



CITY OF OAKLAND

AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo
Director, Oakland
Department of
Transportation

SUBJECT: Resolution for the Public
Improvements at 24th Street/Harrison
Street/Bay Place/27th Street

DATE: October 1, 2021

City Administrator Approval

Date:

Oct 6, 2021

RECOMMENDATION

Staff Recommends That The City Council Adopt a Resolution:

- 1) Authorizing The City Administrator To Enter Into A Public Improvements Reimbursement Agreement And The Contribution Of Transportation Impact Funds To Holland 24th & 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 24th Street, Harrison Street, Bay Place, And 27th Street In Accord With Project Plans And Specifications;**
- 2) Waiving Advertising And Competitive Bidding; And**
- 3) Adopting Appropriate California Environmental Quality Act ("CEQA") Findings.**

EXECUTIVE SUMMARY

The proposed resolution authorizes the City Administrator to enter into a Public Improvements Reimbursement Agreement to transfer Transportation Impact Funds (TIF) in an amount not to exceed \$2.1 million to Holland 24th & Harrison Investors, LLC, pursuant to Oakland Municipal Code (OMC) Section 15.74.120 and would waive the advertising and competitive bidding requirements for the construction of public improvements at the intersection of 24th Street, Harrison Street, Bay Place, and 27th Street.

OMC Section 15.74 assures that development projects pay their fair share to compensate for increased demand for transportation infrastructure generated by development projects through the imposition of a transportation impact fee. The City of Oakland (City) collects impact fees from all non-exempt development projects and uses the TIF to pay for public transportation improvements within the public right-of-way. 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 and clarifies that TIF revenues may be used to

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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.

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. The 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.

Consistent with the eligibility criteria for use of TIF, Appendix B, Table B-5 of the Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis lists previously identified cumulative mitigation measures eligible for TIF reimbursement for public improvements (See **Attachment A**). One of the eligible projects includes the intersection of 24th Street, Harrison Street, Bay Place, and 27th Street. Public improvements at this location increase safety, comfort, and predictability for all roadway users by:

- Creating a public plaza
- Realigning the five-way intersection to a four-way intersection
- Providing continuous bike lanes
- Shortening the traffic signal cycle length and reducing vehicle delay
- Reducing the crossing distance for pedestrians and bicyclists

Attachment B depicts the proposed public improvements at 24th Street, Harrison Street, Bay Place, 27th Street (Public Improvement Project).

BACKGROUND / LEGISLATIVE HISTORY

The City's Bicycle Plan (2007 and 2019 Update), Harrison Street/Oakland Avenue Community Based Transportation Plan (2010), and Broadway Valdez District Specific Plan (2014) articulate the City's safety, mobility and placemaking goals for the intersection of 24th Street, Harrison Street, Bay Place, and 27th Street.

Consistent with the Bicycle Plan, the City applied for and was awarded two grants intersecting the public improvements at 24th Street, Harrison Street, Bay Place, and 27th Street. Neither grant is sufficient to build the public improvements identified in **Attachment B**. In 2017, the City accepted an Alameda County Transportation Commission Comprehensive Investment Plan (ACTC CIP) grant to design corridor safety improvements on 27th Street between Bay Place and Telegraph Avenue, the “27th Street Complete Streets Project”. The City also applied for and was awarded a One Bay Area regional grant for the “Lakeside Family Streets Project,” to improve Harrison Street between 20th Street and 27th Street. Refer to **Attachment C** for a map of the area.

The 27th Street Complete Streets Project will create a protected bikeway link between the existing protected bikeway on Telegraph Avenue and the bikeway on Grand Avenue, forming a key commute, school, shopping, and recreational route for bicyclists of all ages and abilities. The protected bikeway link includes many pedestrian improvements, including new curb ramps, new pedestrian signal heads, and enhanced crosswalks. The Alameda County Transportation Commission Comprehensive Investment Plan (ACTC CIP) grant was approved in April 27, 2017 and City Council adopted Resolution No. 86894 CMS, to accept and appropriate the grants on September 19, 2017. The City will complete CEQA during the design phase in 2022. Refer to **Attachment D** for a copy of the resolution.

The Lakeside Family Streets Project will implement a protected bike lane and in-lane bus boarding islands on Harrison Street from 20th Street to 27th Street. The City is currently seeking NEPA clearance, and CEQA will be completed during the design phase. The City’s Bicycle and Pedestrian Advisory Committee reviewed and issued letters of support for the 27th Street Complete Streets Project and Lakeside Family Streets Project in October 2016. Refer to **Attachment E** for a copy of the resolution.

The Lakeside Family Streets Project and the 27th Street Complete Streets Project meet at the five-way intersection of 24th Street, Harrison Street, Bay Place, and 27th Street. Neither project has adequate local matching or grant funds to reconfigure this intersection to create a public plaza, build out bike and pedestrian improvements at the intersection, or shorten the signal phases to reduce delay.¹ However, these improvements are recommended and are required mitigation in the Broadway Valdez District Specific Plan (BVDSP).

The BVDSP is a 25-year planning document that provides a vision and planning framework for future growth and development within the Plan Area. The BVDSP specifies transportation and public realm improvements to facilitate and support anticipated development within the Plan Area. The BVDSP Environmental Impact Report (EIR) enables the City to comprehensively evaluate the cumulative impacts of the Specific Plan and consider broad policy alternatives and areawide mitigation prior to adopting the Specific Plan, General Plan, and Planning Code amendments.

¹ According to California Statewide Integrated Traffic Records System (SWITRS) data, there have been eight collisions reported at this intersection over the last five years, two (25%) involved people walking and two (25%) involved people biking.

The BVDSP EIR included numerous transportation improvements that are required to mitigate the impacts of future growth and development within the Plan Area. These mitigations were required as part of the certification of the EIR and adoption of the plan. Many of the improvements were minor signal improvements or new traffic signals at existing intersections. The one major transportation mitigation is redesigning the intersection at 24th Street, Harrison Street, Bay Place, and 27th Street to reduce delays and to improve safety for people walking and biking. This mitigation measure would remove 24th Street from the signal phase and install a plaza in its place. The mitigation was identified as the largest cost item of all the mitigation measures. To distribute the relatively higher costs associated with this one transportation mitigation measure, the BVDSP EIR included a provision to allow project applicants to pay their fair share into a fund, the TIF, rather than requiring the first applicant filing permits to bear the full costs of the required intersection (public) improvements. As a result, the BVDSP TIF was established prior to the Citywide TIF and has been successful in allowing numerous development projects to proceed in the neighborhood.

The BVDSP TIF assessed \$2.4 million in transportation impact fees from projects that were under construction prior to the establishment of the Citywide TIF in 2016. Since the establishment of the Citywide TIF in 2016, development entitlements within the BVDSP Area have collected \$400,000 in impact fees for a total investment in the TIF of \$2.8 million (total paid and assessed). An additional \$300,000 of transportation impact fees are in the development pipeline, as of 2020. This number will continue to increase with additional development projects. 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. As of 2020, projects that have been approved or are currently under review by the City's Bureaus of Planning and Building include an additional 1,000 dwelling units, 35,000 square feet of retail, and 150,000 square feet of office within the BVDSP Area.

While the City has assessed more than \$2.8 million in transportation impact fees within the BVDSP Area, no public improvements or transportation mitigation measures to support new development in the Plan Area have been funded by the TIF.

ANALYSIS AND POLICY ALTERNATIVES

At the northwest corner of the 24th Street, Harrison Street, Bay Place, and 27th Street intersection, Holland 24th & Harrison Investors, LLC, is currently constructing an 18-story mixed use project. To reduce impact to the neighborhood, the City proposes leveraging the development project to deliver the Public Improvement Project, which constitutes the BVDSP EIR cumulative mitigation measure improvements at the intersection connecting the 27th Street Complete Streets Project and Lakeside Family Streets Project.

OMC Section 15.74.120 states: The City and the developer of a development project subject to the requirements of this Chapter may enter into a credit and reimbursement agreement to allow the developer to construct transportation or capital facilities (facilities) that would otherwise be funded in whole or in part by the impact fee. Whether to enter into such an agreement is within the sole and absolute discretion of the City. Subject to the agreement, the developer would

receive a credit against the amount of the impact fee due by the development project, and possibly reimbursement from impact fees paid by other development projects. Refer to the Public Improvements Reimbursement Agreement in **Attachment F** for the terms of the agreement.

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 that exceeds \$50,000, and the award to the lowest responsible, responsive bidder if award is made. However, 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 to waive these requirements. Staff recommends that the City Council finds and determines that it is in the City's best interest to waive advertising, competitive bidding, and contracting requirements. Requiring developers to comply with OMC 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.

Execution of the Public Improvements Reimbursement Agreement and waiver of the advertising and competitive bidding requirements provides the City a mechanism to use the BVDSP TIF for its intended purpose: to build the transportation infrastructure necessary to accommodate and mitigate the impacts of private development. It would allow the City to expand its public infrastructure beyond the developer's entitlement obligations and to streamline project delivery as the developers would build this public infrastructure at the same time as they deliver their required street improvements. This minimizes disruption to the traveling public, fulfills the expectations of the BVDSP, supplements the City's grant commitments, and increases efficiency.

Alternatively, the City Council could choose not to approve the staff-recommended resolutions. This decision would require staff to identify alternative delivery mechanisms. Staff resources would need to be shifted from high-priority projects in order to complete design, bidding, and construction of the public improvements at 24th Street, Harrison Street, Bay Place, and 27th Street, which would significantly delay its delivery and its safety benefits. Currently, there are several turning movement conflicts between vehicles, bicyclists, and pedestrians at the project intersection, which is unsafe for all roadway users. According to Oakland Department of Transportation Geographic Equity Toolbox, this project is located in a "Medium" priority Census tract and contains a high share of seniors (17.9%) and disabled populations (19.5%) who are more vulnerable and likely to be more severely injured in traffic collisions. Identifying alternative delivery options for this project could add several years to its current timeline.

FISCAL IMPACT

The BVDSP developed preliminary cost estimates for catalyst projects identified in the Specific Plan (2014). The BVDSP estimated the cost of the Public Improvement Project of reconfiguring the intersection and plaza improvements at \$1.7 million (in 2014 dollars). Since 2014, construction cost escalations have outpaced inflation. Staff estimate that construction costs, including design costs and bond fees for the Public Improvement Project should not exceed

\$2.1 million. Private development within the BVDSP Plan Area have been collected and assessed \$2.8 million in transportation impact fees to date.

Adoption of the proposed resolution will direct \$2.1 million to be appropriated from the Transportation Impact Fund 2420 and deposited in a new project created for the 24th Street, Harrison Street, Bay Place, and 27th Street Public Improvements. Funds for the completion of the public improvements will be drawn from the newly created project funding code, as needed.

PUBLIC OUTREACH / INTEREST

Public outreach and participation for the Public Improvement Project occurred principally during the public review and the approval of the 2014 BVDSP. The BVDSP engagement process included project advisory groups, nine public workshops, and other meetings with community groups, established committees/commissions (including the Bicycle and Pedestrian Advisory Committee) and unique focus group meetings. Public participation also occurred during the 2019 Bike Plan Update and during the Draft Downtown Specific Plan, which recommends the building and programming of public plazas as a key strategy to promote arts and culture in Oakland. The City's Bicycle and Pedestrian Advisory Committee reviewed and issued letters of support for the 27th Street Complete Streets Project and Lakeside Family Streets Project in October 2016.

COORDINATION

The Office of the City Attorney, the Bureaus of Planning and Building, and the Budget Bureau were consulted in the preparation of this report and agreement.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Public Resources Code Section 21166 and CEQA Guidelines Section 15162, no subsequent EIR or further environmental review/analysis is required if the project would not result in significant impacts that were not previously studied and identified in a previous EIR and/or CEQA Analysis. On a separate and independent basis, this project is exempt from CEQA pursuant to CEQA Guidelines Section 15183 because staff has determined that there is no substantial new information that would result in more severe impacts that were previously analyzed in the 2014 BVDSP EIR. The 2014 BVDSP EIR specifically identified the needed traffic improvements to this complex intersection, which the staff-proposed measures seek to address using transportation impact fees paid by developers within the BVDSP Area. Thus, the 2014 BVDSP EIR already studied the proposed action to be taken with these measures, and in fact referenced said action as an identified mitigation measure. As a result, no further environmental analysis is required pursuant to Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15183.

SUSTAINABLE OPPORTUNITIES

Economic: Incorporating safety projects during periods when the right-of-way is already disrupted reduces mobilization costs, avoids duplicating work, and minimizes neighborhood disruption.

Environmental: Providing bike and pedestrian improvements at the intersection removes a major barrier for people walking and biking. Reducing the size of the intersection and the number of streets feeding into the intersection also reduces the number of potential conflicts between all modes, shortens the crossing distance for pedestrians, and minimizes delay. These improvements can have both air quality and mode shift benefits, reducing the environmental impacts associated with transportation. The new public plaza transforms the right-of-way from a place to move through to a place to pause and provides open space to help accommodate additional development in the neighborhood.

Race & Equity: Over a five-year period (2015-2019), the intersection experienced 11 crashes where five of them were for rear-ends primarily caused by unsafe speeding.² Reconfiguring intersections is a tool to reduce conflicts between people walking, biking, and driving and reduce speeds so that when conflicts do occur, they are less severe. In 2018, the Oakland Equity Indicators Report found troubling disparities in pedestrian deaths in Oakland³. The City experiences approximately two severe or fatal traffic crashes each week, with crashes disproportionately impacting Black, Indigenous and people of color (BIPOC) and high priority communities. Public improvements to improve safety and prioritize people walking and biking also allow for more convenient, affordable, and safe forms of transportation. Located in the North Oakland/Adams Point Planning Area, the Public Improvement Project is in a medium priority neighborhood for the City with a higher concentration of low-income households with limited English proficiency, people with disabilities and seniors⁴. Public improvements to improve safety and prioritize people walking and biking help address collision disparities and reduce barriers to accessing active transportation.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt a Resolution: (1) Authorizing the City Administrator To Enter Into A Public Improvements Reimbursement Agreement And The Contribution Of Transportation Impact Funds To Holland 24th & Harrison Investors , LLC, In An Amount Not To Exceed 2.1 Million Dollars (\$2,100,00.00) For The Construction of Public Improvements To The Intersection of 24th Street, Harrison Street, Bay Place, and 27th Street, (2) Waiving Advertising and Competitive; And (3) Adopting Appropriate California Environmental Quality Act ("CEQA") Findings.

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² Based on SWITRS five-year collision data reported from January 1, 2015 to December 31, 2019.

³ Oakland Equity Indicators Report. 2018. <https://cao-94612.s3.amazonaws.com/documents/2018-Equity-Indicators-Full-Report.pdf>

⁴ OakDOT Geographic Equity Toolbox: <https://www.oaklandca.gov/resources/oakdot-geographic-equity-toolbox>

For questions regarding this report, please contact AUDREY HARRIS, TRANSPORTATION PLANNER III, at 510-496-9020.

Respectfully submitted,



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Attachments (6):

- A – Appendix B, Table B-5 of the Oakland Transportation and Capital Improvements Impact Fee Nexus Analysis
- B – Proposed Public Improvement Project
- C – Location Map: 24th Street, Harrison Street, Bay Place, 27th Street Public Improvements
- D – Council Resolution No. 86894: 27th Street Complete Streets Project
- E – Council Resolution No. 86791: Lakeside Family Streets Project
- F – Public Improvements Reimbursement Agreement