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OFFICE OF THE CITY CLERK  
OAKLAND

2012 MAY 31 AM 11:43

# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Vitaly B. Troyan, P.E.

SUBJECT: Collaborative Creeks Agreement

DATE: May 21, 2012

City Administrator  
Approval

Date

COUNCIL DISTRICTS: All

## RECOMMENDATION

Staff recommends adoption of this Resolution authorizing the City Administrator or her Designee to 1) accept and appropriate \$280,000.00 annually from the Alameda County Flood Control and Water Conservation District (District) and 2) enter into an Agreement with the District to implement the Collaborative Creek Improvement and the Clean Creeks Programs (Programs) for the period from July 1, 2012 through June 30, 2017.

## OUTCOME

Adoption of this Agreement and acceptance and appropriation of the funds will provide funding for staff and related expenses to implement watershed and stormwater management and creek stewardship activities that include:

- Implementation and enforcement of stormwater management and the Creek Protection Ordinance
- Collaborative capital restoration and water quality improvement projects with the District
- Compliance with Federal and State-mandated stormwater pollution prevention practices
- Watershed stewardship activities such as Earth Day and Creek to Bay Day
- Grant writing

## BACKGROUND

Since 1996, the City Council has authorized nine consecutive agreements with the District to provide funds to the City of Oakland (City) for staff costs and expenses to implement activities of the Watershed and Stormwater Management Program. The scope of work for the Agreement is negotiated between the City and the District and includes semi-annual reporting requirements and billing for reimbursement. A detailed scope of work is included in Exhibit A.

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The current Agreement between the City and the District is scheduled to expire on June 30, 2012.

### **ANALYSIS**

District funding of the Programs is critical to the successful implementation of the Watershed and Stormwater Management Program and helps the City meet the regulatory requirements of the City's National Pollutant Discharge Elimination System (NPDES) Permit, to write grants to leverage additional funds and resources, and to initiate restoration-based capital improvement projects to protect storm drainage infrastructure and reduce capital costs.

### **PUBLIC OUTREACH**

A significant portion of the funding for the Programs is dedicated to public outreach activities to increase awareness of and participation in stormwater pollution prevention, creek restoration and preservation, and enhancement of watershed-related volunteerism and stewardship.

### **COORDINATION**

The Office of the City Attorney has reviewed the report and resolution as to form and legality. The Office of Budget has reviewed the report and resolution for compliance with fiscal requirements.

### **COST SUMMARY/FISCAL IMPACT**

If approved, \$280,000.00 in annual funding from the District will be accepted and appropriated as follows:

\$210,000.00 to Public Works Grants Fund (2990); Watershed and Stormwater Organization (30245); Watershed & Stormwater Program (NB34), Collaborative Creeks Project A445810 and, Accounts 56611 and 52919.

\$70,000.000 to Public Works Grants Fund (2990); Environmental Remediation Organization (30683); Sustainable Communities Program (SC26), Clean Creeks Project H57810 and, Accounts 56611 and 52919.

### **FISCAL/POLICY ALIGNMENT**

Acceptance of these finds supports the Council goals of implementing sound financial management policies by providing an outside funding source to meet state-mandated requirements to reduce stormwater runoff pollution.

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## SUSTAINABLE OPPORTUNITIES

**Economic:** Implementation of the Programs including volunteer activities, increasing public awareness, and guiding appropriate creekside development protects storm drainage infrastructure and creeks and reduces the City's cost of meeting stormwater pollution prevention regulatory mandates.

**Environmental:** Implementation of the Programs enhances the City's efforts to improve water quality and to protect, restore, and improve Oakland's creeks and waterways.

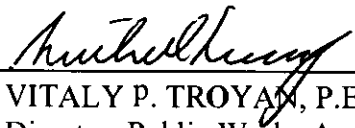
**Social Equity:** Program activities result in healthier and cleaner communities throughout the city.

## CEQA

The implementation of the Programs does not meet the definition of Project under CEQA guidelines and as such is exempt from CEQA requirements. Any restoration activities conducted through the program will meet CEQA requirements as applicable.

For questions regarding this report, please contact Lesley Estes, Watershed and Stormwater Management Supervisor, (510) 238-7431.

Respectfully submitted,

  
for VITALY P. TROYAN, P.E.  
Director, Public Works Agency

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

Prepared by:  
Lesley Estes, Supervisor  
Watershed and Stormwater Management

Exhibit A: Collaborative Creeks and Clean Creeks Programs Scope of Work

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## EXHIBIT A: SCOPE OF SERVICE

### AGREEMENT RELATED TO CLEAN WATER PROGRAM FY 2012-2017

#### SERVICE TO BE PROVIDED

#### **I. *COLLABORATIVE CREEKS - \$210,000 PER YEAR***

##### **ENFORCEMENT AND COMPLIANCE**

The City's Creek Permit Violations Protection Specialist will respond to calls regarding illegal dumping, vegetation removal and erosion on creekside properties. Calls from the District will be given the highest priority and will take precedent. The Creek Permit Violations Protection Specialist will negotiate with the property owner to cleanup the site and mitigate future dumping. The Creek Permit Violations Protection Specialist works closely with City code compliance staff to impose enforcement measures if needed. The Creek Permit Violations Protection Specialist is also working with City Code Compliance to inspect private properties for compliance with the City Creek Protection ordinance. The Ordinance requires permits for all projects on creekside properties and prohibits projects that could harm the creek including concentration of flow, erosion, debris buildup and loss of riparian vegetation. Illegal dumping, concentration of flows, erosion on any property, City, private or District facilities eventually affect downstream District facilities. Careful planning, enforcement, mitigation on all properties benefit the Flood Control facilities.

##### Evaluate Sites

- Respond to calls regarding illegal dumping, vegetation removal and erosion on creekside properties (District calls will be given priority)
- Conduct initial inspection to clearly identify the issue(s)
- Determine the responsible party and contact them to inform them of the issue/violation(s)
- Determine appropriate next actions and next steps to resolve the issue
- Meet with the responsible party at the site to inform them of the appropriate actions to resolve the issue and meet compliance in the case of a violation
- Permit Violation enforcement

##### Enforcement

- Initiate a formal enforcement action by notifying the property owner in writing informing them of the fines and fees that may be incurred if the violation is not rectified within a specific time period
- Monitor compliance efforts and work closely with Code Enforcement when necessary to ensure compliance and when possible have issue resolved at the City's cost and then place liens on the property to retrieve expenses
- Coordinate with other regulatory agencies when appropriate i.e. California Department of Fish and Game, Army Corps of Engineers, Regional Water Quality Control Board

## **CREEK RESTORATION PROJECT SUPPORT**

Activities will include community outreach, grant writing, coordination, monitoring, maintenance and regulatory compliance assistance, education and community input. Creek Restoration project goals include creek bank stabilization, riparian habitat restoration, native plant propagation, water quality improvements, erosion control, introduction of native wildlife, trail development and improved community access to creeks.

### Grant Writing

- Assist the District with the researching and writing of grants to prospective funding sources for creek restoration projects
- Conduct field visits and assist the District with presentations necessary to obtain funding
- Assist the District with the administration of grants and necessary reporting and correspondence with funding agencies
- Assist the District with the tracking and completion reports required by funding agencies

### Community Liaison Assistance

The City of Oakland will assist the County with Community relations on County Flood Control issues relating to District projects.

- Field inquiries, send out information, and handle correspondence regarding community creek related concerns on behalf of the District
- Work closely with the District and the community to identify restoration and improvement sites and develop projects
- Contact stakeholder organizations and individuals to expand support and participation in the project planning process on behalf of the District
- Coordinate public meetings to gain community input on behalf of the District
- Attend meetings of ongoing creek groups to facilitate communications with the District
- Coordinate the development of a community outreach database of residents, schools, community organizations, churches and other stakeholders for specific City and District projects on behalf of the District. Include all contact information, e-mail, phone, fax, address, and a contact name
- Write, layout and mail the announcements for public meetings on behalf of the District
- Coordinate the development and distribution of educational materials on behalf of the District
- Assists with media relations regarding restoration and improvement projects, i.e. write press releases and public service announcements, pitch stories to appropriate media outlets on behalf of the District
- Coordinate media events to celebrate project completion on behalf of the District

### Project Coordination Assistance

- Coordinate with community organizations and neighborhood groups
- Coordinate with various City departments for permitting, project implementation, park closures, etc.
- Coordinate appropriate regulatory permits for each restoration project

### Project Monitoring and Maintenance Assistance

- Assist the District with the development of monitoring protocol for restoration projects in accordance with funding and permit requirements
- Assist the District with monitoring efforts for each restoration project
- Assist the District with tracking and completing monitoring reports necessary for permitting agencies
- Assist the District with the development of appropriate maintenance plans for each restoration project and help coordinate maintenance efforts

### Native Plant Propagation Project:

- Support native plant nursery in Joaquin Miller Park in the City of Oakland that offers volunteer opportunities to participate in native riparian plant raising efforts and provides those plants for use at City creek restoration projects.

### Mitigation Credits:

- Work with regulatory agencies to help District obtain mitigation credits for activities sponsored and funded by District under this agreement.

### Network with Other Agencies:

- Network with other agencies, non-profits and business groups to promote program goals.

## **WATERSHED PROTECTION**

### Creekside Property Owner Compliance:

- Create and mail instructional materials to creek-side residents alerting them to any changes or additions to, or materials to help explain, the Creek Protection Ordinance or other related materials such as trash control, vegetation management and erosion control guidelines. Materials will instruct residents about their legal responsibilities to keep their creek clean and protected, and will also explain limitations on public agencies' ability to provide assistance on private property.
- Develop and coordinate educational workshops to broaden community understanding of the importance of creeks in their neighborhoods.

### City Staff Instruction:

- Work with the City's Community and Economic Development Agency on Creek Protection Permit issues. Work with the City's Public Works Agency Engineering and Design Division on storm drain and construction near creekside properties issues. Work with the Oakland Fire Department (OFD) to encourage implementation of proper vegetation management techniques for creekside and sloped properties. Offer training for OFD vegetation inspectors and vegetation removal contractors working for the City of Oakland. Produce materials to facilitate OFD vegetation inspectors in identifying native versus non-native vegetation and creekside habitat. Work with the Parks and Recreation Department on educating their staff about Best Management Practices for creekside areas.

### Creeks Website:

- Provide technical support for the City of Oakland website including information about the watershed protection program, the Ordinance and links to other important and informative websites.

## **IL CLEAN CREEKS - \$70,000 PER YEAR**

### **CREEK CLEANUP VOLUNTEERISM AND OUTREACH**

#### Adopt-a-Creek:

- Implement the Adopt-a-Creek program including: producing Adopt-a-Creek signs, recruiting community creek adopters; working with adopters to design and implement projects; providing tools, equipment, and support; and producing Adopt-a-Creek outreach materials including brochures and agreements.

#### Community Creek Efforts:

- Provide as-needed support to community restoration and creek cleanup efforts for new neighborhood groups. Encourage new group participation in the more formalized Adopt-a-Creek Program.

#### Citywide Creek Cleanup Events:

- Plan and host semi-annual citywide creek cleanup and beautification events on Earth Day (10 to 15 sites) in April and on Creek to Bay Day (10 to 15 sites) in September. Produce event outreach and publicity, coordinate site staging locations with community site coordinators, provide tools, t-shirts, plants, debris and green waste pick-up, and refreshments. Coordinate with District maintenance staff for cleanup of District facilities.

#### Creeks Website:

- Maintain creek related web pages on the City of Oakland website including information about creek outreach programs, trash pick volunteer opportunities, event updates, the watershed protection program and the Ordinance. Additionally, the site will include links to other important and informative websites.

#### Periodic Press Releases:

- Draft and mail periodic press releases promoting upcoming events and highlighting local creek activities and activists.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 MAY 31 AM 11:43

# OAKLAND CITY COUNCIL

Approved as to Form and Legality

  
City Attorney

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO ACCEPT AND APPROPRIATE TWO HUNDRED AND EIGHTY THOUSAND DOLLARS (\$280,000.00) ANNUALLY FROM THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (DISTRICT) AND TO ENTER INTO AN AGREEMENT WITH THE DISTRICT TO IMPLEMENT THE COLLABORATIVE CREEK IMPROVEMENT AND CLEAN CREEKS PROGRAMS (PROGRAMS) FOR THE PERIOD JULY 1, 2012 THROUGH JUNE 30, 2017**

**WHEREAS**, pursuant to the state of California District Act, Zone 12 of the Alameda County Flood Control and Water Conservation District (District) was created in 1964 as a State Special District to maintain open creek flow ways and provide limited debris removal for creeks in the cities of Oakland and Emeryville; and

**WHEREAS**, the District seeks to work with the City of Oakland (City) for collaborative creek improvement and clean creeks and further seeks to grant the City two hundred eighty thousand dollars (\$280,000.00) in funds for these programs for the period July 1, 2012 through June 30, 2017; and

**WHEREAS**, the City is authorized by acts governing the City to engage in the proposed activities and is qualified to perform the services funded by the District; and

**WHEREAS**, procedures established by the City require the City to certify by resolution the approval to enter into an Agreement with the District; and

**WHEREAS**, the City's Watershed and Stormwater Management Program relies on funding from the District to help meet storm drainage and waterways protection and regulatory compliance goals; now, therefore, be it

**RESOLVED:** That the City Council approves the acceptance of funds from the District in the amount of two hundred eighty thousand dollars (\$280,000.00) to be appropriated as follows:

\$210,000.00 to Public Works Grants Fund (2990); Watershed and Stormwater Organization (30245); Watershed & Stormwater Program (NB34), Collaborative Creeks Project A445810 and, Accounts 56611 and 52919 for the Collaborative Creek Improvement Program.



\$70,000.000 to Public Works Grants Fund (2990); Environmental Remediation Organization (30683); Sustainable Communities Program (SC26), Clean Creeks Project H57810 and, Accounts 56611 and 52919 for the Clean Creeks Program; and be it

**FURTHER RESOLVED:** That should additional funds become available for these Programs, the City Administrator or Her Designee is hereby authorized to accept and appropriate these funds for the purposes described above through June 30, 2017; and be it

**FURTHER RESOLVED:** That the City Administrator, or Her Designee, is authorized to negotiate with the District and execute all necessary applications, contracts, agreements, amendments and extensions of the same for the Collaborative Creek Improvement and Clean Creeks Program activities, subject to the review and approval of the City Attorney's Office; and be it

**FURTHER RESOLVED:** That the City Attorney's Office has reviewed this resolution as to form and legality and a copy of this resolution shall be filed with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2012

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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