

**CITY OF OAKLAND
AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 JAN 29 PM 6:42

TO: Office of the City Manager
ATTN: Ms. Deborah Edgerly, City Manager
FROM: Community and Economic Development Agency
DATE: February 10, 2004

RE: A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH WRECO IN AN AMOUNT NOT TO EXCEED \$70,000 TO DEVELOP STANDARDS AND GUIDELINES TO ASSIST THE DEVELOPMENT OF CREEK SIDE PROPERTIES

SUMMARY

This is a request for City Council approval of a resolution authorizing a professional services contract with WRECO. The services of WRECO are required to create Standards and Guidelines for Development of Creekside Properties. At the February 26, 2002 City Council meeting, staff was directed to hire consultants to create Standards and Guidelines to improve administration and implementation of the Creek Protection Ordinance and to provide more definitive guidance to property owners and project applicants. Ultimately, the Standards and Guidelines will ensure protection of the natural environment and habitat that creeks provide, while allowing for appropriate and sustainable development. City Council also directed staff to conduct a community process to provide community involvement in the development and implementation of the Standards and Guidelines. This community input process will be initiated once the WRECO consultant team has been hired.

FISCAL IMPACT

Funds are available for the creation of the recommended Development Standards and Guidelines from the CEDA Sustainable Development program funds (Fund: 1010 Organization 88229.54919.P48200.SC09). No additional staff or funds have been identified for facilitating the community input process.

BACKGROUND

On December 16, 1997 the City of Oakland's Storm Water Management and Discharge Control Ordinance (Creek Ordinance) was amended by City Council to include the Creek Protection Permit Program. The amended Ordinance now titled the Creek Protection, Storm Water Management and Discharge Control Ordinance (Creek Ordinance) includes permitting guidelines for development and construction projects taking place near creeks. The intent of the Creek Ordinance is to (1) assure that work done on a creekside property will avoid or limit, to the maximum feasible extent, having a negative impact to the creek

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or riparian corridor at both the time of construction and in the future; (2) protect drainage facilities; (3) protect public health and safety, and (4) protect public and private property.

On February 26, 2002, Council directed staff to develop Standards and Guidelines for development along creekside properties, and directed the creation of a comprehensive Creek Map of Oakland. The Standards and Guidelines will list specific recommended creek protection measures to address the many issues that arise from variable site conditions (including slope, vegetation, soil types, flow rates, and other factors) and different proposed projects. The purpose of the Standards and Guidelines is to guide applicants and staff to apply effective, "best practices" types of solutions to the challenges presented by site-specific conditions. The Creek Map will objectively identify all of Oakland's creeks, and therefore which properties are creekside properties.

On July 10, 2002 Planning Commission meeting, staff presented an information report to the Commission outlining the Request for Proposal (RFP) scope of work for the creation of "Standards and Guidelines for the Development of Creekside Properties. Over the following months, staff further refined the work program for the RFP scope of services through the input and involvement of the Creek Steering Committee, comprised of staff in CEDA and the Public Works Agency. Copies of the RFP scope of work were made available to Bay Area consultant teams in April 2003. After a mandatory pre-proposal conference on May 2, 2003, five (5) consultant teams submitted proposals by the May 30, 2003 due date. In June 2003, staff utilized the overall rating criteria outlined in the RFP to score and rank the submitted proposals from the five (5) short-listed firms, and then evaluated and ranked each team according to specific criteria and the points for each criteria. On July 9, 2003, a staff-assembled review panel conducted interviews with each of the five (5) short-listed firms. Upon tabulation of the scores and rankings for each consultant team's proposal submittal, interview presentation, and responses to interview question-and-answers, the top-ranked firm was determined to be a consultant team led by WRECO, a local Oakland and minority-owned business, accompanied by sub-consultants: Farwest Engineering, Philip Milenbaugh Consulting, Frost-Cochrane, Inc., and Northgate Environmental Management, Inc.

Upon the selection of the WRECO consultant team, staff began initial preparation of a Council staff report, and collection of required City documents related to a Professional Service contract, but further work was delayed as a result of staff re-assignments resulting from the recent reorganization of CEDA. Another delay in completing this project occurred in fall 2003, when this project's line item within the CEDA Sustainable Development Fund was erroneously marked for deletion from the budget. Once this budget item was correctly reinstated, staff resumed work on the required staff report and other related documents.

KEY ISSUES AND IMPACTS

The development of an efficient and effective mechanism for the implementation of the Creek Ordinance has been difficult. In order to improve implementation of the

Ordinance, staff has been directed by Council to improve the Creek Permitting Process, to develop Standards and Guidelines, and develop a comprehensive Creek Map of Oakland.

Creek Protection Permitting Process

Prior to 2002, all Creek Protection Permits were processed with the Building Permit, after the Design Review process. This caused unnecessary delays in cases where the building had to be re-sited or altered to meet permitting requirements. This has raised concerns with the Creek Protection Permit process. Recently staff has revised the process so that new development Creek Protection Permits are processed by Planning & Zoning concurrently with the Design Review process. Permits are reviewed by CEDA Planning and Zoning, Building Services, and Public Works Agency's Environmental Services Division, and are issued by CEDA's Building Services. This new process ensures that creek protection issues are resolved at the same time as planning and zoning design issues.

Standards and Guidelines

Currently, creekside property owners and potential buyers face uncertainty as to how much of a particular creekside parcel is developable and what restrictions would be placed on any new development during the City's creek permit review. In order to assist property owners/potential buyers with that determination and to ensure that appropriate creek protection measures are required, Standards and Guidelines for development must be established. The Standards and Guidelines will create certainty for applicants, neighbors, and concerned stakeholders as to how the Creek Ordinance will be interpreted and implemented.

The creekside Standards and Guidelines will provide simple, clear, and explicit guidelines to assist staff and property owners with developing site appropriate creek protection measures at the beginning of the design process. The Standards and Guidelines document will:

1. Develop setbacks based on a combination of site conditions, including
 - Slope
 - Vegetation
 - Soil Type
 - Stream Flow
2. Make recommendations for conditions of approval and appropriate site design, examples include:
 - Biofiltration swales
 - Landscaping
 - Culverts
 - Detention facilities
 - Bioengineering

3. Make recommendations for specific mitigation measures to control slope stability and erosion, and to protect riparian vegetation and habitat during construction including:
 - Silt fencing
 - Mulching
 - Erosion control fabric
 - Staging location
 - Disposal of construction materials

The Standards and Guidelines will provide different development creek protection measures for different types of creek situations. The Standards and Guidelines will also address how to handle the difficult kind of questions that have arisen in the review of creek permits. For example, when are conditions constrained to the degree that a culvert may be recommended and what mitigating features would be required? The scope of work for the development of Standards and Guidelines is included as an attachment (See Attachment A).

The scope of work also includes a community input process to be initiated once the WRECO consultant team has been hired. The contract scope of work specifies that in "Task 1", the consultant team will prepare for and attend public meeting(s) to present and/or answer the public's questions regarding the development of criteria to be utilized in establishing a creekside setback standard. As part of "Task 3", the WRECO team will also attend a public meeting to receive input on the draft standards and guidelines document.

Clean Water Permit

The City of Oakland is subject to Federal and State clean water regulations. To meet the clean water requirements the City is required to obtain a National Pollution Discharge Elimination System Permit (NPDES permit) every five years. The City obtains that NPDES permit through the Alameda Countywide Clean Water Program. The new five-year Countywide NPDES permit was renewed on February 19, 2003. One of the most significant new requirements in the new NPDES permit is the requirement to implement better drainage and water treatment for all properties, not just creekside properties. Types of provisions include requiring more on-site detention of water to reduce speed of downstream flow that causes erosion, and to remove pollutants from stormwater by filtering it through vegetation and the ground soils. All property owners will be required to do their fair share to protect the drainage system, creeks and water quality, not just creekside property owners.

SUSTAINABLE OPPORTUNITIES

Environmental

Effective and appropriate implementation of the Creek Protection Ordinance is an environmental opportunity. The environmental benefits of implementing the Creek

Ordinance include improvement of water quality and riparian habitat; reduction of litter, erosion and other pollutants; and quality of life enhancement for the residents of Oakland.

Economic

Effective and appropriate implementation of the Creek Ordinance reduces damage to the storm drainage system, removes water pollutants, provides flood control, enhances the value of property and reduces liability.

Social Equity

Creek Standards and Guidelines when developed will be applicable to all creekside properties Citywide.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed professional services contract will not impact senior citizens and people with disabilities.


RECOMMENDATION AND RATIONALE

There is no one currently employed by the City who has this experience, professional background, expertise, or time required to complete this work. Therefore, Staff recommends that the professional services contract with WRECO be approved.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the proposed resolution authorizing the professional services contract with WRECO in an amount not to exceed \$70,000 to complete the Creek Standards and Guidelines.


Respectfully submitted,



Claudia Cappio,
Development Director for the Community
and Economic Development Agency

Prepared by: Caesar Quitevis,
Planner II, Planning and Zoning
Division

APPROVED AND FORWARDED TO
THE PUBLIC WORKS COMMITTEE:



OFFICE OF THE CITY MANAGER

Attachments: A.Scope of work for Development of Standards and Guidelines

Item: _____
Public Works Committee
February 10, 2004

ATTACHMENT A

SCOPE OF WORK: DEVELOPMENT STANDARDS AND GUIDELINES FOR WORK ON PRIVATE CREEKSIDE PROPERTIES IN OAKLAND

I. INTRODUCTION

The City of Oakland Creek Protection, Storm Water Management and Discharge Control Ordinance, Oakland Municipal Code (OMC) 13.16 (the Ordinance), requires a Creek Protection Permit for any development or work on creekside properties. In compliance with this ordinance, the City has established the Creek Protection Permit process, including “conditions for issuance,” and has published the *Guide to Oakland’s Creek Ordinance* document to ensure that any proposed activity will not directly or indirectly adversely affect any of Oakland’s creeks. Approval criteria for a Creek Protection Permit include:

- Whether the proposed activity may discharge pollutants into the Creek;
- Whether the proposed activity may result in modifications to the natural flow of water in the Creek;
- Whether the proposed activity may deposit new material into the Creek or cause bank erosion or instability; and
- Such other factors that the Director of Building Services deems appropriate, including:
 - Whether the activity will adversely affect the riparian corridor;
 - Whether the activity will degrade the visual &/or natural appearance of the riparian corridor;
 - Whether the activity will endanger public or private property, or health and safety; and
 - Whether the activity is consistent with the intent and purposes of the Ordinance.

II. PROJECT DESCRIPTION

The purpose of the project is to develop clear and easy-to-understand Standards and Guidelines for Development on Creekside Properties. The specific intent of the Standards and Guidelines is to reduce the burden of specific studies for each project, streamline the permitting process, and improve design and construction Best management Practices on creekside properties. The Standards and Guidelines will be created in accordance with the intent of the Ordinance and *Guide to Oakland’s Creek Ordinance*. For a copy of the Ordinance, *the Guide to Oakland’s Creek Ordinance*, and other related

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documents, visit <http://www.oaklandpw.com/creeks/index.htm>. The Standards and Guidelines document will assist Creek Protection Permit applicants to have a better understanding of how to plan for and design a project for a creekside property. Future development projects that incorporate the intent and recommendations of the Standards and Guidelines will likewise generally meet the criteria required for Creek Protection Permit issuance. City staff, creekside property owners, architects, engineers and developers will also use the Development Standards and Guidelines document. Public Works staff will also use the document for guidance on public properties.

III. SCOPE OF SERVICES

The scope of services will include, but not limited to, the tasks below:

Task 1: Buffer Criteria

This task will develop creek buffer determination criteria. This will help Creek Protection permit applicants and planners determine appropriate development areas of creekside parcels.

A creek buffer is a setback area. The purpose of a buffer is to protect the creek, riparian corridor, and water quality from potentially adverse impacts of nearby development, and establish build-able areas on a property. Creek buffers will be determined by a matrix of criteria that are based on site-specific conditions (i.e. slope, soils, vegetation, land-use, etc.). These criteria will be based on the best available knowledge concerning development along urban creeks and the preservation of riparian corridor form and function. These criteria must also assess the creek buffer functional importance and sensitivity to disturbance in order to implement different levels of requirements based on relative value.

This task will establish detailed and practical criteria for establishing buffers along creeks. Application of these criteria will result in the site-specific determination of creekside buffers to protect Oakland Creeks from the impacts of the proposed development. This task will include, but not be limited to, the following work items:

1. Gather background information from City of Oakland staff. Survey other agencies policies regarding buffer criteria. Perform field investigations to existing development along creeks.
2. Obtain input from Regional and State Agencies, and appropriate creek experts, including geomorphologists, hydrologists, biologists, and/or geologists, and ecologists.
3. Create a detailed, practical and objective list of buffer criteria. The criteria will have a set buffer size with modifiers based on relevant factors (such as slope, vegetation,

use, soils, impervious cover, flow, channel conditions, upper watershed uses, downstream conditions, etc.)

4. Help prepare for and attend public meeting(s) to present and/or answer questions regarding these criteria.
5. Based on City comments, provide revised criteria in redline format.

Task 2: Best Practices and Conditions for Approval

This task will describe best practices by category (e.g. pollution prevention, erosion control, storm-water detention and attenuation, vegetation, paving materials) for development of creekside properties and establish detailed standard conditions for Creek Protection Permit approval. These will include the best available techniques and technology for the protection and improvement of our environmental resources through development design and practices. The document will serve as a resource for applicants and City Staff alike in the design and approval of creekside property projects, and will help planners determine appropriate construction techniques and post-construction controls for creekside parcels. Applicants for creek protection permits are often required to alter or mitigate a design proposal in order to comply with the intent of the Ordinance. There are numerous design challenges on creekside properties. This task will create a range of acceptable design solutions (i.e. add native vegetation landscaping, bioengineering techniques, bio-filtration swales, detention/retention basins, pervious pavement, energy dissipaters, etc.) to typical creekside development challenges. The intent of this section is to provide applicants with a range of options to assist and expedite their development process, and to provide typical standard conditions of approval. This section should be broken down by category. This task will include, but not be limited to, the following work items:

- 1) Develop list of typical design challenges presented by creekside property development. Gather information from City of Oakland staff regarding previous permits and their conditions of approval.
- 2) Gather best practices information from other cities and from all types of research and other source documents.
- 3) Generate a list of resource materials, including a bibliography, software list, and useful website links.
- 4) Develop and outline of best practices by category:
 - Erosion control during and post control
 - Stormwater treatment for pollutant control
 - Stormwater detention/velocity and peak controls
 - Vegetation
 - Paving materials

- 5) Generate a series of possible conditions for approval for the typical creekside property development design challenges. These criteria must meet the intent and guidelines of the Ordinance. There must be multiple, cost-effective, specific solutions with detailed specifications for the list of typical design challenges.
- 6) Present the best practices and typical conditions of approval document to City of Oakland staff for comment. Revise according to this feedback.
- 7) Based on City comments, provide the revised best practices and typical conditions of approval document in redline format.

Task 3: Prepare and Deliver Document

This task will create a document that clearly outlines the above two tasks for use by staff and potential applicants. This document must be understandable to the general public and include specific quantifiable buffer criteria and standard conditions. This document must provide city staff and permit applicants with enough information to design creekside projects that will meet the criteria in the Ordinance. This task will include, but not be limited to, the following work items:

1. Obtain all necessary approvals and revise Tasks 1 & 2 accordingly.
2. Generate an explanatory document that clearly outlines the Buffer Criteria and the Best Practices, Typical Conditions for Approval. This document must be easily understandable with graphic explanations and detailed specifications where appropriate. Document shall include drawings and photographs to help illustrate the information.
3. Present this document to City of Oakland staff for comments and approval.
4. Based on City comments, provide revised document in redline format for City staff review.
5. Attend public meeting to review document.
6. Revise and produce ten (10) copies of final document based on final input from staff following the public meeting.
7. Provide the final document to City of Oakland staff in its original electronic form e.g. CAD, Illustrator, Microsoft Word, etc.), and a copy of all graphics in .tiff format.

All documents, notes, ideas, graphics, and other work generated in fulfillment of this contract are the sole property of the City of Oakland. Any subsequent sue, reproduction, or modification to this material requires express permission from the City of Oakland.

OAKLAND CITY COUNCIL

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INTRODUCED BY COUNCILMEMBER

RESOLUTION NO. _____ C. M. S.

Mark P. Webb

A RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH THE WRECO GROUP IN AN AMOUNT NOT TO EXCEED \$70,000 TO DEVELOP STANDARDS AND GUIDELINES TO ASSIST DEVELOPMENT OF CREEKSIDE PROPERTIES.

WHEREAS, on December 16, 1997, the City of Oakland's Storm Water Management and Discharge Control Ordinance was amended by the City Council to include the Creek Protection Permit program. The amended ordinance, now titled the Creek Protection, Storm Water Management and Discharge Control Ordinance (aka. The Creek Ordinance), requires a Creek Protection Permit for any development or work located within certain distances from Oakland's creeks; and

WHEREAS, in compliance with this Ordinance, the City has established the Creek Protection Permit process in order to review all proposed work located near Oakland's creeks; and

WHEREAS, the implementation of the Creek Ordinance has been an ongoing challenge due to the lack of an accompanying set of creekside development standards and guidelines intended to provide both applicants and staff with clear and easy-to-understand assistance in defining appropriate setbacks from creek banks; building size, location and drainage; plant and landscaping conditions, erosion control methods; best management practices during and after construction; and other issues as identified on a case-by-case basis; and

WHEREAS, the development of a creekside standards and guidelines document requires the services of consultants that are experienced with a combination of expertise and experience in facilitation, planning, urban creekside development, creek protection issues in the Bay Area, steep slope development, onsite stormwater storage and biofiltration pollutant removal techniques, hydrology, geomorphology, biology, geotechnical engineering, landscaping, bioengineering, local conditions and habitats, creek restoration, native habitat restoration and knowledge of local, state, and federal water regulations; and

WHEREAS, at the February 26, 2002 City Council meeting, staff were directed to hire consultants to create standards and guidelines for creekside development, and thereby improve the implementation of the Creek Protection Ordinance and streamline creek permit review; and

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WHEREAS, at the July 10, 2002 Planning Commission meeting, staff presented an information report to the Commission outlining the Request for Proposal (RFP) scope of work for the creation of “Standards and Guidelines for the Development of Creekside Properties”; and

WHEREAS, copies of the RFP scope of work for the creation of standards and guidelines for creekside development were made available to Bay Area consultant teams in April 2003; and

WHEREAS, after attendance at a mandatory pre-proposal conference on Friday, May 2, 2003, in City Hall, five (5) consultant teams submitted proposals no later than Friday, May 30, 2003, for the creation of “Standards and Guidelines for the Development of Creekside Properties”; and

WHEREAS, in June 2003, staff utilized the overall rating criteria outlined in the RFP to score and rank the submitted proposals from the five (5) short-listed firms; and

WHEREAS, on July 9, 2003, a staff-assembled review panel conducted approximate one-hour interviews with each of the five (5) short-listed firms, and then evaluated and ranked each team according to specific criteria and the points for each criteria; and

WHEREAS, upon tabulation of the scores and rankings for each consultant team’s proposal submittal, interview presentation, and responses to interview question-and-answers, the top-ranked firm was determined to be the consultant team led by WRECO, accompanied by sub-consultants: Farwest Engineering, Philip Milenbaugh Consulting, Frost-Cochrane, Inc., and Northgate Environmental Management, Inc.; and

WHEREAS, \$70,000 is available in the General Purpose General Fund for Sustainable Development (Fund 1010, Organization 88229.54919.P48200.SC09); and

WHEREAS, the City Council finds that this is a temporary, professional services contract that will not result in the loss of employment or salary by any person having permanent status in the City of Oakland competitive service; now therefore, be it

RESOLVED, that the City Council authorizes the City Manager to negotiate and execute a professional services contract with WRECO in an amount not to exceed \$70,000, subject to the review and approval of the City Attorney; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Manager to take whatever steps may be necessary to effect said contract, including without limitation, payments requests, execution of agreements and amendments.

IN COUNCIL, OAKLAND, CALIFORNIA, _____ 2004

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

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