



CITY OF OAKLAND

# AGENDA REPORT

**TO:** Steven Falk  
Interim City Administrator

**FROM:** G. Harold Duffey  
Director, Oakland Public  
Works

**SUBJECT:** Award Construction Contract for  
Courtland Creek Restoration Project

**DATE:** March 13, 2023

City Administrator Approval

Date: Mar 30, 2023

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To 1) Award A Construction Contract That Follows All City Advertising And Competitive Bidding Requirements To The Lowest Responsive And Responsible Bidder, In Accordance With Project Plans And Specifications For Project No. 1005340 Courtland Creek Restoration Project, And With The Contractor's Bid, For An Amount Not To Exceed Four Million Four Hundred Seventy-Five Dollars (\$4,000,475.00); 2) Enter Into A Cooperative Agreement With The Alameda County Flood Control And Water Conservation District (District) To Implement A Portion Of The Project On District Property; And 3) Adopt Appropriate California Environmental Quality Act Findings.**

## EXECUTIVE SUMMARY

Approval of this resolution will authorize the City Administrator to:

1) Execute a construction contract not to exceed four million four hundred seventy-five dollars (\$4,000,475.00) with the lowest, responsible, and responsive bidder, for the Courtland Creek Restoration Project (Project No. 1005340). The Courtland Creek Restoration Project (Project) will rehabilitate three urban reaches of Courtland Creek by removing non-native and invasive vegetation, re-grading the channel bed, stabilizing steep creek banks, and installing park and landscape features. The construction contract will also include the purchase, storage, and delivery of parts for the Cary Avenue and Mandela Parkway large full trash capture projects. See **Attachment A**, Project Bid Request.

2) Enter into a Cooperative Agreement (**Attachment B**) between the City of Oakland (City) with the Alameda County Flood Control and Water Conservation District (District) for the purposes of coordinating and cooperatively implementing a small portion of the Project on District property. The Project's proposed design includes adding a six-inch lip to a District-owned bifurcation structure located within the creek channel within the Project area to increase downstream flow in the main channel during baseflows without increasing the flow during peak storm flows.

3) Adopt appropriate California Environmental Quality Act Findings.

The Project is in Council District 5 as shown in **Attachment C**: Location Map.

### **BACKGROUND / LEGISLATIVE HISTORY**

The Project is part of the City's Trust for Clean Water and Safe Parks Bond (Measure DD). The Project is on the Council-adopted DD Prioritized Creek Restoration Project List that was authorized in Council Resolution No. 79649 C.M.S. The Project is ranked seventh on the List.

The following City Council Resolutions have been adopted for the Project:

- [Council Resolution No. 79649 C.M.S.](#) authorized the Measure DD Prioritized Creek Restoration Project List. \$530,000 was allocated from Measure DD for this Project.
- [Council Resolution No. 88143 C.M.S.](#) accepted and appropriated grant funds for the Project in the amount of \$1,000,000 from a State Proposition 68 grant from the California Department of Water Resources (DWR) Urban Streams Restoration Program (USRP).
- [Council Resolution No. 88397 C.M.S.](#) accepted and appropriated grant funds for the Project in the amount of \$1,500,000 from the Environmental Protection Agency (EPA) San Francisco Bay Water Quality Improvement Fund.
- [Council Resolution No. 89231 C.M.S.](#) accepted and appropriated grant funds for the Project in the amount of \$2,033,575 from the Caltrans Clean California Local Grant Program (CCLGP) and \$190,000.00 from Caltrans to implement the Project as mitigation for its Union Pacific Railroad Lake Merritt Channel Bridge Replacement Project.

The Project is fully funded. A Request for Bids (RFB) was issued on January 27, 2023 (**Attachment A**), and bids received from contractors for the Project will be evaluated by the Department of Workforce and Employment Standards (DWES) for compliance with all requirements.

The following Council Resolutions have been adopted for Cary Avenue and the Mandela Parkway large full trash capture projects:

- [Council Resolution No. 89257 C.M.S.](#) accepted and appropriated funds from Caltrans for the Cary Avenue Full Trash Capture Project in an amount not to exceed three million, two hundred thousand dollars (\$3,200,000.00).
- [Council Resolution No. 87238 C.M.S.](#) accepted and appropriated funds from Caltrans for the Mandela Avenue Full Trash Capture (FTC) Project in an amount not to exceed one million nine hundred thousand dollars (\$1,900,000.00).

The Cary Avenue and the Mandela Parkway large full trash capture projects are fully funded and will be ready for bid solicitation in summer and fall 2023. The construction contracts for these two projects will return to Council for approval.

## **ANALYSIS AND POLICY ALTERNATIVES**

The Project will advance Citywide priorities of **holistic community safety, vibrant, sustainable infrastructure, and responsive, trustworthy government.**

The Project will improve water quality and habitat, stabilize creek banks, reduce flood risk, reduce illegal dumping, improve park safety, provide enhanced nature-based recreation and educational opportunities, and will connect the neighboring community to the creek in a visually appealing way. The trash capture projects will improve water quality by preventing trash from entering waterways.

A portion of the Project is in a census tract designated as a disadvantaged community, is near other disadvantaged and severely disadvantaged communities, and will benefit the surrounding community with urban green space access, recreation, and educational opportunities. These project elements will be designed in equitable collaboration with the community to help reduce burdens for residents most impacted by racial disparities in the neighborhood, such as chronic illegal dumping and park safety concerns.

Council approval of the construction contract for the Project is needed in April 2023 to execute a construction contract by July 1, 2023. This is necessary because the Project includes two to four months of in-channel creek restoration work that must be completed between April 15 and October 31 per permit requirements. The creek restoration work cannot be pushed to 2024 because grant funding from the Caltrans CCLGP must be spent by June 30, 2024, and extensions are not allowed. The consequence of not completing the Project by June 30, 2024, would be the loss of \$2.3 Million dollars in grant funds from CCLGP.

On February 8, 2023, the City system was severely impacted due to the ransomware attack, and the City Administrator issued a Citywide Emergency. The impact caused four weeks of delay in the advertisement process. To reduce the risk of losing grant funding, it is essential to streamline the contracting award and approval process. Therefore, while the Project is going through the bid process, Council authorization is requested to authorize the City Administrator to award a construction contract that follows all City advertising and competitive bidding requirements to the lowest responsive and responsible bidder, in accordance with Project plans and specifications for Project No. 1005340 Courtland Creek Restoration Project, and in accordance with the contractor's bid, for an amount not to exceed four million four hundred seventy-five dollars (\$4,000,475.00). Upon completion of the bid result and compliance analysis result, a supplemental report will be provided to the Council on the bid analysis and selection result. The parallel process will shorten the Project schedule by approximately six weeks and will allow construction to take place in 2023 to meet the strict grant deadline.

Like the Courtland Creek Restoration project, the Cary Avenue and the Mandela Parkway projects are also subject to strict grant deadlines and construction timelines. A long lead time of approximately 14 weeks is needed to fabricate and deliver the large full trash capture devices to the City. Due to the pandemic, the fabrication of material and material availability became a challenge in project delivery. To minimize material impact, the City will procure the material through Courtland Creek Restoration Project competitive bidding process. This option will allow the City to obtain the item with a long procurement lead time ahead of construction to avoid unnecessary delay and delay claims in the Cary Avenue and the Mandela Parkway projects.

## **FISCAL IMPACT**

Funding for this contract is budgeted and available in the following funding sources:

<b>FUNDING SOURCE</b>	<b>AMOUNT</b>
Congress Culvert (5510); Organization (#92245); Project (1006503)	85,500.00
Federal Grant – Environmental Protection Agency (2125); Organization (#92245); Project (1005340)	1,161,400.00
Clean CA Grant - Caltrans (2140); Organization (#30245); Project (1005340);	2,033,575.00
Mandela Parkway FTC Grant – Caltrans CIA (2140); Organization (#92245); Project (1006066) - this will fund Full Trash Capture parts for the Mandela Parkway FTC Project.	360,000.00
Cary Avenue FTC Grant – Caltrans CIA (2140); Organization (#92245); Project (1006466) - this will fund Full Trash Capture parts for the Cary Avenue FTC Project.	360,000.00
<b>TOTAL FUNDS</b>	<b>\$4,000,475.00</b>

There is no impact on the General Purpose Fund and no additional funding is requested.

## **PUBLIC OUTREACH / INTEREST**

For this construction solicitation, Oakland Public Works, Watershed and Stormwater Management Division (OPW-WSMD) worked with Oakland Public Works-Capital Contracts Division (OPW-CCD) and Department of Workplace and Employment Standards (DWES) to conduct public outreach through the legal ads, enhanced notifications, and a pre-proposal meeting.

Notifications of solicitations were distributed by several means: the City's iSupplier system, which is utilized to notify registered contractors, plan rooms and builder's exchanges, regional trade and business groups, including the Oakland Metropolitan Chamber of Commerce, Oakland Black Board of Trade & Commerce, Bay Area Business Roundtable, and the Construction Bid board. Companies that register in iSupplier wait a few days before receiving access to review proposal requests in this system. If a company enters a Northern American Industry Classification System (NAICS) code, they are notified about projects with this code.

In addition to iSupplier and the established disparity outreach list of OPW-CCD also utilizes CIPList.com, a free, web-enabled site to announce and distribute solicitations. Through CIPList.com, any company or entity may register to be automatically notified of all City of Oakland solicitations without restrictions.

The legal notice for the solicitation was advertised on January 27, 2023. Legal notices were printed in the East Bay Times and Oakland Post. In addition, information about the project was published in El Mundo, Daily Pacific Builder, World Journal, and the Korea Times publications to supplement and ensure the information reaches Local Business Enterprise and Small Local Business Enterprise (LBE/SLBE).

OPW-CCD held a pre-bid meeting in partnership with the DWES and the Project Manager on February 14, 2023, with prospective bidders in attendance virtually. The meeting served a few

purposes: to discuss with potential contractors how contracts are established with the City, answer any compliance questions, and to discuss the current RFB solicitation specifically. On February 16, 2023, the Project Manager held a mandatory pre-bid site meeting for prospective bidders. The meeting was an opportunity to tour the site with the Project Manager and design team, network with other bidders, and ask questions about the Project.

### **COORDINATION**

The design of this Project was developed with input from Oakland Parks and Recreation and Youth Development, Oakland Department of Transportation, Alameda County Flood Control and Water Conservation District. The work to be contracted has been coordinated with the DWES and appropriate divisions within Oakland Public Works.

In addition, this report and the resolution have been reviewed for form and legality by the Office of the City Attorney and Budget Bureau of the Finance Department.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Implementation of the Project will generate business tax, sales tax, and other revenues for the City by those firms who work on the project. In addition, upon completion, a City asset will be improved by stabilizing creek banks on City property. This will reduce flood risk on City and adjacent private property and will reduce the potential cost of repairs in the future.

**Environmental:** Implementation of the Project will improve and enhance habitat, creek bank stability, water quality, flood protection, and climate change resilience. This Project aligns with and helps implement Oakland's 2030 Equitable Climate Action Plan (ECAP 2030) Actions, including Adaptation Action A-6, Expand and Protect Green Infrastructure & Biodiversity, and Carbon Removal Actions CR-1, Develop Local Carbon Investment Program, and CR-3, Rehabilitate Riparian Areas and Open Space. Action A-6 calls for creek restoration for flood protection and green space for frontline communities. Action CR-1 calls for local investments, including creek restoration projects, for the benefit of the climate and public health. Action CR-3 calls for restoring creeks to reduce flood risks from sea level rise and allow for nature access and active mobility. The Project will also be designed in accordance with requirements set by applicable environmental regulatory agencies as well as by the City of Oakland Creek Protection Ordinance. The selected contractor will be required to comply with the City's Waste Recycling and Re-use Plan (WRRP) for construction work.

**Race & Equity:** The Project is in a Census Tract designated as a disadvantaged community. Implementation of the Project will benefit the surrounding underserved and disadvantaged neighborhoods by increasing the quality of Courtland Creek and Courtland Creek Park through enhanced access to natural amenities, reduced trash levels and illegal dumping, and expanded nature-based, hands-on educational opportunities for local students. The resulting Project will also comply with Americans with Disabilities Act (ADA) and enhance the enjoyment of Courtland Creek Park for all ages and abilities.

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**CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

CEQA review has been completed for this Project. As the Lead Agency, City of Oakland prepared and certified on February 13, 2008, the Measure DD Implementation Project Environmental Impact Report (Final EIR), State Clearinghouse #2006122048. This is a program-level EIR for Measure DD, the Oakland Trust for Clean Water and Safe Parks which is a general obligation bond passed by Oakland voters in 2002 to finance projects that improve trails, water quality, habitat, and parks. The Final EIR document includes the City of Oakland Measure DD Implementation Project Environmental Impact Report, Response to Comments (RTC) Document (RTC Document, January 2008) and the Public Review Draft City of Oakland Measure DD Implementation Project Environmental Impact Report (DEIR, July 2007).

The Project has been reviewed by and is incorporated in the City of Oakland Measure DD Final EIR. The Project will meet all mitigation requirements that are outlined for Creek Restoration Projects in the Mitigation, Monitoring, and Reporting Plan of the Final EIR.

The Cary Avenue and Mandela Parkway Full Trash Capture Projects are exempt from CEQA, pursuant to CEQA Guidelines Section 15301 (Alteration/Minor Addition to Existing Facilities) because each project will implement minor alterations to existing, publicly owned utilities involving negligible or no expansion of an existing use.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt a Resolution Authorizing The City Administrator To 1) Award A Construction Contract That Follows All City Advertising And Competitive Bidding Requirements To The Lowest Responsive And Responsible Bidder, In Accordance With Project Plans And Specifications For Project No. 1005340 Courtland Creek Restoration Project, And With The Contractor's Bid, For An Amount Not to Exceed Four Million Four Hundred Seventy-Five Dollars (\$4,000,475.00); 2) Enter Into A Cooperative Agreement With The Alameda County Flood Control And Water Conservation District (District) To Implement A Portion Of The Project On District Property; And 3) Adopt Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Jennifer Stern, Project Manager/Watershed Program Specialist, at 510-381-7515.

Respectfully submitted,



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Director, Oakland Public Works

Reviewed by:

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Prepared by:  
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Attachments (3):

- A: *Project Bid Request*
- B: *Draft Cooperative Agreement with District*
- C: *Project Location Map*