



**DATE:** March 3, 2020

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt a Resolution Authorizing the City Manager to Execute an Agreement with Kimley-Horn and Associates in an Amount Not-to-Exceed \$154,750 for the Sulphur Creek Mitigation Design Project at Hayward Executive Airport

### **RECOMMENDATION**

That the Council adopts a resolution (Attachment II) authorizing the City Manager to execute an agreement with Kimley-Horn and Associates in an amount not-to-exceed \$154,750 for the Sulphur Creek Mitigation Design Project at Hayward Executive Airport (HEA).

### **SUMMARY**

The Federal Aviation Administration (FAA) has determined that a portion of Sulphur Creek traversing the HEA poses a potential safety hazard to aircraft that may lose directional control and veer off one of the two runways into the creek. Under these circumstances, the aircraft could impact the open channel with the possibility of significant property damage and injury to its occupants. Based on the results of an engineering study completed by RS&H consultants in 2016, the preferred solution is to enclose the open channels of the creek in box culvert and grade the immediate areas surrounding the channels. Since September 2018, geotechnical studies, topographical surveys, biological site reviews, preparation of design drawings and specifications, and initiation of the permitting process through the Army Corps of Engineers, Regional Water Quality Control Board (RWQCB), and the California Department of Fish and Wildlife have been undertaken. However, unanticipated developments in the permitting process have resulted in a change of scope and significant delay. Accordingly, a Professional Services Agreement (PSA) is proposed for the Council's consideration and staff recommends that Council authorize the City Manager to execute an agreement with Kimley-Horn and Associates, Inc. (Kimley-Horn) for this project.

This item was presented to the Council Airport Committee on January 23, 2020 and the Committee unanimously recommended the item be brought before Council for consideration.

## **BACKGROUND**

In 2007, the Federal Aviation Administration (FAA) Runway Safety Action Team (RSAT) highlighted the potential safety hazards associated with Sulphur Creek. Airport staff subsequently contacted the FAA Airports District Office in San Francisco (SFO-ADO) and determined a project to underground portions of the creek would be eligible for federal grant funding under the Airport Improvement Program (AIP). The Federal Aviation Administration (FAA) has determined that a portion of Sulphur Creek traversing the HEA poses a potential safety hazard to aircraft that may lose directional control and veer off one of the two runways into the creek. Under these circumstances, the aircraft could impact the open channel with the possibility of significant property damage and injury to its occupants. Based on the results of an engineering study completed by RS&H consultants in 2016, the preferred solution is to enclose the open channels of the creek in box culvert and grade the immediate areas surrounding the channels.

The initial project scope anticipated the purchase of mitigation bank credits to offset the loss of wetlands during the installation of the box culvert. This is a financial transaction to help fund specific, existing environmental projects in the greater San Francisco Bay area. However, after a meeting with staff and other subsequent discussions, the RWQCB rejected mitigation bank credits in favor of the remediation of a portion of Sulphur Creek or another nearby waterway.

Friends of San Lorenzo Creek reviewed this project and recommended that eighteen potential remediation sites warranted further study and evaluation. Staff appreciates the Friends of San Lorenzo Creek's participation in this process and their recommendations. An evaluation of each site at locations along the Old Alameda Creek, San Lorenzo Creek, Ward Creek, and Sulphur Creek, has been conducted.

The results of the evaluations included one site that appeared optimal (Attachment IV). A cover letter and the evaluation results were sent to the RWQCB on November 5, 2019. A response was received from the RWQCB on December 10, 2019 with follow-up questions. Evaluation of the eighteen sites, totaling \$15,000, was not anticipated in the original scope of the project with Kimley-Horn. Due to this additional work and the uncertainty at the time related to the remaining required level of effort, the original agreement with Kimley-Horn was allowed to expire on June 30, 2019. After discussion with the City Attorney's office and the Finance Department, a new agreement is recommended. Completion of the 100% design and project bidding is now anticipated in Spring 2020.

## **DISCUSSION**

One of the challenges of managing capital projects funded with AIP monetary grants is the need to coordinate the design and construction schedule with the FAA funding cycle. Unexpected project delays can result in subsequent funding delays. Accordingly, staff worked to overcome the issues outlined above with the Sulphur Creek permitting process to remain on schedule.

However, as noted, the requirement to conduct site evaluations by the RWQCB, modify the contract scope language, and fund the additional work had two consequences. First, staff opted to let the original agreement with Kimley-Horn expire in favor of a new agreement incorporating these changes. Second, the FAA has pushed funding for the project until the current federal fiscal year, which started on October 1, 2019 and which ends on September 30, 2020. This should provide adequate time to fully address the RWQCB requirements, complete the 100% design, and conduct a bidding process for the construction work. The permitting requirements imposed on this project by the Regional Water Quality Control Board (RWQCB) and Alameda County Flood Control and Water Conservation District (ACFCWCD) have impacted the timeline and viability of the project. Staff is working on the issues that have been raised in order to resolve them and proceed with the project.

*Council Airport Committee*

This item was presented to the Council Airport Committee on January 23, 2020 and the Committee unanimously recommended the item be brought before Council for consideration.

**ECONOMIC IMPACT**

No economic impact is associated with this item.

**FISCAL IMPACT**

The Design Phase project costs are as follows:

Consultant	\$444,000
Consultant (Mitigation)	\$ 15,000
Administration	<u>\$156,000</u>
TOTAL:	<u>\$615,000</u>

Most of the cost for the design phase of the project will be reimbursed through grants from the FAA covering 90% of the actual cost; another match of 5% will be provided through Caltrans' Division of Aeronautics. The adopted FY 2019 Capital Improvement Program (CIP) includes \$615,000 for this phase.

Through the end of Fiscal Year 2019, Kimley-Horn had expended \$304,250 of the \$444,000 from the original agreement, which expired earlier this year. The remaining \$139,750 from the original agreement will be utilized for developing the final design, finalizing plans and specifications, and assisting with the bidding process. As noted earlier, an additional \$15,000 was spent for the mitigation site investigation, thereby resulting in a total value of \$154,750 for this new contract.

**STRATEGIC ROADMAP**

This agenda item is a safety and maintenance-related item and does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap.

## **SUSTAINABILITY FEATURES**

The Airport is committed to developing projects that are environmentally responsible. Therefore, staff will ensure that all plans proposed by the consultant incorporate features that are in line with the City's sustainability guidelines.

## **PUBLIC CONTACT**

The Council Airport Committee (CAC) has discussed the Sulphur Creek project on several occasions since 2008. Last discussions occurred during CAC meetings held on April 23, 2015, April 28, 2016, and January 20, 2019. Furthermore, this item was discussed and approved by the CAC on January 23, 2020. As part of the scope of work, the consultant will prepare a public outreach plan to include key messages, core audiences, and public involvement activities to support the development and release of the draft design. The public outreach plan will ensure that interested members of the public, as well as the Friends of San Lorenzo Creek, will have an opportunity to provide input, the interests of participants will be communicated to decision makers, and that participants are provided with information needed to participate in a meaningful way.

## **NEXT STEPS**

Complete Final Design	April 2020
Begin Construction	August 2020
Complete Construction	November 2020

*Prepared by:* Doug McNeeley, Airport Manager

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager