



**SAN RAFAEL**  
THE CITY WITH A MISSION

Agenda Item No: 6.b

Meeting Date: October 3, 2022

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Public Works

Prepared by: April Miller,  
Director of Public Works

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

**TOPIC: FY 2022-23 CITY OF SAN RAFAEL CANAL MAINTENANCE DREDGING**

**SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO AWARD AND EXECUTE A CONSTRUCTION AGREEMENT FOR THE FY 2022-23 CITY OF SAN RAFAEL CANAL MAINTENANCE DREDGING PROJECT, CITY PROJECT NO.11423, TO THE DUTRA GROUP, IN A NOT TO EXCEED AMOUNT OF \$3,468,000, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$346,800, FOR A TOTAL APPROPRIATED AMOUNT OF \$3,814,800, WHICH INCLUDES A TRANSFER FROM THE GENERAL FUND TO FUND 401 IN THE AMOUNT OF \$649,200 TO COVER THE CITY PORTION OF THE DREDGE.**

**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 (of just the Federally Authorized Channel) took place during the winter of 2011-2012. Prior to that, the last full dredge of the Canal (including several adjacent properties to the Federally Authorized Channel) took place in 2002. In past full dredging projects, the City has coordinated with individual property owners to contract with the same dredging company selected by the Corps so that the property owners benefit from the economies of scale and discounted mobilization and demobilization costs brought by the Corps’ Federal Channel contract.

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

The Corps officially included the San Rafael Canal in its March 2022 work plan, and in June 2022, announced The Dutra Group (“Dutra”) as the Federal dredging contractor, with dredging operations in the Federally Authorized Channel beginning in September 2022.

Staff recommends that the City Council award the City’s Canal Maintenance Dredging Project Contract (“City Contract”) for dredging of the non-Federally Authorized Channel to Dutra. Dutra has submitted a bid to the City with the same unit prices per cubic yard dredging costs as the Federal Contract. The City Contract will include all City parcels and those individual property owners who participated in the City’s umbrella permitting efforts and is expected to begin as early as mid-October 2022.

**ANALYSIS:**

**UMBRELLA PERMITTING:** The Corps’ responsibility is to maintain the Federally Authorized Channel; however, they have no responsibility to dredge the more than 160 privately-owned parcels fronting the San Rafael Creek or City-owned parcels. In order to efficiently dredge these non-Federal parcels, the Corps and the regulatory agencies that approve maintenance dredging permits allow the use of an “Umbrella Permit” whereby a single entity (in this case, the City of San Rafael) aggregates the individual requests for dredging into a single umbrella permit.

Beginning in June 2021, the City solicited waterfront property owners, residents and business owners who own property along the San Rafael Canal, to participate in the City’s umbrella permitting process that would allow for a single, streamlined permit process for all. A total of 101 property owners agreed to join the umbrella permitting and dredging effort, including eight City-owned parcels.

The process of permitting and effecting a maintenance dredge is a special expertise. The City contracted with environmental consultant [Haley & Aldrich, Inc. in November 2020](#) to conduct and prepare the pre-dredge surveys, design and engineering, and permitting application work required to seek regulatory approvals to permit the maintenance dredge of the non-Federal portions of the San Rafael Canal. While working on the umbrella permit application, the City informed the interested property owners that the City and 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.

All dredging projects in the San Francisco Bay require regulatory permits/approvals from the following agencies:

- U.S. Army Corps of Engineers
- Dredged Material Management Office (DMMO)
- San Francisco Bay Conservation and Development Commission (BCDC)
- Regional Water Quality Control Board
- California Fish and Wildlife

The “umbrella permit” obtained by the City will cover all of these required permits/approvals for the City properties and participating private properties.

Upon receipt of the City's umbrella permit, the City will maintain a ten-year window to dredge. However, each dredging effort will require an 'episodic approval' from the DMMO and a subsequent City of San Rafael Tidelands permit.

The umbrella permitting effort streamlined the process for the City and all participating private property owners and has allowed for a simultaneous dredging project with the Federal Channel in 2022. Staff expect to receive final approvals from the regulatory agencies for all permitted properties submitted in the umbrella permitting process by no later than November 2022.

**WAIVER OF FORMAL BIDDING AND AWARD OF CITY CONSTRUCTION AGREEMENT:** As has been customary in previous "full dredging" projects in the San Rafael Canal, staff recommends that the City waive formal bidding and award the City Contract to the same contractor as the Corps – The Dutra Group. The City and participating private property owners are anticipated to realize cost savings by contracting with the same Federal contractor for the City Contract.

In Spring 2022, the Corps conducted a formal, competitive bid of the Federal Contract for dredging the Federally Authorized Channel in Summer/Fall of 2022. Two contractors submitted bids to the Corps: The Dutra Group and Lind Marine. The Corps awarded the Federal Contract to Dutra, the lowest responsive bidder.

For the City Contract, the City's consultant asked both contractors who submitted bids on the Federal Contract, Dutra and Lind Marine, to submit a per unit (cubic yard) rate quote to the City. Dutra agreed to honor the same unit rates as the Federal Contract. Lind Marine confirmed that they could not match the unit rates that Dutra bid on the Federal Contract.

City staff did not complete a formal competitive bid process for the City Contract. Based on the Federal competitive bidding and price quotes submitted to the City thereafter by the two Federal bidders, the City asked Dutra to submit a formal bid for the City Contract based on dredging plans, individual parcel volume calculations, and front and back-end specifications for the City's Dredging project. Dutra's formal bid to the City is a not to exceed amount of **\$3,468,000**. In the bid proposal the Contractor has agreed to use the same bid prices per cubic yard regardless of the number of properties that agree to join the City Contract.

Staff, therefore, recommends that the City Council waive competitive bidding and award the City Contract to Dutra, pursuant to section 11.50.090(B) of the San Rafael Municipal Code, because the following circumstances exist:

1. The work is of a highly specialized nature.
2. There would be no competitive advantage to requiring bidding for the contract.
3. The cost of the work would be significantly increased or its completion significantly delayed by competitively bidding the contract.

**MASTER CITY CONTRACT FOR PRIVATE PROPERTY OWNERS:** Dutra will not enter into dredging contracts with each individual property owner who participated in the City's umbrella permitting efforts and wishes to dredge their property this year. Dutra has agreed to a master agreement with the City. If the City Council authorizes the City Contract, the City will administer a master dredge contract with Dutra, covering City and privately-owned parcels.

In early September, City staff communicated to all individual property owners the estimated costs to cover the City contract for dredging by Dutra, as well as the permitting and construction management services by Haley and Aldrich. The estimated costs were calculated based upon Dutra's initial price quote and the estimated dredged material per cubic yard of each parcel. The estimated blended rate provided was \$27 to \$34. The dredge material volumes were estimated based on a bathymetric survey conducted in June 2022. The survey calculates the depth of the existing sediment using satellite data, a standard process used to calculate dredging material to be removed.

Individual property owners who wish to have their properties dredged under the City Contract will be required to enter into a separate reimbursement agreement with the City, under which the property owners will permit the City to dredge their property under the City Contract and require the property owner to pay their portion of the dredging, permitting, and construction management costs. Property owners will be charged a "blended" unit rate, reflecting a blended rate of sediment disposal between SFDODS (for ocean-based disposal) and SF10 (in bay disposal) disposal sites. The "blended" rate will also include Dutra's discounted mobilization price and umbrella permitting and construction management costs owed by the private owners. In late September 2022 the City received the official bid from Dutra that included a heavily discounted mobilization cost to extend operations upon completion of the Corps' project. The bid response increased the blended rate per cubic yard to \$28 to \$35. These separate agreements will be subject to City Attorney review and approval. (See Fiscal Impact section below for further details.)

Dutra has confirmed a maintenance dredging schedule for all individual City parcels in the non-Federal channel to begin as early as mid-October 2022 through November 30, 2022. Dredging individual parcels will be conducted simultaneously with dredging the Federal channel. Due to State and Federal regulations that prohibit maintenance dredging after November 30, Dutra must cease dredging operations past November 30. If approved by regulatory agencies, the Dredging project may be extended into December 2022. However, Dutra has confirmed that they would resume dredging in June 2023 for any City and private parcels that were not dredged in 2022 under the same rates agreed upon in the proposed master City Contract.

**PUBLIC OUTREACH:** City staff have been in contact with community members, stakeholders and the general public through the City's dedicated dredging webpage ([www.cityofsanrafael.org/dredging](http://www.cityofsanrafael.org/dredging)) as well as through email and phone communication since July 2021. Staff have communicated with stakeholders from the Canal community regarding the umbrella permitting effort through the City's consultant, Scott Bodensteiner of Haley and Aldrich, Inc. and via the City's dedicated umbrella webpage ([Dredging Umbrella Permits - San Rafael \(cityofsanrafael.org\)](http://Dredging Umbrella Permits - San Rafael (cityofsanrafael.org))).

**FISCAL IMPACT:** The maximum not-to-exceed amount for the master City Contract is \$3,468,000. The City's portion of the agreement is \$649,200, which is the amount attributable to dredging eight City-owned parcels. This is based on the City paying the actual rate of the Dredging and Disposal to SFDODS and the blended rate for the Dredging and Disposal to SF10. These rates provide the maximum benefit to the property owners who choose to be part of the dredge, since the city is not benefiting from the blended rate.

The remaining \$2,818,800 of the City Contract is the amount attributable to the separate private property owners of the 101 parcels who selected to participate in the City's Dredging project. These individual property owners will be required under separate agreements with the City to pay their share of the total permitting, dredging and construction management cost based on

their parcel's actual calculated dredged volume. The individual owners will be required to pay a non-refundable deposit in the amount equal to the estimated dredged volume for the parcel and the cost of disposal and thereafter reimburse the City for any additional cost for their property based on actual post-dredge actual volumes. Total dredging and disposal costs will reflect a blended rate of sediment disposal between SFDODS (for ocean based disposal) and SF10 (in bay disposal) disposal sites. Staff selected a blended approach to allocate costs equitably to all individual property owners and to avoid significantly higher costs for those parcels which required ocean-based sediment disposal.

A total of \$3,468,000 will be appropriated from the City's Capital Improvement Fund #401 to cover the not to exceed amount for this project. \$649,200 will also be transferred from the City's General Fund to the Capital Improvement Fund 401 to account for the City's eight parcels that will be dredged for this project.

**OPTIONS:**

1. Adopt the resolution approving and authorizing the City Manager to award and execute the construction agreement with The Dutra Group.
2. Do not award the contract and direct staff to rebid or amend the project contract. If this option is chosen, the project may be delayed by approximately 6 months until the next dredging window opens in June 2023.
3. Do not award the contract and provide direction to staff.

**RECOMMENDED ACTION:** Adopt the resolution.

**ATTACHMENT:**

1. Resolution approving and authorizing the City Manager to award and execute the construction agreement with The Dutra Group.

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO AWARD AND EXECUTE A CONSTRUCTION AGREEMENT FOR THE FY 2022-23 CITY OF SAN RAFAEL CANAL MAINTENANCE DREDGING PROJECT, CITY PROJECT NO. 11423, TO THE DUTRA GROUP, IN A NOT TO EXCEED AMOUNT OF \$3,468,000, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$346,800, FOR A TOTAL APPROPRIATED AMOUNT OF \$3,814,800 WHICH INCLUDES A TRANSFER FROM THE GENERAL FUND TO FUND 401 IN THE AMOUNT OF \$649,200 TO COVER THE CITY PORTION OF THE DREDGE.**

**WHEREAS**, the US Army Corps of Engineers (“Corps”) is performing maintenance dredging of the San Rafael Channel in summer of 2022; and

**WHEREAS**, the Corps competitively bid for the dredging contract of the San Rafael Channel and awarded the Federal contract to the Dutra Group (“Dutra”); and

**WHEREAS**, the Corps is only responsible for dredging the Federal Channel which does not extend to City or privately-owned properties, including the docks and marinas, that are adjacent to the Federal Channel; and

**WHEREAS**, the City and private property owners are responsible for maintaining and dredging their properties, which include from their private docks to the Federal Channel which is in the center of the San Rafael Channel; and

**WHEREAS**, beginning in July 2021, the City contracted with Haley and Aldrich, Inc. to complete an aggregate permitting process to obtain regulatory approval from the California Department of Fish and Wildlife, the Dredged Material Management Office, the Corps, the California State Water Resources Control Board, the Bay Conservation and Development Commission, and the City of San Rafael, known as the “Umbrella Permitting”; and

**WHEREAS**, the City completed the Umbrella Permitting process and expects to obtain the regulatory permits required to complete dredging of the City and privately-owned properties beginning as early as mid-October 2022; and

**WHEREAS**, Dutra has submitted a formal bid to the City to enter into a contract (“City Contract”) to perform the same dredging services for City-owned and privately-owned properties adjacent to the Federal Channel based on the same unit rates as the Federally-bid contract; and

**WHEREAS**, the City informally solicited a price quote from Lind Marine, the only other bidder in the Corps Federal dredge contract, who confirmed that they could not provide a more competitive bid than Dutra because of the mobilization and highly specialized nature of equipment required to dredge all parcels and dispose of material at all permitted disposal sites; and

**WHEREAS**, competitive bidding may be waived under Section 11.50.090 of the San Rafael Municipal Code for the City Contract because the work is of a highly

specialized nature; there would be no competitive advantage to requiring bidding for the contract; and the cost of the work would be significantly increased or its completion significantly delayed by competitively bidding; and

**WHEREAS**, as part of the bid proposal, Dutra has agreed to use the same bid prices per cubic yard of dredge material regardless of the number of properties that agree to join the City Contract; and

**WHEREAS**, City staff has apportioned an additional 10% of the bid price for contingencies in the amount of **\$346,800**; and

**WHEREAS**, upon award of the City Contract to Dutra, the City will enter into a separate reimbursement agreement with each individual property owner who elects to have their property dredged under the City Contract, under which the individual owner must pay a non-refundable deposit and reimburse the City for its share of costs in undertaking the Umbrella Permit and dredging for the property.

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

1. The plans and specifications for the "FY 2022/23 CITY OF SAN RAFAEL CANAL DREDGING PROJECT", City Project No.11423 on file in the Department of Public Works, are hereby approved.
2. Competitive bidding requirements are hereby waived under Section 11.50.090 of the San Rafael Municipal Code.
3. The maximum not to exceed amount of \$3,468,000 is hereby accepted at the unit prices stated in its bid, and the contract for said work and improvements is hereby awarded to The Dutra Group, at the stated unit prices.
4. The City Manager is authorized and directed to execute the contract for the project with The Dutra Group at the bid amount, subject to final approval as to form by the City Attorney, and to return the bidder's bond upon the execution of the contract.
5. Funds totaling **\$3,814,800** shall be appropriated for this project (Project No. 11423) from the Capital Improvement Fund (#401).
6. Funds totaling \$649,200 shall be appropriated for this project (Project No 11423) and transferred from the General Fund to the Capital Improvement Fund (#401) to account for dredging and permitting costs for the eight City owned parcels to be dredged.
7. 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 City Council of said City held on Monday, the 3<sup>rd</sup> of October 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

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**LINDSAY LARA, City Clerk**