



City of San Leandro

Meeting Date: January 22, 2019

Staff Report

File Number: 19-005

Agenda Section: ACTION ITEMS

Agenda Number: 10.B.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Jeff Kay
City Manager

FINANCE REVIEW: David Baum
Finance Director

TITLE: Staff Report for a City of San Leandro City Council Resolution to Appropriate up to \$542,000 for the Implementation of Phase III of the Airport Noise Insulation Program for the Davis West Neighborhood and to Authorize the City Manager to Execute a Related Consulting Services Agreement with C. Kell-Smith & Associates in an Amount Not to Exceed \$246,504

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve a resolution that:

- 1) Appropriates up to \$542,000 from the General Fund that was received from the 2017 sale of the formerly City-owned property at 2139 Laura Avenue, consistent with prior City Council direction to designate such funds for improvements to the Davis West Neighborhood
- 2) Authorizes the City Manager to negotiate and execute a sole-source consulting services agreement with C. Kell-Smith & Associates in the amount of \$246,504 using a portion of the above funds to complete the third and final phase of the Airport Noise Insulation Program for the Davis West neighborhood

BACKGROUND & ANALYSIS

Following modifications to the facilities and operations of the Oakland International Airport over 20 years ago, a number of residents throughout San Leandro, Alameda and other surrounding areas began experiencing increased noise impacts from the airport, which is owned and operated by the Port of Oakland (hereafter referred to as the "Port").

Subsequent efforts by various parties, including the City, to challenge the environmental documents associated with the Port's modifications to the airport led to the City entering into a

settlement agreement with the Port, which mandated mitigation of potential noise impacts generated by the airport upon San Leandro residents. This original \$9 million agreement, which was adopted on December 5, 2000 (with a subsequent amendment adopted on July 22, 2003), became known as the *Residential Airport Noise Insulation Program*, and facilitated the installation of noise-reducing features such as new double-pane windows, sliding glass doors, and other insulation improvements in single-family dwellings in the Davis West, Timothy Lane and Mulford Gardens areas. The original program was fully funded by the Port and administered by the City via a third party consultant. Homeowners who participated in this program were required to sign a noise easement with the Port of Oakland upon completion of the insulation improvements.

The goal of the original program was to mitigate interior noise levels within approximately 200 homes that were impacted by airport noise, as stated in the settlement agreement. Phase I of the Airport Noise Insulation Program was initiated in 2004 and completed approximately 81 properties; Phase II was initiated in 2009 and completed approximately 73 additional properties, for a total of 154. On average, each participating property received approximately \$30,000 in improvements.

However, per the terms of the original agreement with the Port, funding for the program was eventually terminated because the Port failed to achieve certain codified Enterprise Fund reserve targets. A number of eligible homeowners either failed to respond to offers of assistance, or otherwise declined acceptance of potential improvements during Phase I and Phase II of the program and approximately 46 eligible homes ultimately did not receive noise insulation.

Due to the highly technical nature of the work, the City contracted with C. Kell-Smith & Associates, a consulting firm based in the Bay Area that specializes in executing airport-related mitigation efforts. Through this contract, Phases I and II of the program were completed, which provided a variety of services to the residents including outreach, inspection, installation and coordination with City building staff in order to efficiently install improvements to the properties.

Concurrent with the above program, on June 16, 2008, the City Council approved the purchase of 2139 Laura Avenue in the Davis West neighborhood for approximately \$340,000. The home was purchased so that it could be demolished to make way for the widening of Davis Street that was envisioned as part of a project led at the County level to install a HOV lane on the I-880 freeway, along with the reconstruction of the Davis Street overpass and realignment of the southbound off-ramp at Davis Street. At the time of the property's purchase, the Alameda County Transportation Commission (ACTC) was in the design phase of the project. However, in 2012, the ACTC determined that the latest design configurations for the project would no longer require the demolition of the Laura Avenue property for realignment of the off-ramp.

As such, the City repaired the property and prepared it for lease as a single-family residence. The City ultimately leased the property as rental housing from May 2013 through January 2017, at which time the property was vacated. In March 2017, staff received direction from the City Council to list the property for sale. The property was listed in June 2017 on the multiple listing service and received three offers. The City accepted the highest offer of \$590,000 and the property sold on

August 18, 2017. After deducting the costs of necessary repairs to the property, commission fees and closing costs totaling \$48,000, the City yielded a net revenue of \$542,000, which was deposited into General Fund account 010-14-021-5240.

As part of the City Council's subsequent action to accept the \$542,000 in proceeds from the sale, the City Council directed staff to retain these funds for the purposes of making investments into the Davis West neighborhood that would improve the local quality of life, referred to as the *Davis West Neighborhood Investment Program*. This program was created due to the unique geographic location of the Davis West neighborhood in close proximity to the Interstate 880 freeway, the flight path of Oakland International Airport, as well as other nearby noise-generating uses including retail shopping centers, high-traffic intersections and industrial facilities. Consistent with this program, over the past several years, the City implemented a number of infrastructure and quality of life improvements in the area, including: rehabilitation and resurfacing of the neighborhood's roads, installation of traffic calming speed humps, a new playground at Warden Park, improved street lighting, a freshly painted neighborhood entryway sign, and utility box art work, in addition to the first and second rounds of residential noise insulation that were already completed.

Although Phases I and II of the airport noise insulation program have now concluded and the City has no legal obligation to further pursue additional noise insulation, based on prior Council direction to explore additional ways of assisting residents of the Davis West neighborhood, City staff recommends launching a new City-initiated third phase of the program which would be entirely funded by the proceeds of the sale of the formerly City-owned property at Laura Avenue. After reviewing available records, staff has determined that of the remaining 46 houses that were eligible for funding through the first two phases of the program, there were 10 properties that remained on an interested parties waiting list, but which never ultimately received such insulation. Therefore, these homes would be prioritized as part of Phase III of the program. To the extent additional funds remain after addressing these homes, staff would contact any other remaining eligible homes in the area. If demand were to exceed available funding, selection into the program would be based on a lottery, as with the first two phases.

Due to the highly specialized and technical nature of the work, City staff again proposes to contract with C. Kell-Smith & Associates to implement the proposed third phase of the program. Coupled with their direct experience executing the prior two phases of this program, this firm is uniquely qualified to manage this proposed third phase of the program. As such, the draft resolution for the City Council's consideration includes language authorizing a sole source agreement with this vendor. The proposed scope of work would include: outreach, plans and specifications, estimates, bid packages and contractor qualification, construction scheduling and coordination with the City's building division. The scope includes development of custom design plans for each of the benefitting properties (to be developed by a sub-contractor), as well as asbestos and lead surveys, which would be completed by another sub-contractor with expertise in this field. The remaining portions of the \$542,000 program would be used to fully off-set the construction costs associated with installation of the noise insulation improvements that would be designed as part of the contract.

Public Outreach

If the requested actions are authorized by the City Council, staff intends to contact the property owners from the interested parties list that are in the Davis West neighborhood as eligible for Phase III of the program. To the extent sufficient funds remain available, staff would subsequently contact any other remaining property owners from the list of remaining eligible homes and offer similar assistance.

Related Council Goals

The following City Council goal is applicable to the requested action:

- Support and implement programs, activities and strengthen communication that enhances the quality of life and wellness, celebrates the arts and diversity and promotes civic pride

Previous Actions

- Resolution 2008-071, approving a purchase and sale agreement for 2139 Laura Avenue, the widening of Davis Street, and a continuation of the Westgate Parkway Extension project, ACTIA No. 18, adopted on June 16, 2008.
- Resolution No. 2004-012, approving a contractual service agreement with C. Kell-Smith, adopted January 26, 2004
- Resolution No. 2008-142, approving Amendment No. 1, adopted Dec. 1, 2008
- Resolution No. 2011-162, approving Amendment No. 2, adopted Sept 19, 2011

Applicable General Plan Policies

- Policy EH-9.2 Mitigation of Airport Noise: Pursue mitigation of airport noise impacts to the fullest extent possible. Support and advocate for operational practices, changes to aircraft, new technologies, and physical improvements that would reduce the number of properties in San Leandro that are impacted by noise.
- Action EH-9.2.A Settlement Agreement Implementation: Continue implementation of the 2000 Settlement Agreement between the City of San Leandro and the Port of Oakland, as amended through 2017, to support noise insulation for additional San Leandro residences.

Fiscal Impacts

If authorized by City Council, the costs for implementation of Phase III of the Airport Noise Insulation Program would be limited to \$542,000, which would require a corresponding appropriation of \$542,000 in account 010-14-021-5240 in the FY 2018-19 budget. This requested appropriation is fully off-set by existing fund balance that was left unspent in the FY 2017-18 budget, which was generated by the sale of the formerly City-owned property at 2139 Laura Avenue.

If authorized by approval of the requested action and associated resolution, the City Manager will be delegated authority to negotiate and enter into contract with C. Kell-Smith in an amount not to exceed \$246,504 using the above-requested appropriation. A line item break down of these estimated costs has been included as an attachment to this staff report, which includes three primary components:

- \$68,774 overall project management by C. Kell-Smith & Associates
- \$159,780 sub-contract for construction plan development & related tasks
- \$17,950 sub-contract for lead & asbestos survey work

Attachment to Staff Report

- Scope of work and summary of proposed contract costs

PREPARED BY: Eric Engelbart & Jacqui Diaz, City Manager's Office

EXHIBIT A

City of San Leandro Residential Sound Insulation Program Phase III Scope of Work		C. Kell-Smith & Associates, Inc.				
		Principal In Charge	Project Manager	Asst. PM	Project Coordinator	Fees
Project Start-Up (PSU)		\$230	\$144	\$105	\$90	
	Review with City staff of past Policies and Procedures	2	0	0	0	\$460.00
	Determine Phase III P & P	2	0	0	0	\$460.00
	Plan budget of X number of homes	2	0	0	0	\$460.00
	Determine Qualifying Addresses		3			\$432.00
	Kick off meeting with team		2		2	\$468.00
	hrs	6	5	0	2	
	Subtotal - Fees	\$1,380.00	\$720.00	\$0.00	\$180.00	\$2,280.00
Homeowner Selection Process (HSP)						
	Mail invitations for information meeting with qualified participants	0.5	1	0	16	\$1,669.00
	Prepare Informational Packets	0.5	4	0	0	\$691.00
	Develop Participation Database	0.5	8	0	0	\$1,267.00
	Prepare Legal Agreements	0.5	8	0	2	\$1,447.00
	Order Title Search	0	0.5	0	8	\$792.00
	hrs	0	0	0	0	\$0.00
	Subtotal - Fees	\$460.00	\$3,096.00	\$0.00	\$2,340.00	\$5,896.00
Pre-Design Process (PDP) & Scheduling (S)						
	Schedule Architectural visits	0.5	0	0	4	475
	Schedule Hazmat samplings	0.5	0	0	4	475
	hrs	1	0	0	8	
	Subtotal - Fees	\$230.00	\$0.00	\$0.00	\$720.00	\$950.00
Plans and Specifications (P&S)						
	Review draft 90% documents and cost estimates	0.5	8	0	0	\$1,267
	Schedule and review SOW with H/Os	1	8	0	8	\$2,102
	Review any SOW changes with City	0	3	0	0	\$432
	hrs	1.5	19	0	8	
	Subtotal - Fees	\$345.00	\$2,736.00	\$0.00	\$720.00	\$3,801.00
Construction						
	Prepare and Attend pre-bid meeting	1	3	0	3	\$932.00
	Attend bid opening	1	3	0	0	\$662.00
	Prepare and Attend pre-construction meeting	1	3	0	3	\$932.00
	Schedule construction	0.5	0	0	40	\$3,715.00
	Schedule Inspections, substantial and finals	0	2	0	40	\$3,888
	hrs	3.5	11	0	86	
	Subtotal - Fees	\$805.00	\$1,584.00	0	\$7,740	10,129.00
General Tasks (GT)						
	General oversight	20	80	0	40	\$19,720
	Update Database	0	5	0	40	\$4,320
	Follow up on warranty issues and homeowners' inquiries	0	8	0	16	\$2,592
	hrs	0	0	0	0	\$0
	Subtotal - Fees	\$4,600.00	\$13,392.00	\$0.00	\$8,640.00	\$26,632.00
Total Professional Fees		\$7,820.00	\$21,528.00	\$0.00	\$20,340.00	\$49,688.00
Reimbursables						
	Printing and other Reproductions					\$500.00
	First Class / Priority Mail and Delivery Services: Actual Expense Incurred					\$200.00
	Chicago Title Search					\$800.00
	Notary					\$165.00
	10% mark-up on subs					\$17,421.00
	Total Reimbursables					\$19,086.00
	TOTAL	\$7,820.00	\$21,528.00	\$0.00	\$20,340.00	\$68,774.00

City of San Leandro Residential Sound Insulation Davis West Neighborhood SOW	The Jones Payne Group, Inc.					
Task	Principal-In-Charge	Project Architect	Project / Construction Manager	Job Captain	Drafter	Total
	Bill Rate	\$260.00	\$170.00	\$140.00	\$140.00	\$130.00
Project Start-Up						
Review with staff past procedures and policies, modify as necessary	1.00	0.00	2.00	0.00	0.00	3.00
Determine selection of properties	0.00	0.00	0.00	0.00	0.00	0.00
Budget for x number of homes	0.00	0.00	2.00	0.00	0.00	2.00
<i>Project Start-Up Subtotal</i>	\$260.00	\$0.00	\$1,040.00	\$0.00	\$0.00	\$1,300.00
Homeowner Selection Process						
Prepare and Mail Invitations to qualified participants	0.00	0.00	0.00	0.00	0.00	0.00
Prepare Informational Packet	0.00	0.00	2.00	0.00	0.00	2.00
Develop participant data base	0.00	0.00	0.00	0.00	0.00	0.00
Prepare Legal Documents	0.00	0.00	0.00	0.00	0.00	0.00
Title Search	0.00	0.00	0.00	0.00	0.00	0.00
County Assessors Records Research	0.00	0.00	0.00	0.00	0.00	0.00
<i>Homeowner Selection Process Subtotal</i>	\$0.00	\$0.00	\$520.00	\$0.00	\$0.00	\$520.00
Pre-Design Process						
Kick off Meeting with the Team.	1.00	1.00	1.00	0.00	0.00	3.00
Meet with San Leandro Building Department	0.00	0.00	4.00	0.00	0.00	4.00
Prepare memo summarizing building department's feedback	0.00	1.00	3.00	0.00	0.00	4.00
Review code memo with client	0.00	0.00	1.00	0.00	0.00	1.00
Schedule and conduct architectural assessments	0.00	0.00	24.00	0.00	24.00	48.00
Schedule and conduct Hazmat Surveys	0.00	0.00	0.00	0.00	0.00	0.00
Analysis of Hazmat Final Report	0.00	0.00	0.00	0.00	0.00	0.00
Prepare Existing Conditions Report with schematic floor plans & proposed treatments.	1.00	2.00	8.00	12.00	64.00	87.00
Review existing condition reports with client	0.00	0.00	3.00	0.00	0.00	3.00
Revise existing condition report per client comments	0.00	0.00	4.00	0.00	0.00	4.00
<i>Pre-Design Process Subtotal</i>	\$520.00	\$1,040.00	\$12,480.00	\$3,120.00	\$22,880.00	\$38,220.00
Plans and Specifications						
Customize and Update Project Specifications	0.00	4.00	4.00	24.00	0.00	32.00
Coordinate Title 24 compliance	0.00	4.00	2.00	16.00	0.00	22.00
Coordinate Division 00 & 01 specifications with City	1.00	2.00	8.00	4.00	0.00	15.00
Prepare draft 90% documents and cost estimates	1.00	8.00	8.00	16.00	24.00	57.00
Review 90% documents and cost estimates with San Leandro	1.00	1.00	1.00	0.00	0.00	3.00
Revise 90% documents and cost estimates as necessary	0.00	2.00	2.00	4.00	8.00	16.00
Review scope of work per revised 90% documents with owners	0.00	0.00	12.00	0.00	0.00	12.00
Owner sign-off on plans and execute Agreements	0.00	0.00	0.00	0.00	0.00	0.00
Review owner changes with San Leandro	0.00	0.00	2.00	0.00	0.00	2.00
Prepare & submit 100% contract documents & cost estimates to client.	0.00	2.00	4.00	8.00	8.00	22.00
Prepare bid package	0.00	1.00	4.00	12.00	0.00	17.00
<i>Plans and Specifications Subtotal</i>	\$780.00	\$6,240.00	\$12,220.00	\$21,840.00	\$10,400.00	\$51,480.00
Bid & Award and Contractor Selection						
Prepare documents for Advertising Bids	0.00	0.00	2.00	0.00	0.00	2.00
Participate in Pre-Bid Meeting	0.00	0.00	4.00	0.00	0.00	4.00
Participate in Bid-Opening	0.00	0.00	4.00	0.00	0.00	4.00
Check Contractor's References	0.00	0.00	4.00	0.00	0.00	4.00
Recommend contractor for Award	0.00	0.00	1.00	0.00	0.00	1.00
City Council Award	0.00	0.00	0.00	0.00	0.00	0.00
Issue Notice of Award	0.00	0.00	0.00	0.00	0.00	0.00
Execute construction contractor's contract	0.00	0.00	0.00	0.00	0.00	0.00
Issue Notice to Proceed	0.00	0.00	0.00	0.00	0.00	0.00
<i>Bid Process and Contractor Selection Subtotal</i>	\$0.00	\$0.00	\$3,900.00	\$0.00	\$0.00	\$3,900.00
Pre-Construction Process						
Prepare and Participate in Pre-Construction Meeting	0.00	0.00	3.00	0.00	0.00	3.00
Review submittals and shopdrawings	0.00	2.00	12.00	0.00	0.00	14.00
Review Contractor's Schedule of Values	0.00	0.00	2.00	0.00	0.00	2.00
Review Contractor's Haz-Mat Plan	0.00	0.00	2.00	0.00	0.00	2.00
Review Contractor's Schedule	0.00	0.00	2.00	0.00	0.00	2.00
Warehouse Materials Inspection	0.00	0.00	16.00	0.00	0.00	16.00
Schedule and attend contractor's verification of measurements	0.00	0.00	24.00	0.00	0.00	24.00
Respond to RFIs	0.00	0.00	8.00	0.00	0.00	8.00
Request Cost Proposals	0.00	0.00	1.00	0.00	0.00	1.00
Review cost proposals	0.00	0.00	2.00	0.00	0.00	2.00
<i>Pre-Construction Subtotal</i>	\$0.00	\$520.00	\$18,720.00	\$0.00	\$0.00	\$19,240.00
Construction						
Schedule Construction	0.00	0.00	0.00	0.00	0.00	0.00
Attend weekly construction meetings	0.00	0.00	18.00	0.00	0.00	18.00
Monitor Contractor's Schedule	0.00	0.00	4.00	0.00	0.00	4.00
Conduct Periodic Inspections for Haz Mat	0.00	0.00	0.00	0.00	0.00	0.00
Respond to RFIs	0.00	0.00	6.00	0.00	0.00	6.00
Review Cost Proposals and recommend to client	0.00	0.00	4.00	0.00	0.00	4.00
Prepare weekly progress reports	0.00	0.00	12.00	0.00	0.00	12.00
Respond to questions from client	0.00	0.00	4.00	0.00	0.00	4.00
Review Weekly Certified Payroll Records	0.00	0.00	4.00	0.00	0.00	4.00
Review Progress Payment Requests	0.00	0.00	4.00	0.00	0.00	4.00
Prepare and Review Close-Out Documents	0.00	0.00	16.00	0.00	0.00	16.00
<i>Construction Subtotal</i>	\$0.00	\$0.00	\$18,720.00	\$0.00	\$0.00	\$18,720.00
Project Completion						
Review and submit to San Leandro Contractor's As-Builts	0.00	0.00	2.00	0.00	0.00	2.00
Review and Submit Warranty and Maintenance Bonds	0.00	0.00	2.00	0.00	0.00	2.00
Review and Approve Property Owner Warranty Packets	0.00	0.00	4.00	0.00	0.00	4.00
Record legal agreements with County Recorder's office	0.00	0.00	0.00	0.00	0.00	0.00
Prepare and Issue Notice of Completion	0.00	0.00	4.00	0.00	0.00	4.00
Prepare/conduct post-project review meeting	1.00	0.00	3.00	0.00	0.00	4.00
Prepare and submit cost out documents to San Leandro	0.00	0.00	4.00	0.00	0.00	4.00
Prepare post-project report	1.00	0.00	6.00	0.00	0.00	7.00
<i>Project Completion Subtotal</i>	\$520.00	\$0.00	\$6,500.00	\$0.00	\$0.00	\$7,020.00
Ongoing Project Tasks						
General Project Oversight	4.00	8.00	24.00	0.00	0.00	36.00
Project coordination with team and City	4.00	8.00	24.00	0.00	0.00	36.00
Project scheduling - visits, meetings, construction activity, etc.	0.00	0.00	0.00	0.00	0.00	0.00
Follow Up Warranty Phone Calls / Issues	0.00	0.00	12.00	0.00	0.00	12.00
Develop and Update Project Schedule	0.00	0.00	4.00	0.00	0.00	4.00
Edit Master Data Base	0.00	0.00	0.00	0.00	0.00	0.00
<i>Ongoing Project Tasks Subtotal</i>	\$2,080.00	\$4,160.00	\$16,640.00	\$0.00	\$0.00	\$22,880.00
Total Professional Fees	\$3,640.00	\$11,960.00	\$84,240.00	\$24,960.00	\$33,280.00	\$156,260.00
Prime Consultant's Mark-up (10%)	\$ 15,808.00					
Reimbursable Expenses						
Printing and other Reproductions						\$ 400.00
First Class / Priority Mail and Delivery Services: Actual Expense Incurred						
Standard Government Mileage Rates			\$ 800.00	\$ -		
Lodging, Airfare, Rental car	\$ -	\$ 880.00	\$ -	\$ -	\$ 1,840.00	
Notary						
Test Sampling / Abatement Plans						
	\$ -	\$ 880.00	\$ 800.00	\$ -	\$ 1,840.00	\$ 3,520.00
Totals - Fees, Mark-up & Reimb. Exp.	\$ 19,448.00	\$ 12,840.00	\$ 85,040.00			\$ 159,780.00

November 21, 2018

PROHA3203 / C4658

To: Ms. Carla Kell-Smith
C. Kell-Smith and Associates
1250 Bayhill Drive, Suite 370
San Bruno, CA 94066

mgarg@tcco.co
Phone: 510-926-9101

From: Wilson Wong
Forensic Analytical Consulting Services
21228 Cabot Boulevard
Hayward, CA 94545

wwong@forensicanalytical.com
Phone: 510-266-4600

**Subject: Proposal for Asbestos & Lead Survey
8 Homes in San Leandro, California**

Dear Ms. Kell-Smith:

Forensic Analytical Consulting Services, Inc. (FACS) is pleased to present this proposal for the above referenced project, which consists of 8 homes in San Leandro, California (project buildings) in support of the noise insulation project.

Client Objective(s)

Based on our correspondences, the following summarizes our understanding of your objectives:

- To identify asbestos- and lead-containing materials in the project buildings in support of the noise insulation project
- Comply with regulatory requirements

Scope of Work

Subject to the attached terms and conditions, rates and the other provisions of this proposal, FACS will provide the following services:

FACS will:

- Perform an asbestos and lead survey of the 8 project buildings (buildings to be identified later)
- The survey will be performed by a California Certified Lead Inspector/Sampling Technician, and Asbestos Consultant/ Site Surveillance Technician, and will meet the requirements of local Air Quality Management District
- Submit samples to accredited laboratories for analysis. Asbestos samples will be analyzed by Polarized Light Microscopy (PLM), lead samples by Atomic Absorption Spectrometry (FlameAA), and PCB samples by EPA Method 8082A. All samples will be submitted for standard (5 to 7 days) turnaround
- Prepare a written summary report with the findings of the survey
- Attend a project kick-off meeting

- Prepare specifications for the removal of asbestos- and lead-containing materials identified in the survey
- Review the submittals by the abatement contractor

Cost

The following table shows the total fee for the above proposed services, broken down by each address.

<u>Task</u>	<u>Rate/Unit</u>	<u>Unit</u>	<u>Total</u>
Asbestos & Lead Survey	\$ 11,400.00	1 Ea.	\$11,400.00
Kick-Off Meeting	\$ 950.00	1 Ea.	\$950.00
Asbestos & Lead Specifications	\$ 2,500.00	2 Ea.	\$5,000.00
Submittals Review	\$ 600.00	1 Ea.	\$600.00
Total Project Lump Sum Fees			\$17,950.00

Services performed for the project will be in accordance with the attached Terms and Conditions.

Limitations

The proposed scope of work is based on initial information provided to FACS and on FACS' judgment and experience and the standard of practice for professional service. The findings will be subject to the limitations and variability inherent in the methodology employed. As with all environmental investigations, this investigation will be limited to the defined scope and will not purport to set forth all hazards, nor indicate that other hazards do not exist.

Please contact our office if you have any questions regarding the information provided (510-266-4600). If this proposal is acceptable, please issue and send a purchase order / contract to my attention. Thank you again for your time and consideration.

Best Regards,



Wilson Wong
Program Manager, CAC # 92-0791

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GENERAL TERMS AND CONDITIONS

ALL ORDERS FOR GOODS AND/OR SERVICES SET FORTH IN FORENSIC ANALYTICAL CONSULTING SERVICES, INC.'S SCOPE OF WORK (THE "SERVICES") SHALL BE COVERED BY THE FOLLOWING EXPRESS TERMS AND CONDITIONS WHICH SHALL CONSTITUTE THE ENTIRE CONTRACT (THE "CONTRACT") BETWEEN FORENSIC ANALYTICAL CONSULTING SERVICES, INC. (THE "SELLER") AND THE BUYER (THE "BUYER").

- 1. TERMS AND CONDITIONS.** All terms and conditions relating to the rendering of services or the sale of goods by the Seller are set forth herein. The Contract contains the final and complete agreement between the parties and there are no representations or warranties, expressed or implied, with respect to services or goods, except as specifically set forth herein. No waiver by the Seller of any default shall be deemed a waiver of any subsequent default. Failure of the Seller to object to provisions contained in any order or other communication from the Buyer shall not be construed as a waiver of any right or remedy of the Seller hereunder, nor an acceptance of any such provisions.
- 2. INDEMNIFICATION.** The Buyer agrees to defend, indemnify and hold the Seller harmless from any claim or liability for injury or loss, including all attorney fees and related costs arising in whole or in part from the negligent act or omission, and/or strict liability of the Buyer or Anyone directly employed by the Buyer. The Seller does not guarantee the completion of performance of contracts by third parties, nor is it responsible for their acts or omissions, nor for the safety of any workplace other than the Seller's premises. The Seller agrees to defend, indemnify, and hold the Buyer harmless from any claim or liability for injury or loss, services provided by the Seller to the extent such liability arises out of the Seller's willful misconduct or negligent performance of the service.
- 3. COMPENSATION.** Unless stated otherwise in a Letter of Agreement between the Seller and the Buyer, the compensation for services will be billed in accordance with the agreed upon rates, subject to change upon notification. Time spent in traveling, when in the interest of the project, will be charged to the Buyer. Reimbursable expenses will be charged at cost plus 15%.
- 4. PAYMENT TERMS.** Payment terms are net 15 days unless special written arrangements have been made. The Seller may, at any time, suspend performance of any service, withhold written reports or require payment in cash, security or other adequate assurance satisfactory to the Seller when, in Seller's opinion, the financial condition of Buyer or other grounds for insecurity warrant such action. The Seller reserves the right to assess late charges on accounts past due at a rate of 18% per annum. Any attorney fees or other costs incurred in collecting any delinquent amount shall be paid by the Buyer.
- 5. TAXES.** All sales taxes or use taxes, whether now existing or hereinafter imposed or modified, or taxes or duties of any nature whatsoever which may be assessed, shall be paid by the Buyer. In the event the Seller is required to pay any such tax, the Buyer shall reimburse the Seller therefore on demand. In lieu of such payment, the Buyer shall provide the Seller at the time the order is submitted with exemption certificates or other documents acceptable to taxing or customs authorities.
- 6. CREDIT.** This contract is given and accepted subject to the Seller's approval of the Buyer's credit, determinable at any time and from time to time by the Seller in its sole judgment, affecting the whole or any unfulfilled portion of this contract.
- 7. LEGAL ENFORCEMENT OF GENERAL CONDITIONS.** If any portion of this Contract is found to be unenforceable, the remaining portions of the Contract shall remain in effect and enforced.
- 8. MODIFICATION OF AGREEMENT.** The foregoing conditions may be modified only by written agreement and signed by duly authorized representative of the Seller and the Buyer.
- 9. AGREEMENT OF BUYER.** I understand the foregoing General Conditions and Compensation and agree to abide by all herein.



City of San Leandro

Meeting Date: January 22, 2019

Resolution - Council

File Number: 19-006

Agenda Section: ACTION ITEMS

Agenda Number:

TO: City Council

FROM: Jeff Kay
City Manager

BY: City Council

FINANCE REVIEW: David Baum
Finance Director

TITLE: RESOLUTION of the San Leandro City Council to Appropriate Up to \$542,000 for the Implementation of Phase III of the Airport Noise Insulation Program for the Davis West Neighborhood and to Authorize the City Manager to Negotiate and Execute a Sole Source Consulting Services Agreement with C. Kell-Smith & Associates or Related Sub-Consultants in an Amount Not to Exceed \$246,504 to Implement the Program

WHEREAS, due to noise impacts generated by modifications made by the Port to Oakland to the Oakland International Airport, the City entered into a settlement agreement with the Port on December 5, 2000, with a related addendum adopted on July 22, 2003; and

WHEREAS, the above agreement facilitated implementation of noise impact mitigation measures benefitting San Leandro residents within the Davis West, Mulford Gardens and Timothy Lane neighborhoods through creation of the Airport Noise Insulation Program for up to 200 homes, and funded entirely by the Port of Oakland; and

WHEREAS, Phases I and II of the Program were managed via a consulting services agreement with C. Kell-Smith & Associates, which completed improvements to 154 properties before funding for the program was completed; and

WHEREAS, based on the sale of City-owned property at 2139 Laura Avenue, the City Council directed staff to create the Davis West Neighborhood Investment Program on October 16, 2017; and

WHEREAS, the City Council now desires to fund a final Phase III of the Airport Noise Insulation Program to complete additional insulation measures for the Davis West Neighborhood; and

WHEREAS, to effectuate the above goal, the City Council directs the City Manager to negotiate and enter into a contract with C. Kell-Smith & Associates in an amount not to exceed \$246,504 to implement Phase III of the Airport Noise Insulation Program; and

WHEREAS, due to the highly technical and specialized nature of this work, coupled with their experience executing the prior two phases of this program, C. Kell-Smith & Associates is uniquely qualified to complete the proposed Phase III of the program and so the City Council desires that the City enter into a sole source agreement with this firm.

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of San Leandro:

1. That \$542,000 received from the 2017 sale of the formerly City-owned property at 2139 Laura Avenue and designated towards the Davis West Neighborhood Investment Program is hereby appropriated into account number 010-14-021-5240 for the purposes of implementing Phase III of the Airport Noise Insulation Program; and
2. That the City Manager is hereby authorized to negotiate and execute a sole source consulting services agreement with C. Kell-Smith & Associates in a total amount not to exceed \$246,504 using the above appropriation to complete the third and final phase of the Airport Noise Insulation Program for properties in the Davis West Neighborhood or surrounding areas.