

Farrah Hussein
CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) AWARD THE 12TH + 10TH STREET BRIDGES MITIGATION SITES REMEDIAL PLANTING CONSTRUCTION CONTRACT, BASED ON ALL CONTRACT DOCUMENTS AND SPECIFICATIONS, TO LOS LOZA, INC. FOR AN AMOUNT NOT TO EXCEED FIVE HUNDRED THIRTY-FOUR THOUSAND DOLLARS (\$534,000); 2) MAKE APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS; AND 3) WAIVE THE LOCAL AND SMALL LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

WHEREAS, the City of Oakland (City) received environmental regulatory permits requiring mitigation sites for construction work of the 12th Street and 10th Street Bridges, Project No. 1000693 (Project); and

WHEREAS, the City's permits with the environmental resource agencies, San Francisco Regional Water Quality Control Board (SFRWQCB) and California Department of Fish & Wildlife (CDFW), remain open due to extenuating circumstances arising from the COVID-19 pandemic; and

WHEREAS, the City is obligated to comply with the outstanding requirements of the environmental resource agencies at these mitigation sites to achieve compliance for closure of the permits awarded for construction of the 12th and 10th Street Bridges; and

WHEREAS, the City has invested, through the work associated with the construction of the 12th and 10th Street Bridges, significant capital improvement funds to enhance public open space and parkland, community resources, wildlife habitat, and water quality in the Lake Merritt watershed environs, surrounding neighborhoods and institutions; and

WHEREAS, the Project will revitalize these community and environmental resources, and restore their full use to the local and regional communities they are intended to serve; and

WHEREAS, staff prepared construction contract documents for remedial planting with repair and upgrades to the existing irrigation system to bring the City into compliance with the City SFRWQCB and CDFW permits for the 12th and 10th Street Bridges, such that they can be closed upon satisfactory completion of ten years of monitoring and reporting on plant survival rates; and

WHEREAS, the City issued a formal Notice of Inviting Bids for the Project work on August 30, 2024, with one formal bid received that was non-compliant with the Department of Workplace and Employment Standards' (DWES) Local/Small Local Business Enterprise twenty-percent requirement and was fifty-three percent over the City engineer's estimate for the work; and

WHEREAS, based on receipt of only one non-compliant bid, DWES revised the Local/Small Local Business Enterprise requirement to zero percent; and

WHEREAS, the City re-issued a formal Notice of Inviting Bids for the Project work on November 1, 2024, with four formal competitive bids received on December 5, 2024, and evaluated; and

WHEREAS, the City determined Los Loza, Inc. to be the lowest responsive and responsible bidder for the Project; and

WHEREAS, funding for Project 1000693 contract is currently budgeted through the Measure DD Bond, Series 2017 C, Fund (5322), Organization (92270); and Project Delivery Program (IN06); and

WHEREAS, the City Council finds that services under the contract will be temporary in nature and shall not result in the loss of employment of salary by any person having permanent status in the competitive services: and

WHEREAS, Ordinance No. 13460 C.M.S. and 13467 C.M.S. require a minimum 50-percent (50%) Local Business Enterprise/Small Local Business Enterprise (LBE/SLBE) participation for all purchase of commodities, goods, and associated services for contracts valued at or over fifty thousand dollars (\$50,000) when there are at least three certified business listed in the industry, trade, or profession that constitutes a major category of work; and

WHEREAS, Council may waive the City's LBE/SLBE requirements due to a lack or limited availability of SLBEs or LBEs and because it is in the best interests of the City to do so; and

WHEREAS, the Purchasing Department did not receive bids from any certified LBEs/SLBEs that can perform the services to the City that are required under this contract; and

WHEREAS, the Project will not substantially change environmental conditions at the mitigation sites and is fully within the Scope of the Measure DD EIR, which was previously analyzed and certified by the City; now, therefore be it

RESOLVED: That City Council authorizes the City Administrator to award the construction contract, based on all contract documents and specifications to Los Loza, Inc. as the lowest responsive and responsible bidder, for an amount not to exceed five hundred thirty-four thousand dollars (\$534,000); and be it

FURTHER RESOLVED: That City Council hereby waives the City's Local and Small Local Business Enterprise Program requirements for the purchase of commodities, goods, services, supplies or combination thereof due to a lack or limited availability of SLBEs or LBEs pursuant to Part I of Oakland's Local and Small Local Business Enterprise Program guidelines adopted by Ordinance No. 13647 C.M.S and finds it is in the best interest of the City to do so.; and be it

FURTHER RESOLVED: That all other bids are hereby rejected; and be it

FURTHER RESOLVED: That the City Council finds that the contract considered in this Resolution adheres to, and is fully within the scope of, the previous CEQA findings and determinations in the environmental regulatory permits provided for the 12th Street Construction and Lake Merritt Channel Improvements and the Measure DD Environmental Impact Report ("EIR").

Specifically, the Measure DD EIR fully analyzes the potential environmental effects of this Resolution currently before the Council and incorporates mitigation measures to substantially lessen or avoid potentially significant impacts where feasible in accordance with CEQA.

This Resolution does not result in any circumstances necessitating preparation of additional CEQA review beyond what was studied in the Measure DD EIR. As specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 21166 and CEQA Guidelines Section 15162, the Project falls within the scope of the Measure DD EIR in that: (1) there are no substantial changes proposed in the Project or the circumstances under which the Project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects, and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162 (a)(3); and be it

FURTHER RESOLVED: That the City Administrator is hereby authorized to approve amendments or extensions to the contract that do not cumulatively exceed the contract amount of \$534,000 or materially alter the scope of work; and be it

FURTHER RESOLVED: That a copy of the contract will be on file in the City Clerk's Office and will be reviewed and approved for form and legality by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROWN, FIFE, HOUSTON, KAPLAN, RAMACHANDRAN, UNGER, AND
PRESIDENT PRO TEMPORE GALLO

NOES –

ABSENT – COUNCIL PRESIDENT JENKINS (serving as Mayor pursuant to Charter Section 303)

ABSTENTION –

ATTEST: _____

ASHA REED
City Clerk and Clerk of the Council of the
City of Oakland, California