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Title: AMENDMENT NO.1 TO PROFESSIONAL SERVICES AGREEMENT WITH GLENN LUKOS ASSOCIATES FOR THE VERNAL POOLS 5, 6 AND 7 RESTORATION PROJECT AT FAIRVIEW PARK

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Attachments: 1. Agenda Report, 2. 1. Resolution 17-52, 3. 2. HCF Grant Award Letter, 4. 3. Vernal Pools Restoration Plan, 6-8-2018, 5. 4. USFWS Permit TE-87580B-0, 6. 5. Vernal Pools 5, 6, 7 Map, 7. 6. HCF Grant Acceptance, Excerpt of 4-16-19 Minutes

Date	Ver.	Action By	Action	Result
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TITLE:

AMENDMENT NO.1 TO PROFESSIONAL SERVICES AGREEMENT WITH GLENN LUKOS ASSOCIATES FOR THE VERNAL POOLS 5, 6 AND 7 RESTORATION PROJECT AT FAIRVIEW PARK

DEPARTMENT: **PARKS AND COMMUNITY SERVICES**

PRESENTED BY: **KELLY DALTON, FAIRVIEW PARK ADMINISTRATOR**

CONTACT INFORMATION: **(714) 754-5135**

RECOMMENDATION:

Staff recommends the City Council:

1. Authorize the City Manager and City Clerk to execute Amendment No. 1 to the Professional Services Agreement with Glenn Lukos Associates, Inc. increasing the total compensation by \$148,731 for vernal pools restoration and biological monitoring services for the Vernal Pools 5, 6 and 7 Restoration Project at Fairview Park, in a form to be approved by the City Attorney.
2. Authorize a ten (10) percent contingency, if needed, in the amount of \$14,870.
3. Authorize the City Manager and the City Clerk to execute Amendment No. 1 and future amendments to the agreement within City Council authorized limits.

BACKGROUND:

In August 2017, the City Council adopted Resolution No. 17-52, which authorized staff to file a grant application for the State of California Department of Parks and Recreation Habitat Conservation Program to restore vernal pools and their associated watersheds at Fairview Park (Attachment 1). In June 2018, the City received a notification of grant award from the California Department of Parks and Recreation Habitat Conservation Fund (HCF) for Fairview Park vernal pools restoration (Attachment 2).

Subsequent to the grant approvals, the U.S. Fish and Wildlife Service (USFWS) approved the “Long-Term Maintenance Plan for Vernal Pools 5 and 6, and Associated Watershed Areas” (the “Plan”) (Attachment 3), which was developed by Glenn Lukos Associates, as they had previously supported the City on vernal pools management and restoration efforts within Fairview Park. In addition, Glenn Lukos Associates staff are specifically identified as authorized individuals on the Native Endangered Species Recovery - Endangered Wildlife Permit (EWP) issued to the City, USFWS Permit #TE87580B-0 (the “Permit”) (Attachment 4). Vernal pools 5, 6 and 7 are located in the south portion of Fairview Park adjacent to Parsons Field, Waldorf School, and the Estancia High School Stadium (Attachment 5).

On April 16, 2019, the City Council formally approved the acceptance of the California Department of Parks and Recreation grant for the Fairview Park vernal pools restoration (Attachment 6). The grant approval and a budget adjustment recognizing \$150,000 in State grant funding and \$150,000 in required matching funds by the City allowed the City to appropriate a total of \$300,000 to the Fairview Park Vernal Pool and Restoration Project. As part of the grant, the City filed a 20-year deed restriction on the restored parcels.

On October 15, 2019, the City Council awarded a Professional Services Agreement to Glenn Lukos Associates for the Restoration of Fairview Park Vernal Pools 5, 6 and 7 in an amount of \$126,046, and authorized a ten (10) percent contingency of \$12,600. The Department of U.S. Fish and Wildlife has specifically identified Glenn Lukos Associates, authors of the approved Plan and the authorized agents in the Permit, to conduct the work. Section 21-101, Subsection No. 3 of the Purchasing Policy outlines that, “If a contractor develops a particular expertise through demonstrated past performance which has been investigated and determined to be satisfactory in this area of expertise, then such contractor may be awarded a subsequent contract for related work, provided that the Sole Source justification requirements outlined in this Section are satisfied. Such a contractor may be designated as an exclusive contractor if the City would be adversely affected by bringing in another vendor who would be required to meet the expert contractor’s level of expertise and existing knowledge and involvement in a specific project.” Since that time, staff has worked with the Glenn Lukos Associates project team to implement the first phase of the long-term restoration plan, including oversight of site preparation, weed abatement, monitoring, and coordination with the City and U.S.F.W.S.

ANALYSIS:

The scope of the vernal pools restoration project covered by the grant, the Plan, and the Permit includes:

- Removal of non-native plants and turf
- Elimination of irrigation sources that have supported invasive species proliferation in the watershed

- Planting and reestablishment of vernal pool plants
- Installation of a temporary irrigation system specifically to supply water to the installed vernal pool plants
- Restoring of elevation and contours of pools 5 and 6
- Inoculation of fairy shrimp cysts
- Addition of delineation fencing and educational signage in and around vernal pools 5, 6 and 7.

Vernal pool 7 is not named in the title of the June 8, 2018 restoration Plan, because it does not currently exhibit characteristics of a vernal pool. However, the Plan acknowledges that prior to disturbance in the area, Feature 7 and the surrounding watershed may have supported deeper ponding suitable for vernal pool branchiopods, and during wetter-than-average years supported a low density of vernal pool plants. The Plan states that this area should be preserved for its long-term contribution to the Vernal Pool 5 and 6 watershed and the potential recovery of Feature 7; the scope of work for this project thus includes restoration activities for vernal pools 5, 6 and 7. As described in the Plan, the vernal pools and associated watersheds comprise a highly unique and sensitive ecosystem that support several sensitive plant species and both the federally endangered San Diego and Riverside Fairy Shrimp.

Project implementation is subject to specific seasonal conditions associated with the presence of fairy shrimp, migratory bird patterns, and dry versus saturated vernal pool conditions. This phase of the project is expected to be performed beginning in fall (September/October) 2022 and continuing until late 2023 or early 2024. Staff will be applying for an extension for both the EWP and the HCF Grant as both expire in the spring of 2023. Subsequently, the restored area will be subject to a five-year period of maintenance and monitoring to ensure the successful establishment of the restored native plants, as well as the success of providing habitat for the endangered fairy shrimp, which occupy the vernal pools.

Approval of the amendment will advance the City's stated efforts to protect and preserve the sensitive and regulated species within Fairview Park as is outlined in the Fairview Park Master Plan. Importantly, key phases of the project will rely on support from community volunteers and our non-profit partners including Fairview Park Alliance (FPA), which has partnered with the City on Fairview Park restoration efforts during recent years. As part of this contract, Glenn Lukos Associates also provides training and oversight to the City and community volunteers during restoration events. In addition to providing expertise in plant identification and habitat restoration techniques, Glenn Lukos Associates will continue to work with the City and FPA to support this important community engagement opportunity. The City and FPA have partnered in hosting 2nd Saturday Restoration days at Fairview Park to encourage residents to experience nature in a hands-on setting, to actively participate in restoring their local natural environment, and to serve as stewards of Fairview Park.

Glenn Lukos Associates is uniquely qualified to perform the work for this project due to its depth of expertise and experience in successfully performing vernal pools habitat management and restoration services for the City, and specific permits that authorize project personnel to perform the required work. In addition to supporting the City for this particular project, Glenn Lukos Associates is also expected to be a resource for identifying potential restoration opportunities, mitigation needs of other parties in the region, and connecting the City to prospective funding sources that may be available to support future restoration efforts.

ALTERNATIVES:

The City may elect not to authorize execution of the amendment. However, staff does not recommend this option due to the requirement to implement the U.S. Fish and Wildlife Service approved restoration plan. In addition, if the City fails to complete the grant project, the City will be required to return the State grant funding awarded for the project.

FISCAL REVIEW:

On April 16, 2019, the City Council previously approved a budget adjustment recognizing \$150,000 in State grant funds and the required match of \$150,000 from the Capital Improvement Fund towards the Fairview Park Vernal Pools Restoration Project, for a total project budget of \$300,000. To date, \$138,646 of the total project funds have been committed towards the first phase of the project; the remaining \$161,354 of the project balance, which has been carried forward to FY 22-23, is allocated to fund the remaining portions of the project including this amendment. Should the entire contingency be spent, \$2,247 will be available from the FY 22-23 Fairview Park operating budget.

LEGAL REVIEW:

The City Attorney has reviewed and approved this report and will prepare Amendment No. 1 to the Professional Services Agreement and approve it as to form.

CITY COUNCIL GOALS AND PRIORITIES:

This item supports the following City Council Goal:

- Advance Environmental Sustainability and Climate Resiliency

CONCLUSION:

Staff recommends the City Council:

1. Authorize the City Manager and City Clerk to execute Amendment No. 1 to the Professional Services Agreement with Glenn Lukos Associates, Inc. increasing the total compensation by \$148,731.00 for vernal pools restoration and biological monitoring services for the Vernal Pools 5, 6 and 7 Restoration Project at Fairview Park, in a form to be approved by the City Attorney.
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