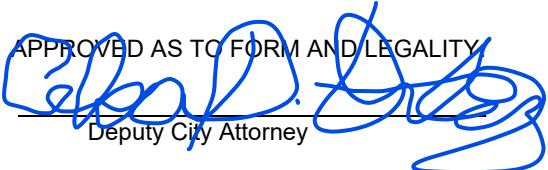


APPROVED AS TO FORM AND LEGALITY  
  
Deputy City Attorney

# OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**RESOLUTION:**

**(1) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A PUBLIC IMPROVEMENTS REIMBURSEMENT AGREEMENT AND THE CONTRIBUTION OF TRANSPORTATION IMPACT FUNDS TO HOLLAND 24<sup>TH</sup> & HARRISON INVESTORS, LLC, IN AN AMOUNT NOT TO EXCEED 2.1 MILLION DOLLARS (\$2,100,000.00) FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS AT THE INTERSECTION OF 24<sup>TH</sup> STREET, HARRISON STREET, BAY PLACE, AND 27<sup>TH</sup> STREET IN ACCORD WITH PROJECT PLANS AND SPECIFICATIONS;**

**(2) WAIVING ADVERTISING AND COMPETITIVE BIDDING; AND**

**(3) ADOPTING APPROPRIATE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”) FINDINGS**

**WHEREAS**, The Oakland City Council adopted the Broadway Valdez District Specific Plan (BVDSP) in June and July 2014, along with related General Plan Amendments and Design Guidelines, new D-BV Broadway Valdez District Commercial Zone Regulations, and Zoning And Height Area Maps; and

**WHEREAS**, as of 2020, development projects that have been completed or that are currently under construction within the BVDSP Area include approximately 2,500 dwelling units, 301,000 square feet of retail, 64,000 square feet of office, and 93,000 square feet of new hotel space.

**WHEREAS**, as of 2020, development projects that have been approved or are currently under review by the City of Oakland include an additional 1,000 dwelling units, 35,000 square feet of retail, and 150,000 square feet of office within the BVDSP Area; and

**WHEREAS**, The BVDSP Environmental Impact Report (EIR) identified required measures to mitigate the transportation impacts of growth envisioned in the BVDSP; and

**WHEREAS**, The single largest transportation mitigation measure, identified as Mitigation Measure TRANS-10 in the BVDSP EIR, is reconfiguring the intersection of 24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place, and Harrison Street; and

**WHEREAS**, The BVDSP established a Transportation Impact Fund (TIF) to allow private development applicants to pay their fair share to compensate for increased demand for transportation infrastructure generated by private development projects, rather than requiring the first applicant filing permits to bear the full costs of the required transportation mitigation; and

**WHEREAS**, The BVDSP TIF has collected and assessed \$2.8 million in fair share contributions from private development applicants within the BVDSP Area, as of 2020; and

**WHEREAS**, Oakland Municipal Code (OMC) Section 15.74 allows the City to collect transportation impact fees and use the TIF to pay for public transportation improvements within the public right-of-way; and

**WHEREAS**, the City of Oakland Impact Fee Administrative Regulations and Manual, adopted by the City Administrator (2017) expands on the eligible uses of TIF funds identified in OMC Section 15.74.100 clarifying that TIF revenues may be used to fund a public transportation improvement (project) that meets all of the following criteria: (1) a project that is consistent with City goals, plans and policies; (2) a capital project contained within the City's Capital Improvement Program; (3) a project that is a CEQA cumulative mitigation measure that is 3.a) on the list of outstanding CEQA cumulative mitigation projects in Appendix B, Table B-5 of the Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis that the City believe should still be implemented or 3.b) is a new CEQA cumulative mitigation measure from projects approved after the Nexus Analysis was completed (2016); (4) a project that is part of the Citywide transportation infrastructure or provides connectivity between neighborhoods and activity centers within the City, or to neighboring communities or regional transportation facilities, and is not primarily for access to one specific neighborhood or development site; and (5) a project that improves or expands the City's Citywide transportation infrastructure to address and manage travel demand from new development; and

**WHEREAS**, OMC Section 15.74.120 allows the City and the developer of a development project to enter into a credit and reimbursement agreement to allow the developer to construct public transportation improvements within the public right-of-way that would otherwise be funded in whole or in part by the TIF; and

**WHEREAS**, Pursuant to OMC Section 15.74.120, a reimbursement agreement shall contain, at a minimum, provisions for the timing of the construction of the facilities, security to ensure construction of the facilities, amount of the credit, reimbursement procedures (if applicable), ownership of the facilities, requirements for acceptance of the facilities, maintenance responsibilities, guarantees of workmanship, insurance

requirements and defense and indemnity. The developer shall obtain all necessary permits and approvals for construction of the facilities; and; and

**WHEREAS**, Holland 24<sup>th</sup> & Harrison Investors, LLC, is currently constructing an 18-story mixed use project at the intersection of 24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place, and Harrison Street; and

**WHEREAS**, Reconfiguring the intersection of 24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place, and Harrison Street concurrently with adjacent private development construction minimizes disruption in the neighborhood, fulfills the expectations of the BVDSP, and increases efficiency; and

**WHEREAS**, the Public Improvement will specifically shorten the traffic signal cycle length and reduce vehicle delay, reduce the crossing distance for pedestrians and bicyclists, provide continuous bike lanes, realign the five-way intersection to a four-way intersection, and create a public plaza; and

**WHEREAS**, The required transportation impact fee obligation of Holland 24<sup>th</sup> & Harrison Investors, LLC, is less than the estimated cost to reconfigure the intersection of 24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place, and Harrison Street; and

**WHEREAS**, The BVDSP preliminary cost estimates for the Public Improvement Project was \$1.7 million (in 2014 dollars); and

**WHEREAS**, Construction cost escalations have outpaced inflation since 2014; and

**WHEREAS**, To date, the construction costs of the Public Improvement Project are approximately \$2.1 million; and

**WHEREAS**, Pursuant to OMC Section 15.74.120, Holland 24<sup>th</sup> & Harrison Investors, LLC has agreed to execute a Public Improvement Reimbursement Agreement to reconfigure the intersection of 24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place, and Harrison Street (Public Improvement Project) for a reimbursement amount not to exceed \$2.1 million; and

**WHEREAS**, Adoption of this resolution will direct \$2.1 million to be appropriated from the Transportation Impact Fund 2420 and deposited in a new project created for the Public Improvement Project; and

**WHEREAS**, OMC Section 2.04.050 requires advertising and competitive bidding for contracts for the purchase of services, supplies or combination required by the City in any one transaction which exceeds \$50,000, and the award to the lowest responsible, responsive bidder if an award is made; and

**WHEREAS**, OMC Section 2.04.050.1.5 provides an exception to this advertising and competitive bidding requirement when specifically authorized by the City Council after a finding and determination that it is in the best interests of the City; and

**WHEREAS**, Requiring developers to comply with OMC Section 2.04.050.1.5 contracting requirements may significantly curtail the willingness of developers to participate in the TIF program and jeopardize the City's ability to deliver transportation infrastructure in a timely and coordinated manner to support Oakland's growth; and

**WHEREAS**, In order to execute the Public Improvement Reimbursement Agreement, City Staff is recommending that the Council waive the advertising and competitive bidding contracting requirements, as provided by OMC Section 2.04.050.1.5 when it is in the best interest of the City to do so; and

**WHEREAS**, The 2014 BVDSP Environmental Impact Report (EIR) identified needed transportation improvements at the intersection of 24<sup>th</sup> Street, Harrison Street, Bay Place, and 27<sup>th</sup> Street (the Public Improvement Project) as mitigation for development within the BVDSP Area; and

**WHEREAS**, This resolution facilitates the mitigation of transportation impacts identified in the 2014 BVDSP EIR; and

**WHEREAS**, Pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162, no subsequent EIR or further environmental review/analysis is required because the project would not result in significant impacts that were not previously studied and identified in a previous EIR and/or CEQA Analysis; and

**WHEREAS**, On a separate and independent basis, this proposal is exempt from CEQA under CEQA Guidelines section 15183 because there is no substantial new information that results in more severe impacts not studied in the BVDSP EIR; now, therefore be it

**RESOLVED**: That the Council finds that pursuant to Public Resources Code Section 21166, CEQA Guidelines Section 15162 and CEQA Guidelines Section 15183, no subsequent EIR or further environmental review or analysis is required because the project would not result in significant impacts that were not previously studied and identified in a previous EIR and/or CEQA Analysis and in fact the 2014 BVDSP EIR specifically identified the proposed traffic improvements to this complex intersection as a mitigation measure; and be it

**FURTHER RESOLVED**: That the City Council adopts staff's findings above and finds and determines that it is in the best interest of the City to waive advertising and competitive bidding in accord with OMC Section 2.04.050.1.5. Thus, the Council hereby waives advertising and competitive bidding contracting requirements; and be it

**FURTHER RESOLVED:** That the City Council authorizes the City Administrator to enter into a Public Improvements Reimbursement Agreement and the contribution of Transportation Impact Funds to Holland 24<sup>th</sup> & Harrison Investors, LLC, in the amount not to exceed 2.1 Million Dollars (\$2,100,000) for the construction of public improvements at the intersection of 24<sup>th</sup> Street, 27<sup>th</sup> Street, Bay Place, Harrison Street, in accord with project plans and specifications; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or their designee to modify, amend and extend the Agreement and to take all other actions with respect to the Agreement in accord with this Resolution and its basic purposes, except as to any increases in the total contract amount; and be it

**FURTHER RESOLVED,** that the Agreement will be reviewed for form and legality by the City Attorney and a copy of the Agreement and of this Resolution will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2021

**PASSED BY THE FOLLOWING VOTE:**

**FIFE, GALLO, KALB, KAPLAN, REID, TAYLOR, THAO AND PRESIDENT FORTUNATO BAS**

AYES-

NOES-

ABSENT-

ABSTENTION-

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

ASHA REED  
City Clerk and Clerk of the Council,  
City of Oakland