



## MEMORANDUM

August 21, 2020

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes   
Executive Director

**SUBJECT:** Request authorization to (1) subject to Board of Supervisors' approval, accept and expend \$297,000 in grant funds from the San Francisco Bay Restoration Authority; and (2) enter into a sole-source contract with Literacy for Environmental Justice to use the grant funds for Wetland Habitat Restoration at Heron's Head Park

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution No. 20-42

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### **EXECUTIVE SUMMARY**

The Port of San Francisco created Heron's Head Park over 20 years ago. Over the past two decades, the park has evolved, with addition of the EcoCenter in 2010 and expansion and improvement of the park in 2012. It has also experienced significant erosion and invasion by non-native plants, resulting in decreased size and ecological value of the tidal wetland. The Port has developed plans for a living shoreline construction and wetland habitat restoration project to mitigate these impacts.

In 2018, the Port applied for a grant from the San Francisco Bay Restoration Authority ("SFBRA" or "Authority") to fund living shoreline construction and wetland habitat restoration. In July 2020, the SFBRA authorized disbursement of \$297,000 to the Port to begin the wetland plant restoration and community outreach components of the project. Port staff have identified Literacy for Environmental Justice (LEJ), a City of San Francisco-certified non-profit local business enterprise (LBE) that operates a native plant nursery and whose primary mission is to address the ecological and health concerns of the communities of southeast San Francisco, as uniquely qualified to provide the wetland habitat restoration, youth employment, and community outreach components of the SFBRA-funded scope of work.

**THIS PRINT COVERS CALENDAR ITEM NO. 7A**

At the Port Commission's August 11, 2020 meeting, Port staff presented a description of the Heron's Head Park Living Shoreline Project, including the wetland revegetation work currently approved for funding by SFBRA and the proposed sole-source contract with LEJ to implement the subject work. Port staff now requests the Port Commission's authorization to accept and expend \$297,000 in SFBRA grant funds for the first phase of wetland habitat restoration at Heron's Head Park, which consists of two years of wetland revegetation, youth employment, habitat stewardship, and community outreach. The grant does not require any matching funds from the Port. Port staff also requests the Port Commission's authorization for the Port's Executive Director to execute a sole-source contract with LEJ in an amount not to exceed \$297,000 to perform the grant-funded work. Approval to accept and expend grant funds of \$100,000 or more is also subject to Board of Supervisors' approval. Although the contract with LEJ to implement the work is not subject to Board of Supervisors' approval, since Port would not enter that contract absent the grant funds, Port will not execute the LEJ contract until the Board of Supervisors approves the grant.

### **Strategic Objectives**

The wetland habitat restoration at Heron's Head Park that is the subject of this request supports the Port's strategic objectives as follows:

**Goal #3 Engagement, Objective #2:** *Partner with City departments and government agencies, Port tenants, and stakeholders to educate and promote waterfront projects and activities.* Funding from the San Francisco Bay Restoration Authority would support outreach to inform the community about the Heron's Head Park Shoreline Resilience project and the potential for nature-based infrastructure to serve as shoreline protection and adaptation to sea level rise. The Port's on-going partnership with San Francisco Recreation and Parks Department to provide public programs offered at the EcoCenter provides additional opportunity to inform the community about the project.

**Goal #4 Equity:** *Ensure Port activities advance equity and public benefit and attract a diversity of people to the Waterfront.* Protecting and enhancing the wetland habitat at Heron's Head Park will preserve a valuable public asset that is used by a diversity of users seeking healthy activities and connection to nature in an area of the City where there is less access to such benefits.

**Goal #5 Sustainability, Objective #2:** *Enact measures to protect the Bay and its ecosystems:*

- a) *Explore natural infrastructure alternatives (e.g. wetlands, horizontal levees, and "living shorelines") in all shoreline stabilization and improvement projects.*
- b) *Implement City Biodiversity Goals and best sustainable practices in all open space improvement projects.*

Port staff presented both the Heron's Head Park Improvement Project<sup>1</sup> and the Living Shoreline Project to the Port's Southern Waterfront Advisory Committee on August 19,

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<sup>1</sup> Presented to the Port Commission on July 14, 2020

2020. Committee members and members of the public attending the meeting spoke in support of the projects and the on-going public programs at the EcoCenter.

## **Background**

In the 1970s, the Port began placing fill in San Francisco Bay (the Bay) to construct a proposed “Pier 98” cargo terminal. The construction was discontinued, and fill was left unimproved for decades. In the late 1990s, the Port worked with the San Francisco Bay Conservation and Development Commission (BCDC) to resolve regulatory problems related to the fill by developing a beneficial use, expanding and enhancing tidal wetlands that had naturally established at the site over 20 years since construction ceased, and constructing park amenities including a 1/3- mile spur of the San Francisco Bay Trail, picnic areas, and native plant landscapes. In 1998, the former Pier 98 opened to public as Heron’s Head Park. In 2010, the EcoCenter at Heron’s Head Park opened. In 2012, the Port used general obligation bond funds to expand the park to include a new picnic area, paved walking paths, an off-leash dog play area, and improved parking.

Heron’s Head Park is an approximately 21-acre peninsula, comprised of seven acres of wetlands and tidal ponds, and 14 acres of public open space. It is a highly valued resource for both wildlife and people: it is home to or visited by over 100 species of migratory and resident birds, two endangered species, and thousands of San Francisco Bay Area residents annually.

The shoreline at Heron’s Head Park has experienced subsidence, erosion from wind-waves and tidal flows, and a low supply of suspended sediment in Bay waters that is needed to replenish the marsh. The wetland plant habitat that is the basis of the site’s ecological function has decreased in size and suffers from invasion by non-native plants. To address these impacts, the Port has developed the proposed Heron’s Head Park Living Shoreline project to achieve the following objectives:

1. Stabilize the southern shoreline and protect it from continued erosion.
2. Restore native plant vegetation to enhance biodiversity and ecological function.
3. Create a resilient shoreline that can adapt to a moderate amount of sea level rise through 2050.
4. Create youth employment and community engagement opportunities through hands-on involvement in park restoration activities.

## **San Francisco Bay Restoration Authority (SFBRA) Grant**

The SFBRA (established by Government Code §§ 66700-66706), is a regional agency created to generate and allocate resources for the protection and enhancement of tidal wetlands and other wildlife habitat in San Francisco Bay and along its shoreline. The SFBRA awards grants to public and private entities to achieve these purposes consistent with Government Code § 66704.5, the SFBRA’s Grant Program Guidelines, and the SFBRA’s San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Measure (“Measure AA”), passed by the voters in June 2016. In November 2018, the Port applied for SFBRA grant funds for the Heron’s Head Living Shoreline Project, which included youth employment and outreach to the surrounding Bayview Hunters Point neighborhood. In April 2019, the SFBRA recommended award

of up to \$1,100,000 to the Port to fund the marsh revegetation, habitat stewardship, and monitoring components of the Heron's Head Park Living Shoreline project, subject to approval of project-specific scope and budget by its governing board, and authorization to execute a grant agreement with the recipient.

To enable the Port to begin the proposed revegetation, including seed collection and growing plants for up to a year before planting, SFBRA and Port staff agreed to divide the proposed 5-year revegetation effort into two phases: the first phase would include the first two years of revegetation; the second phase would be the additional three years of continued planting and habitat stewardship. On July 17, 2020, the SFBRA voted unanimously in favor to award \$297,000 to the Port to implement first phase of marsh revegetation over a period of approximately 2.5 years.

The SFBRA requires the receiving entity ("grantee") to make certain findings, which are included in the proposed Resolution, and execute its standard grant agreement which includes the following key terms:

- The grantee must maintain the improvements for the duration of the grant term or reasonable life of the improvements.
- The grantee must indemnify and hold harmless the SFBRA from liability in any way connected with the project. The requirement to indemnify the grantor is typical in grant agreements. Section 1.24 of the City's Administrative Code requires the City's Risk Manager's approval in order for the City to indemnify another party. The City's Risk Manager has approved the indemnification provision of the SFBRA standard grant agreement.
- The grantee must procure and maintain specified insurance and require the same of its contractors executing the grant-funded work.
- The grantee must acknowledge SFBRA and Measure AA funding in written, verbal, and digital communications about the project.

### **Sole-Source Contract with Literacy for Environmental Justice (LEJ)**

With SFBRA funding, the Port would initiate the first two of the anticipated total of five years of marsh revegetation. Work during the first two years would include collecting plant materials of specified species and cultivating plants in a nursery, planting up to 24,000 plants representing four species over 20,000 – 30,000 square feet of intertidal zone, maintaining the marsh habitat through manual removal of invasive species and strategic replacement of native plants in cleared areas, and presenting at up to four community meetings.

The first two years of wetland plant habitat restoration would also include community outreach. With technical support from Port staff, youth working on revegetation would develop content and presentation materials and present the purpose, potential beneficial and adverse impacts, and desired outcomes of the living shoreline project to key community stakeholders. These community outreach efforts will not only foster broader awareness of the project, they would also create an opportunity for those working on the revegetation effort to develop their understanding of the scientific basis for the work they are doing and practice professional presentation skills. Additionally, these presentations may offer a vision to communities in southeast San Francisco of

how nature-based shorelines may serve as an option for sea level rise adaptation.

Port staff recommends executing a 28-month sole-source contract with LEJ to conduct the initial two-year vegetation, youth employment, and community outreach work funded by SFBRA. LEJ is a City of San Francisco-certified non-profit local business enterprise (LBE) dedicated to addressing the ecological and health concerns of the communities of southeast San Francisco. LEJ trains youth for rewarding green careers and engages community volunteers to care for their open spaces. LEJ's native plant nursery, located in Hunters Point, specializes in growing locally adapted native species for shoreline and coastal upland habitats, and consequently is uniquely qualified to fulfill the project's need for specified species of wetland plants as well as the goal to engage local youth in the habitat restoration and related community outreach efforts. LEJ is able to provide the required native wetland plants and employ interns through its Eco-Apprentice program to remove invasive species, plant natives, and maintain native marsh vegetation. The Eco-Apprentices are transitional age youth (18-25 years old), generally from the Bayview Hunters Point community, who have a passion for conservation, habitat restoration, and community engagement. The LEJ contract would be limited to a maximum of the \$297,000 grant amount and use the standard contract form P-600 for professional services.

The Port issued a Request for Information (RFI) on July 20, 2020 for contractors that can provide both the plants—including growing in a nursery and planting at the park—and community participation components of the grant-funded scope. The RFI was sent to 19 native plant nurseries, with responses due on August 1, 2020. Of the two responses received, LEJ was the only respondent able to provide plants, youth employment and community engagement.

The City's Contract Monitoring Division has approved the Port's request for a waiver from Chapter 14B requirements for both sole source and subcontracting requirements. Port staff have submitted a request for a sole-source waiver, including documentation of the RFI process, to the City's Office of Contract Administration; that request is under review.

### Regulatory Approvals

The living shoreline project, including the wetland habitat restoration work that is the subject of this report, has been reviewed for compliance with CEQA by the San Francisco Planning Department and determined to be categorically exempt under Class 33 - CEQA Guidelines Section 15333. Small Habitat Restoration Projects. (d)(2) for wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat. The Port has applied for permits to construct the living shoreline from the US Army Corps of Engineers, the Bay Conservation and Development Commission, the San Francisco Bay Regional Water Quality Control Board, and the US Fish & Wildlife Service. The wetland plant habitat restoration does not require permits from any of the listed agencies. However, Port staff has consulted with agency staff who have expertise and/or potential for regulatory jurisdiction in planning and establishing conditions for performing the habitat restoration work.

**Funding**

All of the SFBRA grant funds, a total of \$297,000, will be used to perform the work described above. The grant does not require any matching funds from the Port. Port staff will provide project management, including grant and contract administration, but will not contribute any funds to this phase.

**Schedule**

The anticipated schedule is as follows:

Port Commission Authorization to Accept and Expend SFBRA Grant and Execute a Sole-source Contract with LEJ.	August 25, 2020
Board of Supervisors Authorization to Accept and Expend SFBRA Grant Funds	September 2020
Execute Grant Agreement with SFBRA and Contract with LEJ	Upon Board of Supervisors' approval
Restore Wetland Habitat at Heron's Head Park	Beginning upon contract execution and continuing through December 2022.

**Recommendation**

Port staff requests Port Commission authorization for its Executive Director to seek Board of Supervisors approval to accept and expend \$297,000 in grant funds from the SFBRA and, upon Board of Supervisors' approval, execute a grant agreement with SFBRA and a contract for up to \$297,000 and a 28 month term with LEJ to restore and enhance wetland habitat at Heron's Head Park.

Prepared by: Carol Bach  
Environmental Affairs Manager

For: Diane Oshima  
Deputy Director, Planning & Environment Division

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO 20-42**

- WHEREAS the San Francisco Bay Restoration Authority Act, Government Code §§ 66700-66706, establishes the San Francisco Bay Restoration Authority (“Authority”) as a regional entity to generate and allocate resources for the protection and enhancement of tidal wetlands and other wildlife habitat in San Francisco Bay and along its shoreline, and authorizes the Authority to award grants to public and private entities to achieve these purposes; and
- WHEREAS the Authority awards grants for eligible projects consistent with Government Code § 66704.5, the Authority’s Grant Program Guidelines, first adopted in May 2017, and the Authority’s San Francisco Bay Clean Water, Pollution Prevention and Habitat Restoration Measure (“Measure AA”), passed by the voters in June 2016; and
- WHEREAS on November 18, 2018, the Port submitted an application for grant funds to the Authority to construct a living shoreline and restore tidal wetland habitat at Heron’s Head Park, including employment of youth representing the neighboring community in southeast San Francisco; and
- WHEREAS at its July 17, 2020 meeting, the Authority adopted a resolution authorizing a grant to the Port in the amount of \$297,000 for the Heron’s Head Park Shoreline Resilience project: Phase I; the Authority’s resolution was adopted by the Authority pursuant to, and is included in, the Authority’s July 17, 2020 staff recommendation, a copy of which is on file with the grantee and with the Authority; and
- WHEREAS the Authority requires execution of its standard grant term and conditions as further described in the staff report accompanying this Resolution (“Grant Agreement”); and
- WHEREAS Port acknowledges that it has or will have sufficient funds to complete the grant-funded project and to operate and maintain, for the 28-month grant period set forth in the Grant Agreement, any property acquired or improvements constructed as a part of the grant-funded project; and
- WHEREAS under the City Administrative Code Section 10.107-1, the Port must obtain Board of Supervisors’ approval to accept and expend grant funds of \$100,000 or more; and
- WHEREAS Literacy for Environmental Justice (LEJ) is a City of San Francisco-certified non-profit local business enterprise dedicated to addressing the ecological and health concerns of the communities of southeast San

Francisco; among other activities, LEJ trains youth for rewarding green careers and engages community volunteers to care for their open spaces; and its native plant nursery, located in Hunters Point, specializes in growing locally adapted native species for shoreline habitats, and

WHEREAS LEJ was the only respondent to Port's July 2020 Request for Information able to provide all of the components of the scope of work for the grant-funded project; and

WHEREAS On June 11, 2020 the City's Contract Monitoring Division approved the Port's request for a waiver from Chapter 14B requirements for both sole source and subcontracting requirements for the proposed contract with LEJ; and approval of a sole source waiver from the City's Office of Contract Administration is pending; and

WHEREAS, Based on these factors, and pending approval by the Office of Contract Administration, Port staff recommends a 28-month term sole source contract for an amount not to exceed \$297,000 with LEJ to complete the grant-funded project; and

WHEREAS the habitat restoration project is categorically exempt from the California Environmental Quality Act; now therefore be it

RESOLVED, that the Port Commission authorizes its Executive Director to seek Board of Supervisors' approval and urges the Board of Supervisors to approve the request to accept and expend the grant from the Authority; and be it further

RESOLVED, that, upon Board of Supervisors' approval of the grant, the Port Commission authorizes the Executive Director or her designee to act as a representative of the Port and to negotiate and execute the Grant Agreement and all other agreements and instruments necessary to obtain and expend the grant monies on behalf of Port, in such form approved by the City Attorney; and be it further

RESOLVED, that the Port Commission finds that LEJ is uniquely qualified to implement the scope of work for the grant funds; and be it further

RESOLVED, that, upon Board of Supervisors' approval of the grant, and subject to the Office of Contract Administration's approval, the Port Commission hereby authorizes the Executive Director or her designee to execute a 28-month sole source contract with LEJ for an amount not to exceed \$297,000 in such form as approved the City Attorney to implement the grant-funded project as further described in the staff report accompanying this Resolution.



***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of August 25, 2020.***

*Carl Nicita*

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Secretary