  
Celso Ortiz (Oct 28, 2020 13:26 PDT)

City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. 88398 C.M.S.

INTRODUCED BY COUNCILMEMBER [IF APPLICABLE]

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**RESOLUTION (1) AMENDING THE PROFESSIONAL SERVICES AGREEMENT WITH FLOWWEST, LLC TO INCREASE THE AGREEMENT BY AN ADDITIONAL ONE MILLION ONE HUNDRED TWENTY-FOUR THOUSAND SEVENTY-ONE DOLLARS (\$1,124,071.00) FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED ONE MILLION FIVE HUNDRED TWENTY FOUR THOUSAND SEVENTY-ONE DOLLARS (\$1,524,071.00) FOR PHASE II OF PROJECT DESIGN, CONSTRUCTION SUPPORT, AND POST-CONSTRUCTION SERVICES, AND (2) WAIVING THE COMPETITIVE REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENT.**

**WHEREAS**, on November 5, 2002 Oakland voters passed Measure DD, The Oakland Trust for Clean Water and Safe Parks, a \$198,250,000 general obligation bond; and

**WHEREAS**, the Courtland Creek Restoration Project in Courtland Creek Park (Project), is a prioritized project on the list of Council-adopted Measure DD Creek Restoration Projects; and

**WHEREAS**, on June 4, 2019, City Council approved Resolution No. 87720 C.M.S. awarding a professional services agreement to FlowWest LLC (FlowWest), who were selected through a competitive, qualification-based process, to implement Phase I of Project planning and design, including technical studies and schematic design; and

**WHEREAS**, the request for proposals that solicited creek restoration and hydrology design firms for the Project detailed the proposed phased contracting approach due to limited initial funding; and

**WHEREAS**, the competitive bidding process from which FlowWest was initially selected included robust outreach to the potentially eligible firms; and

**WHEREAS**, Resolution No. 87720 C.M.S, further authorized the option to allow FlowWest to implement Phase II of Project design, construction support, and post-construction services, upon securing additional funding; and

**WHEREAS**, contingent upon the acceptance of \$1,500,000 million in grant funding from the EPA, the City will have secured a total of \$2.5 million in additional funding that will provide adequate funds to amend the contract with FlowWest to complete the remaining design, construction support, and post-construction services for the Project; and

**WHEREAS**, the project funding includes a grant through Proposition 68 California Department of Water Resources (DWR), Urban Streams Restoration Program (USRP) with a funding expenditure deadline of December 2024, and a grant through the U.S. Environmental Protection Agency, Region 9 (EPA), San Francisco Bay Water Quality Improvement Fund (SFBWQIF) (No. 98T15701) with a funding expenditure deadline of October 2024; and

**WHEREAS**, Oakland Municipal Code (OMC) Section 2.04.051 A, requires a competitive request for proposals/qualifications ("RFP/Q") process for the award of professional services contracts in excess of \$50,000; and

**WHEREAS**, OMC Section 2.04.051 B, permits the Council to waive the RFP/Q solicitation process requirement upon a finding and determination that it is in the best interests of the City to do so; and

**WHEREAS**, staff recommends that the Council find and determine that it is in the City's best interest to waive the competitive RFP/Q solicitation requirement of OMC Section 2.04.051A and amend the agreement with FlowWest;

**WHEREAS**, the City Council finds and determines based on the representations set forth in the City Administrator's report accompanying this Resolution that the service is temporary and professional, scientific or technical in nature; 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 services; now, therefore be it

**RESOLVED:** That the Council hereby finds and determines that pursuant to OMC Section 2.04.051 B that it is in the best interest of the City to waive the RFP/Q solicitation requirement because of the delay and disruption that would result from switching to a new consultant, FlowWest is extremely familiar with the project, and for the reasons stated in this Resolution and accompanying staff report, and so does hereby waive this requirement, and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to amend the professional services agreement with FlowWest, LLC (FlowWest) to perform Phase II of Project design, construction support, and post-construction services; and be it

**FURTHER RESOLVED:** That the professional services agreement with FlowWest LLC shall be increased from four hundred thousand dollars (\$400,000.00) by an amount not-to-exceed one million one hundred twenty-four thousand seventy-one dollars (\$1,124,071.00), for a total contract amount not-to-exceed one million five hundred twenty-four thousand dollars (\$1,524,071.00); and be it

**FURTHER RESOLVED:** That FlowWest shall comply with City's Compliance Programs as required prior to executing the amendment; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to approve any subsequent amendments to or extensions of said agreement, provided that such amendments or extensions shall be approved for form and legality by the City Attorney and a copy shall be kept on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,

DEC 0 1 2020

PASSED BY THE FOLLOWING VOTE:

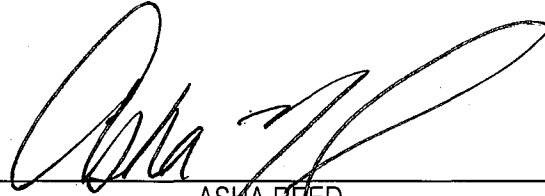
AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND  
PRESIDENT KAPLAN - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:



ASHA REED

Acting City Clerk and Clerk of the Council  
of the City of Oakland, California