

RESOLUTION NO. 2015-030

RESOLUTION OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING THE SIXTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT WITH DUDEK FOR BIOLOGICAL AND REGULATORY PERMITTING SERVICES IN CONNECTION WITH DOWDELL AVENUE CONSTRUCTION – BUSINESS PARK DRIVE TO 850' SOUTH OF BUSINESS PARK DRIVE, CITY PROJECT NO. 2011-11, AND FINDING SUCH ACTION EXEMPT FROM CEQA

WHEREAS, the City of Rohnert Park Municipal Code Title 3 Chapter 3.04 provides that the city's purchasing functions shall be governed by the city's purchasing policy;

WHEREAS, on October 15, 2012, City and Dudek ("Consultant") entered into that certain agreement entitled "*Consultant Services Agreement*" ("Agreement") to provide biological and regulatory permitting services related to the construction of a new segment of Dowdell Avenue from Business Park Drive to 850' South of Business Park Drive for the amount of \$37,000.00 authorized per Rohnert Park Municipal Code Chapter 3.04 Purchasing Program;

WHEREAS, on March 23, 2013, the First Amendment to the Agreement to provide for consulting with California Department of Fish and Wildlife (CDFW) on an Incidental Take Permit for State-listed species (i.e., California Tiger Salamander, Sebastopol Meadowfoam) was authorized through the Purchasing Ordinance for an additional amount of \$2,500.00, thereby increasing the total cost of the Agreement to \$39,500.00;

WHEREAS, on September 18, 2013, the Second Amendment to the Agreement to provide for identification of mitigation banks for credit purchase, conducting Phase I Environmental Site Assessment (i.e., hazardous materials survey) was authorized through the Purchasing Ordinance for an additional amount of \$8,940.00, thereby increasing the total cost of the Agreement to \$48,440.00;

WHEREAS, on December 10, 2013, the Third Amendment to the Agreement to provide for the preparation of CEQA document for the Dowdell Avenue roadway extension to satisfy CDFW and the Regional Water Quality Control Board (RWQCB) requirements for permitting was authorized pursuant to Council Resolution No. 2013-168 for an additional amount of \$10,000.00, thereby increasing the total cost of the Agreement to \$58,440.00;

WHEREAS, on July 8, 2014, the Fourth Amendment to the Agreement to provide for California Tiger Salamander (CTS) monitoring and reporting pursuant to CDFW Incidental Take Permit was authorized pursuant to Council Resolution No. 2014-080 for an additional amount of \$42,988.00, thereby increasing the total cost of the Agreement to \$101,428.00; and

WHEREAS, on October 14, 2014, the Fifth Amendment to the Agreement to provide for additional work for special status species monitoring and reporting, post-construction botanical monitoring and reporting, and additional work supporting permitting and environmental mitigation for the Dowdell Avenue Construction project was authorized pursuant to Council Resolution No. 2014-115 for an additional amount of \$68,409.00, thereby increasing the total cost of the Agreement to \$169,837.00; and

WHEREAS, City and Consultant now desire to enter into a Sixth Amendment to the Agreement to provide for additional CTS monitoring needed to respond to the requirements of the project's CEQA document, to comply with regulatory permit for the construction project, and to keep the construction of this segment of Dowdell Avenue moving so that road access can be provided to major development projects on the west side of Rohnert Park.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AS FOLLOWS:

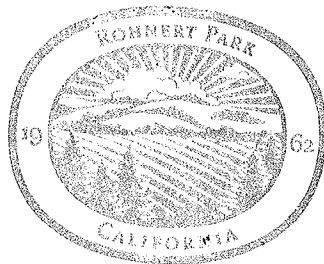
Section 1. Recitals. That the above recitations are true and correct and material to this Resolution.

Section 2. Environmental Clearance. That the adoption of this Resolution and accompanying Amendment is exempt from review under the California Environmental Quality Act because the activity in question is not a project as defined under CEQA Guidelines Section 15378 in that it can be seen with certainty that there is no potential that the activity will result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.


Section 3. Agreement. That the Sixth Amendment to the Consultant Services Agreement With Dudek for Biological and Regulatory Permitting Services in Connection With Dowdell Avenue Construction – Business Park Drive to 850' South Of Business Park Drive, City Project No. 2011-11 ("Sixth Amendment") attached as Exhibit "A" is hereby authorized and approved in an amount not to exceed an additional sixteen thousand one hundred ninety-two dollars (\$16,192.00).

Section 4. Authorization. That the City Manager is hereby authorized and directed to take all actions to effectuate the Sixth Amendment for and on behalf of the City of Rohnert Park, including execution of the Sixth Amendment in substantially similar form to the version attached hereto as Exhibit "A," subject to minor modifications by the City Manager or City Attorney.

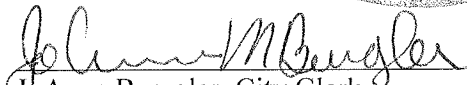
DULY AND REGULARLY ADOPTED this 24th day of February, 2015.



CITY OF ROHNERT PARK


Amy O Ahanotu, Mayor

ATTEST:


JoAnne Buerger, City Clerk

Attachment (Exhibit "A") – Sixth Amendment

CALLINAN: Aye MACKENZIE: Aye STAFFORD: Absent BELFORTE: Aye AHANOTU: Aye
AYES: (4) NOES: (0) ABSENT: (1) ABSTAIN: (0)

EXHIBIT "A"

SIXTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT WITH DUDEK FOR BIOLOGICAL AND REGULATORY PERMITTING SERVICES IN CONNECTION WITH DOWDELL AVENUE CONSTRUCTION – BUSINESS PARK DRIVE TO 850' SOUTH OF BUSINESS PARK DRIVE, CITY PROJECT NO. 2011-11

This Sixth Amendment to Consultant Services Agreement between the City of Rohnert Park ("City") and Dudek ("Consultant") for additional services ("Sixth Amendment") is entered into as of the _____ day of _____, 2015, ("Effective Date"), by and between City and Consultant.

RECITALS

- A. City and Consultant entered into that certain agreement entitled "*Consultant Services Agreement*" ("Agreement") to provide biological and regulatory permitting services related to the construction of a new segment of Dowdell Avenue from Business Park Drive to 850' South of Business Park Drive for the amount of \$37,000.00 authorized per Rohnert Park Municipal Code Chapter 3.04 Purchasing Program;
- B. On March 23, 2013, the First Amendment to the Agreement to provide for consulting with CDFW on an Incidental Take Permit for State-listed species (i.e. California Tiger Salamander, Sebastopol Meadowfoam) was authorized through the Purchasing Ordinance for an additional amount of \$2,500.00, thereby increasing the total cost of the Agreement to \$39,500.00;
- C. On September 18, 2013, the Second Amendment to the Agreement to provide for identification of mitigation banks for credit purchase, conducting Phase I Environmental Site Assessment (i.e. hazardous materials survey) was authorized through the Purchasing Ordinance for an additional amount of \$8,940.00, thereby increasing the total cost of the Agreement to \$48,440.00;
- D. On December 10, 2013, the Third Amendment to the Agreement to provide for the preparation of CEQA document for the Dowdell Avenue roadway extension to satisfy CDFW and RWQCB requirements for permitting was authorized pursuant to Council Resolution No. 2013-168 for an additional amount of \$10,000.00, thereby increasing the total cost of the Agreement to \$58,440.00;
- E. On July 8, 2014, the Fourth Amendment to the Agreement to provide for California Tiger Salamander (CTS) monitoring and reporting pursuant to CDFW Incidental Take Permit was authorized pursuant to Council Resolution No. 2014-080 for an additional amount of \$42,988.00, thereby increasing the total cost of the Agreement to \$101,428.00;
- F. On October 14, 2014, the Fifth Amendment to the Agreement to provide continued CTS monitoring and reporting pursuant to regulatory requirements was authorized pursuant to Council Resolution No. 2014-115 for an additional amount of \$68,409.00, thereby increasing the total cost of the Agreement to \$169,837.00; and

F. City and Consultant now desire to enter into this Sixth Amendment to provide for additional work as described below.

AGREEMENT

NOW, THEREFORE, in consideration of the following mutual promises, the parties hereby amend the Agreement as follows:

1. **Scope of Services.** In addition to the services provided under the Agreement, First Amendment, Second Amendment, Third Amendment and Fourth Amendment, and Fifth Amendment Consultant shall provide additional services, including but not limited to, the preparation of necessary reports and documents with additional meetings as is more particularly described in the Scope of Work attached as **Attachment A**, which is incorporated by this reference.
2. **Compensation.** Consultant shall perform the services described in this Sixth Amendment for a total not-to-exceed amount of \$16,192.00 thus increasing the total cost of the Agreement as amended to \$186,029.00.
3. **Agreement in Effect.** Except as amended by this Sixth Amendment, the Agreement and all of its amendments shall remain in full force and effect.
4. **Counterpart Signatures.** This Sixth Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this Sixth Amendment as of the date first written above.

CITY OF ROHNERT PARK:

DUDEK:

By: _____ / _____
Darrin Jenkins, City Manager (Date)
Per Resolution No. 2015-_____ adopted by the Rohnert Park
City Council at its meeting of February 24, 2015.

By: _____ / _____
Name: _____ (Date)
Title: _____

ATTEST:

By: _____ / _____
Name: _____ (Date)
Title: _____

City Clerk

APPROVED AS TO FORM:

City Attorney

Attachment A to Sixth Amendment

Sixth Amendment to the Consultant Services Agreement With Dudek for Biological and
Regulatory Permitting Services in Connection With Dowdell Avenue Construction – Business
Park Drive to 850' South of Business Park Drive, City Project No. 2011-11

Scope of Work Amendment

for the

City Project No. 2011-11

**Biological and Regulatory Permitting Services – California Tiger Salamander Construction
Monitoring and Reporting**

SCOPE OF WORK – Amendment 6 - 01/21/15

Since the construction of the project is nearly complete, Dudek's designated representative requested permission from the California Department of Fish and Wildlife (CDFW) to terminate monitoring in early January 2015. CDFW responded that under the terms of the Incidental Take Permit (ITP) monitoring must continue for additional revegetation work and excavation required for placing poles around the pump station site. Monitoring has been carried out consistent with the terms and conditions of the ITP (approved by CDFW) and Biological Opinion (BO) (approved by the US Fish and Wildlife Service (USFWS)) since late July of 2014. During that time no incidents have been recorded and no California tiger salamander (CTS) have been observed by our biological monitors. Following initial road paving, Dudek asked CDFW and USFWS for and received authorization to reduce monitoring frequency from daily full-time monitoring to weekly checks to ensure compliance with permit terms and to preserve the monitoring budget. Construction activities that must be monitored have continued for longer than anticipated under Dudek's previous scopes of work. Dudek recently completed and submitted the required quarterly monitoring report to CDFW and Dudek's December billing exhausted the budget under the 9/16/14 scope and budget amendment and billed a small amount against the \$7,527.00 budget contingency.

This scope of work amends Dudek's 6/11/14 and 9/16/14 scopes of work for CTS monitoring to provide for additional monitoring days required to complete the project. At the City's request, this amendment provides for up to eight more monitoring visits. It is assumed that only one monitoring visit will be required per week and that this will provide for up to eight more weeks of covered construction activities to occur. This scope and budget further allows for associated project management and preparation of an annual report (due January 31st) and a final report once construction is complete. These reports are included in this amendment since monitoring to date has utilized some the budget allotted to report preparation in the 9/16/14 budget and scope amendment. This cost estimate also includes a 10% contingency.

Dudek staff, Senior Aquatic Ecologist Craig Seltenrich, who holds a recovery permit for CTS, will continue as the Designated Representative for the project and associated monitoring for CTS, the only covered species, and will be responsible for communications with CDFW and USFWS and overseeing compliance with CDFW's Incidental Take Permit (ITP) No. 2081-2013-062-03 (revised May 29, 2014) and USFWS's

Sixth Amendment to the Consultant Services Agreement With Dudek for Biological and
Regulatory Permitting Services in Connection With Dowdell Avenue Construction – Business
Park Drive to 850' South of Business Park Drive, City Project No. 2011-11

letter (May 6, 2014) appending the project to the Programmatic Biological Opinion for the Santa Rosa Plain. Mr. Seltenrich will also be responsible for monitoring Covered Activities (as stipulated in the ITP) to help minimize and fully mitigate or avoid the incidental take of individual CTS and to minimize disturbance to CTS habitat. Our subconsultant, Vollmar Natural Lands Consulting, Inc., will provide additional monitoring support as needed.

Our monitors will follow all required monitoring and reporting requirements stipulated in the ITP under Section 5 General Provisions and will also comply with all Monitoring, Notification, and Reporting provisions listed under Section 6 of the ITP and as listed and referenced in USFWS's letter. Additionally, to ensure that the incidental take of CTS is minimized, all Take Minimization Measures listed under Section 7 that apply to the biological monitor, including 7.1 pre-construction surveys, 7.4 wildlife checks, 7.5 trench escape, 7.6 temporary barriers, 7.7 CTS relocation, 7.8 CTS handling, and 7.9 CTS injury will be implemented as necessary.

COST ESTIMATE

The following cost estimate includes costs for both the Designated Representative/Project Manager (Dudek – Craig Seltenrich) and for additional monitoring support as needed (Vollmar Natural Lands Consulting, Inc.). The costs below for monitoring provide for up to 8 full days of monitoring of covered activities and assume that monitoring will consist of a one visit per week to inspect compliance with ITP conditions. If project activities require additional monitoring of daily activities we will bill against the remaining contingency or provide another scope amendment. The cost estimate for reports includes an annual report and a final report upon project completion.

Designated Representative/Project Management

Craig Seltenrich (Dudek)

Tasks

- 1) Project Management; communications/notifications with CDFW, the City, and Project Foreman; overseeing activities of Designated Biologist and Representative; and overseeing compliance with ITP.

Cost: \$1,600.00

- 2) Preparation and submittal of Annual Compliance Report and Final Mitigation Report.

Cost: \$5,200.00

Cost for Designated Representative/Project Manager: \$6,800.00

Sixth Amendment to the Consultant Services Agreement With Dudek for Biological and
Regulatory Permitting Services in Connection With Dowdell Avenue Construction – Business
Park Drive to 850' South of Business Park Drive, City Project No. 2011-11

Biological Monitoring

Dudek (Vollmar as-needed)

Tasks

- 1) Conduct monitoring and reporting requirements as stipulated in the ITP for the remainder of covered activities that will be carried out for the project.

Since the number of days that the Designated Biologist will need to be on-site for the project and the time required for the Designated Biologist to be on-site to conduct all necessary monitoring and reporting requirements will vary according to the timing and duration of Covered Activities, the following billing rate will be used:

- Full day (8 hrs on-site plus 2 hrs. drive time) @ \$990.00/day
- 1/2 day (3 hrs on-site plus 2 hrs. drive time) @ \$495.00/day

Our efforts will be as-needed and the level of effort and frequency and duration of monitoring will be evaluated in collaboration with USFWS and CDFW. Dudek will only charge for work actually completed.

Our monitor will be required to be on-site for full days for an estimated 8 additional days during which excavation and earthwork will occur. Half days could be used depending on the covered activities and agency direction. Based on these assumptions, the total estimated cost for the on-site monitor is:

8 full days @ \$990.00/day = \$7,920.00

Half days would be billed at \$495.00/day; however no half days are assumed under this scope of work.

Cost for Biological Monitoring (8 full days) = \$7,920

COMBINED ESTIMATED COST = \$14,720

10% Contingency = \$1,472

TOTAL CONTRACT AMENDMENT COST ESTIMATE = \$16,192