



# AGENDA REPORT


**TO:** Jestin D. Johnson  
City Administrator

**FROM:** Josh Rowan  
Interim Director, Oakland  
Public Works

**SUBJECT:** 12<sup>th</sup> + 10<sup>th</sup> Street Bridges Remedial  
Planting Contract

**DATE:** April 14, 2025

City Administrator Approval

  
Jestin Johnson (May 2, 2025 11:48 EDT)

Date: **May 2, 2025**

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To: 1) Award The 12<sup>th</sup> + 10<sup>th</sup> 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**

## **EXECUTIVE SUMMARY**

Approval of the proposed resolution will: (1) authorize the City Administrator to award a contract to Los Loza, Inc. for an amount not to exceed five hundred thirty-four thousand dollars and no cents (\$534,000.00) for the 12<sup>th</sup> + 10<sup>th</sup> Street Bridges Mitigation Sites Remedial Planting contract, Project No. 100069, (2) make appropriate California Environmental Quality Act ("CEQA") findings, and (3) waive the local and small local business enterprise requirements.

The Project work includes irrigation repair and upgrades, installation of new native plants, weeding of invasive herbaceous plants, installation of fencing to prevent bird browse of wetland plants and landscape boulders, and a three-year warranty and planting maintenance period. Peralta Park is where the majority of the project work is to occur. See [Attachment A, Site Location Maps](#), and [Attachment B, Project Limits](#).

The 12th + 10th Street Bridges Mitigation Sites Remedial Planting Contract is required to close outstanding environmental regulatory permits.

## **BACKGROUND / LEGISLATIVE HISTORY**

The Measure DD – Oakland Trust for Clean Water and Safe Parks Bond program (Measure DD) provided funding for two previous but related projects - the 12<sup>th</sup> Street Reconstruction, City Project C241610, and construction of the current 10<sup>th</sup> Street Bridge, known as the Lake Merritt Channel Improvement at 10<sup>th</sup> Street, Project C277110 (later Project 1000693).

Public Works & Transportation Committee  
May 13, 2025

Design and construction at these two project sites fell within the regulatory jurisdictions of the United States Army Corps of Engineers, the San Francisco Regional Water Quality Control Board, and the California Department of Fish & Wildlife. Permits for the 12<sup>th</sup> Street Reconstruction work were issued as follows:

- U.S. Army Corps of Engineers, File No. 2005-29368S, issued July 27, 2006, extended May 13, 2011.
- San Francisco Regional Water Quality Control Board: Site No. 02-01-C0900, issued December 4, 2012.
- California Department of Fish & Wildlife: Streambed Alteration Agreement Notification Number 1600-2011-0343-R3, issued March 13, 2011.

Permits for the Lake Merritt Channel Improvement to 10<sup>th</sup> Street work were issued as follows:

- United States Army Corps of Engineers, File No. 29368S, issued September 4, 2012.
- San Francisco Regional Water Quality Control Board: Site No. 02-01-C1133, issued December 4, 2012.
- California Department of Fish & Wildlife: Streambed Alteration Agreement Notification No. 1600-2012-0080-R3, issued July 3, 2012.

Closure of the permits upon completion of the 12<sup>th</sup> Street Reconstruction contract did not occur due to certain percentages of plants not meeting the 80% minimum survival threshold required when all monitoring and reporting were completed in December 2018.

Monitoring and reporting on all planting work under the Lake Merritt Channel at 10<sup>th</sup> Street was never initiated due to the lack of project funds available at the time and staffing challenges due to the COVID-19 pandemic. Since 2018, the park's irrigation and lighting infrastructure and planting have experienced a steady decline due to vandalism and heavy encampments.

Work resumed to bring the projects into compliance with permit requirements in March 2022 with the installation of an eight-foot tall ornamental steel picket fence to prevent further vandalism of the high value wetlands habitat area. An environmental consultant firm, Environmental Services Associates (ESA), was hired in August 2022 to perform surveys (September and October 2022) of what plants had survived over the previous four years, prepare an Aquatic Resources Report (November 2022), and present a remedial plan to the environmental regulatory agencies (December 2022, revised and resubmitted in February 2023) as a path forward for close out of all permits.

Staff and ESA were successful in obtaining closure of both United States Army Corps of Engineers' permits on January 31, 2024. See [Attachment C, ACOE Mitigation Complete Letter.](#)

In May 2023, the San Francisco Regional Water Quality Control Board (SFRWQCB) responded with only partial concurrence for the proposed remedial plan. The California Department of Fish & Wildlife (CDFW) was copied in SFRWQCB's comments. Both the state of California environmental resource agencies require replacement of all plants lost with a restart of ten years of monitoring and reporting once planting has been completed, before they will evaluate again for full compliance and permit closures.

On October 15, 2024, a contract was awarded for the fabrication and installation of a steel picket fence to fully enclose Peralta Park. See [Attachment D, Peralta Park Fence Layout Diagram](#).

Staff and ESA prepared construction contract documents for remedial planting with repair and upgrades to the existing irrigation system and submitted substantiating documentation to SFRWQCB and CDFW on October 29, 2024.

Staff worked extensively with the Department of Workplace and Employment Standards (DWES) on an availability analysis for qualified local contractors, and the initial availability analysis reduced the local/small local business enterprise (SLBE) compliance program requirement to 20 percent. The City issued the union notification and advertised an invitation for bids for the Project on August 30, 2024, with one bid received on September 26, 2024. The one bid was 53 percent over the City's cost estimate and budget for the work and did not meet DWES's business enterprise requirements.

Following this bid result, DWES revised the L/SLBE business enterprise compliance requirement to zero percent. See [Attachment E, DWES Memo, October 17, 2024](#). The contract was re-advertised, and a new request for bids was issued on November 1, 2024, for a base contract and one bid Additive Alternate.

There was one Bid Addendum issued on November 26, 2024, to increase permit-required plant quantities that were lost post bid drawing creation due to encampment activities and clean up in late fall 2024. This was estimated to increase the base bid by \$68,000.

On December 5, 2024, four bids were received. **See Table 1** for the bid summary.

**Table 1: Break Out of Re-Bid Cost Elements**

Company	Base Bid + Addendum 1	Bid Add/Alternate No. 1	TOTAL
Engineer's Estimate	\$693,000	\$75,000	\$768,000
Los Loza, Inc.	\$514,800	\$19,200	\$534,000
Bay Construction, Inc	\$635,720	\$21,120	\$656,840
McGuire and Hester	\$700,852	\$30,080	\$730,932

Terra Landscape	\$630,959	\$108,800	\$739,759
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Los Loza, Inc. was the lowest responsive and responsible bidder for the base contract and the bid additive alternate.

### **ANALYSIS AND POLICY ALTERNATIVES**

Approval of the proposed construction contract for park improvements will advance citywide priorities of **holistic community safety** and **vibrant, sustainable infrastructure** by addressing the deterioration of park quality, implementing park improvements, making the park safer for community use, and meeting the requirements of regulatory agency permits.

Project implementation will underscore the City's commitment to environmental resilience, wildlife habitat, clean and healthy open space for community activities, education, and enjoyment, and enhance its network of natural resources. To not do so would allow for further degradation of park elements with associated adverse impacts relative to public safety, public health, and economic development for this area of Oakland.

The City is legally obligated to meet the requirements of the state-issued permits. Failure to do so could mean costly monetary penalties, potentially adverse impacts when seeking future permits from these agencies for other major projects.

The City has invested approximately \$60 million in the work associated with the 12<sup>th</sup> Street Reconstruction (\$43 million) and the Lake Merritt Channel to 10<sup>th</sup> Street (\$17 million) projects. Orton Development has invested at least \$120 million in the restoration and programming of the former Kaiser Convention Center. This Project will provide significant positive returns on those noteworthy investments and bring back some of the beautiful experiences intended by the Measure DD improvements relating to Lake Merritt and its connection to the San Francisco Bay Estuary.

Resolution 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. However, the 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.

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. Thus, staff requests that the Council waive the LBE/SLBE utilization requirements for this proposed contract award on this basis and because it is in the best interests of the City to do so, for the reasons discussed in this report.

The services are remedial and limited in duration and will not result in the creation of long-term employment obligations or the displacement of City employees.

Staff recommends that the City Council adopt a resolution awarding a contract to Los Loza, Inc. for an amount not to exceed five hundred thirty-four thousand dollars and no cents (\$534,000.00) for the 12<sup>th</sup> + 10<sup>th</sup> Street Bridges Mitigation Sites Remedial Planting contract, Project No. 1000693, and waive the local and small local business enterprise program requirements.

### **FISCAL IMPACT**

Funding for this contract is budgeted and available in the funding sources identified in **Table 2**. No additional funding sources are required.

There is no impact on the General-Purpose Fund.

**Table 2: 12<sup>th</sup> + 10<sup>th</sup> Street Bridges Mitigation Sites Remedial Planting Contract Funding**

<b>Funding</b>	<b>Amount</b>
Project 1000693; Measure DD Bond, Series 2017 C Fund (5322); Organization (92270); Project Delivery Program (IN06)	\$534,000

### **PUBLIC OUTREACH / INTEREST**

Public outreach, in the early-to-mid 2000s, for both the 12<sup>th</sup> Street Reconstruction and Lake Merritt Channel Improvement at 10<sup>th</sup> Street was extensive with community meetings, special interest groups, and key stakeholders.

Public coordination for this Project, happened over a series of bi-monthly meetings with the Measure DD Community Coalition, a community group that was formed specifically to monitor the progress of all projects funded by Measure DD, and to provide recommendations for project development.

The Project has been coordinated with neighboring institutions such as Laney College, Oakland Museum of Contemporary Art, the Oakland Unified Public School District, Oakland Chinatown Improvement Council, the developer of the Kaiser Convention Center, and the Rotary Nature Center.

A Parks and Recreation Advisory Committee public hearing on March 13, 2024, described the work required for closure of regulatory agency permits.

The Project was widely advertised for construction bids. Staff worked with Oakland Public Works-Capital Contracts Division (OPW-CCD) and the Department of Workplace and Employment Standards (DWES) to conduct public outreach for solicitation through the legal ads, enhanced notifications, and a pre-bid meeting.

Notifications of solicitations were distributed by several means. The first was through the iSupplier system, which was utilized to notify Oakland-certified local and non-local businesses, regional trade and business groups, including the Oakland Metropolitan Chamber of Commerce, Oakland Black Board of Trade & Commerce, Bay Area Business Roundtable, and the Construction Bid board.

In addition to iSupplier, OPW-CCD sends enhanced notifications to the disparity outreach list by email, as well as OPW-CCD's utilization of CIPList.com, a free, web-enabled site to announce and distribute solicitations. It is used to push out notifications to plan rooms and exchanges such as ARC North America, Builders Exchange of Alameda County, Contra Costa Builders Exchange, Dodge Data & Analytics, East Bay Blueprint, iSqFT, Northern California Electrical Construction Industry, Peninsula Builders Exchange, San Francisco Builders Exchange, and Solano-Napa Builders Exchange. Through CIPList.com, any company or entity may register to be automatically notified of all City of Oakland solicitations without restrictions.

### **COORDINATION**

The work to be contracted has been coordinated with the Oakland Parks, Recreation and Youth Development (OPYRD), City Administrator's Office-Encampment Management Team, Oakland Police Department (OPD), Bureau of Environment (BOE) Tree Services, BOE Irrigation, BOE KOCB, Bureau of Facilities & Maintenance, Oakland Department of Transportation Parking Enforcement, along with the DWES, OPW-CCD, OPW Construction Management Division, and other divisions within OPW.

This report and the resolution have been reviewed for form and legality by the Office of the City Attorney, the Budget Bureau, and DWES.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** Implementation of this Project will support neighborhood institutions such as Laney College and the Oakland Museum of California (OMCA) that provide important educational and cultural opportunities with associated revenues and tax bases. The programming of Orton Development's new performance venue will be enhanced and supported through Peralta Park as a public asset. With the closure of the permits, the ongoing costs associated with retroactively bringing the City into compliance will cease. The Project will allow for eventual programming of the park for events and educational purposes, with related revenue streams for OPRYD.

The Project will build and strengthen partnerships with key stakeholder institutions such as Laney College and Kaiser Convention Center (Orton Development) in the ongoing care of the park.

**Environmental:** The Project will restore a public open space with beautiful existing mature trees and plantings augmented with new trees and shrubs, adjacent to a rare urban wetland habitat for native plants and wildlife. The completed Project will further the stormwater treatment and management goals of the original projects to enhance the water quality of stormwater runoff from approximately 30 acres of adjacent parking lots, sidewalks, and impervious surfaces through swales and detention basins in Peralta Park. Adding to the network of natural resources



around Lake Merritt enhances the lake's resilience to a number of climate factors impacting the lake's water quality and fish habitats, as well as for numerous other avian and riparian animals. The project will provide public health benefits associated with natural open spaces for active and passive recreation.

***Race & Equity:*** The Project serves ethnically, culturally, and age-diverse neighborhoods. It will provide a wonderful, green public space with opportunities for active and passive recreational activities and shared experiences within the park. The Project will restore educational nature programs for middle school students to study aquatic life, wetland habitats, and water quality under the guidance and supervision of the Rotary Nature Center. These are outdoor experiences for young adults that can be difficult to achieve in an urban environment. The tranquility within the park and the enjoyment of nature, with comfortable places to sit or for children to play, are benefits provided to all Oaklanders regardless of their household income.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA")**

The contract proposed 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 12<sup>th</sup> Street Construction and Lake Merritt Channel Improvements and the Measure DD Environmental Impact Report ("EIR"), as described in [Resolution No. 82579 C.M.S.](#)

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 the 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).

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To: 1) Award The 12<sup>th</sup> + 10<sup>th</sup> 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.

For questions regarding this report, please contact Christine Reed, Capital Improvement Program Manager, at (510) 238-6540.

Respectfully submitted,

  
Josh Rowan (May 1, 2025 15:33 PDT)

Josh Rowan  
Interim Director, Oakland Public Works

Reviewed by:  
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Attachments (6):  
A: Site Location Maps  
B: Project Limits  
C: ACOE Mitigation Complete Letter  
D: Peralta Park Fence Layout Diagram  
E: DWES Memo\_10.17.24