

**CALENDAR ITEM
C58**

A	Statewide	10/13/16 C2016-033 Bid Log 2016-07 W 25306A
S	Statewide	W. Hall A. Abeleda

**CONSIDER DELEGATING AUTHORITY TO THE EXECUTIVE OFFICER TO
EXECUTE AGREEMENTS AND AUTHORIZE EXPENDITURES FROM KAPILOFF
LAND BANK FUNDS FOR THE MANAGEMENT OF THE BOLSA CHICA
LOWLANDS RESTORATION PROJECT FOR BUDGET FISCAL YEAR 2016-2017**

PARTIES:

California Department of Fish and Wildlife

California State Lands Commission

PROJECT BACKGROUND:

Historically, thousands of acres of highly productive saltwater and freshwater marshes extended from Anaheim Bay to the Huntington Beach bluffs, including 2,700 acres of the Bolsa Chica Lowlands. These wetlands were a vital part of the coastal ecosystem and were used extensively by native and migrating birds, as nursery areas for juvenile marine fishes and by Native Americans. Today, 90 percent of California's historic coastal wetlands have been lost, primarily due to development.

Between 1996 and 2005, the California State Lands Commission (Commission) acquired approximately 950 acres of restorable wetlands at Bolsa Chica as part of a project to mitigate adverse impacts of fill at the Ports of Long Beach and Los Angeles (Ports). In 1996, the Commission along with seven other state and federal agencies (Managing Agencies) undertook the planning, design, environmental review and restoration construction of these wetlands, as the Bolsa Chica Lowlands Restoration Project (Project). Including the land acquisition, approximately \$151 million has been invested in the restoration and operation of the Project. Most of the funding has come from the Ports along with \$20 million in Proposition 40 and 50 grant funds through the Wildlife Conservation Board and California State Coastal Conservancy. Restoration of

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the wetlands began in October 2004 and was largely completed in 2006 with the opening of a new tidal inlet.

As part of permit approvals for the restoration, the California Coastal Commission and U.S. Army Corps of Engineers imposed conditions requiring monitoring and reporting of the restored wetlands for at least 10 years. The Managing Agencies continue to provide oversight for the operations and management of the Project. The Commission contracts with various parties to provide services for the ongoing operations and management of the Project.

PROPOSED ACTIVITY:

The Executive Officer requests authority to execute agreements for Budget Fiscal Year 2016-2017. Item 1 below is an existing agreement requiring renewal; Item 2 would be to solicit bids, award, and execute an agreement to replace an existing contract that is expiring for similar services:

1. California Department of Fish and Wildlife Contract No. C2016-033

In 2006, the Project lands were leased for 33 years to the California Department of Fish and Wildlife (CDFW) for long-term operation and management. In conjunction with the lease, the Commission also entered into an Interagency Agreement with CDFW to provide funding for the performance of its responsibilities as land manager for the Project. The term of the current Interagency Agreement expired on June 30, 2016. A new Interagency Agreement is now necessary to continue providing funds to CDFW. The proposed agreement would be for 3 years ending on June 30, 2019. The total cost of the agreement is estimated not to exceed \$900,000.

2. On-Call Repair and Maintenance Services Bid Log No. 2016-07

Solicit for a contractor to provide routine on-call maintenance services such as grading and repairing erosion of levees, berms and structures, grading of levee-top roads and dredge-launching area, and other work. The proposed agreement would be for 3 years ending on October 25, 2019. The total cost of the agreement is estimated at \$800,000.

All agreements will be consistent with State policies and procedures as specified in the State Administrative Manual and State Contract Manual. All agreements are subject to sufficient availability of funds designated specifically for the Project in the Kapiloff Land Bank Fund. Multi-year agreements are subject each year to

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certification of the availability of funds. As of June 30, 2016, unencumbered Project funds for operations and maintenance totaled approximately \$2.8 million.

STAFF ANALYSIS AND RECOMMENDATION:

Authority and Other References:

Public Resources Code section 6106 (delegation to execute written instruments); State Administrative Manual section 1200 et seq.; State Contracting Manual (revised 04/2015); Public Contract Code section 10108 (Commission authority for Public Works Projects); Public Contract Code section 10335 et seq. (consulting services contracts)

Public Trust and State's Best Interests Analysis:

The Bolsa Chica Lowlands Restoration Project is a valuable ecological and Public Trust resource. The Project created new habitat for a variety of vegetative, invertebrate, fish, and avian species, including 22 endangered and sensitive species. It provides habitat for 65 fish species, including nursery habitat for spawning and juvenile fish, as well as commercially important species such as California halibut and white sea bass. Extensive eelgrass meadows support resident fish species, provide egg-laying substrate, and protection for breeding species.

The Project wetlands is also a critical stop for migrating shorebirds on the Pacific Flyway, and provides foraging habitat for over 70 avian species. With the introduction of tidal influence, the mudflats created by the restoration provide a rich invertebrate community of over 55 marine species and a good food source to these birds. Over 10,000 shorebirds have been observed on the restored mudflats during a single survey. The project created three nesting sites for the threatened Western Snowy Plover and endangered California Least Tern, and has been designated a Critical Habitat for the Western Snowy Plover. Green sea turtles forage within the tidal wetlands, and the California sea lions occasionally enter to feed on fish.

Educational groups, non-profit organizations and the general public frequent the site throughout the year to learn about wetland habitats, photograph wildlife, hike or fish in designated areas, and enjoy the wetland open space. With 20 access points and two adjacent parking lots, as many as 400 members of the general public access the wetlands on any given day. Special events and organizations such as the Amigos de Bolsa Chica provide additional educational and public outreach programs

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throughout the year, bringing an estimated public visitation of more than 80,000 people per year to the Bolsa Chica Lowlands.

The two agreements that are being requested play a critical role in the maintenance and operations of the Project. The interagency agreement with CDFW provides for day-to-day on-site project management and monitoring activities by CDFW staff. The on-call repair and maintenance services agreement will allow for repair and maintenance of levees, berms, and other structures on an as-needed basis, thereby protecting the structural integrity of the restoration project. Therefore, the recommended actions will protect and enhance the Project and are in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.2.4 of the Commission's Strategic Plan to prioritize the use of sovereign lands, where appropriate, for open space, wetlands, riparian habitat and habitat preservation, restoration, and enhancement, including through habitat management plans, mitigation agreements with public agencies, private parties, and other conservation efforts, consistent with applicable law.

2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

3. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are significant by nature of their public ownership (as opposed to environmentally significant). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

AUTHORIZATION:

1. Find that the Commission is acting in its capacity as Land Bank Trustee under the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.
2. As Trustee of the Kapiloff Land Bank Fund, authorize expenditures from the fund for the purpose of continued operation and management of the Bolsa Chica Lowlands Restoration Project using the funds held in trust for such purposes, and such other funds that may become available for the same purposes.
3. Authorize the Executive Officer or her designee to execute the Interagency Agreement with the California Department of Fish and Wildlife described herein in accordance with current State policies and procedures.
4. Authorize the Executive Officer or her designee to solicit bids for on-call repair and maintenance services as described herein, award, and execute a contract with the qualified bidder in accordance with competitive bidding requirements of the Public Contract Code and current State policies and procedures.