



CITY OF

NEWPORT BEACH

City Council Staff Report

July 26, 2022
Agenda Item No. 8

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: David A. Webb, Public Works Director - 949-644-3311,
dawebb@newportbeachca.gov

PREPARED BY: Chris Miller, Administrative Manager, cmiller@newportbeachca.gov,
PHONE: 949-644-3043

TITLE: Lower Bay Dredging: Memorandum of Agreement with the US Army
Corps of Engineers for City Contributed Funds

ABSTRACT:

The US Army Corps of Engineers (USACE) is planning to dredge the federal navigation channels in Newport Harbor this fall. USACE has secured the necessary funding to complete the dredging project, assuming the City of Newport Beach (City) also funds 50% (up to \$10 million) of the anticipated costs as it has committed. The City's adopted Capital Improvement Program (CIP) budget includes \$10,000,000 in funding for this project. To memorialize the City's contribution to the federal government, USACE requires a Memorandum of Agreement (MOA). Lastly, because a portion of the dredging is over County of Orange (County) tidelands, the County desires to contribute funds to the City, which will pass those funds to USACE. In the near future and likely after bids are received, a County/City MOA will be presented to the City Council for consideration.

RECOMMENDATION:

- a) Find that the approval of the MOA with USACE is covered by the Final EIR No. ER2021-001 (SCH No. 2109110340) in accordance with the California Environmental Quality Act (CEQA), and the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) prepared by USACE in accordance with the National Environmental Protection Act (NEPA), and that approval of the MOA with USACE will not result in new or additional significant effects on the environment; and
- b) Authorize the Mayor to execute an MOA with USACE relating to City financial participation in the Lower Newport Bay dredging project.

DISCUSSION:

Overview

Newport Harbor is one of the largest recreational harbors in the United States. Natural processes of storm water and erosion flowing into the harbor, primarily from San Diego Creek, result in the movement and accumulation of sediment which must be dredged periodically to maintain the federally authorized channel depths for safe navigation.

The Federal Channels extend from the Entrance Channel to the Turning Basin (adjacent to the Newport Boulevard Bridge), and from the east anchorage between Bay Island and Lido Isle to the Marina Park area. These channels are the responsibility of and are maintained by the federal government via USACE.

The City has, in the past, contributed funds to assist with the federal dredging effort because the dollar amounts historically allocated by the federal government are insufficient to properly maintain the channels to their necessary authorized depths.

A portion of the Lower Newport Bay was dredged between May 2012 and January 2013, removing 600,000 cubic yards of material. Unsuitable material dredged during that project was placed at the Port of Long Beach's Middle Harbor Fill Site which was available at that time. The other dredged material that met the required standards was placed at the federally managed open ocean disposal site (LA-3) which is six miles from the Entrance Channel. Prior to the 2012-13 dredging project, approximately 270,000 cubic yards of clean material was removed in 1998 and 1999 from the Main Channel and Upper Bay Channels, and disposed at LA-3.

USACE typically conducts annual bathymetric (depth) surveys to determine the amount of sediment that has accumulated in the Federal Channels and to assess the need for maintenance dredging. The 2018 USACE survey indicated that approximately 1.2 million cubic yards of sediment within the established channels requires maintenance dredging to reestablish authorized navigation depths. An updated bathymetric survey has now been completed, and it will be reconciled during final plan review before the project is bid in the fall.

Recent sediment characteristic studies were also conducted to evaluate disposal options as required by the regulatory agencies. The most recent sediment sampling effort, conducted in 2018 and 2019, determined that most of the material was suitable for disposal at either LA-3 or within the nearshore disposal zone along the City's ocean beaches.

However, some bottom material within the Federal Channels is unsuitable for open ocean disposal even though the material passed toxicity tests. Therefore, this material requires an alternative disposal location, and dredging these areas is not feasible without also identifying a practicable management option for this unsuitable material. As the local sponsor for the dredging project, the City is responsible for identifying a disposal location on behalf of USACE.

To manage this unsuitable material, staff reviewed all viable sediment disposal solutions including placing the material at the local ports of Los Angeles and Long Beach as fill, and/or using the material for upland or aquatic disposal within a confined disposal facility (creating land). At this time, the most feasible and cost-effective option to dispose of this bottom sediment material is to construct a Confined Aquatic Disposal (CAD) site within the harbor.

A CAD is constructed underwater by digging a hole then disposing the initial material removed from the hole within the nearshore disposal zone along the City's ocean beaches for replenishment, then placing the non-open ocean quality bottom sediment back inside this hole. A cap of suitable material is then placed on top, creating a physical barrier between any contaminants and the overlying water column and benthic organisms. A defined portion of the CAD will be available for those Newport Harbor residents who might also have material within their slips and bay frontage that is unsuitable for open ocean disposal.

At the May 25, 2021 meeting, City Council adopted Resolution No. 2021-46 which 1) certified Environmental Impact Report No. ER2021-001; 2) adopted the Mitigation, Monitoring and Reporting Program; 3) made Facts and Findings; and 4) approved the construction of the Confined Aquatic Disposal facility and dredging outside the Federal Channels in Lower Newport Harbor.

USACE MOA

From a funding perspective, USACE spent approximately \$4 million in 2021 for Phase I, which consisted of dredging the Entrance Channel and repairing the east jetty. After receiving additional funds through the federal Infrastructure Investment and Jobs Act, USACE has approximately \$12 million allocated toward completing the dredging project in Newport Harbor. With the ongoing estimate of \$20 million, this represents more than half of the required funds. The City has also committed to a 50% match of the USACE project funding, up to \$10 million in City funds.

In order for the City to contribute funds, a formal MOA must be executed with USACE. (Attachment A). The attached MOA presented is essentially the same as the prior MOA executed between the USACE and the City. Public Works and the City Attorney's Office have reviewed the MOA for funding the Lower Bay Dredging project, and recommend the Council approve and execute this new funding agreement.

Prior to USACE bidding the project, the promised City funds must be transferred to the federal government. If any City funds are remaining at the end of the project, USACE will return those unspent funds.

County Contribution

Because the project will be dredging a portion of County tidelands, the City has asked the County to consider contributing funds (about \$2 million) to cover the associated project costs. Because the City is the lead local sponsor with USACE, and because the required timeframe for MOA pre-approval through the federal process is lengthy (at least nine months), staff suggests that the City be the repository of a County contribution even if it means the City will front the money and be reimbursed by the County in the future via a City/County MOA. The MOA would be developed in the near future and prior to contract award. (In 2012, the City and County approached the project in the same manner – the City passed the County funds along to USACE.)

FISCAL IMPACT:

The project is estimated to cost approximately \$20 million. Of this amount, approximately \$12 million will be paid by the federal government leaving a funding shortfall of approximately \$8 million. However, in today's current economic climate, including volatile fuel prices, the project may exceed the original estimate after bidding in the fall. The Council will consider contributing up to \$10 million of Tidelands Funds toward this project. Also, the County has expressed an interest in, but has not yet finally committed to, contributing approximately \$2 million in additional funds to cover dredging over County tidelands. In total, the project would potentially be funded up to \$24 million, which should offset any adjustments caused by the current economic climate.

The adopted FY 2022-23 Capital Improvement Program (CIP) budget includes \$10,000,000 for this agreement. It will be expensed to the Tidelands Capital Fund in the Public Works Department, Account Nos. 10101-980000-18H07 and 10101-980000-22H07. The Tidelands Capital Fund was created to allow for the sequestration of incremental increases from tidelands rent adjustments solely to finance critical in-harbor capital improvements like seawall repairs, piers and dredging.

ENVIRONMENTAL REVIEW:

Find that the approval of the MOA with USACE is covered by the Final EIR No. ER2021-001 (SCH No. 2109110340) in accordance with the California Environmental Quality Act (CEQA), and the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) prepared by USACE in accordance with the National Environmental Protection Act (NEPA), and that approval of the MOA with USACE will not result in new or additional significant effects on the environment.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – USACE Memorandum of Agreement for Dredging Newport Harbor