




**EAST BAY REGIONAL PARK DISTRICT  
BOARD OF DIRECTORS MEETING  
AGENDA STAFF REPORT**

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<b>DATE</b>	Tuesday, December 19, 2023
<b>TITLE</b>	Authorization to Enter into a Contract with DirtMarket, LLC to Import Soil for the Restore Hayward Marsh Project: Hayward Regional Shoreline
<b>DIVISION</b>	Acquisition, Stewardship, and Development
<b>FROM</b>	Ren Bates, Chief of Land Acquisition Ken Wysocki, AGM Acquisition, Stewardship and Development
<b>APPROVED</b>	Sabrina Landreth, General Manager 

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**RECOMMENDATION**

The General Manager recommends that the Board of Directors adopt a resolution that authorizes a contract with DirtMarket, LLC (DirtMarket) to import soil for the Restore Hayward Marsh Project (Project) (Project 160500) at Hayward Regional Shoreline.

**BACKGROUND**

Hayward Marsh, completed in 1985, originally relied on secondary treated wastewater from Union Sanitary District (USD) to provide freshwater and brackish habitat for wildlife and waterfowl. The marsh consists of five managed ponds controlled by a series of tide gates and channels and includes islands for federally listed nesting birds, including endangered California least terns and Western snowy plovers. Over the years the ponds have silted in reducing the original design capacity to support favorable conditions for wastewater treatment and wildlife habitat. USD no longer uses the project area for discharge of its wastewater. This change in use presents an opportunity to implement restoration and public access improvements at Hayward Marsh.

In May 2020 the East Bay Regional Park District (Park District) initiated a study to identify potential habitat restoration and public access opportunities at the marsh. Project goals include enhancing wildlife habitat, planning for sea-level rise, and improving public access opportunities and management capabilities. The District entered a professional services contract with Upright Engineering for \$687,322 in 2020 (Resolution No. 2020-05-107) to provide pre-design and CEQA services.

Three conceptual options were developed that provide a range of habitat and public access improvements that also address sea level rise adaptation. These concepts were presented at a public workshop via Zoom in October 2021 and were followed by several agency stakeholder meetings. Staff developed a preferred concept based on site studies, feedback from the public workshop, Park District Planning, Stewardship and Operations staff and local agency stakeholders. The preferred concept provides a broad range of habitat types over time as sea level rises and also implements Hayward Area Shoreline Planning Agency's (HASPA) Hayward Regional Shoreline Adaptation Master Plan elements for the project area which was developed in close coordination with EBRPD Planning, Stewardship and Operations departments.

On April 5, 2022 (Resolution 2022-04-075) the Board of Directors approved the preferred concept and authorized staff to administer California Environmental Quality Act (CEQA) compliance for the project. After closely reviewing the Board approved preferred concept, staff determined that the project qualifies as a statutorily exempt restoration project under CEQA and received California Department of Fish and Wildlife's concurrence on this determination on November 7, 2022 pursuant Public Resource Code § 21080.56(e).

In February 2023, the Board of Directors approved a contract amendment with Upright Engineering, Inc. for final design and permitting services in the amount of \$1,342,260 bringing the total contract amount to \$2,029,582. The final design will require import fill to be constructed.

## **ANALYSIS**

In May 2022, the District issued a Request for Qualifications (RFQ) for site safety and environmental protection services for soil import to the Project site. Three firms submitted a Statement of Qualifications (SOQ) in response to the RFQ. Staff reviewed the SOQs and determined that DirtMarket was most qualified for the Project based on their qualifications and experience. In addition to DirtMarket's extensive qualifications, they have also performed similar work at a large scale for another District project at Oyster Bay Regional Shoreline.

The proposed scope of work includes import and placement of engineered fill, related permitting, site safety, environmental protection, quality control measures, and constructability assistance. Soil import operations could begin as early as 2025 after regulatory permits have been issued for the project. Staff has negotiated with DirtMarket to provide soil import services for the Project and is seeking authorization to enter a no-cost contract.

The recommended action for the Board to authorize a contract with DirtMarket will facilitate the import and placement of engineered fill necessary to implement the restoration plans for the Hayward Marsh project. DirtMarket has provided similar services to the District at both Oyster Bay Regional Shoreline and at the Tidewater site in Martin Luther King, Jr. Shoreline, and a competitive RFQ process was engaged and DirtMarket was selected as most qualified.

## **FISCAL IMPACT**

This agreement will provide a significant cost-savings to the Park District by importing soil needed for the Project at no-cost. Funding for miscellaneous costs and potential permits and fees is available if needed in the Restore Hayward Marsh Project.

<b>SOURCE OF FUNDS</b>	
Restore Hayward Marsh Project (No. 160500)	\$ 2,332,855
Encumbrances and Expenditures to Date	(2,105,773)
<b>Available Balance</b>	<b>\$ 227,082</b>

## **ATTACHMENTS**

Restore Hayward Marsh Project Location Map



**EAST BAY REGIONAL PARK DISTRICT  
RESOLUTION NO. 2023-12-  
DECEMBER 19, 2023**

**AUTHORIZATION TO ENTER INTO A CONTRACT WITH DIRTMARKET, LLC  
TO IMPORT SOIL FOR THE RESTORE HAYWARD MARSH PROJECT: HAYWARD  
REGIONAL SHORELINE**

**WHEREAS**, existing ponds at Hayward Marsh were originally constructed in 1985 for Union Sanitary District's (USD) wastewater operations which provided secondary treated effluent and storm runoff from for maintaining habitat and water quality values; and

**WHEREAS**, in recent years, the ponds have silted in reducing the original design capacity to support favorable conditions for wastewater treatment and wildlife habitat; and

**WHEREAS**, USD no longer uses the project area for discharge of its wastewater and this change in use presents an opportunity to implement restoration and public access improvements at Hayward Marsh; and

**WHEREAS**, in May 2020 the Board of Directors of the East Bay Regional Park District (Park District) approved Resolution No. 2020-05-107 authorizing the execution of a contract for consulting services with Upright Engineering, Inc. in the amount of \$687,322 for pre-design and CEQA work for the Restore Hayward Marsh project; and

**WHEREAS**, on April 5, 2022, under Resolution 2022-04-075 the Board of Directors reviewed and approved the preferred concept and authorized staff to administer California Environmental Quality Act (CEQA) compliance for the project; and

**WHEREAS**, the project is a statutorily exempt restoration project under CEQA Public Resource Code § 21080.56; and

**WHEREAS**, in February 2023 the Board of Directors approved a contract amendment with Upright Engineering, Inc. for final design and permitting services bringing the total contract amount to \$2,029,582; and

**WHEREAS**, in May 2022, the Park District issued a Request for Qualifications (RFQ) for site safety and environmental protection services for soil import to the Project site, and three firms submitted a Statement of Qualifications (SOQ) in response to the RFQ; and

**WHEREAS**, staff reviewed the SOQs and determined that DirtMarket was most qualified for the Project based on their qualifications and experience; and

**WHEREAS**, importing clean soil fill is instrumental to the development of the Project and staff has negotiated with DirtMarket, LLC for the import of fill under a no-cost agreement;

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Directors of the East Bay Regional Park District hereby authorizes a no-cost contract with DirtMarket, LLC for the Restore Hayward Marsh Project (No. 160500) for soil import operations; and as presented to the Board on December 19, 2023; and

**BE IT FURTHER RESOLVED**, that the General Manager is hereby authorized and directed, on behalf of the Park District and in its name, to execute and deliver such documents and to do such acts as may be deemed necessary or appropriate to accomplish the intentions of this resolution.

Moved by Director \_\_\_\_\_, and seconded by Director \_\_\_\_\_, and adopted December 19, 2023, by the following vote:

FOR:

AGAINST:

ABSTAIN:

ABSENT: