

AGENDA REPORT

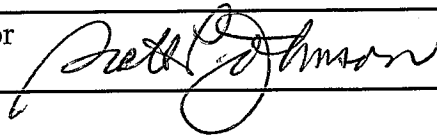
TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Brooke A. Levin

SUBJECT: MOU with Friends of Sausal Creek

DATE: August 30, 2013

City Administrator
Approval



Date

9/11/13

COUNCIL DISTRICT: 4

RECOMMENDATION

Staff recommends that the City Council adopt this Resolution authorizing the City Administrator or her designee to enter into a Memorandum of Understanding with the Friends of Sausal Creek to implement the Sausal Creek Erosion Control and Restoration Project funded by a \$540,000.00 grant from the Department of Water Resources jointly awarded to the City of Oakland and the Friends of Sausal Creek, and to appropriate the grant funding for which the City was authorized to apply and accept per Council Resolution No. 81697 C.M.S.

OUTCOME

Adoption of this Resolution will authorize the City of Oakland (City) to appropriate funding received by the Department of Water Resources grant that the City was previously authorized to apply for and accept per Council Resolution No. 81697 C.M.S., *Attachment A*. It will also allow the City to meet the grant contract requirement that the City enter into a Memorandum of Understanding (MOU) with Friends of Sausal Creek (FOSC) *Attachment B*, for implementation of the Sausal Creek Erosion Control and Restoration Project (Project).

BACKGROUND

In 2008, the City was authorized per Council Resolution No. 81697 C.M.S. to co-sponsor with FOSC an application to the Department of Water Resources, Urban Streams Restoration Program. The grant was awarded in 2012 to the City and FOSC and will provide \$540,000.00 in funding to implement the Project. The Project will address significant erosion and sedimentation issues stemming from storm drain outlets flowing into a highly-utilized reach of Sausal Creek.

As a condition of the grant award, the Department of Water Resources is requiring the co-sponsors formally execute an MOU. This Resolution will authorize the City to enter into this required agreement and will also authorize the City to appropriate the funding to be received.

Item: 5
Public Works Committee
September 24, 2013

ANALYSIS

Entering into an MOU for the implementation of the Project is important to ensure clear designation of responsibilities among each party and facilitate successful implementation of the Project. Under Council Resolution No. 81697 C.M.S., staff was authorized to pursue funding for the Project in order to address significant issues of erosion and sedimentation being caused by stormwater outfall from City-owned storm drain structures.

PUBLIC OUTREACH

Through its bi-monthly meetings, newsletter, and listserv, FOSC has notified the community of the grant award and the upcoming Project. The City and FOSC will continue to conduct public outreach activities to ensure the community is well informed of project scope and timeline and is given an opportunity for input.

COORDINATION

The Office of the City Attorney has reviewed the proposed Memorandum of Understanding as to form and legality and the Budget Office has participated in the review of this report. The Department of Water Resources and FOSC have reviewed the proposed Memorandum of Understanding as to form and legality and have approved the MOU as proposed.

COST SUMMARY/IMPLICATIONS

The concept design-level cost estimate for the project is \$618,000 which includes technical studies, design, and construction. \$540,000 of the project cost is funded by the Department of Water Resources Urban Streams Restoration Grant, of which the City will receive up to \$15,000 to fund project management activities, and 8% of the final construction budget for construction inspection services. If design and/or construction work is performed through a construction contract administered by the City, the City will be reimbursed by the grant for the full cost of the work.

The remaining \$78,000 is funded by up to \$58,000 of in-kind design and field work services by the Friends of Sausal Creek and up to \$20,000 of in-kind project management services from the City of Oakland. Funds for City staff time not covered by the grant are budgeted and available in Measure DD Creek Restoration Fund (5321); Watershed and Stormwater Organization (30245); Watershed & Stormwater Program (NB34), Creek Restoration Project (C395910).

SUSTAINABLE OPPORTUNITIES

Economic: Through execution of this MOU and the subsequent implementation of the Project, erosion and sedimentation will be reduced in the Sausal Creek watershed and help avoid the

Item: _____
Public Works Committee
September 24, 2013

expenditure of funding to repair damage currently being caused by the erosion issues. Implementation of the Project will also reduce impact on downstream waterway areas and infrastructure and help reduce maintenance and capital cost expenditures.

Environmental: Implementation of the Project will decrease erosion and sedimentation to improve water quality and habitat within the Sausal Creek watershed.

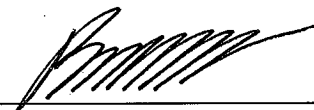
Social Equity: Implementation of the Project will result in a cleaner waterway and, through stabilization of hillside areas in Dimond Canyon, a safer park for residents.

CEQA

Execution of an MOU with FOSC is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines §15262 and §15306 because it does not qualify as a project. The Project has received a CEQA Exemption under CEQA guidelines Sec. 15304, Minor Alterations.

For questions regarding this report, please contact Lesley Estes (510) 238-7431.

Respectfully submitted,



Brooke A. Levin
Interim Director, Public Works Agency

Reviewed by:
Michael Neary, P.E., Assistant Director,
PWA, Department of Engineering and Construction

Prepared by:
Lesley Estes, Acting Manager
PWA, Watershed Management and Measure DD Program

Attachment A: City Council Resolution 81697 C.M.S.
Attachment B: Memorandum of Understanding between the Friends of Sausal Creek and the City of Oakland for the Sausal Creek Erosion Control Restoration Project

Item: 5
Public Works Committee
September 24, 2013

Corrected Copy -
Item 10.10 CC, December 9, 2008 Council Agenda, Resolution No. 81697 C.M.S.

Approved as to Form and Legality
[Signature]
Oakland City Attorney's Office

FILED
OFFICE OF THE CITY CLERK
OAKLAND

09 FEB -5 PM 1:52

OAKLAND CITY COUNCIL

Resolution No. 81697 C.M.S.

Introduced by Council Member Jean Quan

RESOLUTION DECLARING THE CITY OF OAKLAND'S INTENT TO APPLY WITH THE FRIENDS OF SAUSAL CREEK FOR AN URBAN STREAMS RESTORATION PROGRAM GRANT FOR THE SAUSAL CREEK WATERSHED.

WHEREAS, the California Department of Water Resources, Division of Planning and Local Assistance, Urban Streams Restoration Program has announced the availability of funds for grants; and

WHEREAS, said grants are intended to help solve flooding and erosion problems in a way that provides environmental enhancement; and

WHEREAS, the Friends of Sausal Creek has proposed to co-sponsor a grant application with the City of Oakland; and

WHEREAS, the City of Oakland has concluded that the project proposed for funding with the grant funds would be environmentally beneficial and categorically exempt from requirements of the California Environmental Quality Act (CEQA) under one or more of the following exemptions, per sections 15300-15329 of the CEQA Guidelines: 15304; and

WHEREAS, the City and Friends of Sausal Creek consider the prospects of receiving a grant to be reasonably likely; now, therefore, be it

RESOLVED: That the Council of the City of Oakland hereby approves the joint application with Friends of Sausal Creek for an Urban Streams Restoration Program grant; and be it

FURTHER RESOLVED: That if offered such a grant, the City Administrator or his designee is authorized to accept and sign any contract for administration of the grant funds and designate a project manager for the project; with authority delegated to the project manager to manage the Agreement, and to further delegate authority to others to provide management and support services required for performance of the work and administration of the Agreement; and that the delegation of authority to submit invoices shall require written consent by both grantees, which will be provided to the Department of Water Resources.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC. 9 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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SEP 24 2013

ATTEST: *[Signature]*
LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California

MEMORANDUM OF UNDERSTANDING BETWEEN THE FRIENDS OF SAUSAL
CREEK AND THE CITY OF OAKLAND FOR THE SAUSAL CREEK EROSION
CONTROL RESTORATION PROJECT

This Memorandum of Understanding is entered into by and between Friends of Sausal Creek, a California nonprofit corporation ("FOSC"), and the City of Oakland, a local public agency of the State of California ("City").

WITNESSETH:

WHEREAS, the City is the owner of certain real property ("the property"), located in the City of Oakland, Alameda County, California, as shown in Exhibit A, which is attached hereto and incorporated by reference; and

WHEREAS, FOSC is a California nonprofit corporation under Section 501(c)(3) of the United States Internal Revenue Code and whose purpose is to promote awareness and appreciation of the Sausal Creek watershed, and to take and inspire action to restore, preserve and protect the creek and its watershed as a natural resource and a community resource; and

WHEREAS, on or about November 7, 2008, FOSC and the City jointly submitted an application to the Department of Water Resources ("DWR"), an agency of the State of California, for a grant under the Urban Streams Restoration Program to address significant erosion and other issues stemming from storm drain outlets flowing into a highly-utilized reach of Sausal Creek (the "Sausal Creek Erosion Control Restoration Project"); and

WHEREAS, on April 19, 2012, DWR authorized a grant to FOSC in the amount of \$540,000 and DWR subsequently awarded said amount pursuant to Grant Agreement No. 4600009866 ("the grant agreement") attached as Exhibit B and incorporated by reference herein, to undertake the Sausal Creek Erosion Control Restoration Project ("the project") on the property; and

WHEREAS, the project will provide a significant benefit to the Sausal Creek watershed and to the City of Oakland by, among other things, reducing erosion and sediment loads in the project area, stabilizing slopes, increasing infiltration rates, and reducing peak flows through the design and installation of natural hydrological elements to accommodate stormwater runoff, increasing natural meanders in previously-formed channels and the installation of energy dissipation structures to mimic step-pools and vegetated swales, as well as the removal of invasive plants and planting of native species; and

WHEREAS, the City, as the co-sponsor of the grant application to DWR, has agreed to participate in the planning, implementation and completion of the project; and

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SEP 24 2013

WHEREAS, FOSC would not be able to plan, implement or complete the project without said involvement, support and assistance from the City; and

WHEREAS, the City and FOSC desire to enter into a memorandum of understanding to protect the public interest in the project to be implemented under the grant agreement, and to ensure that FOSC has permission to implement said project on the property, with the participation and assistance of the City; now, therefore

IN CONSIDERATION of the mutual promises herein contained, the parties to this Memorandum of Understanding do hereby agree to the following terms and conditions:

A. Scope of Project

The project will reduce erosion and sediment flow along Sausal Creek in Dimond Canyon between El Centro Avenue and the western boundary of the Montclair Golf Course through the installation of erosion control solutions at two to four storm drain outlets. The project will use natural hydrologic elements to increase water infiltration rates to reduce runoff by the installation of energy dissipation structures, vegetated swales and increasing natural meanders in previously formed channels. The project involves the removal of invasive plants, slope stabilization and the planting of local native plants. The project will reduce sediment loads and improve water clarity and water quality.

B. Role of FOSC

1. FOSC has designated its Executive Director to negotiate and execute all documents on behalf of its Board of Directors for the implementation and completion of the project. The FOSC's Executive Director is herein defined as the person to act on its behalf to prepare documents required for the implementation and completion of the project and to be the FOSC's representative for all interactions with the City during the term of this memorandum
2. FOSC is a sponsor of the project pursuant to the terms of the grant agreement and shall serve as the fiscal agent for administration and disbursement of all grant funds.
3. FOSC shall prepare applications for environmental regulatory permits required for the project. The City shall submit applications and obtain the permits, and serve as lead agency. FOSC shall be responsible for all monitoring and compliance with the permit conditions. FOSC shall reimburse the City the cost of permit filing fees.
4. City's Project Manager shall provide FOSC with a list of potential design consultants from the City's list of As-Needed Water Quality & Restoration Services Consultants currently under contract to the City.
5. Upon review of qualifications of firms on the City's pre-approved list of on-call restoration design consultants, FOSC shall recommend for City approval, consultant to conduct project design.

6. FOSC shall prepare a scope of work for the project in sufficient detail for the selected consultant to prepare preliminary design concepts and plans.
7. FOSC shall oversee the preparation of design plans, specifications, and cost estimates (PS&E's). All design plans, specifications and cost estimates must follow City standards and formats. FOSC shall submit design plans to City for review and approval at the following stages of design: concept design, 50% design, 90% design, 100% construction bid documents. Design shall not proceed from concept design to subsequent stages of design without written approval of the City's Project Manager and FOSC's Executive Director after each design stage. Upon completion of the final project plans, FOSC and City shall meet and agree upon a methodology for construction of the recommended improvements. Scope of project shall not exceed available grant funds. Scope of work may be modified if necessary to keep project within budget. FOSC shall reimburse the City for consultant design services in an amount agreed upon by the City and FOSC from grant funds within 60 days of receipt of an invoice in sufficient form to satisfy the reimbursement requirements of the grant agreement. FOSC shall provide invoice format requirements to the City.
8. FOSC shall reimburse the City for direct construction contract services invoiced by a City on-call construction contractor, or for construction work performed by City employees in a not to exceed amount agreed upon by the City and FOSC within 60 days of receipt of an invoice in sufficient form to satisfy the reimbursement requirements of the grant agreement. FOSC shall provide invoice format requirements to the City.
9. FOSC shall reimburse the City for construction inspection services in an amount not to exceed 8% of total construction contract bid within 60 days of receipt of an invoice in sufficient form to satisfy the reimbursement requirements of the grant agreement. FOSC shall provide invoice format requirements to the City.
10. FOSC shall reimburse the City for project management services provided by its Project Manager in an amount not to exceed \$15,000 from the grant funds within 60 days of receipt of an invoice in sufficient form to satisfy the reimbursement requirements of the grant agreement. FOSC shall provide invoice format requirement to the City.
11. Reimbursement to the City for costs incurred for services provided in clauses 7-10 above shall be conditioned on FOSC receiving reimbursement from DWR. FOSC agrees to timely submittal of invoices received from the City for forwarding to DWR. City acknowledges that DWR will withhold 5% of all invoices for the project and said withheld amount will not become payable to the City

until completion of the project and final reimbursement to FOSC by DWR of all project expenses.

12. FOSC shall not be responsible for reimbursing the City from grant funds, or any other source, including but not limited to FOSC, for project expenditures incurred by the City that are determined by DWR to not be reimbursable under the terms of the grant agreement. To the extent feasible, FOSC shall provide the City with a list of expenditures deemed by DWR to be non-reimbursable prior to commencement of work.
13. FOSC shall arrange for the removal of invasive plants and small trees in the project area through the use of volunteers or environmental nonprofit organizations.
14. FOSC shall arrange for the collection of seeds and cuttings for up to 5,000 native plants and the propagation and planting of these plants through the use of volunteers or environmental nonprofit organizations.
15. FOSC may enter into agreements with environmental nonprofit organizations to perform work delineated in the final plans and project specifications, as well as other work identified by FOSC, for the successful implementation and completion of the project.
16. FOSC shall be responsible for the submission of all reports to DWR as required by the terms of the grant agreement.
17. FOSC shall be responsible for all grant accounting and audit requirements imposed by the terms of the grant agreement, but the City shall timely provide FOSC with information and documents, as may be required for FOSC to comply with the grant requirements.
18. FOSC shall obtain general liability insurance requested by the City in type and in reasonable amounts to protect the interests of FOSC and the City.

C. Role of the City

1. The City Council has authorized its City Administrator or designee to negotiate and execute all documents on behalf of the City for the implementation and completion of the project. The City Administrator has designated a staff person from the Public Works Agency, Department of Engineering, Watershed and Stormwater Management to serve as the Project Manager for the City. The City's Project Manager is herein defined as the person to act on its behalf to prepare all documents required for the implementation and completion of the project and to be the City's representative for all interactions with FOSC during the term of this memorandum. The City shall provide in-kind project management services in an amount not to exceed \$20,000.
2. The City shall be the co-sponsor of the project pursuant to the terms of the grant agreement.

3. The City shall submit all necessary applications for environmental regulatory permits as prepared by FOSC. The City will list itself as lead applicant and hold all environmental regulatory permits in its name, however FOSC shall be responsible for all monitoring and compliance with the permit conditions. If necessary, City and FOSC shall jointly negotiate permit conditions with the permit issuing entity.
4. The City Project Manager shall provide the FOSC Executive Director with the City's list of As-Needed Water Quality & Restoration Design Services Consultants currently under contract to the City.
5. The City shall submit the scope of work prepared by FOSC for the project to the potential design consultants and shall, with the approval of FOSC, select a design consultant and issue a Task Order to prepare final plans and construction specifications.
6. The City shall participate with FOSC in reviewing the design plans through completion of 100% construction PS&E's and provide comments as appropriate. The City shall provide FOSC the standards and formats for PS&Es. Design shall not proceed from concept design to subsequent stages of design, without written approval of the City's Project Manager and FOSC's Executive Director after each design stage as set forth in Role of FOSC #7.
7. During design review, the City and FOSC shall meet and agree upon a methodology for construction of the recommended improvements. The City will not proceed with project construction if the engineers estimate for construction exceeds the project grant budget for construction. Scope of project may be refined as needed to fit within grant budget limitations.
8. The City shall enter into a contract with a construction contractor, or may use its own employees, to construct improvements identified in the final PS&E's. The City may request reimbursement for construction inspection services in an amount not to exceed 8% of total construction contract bid.
9. The City shall submit invoices to FOSC for reimbursement of permit fees, design consultant, contractor, construction inspection and project management expenses in sufficient form to satisfy the reimbursement requirements of the grant agreement as provided to the City by FOSC. City acknowledges that DWR will withhold 5% of all invoices for the project and said withheld amount will not become payable to the City until completion of the project and final reimbursement to FOSC by DWR of all project expenses. City shall inform the design consultant and/or contractor that 5% of all invoices shall not be paid until project completion and shall include appropriate wording in contracts between the City and said parties.
10. The City acknowledges and agrees that FOSC is not obligated to reimburse the City from any source of funds for expenses deemed to be non-reimbursable by DWR. To the extent feasible, FOSC will

provide the City with a list of reimbursable expenses prior to commencement of the project.

11. The City shall timely provide information and documents requested by FOSC for the preparation of any reports required by DWR under the terms of the grant agreement.
12. If FOSC dissolves or disbands during the course of the grant agreement, the City will take over responsibility for the project area per the conditions of the grant agreement.

D. Term of Memorandum

This memorandum shall take effect when fully executed, on the date last signed below, and shall remain in effect until completion of the project described in this memorandum. FOSC shall maintain the plants installed during the term of this memorandum and for at least ten years following the termination of this memorandum (the "maintenance period") unless a shorter term is otherwise permitted by DWR. FOSC shall develop, with the consent and approval of the City, a plan for long-term management and maintenance of the project, consistent with the requirements of the grant agreement.

E. Department of Water Resources Grant

FOSC as Sponsor, and the City as Co-Sponsor, of the project shall fulfill their individual requirements of the grant agreement with respect to the project. When required to act jointly, neither party shall unreasonably withhold its consent.

F. Signs

FOSC shall provide signs to acknowledge the role of FOSC and the City in the project, and funding from DWR for the project. The City shall allow installation of the signs in the project area. FOSC shall be responsible for the number, design, placement and wording of the signs, however the sign design may be required to meet City design specifications and the City will have final approval of the signs design, materials, and placement. FOSC shall notify DWR when the signs have been installed and shall also provide a site map with the sign locations noted and a photograph of each sign.

G. Access by FOSC

FOSC, and its officers, directors, employees, representatives, agents, volunteers, and any nonprofit organizations performing work on behalf of FOSC, shall have access to the property to accomplish the purposes of this memorandum, including monitoring during the entire term of this memorandum. The City may restrict or deny access to the property if an emergency exists which threatens public health and safety or the natural resources of the property. In such event, all reasonable

measures shall be taken to remedy the emergency conditions and restore FOSC's right of access to the property.

H. Inspection

FOSC and the City shall permit the DWR, its agents or employees, to visit the project and the property at reasonable times and intervals during the term of this memorandum and grant agreement. DWR shall have the right to inspect the property upon completion of the project and at reasonable times and intervals thereafter to ensure the site has been maintained in a manner consistent with the grant agreement and FOSC's approved maintenance and monitoring plan.

I. City's Use of the Property

Except as provided in this paragraph, the City reserves the right to use the property in any manner, provided that its use does not unreasonably interfere with FOSC's rights under this memorandum. During the term of this memorandum, the City shall make every reasonable effort to use the property and project improvements in a manner consistent with the purposes of the grant agreement; including, but not limited to, refraining from harming, damaging, removing, altering or interfering with the restored project.

J. Supervision

FOSC shall exercise reasonable diligence in supervising members of the public (volunteers) in the performance of work necessary for the successful completion of the project. Such exercise of reasonable diligence in supervision shall also extend to any and all environmental nonprofit organizations used by FOSC in the performance of the project work. FOSC shall make its best effort to have each volunteer sign a City and FOSC waiver of liability. FOSC shall retain the signed waivers through the completion of the project. FOSC shall not conduct its program in any manner that would jeopardize the public safety or damage property.

K. FOSC Office Space

During the term of this memorandum, the City may provide FOSC with office space at the Joaquin Miller Ranger Station on a space available basis for up to two FOSC employees. The City shall provide utilities including water, natural gas and electricity. To the extent that internet access is available, FOSC may connect its computer(s) to the system. FOSC agrees to keep the area provided in a generally neat and orderly manner. The City may extend FOSC's use of the space to include the maintenance period of the project. If the space used by FOSC should be needed by the City for its own employees or contractors, FOSC shall vacate the premises upon reasonable notice by the City. FOSC shall not be entitled to any relocation services or monetary compensation.

L. Nonprofit Organizations

During the term of this memorandum, FOSC may enter into agreements with other nonprofit organizations (the "organizations") to perform portions of the work necessary for the successful completion of the project. These organizations shall have access to the property as set forth in Section G. These organizations employ participants for job training purposes and/or are seasonal in nature. As such, these organizations are exempt from the provisions of the City's Living Wage Ordinance.

M. Indemnity Provisions

1. The CITY shall protect, defend (with counsel reasonably acceptable to FOSC), indemnify and hold harmless FOSC, its officers, directors, employees, agents, volunteers, and nonprofit organizations performing work on behalf of FOSC and all persons acting by, through, under or in concert with any of them, and each of them (collectively "FOSC Indemnitees") from any and all actions, causes of actions, claims, losses, expenses (including reasonable attorneys' fees and costs) or liability (collectively called "Actions") on account of damage of property or injury to or death of persons arising out of or resulting in any way from the actions of the CITY, its councilmembers, officers, employees, agents, contractors, consultants, and all persons acting by, through, under or in concert with any of them, in the performance of work under this Agreement, except and to the extent that such property damage or injury or death of persons is the result of gross negligence or willful misconduct of any of the FOSC Indemnitees.
2. FOSC shall protect, defend (with counsel reasonably acceptable to CITY), indemnify and hold harmless CITY, its councilmembers, officers, employees and agents ("CITY Indemnitees") from any and all actions, causes of actions, claims, losses, expenses (including reasonable attorneys' fees and costs) or liability (collectively called "Actions") on account of damage of property or injury to or death of persons arising out of or resulting in any way from the gross negligence or intentional wrongful actions of FOSC, its officers, employees, subconsultants or agents in the performance of work under this Agreement, except and to the extent that such property damage or injury or death of persons is the result of negligence or willful misconduct of any of the CITY Indemnitees or is the result of the negligence or willful misconduct of any consultant or contractor hired by any of the CITY Indemnitees to perform work under this Agreement.

N. Force Majeure

Neither party shall be liable to the other party for any delays in performance due to causes beyond its reasonable control, including but not limited to acts of God, civil or military authority, labor disputes, fires, riots, wars, embargoes, epidemics, landslides or floods, government orders and regulations, and other similar catastrophic events which are not the fault of and beyond the reasonable control of the parties.

O. Notices

Notices issued pursuant to this memorandum shall be sent to the following addresses (or to a subsequent address of which notice has been provided in writing):

Kimra McAfee, Executive Director
Friends of Sausal Creek
P.O. Box 2737
Oakland, CA 94602

Kristin Hathaway, Project Manager
City of Oakland
250 Frank H Ogawa Plaza, Suite 4314
Oakland, Ca 94612

Amy Young, Program Manager
State of California – California Natural Resources Agency
Department of Water Resources
P.O. Box 942836
Sacramento, CA 94236

P. Severability

If any of the provisions of this memorandum are found by a court of law to be of no force or effect, the validity of all other provisions shall be unaffected.

Q. Termination

In the event the City or FOSC intends to terminate the memorandum prior to completion of the project, the terminating party shall provide the other party 60 days written notice of its intent to terminate and the reason(s) for termination. Prior to excusing the terminating party from its duties, liabilities, obligations or responsibilities to construct or implement the project improvements, or for any long-term management obligations it may have, and to mitigate any potential financial damages to either party, the surviving party may request a meeting of the parties to be held at least 30 days prior to the intended termination date. Neither party shall take any action prior to or after termination that would jeopardize the

other parties ability to receive reimbursement from DWR for past, current or future expenditures incurred prior to completion of the project or the termination of the memorandum.

R. Execution

IN WITNESS WHEREOF, the parties hereto have executed this memorandum on the dates shown below their respective authorized signatures.

FRIENDS OF SAUSAL CREEK

Executive Director

Date: _____

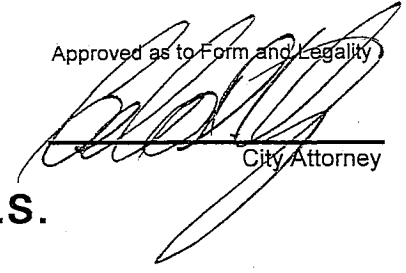
CITY OF OAKLAND

City Administrator

Date: _____

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PUBLIC WORKS CMTE.
SEP 24 2013

FILED
OFFICE OF THE CITY CLERK
OAKLAND
OAKLAND CITY COUNCIL



City Attorney

RESOLUTION No. _____ C.M.S.
2013 SEP 12 PM 1:02

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE FRIENDS OF SAUSAL CREEK TO IMPLEMENT THE SAUSAL CREEK EROSION CONTROL AND RESTORATION PROJECT FUNDED BY A \$540,000.00 GRANT FROM THE DEPARTMENT OF WATER RESOURCES JOINTLY AWARDED TO THE CITY OF OAKLAND AND THE FRIENDS OF SAUSAL CREEK AND TO APPROPRIATE THE GRANT FUNDING FOR WHICH THE CITY WAS AUTHORIZED TO APPLY AND ACCEPT PER COUNCIL RESOLUTION NO. 81697 C.M.S.

WHEREAS, in 2008 City Council authorized, per Resolution 81697 C.M.S., the City Administrator or his designee to co-sponsor with the Friends of Sausal Creek a grant application to the Department of Water Resources Urban Streams Restoration Program for the Sausal Creek Erosion Control and Restoration Project (Project); and

WHEREAS, Council Resolution 81697 C.M.S., authorized the City Administrator or his designee to apply for and accept the grant, but did not authorize the appropriation of funding if received; and

WHEREAS, in 2012 the Department of Water Resources awarded a grant of \$540,000.000 to City of Oakland and the Friends of Sausal Creek (hereinafter known jointly as "co-sponsors") to implement the Project; and

WHEREAS, as a condition of the grant award the Department of Water Resources is requiring the co-sponsors to execute a Memorandum of Understanding (MOU) to formalize a division of roles and responsibilities for Project implementation; and

WHEREAS, executing an MOU ensures clear designation of the roles and responsibilities of each co-sponsor to facilitate successful implementation of the Project; now, therefore be it

RESOLVED, that the City Administrator or her designee is authorized to appropriate up to \$540,000 in grant funds from the Department of Water Resources to the State of California Grant Fund (2159), Watershed and Stormwater Management Organization (30245), Watershed and Stormwater Management Program (NB34), and a project number will be created; and be it

FURTHER RESOLVED, that the City Administrator or her designee authorizes a local match of up to \$20,000.00 that is budgeted and available in Measure DD Creek Restoration Fund (5321); Watershed and Stormwater Management Organization (30245); Watershed and Stormwater Management Program (NB34); Creek Restoration Project (C395910); and be it

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PUBLIC WORKS CMTE.

SEP 24 2013

FURTHER RESOLVED, that should additional funds be received for this project, such funds are hereby appropriated to the above-named accounts and the City Administrator or her designee is hereby authorized to accept the same for the purposes described above; and be it

FURTHER RESOLVED, that the City Administrator or her designee is authorized to execute a Memorandum of Understanding with the Friends of Sausal Creek to implement the Sausal Creek Erosion Control and Restoration Project; and be it

FURTHER RESOLVED, that the City Administrator or her designee is hereby authorized to approve any subsequent amendments, modifications, or extensions of said MOU; and be it

FURTHER RESOLVED, that all documents shall be reviewed and approved by the City Attorney for form and legality prior to execution, and copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

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SEP 24 2013