres of habitat were removed which required replacement.

Over the past few months City staff has negotiated with the Army Corps and the County of Orange to fulfill their mitigation obligations by participating in the first phase of construction of the City's Wetlands and Riparian Project. The Army Corps has agreed with the City's plan, and will execute a contract to expend \$1 million of their mitigation funds at Fairview Park. In April 2008, the City entered into a Conservation Easement Agreement with the OCFCD which allows

OCFCD and the Army Corps to perform the conservation mitigation work in Fairview Park. The easement requires the City to maintain and operate the conservation improvements. The Army Corps is a third party beneficiary of the Conservation Easement Agreement to ensure the mitigation improvements are accomplished.

The mitigation funding from the Army Corps will be used to grade, excavate, and plant 17 acres of riparian habitat. The work will also include the installation of a temporary irrigation system to ensure plant establishment and maintenance for one year after construction has been completed. The City will contribute \$460,000 of its own funds, which will be used to complete the scope of work in Phase 1A. Once the one-year of plant establishment has been successfully completed, the City will be responsible for the maintenance of the park improvements.

Phase 1B, construction of a multipurpose trail along the northern portion of Fairview Park connecting Placentia Avenue to the Santa Ana River Trail, is funded by a Recreational Trails Grant in the amount of \$256,000 and will be constructed concurrently with Phase 1A. Phase 1B also includes the construction of the water delivery system from the Greenville-Banning Channel Pumping Station to the project site. The construction of the water delivery system is the last element needed to start the water quality treatment feature of the project. Staff is currently seeking funding for the construction of the water delivery system, and Phases 2 and 3 of the project. It is hoped that funding for the construction of the water delivery system may be secured within the next fiscal year to allow for a seamless transition to the new system once the plants have been established.

ANALYSIS:

The City has received a grant from the California Department of Parks and Recreation Habitat Conservation Fund to construct improvements at Fairview Park within Phase 1A of the Wetlands and Riparian Habitat Project. These improvements are essential to the construction of future phases, and will be constructed simultaneously with the Army Corps' mitigation work.

Because OCFCD is the local sponsor of the Santa Ana River Mainstem Project, they are the only entity that may submit funds to the Army Corps for City expenditures related to the project. The Cooperative Agreement allows the City to deposit the funds with OCFCD into an interest bearing escrow account. OCFCD will account to the City for all interest and expenditures. After completion of the project, OCFCD will provide a written account of all funds which the City will use to obtain reimbursement from the California Department of Parks and Recreation.

The California Department of Parks and Recreation has reviewed the proposed method of constructing the improvements covered by the grant and has determined that it complies with the intent of the grant.

ALTERNATIVES CONSIDERED:

An alternative to this Council action would be to not approve the Cooperative Agreement and authorize the work be bid by the City. This alternative is not recommended as it would require the City to bid a portion of the work separately, and the contractor would need to protect the Army Corps' work, which will increase the total construction cost.

FISCAL REVIEW:

The City will contribute \$460,000 towards the Phase 1A improvements; \$230,000 is grant revenue from the California Department of Parks and Recreation Habitat Conservation Fund; and \$230,000 is grant match funding from the City's Park Development Fund balance.

If the Cooperative Agreement is approved, the City will deposit the \$460,000 with the OCFCD to be paid to the Army Corps. Once the construction has been completed, the \$230,000 grant amount will be reimbursed to the City from the California Department of Parks and Recreation.

LEGAL REVIEW:

The City Attorney's office has reviewed and approved the attached agreement.

CONCLUSION:

The Army Corps is scheduled to receive bids for Phase 1A of the Fairview Park Wetlands and Riparian Habitat Project in August 2008. The successful contractor will begin construction in October 2008 and complete the project by March 2009. The Cooperative Agreement is needed as an instrument to transfer funding from the City to OCFCD to the Army Corps.

ERNESTO MUÑOZ
City Engineer

PETER NAGHAVI
Director of Public Services

ATTACHMENTS: 1 - [Cooperative Agreement with the Orange County Flood Control District](#)
 2 - [Construction Phasing Detail](#)

DISTRIBUTION: City Manager
 Assistant City Manager
 City Attorney
 City Clerk
 Parks Maintenance Supervisor
 Fairview Park Plan Administrator
 Staff
 File