



CITY OF OAKLAND

AGENDA REPORT

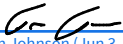
TO: Jestin D. Johnson
City Administrator

FROM: Michael Kashiwagi
Interim Director, OPW

SUBJECT: Amend Professional Services
Agreement, Courtland Creek
Restoration Project

DATE: May 20, 2024

City Administrator Approval


Jestin Johnson (Jun 3, 2024 16:09 PDT)

Date: Jun 3, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt A 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.

EXECUTIVE SUMMARY

Approval of the proposed resolution will authorize the City Administrator to increase the current professional services agreement between the City of Oakland (City) and FlowWest, LLC (FlowWest) by an amount not to exceed \$190,000.00 for a total contract maximum of \$1,714,071.00 to perform additional Phase II design, permitting, and construction support services for the Courtland Creek Restoration Project (Project).

Additional design, permitting, and construction support services are necessary to address storm-related creek bank failures in two locations in the Project area within Courtland Creek Park. Stabilization measures are needed on the creek banks in these two locations and will require additional design work, permitting agency approvals, and construction support to complete.

The Project's goals are to improve water quality and habitat, stabilize creek banks, reduce flood risk, reduce illegal dumping, improve park safety, connect the neighboring community to the creek in a visually appealing way, and provide enhanced nature-based recreation and educational opportunities.

City Council
June 18, 2024

BACKGROUND / LEGISLATIVE HISTORY

On June 4, 2019, the City Council authorized the City Administrator to enter into a professional services agreement with FlowWest per Council Resolution No. 87720 C.M.S. (**Attachment A**). On December 1, 2020, City Council authorized Council Resolution No. 88398 C.M.S. (**Attachment B**) 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 project design, construction support, and post-construction services.

The Project, which is in its final phases of construction and has previously unknown groundwater sources and illegal drainage from the private property, was impacted by heavy rainstorms in January 2024. The combination of these factors led to the slumping of the bank in one location (location A) and bank failure in a second location (location B) (see **Attachment C** for the location map). The stabilization of the bank in location A is relatively simple to design, obtain a permit, and construct. Location B, on the other hand, where the bank failed, is more complex. Illegal drainage from private property was a factor at this location.

On January 29, 2024, City staff documented violations consisting of an unpermitted concentrated stormwater drainage connection to a watercourse, an unpermitted fence construction within twenty (20) feet from the top-of-bank of a watercourse, and an alteration of the creek bank (due to concentrated stormwater drainage connection). These are violations of sections 13.16.090 and 13.16.110 O.M.C. (Ordinance #12024 C.M.S., Storm Water Management and Discharge Controls). Oakland Public Works declared the property a public nuisance as of January 29, 2024. A notice to abate the violations above has been issued to the private property owner, and City staff are working with the private property owner on a compliance plan to abate the violations.

An amendment to the professional services agreement with FlowWest is needed to prepare additional engineering plans, technical specifications, and an engineer's cost estimate for the repairs, obtain appropriate permit applications, and provide construction support services for the repairs at locations A and B.

Once locations A and B are addressed, the final phases of the Project can be completed. To meet the grant funding expenditure deadline for the California Department of Water Resources (DWR) Urban Streams Restoration Program (USRP) grant, the final phases must be completed by December 31, 2024. These grant funds have been accepted and appropriated in Council Resolution No. 88143 C.M.S. (**Attachment D**).

Once complete, the Project will restore three heavily degraded stretches of open creek channel that flow above-ground through Courtland Creek Park, parallel to High Street between Brookdale Avenue and 45th Avenue. The Project will stabilize and repair steep and eroding creek banks to protect property, reduce flood risk, and improve water quality. The Project will also restore native vegetation to create habitat and will incorporate some park enhancements that are designed to reduce illegal dumping in the Park by connecting the community to the creek in a visually appealing way and to increase recreation and provide education opportunities for the surrounding community.

ANALYSIS AND POLICY ALTERNATIVES

The City requires technical and engineering services to deliver projects in a timely and cost effective manner. The recommended action for the City Council to adopt a resolution authorizing the City Administrator to amend the professional services agreement with FlowWest will advance and is consistent with the City's goal of being a **responsive, trustworthy government** by enabling staff to quickly respond to urgent and unforeseen demands such as storm-related damages.

FlowWest is needed to complete additional design, permitting, and construction support services necessary to address storm-related damages to the creek bank in two locations in the Project area. The amendment will increase the contract by an amount not to exceed \$190,000.00 for a total contract maximum of \$1,714,071.00.

The proposed services are professional, technical, and temporary in nature. The City lacks the expertise and qualified personnel to perform engineering technical services. Amending this professional services agreement will not result in the loss of employment or salary by any person having permanent status in competitive service.

Once the Project is fully constructed, it 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 connect the neighboring community to the creek in a visually appealing way.

The Project is in a Census Tract designated as a disadvantaged community, near other disadvantaged and severely disadvantaged communities (see **Attachment E – Disadvantaged Communities Map for the Courtland Creek Restoration Project**). It will benefit the surrounding community with urban green space access, recreation, and educational opportunities. These project elements were 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.

Waiver Of Competitive Request For Proposal/Qualifications Requirement

[Oakland Municipal Code \(OMC\) Section 2.04.051 A](#) requires a competitive request for proposals/qualifications ("RFP/Q") proposal solicitation process. However, OMC Section 2.04.051 B permits the Council to waive this RFP/Q requirement upon a finding and determination that it is in the best interest of the City to do so. As the consultant selection process in 2019 adhered to the City's OMC for competitive process and the solicitation notice stated that the selected consultant team would provide planning through construction and post-construction support services, the proposed amendment adheres to the original intent. To continue the services as initially specified and avoid any project disruption or delay in completing the scope, and to meet the granting agencies' timelines for the expenditure of grant funds (as referenced in the Analysis and Policy Alternatives section above), staff recommends that it is in the City's best interest to waive the competitive RFP/Q requirement and amend the City's agreement with FlowWest.

FISCAL IMPACT

Approval of the proposed resolution will authorize the City Administrator, or designee, to amend the professional services agreement with FlowWest to increase the contract by an additional one hundred ninety thousand dollars (\$190,000.00) for a total contract amount not to exceed one million seven hundred fourteen thousand seventy-one dollars (\$1,714,07100).

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

Table 1: State Grant Funding Source

Description	Fund # / Award #	Project #	Org #	Amount
State Grant Fund	2140 – Caltrans / 24381	1005340 – Courtland Creek Restoration	30245	\$190,000.00

If the City receives abatement costs from the property owner, the funds shall be deposited back into Fund 2140.

PUBLIC OUTREACH / INTEREST

The Project incorporates design and scope input from Courtland Creek Park neighbors, community members, and stakeholders. The City’s design consultant team, City staff, and Oakland Parks and Recreation Foundation developed and implemented a collaborative community engagement plan and process that is being conducted following the City’s Department of Race and Equity (DRE) Inclusive Public Engagement Planning Guide, which includes effective strategies for inclusive engagement and guides engagement and Project objectives that will address disparities and increase opportunities and reduce burdens for the communities most impacted by racial disparities. Staff hosted community meetings in July 2021 and May 2022. Meetings were held using virtual engagement tools to increase community participation. The Project Manager regularly attends public meetings to ensure responsiveness to community concerns, build engagement in the project, and foster long-term stakeholders and stewards. Given the long history of community participation around this creek and park, there has been strong community interest and involvement in the Project. The Friends of Courtland Creek, local schools such as Melrose Leadership Academy and Fremont High School, and the City’s Adopt a Spot program volunteers are involved in the Project and have assisted with outreach and education activities and promoting equitable environmental stewardship designed to benefit the surrounding neighborhoods by reducing illegal dumping and littering in the Project area and increasing access to natural habitat.

COORDINATION

The work under this Project will continue to be coordinated with Oakland Parks and Recreation and Youth Development, the Department of Employment and Workforce Standards, the Department of Race and Equity, and appropriate divisions within Oakland Public Works.

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

SUSTAINABLE OPPORTUNITIES

Economic: The Project will repair a City asset by stabilizing creek banks on City property. This will reduce flood risk on the City and adjacent private property and will reduce the potential cost of repairs in the future. Implementation of the Project will generate business tax, sales tax, and other revenues for the City by those firms who work on the project. Local businesses will be utilized on the Project and will benefit directly.

Environmental: Implementation of the Project will improve and enhance habitat, creek bank stability, water quality, flood protection, and climate change resilience. 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.

Race & Equity: 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, illegal dumping, and expanded nature-based, hands-on educational opportunities for local students. The resulting Project will also comply with the Americans with Disabilities Act (ADA) and enhance the enjoyment of Courtland Creek Park for all ages and abilities.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council:

Adopt A 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.

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

Respectfully submitted,

Michael Kashiwagi

Michael Kashiwagi
Interim Director, Oakland Public Works

Reviewed by:
Tiffany Pham, Acting Watershed
& Stormwater Management Division Manager

Prepared by:
Jennifer Stern, Watershed Program Specialist
Watershed & Stormwater Management
Division

Attachments (2):

- A: Resolution No. 87720 C.M.S.
- B: Resolution No. 88398 C.M.S.
- C: Location map for Locations A and B
- D: Resolution No. 88143 C.M.S.
- E: Disadvantaged Communities Map for the Courtland Creek Restoration Project