



OFFICE OF THE CITY CLERK  
OAKLAND  
FILED  
2018 JUN 14 PM 5:28

# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Jason Mitchell  
Director, Public Works

**SUBJECT:** Waterfront Trails Project Change  
Order Capacity Increase

**DATE:** June 4, 2018

City Administrator Approval

Date:

6/8/18

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator Or Designee To Increase The Construction Change Order Capacity Limit For The Embarcadero Cove And Livingston Pier Waterfront Trails Project (Number 1000683) With D-Line Constructors, Inc From Approximately Seven Percent (7%) To Twenty-Five Percent (25%) For A Total Change Order Limit Amount Of Fifty-Eight Thousand Four Hundred Dollars (\$58,400.00).**

## EXECUTIVE SUMMARY

Embarcadero Cove and Livingston Pier Waterfront Trails Project ("Project") is an element of the *Measure DD Program - Oakland Trust for Clean Water and Safe Parks* under the category of Estuary Waterfront Access. The intent of the Project and the Estuary Waterfront Access is to provide continuous and improved accessible pedestrian and bicycle public trails along the Oakland Estuary shorelines.

A construction contract of \$233,633 is being executed by the City Administrator with D-Line Constructors, Inc. ("D-Line"), the lowest responsive and responsible bidder for the Project, in accordance with Oakland Municipal Codes (OMC) Section 2.04.020. A.1. The requested Council action will authorize the City Administrator or designee to increase the construction change order limit from 7 percent to 25 percent to allow for unanticipated conditions.

## BACKGROUND/LEGISLATIVE HISTORY

Measure DD is a General Obligation bond approved by Oakland voters in 2002. The Project is under the category of Estuary Waterfront Access of the Measure DD Program. Funding for the Project was approved through City Council Resolution No. 86516 C.M.S. passed on December 13, 2016, authorizing the sale of the Measure DD, Series C, Bond for Estuary Waterfront Access Program.

Embarcadero Cove and Livingston Pier sites are within the Port of Oakland (Port) jurisdiction and in Council District 2 as shown on **Attachment A: Project Location Map**. Oakland Public

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Public Works Committee  
June 26, 2018

Works (OPW) worked closely with the Port staff and commercial tenants at Embarcadero Cove and Livingston Pier for the trail improvements.

On April 14, 2016, the Port Board of Commissioners approved the temporary right of entry agreements for the construction of Embarcadero Cove and Livingston Pier waterfront trails with the passing of Port Ordinance No. 4368. On June 1, 2016, the Temporary Right of Entry and Construction Access Agreements were executed between the City, the Port, and the Port tenants. Once the trail improvements are completed, the Port and commercial tenants shall accept the maintenance responsibilities.

The Project was advertised for bid on March 2, 2018. On March 29, 2018, the City Clerk received four (4) bids from general contractors for the Project as summarized below:

Company	Bid Total
Engineer's Estimate	\$230,100.00
D-Line Construction, Inc..	\$233,633.00
Saboo, Inc.	\$249,999.00
Bay Construction Company	\$265,000.00
Ray's Electric	\$299,800.00

A construction contract was awarded to D-Line in the amount of \$233,633, the lowest responsive and responsible bidder, per authority of the City Administrator for awards under \$250,000. D-Line met the Local Business Enterprise/Small Local Business Enterprise (LBE/SLBE) participation at 100.42 percent as verified by the Contracts and Compliance Department.

#### **ANALYSIS/POLICY ALTERNATIVES**

The Oakland Public Works Standard Specifications for construction allow the City Administrator or designee to increase the change order capacity up to 25 percent of the contract amount for construction contracts. Up to 25 percent increase of the contract amount is advisable to address and negotiate any unforeseen field and contract issues with the contractor without incurring significant delays or disruptions of work to the project. Unforeseen field and contract issues can often be attributed to additional quantities of materials needed, underground site conditions not specified in plans and specifications, and minor design and scope changes.

Per OMC Section 2.04.020. A.1, the City Administrator's contracting authority is limited to \$250,000. The \$250,000 contracting authority threshold leaves the change order capacity for the Project at 7 percent of the contract amount (\$16,367) based on the award of \$233,633. Staff is requesting the City Council authorize the City Administrator or designee to increase the

construction change order limit with D-Line to 25 percent of the contract amount (\$58,400) for a total contract amount not-to-exceed \$292,033.

### **PUBLIC OUTREACH/INTEREST**

Construction of waterfront trails is anticipated to begin by July of 2018 and completed by the fall of 2018.

Prior to the start of construction, the neighboring communities affected by the work will be notified regarding construction activities and provided contact information for questions. Temporary protective measures shall be implemented to minimize disruptions to the public and operations at Embarcadero Cove and Livingston Pier.

### **COORDINATION**

For the development of the Project, staff worked closely with the Port Real Estate and Environmental Assessment staff and the Port commercial tenants at the project sites. Staff also collaborated with Bay Conservation and Development Commission (BCDC) and Association of Bay Area Governments (ABAG) to design the trails within the San Francisco Bay Shoreline and Bay Trail guidelines. The Office of the City Attorney and the Budget Bureau have reviewed this report and resolution.

### **FISCAL IMPACT**

Project funds for the construction change orders are available through the following source:

<b>Funding Source</b>	<b>Amount</b>
Oakland Port Waterfront Trails Project (1000683); Capital Projects Organization (92270); Capital Landscaping Improvements Account (57112); and Estuary Waterfront Access Award (23145), Measure DD Fund No. 5322.	\$58,400.00

### **PAST PERFORMANCE, EVALUATION AND FOLLOW-UP**

D-Line is the prime contractor for a current construction contract with the City which is at final stages of completion. That project is D-Line's first construction contract with the City as a prime contractor. Staff currently working with D-Line is satisfied with their overall performance.

## SUSTAINABLE OPPORTUNITIES

**Economic:** The contractors are verified for LBE/SLBE participation by the Social Equity Division of the Department of Contracting and Purchasing. The contractors are required to have 50 percent of the work hours performed by Oakland residents, and 50 percent of all new hires are to be Oakland residents, which will result in funds being spent locally.

**Environmental:** Best Management Practices shall be required to prevent storm water runoff from the jobsite during construction. The contractor shall be required to submit and conform to a Waste Reduction and Recycling Plan to divert materials from landfill disposal.

**Social Equity:** The Port waterfront trails once completed shall improve pedestrian and bicycle access and passage along the Oakland Estuary shorelines for residents and visitors of Oakland.

## ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt the Resolution authorizing the City Administrator or designee to increase the construction contract change order capacity limit for the Embarcadero Cove and Livingston Pier Waterfront Trails Project (Number 1000683) with D-Line Constructors, Inc. from approximately 7 percent to 25 percent for a total change order limit amount of \$58,400.

For questions regarding this report, please contact WooJae Kim, P.E., Capital Improvement Project (CIP) Coordinator at (510) 238-3389.

Respectfully submitted,

  
JASON MITCHELL  
Director, Oakland Public Works

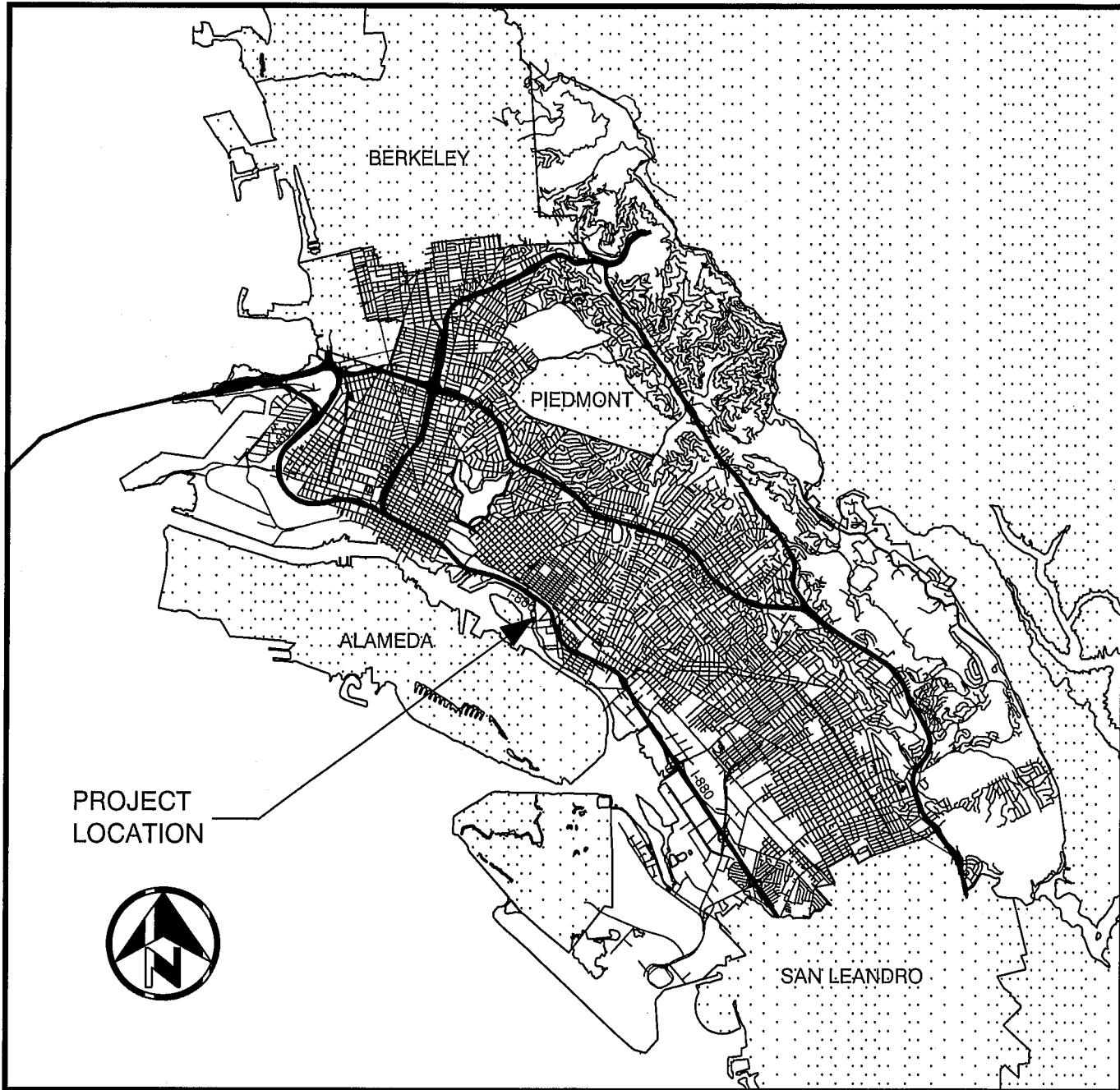
Reviewed by:  
Danny Lau, P.E., Assistant Director  
Bureau of Design & Construction

Reviewed by:  
Matthew Lee, P.E., Division Manager  
Project Delivery Division

Prepared by:  
WooJae Kim, P.E., CIP Coordinator  
Project Delivery Division

*Attachment:*  
A: Project Location Map

## Attachment A: Project Location Map



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Approved as to Form and Legality

  
City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR  
DESIGNEE TO INCREASE THE CONSTRUCTION CHANGE ORDER  
CAPACITY LIMIT FOR THE EMBARCADERO COVE AND LIVINGSTON  
PIER WATERFRONT TRAILS PROJECT (NUMBER 1000683) WITH D-LINE  
CONSTRUCTORS, INC FROM APPROXIMATELY SEVEN PERCENT (7%) TO  
TWENTY-FIVE PERCENT (25%) FOR A TOTAL CHANGE ORDER LIMIT  
AMOUNT OF FIFTY-EIGHT THOUSAND FOUR HUNDRED DOLLARS  
(\$58,400.00)

WHEREAS, Embarcadero Cove and Livingston Pier Waterfront Trails Project is an element of the Measure DD Program - Oakland Trust for Clean Water and Safe Parks under the category of Estuary Waterfront Access; and

WHEREAS, the intent of the project and the Estuary Waterfront Access program is to provide continuous and improved accessible pedestrian and bicycle public trails along the Oakland Estuary shorelines; and

WHEREAS, Embarcadero Cove and Livingston Pier sites are within the Port of Oakland jurisdiction and in Council District 2; and

WHEREAS, the Port of Oakland Board of Commissioners approved the temporary right of entry agreements for the construction of Embarcadero Cove and Livingston Pier waterfront trails with the passing of Port Ordinance No. 4368 on April 14, 2016; and

WHEREAS, the Temporary Right of Entry and Construction Access Agreements were executed between the City, the Port, and the Port tenants on June 1, 2016; and

WHEREAS, the Port and commercial tenants shall accept the maintenance responsibilities once the trail improvements are completed; and

WHEREAS, the project was advertised for bid on March 2, 2018, and four bids were received by the Office of the City Clerk on March 29, 2018; and

WHEREAS, D-Line Constructors, Inc. was deemed the lowest responsive and responsible bidder for the project, and the City Administrator authorized a construction contract of \$233,633.00 for the Embarcadero Cove and Livingston Pier Trails Project (No. 1000683); and

WHEREAS, the City Administrator has the authority to execute supplies and services contracts up to \$250,000.00 in any single transaction without previous specific action by the City Council per the Oakland Municipal Codes Section 2.04.020. A.1.; and

WHEREAS, the \$250,000.00 contracting authority threshold leaves the change order capacity of the project at 7% of the contract amount (\$16,367.00) based on the award of \$233,633.00.

WHEREAS, the Oakland Public Works Standard Specifications for construction allow the City Administrator or designee to increase the change order capacity up to 25% of the contract amount for contracts; and

WHEREAS, up to 25% increase to the contract amount is advisable to address and negotiate any unforeseen field and contract issues with the contractor without incurring significant delays or disruptions to the project; and

WHEREAS, there are sufficient funds in the project budget for the work under the following source:

Oakland Port Waterfront Trails Project (1000683); Capital Projects Organization (92270); Capital Landscaping Improvements Account (57112); and Estuary Waterfront Access Award (23145); and

WHEREAS, the City lacks the equipment and qualified personnel to perform the necessary work, and that the performance of this contract is in the public interest because of economy or better performance; and

WHEREAS, the City Council finds and determines that the performance of this contract shall not result in the loss of employment or salary by any person having permanent status in the competitive services; and

WHEREAS, D-Line Constructors, Inc. shall comply with Local Business Enterprise/Small Local Business Enterprise requirements and all other City programs and policies; now therefore be it

**RESOLVED:** That the City Council authorize the City Administrator or designee to increase the construction change order capacity limit for the Embarcadero Cove and Livingston Pier Waterfront Trails with D-Line Constructors, Inc. from approximately 7% to 25% for a total change order limit amount of \$58,400.00; and be it

**FURTHER RESOLVED:** That the City Administrator, or designee, is hereby authorized to approve any subsequent amendments or modifications of the contract within the limitation of the project specifications, extensions, payment requests, applications for permits, agreements and execute all related actions for the completion of the said project without return to the City Council; and be it

**FURTHER RESOLVED:** That the plans and specifications prepared for this project, including any subsequent changes during construction, will be reviewed and adopted by the Director, or designee, are hereby approved; and be it

**FURTHER RESOLVED:** That the contract shall be reviewed and approved by the City Attorney for form and legality prior to execution and placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, and PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California