

APPROVED AS TO FORM AND LEGALITY

Farrah Hussein  
CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO (1) AMEND THE PROFESSIONAL SERVICES AGREEMENT WITH FLOWWEST, LLC AND INCREASE THE AGREEMENT BY AN ADDITIONAL ONE HUNDRED NINETY THOUSAND DOLLARS (\$190,000.00) TO A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED ONE MILLION SEVEN HUNDRED FOURTEEN THOUSAND SEVENTY-ONE DOLLARS (\$1,714,071.00) FOR PHASE II PROJECT DESIGN, CONSTRUCTION SUPPORT AND POST-CONSTRUCTION SERVICES FOR THE COURTLAND CREEK RESTORATION PROJECT (PROJECT NO. 1005340); (2) WAIVE THE COMPETITIVE REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENT; AND (3) ADOPT APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR PROJECT NO. 1005340.**

**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) for an amount not to exceed four hundred thousand dollars (\$400,000.00), who were selected through a competitive and qualification-based process to implement Phase I of the Project, including planning, schematic design, and technical studies; and

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

**WHEREAS**, on December 1, 2020, City Council approved Resolution No. 88398 C.M.S. amending the professional services agreement with FlowWest to increase the agreement to 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 the Project, which includes final design, construction support, and post-construction services, and waiving the competitive request for proposals/qualifications requirement; 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

**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 to perform additional Phase II of Project design, construction support, and post-construction services; and be it

**FURTHER RESOLVED:** That the professional services agreement with FlowWest shall be increased from one million five hundred twenty-four thousand seventy-one dollars (\$1,524,071.00) by an amount not-to-exceed one hundred ninety thousand dollars (\$190,000.00), for a total contract amount not-to-exceed one million seven hundred thousand seventy-one dollars (\$1,714,071.00); 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,

PASSED BY THE FOLLOWING VOTE:

AYES - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –  
ABSENT –  
ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California