



## Legislation Text

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**File #:** 2019-1269, **Version:** 1

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**To:** Board of Supervisor

**Department or Agency Name(s):** Transportation and Public Works

**Staff Name and Phone Number:** Johannes J. Hoevertsz 707-565-2231

**Vote Requirement:** Majority

**Supervisory District(s):** All Districts

**Title:**

Airport Letter of Credit to Fulfill Environmental Permitting Requirements Associated with the Runway Safety Area (RSA) Construction Project

**Recommended Action:**

- A) Authorize the Director of Transportation and Public Works to enter into a Continuing Reimbursement Agreement for Letters of Credit with US Bank ("Bank"), whereby the Airport may request that the Bank issue letters of credit according to the terms of the Airport's application(s) and which grant Bank a security interest in an Airport bank account to be opened at Bank;
- B) Authorize the Director of Transportation and Public Works to enter into a Possessory Collateral Pledge Agreement with Bank, which requires Airport to maintain an account at Bank at 105% of the amount of the Letters of Credit to serve as collateral;
- C) Authorize the Director of Transportation and Public Works to submit an Application to Bank for a Letter of Credit in favor of the U.S. Army Corps of Engineers in the amount of \$49,005 pursuant to the requirement of the terms of the biological opinion for the Airport Runway Safety Enhancement Project issued by the USFW for a performance bond that is 20% of the cost of construction; and
- D) Authorize the Director of Transportation and Public Works to submit an Application to Bank for a Letter of Credit in favor of the U.S. Army Corps of Engineers in the amount of \$75,686 pursuant to the requirement of Interim Management Plan for interim management of the site.
- E) Authorize the Director of Transportation and Public Works to execute and record Conditions, Covenants, and Restrictions regarding the Airport Creek Riparian Mitigation Area as required by the approved mitigation measures, and execute a certificate of acceptance pursuant to Government Code section 27281 regarding same.

**Executive Summary:**

In 2013, the Charles M. Schulz - Sonoma County Airport (Airport) was required to comply with several environmental mitigation measures with the U.S. Army Corp of Engineers (Army Corp), and the U.S. Fish and Wildlife Service (USFWS), in order to obtain necessary permits to expand the primary runway. The Airport has successfully completed the majority of the permit requirements and has transitioned to a "monitoring and

maintenance” phase at the Sonoma County Airport Consolidated Mitigation Area (SACMA). In addition to contracting with a qualified organization for SACMA monitoring and maintenance activities, Army Corp and USFWS require the establishment of two Letters of Credit in their favor. The Letters of Credit enable the Army Corp to draw up to \$124,691 from US Bank in order to perform construction repair, monitoring, and maintenance activities in the event the Airport fails to meet permit requirements. The Letters of Credit will be securitized with Airport funds deposited with US Bank in an amount equal to 105% of the value of the Letters (\$130,926). Although the Airport does not anticipate a scenario in which the Letters of Credit will be utilized, they are the only financial instrument that satisfies current permit requirements. In exchange for issuing the Letters of Credit, US Bank will receive an annual fee equal to 2% of the value of the Letters of Credit (\$2,494) for five years (2019-2023).

Mitigation measures also require that certain Conditions, Covenants, and Restrictions (CC&Rs) be recorded against the Airport Creek Riparian Mitigation Area (ACRMA) site to ensure that the County is bound to continue compliance with the mitigation measures from a real property standpoint. This item authorizes the Director of Transportation and Public Works to execute and record the appropriate documents to meet this permitting condition.

#### **Discussion:**

In 2013, the Airport initiated a major renovation of their primary runway. The construction project increased the length of the primary runway by approximately 885 feet, which improved airfield safety and increased the Airport’s ability to attract commercial air service. In order to offset environmental impacts on riparian habitat, indigenous plant life, and endangered species, the Airport agreed to extensive environmental mitigation efforts mandated by the Army Corp and USFWS. A major component of the mitigation effort was to enhance and protect habitat for Burke’s goldfields (*Lasthenia burkei*), an endangered plant species listed under both state and federal Endangered Species Acts.

In order to accomplish this goal Army Corp, USFWS, Airport management, and the Federal Aviation Administration (FAA) identified the SACMA site as an acceptable location for Burke’s goldfield habitat restoration. Acquired in 1993, the SACMA site is a 14.5-acre site located at the northeastern corner of the Airport along Ordinance Drive. The initial intent of the acquisition was to enhance runway protection and provide a permanent location for the FAA’s Remote Transmitter Receiver. Designated an environmental mitigation area in 1996, 4.5 acres of the site were converted into seasonal wetlands in 1996 in order to offset the environmental impacts of various construction projects on the Santa Rosa Plain.

In August 2017, the Board of Supervisors approved a contract with Habitat Restoration Sciences, Inc. (HRS) to improve two acres of existing wetlands at the SACMA site to make them a more suitable habitat for Burke’s goldfield. As part of the contract, HRS reconfigured existing vernal pools, removed inoculum (disease causing materials), re-seeded Burke’s goldfield within the pools, and installed long-term site monitoring equipment. HRS completed their contract in March 2017, which triggered a five-year, Board approved, monitoring and maintenance agreement with the Laguna de Santa Rosa Foundation.

In addition to contracting with a qualified environmental agency for monitoring and maintenance, Army Corp and USFW requires the establishment of two Letters of Credit in their favor. The Letters of Credit allow Army Corp and USFW to draw up to \$124,691 from US Bank in order to perform monitoring and maintenance activities in the event permit requirements are not met. The Letters of Credit are securitized with Airport funds

deposited with US Bank in an amount equal to 105% of the value of the Letters (\$130,926). Although the Airport does not anticipate a scenario in which the Letters of Credit will be drawn on, they are the only financial instrument that satisfies current permit requirements. In exchange for issuing, the Letters of Credit, US Bank will be paid annual fee equal to 2% of the Letters (\$2,494).

The U.S. Bank Standby Letter of Credit Application Agreements, U.S. Bank Airport Pledge Agreement, and U.S. Bank Continuing Reimbursement Agreement have been reviewed by County Counsel and the Auditor-Controller-Treasurer-Tax Collector's office to ensure the County's interests are protected in this transaction.

As part of the overall required mitigation plan at the Airport, the attached CC&Rs include the required limitations on the use of the ACRMA site required by the permitting agencies to allow the use of the County-owned site as the location for the required mitigation. This item requests a delegation of authority to the Director of Transportation and Public Works (TPW) to execute CC&RS in substantially the attached form, and as approved by County Counsel, to effectuate the real property restrictions on the site requested by the permitting agencies. A delegation of authority to the Director of TPW is also requested to allow the execution of a certificate of acceptance with respect to the CC&Rs, which arguably convey an interest in real property to the County sufficient to require such a certificate under Government Code section 27281.

**Prior Board Actions:**

6/11/2018 - Contract for the Charles M. Schulz -Sonoma County Airport, Monitor and Maintain Burke's Goldfields Habitat Enhancement Project; for mitigation associated with the Runway Safety Project.

8/22/2017 - Award of Contract for the Charles M. Schulz - Sonoma County Airport Burke's Goldfields Habitat Enhancement Project

1/24/2012 - Resolution 12-0035. Board approval of Environmental Impact Report for Runway Safety Area project.

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 19-20 Adopted</b>	<b>FY20-21 Projected</b>	<b>FY 21-22 Projected</b>
Budgeted Expenses	\$2,495	\$2,495	\$2,495
Additional Appropriation Requested			
<b>Total Expenditures</b>	\$2,495	\$2,495	\$2,495
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal	\$2,262	\$2,262	\$2,262
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	\$2,262	\$2,262	\$2,262

**Narrative Explanation of Fiscal Impacts:**

None

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

**Narrative Explanation of Staffing Impacts (If Required):**

None

**Attachments:**

US Bank Standby Letter of Credit Application Agreement  
US Bank Airport Pledge Agreement  
County Counsel Opinion  
US Bank Continuing Reimbursement Agreement  
Final SACMA Letter of Credit  
Conditions, Covenants and Restrictions

**Related Items "On File" with the Clerk of the Board:**

None