

# CITY OF OAKLAND

## AGENDA REPORT

2007 JAN 23 10:16:48

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Community & Economic Development Agency  
DATE: January 23, 2007

RE: **A Supplemental Report on: An Ordinance Amending The Oakland Municipal Code Title 10, Adding Chapter 70, Establishing A Traffic Impact Program (TIP) Pursuant To California Government Code Sections 66000 Through 66025 (Mitigation Fee Act) For The Southeast Portion Of The City Of Oakland, Including Procedural Requirements For The Adoption, Imposition, And Adjustment Of Traffic Impact Fees (TIF); and**  
**A Resolution Establishing A Traffic Impact Fee (TIF) Pursuant To Adoption And Implementation Of The Traffic Impact Program (TIP) For the Southeastern Section of the City Of Oakland, Including The Adoption And Imposition Of Traffic Impact Fees (TIF) And Designated Projects For FY 2007-09**

---

### SUMMARY

The Community and Economic Development (CED) Committee of December 12, 2006 received a report, along with legislation, for the creation of a Traffic Impact Program (TIP) and the imposition of Traffic Impact Fee (TIF) for FY 2007-09. At the December 12<sup>th</sup> meeting, CED Committee members requested staff to analyze three specific issues related to the TIP and TIF, and to return to the Committee. The three issues are: (1) exemption of "remodeling" work to existing structures, (2) exemption of small residential development projects, and (3) the addition of the Interstate Highway 580/Golf Link Road interchange to the TIF project list. This staff report provides an analysis of each question and options for consideration by the City Council.

As a brief background, the Southeast Oakland TIP/TIF is an outgrowth of the Leona Quarry residential development. Nine intersection improvements were identified as requiring traffic improvements in the future. Only a portion of the traffic improvements could be attributed to the Leona Quarry project. The other impacts were attributed to anticipated traffic growth in the surrounding area. In order to adequately fund these improvements and capture fees from future development projects, the Council authorized the initiation of the TIP/TIF program in the Leona Quarry Settlement Agreement executed in December 2003 (Resolution No. 78359 C.M.S.).

### FISCAL IMPACT

The adoption and implementation of the Traffic Impact Program and Traffic Impact Fee, as proposed in the December 12, 2006 report, would generate new revenues of \$4,859,700 for FY 2007-09. The fiscal impacts of the three issues discussed in this report are:

Item: \_\_\_\_\_  
CED Committee  
January 23, 2007

(1) Exemption of “remodeling” work to existing structures: The amount of “remodeling” work included in the models used to generate the TIP/TIF are very small; therefore, the exemption of “remodeling” work will have negligible impact on revenues associated with the Southeast Oakland TIF. If the Council wants to remove this trigger, it can do so without affecting the funds efficacy.

(2) Exemption of small residential development projects: This exemption will reduce the revenues generated by this program by approximately \$600,000 for FY 2007-09 alone. Based on the guidelines and requirement of the Mitigation Act, the burden of making up the lost revenue can not be shifted to other types of development projects, e.g., larger projects, if there is not a reasonable relationship between the amount of the fee and the portion of the cost attributable to such projects. Therefore, should the Council choose to exempt small development projects, the Council would have to supplement the City’s funding for the projects identified for FY 2007-09 (through the Capital Improvement Budget) by \$600,000. Alternatively, the Council may be able to choose to raise the fee of each Peak Hour Trip unit cost. This action would require staff to analyze the nexus study to determine this amount and to insure that a reasonable relationship is present between the amount of the fee and the cost of the portion of the public facility attributable to the development on which the fee is imposed.

(3) Addition of the Interstate Highway 580/Golf Link Road interchange to the TIF project list: The exact impact of adding this interchange to the TIF project list is unknown. The list of projects identified for the FY 2007-09 TIF were produced by the environmental impact analysis completed for the Leona Quarry project. The I-580/Golf Link Road interchange was not identified as an impacted interchange at the conclusion of the final EIR for the Leona Quarry project. Staff believes that this interchange will be impacted by the range of proposed development activities at the Oak Knoll project site, and there may be a very high likelihood that it will be listed as a specific project in the final EIR for the Oak Knoll project, when completed. Staff will add a requirement for the Oak Knoll project to participate in the Southeast Oakland TIP/TIF. This action would result in the list of projects to be funded by this program in the near future to probably include the I-580/Golf Link Road interchange.

## **BACKGROUND**

Pursuant to the Mitigation Fee Act, California Government Code Section 66000, *et seq.* (also known as AB 1600), a local agency is authorized to charge a fee to development applicants in connection with approval of a development project for the purpose of defraying all or a portion of the costs of public facilities related to the development project. The current proposed TIP will fund capital improvements, through a fee program, to mitigate the traffic impacts of new development. The purpose of the proposed fee for Oakland is to maintain an adequate level of

service standards on our streets and public thru-ways. The fee is not imposed to improve or correct deficiencies in baseline service levels, or to mitigate the impacts of regional (through) traffic. The TIF and TIP will constitute a funding mechanism for traffic improvements required to mitigate cumulative traffic impacts in the Southeast Oakland area, as documented in the Leona Quarry Environmental Impact Report. Development of a TIF and TIP is required as part of the Conditions of Approval (Condition #26) for the Leona Quarry project, and is also addressed in the Leona Quarry Settlement Agreement executed in December 2003 (Resolution No. 78359 C.M.S.) approving the application of the DeSilva Group to close the Leona Quarry, and reclaim it and redevelop the site for 477 residential units at 7100 Mountain Boulevard in compliance with Alameda Superior Court order (Action No. RG-03077607).

### **CED COMMITTEE QUESTIONS**

(1) Exemption of “remodeling” work to existing structures: The ordinance proposed for the establishment of the Southeast Oakland TIP defines “remodeling” as *“any proposed improvement or reconstruction of an existing structure (or a previously existing structure) on a parcel which: (a) requires a building permit or other permit or City approval (such as a conditional use permit or a Zoning Administrator Permit), and (b) results in an increase in the number of peak hour trips generated from the last legal use of the existing structure.”*

Furthermore, the same ordinance is proposing to define a “change of use” as *“any proposed use that results in an increase in the number of peak hour trips generated by the replacement land use.”* These parameters restrain the City from imposing any TIP fees on remodeling work that simply provides for additional bedrooms or other small modification to an existing structure.

For example, if someone wanted to expand their home from 2-bedrooms to 4-bedrooms, but the structure remained a single-family home (e.g., it still only had one kitchen), then it would not be considered a “change in use” because it would not increase the number of peak hour trips and thus would not be subject to a fee. It is really only when someone wants to convert their single-family home into a building that houses multiple families that the use would change and a fee would be triggered. Peak Hour Trips generation rates are measured in terms of dwelling units, not in terms of bedrooms. While one might assume that a 4-bedroom house would generate more traffic than a 2-bedroom house, traffic engineers do not typically make that distinction. In fact, in some neighborhoods that distinction does not hold true. Smaller, more modest homes might be owned by lower-income families that actually have larger household sizes (because they include many extended family members) than larger homes in more affluent neighborhoods. A single-family house is considered to, on average, generate one peak hour trip, regardless of the number of bedrooms in the house. Therefore, staff believes that the proposed ordinance achieves the intended goal of the Committee (exemption of small changes to existing structures), while capturing actual change of usage for an existing structure.

(2) Exemption of small residential development projects (defined as four or less units): Based on the land use projections used in the Southeast Oakland TIF/TIP nexus study, it is expected that there will be about 1,430 new residential units developed in the Southeast Oakland area over the next 20 years. Most of these new units (approximately 1,040 units, or 73%) were projected to occur in two large development areas, Leona Quarry and Oak Knoll. An additional 170 units (12%) were identified in the traffic analysis zone (TAZ) that encompasses the area west of I-580 and south of Stearns Avenue. The remaining 220 new residential units (which represent about 15% of the total growth) are expected to be scattered throughout the Southeast Oakland area. From the land use data available, it is not possible to determine precisely where these 220 new units would be located or in what form they would be developed (for instance, whether they would be built as small subdivisions by developers, or whether they would be stand-alone homes built by individual property-owners). If we assume that all of these 220 units would be built individually or in very small-scale development, and thus might receive a waiver from the Southeast Oakland TIF, then the fiscal effects on the fee program would be a loss in revenue if of approximately \$600,000.

Based on the guidelines and requirement of the Mitigation Act, the burden of making up the lost revenue can not be shifted to other types of development projects, e.g., larger projects, if there is not a reasonable relationship between the amount of the fee and the portion of the cost attributable to such projects. Therefore, should the Council choose to exempt small development projects, the Council would have to supplement the City's portion of identified fiscal resources for the projects identified in FY 2007-09 by augmenting the Capital Improvement Budget by \$600,000. Alternatively, the Council may be able to choose to raise the fee of each Peak Hour Trip unit cost. This action would require staff to analyze the nexus study to determine this amount and to insure that a reasonable relationship is present between the amount of the fee and the cost of the portion of the public facility attributable to the development on which the fee is imposed.

(3) Addition of the Interstate Highway 580/Golf Link Road interchange to the TIF project list: The list of projects identified for the FY 2007-09 TIF were produced by the environmental impact analysis completed for the Leona Quarry project. The I-580/Golf Link Road interchange was not identified as an impacted interchange at the conclusion of the final EIR for the Leona Quarry project. Staff believes that this interchange will be impacted by the range of proposed development activities at the Oak Knoll project site, and there may be a very high likelihood that it will be listed as a specific project in the final EIR for the Oak Knoll project, when completed. Staff will add a requirement for the Oak Knoll project to participate in the Southeast Oakland TIP/TIF. This action would result in the list of projects to be funded by this program in the near future to probably include the I-580/Golf Link Road interchange.

## **SUSTAINABLE OPPORTUNITIES**

Economic: The TIP/TIF will allow the City to generate additional revenues, along with an efficient cost allocation, for providing traffic and transportation related facilities based on the degree of impact from new development related projects.

Environmental: Improved traffic flow will reduce the amount of carbon monoxide and particulate matter in the air.

Social Equity: The TIP/TIF will allow for an equitable and proportional program to fund traffic and transportation related facilities serving all populations in Oakland.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

The TIP/TIF will generate resources for the City to better manage and mitigate the impact of development projects on the City's traffic and transportation infrastructure. These resources will enhance the ability of service providers to offer transportation services to disabled and/or senior citizens.

## **RECOMMENDATION(S) AND RATIONALE**

The pace and intensity of development projects in urban areas negatively impact the quality of traffic and transportation infrastructure facilities. Many jurisdictions in the Bay Area collect a traffic impact fee; however, the City of Oakland does not. The proposed TIP/TIF allows for a fair and efficient system of imposing and collecting fees that will provide the city with additional resources to defray all or a portion of the costs of traffic and transportation facilities in order to maintain adequate level of service standards on our streets in the Southeastern portion of the City. Finally, the adoption and implementation of the TIP and TIF is a required part of the conditions of approval adopted for the Leona Quarry project, as approved by the City Council, along with the settlement agreement executed for said project.

The analysis required for establishing an impact fee (pursuant to the Mitigations Fee Act) has resulted in a traffic impact fee that, given the overall budget for development projects, constitutes a very small portion of development costs. However, the collection and pooling of these revenues, based on the actual impacts of a given development projects, allows the City to provide additional traffic and transportation infrastructures to meet the increased demand and population densities as the result of additional development project. Staff believes that the proposed TIP/TIF exempts small changes to existing structures and that the I-580/Golf Link Road interchange will be included in the next set of projects identified by the Oak Knoll EIR. The exemption of small development projects is a policy decision for the Council. However,

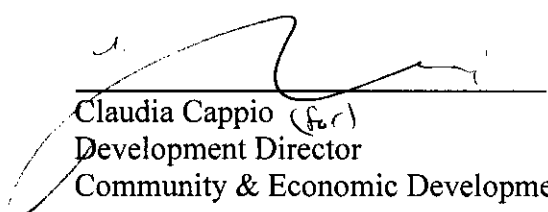
Item: \_\_\_\_\_  
CED Committee  
January 23, 2007

staff believes that the per unit TIF costs are so small in relation to the overall budget for small development projects that this exemption would burden the Capital Improvement Budget and limit the City's ability to fully fund and complete the identified list of projects in the time frame required by the Mitigation Fee Act.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff requests that the Council (a) approve and adopt the ordinance establishing the Traffic Impact Program and (b) approve the resolution establishing the current Traffic Impact Fees and projects for FY 2007-09, proposed on December 12, 2006.

Respectfully submitted,



Claudia Cappio (for)  
Development Director  
Community & Economic Development Agency

Prepared by:  
Maziar Movassaghi  
Community & Economic Development Agency

APPROVED AND FORWARDED TO THE  
CED COMMITTEE:



Office of the City Administrator

Item: \_\_\_\_\_  
CED Committee  
January 23, 2007