



AGENDA REPORT

TO: Steven Falk
Interim City Administrator

FROM: G. Harold Duffey
Director, Oakland Public
Works

SUBJECT: Clean Lake Contract Agreement

DATE: April 24, 2023

City Administrator Approval

Date: May 11, 2023

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution:

- 1. Waiving The City Of Oakland's Advertising And Solicitation Of Proposals/Qualifications Requirements;**
- 2. Authorizing The City Administrator To Enter Into A Three-Year Professional Services Agreement, From July 1, 2023 To June 30, 2026, With The Lake Merritt Institute To Provide Cleanup, Maintenance, Monitoring, Volunteer Coordination, Technical Assistance, And Public Outreach Services At Lake Merritt, In A Contract Amount Not To Exceed Six Hundred Ninety-Seven Thousand And Five Hundred Dollars (\$697,500), With An Option To Extend The Contract For Two Additional Years For An Additional Amount Not To Exceed Two Hundred Thirty-Two Thousand And Five Hundred Dollars (\$232,500) Per Year; And**
- 3. Adopting Appropriate California Environmental Quality Act Findings.**

EXECUTIVE SUMMARY

Since 1999, the State of California Environmental Protection Agency has listed Lake Merritt as an Impaired Water Body. Due to this regulatory listing, the City of Oakland (City) is required to reduce litter in and around the lake and increase dissolved oxygen in the lake's water.

Oakland Public Works (OPW) recommends that the City Council adopt the proposed resolution authorizing a three-year agreement (Clean Lake Contract) not to exceed \$697,500 from July 1, 2023, to June 30, 2026, with the Lake Merritt Institute (LMI) to assist the City in maintaining the lake. The resolution will also authorize an option to extend the agreement for two additional years through June 30, 2028, for an additional amount not to exceed \$232,500 per year.

Adoption of the resolution will help the City continue to:

1. Increase public education and volunteerism at the lake;
2. Remove litter in and around the lake and improve the condition of wildlife habitat;
3. Enhance the lake's aesthetic and recreational value; and
4. Fulfill regulatory requirements to address water quality impairments in Lake Merritt.

BACKGROUND / LEGISLATIVE HISTORY

The City's partnership with LMI to maintain Lake Merritt began in the 1990s. LMI has since maintained a series of lake maintenance agreements with the City, and the current agreement, authorized by Resolution No. 87656 C.M.S. (<https://oakland.legistar.com/View.ashx?M=F&ID=7236710&GUID=F9ED295C-08C0-49B1-9777-1A7844FFD354>), will expire on June 30, 2023.

As noted above, Lake Merritt has been listed by the State as an Impaired Water Body for trash and low dissolved oxygen since 1999, and these conditions affect the survival of aquatic animals in the lake. This designation requires the City to reduce litter in and around the lake and increase dissolved oxygen in the water.

The City's partnership with LMI has improved the conditions at the lake. In 2021 and 2022 alone, they removed 136,035 gallons (or 674 cubic yards) of trash. LMI also maintained the aeration fountains to increase the lake's oxygen levels. A new agreement with LMI will allow the City to continue to comply with regulatory requirements associated with the Impaired Water Body designation and thereby avoid potential fines and penalties.

ANALYSIS AND POLICY ALTERNATIVES

Clean Lake Contract

The Clean Lake Contract will provide the following services:

Litter Removal

The contractor will perform and coordinate trash removal from the lake and its immediate surroundings at least four (4) days per week. To the extent practicable, additional litter pickups will be performed during and immediately following storm events. The contractor will maximize the use of volunteers to assist with trash removal and support independent and unscheduled cleanups by individual residents.

Litter/Petroleum Boom Maintenance

The contractor will regularly inspect litter/petroleum booms in the lake, but always after a storm. These booms are barriers strategically placed to contain discharges of litter and petroleum products from upstream areas. Accumulated litter and encrusting growth will be removed from the booms. The contractor will also perform boom repairs as needed, up to \$500 in value. More significant and costly repairs can be performed with a commensurate reduction in other scope of services.

Aeration Fountain Maintenance

The contractor will perform operational and routine maintenance activities on the lake's aeration fountains, which help to increase oxygen levels in the lake. Repairs costing more than \$1,500 will require a commensurate reduction in other scope of services.

Lake Health Monitoring

The contractor will report immediately to the City observed aberrant water quality conditions including algal blooms and fish die-offs, and as needed, advise the City on water quality monitoring needs and overall management measures for the lake.

Event Coordination

The contractor will act as the lead coordinator for City-sponsored cleanups at Lake Merritt on Martin Luther King, Jr. Day, Earth Day, and Creek-to-Bay Day. Tasks include event planning, outreach, setup, and volunteer coordination.

Public Education & Outreach

The contractor will provide educational presentations about stormwater to volunteers, schools, civic groups, neighborhood associations, and the general public to promote stormwater pollution prevention and volunteerism through the City's Adopt-a-Spot and Adopt-a-Drain programs. In addition, the contractor will work with the City to identify and visit businesses in the Lake Merritt watershed to distribute City-provided educational materials regarding available services (e.g., bulky item curbside pickup and drop-off services, and the City's mandatory garbage service requirements). The contractor will also assist with enforcement related to illicit discharges and illegal dumping in Lake Merritt and its watershed by communicating City-approved best management practices and providing educational materials to businesses or persons observed engaging in such violations, and by reporting such violations immediately to the City. The contractor will complement said outreach & educational efforts with regular website postings and messages on bulletin boards around the lake.

Awarding this agreement will support the City's goals of building **vibrant, sustainable infrastructure** and maintaining a **responsive, trustworthy government**. Lake Merritt is a gem treasured by all Oaklanders. Keeping the lake clean is key to maintaining the lake's aesthetic and recreational value that is so important to Oakland's residents. It also responds to the need of local businesses to safeguard this vital economic engine.

Request to Waive Competitive Bidding Requirements

The current Clean Lake Contract will expire on June 30, 2023, and a new contract is needed to continue services for Lake Merritt. Trash input to the lake is expected to increase while the lake's oxygen levels decrease without services provided by this contract, thereby jeopardizing the City's compliance with regulatory requirements.

In accordance with Oakland Municipal Code (OMC) Sections 2.04.040.B.4 and 2.04.051.A.1, staff prepared documents for a formal advertising and competitive Request for Qualifications/Proposals (RFQ/RFP) selection process in December 2022. Unfortunately, significant staffing shortages in OPW's Capital Contract Services Division and the resultant lack of process support have rendered completing the advertising and competitive bidding process prior to expiration of the current agreement unattainable.

LMI is a certified Small Local Non-Profit/Not-for-Profit Corporation dedicated to maintaining the health of Lake Merritt and has satisfactorily managed this contract since 1996. Staff has completed the Schedule L, Consultant Performance Evaluation Form (see **Attachment A**). Notably, through the years, LMI has shown flexibility and adaptability in accommodating changing program needs, despite challenges posed by budget constraints and a global pandemic. Staff has especially appreciated the ability to closely collaborate with LMI in

response to the considerable fish die-offs in the summer of 2022. Lastly, in multiple previous rounds of competitive bidding for the Clean Lake Contract in the last decade, LMI was the only entity that submitted a qualified proposal.

For the foregoing reasons, staff recommends that the City Council find it is in the City's best interests to waive the formal advertising and RFQ/RFP requirements per OMC Section 2.04.051.B and award a new agreement to LMI.

FISCAL IMPACT

Approval of the proposed resolution will authorize a total expenditure for the Clean Lake Contract in an amount not to exceed \$697,500 for the period of July 1, 2023 to June 30, 2026, with an option to extend the agreement for two additional years for an additional amount not to exceed \$232,500 per year. This agreement will be funded by the Recycling Program Fund (1710), Environmental Remediation Organization (30683), Services: Miscellaneous Contract Account (54919), and Clean Lake Contract Project (1001514) and DP300 Administrative Project (1000010); and the Sewer Service Fund (3100), Environmental Remediation Organization (30683), Services: Miscellaneous Contract Account (54919), and Clean Lake Contract Project (1001514) and DP300 Administrative Project (1000010). There is no impact on the General Purpose Fund.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for the proposed policy action beyond the standard City Council agenda noticing procedures. However, the services performed by the contractor will involve significant public engagement and outreach to improve lake conditions and raise awareness of the importance and value of Lake Merritt.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Cleaner Lake Merritt and areas around the lake will attract more visitors, leading to increased economic activity, and sales tax revenue.

Environmental: This agreement will provide litter removal and other services, such as the maintenance of the aeration fountains and public education, that result in reduced pollution in the lake. Lake Merritt is hydrologically connected to the Oakland Estuary and the San Francisco Bay. Improving water quality in the lake results in water quality improvements in adjacent water bodies as well. These improvements are also critical for the City to achieve compliance with State regulatory requirements and enhancing wildlife habitat.

Race & Equity: This agreement will result in a cleaner, healthier Lake Merritt for use by residents of all economic levels.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

The project and the action being undertaken to implement it are exempt from the California Environmental Quality Act (CEQA) under the following CEQA Guidelines Sections: Section 15162 and 15163 (no further environmental review required); Section 15060(c)(2) (no direct or reasonably foreseeable indirect physical change in the environment); Section 15061(b)(3) (no significant effect on the environment); Section 15183 (projects consistent with a community plan, general plan, or zoning), Section 15301 (existing facilities), Section 15302 (replacement or reconstruction), and Section 15309 (inspections), each of which provides a separate and independent basis for CEQA clearance and when viewed collectively provide an overall basis for CEQA clearance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution:

1. Waiving The City Of Oakland's Advertising And Solicitation Of Proposals/Qualifications Requirements;
2. Authorizing The City Administrator To Enter Into A Three-Year Professional Services Agreement, From July 1, 2023 To June 30, 2026, With The Lake Merritt Institute To Provide Cleanup, Maintenance, Monitoring, Volunteer Coordination, Technical Assistance, And Public Outreach Services At Lake Merritt, In A Contract Amount Not To Exceed Six Hundred Ninety-Seven Thousand And Five Hundred Dollars (\$697,500), With An Option To Extend The Contract For Two Additional Years For An Additional Amount Not to Exceed Two Hundred Thirty-Two Thousand And Five Hundred Dollars (\$232,500) Per Year; And
3. Adopting Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact please contact Ana Martinez, Stewardship Program Supervisor, at 238-6259.

Respectfully submitted,



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Attachment (1):

Attachment A: Schedule L, Consultant Performance Evaluation Form