

CITY OF OAKLAND

AGENDA REPORT


TO: Jestin D. Johnson
City Administrator

FROM: Josh Rowan
Department of
Transportation

SUBJECT: Establish Construction Manager /
General Contractor Procedures and
Pursue For Embarcadero West Rail
Safety And Access Improvements

DATE: August 26, 2024

City Administrator Approval


Jestin Johnson (Sep 11, 2024 19:47 PDT)

Date: Sep 11, 2024

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

- 1. An Ordinance Amending The Construction Manager-At-Risk Project Delivery Method Ordinance (Ordinance No. 12388 C.M.S.) To Include Construction Manager/General Contractor Project Delivery; And**
- 2. A Resolution Authorizing The City Administrator To Pursue Construction Manager/General Contractor Project Delivery For The Embarcadero West Rail Safety And Access Improvements.**

EXECUTIVE SUMMARY

The alternative delivery method of Construction Management/General Contractor (CM/GC) is a method that allows the construction contractor to participate in the design development phase, advising the City of Oakland (City) and the design team of the most efficient and economical means to deliver a project. CM/GC also has the benefit of the City retaining decision-making authority over the design phase and delivering projects more quickly and with lower risk for cost overruns. CM/GC is similar to the Construction Manager At-Risk delivery method, however, in the Construction Manager At-Risk delivery method, the City and general contractor agree to a guaranteed maximum price early in the design process and execute one large contract through construction, whereas, in the CM/GC delivery method the general contractor is awarded a smaller contract at the start of the design process for consultation during design, and then towards the end of the design process the general contractor, independent cost estimator, and City must agree upon a cost estimate for construction and City Council must approve the subsequent construction contract(s). The proposed ordinance expands the existing City

ordinance permitting Construction Manager-At-Risk alternative delivery method to also include the Construction Manager/General Contractor alternative delivery method.

Staff are working to design and deliver the largest infrastructure project in the City of Oakland Department of Transportation's (OakDOT's) history: the Embarcadero West Rail Safety and Access Improvements (the project). Staff have identified significant risks associated with delivering the proposed project via the more typical design-bid-build process because the entire project must be designed and approved (including UPRR and CPUC approvals) before any physical construction can commence. Staff recommends employing CM/GC to deliver the project to minimize the risks associated with the traditional design-bid-build process and deliver the project most cost effectively and efficiently to Oaklanders. The proposed resolution authorizes the City Administrator to pursue the CM/GC delivery method for the project; it does not authorize any contracts. Staff will return to City Council to seek authorization for future CM/GC contracts.

BACKGROUND / LEGISLATIVE HISTORY

The City typically procures construction contractors to perform roadway infrastructure projects via the design-bid-build process, with the following general steps:

- prepare 100% complete plans, specifications, and cost estimates;
- secure regulatory permits;
- solicit bids;
- award contract to the lowest responsive bidder;
- issue construction permits; and
- contractor completes construction

However, the City has used alternative delivery methods to procure construction contractors to optimize efficiency in the design, schedule, and cost on complex or technically challenging projects. The Oakland Municipal Code currently authorizes staff to use Design Build ([O.M.C. 2.04.180](#)) and Construction Manager At-Risk ([O.M.C. 2.04.190](#)) alternative delivery methods. These alternative delivery methods have been used on numerous public infrastructure projects.

The City of Oakland is a charter city, governed by the provisions of its city charter. The current charter was adopted on November 5, 1968, and ratified by the Secretary of State of California on January 28, 1969. This charter grants Oakland the authority to manage its municipal affairs, including contracting methods. Oakland, like other charter cities in California, has the autonomy to adopt alternative project delivery methods beyond those mandated by state law for general law cities. This flexibility allows Oakland to employ alternative delivery methods, including Design Build, Construction Manager At-Risk, and CM/GC for construction projects to improve efficiency and effectiveness.

The Embarcadero West Rail Safety and Access Improvements project is part of the City of Oakland's Capital Improvement Program and is the largest project to be delivered by OakDOT. The project includes numerous complexities that make project delivery challenging.

Embarcadero West from Oak St. to Market St. is a one-mile city street accommodating freight trains, passenger trains, motor vehicles, bicyclists, and pedestrians with no physical separation. Freight and passenger trains run down the middle of the street and through the waterfront in a configuration that dates back to the 1870s. Approximately 65 trains a day use this corridor operated by Union Pacific Railroad (UPRR) and Amtrak/Capitol Corridor. This rail corridor is one of the largest bottlenecks for both freight and passenger rail, which experience frequent delays from vehicles inadvertently stuck on the tracks. This shared street condition in which pedestrians, drivers and/or bicyclists can intentionally or unintentionally turn across or occupy the track space is unprecedented in an urban area and not only a major safety concern but impacts operations within the Port and causes major passenger rail delays.

Under City Council direction on December 6, 2022, the Embarcadero West Rail Safety and Access Improvements were identified as a priority project, and critical project design and delivery funding was accepted and appropriated, and staff was directed to apply for and receive additional funds as needed ([Resolution No. 8 9519, C.M.S.](#)). In addition, a reimbursement agreement with UPRR was established to facilitate the design of the project ([Resolution No. 89520, C.M.S.](#)).

As a result of City Council action on December 19, 2023 ([Resolution No 90052, C.M.S.](#)), the project is currently in the design development phase and the +\$100 million construction project must be completed by December 30, 2029. The project will enhance rail safety and operations while simultaneously improving public access along and across the Embarcadero West corridor, allowing the public to access the waterfront more easily and safely. Under the proposed project, a series of safety improvements and access modifications will be implemented along the Embarcadero West corridor where railroad tracks (freight and passenger rail) and public streets (vehicles, cyclists, and pedestrians) are using the same corridor right of way. The City of Oakland is the Project Sponsor and is responsible for overseeing the designs, approvals, and construction of the proposed improvements in accordance with grant funding requirements and schedules.

The proposed project improvements are within the City's public right of way; however, the Embarcadero West corridor is also shared with multiple active Union Pacific Railroad (UPRR) rail lines that accommodate Amtrak national passenger rail routes, the Capitol Corridor passenger rail line from San Jose to Sacramento, the San Joaquin from the Central Valley to Oakland, and UPRR freight. All improvements within the Embarcadero West corridor and adjacent side streets will require approvals from UPRR and the California Public Utilities Commission (CPUC). Obtaining timely approvals from UPRR and CPUC are critical to adhering to the grant schedules and retaining existing funding to deliver this once-in-a-century project.

The City has secured external funding to deliver the project improvements. The secured funds are through the following programs.

- California State Transportation Agency (CalSTA): \$105.5
- Trade Corridor Enhancements Program (TCEP): \$30.2 million
- Regional Measure 3 (RM3): \$8 million
- Transit and Intercity Rail Capital Program – Cycle 5 (TIRCP): \$1.9 million

The original grant applications and the associated agreements commit the City to deliver certain defined portions of the overall Project in accordance with a specific timeline. If the City does not meet those timelines, grant funds are likely to be rescinded.

ANALYSIS AND POLICY ALTERNATIVES

The proposed ordinance and resolution support Citywide priorities of (1) **vibrant, sustainable infrastructure**; (2) **holistic community safety**; and (3) **responsive, trustworthy government**, because the CM/GC delivery method is necessary to most effectively respond to longstanding infrastructure needs that will deliver a transformative project within the required timeline that improves the vibrancy, sustainable transportation infrastructure, and safety of a critical locally, regionally, and nationally significant corridor.

CM/GC as a Tool in the City's Infrastructure Delivery Toolbox

CM/GC is a proven alternative delivery method that allows public entities to collaborate with a general contractor during the design development process. The advanced collaboration with the general contractor is typically complemented by two additional specialty consultants to provide technical support throughout the CM/GC process – services from a construction management team and an independent cost estimator. This advanced collaboration with the general contractor will benefit the City, local business owners, and residents by strategically sequencing the work in alignment with grant funding schedules, UPRR approvals, CPUC approvals, materials procurement, and/or permit conditions/requirements. In addition, involving the general contractor in the design development process allows all parties to evaluate, manage, and mitigate project risks – risks associated with permitting, unforeseen conditions, and third-party utility relocations. Traditional design-bid-build delivery requires the contractor to fully accept substantial risks – risks that are not understood during the bidding process. Therefore, contractors must prepare construction bid pricing that includes absorbing the undefined/unknown risks.

The collaboration in the CM/GC design development phase allows the contractor, the construction manager, the independent cost estimator, and the City to continuously evaluate and share the evolving project risks. Collectively, the City, general contractor, and construction manager can proactively perform a subset of construction tasks to better understand risks – for example, the contractor or subcontractors can perform advanced reconnaissance, perform exploratory construction, relocate high-risk problematic utilities, or modify the overall construction sequencing to mitigate/minimize certain project risks. The knowledge of various risks will be incorporated into the project construction budgets. Note that incremental project designs, subprojects, advanced construction segments, etc. are independently developed and verified by the independent cost estimator (ICE) and compared with the cost estimates developed by the design engineer and general contractor.

The CM/GC project delivery method allows the competitively selected contractor to use innovation to collaboratively define the sequencing of the work. This advanced project sequencing collaboration will benefit the City and the community members by strategically breaking a massive construction project into well-defined smaller segments or sub-projects.

Once a well-defined smaller project has been approved, the contractor can commence construction immediately following City Council approval of the construction contract – foregoing the long bidding procurement processes that can result in the loss of project funds.

The CM/GC project delivery method also realizes benefits by allowing the contractor to procure construction materials in alignment with the jointly developed construction sequencing and schedule. Thus, materials are ordered well in advance (best pricing) and materials are delivered when needed instead of incurring multiple short-route transfers and storage fees. In addition, the contractor can plan incremental construction operations that are in alignment with schedules that benefit specialty small business subcontractors (for example, advanced utility potholing and/or utility relocations). Thus, small business local contractors can stagger workloads to maximize the support of small and large infrastructure projects.

A well-planned project will minimize schedule delays and costs associated with managing unforeseen conditions and the associated long process of negotiating expensive change orders. Historically, CM/GC projects realize a significant reduction in the number of construction contract change orders because most unforeseen conditions are investigated prior to the commencement of major construction.

CM/GC is the Preferred Delivery Strategy for Embarcadero West

City staff and City management evaluated five (5) delivery methods with technical consultant support from alternative delivery methods experts and CM/GC was determined to be the most appropriate for the Embarcadero West Rail Safety and Access Improvements project.

DESIGN-BID-BUILD (DBB)	
Opportunities	Risks
<ul style="list-style-type: none"> • Risk allocation is most widely understood. • More complete information for risk assessment. • Opportunity to identify and avoid or mitigate risk through design. 	<ul style="list-style-type: none"> • Change order risk can be greater. • Owner-contractor relationship may be adversarial. • Low-bid build risks and potential quality issues. • Owner assumes most risks before contract is awarded.
Owner Input/Involvement and Control	
<p>Design Stage:</p> <ul style="list-style-type: none"> • Owner contracts with the Designer – owner controls all cost expenditures for the design. • Owner dictates the design schedule. • Owner can provide significant input on the design; complex issues can be resolved; value engineering during design; construction cost control is only achieved by design estimates. • Owner usually provides design review with in-house staff. <p>Construction Stage:</p> <ul style="list-style-type: none"> • Low bid – Owner has limited input for constructability. • Owner has dictated dates for completion. • Owner will need to mediate cost overruns and change orders. • Owner will need to process all RFIs and changes in the design as requested by the Contractor. 	

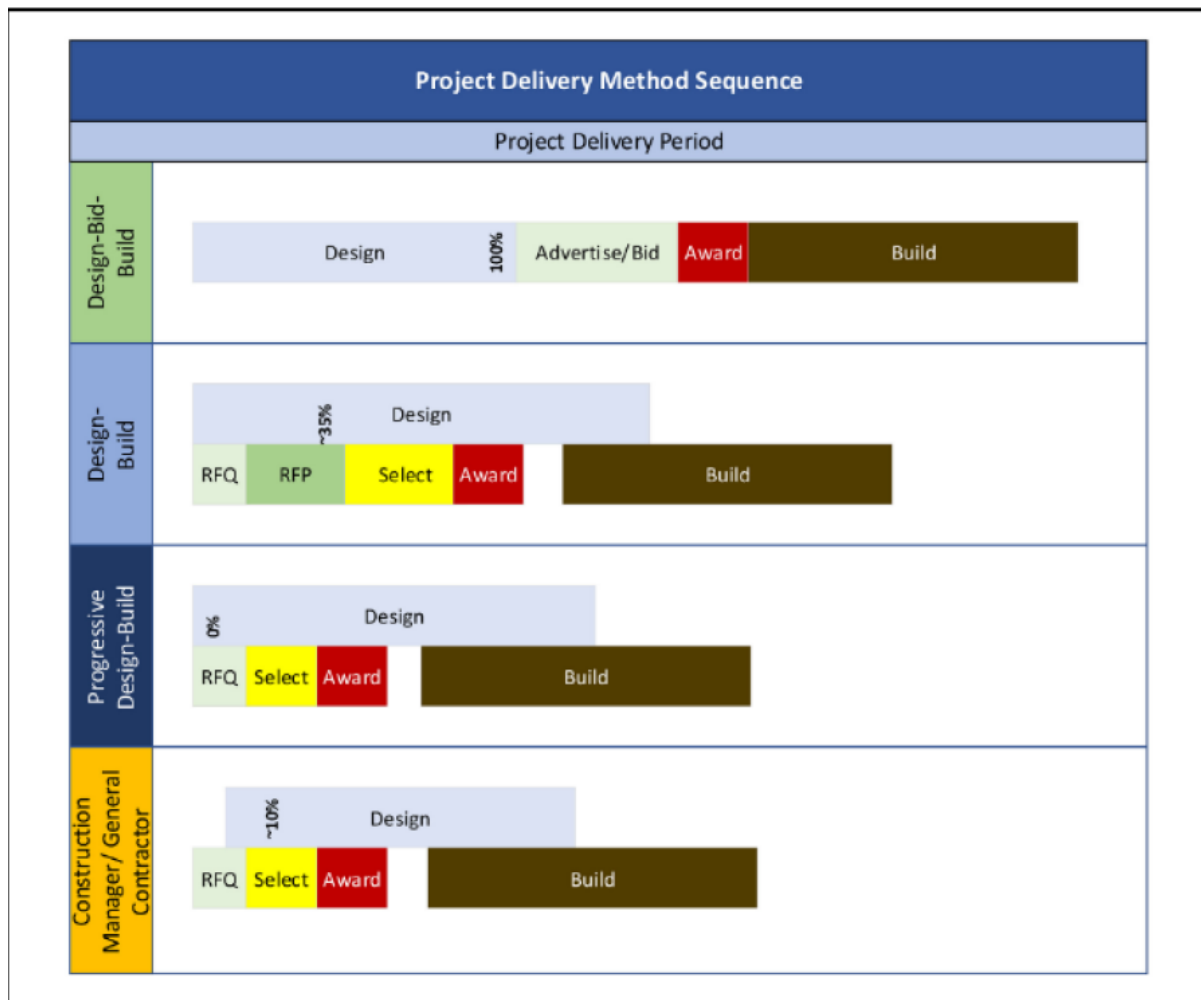
CONSTRUCTION MANAGER / GENERAL CONTRACTOR (CMGC) PROGRESSIVE DESIGN BUILD (PDB)	
Opportunities	Risks
<ul style="list-style-type: none"> • Opportunities to mitigate and/or allocate risks to appropriate party (i.e., collaborative discussions of risk). • Opportunities to manage risks through designer and contractor involvement. • Unknowns are identified and addressed throughout design process. 	<ul style="list-style-type: none"> • Limited to risk capabilities of a specific contractor. • Strong owner management is required to address risks. • Disagreement among designer-contractor-owner.
Owner Input/Involvement and Control	
<p>Design Stage:</p> <ul style="list-style-type: none"> • Owner can provide significant input on the design; complex issues can be resolved; value engineering during design; construction cost control is achieved by contractor estimates. • Owner will review the design for compliance per specifications. • Owner dictates the design schedule. • Design changes by Owner will be on-going thru the design phase; value engineering is collaborative (Owner, Contractor, and Designer). • Owner usually provides design review for specifications compliance with in-house staff or contracted General Engineering Consultant. <p>Construction Stage:</p> <ul style="list-style-type: none"> • Owner has negotiations with the Contractor on cost and schedule; final GMP (guaranteed maximum price) is agreed by all parties. • Owner has negotiated dates for completion. • Owner will still need to mediate all change orders. • Owner will be informed of all RFIs and changes in the design as required by the Contractor. 	
DESIGN BUILD (DB)	
Opportunities	Risks
<ul style="list-style-type: none"> • Opportunities to mitigate and/or allocate risks to appropriate party (e.g., schedule, means and methods, phasing). • Designers and contractors responsible for innovative solutions to, or avoidance of, unknown. • Less management required by agency to solve unknown conditions. 	<ul style="list-style-type: none"> • Limited time to resolve risks. • Additional risks generally allocated to contractor. • Risk allocations due to unknowns may result in increased bid price.
Owner Input/Involvement and Control	
<p>Design Stage:</p> <ul style="list-style-type: none"> • Contractor contracts with the Designer – Owner has only review of design compliance per specifications. • Owner does not dictate the design schedule. • Owner can only provide review on the design; design changes by Owner can result in a change order for the Contractor; value engineering is controlled by the Contractor. • Owner usually provides design review for specifications compliance with in-house staff. <p>Construction Stage:</p> <ul style="list-style-type: none"> • Owner has limited input for constructability. • Owner has dictated dates for completion. • Owner will need mediate all change orders. • Owner will be informed of all RFIs and changes in the design as required by the Contractor. 	

PUBLIC PRIVATE PARTNERSHIPS (P3s)	
Opportunities	Risks
<ul style="list-style-type: none"> • (Same as DB above). • Provide a funding source. • Coordinate with Owner and stakeholders for deferred funding. 	<ul style="list-style-type: none"> • (Same as DB above). • Abnormal funding issues. • Value added tax and low other tax issues. • Affordability. • Difficulties with stakeholder buy-in. • Inadequate central team staff resource.
Owner Input/Involvement and Control	
<p>Design Stage:</p> <ul style="list-style-type: none"> • Contractor contracts with the Designer – Owner has only review of design compliance per specifications. • Owner does not dictate the design schedule. • Owner can only provide review on the design; design changes by Owner can result in a change order for the Contractor; value engineering is controlled by the Contractor. • Owner usually provides design review for specifications compliance with in-house staff. <p>Construction Stage:</p> <ul style="list-style-type: none"> • Owner has limited input for constructability. • Owner has dictated dates for completion. • Owner will need mediate all change orders. • Owner will be informed of all RFIs and changes in the design as required by the Contractor. • Owner will negotiate all terms on the financial/funding for the project. Lawyers and financial institutions will be involved. Owner will need to mediate cost overruns and change orders. 	

The project comprises eight (8) intersections, the overweight corridor, and the roadway segments between intersections – and the contractor will be required to stagger the physical construction to minimize disruption of railroad operations while maintaining local circulation for residents and businesses. Various segments of the project are funded by several grants and each grant has a unique delivery schedule. CM/GC allows the City and the contractor to secure necessary approvals along a concurrent parallel schedule. City Council approvals of one or more construction contract(s) can be processed concurrent with securing approvals from UPRR and CPUC. Once approved, the contractor can immediately commence construction – thus turning a sequential process of soliciting bids only after securing all necessary approvals into a simultaneous process.

As demonstrated in **Figure 1**, the CM/GC delivery method has one of the shortest project delivery schedules, especially compared to the standard Design-Bid-Build delivery method.

Figure 1: Project Delivery Schedules for Various Delivery Methods¹



CM/GC Procurement Process

The Request for Qualifications (RFQs) and/or Request for Proposals (RFP) for the general contractor (GC), Independent Cost Estimator (ICE), and the construction management consultant (CM) will be issued simultaneously. The GC RFQ will be for pre-construction professional services – authorization for construction contracts will occur separately. The procurement of the GC will be a qualifications-based selection process that considers the qualifications of each Proposer as described in the Proposer’s Statement of Qualifications and interviews. The procurement of the ICE and CM is anticipated to be a Request for Proposals (RFP), however, RFQs may also be considered. The City’s Local and Small Local Business Enterprise (L/SLBE) Program will apply to all resulting contracts, unless prohibited by requirements of funding of the project.

¹ Source: Gransberg and Molenaar

The GC pre-construction services are to advise the City and designers with the most buildable, approvable, and highest value improvements. Concurrently, the GC becomes well informed of the detailed physical constraints, permit conditions, and logical construction sequencing.

Throughout the design development process and construction, the ICE provides expert insights and recommendations on cost-related matters by actively reviewing and reconciling cost estimates prepared by the Design Consultant and the GC. This involves comparing the ICE firm's independent cost estimates with estimates prepared by the GC contractor and the City's estimate (prepared by the design consultant and reviewed by City staff). The ICE also contributes to the project's risk management efforts by identifying potential cost risks and uncertainties, providing insights into how project decisions can impact the overall project budget and schedule.

Throughout the design development phase, the CM provides input on construction methods, cost management, and scheduling, helping identify potential design issues and streamline the workflow. In the construction phase, the CM monitors activities to ensure the CM/GC adheres to the contract specifications and quality standards, manages contract changes, and ensures compliance with safety and regulatory requirements.

Throughout the design development phase, the previously procured design consultant will prepare plans and specifications that clearly define distinct and independent elements of the overall construction project – defined as a Construction Work Package Contract. For example, utilities requiring relocation to accommodate the proposed project can commence construction relocation prior to the overall project approvals and permitting. Each Construction Work Package Contract can be approved and constructed independently as a subset of the overall project.

Upon the completion of pre-construction contract plans and specification approvals, and the issuance of necessary permits, the City has the option to execute a Construction Work Package Contract with the GC. The City, GC, and ICE must all agree on the construction costs before bringing a Construction Work Package to City Council for approval. There may be one or more advanced Construction Work Package Contracts negotiated with the GC prior to the final Project approval Construction Work Package Contract. This incremental approval process will better position the City to achieve the grant agreement schedule commitments. If agreement on construction costs cannot be attained or the City is unsatisfied with the CM/GC team's performance, the City always retains the right to pursue formal bidding of the Construction Work Package(s).

As mentioned in the **Background/Legislative History** section, the project is funded by numerous grants with strict and independent timelines. The CM/GC process will allow the City to incrementally deliver portions of the Project as segmentally described in each of the grants. Without CM/GC, the City will be obligated to design and secure approvals for **all** Project improvements in accordance with the shortest grant timeline. Hence, failure to secure approvals associated with one intersection or one project component could jeopardize the entire Project. With CM/GC, if the City is unable to secure approvals associated with one intersection or one project component, the City may still be able to deliver other portions/subsets of the Project that are easier to secure approvals and permits.

FISCAL IMPACT

There is no fiscal impact associated with the attached ordinance or resolution. The overarching project has had \$259.5 million in California State Transportation Agency (“CalSTA”) grant funds accepted and appropriated by City Council, which includes the Embarcadero West Rail Safety and Access Improvements. The Construction Management / General Contractor delivery method will require selection of firms that will cost approximately \$250,000 for construction management services, \$400,000 for independent cost estimating services, and \$1,100,000 for general contractor services as part of the overall project. These contracts will be funded through the previously accepted and appropriated grant funds and staff will return to City Council for approval.

PUBLIC OUTREACH / INTEREST

The project will vastly improve the safety and reliability of passenger and freight rail route along approximately one mile of the Embarcadero West Corridor. Embarcadero West is an Oakland city street where freight trains, passenger trains, motor vehicles, buses, bicyclists, and pedestrians all share the road with no consistent physical separation in a vibrant urban mixed-use neighborhood and historic waterfront district immediately adjacent to the Port of Oakland. Due to existing conditions, this rail segment accounts for more than its expected proportion of delays. The Capitol Corridor incurs an average of 612 minutes of delay along the Embarcadero West section annually. While under one mile in length, the project corridor accounts for 25% of all vehicle incidents along Amtrak’s 160-mile stretch from San Jose to Auburn, creating one of the largest bottlenecks for both passenger and freight rail in a county with the fourth highest railroad trespasser casualties in the entire nation.

The Project designs include:

- Reconstruct eight at-grade crossings on Embarcadero West between Market and Oak Streets to upgrade and relocate gate arms immediately adjacent to the rail corridor;
- Install fencing to provide physical separation between trains and all other road users;
- Simplify and reduce public vehicle access along Embarcadero West to mitigate vehicle-train conflicts and incidents of vehicles on the tracks;
- Install selected new traffic signals along 2nd Street with preemption;
- Add street lighting to improve safety for all modes;
- Install pedestrian and bicycle features to improve multimodal safety and accessibility; and
- Re-grade the street to improve line-of-sight distances and accommodate people with disabilities to meet Americans with Disabilities Act (ADA) requirements.
- Collectively, these improvements will significantly reduce travel times for freight and passenger rail and provide critical safety improvements for all road users across a Historically Disadvantaged community.

For nearly 12 months, staff and the consultant team have been engaged with the community and specifically with residents and business owners within the Jack London District. The engagement activities have resulted in several one-on-one meetings to facilitate the conveyance of preliminary designs, anticipated schedules, and other design development

activities. The City and Port also hosted a well-attended community design workshop on July 17, 2024, where participants interacted with Staff and members of the City's design development team. The City team received verbal and written comments from the attendees and this input is being tabulated to inform the design development team.

Staff have engaged the consultant and contractor community in this project and continue to do so through numerous Doing Business with Oakland events. Forthcoming events are planned to specifically engage the contractor community in the Embarcadero West CM/GC opportunity.

COORDINATION

The Office of the City Attorney, the Budget Bureau, Department of Workplace and Employment Standards, Department of Race and Equity, and Oakland Public Works have reviewed this report, resolution, and ordinance.

SUSTAINABLE OPPORTUNITIES

Economic: The resolutions identified herein will provide the City with the advantages of an alternative delivery process that better positions the City to adhere with the grant funding deadlines. These major public infrastructure improvements will attract highly skilled workers to downtown Oakland and provide opportunities for local citizens to learn by doing projects in their hometown. The Project will improve transportation conditions and make the roadways in and around the City and the Port operate more efficiently – resulting in economic efficiencies for local businesses.

Environmental: The Project will improve air quality by reducing idling trains and vehicles that are impacted by frequent accidents along the Embarcadero West corridor.

Race & Equity: The Project extends touch and serve two Alameda County census tracts in the Jack London Square and Chinatown neighborhoods, home to 6,053 Oaklanders (ACS, 2020). The two Project census tracts are 4033 and 9832. Census tract 9832 displays resilience and environmental disadvantages, while census tract 4033 is a Historically Disadvantaged community, facing health, economic, equity, resilience, and environmental disadvantages ([Justice40 Census Tracts](#)). The Project is a significant part of a larger suite of Major Projects in the area planned to increase connectivity between high priority equity communities, Downtown Oakland, and the waterfront, improve access to transit, enhance active transportation options, and support Port operations in neighborhoods split by transportation barriers such as the rail line and elevated freeways. In addition, unless prohibited by any of the funding streams, the project will follow all applicable City contracting requirements that aim to provide the City's residents and businesses with equitable access to the economic opportunities created by its contracts. The City's contracting policies aim to use the power of the public purse to stimulate economic development through the support and empowerment of the local community, especially those that have been placed at a disadvantage in the past.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Council's initial action to approve the Project that is the subject of this administrative action to deliver the project was exempt from CEQA on the basis of the following exemptions: Public Resources Code Section 21080.25(b)(1) (Pedestrian and bicycle facilities, including new facilities); Public Resources Code Section 21080.20 (bicycle, pedestrian, and transit facilities); CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan or Zoning); CEQA Guidelines Section 15301(c) (Existing Facilities, Highways and Streets); CEQA Guidelines Section 15302 (Replacement or Reconstruction); CEQA Guidelines Section 15303 (Small Structures), CEQA Guidelines Section 15304(h) (minor alterations to land); and/or CEQA Guidelines Section 15061(b)(3) (No Significant Effect on the Environment).

In addition, the already approved Project was analyzed in previous environmental review documents under CEQA including: the West Oakland Specific Plan Environmental Impact Report ("EIR") (2014); the Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Master Bicycle Plan EIR (2007) and the updated Let's Bike Oakland Bicycle Plan Addendum (2019); and the Oakland Waterfront Ballpark District at Howard Terminal EIR (2022). Under Public Resources Code section 21166 and CEQA Guidelines Sections 15162, 15163 and 15164, no new significant information or possibility for impacts exist that were not already studied by the aforementioned documents.

As a result of the above exemptions, the City filed a Notice of Exemption with Alameda County and the Office of Planning and Research's State Clearing House on April 22, 2024.

Here, this follow-up action to implement the already approved Project, which involves an administrative action to deliver the project, is not a "project" as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21065 and CEQA Guidelines Sections 15378(b)(4) and (5) and 15060(c)(3), as it involves government fiscal decisions and activities, which simply develop administrative methods for implementing the Project. As such, organizational or administrative activities of the City to implement the Project will not result in direct or indirect physical changes to the environment beyond what was already studied.

Each of the aforementioned reasons provides a separate and independent basis for CEQA compliance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt The Following Pieces Of Legislation:

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For questions regarding this report, please contact Nicole Ferrara, Major Projects Division
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Respectfully submitted,


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