



AGENDA REPORT

TO: Jestin D. Johnson
City Administrator

FROM: Josh Rowan
Director, OakDOT

SUBJECT: Ensuring a Competitive Market for
PROW Construction

DATE: December 9, 2025

City Administrator Approval


[Jestin Johnson \(Nov 20, 2025 18:24:41 PST\)](#)

Date:

11/20/2025

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Amending Resolution No. 90814 C.M.S., Which Waived Local/Small Local Business Enterprise Program Requirements For Pedestrian Right-Of-Way Construction To Increase Competition, Lower Prices, And Enable Rapid Compliance In The Event The Parties Of Curran Vs. City Of Oakland Reach Settlement, To Specify That The Waiver Includes Local/Small Local Business Participation, Local Employment, And Apprenticeship Requirements.

EXECUTIVE SUMMARY

On July 15, 2025, the City Council adopted [Resolution No. 90814 C.M.S.](#), waiving Local/Small Local Business Enterprise Program requirements to broaden the contracting market and increase competition for pedestrian right-of-way construction. The proposed amendment clarifies the original intent to waive Local/Small Local Business Enterprise participation requirements, the Local Employment Program (LEP), and apprenticeship requirements for pedestrian right-of-way work during the term of the anticipated Curran vs City of Oakland negotiated settlement agreement.

BACKGROUND / LEGISLATIVE HISTORY

On May 15, 2023, the City of Oakland was served a class action lawsuit (*Curran vs City of Oakland*) related to accessibility of the pedestrian right-of-way (i.e., curb ramps and sidewalks). The City has participated in multiple mediation sessions with the Plaintiffs' attorneys from 2023 through 2025 regarding a potential settlement agreement and long-term consent decree addressing curb ramp installation and remediation of deficient curb ramps, and accessibility of sidewalks. Numerous large cities across the U.S. have entered similar consent decrees, which typically require that certain amounts of curb ramp and sidewalk work be performed each year during the duration of the decree.

On July 15, 2025, the City Council authorized the settlement of *Curran vs City of Oakland*. Upon final court approval anticipated in late 2025, the City would enter into a 25-year consent decree with annual milestones of curb ramp and sidewalk construction.

On July 15, 2025, the City Council also heard and approved a resolution waiving L/SLBE program requirements for pedestrian right-of-way construction. Following this City Council action, staff were advised that the original resolution should be amended to specify business participation, LEP, and apprenticeship within the waiver.

The City Council has previously approved similar waivers for locally-funded affordable housing construction projects, including Resolution Nos. [88950](#), [89605](#), and [89977](#) C.M.S. On each resolution, the City Council waived local business participation, local employment, and apprenticeship requirements. The estimated project value associated with these waivers is up to approximately \$150,000,000.

ANALYSIS AND POLICY ALTERNATIVES

Approval of this proposed resolution advances the Citywide priority of providing **Vibrant, Sustainable Infrastructure** by supporting construction of pedestrian right of way projects. Accessible pedestrian infrastructure promotes healthier communities and connects residents to their communities and essential services, supporting the Citywide priority of **Clean, Healthy, Sustainable Neighborhoods**. The proposed amendment of Resolution No. 90814 C.M.S. would advance **Responsive, Trustworthy Government** by accurately stating the full breadth of programs to be waived to advance pedestrian infrastructure improvements.

Without a robust pool of contractors, the City has seen fewer bids per project and increased unit prices compared to neighboring jurisdictions ([FY23 Annual Curb Ramp Report](#)). In addition, fewer contractors that perform this work means greater risk for the City if a primary contractor retires or goes out of business. In the context of a consent decree mandating the number of ramps and sidewalk replacements performed every year, the City must maximize the number of ramps and sidewalk replacements that can be built each year for the least unit cost, while ensuring that consent decree compliance does not rest on the performance of one local business.

The approved resolution sought to address this issue by waiving L/SLBE program requirements for pedestrian right-of-way construction, and the amendment ensures the waiver explicitly includes all local contracting program requirements, including business participation, local employment, and apprenticeship programs.

In an analysis done for the 2024-2025 Citywide Curb Ramp Project (1006308) in which all three requirements were waived, staff found that eliminating the requirements resulted in attracting more bids from more contractors with more competitive per unit construction prices when compared to similar projects. When the three required programs were not waived on a similar project, the project had just one bid, with a 20% more expensive sidewalk repair unit price and a 32% more expensive curb ramp unit price.

Contractors who have not bid on Oakland projects have referenced the difficulty of meeting these requirements and the monetary penalties associated with non-compliance as reasons for not working in Oakland. The ability of the City to meet construction requirements set by the *Curran vs City of Oakland* consent decree is dependent on the inclusion of both the LEP and apprenticeship requirements in the local contracting requirement waiver.

The amended resolution maintains the definition of pedestrian right-of-way construction as improvements made to pedestrian facilities in the public right-of-way, including curb ramps, sidewalks, curbs and gutters, and other ancillary work necessary for pedestrian right-of-way construction.

FISCAL IMPACT

An estimated 20% cost reduction in bid prices for construction is expected by waiving local contracting requirements, per the analyses cited earlier in this report. An estimated reduction of 6-8 hours of DWES staff time when reviewing L/SLBE compliance for each bid opening would also represent potential cost savings to the City.

PUBLIC OUTREACH / INTEREST

The subject matter of this report was presented to the Mayor's Commission on Persons with Disabilities and the Bicyclist and Pedestrian Advisory Commission.

COORDINATION

The Office of the City Attorney and the Budget Bureau were consulted in the preparation of this report.

SUSTAINABLE OPPORTUNITIES

Economic: Improved pedestrian right-of-way conditions encourage more activity, increased community cohesion, increased neighborhood security, and improved public transit access, all of which contribute to higher property values and increase foot traffic for local businesses.

Environmental: Clear, accessible paths of travel contribute to walkable neighborhoods, reducing environmental impacts associated with transportation.

Social Equity: Creating clear, accessible paths of travel is a key component of the City's ADA Transition Plan. Sidewalk repairs also reduce trip and fall incidents, which generally impact older Oaklanders and visitors.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Amending Resolution No. 90814 C.M.S., Which Waived Local/Small Local Business Enterprise Program Requirements For Pedestrian Right-Of-Way Construction To Increase Competition, Lower Prices, And Enable Rapid Compliance In The Event The Parties Of Curran Vs. City Of Oakland Reach Settlement, To Specify That The Waiver Includes Local/Small Local Business Participation, Local Employment, And Apprenticeship Requirements.

For questions regarding this report, please contact Sarah Fine, Complete Streets Infrastructure Division Manager, at (510) 238-6241.

Respectfully submitted,


Josh Rowan (Nov 17, 2025 10:13:37 PST)

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Pedestrian Right-of-Way

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Attachments (3):

A: Informational Memo: Bid Summary 1006308

B: Resolution No. [90155](#) C.M.S

C: Resolution No. [90814](#) C.M.S.