

APPROVED AS TO FORM AND LEGALITY  
**DRAFT**

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CITY ATTORNEY'S OFFICE

## **OAKLAND CITY COUNCIL**

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

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO PURSUE CONSTRUCTION MANAGER/GENERAL CONTRACTOR PROJECT DELIVERY FOR THE EMBARCADERO WEST RAIL SAFETY AND ACCESS IMPROVEMENTS**

**WHEREAS**, the Embarcadero West corridor from Oak Street to the intersection of Adeline Street and Middle Harbor Road accommodates approximately 65 freight and passenger trains daily, motor vehicles, bicyclists, and pedestrians with no physical separation between rail and other modes along the majority of the corridor; and

**WHEREAS**, the Embarcadero West Rail Safety and Access Improvements (the "Project") will significantly improve multi-modal safety and accessibility along the corridor and to surrounding neighborhoods and businesses, reduce travel times for freight and passenger rail, reconstruct an overweight truck route connection between Adeline/Middle Harbor Road and Embarcadero West and Market Street to divert heavy truck traffic and related emissions away from residential areas, and conduct a feasibility study for future grade separations; and

**WHEREAS**, the Project is the largest infrastructure project in the City of Oakland Department of Transportation's history, and it includes at-grade improvements along the corridor between Oak Street and Market Street that will install fencing adjacent to the railroad tracks, a multi-use trail in what is presently the eastbound vehicle direction, local-only vehicle access in the westbound direction, American with Disability Act accessible infrastructure, gate arms and enhancements at the rail crossings, and lighting, landscaping, and urban design elements throughout the corridor, a feasibility study of grade separation, and optional tasks to develop the designs required to implement the structural overcrossing(s) if desired by the City and subject to funding availability and appropriation; and

**WHEREAS**, on December 6, 2022, City Council authorized the City Administrator to accept and appropriate grant funds for the Project through Resolution Numbers 89518 C.M.S. and 89519 C.M.S.; and

**WHEREAS**, the City Council accepted and appropriated up to two hundred and fifty nine million five hundred thousand dollars (\$259,500,000) in California State Transportation Agency ("CalSTA") grant funds, which includes the Embarcadero West Rail Safety and Access Improvements, and the work will be funded by Grant Fund(s) to be determined, and project number(s) to be determined, with the optional tasks contingent on funds available; and

**WHEREAS**, the City must complete construction by December 31, 2029 to meet grant funding deadlines; and

**WHEREAS**, on December 19, 2023, City Council authorized a design contract for the Project with Parsons Transportation Group, Inc. through Resolution Number 90052, C.M.S.; and

**WHEREAS**, the City Council is considering a companion ordinance to establish procedures for Construction Manager/General Contractor project delivery for complex projects; and

**WHEREAS**, the Construction Manager/General Contractor capital project delivery method offers a number of benefits to deliver large, complex infrastructure projects such as the Embarcadero West Rail Safety and Access Improvements, including faster delivery, lower costs, the identification and resolution of construction challenges during the design phase, and fewer construction claims; and

**WHEREAS**, under the Construction Manager/General Contractor project delivery method three separate scopes of services and budgets will be developed to bring consultants/contractors onto the project team early in the design process through a requests for qualifications and/or proposals; first, a general contractor firm to provide professional services including, but not limited to, informing the constructability and sequencing of a project and developing strategies to segment the project in a manner that minimizes community impacts and meets required delivery deadlines; second, an independent cost estimator to independently prepare cost estimates and negotiate any cost differences between the designer's engineer estimate and the general contractor's estimate; and third, a construction management team to perform construction management activities during the design phase and manage the construction process on behalf of the City of Oakland.

**WHEREAS**, at the 95% design milestone the general contractor, the City, and an independent cost estimator must agree on the construction costs. Upon agreement, staff brings a construction contract to City Council for approval and construction activities can begin in an abbreviated timeline. The City always retains the right to formally bid the construction contract if the City and the general contractor cannot agree on the project construction cost(s); and

**WHEREAS**, 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; and

**WHEREAS**, the City has determined that the actions described in this resolution have both been adequately studied under the California Environmental Quality Act ("CEQA") in previous environmental documents and at public hearings, and are also exempt from CEQA for the reasons set forth in this Resolution; and

**RESOLVED:** That staff are directed to pursue Construction Manager/General Contractor project delivery for the Embarcadero West Rail Safety and Access Improvements; and be it

**FURTHER RESOLVED:** That staff would issue three competitive requests for qualifications and/or proposals for General Contractor services, an Independent Cost Estimator, and Construction Management services, all of which would be reviewed and approved by City Council; and be it

**FURTHER RESOLVED:** That Council’s initial action to approve the Project that is the subject of this contracting and administrative action 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 Clearinghouse on April 22, 2024.

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 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.

**FURTHER RESOLVED:** That the said services will not result in the loss of employment or salary by any person having permanent status in the competitive services; and be it

**FURTHER RESOLVED:** That, if applicable, contractors will comply with all provisions of the City's Local and Small Local Business Enterprise (L/SLBE) Program.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, and  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California