



**SAN RAFAEL**  
THE CITY WITH A MISSION

Agenda Item No: 5.i

Meeting Date: December 6, 2021

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Public Works

Prepared by: Bill Guerin,  
Director of Public Works

City Manager Approval: \_\_\_\_\_

**TOPIC: UMBRELLA DREDGING PERMIT IN SAN RAFAEL CONSULTING SERVICES AGREEMENT**

**SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO SIGN A FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH HALEY & ALDRICH, INC. FOR ADDITIONAL SERVICES IN COORDINATING THE DEVELOPMENT OF AN UMBRELLA PERMIT FOR PRIVATE DOCK DREDGING IN THE SAN RAFAEL CANAL, IN AN AMOUNT NOT TO EXCEED \$16,200**

**RECOMMENDATION:** Adopt the resolution.

**BACKGROUND:** The United States Army Corps of Engineers (the "Corps") has been responsible for maintenance dredging of the Federally Authorized Channel in the San Rafael Canal (Canal) since 1919, when the Canal was declared a federal waterway. The Canal is 2.5 miles long. The Federally Authorized Channel is comprised of an Inner Channel which is 60 feet wide and 1.5 miles long and an Outer Channel, 100 feet wide and 1 mile in length. The balance of the San Rafael Canal along both the north and south sides is mostly privately owned by adjacent property owners. The City of San Rafael also owns portions of the non-Federally Authorized Channel.

The Corps has dredged the Federally Authorized Channel 13 times since 1930, an average of one dredging project every seven years. The most recent partial dredge took place during the winter of 2011-2012. Prior to that, the last full dredge of the Canal took place in 2002. The Corps is preparing again to dredge the Federally Authorized Channel. The Corps has nearly completed the engineering design and is seeking permit approval to dredge the Federally Authorized Channel in summer, 2022.

**ANALYSIS:** The Corps' responsibility is to maintain the Federally Authorized Channel, however they have no responsibility to dredge the more than 160 privately held parcels fronting the San Rafael Creek. In order to efficiently dredge these private parcels, the Corps and the regulatory agencies that approve permits allows the use of an "Umbrella Permit" whereby a single entity (the City of San Rafael) aggregates the individual requests for dredging into a single umbrella permit. The City plans to assemble the individual requests into a single permit and request that the private dredging occur at the same time that the Federal Channel is dredged. It is common

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

to contract with the same dredging company selected by the Corps so that the umbrella permittees benefit from the economies of scale brought by the Corps' Federal Channel contract.

The process of permitting and effecting a dredge is a special expertise and the City contracted with consultants Haley & Aldrich, Inc. in November 2020 to prepare the surveying, exhibits, and engineering work required to seek regulatory approval to permit the dredge. The umbrella permit application makes clear that each participating property will pay for their portion of the dredged materials by volume and will also share the cost of the permit development (Haley & Aldrich's consulting contract) equitably. The City will participate and pay its portion of the consulting contract and materials dredging. The initial contract signed with Haley & Aldrich was within the Authority of the City Manager and he approved the contract. Haley & Aldrich has made great progress in developing the application. They developed a model, created an application platform, issued a request for applications, compiled the results, completed preliminary engineering, and made an initial application request to the regulatory agencies required to approve our permit.

The request for applications for permitting resulted in more applications than was anticipated. Further, in recent conversations held with the regulatory agencies, staff learned that the regulatory approval process has changed, and the regulators require more detailed analysis and up-front design than was previously required or contemplated in the original agreement with Haley & Aldrich. Haley & Aldrich has requested an increase in their "not to exceed" amount to cover the additional efforts required. This new total contract amount has exceeded the City Manager's expenditure authority. Staff is now seeking City Council approval of a First Amendment to the agreement with Haley & Aldrich, Inc. to increase the contract amount to complete the umbrella permitting requirements.

**FISCAL IMPACT:** City Council approval of the amendment to the agreement would result in an increase of \$16,200 above the amount already authorized by the City Manager, bringing the total value of consulting services to \$90,900. However, upon completion of the permit application, the individual property owners will be required to pay for their portion of the umbrella permit and therefore most of the contract amount will be offset by private funding. The City will only be required to pay for a small share of the total permitting cost. The City will also be required to pay for its share of the dredging work as well, but the cost of dredging will be finalized sometime in Spring, 2022.

**OPTIONS:**

- Adopt the resolution and authorize the City Manager to sign the First Amendment to the professional services agreement as recommended;
- Accept the report with modifications and adopt the Resolution with amended findings; or
- Reject the report and do not adopt the Resolution.

**RECOMMENDED ACTION:** Adopt the resolution.

**ATTACHMENT:**

1. Resolution Authorizing the City Manager to Sign a First Amendment to the Professional Services Agreement with Haley & Aldrich, Inc. for Additional Services in Coordinating the Development of an Umbrella Permit for Private Dock Dredging in the San Rafael Canal, in an Amount Not to Exceed \$16,200
2. First Amendment to Professional Services Agreement
3. Exhibit A to First Amendment: Proposal for additional services

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING AND AUTHORIZING THE CITY MANAGER TO SIGN A FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH HALEY & ALDRICH, INC. FOR ADDITIONAL SERVICES IN COORDINATING THE DEVELOPMENT OF AN UMBRELLA PERMIT FOR PRIVATE DOCK DREDGING IN THE SAN RAFAEL CANAL, IN AN AMOUNT NOT TO EXCEED \$16,200**

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**WHEREAS**, the U. S. Army Corps of Engineers (Corps) is responsible to provide maintenance dredging of the Federally Authorized Channel of the San Rafael Canal, but is not authorized or responsible to dredge privately held property adjacent to the Federally Authorized Channel; and

**WHEREAS**, Canal side property owners, including the City of San Rafael (City), have the responsibility to dredge their in-water property should they desire to have access to the Canal; and

**WHEREAS**, the regulatory agencies with responsibility for water quality in the Canal require that property owners obtain a permit prior to dredging any sediment from the Canal; and

**WHEREAS**, the regulatory agencies allow individual property owners to aggregate their permit requests under one larger “umbrella” permit for ease of application and approval; and

**WHEREAS**, the City issued a request for expressions of interest to assemble an umbrella permit for the private dredging of the San Rafael Canal and received more than 160 responses from individual property owners; and

**WHEREAS**, any property owner who wishes to participate in the umbrella permit will be required to pay for a portion of the management costs to administer the umbrella permit and will be required to pay for the volume of dredged materials removed from their property; and

**WHEREAS**, the City entered into a Professional Services Agreement dated June 28, 2021 with Haley & Aldrich, Inc. for consulting services to administer the umbrella permit to dredge the private properties adjacent to the Federally Authorized Channel,

including the preparation of surveys, exhibits, and engineering work required to seek regulatory approval, for a cost not to exceed \$74,700 (the “Agreement”); and

**WHEREAS**, since the commencement of the Agreement, the regulatory agencies have imposed additional requirements on the umbrella permit applicants; and

**WHEREAS**, the City requires additional consulting services from Haley & Aldrich, Inc. to cover the additional work required by the regulatory agencies; and

**WHEREAS**, staff received a proposal from Haley & Aldrich, Inc. for the additional required services in a total amount not to exceed \$16,200, and staff has reviewed the proposal and found it complete and within industry standards;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES**  
as follows:

1. The Council hereby approves and authorizes the City Manager to execute a First Amendment to the Agreement with Haley & Aldrich, Inc for additional consulting services in connection with the umbrella permit required to dredge the privately held portions of the San Rafael Canal, in an additional amount not to exceed \$16,200 and a revised total contract value not to exceed \$90,900, in the form included with the staff report supporting this resolution, subject to final approval as to form by the City Attorney.
2. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

**I, LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on the 6<sup>th</sup> day of December 2021, by the following vote, to wit:

**AYES:            COUNCILMEMBERS:**

**NOES:            COUNCILMEMBERS:**

**ABSENT:        COUNCILMEMBERS:**

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**LINDSAY LARA, City Clerk**

**FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH  
HALEY & ALDRICH, INC. FOR PROFESSIONAL SERVICES FOR UMBRELLA  
PERMITTING COORDINATION FOR PRIVATE PROPERTY SAN RAFAEL CREEK  
DREDGING**

**THIS FIRST AMENDMENT** to the Professional Services Agreement by and between the **CITY OF SAN RAFAEL** (hereinafter “**CITY**”), and **HALEY & ALDRICH, INC.**, (hereinafter “**CONSULTANT**”), is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**RECITALS**

**WHEREAS**, the **CITY** and **CONSULTANT** entered into a Professional Services Agreement dated November 18, 2020 to coordinate the implementation of the umbrella dredge agreement with private property owners for the U.S. Army Corps of Engineers dredging of the Federal Channel along the San Rafael Creek, for an amount not to exceed \$74,700 (the “Agreement”); and

**WHEREAS**, there are more applicants than originally anticipated and the **CITY** requires additional support from the **CONSULTANT**; and

**WHEREAS**, the **CONSULTANT** is willing to provide such services;

**AMENDMENT TO AGREEMENT**

**NOW, THEREFORE**, the parties hereby agree to amend the Agreement as follows:

1. Section 2 of the Agreement, entitled “DUTIES OF CONSULTANT” is hereby amended to include the additional services set forth in **CONSULTANT**’s proposal dated November 12, 2021, attached to this First Amendment as Exhibit A and incorporated herein by reference.
2. Section 4 of the Agreement, entitled “COMPENSATION” is hereby amended to include additional compensation payable to **CONSULTANT** for the services described in Exhibit A to this First Amendment, in accordance with the “Proposed Scope of Services” included in Exhibit A, in a not-to-exceed amount of \$16,200, and to change the total not-to-exceed amount under the Agreement to \$90,900.

3. Except as specifically amended herein, all of the other provisions, terms and obligations of the Agreement between the parties shall remain valid and shall be in full force.

**IN WITNESS WHEREOF**, the parties have executed this First Amendment on the day, month, and year first above written.

**CITY OF SAN RAFAEL**

**CONSULTANT**

\_\_\_\_\_  
JIM SCHUTZ, City Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

[If Contractor is a corporation, add signature of second corporate officer]

\_\_\_\_\_  
LINDSAY LARA, City Clerk

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT F. EPSTEIN, City Attorney

## Exhibit A



Haley & Aldrich, Inc.  
2033 N. Main Street  
Suite 309  
Walnut Creek, CA 94596  
925.949.1012

12 November 2021

City of San Rafael  
Department of Public Works  
VIA EMAIL: bill.guerin@cityofsanrafael.org

Attention: Mr. Bill Guerin  
Director, Department of Public Works, City of San Rafael

Subject: Scope of Work for Additional Services Necessary for the San Rafael Creek Umbrella  
Maintenance Dredging Permit and Approval Process

Dear Mr. Guerin:

Haley & Aldrich, Inc. (Haley & Aldrich) has prepared this proposal for the City of San Rafael (City) to provide additional services necessary for obtaining the umbrella maintenance dredging permits for the non-federal maintenance dredging on San Rafael Creek.

### Proposed Scope of Services

This scope of services includes necessary effort to address new regulatory requirements for obtaining the BCDC permit and the Water Quality Certification from the Water Board. It also includes additional meetings/phone calls and the preparation of previously unscoped updates to the project dredge area map that became necessary with each new participant notification and each individual dock-owner request. Additional effort also required to address BCDC's design level requests for project maps. Cost for each additional task is provided in the table below.

TASK #	TASK ID	COST
1	New Regulatory Requirements & Response to Agencies	\$4,800
2	Meetings and Phone Calls	\$1,200
3	Mapbook Modifications & Additional Participant Correspondence	\$4,500
4	Pre-Design Services	\$5,700
TOTAL		\$16,200

We appreciate the opportunity to submit this proposal and look forward to continuing work with you and the dock owners on this project. Please don't hesitate to contact me if you wish to discuss the proposal or any aspect of the project.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Scott Bodensteiner".

Scott Bodensteiner  
Haley & Aldrich, Inc.



