



# AGENDA REPORT

**TO:** Steve Falk  
City Administrator

**FROM:** Fred Kelley  
Director, Oakland  
Department of  
Transportation

**SUBJECT:** Broadway and MLK, Jr. Way  
Streetscape Projects Professional  
Services

**DATE:** May 9, 2023

City Administrator Approval

Date: May 12, 2023

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution To Authorize The City Administrator To:**

- 1. Award A Contract To Parsons Transportation Group, Inc. Utilizing A Cooperative Agreement In The Amount Not To Exceed Five Million Five Hundred Thousand Dollars (\$5,500,000) To Design The Broadway Streetscape Project Per The Federal Rebuilding American Infrastructure With Sustainability and Equity Grant; And,**
- 2. Award A Contract To Wood Rodgers Inc. Utilizing A Cooperative Agreement In The Amount Not To Exceed Six Million Seven Hundred And Seventy Five Thousand Dollars (\$6,775,000) To Design The Martin Luther King, Jr. Way Streetscape Improvements Per the Federal Rebuilding American Infrastructure with Sustainability and Equity Grant And To Provide Baseline Design and Project Management Tasks Associated With California State Transportation Agency Funding; And,**
- 3. Adopt Appropriate California Environmental Quality Act Findings.**

## EXECUTIVE SUMMARY

The Broadway and Martin Luther King (MLK) Jr. Way Streetscape Projects are transformative projects that will improve regional transit access, bicycle and pedestrian safety, and connections from high priority equity communities in West Oakland, Chinatown, and Downtown, to the Jack London Square Waterfront Area. The projects are on the City of Oakland (City) Capital Improvement Program with high-ranking scores of 87 (Broadway) and 82.25 (MLK Jr. Way) and will help reconnect West Oakland, Chinatown, and Downtown Oakland to the Jack London Square waterfront area, the Amtrak station with access to regional, inter-regional, and long-distance passenger rail connections, and the ferry terminal with access to San Francisco and Alameda. The improvement projects are part of a broader effort to sustainably accommodate

the City and Port's planned growth to minimize impacts and support each agencies' shared goals.

Approval of the proposed resolution will authorize the City Administrator to enter into two professional services agreements. The first professional services agreement is with Parsons Transportation Group, Inc. (Parsons) to provide engineering services for the Broadway Streetscape Project including the development of design plans and engineering support during construction for an amount not-to-exceed five million and five hundred thousand dollars (\$5,500,000) to design pedestrian, public transit improvements, and to expand OakWiFi. The second professional services agreement is with Wood Rodgers, Inc. (Wood Rodgers) to provide engineering services for the Martin Luther King, Jr. Way Streetscape Improvements and to conduct baseline engineering and technical project management tasks associated with California State Transportation Agency (CalSTA) funding for an amount not to exceed six million seven hundred and seventy-five thousand dollars (\$6,775,000).

Together, these longstanding projects will provide safe, accessible, and sustainable connections from Downtown Oakland to the Jack London Square waterfront area to improve transit connections and reconnect communities divided by the Interstate-880 freeway.

### **BACKGROUND / LEGISLATIVE HISTORY**

On February 15, 2022, City Council adopted Resolution No. 89039 C.M.S., authorizing City staff to accept and appropriate \$14.5 million in Rebuilding America through Sustainability and Equity (RAISE) grant funds and identifying Measure BB funds as a local match, pending Alameda County Transportation Commission (ACTC) approval. On December 6, 2022, City Council adopted Resolution No. 89518 C.M.S., authorizing the City Administrator to accept and appropriate \$10.2 million in Measure BB funds for the Broadway Streetscape Project. To meet RAISE grant deadlines designs for the Broadway and MLK, Jr. Way. Streetscape Projects must be completed by March 31, 2024.

On December 6, 2022, City Council adopted Resolution No. 89519 C.M.S., to accept and appropriate \$259.5 million in (CalSTA) funds for improvements that facilitate enhanced freight and passenger access in and around the seaport and waterfront and to promote the efficient and safe movement of goods and people. The funds are available for encumbrance until June 30, 2024, and available for spending until June 30, 2027.

The professional services agreements contained herein provide design services to meet these grant deadlines.

### **ANALYSIS AND POLICY ALTERNATIVES**

This project helps advance Citywide priorities including **holistic community safety and vibrant, sustainable infrastructure** by designing two large capital projects that improve pedestrian and bicycle safety, reconnect communities divided by the Interstate-880 freeway, and improve transit reliability and connectivity. These projects reducing reliance on personal

automobiles and encourage more sustainable modes of transportation by ensuring they are safe and reliable for people of all ages and abilities. The proposed resolutions will help the City meet grant deadlines and deliver longstanding projects that have been promised to the community, thereby maintaining our trust with the community in alignment with the Citywide priority of a **responsive, trustworthy government.**

Project design work needs to begin immediately to meet the deadlines included in the award of the Federal RAISE grant and CalSTA funding which the City Council previously accepted. The RAISE grant requires final designs by March 31, 2024, and CalSTA funding must be encumbered by June 30, 2024. Typical timelines for design exceed the time remaining for the grants, thus staff have identified the most promising way to meet deadlines while encouraging firms to meet Oakland's contracting goals.

While the City has been investigating a RAISE grant extension, deadlines are established by federal statute and would require congressional action and the signature of the President of the United States to be extended; this is highly unlikely given the divided nature of the United States Congress and the current debate over federal spending.

The Oakland Department of Transportation (OakDOT) staff have been working diligently with Oakland Public Works' (OPW) Capital Contracts Division to identify a contracting approach since summer 2022. Staff were informed by the funder that the design effort must be federalized, and thus pursued that contracting path for a number of months, however, ultimately that direction was withdrawn since the federal funds are only for construction, and issuing a federal contract would be in violation of State law. Staff considered using the City's Civil Engineering on-call list, but the design contract was known to exceed the maximum capacity of the on-call, and the City could be in a situation where it would have to change consultants midway through the process, which would be extremely disruptive and could result in legal challenges. Finally, the City considered issuing formal Requests for Proposals for the projects, however, this process takes 9-12 months rendering the design process too short to meet grant deadlines.

These delays were further impacted by staffing shortages at OakDOT and OPW's Capital Contracts Division. The new OakDOT Major Projects Division developing these projects hired its first engineer in December 2023 and has six vacancies - only one of seven engineers is on staff today. In addition, winter storms and the ransomware attack caused further diversions of capacity and staff. Protracted negotiations on both the RAISE grant agreement and the CalSTA funding agreement also caused delays. A more deliberate approach was desired upon the submission of the RAISE grant application, but the above stated issues intervened and while other approaches were considered, the use of the cooperative agreement was deemed most consistent with the City's policies and procedures, and is ideal for this situation in which time is of the essence and millions of dollars in grant money are at risk.

Given the delays encountered to date, an alternative consultant selection process was required to meet the grant obligation deadline and to deliver these much-needed projects. Using a cooperative agreement approach, allowed under Oakland Municipal Code (OMC) Section 2.04.080, gave the City the advantage of speed, while still ensuring that the firms were selected in an open and competitive process for aligned scopes of work by a comparable agency. Staff

contacted partner agencies for RFPs and contracts awarded for similar in scope projects. Contracts that met the criteria and included firms with capacity to meet the grant deadlines were with AC Transit (Parsons) and Contra Costa County (Wood Rodgers).

Staff at OakDOT worked closely with OPW Capital Contracts Division, the Office of the City Attorney, and the Department of Workplace and Employment Standards to ensure compliance with all City policies and procedures and for their review of contract scope and language. Both selected firms submitted for review their scopes of work and capacity to complete the work on the accelerated schedule in a satisfactory manner.

No waivers are requested or required as both Parsons and Wood Rodgers were awarded competitive contracts for these services through other public agencies, and the City Administrator is authorized to award a cooperative agreement as allowed under OMC 2.04.080. While the City's Local and Small Local Business Enterprise (L/SLBE) program does not apply to cooperative agreements, both firms, under the direction of the Department of Workplace and Employment Standards, agree to utilize Oakland-certified small and local business enterprise firms and be subject to a penalty of one and one half times the amount that should have been awarded to small and local businesses if participation is not achieved.

Not moving forward at this time would almost certainly mean returning the \$14.5 million RAISE grant and not completing the vitally needed streetscape improvements to two critical roadways in Oakland. Both Broadway and MLK, Jr. Way need streetscape improvements to allow them to function in today's multi-modal world and to accommodate all types of abilities. The RAISE grant must be used on time and for the awarded purposes or it must be returned and absorbed by the United States Department of Transportation (USDOT).

The work must be completed by 2029, which can be accomplished with the award of these contracts, but the critical, looming and challenging deadline of March 2024 is less than a year away; failure to meet that deadline means the return of the \$14.5 million to USDOT. This grant contains a rarely used deadline by statute, thereby removing a more typical and easier to obtain administrative extension. Given the improbability and uncertainty of an extension, an act of Congress and the signature of the President of the United States, relying on obtaining an extension is extremely risky, but not simultaneously pursuing an extension while initiating design work would be professionally irresponsible; doing both simultaneously is the most prudent course of action and consistent with the staff recommendation on this item. The chances of getting an extension are significantly enhanced if the City can demonstrate material progress on the projects.

### **FISCAL IMPACT**

The design contracts are fully funded through previously accepted and appropriated grants. If the City does not enter into the proposed design contracts, the City would most likely have to return the \$14.5 million federal RAISE grant, jeopardizing the City's ability to deliver the projects and win future discretionary federal funding across all departments and disciplines. Similarly, with the CalSTA deadline, urgent action must be taken to meet design deliverables and maintain the significant \$259.5 million funding.

## **PUBLIC OUTREACH / INTEREST**

The City worked with the consulting team to reach out to qualified local and small local business enterprises that conduct work listed in the scope of work in order to improve diversity of teams and access for local and small local business enterprises to new partnership opportunities. As a result of the engagement completed, both Parsons and Wood Rodgers have included new Oakland small local business enterprises that they have not worked with before.

In addition to public engagement regarding the contracts, there has also been years of extensive engagement on the development of the Broadway and MLK Jr. Way Streetscape Projects. Furthermore, the proposed professional services agreements would fund continued engagement regarding project design elements.

## **COORDINATION**

The City of Oakland Department of Transportation coordinated closely with Department of Workplace and Employment Standards, OPW's Capital Contracts Division, the Office of the City Attorney, and the City Administrator's Office to develop this contracting approach and ensure that it would be as inclusive as possible.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** The services provided by the proposed professional services agreements, including local and small local business enterprises will result in dollars being spent locally.

**Environmental:** The projects included herein will help advance the City's Equitable Climate Action Plan by improving active transportation safety and access, and public transit reliability, which reduce reliance on personal vehicles and associated greenhouse gas emissions.

**Race & Equity:** The contracts will assist the City in designing and delivering much needed safety, accessibility, and transit reliability projects that would connect high priority neighborhoods in West Oakland, Chinatown and Downtown to the Jack London Square waterfront area. In addition, the firms have engaged diverse Oakland-certified contractors to partner on these contracts.

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

Activities proposed by this action – design services - are not “projects” as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21065 and CEQA Guidelines Section 15378(b)(4) and (5), as they involve government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant

impact on the environment, and it is also an organizational or administrative activity of government that will not result in direct or indirect physical changes to the environment. Thus, the activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3).

Prior to undertaking the activities for which the State funding and other grants are being utilized, the City, as lead agency, must perform, complete, and certify the adequacy of the environmental review in accordance with CEQA. The City, as lead agency under CEQA, prepared and certified an environmental impact report for the proposed Oakland Waterfront Ballpark District Project that covers future actions the City anticipates for the improvements to be funded by the CalSTA funding and RAISE grant described in this report. Furthermore, some of these future actions may be exempt from environmental review under CEQA and/or the National Environmental Protection Act (NEPA). The City will conform to state and federal statutes, regulations, and procedures, as required by CEQA and/or NEPA.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution To Authorize The City Administrator To:

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3. Adopt Appropriate California Environmental Quality Act Findings.

For questions regarding this report, please contact Nicole Ferrara, Major Projects Division Manager, at 510-238-4720.

Respectfully submitted,



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