

CITY OF OAKLAND
AGENDA REPORT

05/07/06 11:09:10

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Public Works Agency
DATE: March 28, 2006

RE: **RESOLUTION AUTHORIZING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER, INC., FOR AS-NEEDED HYDROLOGY AND CREEK RESTORATION DESIGN SERVICES FOR AN AMOUNT NOT TO EXCEED FOUR HUNDRED THOUSAND DOLLARS (\$400,000), BRINGING THE TOTAL CONTRACT AMOUNT TO SIX HUNDRED THOUSAND DOLLARS (\$600,000)**

SUMMARY

A resolution has been prepared authorizing the City Administrator, or her designee, to amend the professional services agreement with Kleinfelder, Inc. (Kleinfelder), to provide additional as-needed hydrology and creek restoration design services for work they are currently conducting for the Lion Creek Restoration Project at Coliseum Gardens Park, for an amount not to exceed \$400,000, bringing the total contract amount to \$600,000. Additional hydrology and creek restoration design services by Kleinfelder are required in order to complete the Lion Creek Restoration Project at Coliseum Gardens Park. This project is part of the Oakland Trust for Clean Water and Safe Parks, Measure DD, Creek Restoration Program.

The additional design work is required as a result of the absence of baseline data, hydrological challenges, and complex project interface coordination issues revealed during initial design work. To date, most of the contract funds have been expended to develop data and resolve hydrological and safety design concerns. Additional contract funds are needed to complete design for the restoration project.

The Lion Creek Restoration Project is consistent with the Mayoral and City Council Goal to "Develop a Sustainable City" by "maximizing socially and environmentally sustainable economic growth, including conserving natural resources," and the Goal to "Build and Foster Livable Neighborhoods" by providing for "clean, well-maintained and accessible streets and sidewalks, facilities, amenities, parks, recreational facilities and trees." The project is located near the Oakland Coliseum in Council District 6.

FISCAL IMPACT

The Amendment to the professional services agreement with Kleinfelder will be for an amount not to exceed \$400,000. The increase in contract amount will be covered by the additional grant funds received and will not result in impacts to other projects. Funding for the additional work is being provided by funding sources previously authorized by City Council: \$280,000 from a \$500,000 grant from the California State Parks Foundation Habitat Conservation Fund (No. 78816 C.M.S) (Org

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92280, Fund 2134), and \$120,000 from \$500,000 in designated funding from Measure DD (Fund 5320) Creek Restoration Projects (C244810). Measure DD has funded \$200,000 in design work to date. Funding for other project components is being provided by \$579,000 in mitigation funds received from Union Pacific Railroad, (No. 79018 C.M.S.) and \$70,000 in mitigation funds from the Oakland Army Base (No. 79018 C.M.S.). The Alameda County Flood Control and Water Conservation District is contributing in-kind design and construction services to the project valued at \$500,000. The total project cost is estimated at \$2,149,000.

In accordance with City Policy, Contract Compliance and Public Art assessment fees are assessed and allocated from the respective Measure DD funded projects.

BACKGROUND

In September 2003, the City issued a Request for Proposals (RFP) for as-needed hydrology and creek restoration design services. Fourteen firms responded to the RFP and five firms were selected as the most qualified to provide as-needed hydrology and creek restoration design services. Those firms that received contracts are Kleinfelder, Inc., WRECO, Wolfe-Mason Associates, Inc., Questa Engineering Corp., and Moffat and Nichol Engineers.

Upon the completion of a Request for Proposal process and pursuant to Resolution No. 78408 C.M.S., a professional services agreement was issued to Kleinfelder, Inc., on September 8, 2004 for as-needed hydrology and creek restoration design services for an amount not to exceed \$200,000. On May 26, 2005 Amendment No. 1 to the Professional Services Agreement with Kleinfelder Inc., which modified the contract's Indemnification Article for standard language, was signed by the City Administrator.

To date, all services provided by Kleinfelder have been for work on the Lion Creek Restoration Project, including data collection, hydrological analysis, and coordination work with the Alameda County Flood Control and Water Conservation District, the Oakland Housing Authority and their developer the East Bay Asian Local Development Corporation.

KEY ISSUES AND IMPACTS

The original contract amount of \$200,000 was expected to be sufficient to cover all design services, however, the proximity of the project location to the Oakland Estuary and tidal flow impacts posed significant technical issues, specifically regarding storm flow modeling, soils, and difficulties in developing a hydrologically-appropriate restoration design. Additionally, evolving coordination issues with the housing development project, the absence of preexisting watershed and flow data, and the resulting revised concept proposal led to a significant expansion of the design scope.

Amendment No. 2 is for an amount not to exceed \$400,000 to provide the additional funds needed to complete the design for the Lion Creek Restoration Project. The contract amendment will include the following services:

- Final Stream Flow Modeling
- Design
- Construction Documents

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- Bid Package
- Public Outreach
- Permitting/CEQA/Monitoring
- Construction Management
- Adaptive Management

Using Kleinfelder to provide the additional design services is the most efficient and cost effective approach to completing the work. Kleinfelder has already completed hydrological modeling, and initial design documents. Issuing a Request for Proposals for the remaining work could cause the project to incur not only additional financial and time expenditures but could pose liability concerns for a new design firm. A new design firm would likely be reluctant to base their project design on modeling data generated by a previous firm. Recreation of the modeling data would be an additional unanticipated cost for which adequate project funds are not available. No further amendments to the Kleinfelder contract are anticipated.

Kleinfelder's current Local/Small Local Business Enterprise participation is 50%. With the implementation of Amendment No. 2, it is anticipated that the total Local/Small Local Business participation will be 65% (see attached Contract Compliance forms). Also Philip Williams Associates is expected to be a Certified Small Local Business Enterprise by October 2006, which would increase participation to 95%. The design team for the additional work includes the local firms of Four Dimensions Landscape Design, PLS Surveys, and Mason Tillman Associates.

SUSTAINABLE OPPORTUNITIES

Economic: The Lion Creek Restoration Project will enhance the physical appearance of Lion Creek through Coliseum Gardens Park from a concrete, fenced-off, high-velocity channel to a low-flow natural creek channel with trees and other native vegetation. This will improve the park aesthetics, raise property values, and promote safety for the local neighborhood.

Environmental: The Lion Creek Restoration Project will create approximately 1,000 feet of natural creek channel and riparian and wetland habitat with a diversity of native plant species to attract native fauna and will improve water quality flowing into the San Francisco Bay.

Social Equity: The Project will create access to a natural creek environment, through walking trails and pathways, for recreational enjoyment and educational studies for the underserved surrounding neighborhood and local schools. There are currently no accessible natural creek locations in this area.

DISABILITY AND SENIOR CITIZEN ACCESS

The consultant will be required to design the City facilities in full compliance with the Americans with Disabilities Act (ADA). The new contiguous pathways around the creek and park will be smooth and will improve access for seniors and persons with disabilities.

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RECOMMENDATION AND RATIONALE

It is recommended that the resolution authorizing the City Administrator, or her designee, to amend the professional services agreement with Kleinfelder, Inc., to provide additional design services for the Lion Creek Restoration Project for an amount not to exceed \$400,000, bringing the total contract amount to \$600,000 and extend the term of performance through September 7, 2008 be approved. Kleinfelder can perform the additional design services efficiently and cost effectively by incorporating the work as part of the current hydrology and modeling work being conducted for the Lion Creek Restoration Project.

If the amendment is not granted the design would be incomplete and the contractor would not be able to meet their local business requirements. Staff would be required to conduct a new RFP process to hire a design firm to complete the design services, which could result in a project delay of up to one year and jeopardize grant funding and the timely expenditure of Measure DD funds.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve this resolution.

Respectfully submitted,

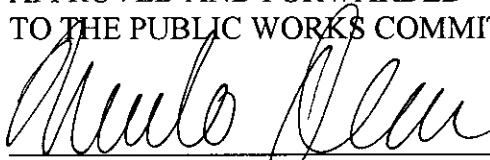


RAUL GODINEZ, II, P.E.
Director, Public Works Agency

Reviewed by:
Brooke A. Levin, Assistant Director
Department of Facilities and Environment

Prepared by:
Lesley Estes
Watershed Program Supervisor
Environmental Services Division

APPROVED AND FORWARDED
TO THE PUBLIC WORKS COMMITTEE




OFFICE OF THE CITY ADMINISTRATOR

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OFFICE OF THE CITY ADMINISTRATOR
Contract Compliance & Employment Services Division

Memo

TO: Gwen McCormick
THROUGH: Deborah Barnes, CC&ES Manager 
FROM: Vivian Inman, Contract Compliance Officer
CC: Kristin Hathaway
DATE: March 14, 2006
RE: As Needed Hydrology - Amendment 1

Contract Compliance & Employment Service received a request from the Public Works Agency to perform an updated compliance evaluation on the above referenced contract amendment. Below is the outcome of our compliance evaluation for the twenty percent (20%) minimum participation requirement and review for compliance with the Equal Benefits Ordinance.

The local/small local compliance findings are as follows (in alphabetical order):

Company Name	Bid Amount (if applicable)	Proposed Participation				Preferences		Banked Credits Eligibility	EBO Compliant ? Y/N
		Total	LBE	SLBE	Trucking	Preference Points	Adjusted Bid Amount		
Kleinfelder	NA	65.00%	45.00%	20.00%	NA	NA	NA	NA	Y

As noted above Kleinfelder reported 65% L/SLBE participation. Kleinfelder is EBO certified.

Should you have any questions please feel free to contact me at 238-6261.

LBE/SLBE Participation Kleinfelder, Inc.

Project Name: As Needed Hydrology

Project No.:		Engineers Estimate:								
Discipline	Prime & Subs	Location	Cert. Status	LBE %	SLBE %	TOTAL LBE/SLBE %	TOTAL Dollars	For Tracking Only		
								Ethn.	MBE	WBE
PRIME	Kleinfelder, Inc.	Oakland	CB	\$270,000		\$270,000	\$270,000	C		
	Mason Tillman	Oakland	CB		\$60,000	\$60,000	\$60,000	AA		\$60,000
	Phillip Williams	San Francisco	UB				\$180,000			
	FourDimensions Lands	Oakland	UB				\$30,000	C		
	PLS Surveys	Oakland	CB		\$60,000	\$60,000	\$60,000	C		\$60,000
Project Totals				\$270,000	\$120,000	\$390,000	\$600,000		0%	\$120,000
				45.0%	20.00%	65.00%	100%			
Requirements: The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements. LBE firms can only be counted up to 10% of the total contract amount.				LBE 10%	SLBE 10%			Ethnicity AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other		
Legend		LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise			UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise					

LBE/SLBE Participation Kleinfelder Inc.

Project Name: As Needed Hydrology

Project No.:		Engineers Estimate:								
Discipline	Prime & Subs	Location	Cert. Status	LBE %	SLBE %	TOTAL LBE/SLBE %	TOTAL Dollars	For Tracking Only		
								Ethn.	MBE	WBE
PRIME	Kleinfelder, Inc.	Oakland	CB	45%		45%	45%	C		
	Mason Tillman	Oakland	CB		10%	10%	10%	AA		10%
	Phillip Williams	San Francisco	UB				30%	NL		
	FourDimensions Lands	Oakland	UB				5%	C		
	PLS Surveys	Oakland	CB		10%	10%	10%	C		10%
Project Totals				45%	20%	65%	100%		0%	20%
Requirements: The 20% requirements is a combination of 10% LBE and 10% SLBE participation. An SLBE firm can be counted 100% towards achieving 20% requirements. LBE firms can only be counted up to 10% of the total contract amount.				LBE 10%	SLBE 10%			Ethnicity AA = African American A = Asian C = Caucasian H = Hispanic NA = Native American O = Other		
Legend		LBE = Local Business Enterprise SLBE = Small Local Business Enterprise Total LBE/SLBE = All Certified Local and Small Local Businesses NPLBE = NonProfit Local Business Enterprise NPSLBE = NonProfit Small Local Business Enterprise				UB = Uncertified Business CB = Certified Business MBE = Minority Business Enterprise WBE = Women Business Enterprise				

CITY OF OAKLAND

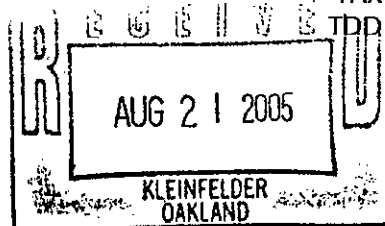


250 FRANK H. OGAWA PLAZA • SUITE 3341 • OAKLAND, CALIFORNIA 94612

Office of the City Manager
Local Construction Employment Referral Program

(510) 238-7353
FAX (510) 238-3258
TDD (510) 238-3724

August 5, 2005



Dear Business Owner:

Congratulations. Based on a review of the Declaration of Nondiscrimination (Schedule N-1) and supporting documentation, it has been determined that your firm is in full compliance with the Equal Benefits Ordinance, Chapter 2.32 of the Oakland Municipal Code.

Enclosed, please find a certificate of compliance. Provided benefits currently in place have not changed, the enclosed certificate satisfies the compliance review for future submittals to the City of Oakland, including grant applications.

While the certificate does not bear an expiration date, please be advised that updated documentation is required for all substantive changes to the current compliance status. Substantive changes may include, but not limited to: an open enrollment period after the date of this correspondence that includes benefits different from those reviewed for compliance; changes to the current collective bargaining agreement that affect the conditions of compliance with the Equal benefits Ordinance; and/or changes to personnel policies affecting compliance with the Equal Benefits Ordinance. Please notify this office should any of these changes occur.

Should you have questions regarding this correspondence or the attached certificate, please contact Vivian Inman, Contract Compliance Officer at (510) 238-6261 or via e-mail at vinman@oaklandnet.com. Remember, attaching a copy of the attached certificate satisfies the compliance review process.

Again, congratulations on this most recent accomplishment and best wishes in all of your efforts to do business with the City of Oakland.

Sincerely,

A handwritten signature in cursive script that reads "Deborah Lusk Barnes".

Mrs. Deborah Lusk-Barnes
Contract Compliance & Employment Services Division

Enclosure



City of Oakland

Equal Benefits Ordinance

Certificate of Compliance

is hereby awarded to

Kleinfelder, Inc.

For satisfying all requirements necessary for compliance with the Equal Benefits Ordinance.

Deborah Barnes

Deborah Barnes

Contract Compliance & Employment Services Manager

August 5, 2005

Date

06 MAR 16 11:09:11

Approved as to Form and Legality

Oakland City Attorney's Office

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER, INC., FOR AS-NEEDED HYDROLOGY AND CREEK RESTORATION DESIGN SERVICES FOR AN AMOUNT NOT TO EXCEED FOUR HUNDRED THOUSAND DOLLARS (\$400,000), BRINGING THE TOTAL CONTRACT AMOUNT TO SIX HUNDRED THOUSAND DOLLARS (\$600,000)

WHEREAS, on March 9, 2004, City Council approved Resolution No. 78408 C.M.S. awarding a professional services contract to Kleinfelder, Inc., to provide professional hydrology and creek restoration design services for various city projects related to creeks, storm drains, wetland, and Lake Merritt for an amount not to exceed \$200,000; and

WHEREAS, on June 23, 2005, Amendment No. 1 to the professional services contract with Kleinfelder, Inc., was entered into to replace the contract's indemnification article; and

WHEREAS, additional technical assessment is now required as the result of unforeseen technical issues that need to be resolved to create an appropriate restoration design; and

WHEREAS, the additional technical assessment resulted in a delay in the project implementation timeline; and

WHEREAS, Kleinfelder, Inc., can provide the most efficiency and cost effectiveness in completing the work by incorporating the additional work into the already established hydrological models and creating the most appropriate design solutions; and

WHEREAS, funding for the work to be performed by Kleinfelder, Inc., is budgeted from a \$500,000 grant from the California State Parks Foundation, Habitat Conservation Fund (Org 92280, Fund 2134), and \$500,000 in designated funding from Measure DD (Fund 5320) Creek Restoration Projects (C244810); and

WHEREAS, the City Council finds that the professional design services are exempt from competitive bidding pursuant to Section 2.04.050 I of the Oakland Municipal Code; and

WHEREAS, the City Council finds and determines that the performance of this contract is in the public interest because of economy; and

WHEREAS, the City Council finds that this contract is for services of a professional, scientific or technical nature; and

WHEREAS, the City Council finds that services under contract will be temporary; and

WHEREAS, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive service; now therefore be it

RESOLVED: that the City Administrator, or her designee, is hereby authorized to amend the existing agreement with Kleinfelder, Inc., to provide additional hydrology and creek restoration design services for the Lion Creek Restoration Project for an amount not to exceed \$400,000, bringing the total contract amount to \$600,000; and be it

FURTHER RESOLVED: that the City Administrator, or her designee, is hereby authorized to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in the total dollar amount of the agreement, provided that such amendments or extensions shall be filed with the City Clerk's Office; and be it

FURTHER RESOLVED: that the contract shall be reviewed and approved by the City Attorney and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES –

ABSENT –

ABSTENTION –

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California