



# City of San Leandro

Meeting Date: April 19, 2021

## Staff Report

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**File Number:** 21-128

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.E.

**TO:** City Council

**FROM:** Fran Robustelli  
Interim City Manager

**BY:** Keith Cooke  
Engineering & Transportation Director

**FINANCE REVIEW:** Susan Hsieh  
Finance Director

**TITLE:** Staff Report for a City of San Leandro City Council Resolution to Approve Amendment No. 2 to a Consulting Services Agreement with NBS Consultants for Services Related to the Formation of a Special Financing District for the Neptune Drive Shoreline Flood Protection, Project 2016.0700; and to Transfer \$40,000 from the General Fund Unrestricted Fund Balance Reserves to the Capital Improvement Fund Balance and Appropriate \$40,000 from the Fund 210 Fund Balance to Account 210-28-200

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### SUMMARY AND RECOMMENDATIONS

This action provides for an increased scope of consulting services related to establishment of an assessment district to fund both the Neptune Drive Shoreline Flood Protection Project and a potential \$2,700,000 Funding Gap in the Alameda County Flood Control District's Estudillo Canal Improvement Project.

Staff recommends the following:

- Approval of Amendment No. 2 to an existing Consulting Services Agreement with NBS Consultants that:
  - Provides financial services and public outreach related to an assessment district to fund both the Neptune Drive Shoreline Flood Protection Project and a \$2.7M Funding Gap in the Alameda County Flood Control District's Estudillo Canal Improvement Project;
  - Increases the contract amount by \$27,500, resulting in a total contract amount of \$104,700; and
  - Extends the existing contract to June 30, 2023.
- Appropriation of \$40,000 from the General Fund Unrestricted Fund Balance Reserves to Account 210-28-200

## **BACKGROUND**

The Federal Emergency Management Agency's (FEMA) most recent flood insurance risk maps indicate increased risk of flooding to approximately 1,000 San Leandro properties. The maps indicate that there is a risk that water may enter the Mulford Gardens and Marina Faire neighborhoods via a low spot on the San Francisco Bay shoreline near the intersection of Neptune Drive and Marina Boulevard as well as by overtopping of the north levee along the Estudillo Canal. Improvements at both locations are required to reduce the flooding risk.

The City has engaged Wood Rogers, a consulting engineering firm, to prepare a design for flood protection improvements near the intersection of Neptune Drive and Marina Boulevard. The City has also engaged NBS Consultants, a firm experienced in creating special financing districts, for services related to the outreach, voting, and formation of an assessment district to fund the project.

The Alameda County Flood Control District (District), which operates the Estudillo Canal, designed a project to modify the levees along the canal so that the canal along with the City's proposed improvements will protect the Mulford Gardens and Marina Faire neighborhoods from a one-hundred-year flood. The District advertised their project for construction; however, all bids for the work were rejected in Spring 2020 because the bids resulted in a project cost approximately \$2,700,000 more than the available budget.

To supplement funding for canal improvements, the District is applying for federal funding through the Hazard Mitigation Grant Program, a Federal grant program managed by FEMA. Grants awarded through this program cover 75% of eligible costs.

The contract with NBS was previously extended via Amendment 1 to cover the delay in proceedings caused by the District's rejection of bids in 2020.

### **Analysis**

Award or denial of the grant is expected in late fall 2021. In the event that grant funding is denied, funding from an alternate source will be required to construct the Estudillo Canal Improvements Project. One option, if approved by property owners, is formation of an assessment district to fund both the Neptune Drive Shoreline Flood Protection Project and the \$2,700,000 shortfall of the District's Estudillo Canal Improvements Project.

Preliminary work on formation of the proposed assessment district can occur simultaneously while the City's grant applications is under evaluation. If the grant award outcome is unfavorable, then this effort will enable the earliest possible vote for funding of the project and commencement of construction. This will minimize delays in completion of the project that would otherwise result in properties remaining longer in the high flood risk area and subject to higher flood insurance premiums.

Expanding the assessment district to include the funding shortfall on the Estudillo Canal project requires additional cost-share analysis and outreach. NBS will provide a new cost/benefit analysis with updated general and special benefits and new rates modeled to address increased

funding required for both Projects. NBS will continue engagement with property owners through social media and updates on the project specific website. They will also host a virtual public meeting to provide updates on controlling activities, assessment scenarios for cases with or without grant funding including costs, assessment rates, and overall timelines.

Work for this alternate approach was not originally budgeted but will be added to the project. NBS's original contract amount was \$77,200. Amendment No.1 increased the contract amount to \$82,200. Amendment No. 2 will increase the contract amount to \$104,700 and will extend the contract term to June 30, 2023.

Current design phase costs are \$560,000. An additional \$40,000 is required to cover both consultant and staff costs to complete the alternate approach processes, bringing the design phase costs to \$600,000.

### **Current Agency Policies**

- Maintain and enhance San Leandro's infrastructure

### **Previous Actions**

- On February 19, 2019, by Resolution No. 2019-044, the City Council approved an agreement with NBS for Services Related to the Formation of a Special Financing District for the Neptune Drive Shoreline Flood Protection project.
- On February 20, 2018, by Resolution No. 2018-011, the City Council approved an agreement with Wood Rodgers, Inc. for design of the Neptune Drive Shoreline Flood Protection project.
- On November 2, 2020, by Resolution No. 2020-138, the City Council appropriated an additional \$60,000 to complete design of the Neptune Drive Shoreline Flood Protection project.

### **Applicable General Plan Policies**

- Policy EH-1.7 Work collaboratively with County, State, and federal agencies to develop short and long-term programs that reduce flood hazards in the City. At the local level, the City will regularly maintain its storm drainage system and ensure that those portions of San Leandro Creek under its jurisdiction remain clear of obstructions.

### **Environmental Review**

The project was determined to be categorically exempt from CEQA and a Notice of Exemption was filed with the Alameda County's Recorders Office on October 15, 2019.

### **Summary of Public Outreach Efforts**

- Staff and NBS presented project information at two separate public meetings held on July 29, 2019 and November 13, 2019, respectively. A FEMA representative presented at the second meeting.
- NBS continually provides updates and information by means of mailed postcards, social media sites and on the project website. The consultant also addressed public comments and questions received.
- A virtual public meeting will be scheduled for May 2021. City staff, NBS and a District representative will provide an update on both the Neptune Drive and the Estudillo Canal projects, Federal grant status and an introduction to the Alternative Funding scheme.

**Fiscal Impacts**

The design and bid phase of the project is estimated to cost \$600,000.

Assuming the grant is not awarded and an assessment district is formed to pay for the project, the total cost of the project is as follows.

Design and Bid:	\$600,000
Easements:	\$500,000
Construction Administration:	\$87,000
Neptune Drive Shoreline Protection Construction Contract:	\$1,193,000
Estudillo Canal Improvements (Assessment District portion):	\$2,700,000
Post Construction Administration:	\$20,000
<u>Assessment District Debt Service:</u>	<u>\$500,000</u>
Total:	\$5,600,000

If grant funds are awarded the Estudillo Canal Improvement (Assessment District portion) cost will be removed from the total project cost.

If an assessment district isn't formed the Assessment District Debt Service cost will be removed from the project cost.

**Budget Authority**

<u>Account No.</u>	<u>Reso., Appropriation Dates &amp; Source</u>	<u>Amount</u>
210-28-200	FY 2017-18 CIP Budget	\$500,000
210-28-200	FY 2020-21	<u>\$ 60,000</u>
<b>Current Funding</b>		<b>\$560,000</b>
<u>Appropriation requested by this action to Account No. 210-28-200</u>		<u>\$40,000</u>
<b>Total Proposed Design Phase Funding</b>		<b>\$600,000</b>

**Attachment to Related Legislative File**

- CSA Amendment No. 2

**PREPARED BY:** John O'Driscoll, Associate Engineer, Engineering and Transportation

Department



# City of San Leandro

Meeting Date: April 19, 2021

## Resolution - Council

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**File Number:** 21-129 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Fran Robustelli  
Interim City Manager

**BY:** Keith Cooke  
Engineering & Transportation Director

**FINANCE REVIEW:** Susan Hsieh  
Finance Director

**TITLE:** RESOLUTION of the City of San Leandro City Council to Approve Amendment No. 2 to a Consulting Services Agreement With NBS Consultants for Services Related to the Formation of a Special Financing District for the Neptune Drive Shoreline Flood Protection Project ; and to Transfer \$40,000 from the General Fund to the Capital Improvement Fund and Appropriate \$40,000 from Fund 210 to Account 210-28-200

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WHEREAS, an agreement dated February 21, 2019 exists between the City of San Leandro and NBS Consultants; and

WHEREAS, a contract amendment is required to compensate for additional services related to the formation of a special financing district; and

WHEREAS, Amendment No. 2 to the agreement, a copy of which is attached, was presented to this City Council; and

WHEREAS, the City Council is familiar with the contents thereof; and

WHEREAS, the City Manager recommends approval of said amendment to the agreement to increase the not to exceed amount to \$104,700 and extend the term to June 30, 2023.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

That said Amendment No. 2 substantially in the form presented is hereby approved and execution by the City Manager is hereby authorized; and

That \$40,000 shall be transferred from the General Fund to the Capital Improvement Fund and Appropriate \$40,000 from Fund 210 to Account 210-28-200



**AMENDMENT NO. 2 TO CONSULTING SERVICES AGREEMENT BETWEEN  
THE CITY OF SAN LEANDRO AND  
NBS  
FOR  
NEPTUNE DRIVE SHORELINE FLOOD IMPROVEMENTS**

This **Amendment No. 2** (“Amendment”) is made by and between the City of San Leandro (“City”) and NBS (“Consultant”) (together sometimes referred to as the “Parties”) as of \_\_\_\_\_, 2021, and amends that certain Consulting Services Agreement (“Agreement”) dated February 21, 2019, between the Parties.

**WHEREAS**, City and Consultant have executed the Agreement, pursuant to which Consultant has provided certain consulting services to City with regard to Neptune Drive Flood Improvements, and

**WHEREAS**, the Parties desire to amend the Agreement to add to the scope, increase compensation and extend the expiration date.

**NOW THEREFORE**, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

1. Section 1.1 of the Agreement entitled “Term of Services” is hereby amended to extend the term from June 30, 2020, to June 30, 2023; and

2. Section 2 of the Agreement entitled “Compensation” is hereby amended to pay Consultant a sum not to exceed \$104,700; and

3. Exhibit A of the Agreement entitled “Scope of Services” is hereby amended to read:  
Add the following subtasks:

**Task 20 – Alternate Approach Modeling**

Model new rates for an Alternative Approach to fund both the Neptune Drive Shoreline Flood Protection Project and to fulfill a \$2.7M Funding Gap in Alameda County Flood Control District’s Estudillo Canal Improvements Project. Update assessor data and other real property information needed and validate data accuracy. Provide guidance with preparation of estimates and provide input on district formation costs. Prepare assessment diagrams and maps. Prepare benefit analysis, method of apportionment, and other assessment engineering elements for the Engineer’s Report. Prepare Preliminary Engineer’s Report for the proposed assessment district with proportion of benefit derived by each parcel, and total cost assigned to each parcel in accordance with applicable assessment law.

**Task 21 – Additional Public Engagement**

Continue to deploy content to a dedicated City webpage and social media. Provide additional district formation intent and options of the Alternate Approach. Provide a comparison of alternate approach rates compared to the original rates. Host a virtual community meeting to go over the project’s status, discuss federal grant applications, timelines and potential outcomes, and changes in the new Alternate



Approach. Develop an online /mailed survey to gather information about the Alternate Approach from residents to determine their support level. Develop action items based on community feedback. Create a flyer detailing the public engagement process, and the final approach supported by the community; and

4. Exhibit B of the Agreement entitled "Compensation Schedule & Reimbursable Expenses" is hereby amended to read:  
Add the following summary:

		Not to Exceed Amount
Original Contract Amount		\$ 77,200
Amendment 1		\$ 5,000
Amendment 2		\$ 22,500
Total		\$104,700

; and

5. All other terms shall remain in full force and effect.

This Amendment may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**SIGNATURES ON FOLLOWING PAGE**

The Parties have executed this Amendment as of the date first written above. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

NBS

\_\_\_\_\_  
Frances Robustelli, Interim City Manager

\_\_\_\_\_  
Michael Rentner, Principal and CEO

Attest:

\_\_\_\_\_  
Leticia I. Miguel, City Clerk

Budget Approved:

Approved as to Fiscal Authority:

\_\_\_\_\_  
Susan Hsieh, Finance Director

210-28-200-5120  
Account Number

Approved as to Form:

\_\_\_\_\_  
Richard D. Pio Roda, City Attorney

\_\_\_\_\_  
Keith Cooke, P.E. Director  
Engineering and Transportation Department