August 20, 2019

Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Tidelands Lease Agreement with San Rafael Airport LLC Regarding Levee Maintenance, and Grant of Permission from San Rafael Airport, LLC Regarding Public or Private Activities Taking Place Along the South Fork of Gallinas Creek

Dear Board Members:

RECOMMENDATION: Approve the lease agreement and accept the grant of permission.

OVERVIEW: On September 18, 2018, your Board entered into a Memorandum of Understanding (MOU) with the San Rafael Airport (Airport) to address three long-standing issues:

- Resolution of conflicting boundary information
- Long-term maintenance for the levees that surround the Airport
- Planning for potential future restoration of the land east of the runway

The Airport is surrounded by levees protecting it from San Pablo Bay tidewaters. Some of the levees are on property owned by the Airport; some are on State Tidelands granted to the County. The MOU provided that the Airport will have maintenance responsibility for those levees surrounding the Airport by transferring those tidal lands to the Airport, under the direction of the State Lands Commission. Historically, the County has funded repairs to those levees, including in 2005, 2009, 2010, 2012, and 2015.

The Airport deed boundary extends into the bed of Gallinas Canal and some areas along the south bank. This MOU provided that the Airport will transfer any interest in those lands to the County, under the direction of the State Lands Commission. The MOU also provided that the State Lands Commission exchange parcel boundary for the most easterly land at the end of the runway (commonly referred to as the “beak”) will be based on a revised levee location west of the existing levee to permit removal of the existing levee and restoration of the area. The MOU provided that the County will make a good faith effort to pursue outside grant funds for this potential project. The levee and land to the west will not be granted to the Airport until after the new levee is built.
The State Lands Commission process for land exchange is outlined in Public Resource Code 6307, which provides that the Commission makes findings, including that the monetary value of the lands or interests in lands received by the trust in exchange is equal to or greater than that of the lands or interests in lands given by the trust in exchange.

The MOU outlined an interim plan for repair and maintenance of the levees along Gallinas Creek through an interim lease while the above property transfers are being processed. The attached Tidelands Lease Agreement implements this interim plan.

The MOU also provided that in the interim until the land exchange is carried out, San Rafael Airport, LLC will waive its rights, if any, to prohibit public or private activities taking place on San Rafael Airport, LLC parcels along the South Fork of Gallinas Creek below the mean lower low water line and all those lands to the south and east of the creek centerline, including those above mean lower low water. It is anticipated that these activities will include, but not be limited to, dredging of the creek bed, and extension to reach the dredged channel or repair of private boat docks. The attached Grant of Permission implements this interim plan.

The MOU is available on the County website, https://www.marincounty.org/depts/pw/divisions/projects/land-use/sraairport. The Tidelands Lease Agreement and Grant of Permission were posted to the County website on July 30, 2019, and a notice sent to the Flood Control Zone 7 and County Service Area 6 email lists. On the website, staff offered to publish with this staff report any written comments from the public received by August 12, 2019. None were received.

The Tidelands Lease Agreement and Grant of Permission require all parties to comply with CEQA before any work can be performed.

FISCAL IMPACT: The tidelands lease provides that the Airport shall pay County One Dollar ($1.00) per year for the ten-year term of the lease. The tidelands lease also provides for a waiver of Public Works permit fees up to $50,000, as described in the MOU.

REVIEWED BY:  [ X ] County Administrator    [ ] N/A
               [ ] Department of Finance  [X] N/A
               [ X ] County Counsel    [ ] N/A
               [ ] Human Resources  [X] N/A

Respectfully submitted,

Craig Tackaberry
Chief Assistant Director

Attachments: Tidelands Lease Agreement
             Grant of Permission