



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2018 NOV -1 PM 12: 45

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Jason Mitchell
Director, Public Works

SUBJECT: Collaborative Creeks Agreement

DATE: October 22, 2018

City Administrator Approval

Date:

11/13

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or Her Designee To 1) Accept And Appropriate An Amount Not To Exceed Three Hundred Sixty Thousand Dollars (\$360,000.00) Annually From The Alameda County Flood Control And Water Conservation District (District) For A Total Amount Not To Exceed One Million Eight Hundred Thousand Dollars (\$1,800,000.00) For The Grant Term FY 2018 – 2022 And 2) Enter Into An Agreement With The District To Implement The Collaborative Creek Improvement And Clean Creeks Programs (Programs) For The Period July 1, 2017 Through June 30, 2022.

EXECUTIVE SUMMARY

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 and billing requirements.

The most recent Agreement between the City and the District for Fiscal Year (FY) 2012 - 2017 expired on June 30, 2017. The proposed new Agreement is provided in **Attachment A**.

City Council approval is required to accept and appropriate the funding in the amount of three hundred sixty thousand dollars (\$360,000.00) annually for a total of one million eight hundred thousand dollars (\$1,800,000.00) over the life of the contract, and to enter into an Agreement with the District to implement the Collaborative Creek Improvement Program and the Clean Creeks Program as described.

BACKGROUND / LEGISLATIVE HISTORY

The Alameda County Flood Control and Water Conservation District (District) and City of Oakland Public Works (OPW) have worked in collaboration since the late 1990's to continue to implement the Collaborative Creek Improvement Program and the Clean Creeks Program.

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These Programs include stormwater management and creek stewardship activities with emphasis on local/state/federal stormwater regulations, enforcement of the City's Creek Protection Ordinance (Oakland Municipal Code Chapter 13.16), capital creek restoration and water quality improvement projects, and City-sponsored watershed/creek events. The collaboration combines resources from both the District and the City to assist and utilize established programs to resolve issues near creeks and in watersheds near, in, and/or on County property and facilities and/or City property and Right-of-Way.

Since the previous programs period of July 1, 2012 through June, 30, 2017 (Resolution No. 83196 C.M.S.), funding has increased from two hundred eighty thousand dollars (\$280,000.00) annually to three hundred sixty thousand dollars (\$360,000.00) annually, to accommodate increases in staffing and scope of work costs. Acceptance of three hundred sixty thousand dollars (\$360,000.00) of annual funding provided by the District will fund the activities described below as well as provide support to various collaborative projects and events.

ANALYSIS AND POLICY ALTERNATIVES

Adoption of the Agreement to implement the Collaborative Creek Improvement Program and the Clean Creeks Program, 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 creek restoration and water quality improvement projects
- Compliance with Federal and State-mandated stormwater pollution prevention practices
- Watershed stewardship activities such as Earth Day and Creek to Bay Day

District funding of the Programs is critical to the successful implementation of OPW Watershed and Stormwater Management Program, Environmental Services Division (ESD), and Keep Oakland Clean and Beautiful (KOCB) Division activities such as abatement of illegal dumping, Creek Ordinance compliance, citizen engagement, and in helping the City meet regulatory requirements of its National Pollutant Discharge Elimination System (NPDES) Permit.

The Agreement shall be effective from the date of execution through June 30, 2022, however, all eligible activities, as defined in **Attachment A: Exhibit A**, shall be reimbursed by the District in an amount up to three hundred sixty thousand dollars (\$360,000.00) per fiscal year, totaling one million eight hundred thousand dollars (\$1,800,000.00), for the period of July 1, 2017 through June 30, 2022. This includes any eligible activities completed between July 1, 2017 and the date of execution of the Agreement.

City Council approval is required to accept and appropriate the funding in the amount of three hundred sixty thousand dollars (\$360,000.00) annually for a total of one million eight hundred thousand dollars (\$1,800,000.00) over the life of the contract, and to enter into an Agreement with the District to implement the Collaborative Creek Improvement Program and the Clean Creeks Program as described.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for the receipt of funding from the District to establish the agreement for the implementation of the Collaborative Creek Improvement Program and the Clean Creeks Program. However, 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.

FISCAL IMPACT

If approved, \$360,000.00 in annual funding from the District will be accepted and appropriated as follows:

- \$270,000.00 to Public Works Grants Fund (2990); Watershed and Stormwater Organization (30245); Watershed & Stormwater Program (IN14), Collaborative Creeks Project 1004385 and, Accounts 56611 and 52919.
- \$90,000.00 to Public Works Grants Fund (2990); Environmental Remediation Organization (30683); Sustainable Communities Program (SC26), Clean Creeks Project 1004228, and Accounts 56611 and 52919.

COORDINATION

The Office of the City Attorney and the Budget Bureau have reviewed the report, resolution and Agreement.

SUSTAINABLE OPPORTUNITIES

Economic: Continued implementation of the Programs, including volunteer activities, increasing public awareness, and guiding appropriate creekside development, protects City storm drainage infrastructure and creeks and reduce 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: The Programs' activities result in healthier and cleaner communities throughout the city.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution authorizing the City Administrator or her designee to 1) Accept and appropriate an amount not to exceed three hundred sixty thousand dollars (\$360,000.00) annually from the Alameda County Flood Control and Water Conservation District (District) for a total amount not to exceed one million eight hundred thousand dollars (\$1,800,000.00) for the grant term FY2018-2022 and 2) Enter into an agreement with the District to implement the Collaborative Creek Improvement and Clean Creeks Programs for the period July 1, 2017 through June 30, 2022.

For questions regarding this report, please contact Kristin Hathaway, Watershed and Stormwater Management Supervisor at (510) 238-7571.

Respectfully submitted,



JASON MITCHELL
Director, Oakland Public Works

Reviewed by:
Danny Lau, Assistant Director
Bureau of Design & Construction

Reviewed by:
Lesley Estes, Measure DD and Watershed
Program Manager
Watershed and Stormwater Management
Division

Prepared by:
Craig Pon, Watershed Program Specialist
Watershed and Stormwater Management
Division

Attachments (1):

A: Collaborative Creeks and Clean Creeks Programs Scope of Work

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**AGREEMENT RELATED TO THE CLEAN CREEK PROGRAM
AND THE COLLABORATIVE CREEK IMPROVEMENT
PROGRAM**

THIS AGREEMENT is made and entered into this XXXX, 2018, by and between the Alameda County Flood Control and Water Conservation District (“District”) and the City of Oakland (“City”). The District and the City are sometimes referred to herein as the “parties”:

WITNESSETH:

WHEREAS, the District owns and maintains flood control facilities within the area designated as Zone 12 which incorporates, in part, the area of the City; and

WHEREAS, the District and the City wish to coordinate efforts in order to more effectively and efficiently comply with the federal Clean Water Act (1972), protect, and enhance water quality, and to provide for flood control measures within Zone 12;

NOW, THEREFORE, the District and the City agree to the following:

1. Collaborative Creeks Program

Upon receipt, review and approval by the District of an invoice or other documentation confirming the performance of services under this Agreement, the District will reimburse the City from available Zone 12 funds for the City’s actual cost incurred for enforcement and compliance, creek restoration project support, and watershed protection activities as described in Exhibit A, in a combined amount not to exceed \$270,000.00 per fiscal year.

This part of the Agreement shall be effective from the date of execution through June 30, 2022. However, eligible activities, as described in Exhibit A, shall be reimbursed up to \$270,000.00 per fiscal year, totaling \$1,350,000.00, for the period of July 1, 2017 through June 30, 2022.

2. Clean Creeks Program

Upon receipt, review and approval by the District of an invoice or other documentation confirming the performance of services under this Agreement, the District will reimburse the City from available Zone 12 funds for the City’s actual cost incurred for the implementation of the Clean Creeks Program (see Exhibit A Scope of Services) in an amount not to exceed \$90,000.00 per fiscal year.

This part of the Agreement shall be effective from the date of execution through June 30, 2022. However, eligible activities, as described in Exhibit A, shall be reimbursed up to \$90,000.00 per fiscal year, totaling \$450,000.00, for the period of July 1, 2017 through June 30, 2022.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates appearing below their respective authorized signatures.

CITY OF OAKLAND

COUNTY OF ALAMEDA

By: _____
Sabrina Landreth, City Administrator
One City Hall Plaza, 3rd Floor
Oakland, CA 94612

By: _____
President, Board of Supervisors

Tax Payer I.D. 94-6000384

APPROVED AS TO FORM:
Celso Ortiz
Deputy City Attorney

APPROVED AS TO FORM:
Donna Ziegler
County Counsel

Deputy City Attorney

County Counsel

EXHIBIT A: SCOPE OF SERVICES

SERVICE TO BE PROVIDED

I. *COLLABORATIVE CREEKS – (\$270,000 Annual Budget)*

ENFORCEMENT AND COMPLIANCE

The City's Creek Permit Violations Protection Specialist will respond to reports 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, and erosion on any property, City, private or District facilities eventually affect downstream District facilities. Careful planning, enforcement, and 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 creek, watershed, and community groups to facilitate communications with the District
- Maintain 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, 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:

- Provide assistance or instructions to creekside property owners with how to comply with the Creek Protection Ordinance. Assistance may include planning and permitting guidance, technical assistance, educational workshops, providing instruction materials on erosion-control, trash control, vegetation management, stormwater detention, and erosion control guidelines, or other assistance to ensure residents understand their legal responsibilities to keep their creek clean and protected. Communication with property owners will not extend beyond the limitation of public agencies' ability to provide assistance on private property.

City Staff Instruction:

- Work with the City's Planning and Zoning Division on Creek Protection Permit issues, the City's Public Works Department Engineering and Design Division on storm drain and construction near creekside properties issues and stormwater detention and maintenance projects, and 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. Provide technical guidance to facilitate OFD vegetation inspectors in identifying creekside and sensitive habitat. Work with the Parks, Recreation, and Youth Development Department and Oakland Public Works Parks Maintenance 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.

II. CLEAN CREEKS (\$90,000- Annual Budget)

CREEK CLEANUP VOLUNTEERISM AND OUTREACH

Community Creek Efforts

Support creek adoptions, including: producing outreach materials; recruiting community creek adopters; working with adopters to design and implement projects; and providing tools and debris pickup services. Provide specialized, as-needed support to new adopters and other volunteers.

Citywide Creek Cleanup Events

Plan and host semi-annual citywide cleanup and beautification events on Earth Day in April and on Creek to Bay Day in September. These events will include creek and shoreline cleanups, as well as upstream on-land cleanups. Produce event outreach and publicity; provide training for community site coordinators; coordinate staging locations with community site coordinators; provide tools and trash and greenwaste pickup services; and coordinate with District maintenance staff for cleanup of District facilities.

Creeks Website

Maintain creek-related web pages on the City of Oakland website, with information about: creek adoption and other volunteer opportunities; outreach materials; event updates; and links to other informative websites.

Press

Draft and disseminate periodic press releases promoting upcoming events and highlighting local creek activities.

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The City shall provide the District with bi-annual and annual reports that will be due on a mutually agreed upon schedule.

Any additional task/s or modification to tasks presented in the Scope of Work may be performed only after a written action plans has been approved in writing by both the

District and City, and the DISTRICT has provided the City with a written Notice to Proceed.

EXHIBIT B: PAYMENT OF SERVICES

PAYMENT FOR SERVICES PROVIDED:

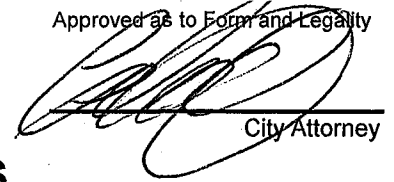
- THE District will reimburse the City for all staff labor, materials, and expenses incurred in the proper execution of this Agreement.
- All invoices shall include hours worked, employee classification and pay rate, and copies of all receipts for all materials and expenses. Payment will not be made without proper documentation of costs.
- Each invoice shall be accompanied by a narrative describing the work performed in each task area for the period covered by the invoice.

The terms of this agreement are from XXXX, 2018 through June 30, 2022 however, eligible activities, as described in Exhibit A, shall be reimbursed for the period of July 1, 2017 through June 30, 2022.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

Approved as to Form and Legality



City Attorney

2018 NOV -1 PM 12:45

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO 1) ACCEPT AND APPROPRIATE AN AMOUNT NOT TO EXCEED THREE HUNDRED SIXTY THOUSAND DOLLARS (\$360,000.00) ANNUALLY FROM THE ALAMEDA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT (DISTRICT) FOR A TOTAL AMOUNT NOT TO EXCEED ONE MILLION EIGHT HUNDRED DOLLARS (\$1,800,000.00) FOR THE GRANT TERM FY 2018 - 2022 AND 2) ENTER INTO AN AGREEMENT WITH THE DISTRICT TO IMPLEMENT THE COLLABORATIVE CREEK IMPROVEMENT AND CLEAN CREEKS PROGRAMS (PROGRAMS) FOR THE PERIOD JULY 1, 2017 THROUGH JUNE 30, 2022

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 three hundred sixty thousand dollars (\$360,000.00) in funds for these Programs for the period July 1, 2017 through June 30, 2022; and

WHEREAS, the FY 2018 and FY 2019 adopted budget is two hundred eighty thousand dollars (\$280,000.00) annually. An increase in appropriations in the amount of eighty thousand dollars (\$80,000.00) for each fiscal year is necessary. The new total grant appropriation for FY 2018 and FY 2019 will be three hundred sixty thousand dollars (\$360,000.00) annually; 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 and appropriation of funds from the District in the amount of three hundred sixty thousand dollars (\$360,000.00) annually for the duration of the grant term FY 2018 – 2022. Appropriations for FY 2020, FY 2021, and FY 2022 will be included as part of the baseline budget for those fiscal years as follows:

\$270,000.00 to Public Works Grants Fund (2990); Watershed and Stormwater Organization (30245); Watershed & Stormwater Program (IN14), Collaborative Creeks Project 1004385, Accounts 56611 and 52919 for the Collaborative Creek Improvement Program.

\$90,000.00 to Public Works Grants Fund (2990); Environmental Remediation Organization (30683); Sustainable Communities Program (SC26), Clean Creeks Project 1004228, Accounts 56611 and 52919 for the Clean Creeks Program; and be it

FURTHER RESOLVED: The City Council authorizes the appropriation in an amount not to exceed one hundred sixty thousand dollars (\$160,000.00) to true up baselined grant funds by \$80,000.00 for FY 2018 and \$80,000.00 for FY2019. Funds will be appropriated in the Public Works Grant Fund (2990), Watershed and Environmental Organizations (30245, 30683); and the Collaborative Creeks and Clean Creeks Projects (1004385, 1004228); and be it

FURTHER RESOLVED: That should additional funds from the Alameda County Flood Control and Water Conservation District (District) 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, 2022; 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, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

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