



AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: William A. Gilchrist
Director, Planning and
Building Department

SUBJECT: Downtown Oakland Specific Plan and
EIR

DATE: March 2, 2020

City Administrator Approval

Date:

3/10/2020

RECOMMENDATION

Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator To Amend The Professional Services Contract Between The City Of Oakland And Dover, Kohl & Partners In The Amount Of Two Hundred Fourteen Thousand One Dollars (\$214,001), Plus An Additional Project Contingency Amount Of Twenty-One Thousand, Four Hundred Dollars (\$21,400) For Enhanced Services Related To The Downtown Oakland Specific Plan And Environmental Impact Report (EIR).

EXECUTIVE SUMMARY

The additional funds specified in the attached resolution will allow completion of the Downtown Oakland Specific Plan (DOSP or Plan) on-schedule in 2020, and enable additional analysis and outreach needed to develop a Plan responsive to racial equity and housing affordability needs. As a result of the 2017 scope revision, thousands of community comments were received on the *Preliminary Draft Plan, Draft Plan, and Draft Environmental Impact Report (EIR)* requiring greater coordination, technical analysis, research and reorganization of the Plan document than was originally scoped under the consultant services agreement. Changes to the Plan document have also necessitated concurrent changes to the detailed EIR document, both of which are required elements for Plan completion, and which exceed the original project timeline and the Planning Bureau's capacity to complete without external expertise.

The City of Oakland extended the timeline for completion of the DOSP from 2017 to 2020 to allow for expanded community outreach and public comment opportunities. The City also changed the project scope to enhance analysis and incorporate innovative approaches to address racial equity in the Plan research, outreach, analysis and recommendations. See **Attachment A** for a description of the full DOSP planning process. Because the original DOSP did not include a race and equity component, the original consultant contract was extended from two to five years to accommodate this additional work. This equity work resulted in expanded participation from communities of color; integration of racial equity data, analysis, policies and measures of success; and sections addressing homelessness, culture keeping, and community health.

To fund the additional project management, analysis, outreach, synthesis and revision required as a result of this change in the project scope and timeline, staff recommends an amendment to the existing professional services contract between the City of Oakland and the project consultant team led by Dover, Kohl & Partners in the amount of \$214,001, plus an additional project contingency amount of \$21,400 for professional services to complete the Plan and EIR. Much of this work will be completed by the EIR lead, Urban Planning Partners of Oakland, and technical subconsultants with specialized expertise in topics such as economics, transportation, air quality, and historic preservation.

BACKGROUND / LEGISLATIVE HISTORY

Legislative History

- Oakland City Council Resolution Number 85272 C.M.S. Resolution No. 85272 C.M.S., adopted on October 30, 2014, authorized the City Administrator to apply for and appropriate a \$750,000 grant from the Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG), and appropriate \$100,000 in community benefit funds from the Jack London Redevelopment Project and to allocate \$100,000 of Jack London Redevelopment Project Community Benefit funds to fund the local match requirement.
- Metropolitan Transportation Commission Funding Agreement. The City and MTC entered into a Funding Agreement for the "Downtown Oakland Specific Plan" on March 16, 2015, which required the City to engage a consultant to perform the project tasks as specified in the Funding Agreement's Scope of Work and is a third-party obligation.
- Oakland City Council Resolution Number 85584 C.M.S. Resolution No. 85584 C.M.S., adopted on April 30, 2015, authorized the City Administrator to negotiate and execute a Professional Services Agreement with the Contractor for development of the Project in an amount not to exceed one million dollars (\$1,000,000).
- Professional Services Agreement for Specific Plan and EIR. On July 1, 2015, the City entered into a professional services agreement with the Dover, Kohl & Partners team to prepare the DOSP and related EIR.
- Oakland City Council Resolution Number 86588 C.M.S. Resolution No. 86588 C.M.S. adopted on February 7, 2017, authorized the City Administrator to execute a Professional Services Agreement with the Institute for Sustainable Economic, Educational and Environmental Design (I-SEED) team of consultants in an amount not to exceed \$255,000 to prepare an Equity Assessment and conduct additional community engagement, and to amend the Professional Services Agreement (Contract Amendment #1) between the City of Oakland and Dover, Kohl & Partners in the amount of \$453,440, plus a contingency of \$45,000, and to apply for, accept and appropriate \$600,000 from the Federal Transit Administration (FTA) for enhanced transportation, economic and environmental analysis to develop a comprehensive transit-oriented development strategy for downtown Oakland, as well as to enter into a memorandum of understanding with Bay Area Rapid Transit (BART) for the FTA Transit-Oriented

Development Pilot Program grant funds to include an in-kind contribution of \$100,000 towards the project as local match, through the provision of services by City staff.

Process to Prepare the Downtown Oakland Specific Plan

After five years since its inception, the DOSP is nearing completion this year. The DOSP will set forth bold strategies for physical improvement projects and supporting policies to meet the needs of its most vulnerable stakeholders while addressing community priorities for a sense of place, shelter, economic opportunity, cultural belonging, and mobility. It will offer guidance upon which to base future City investments, as well as benchmarks to evaluate success.

The process to develop a Downtown Plan began in 2015 (***Attachment A***).

Initial Planning Phase

The initial phase of the planning process culminated with the *Plan Alternatives Report* in Spring 2016 about which the City received thousands of comments. Many comments expressed alarm about the rapid displacement of communities of color, as well as displacement of independent small businesses and community-serving non-profits who provide essential services to historically marginalized communities. The City's Economic & Workforce Development Department emphasized the importance of economic activity downtown as a mechanism for generating revenue that funds critical public services citywide. Some members of the business community warned about dampening the investment appeal of Downtown, citing risky capital markets, ostensibly limiting the feasibility of future development projects through the application of too many additional fees. Community members also expressed desire for all stakeholder voices to be represented in the discussion, including Oakland residents who live outside of the DOSP study area.

Expanded Process

In response to these comments, the City initiated a new phase in the DOSP process in 2017 (Phase II), which focused on engaging a broader, more representative cross-section of the community. Phase II re-launched the planning process with an equity lens and a focus on developing balanced strategies for Downtown Oakland's future that would protect what makes downtown "authentically Oakland" and bring opportunities to downtown that benefit the entire Oakland community.

The DOSP is among the first specific plans in the nation to incorporate racial equity as an essential element, and is currently being used as an example of using equity tools in planning policy at conferences of organizations such as the American Planning Association and Government Alliance on Race and Equity (GARE).

Outreach

Supported by the City's newly-formed Department of Race and Equity and an equity consultant led by I-SEED, the project team led by the Oakland Planning Bureau revised the specific plan process to more proactively involve members of the City's most vulnerable communities. This included:

- Holding four social equity working group meetings to revisit plan topics through an equity lens;

- Holding six community leader and community organization workshops focused on racial equity;
- Conducting 25 interviews and focus groups, including videos of interviews posted on website;
- Expanding the community advisory group to include people introduced via these other activities;
- Including food, childcare, and facilitation at community meetings;
- Conducting an accessibility survey; and
- Expanding community engagement to meet people in places where they typically might be, including public events such as farmer's markets, the Black Joy Parade and Lunar New Year Festival; meetings with community groups such as the Oakland Food Policy Council, Black Arts Movement and Business District, and East Oakland Collective; and one-on-one interviews at St. Vincent de Paul's dining room with gift cards as incentives to participate.

Analysis

The team analyzed disparities in life outcomes across race and proposed equity-related outcomes and policy directions. This work was based on approaches used in racial equity impact assessments (REIA) and results-based accountability (RBA) models, which together identify and measure indicators of racial disparities, including the participation of affected communities in identifying and responding to those disparities; and assessing proposed strategies across the plan to determine whether they will close or widen the identified disparities.

The Plan's additional equity work required an overall project-timeline extension due to stopping the DOSP process to engage an equity team and restarting the process with a new approach, including stakeholder group meetings, City advisory board meetings, and public hearings and community events.

Additional Review Documents & Public Comment

Due to the negative response from the public under the original 2014 scope, the *Plan Alternatives Report* was not advanced into the scoped next phase. Instead, the first contract amendment added funds for an additional deliverable, a Plan Concepts Memo to be completed, before the Draft Plan. However, in an attempt to provide an interim deliverable to which a racial equity analysis could be applied and to give the public a chance to participate more fully in less dramatic iterations of the plan, the *Plan Concepts Memo* was instead divided into two further deliverables, a *Plan Options Report* (with *Equity Assessment* developed and integrated), and a *Preliminary Draft Plan*.

Rather than hosting a large, potentially alienating public workshop or relying solely on formal public hearings to garner input for these documents, staff focused on working with communities to convene smaller meetings where attendees could provide input in small group discussions, and on attending meetings of existing community groups to present recommendations and solicit feedback:

- Prior to the *Plan Options Report*, the City built on the Social Equity Working Group Meetings and held a series of Creative Solutions Labs and Neighborhood Design Sessions around the downtown.

- The process for the *Preliminary Draft Plan*, released in January 2019, included over two dozen meetings and eight public hearings, including two Planning Commission EIR scoping sessions, followed by two implementation intensives with the Community Advisory Group.
- The process for the DOSP's *Draft Plan*, released in August 2019, included 20 stakeholder meetings and 10 public hearings. The public comment period was expanded from the required 45 days to 70 days.
- As of February 2020, the Community Advisory Group has met 13 times; this group will continue to meet through zoning, and will likely form the basis of an ongoing Implementation Steering Committee, which is a new approach for the City to specific plan implementation.

Completion

The DOSP and EIR are scheduled to be completed in 2020, meeting the Metropolitan Transportation Commission (MTC) grant deadline. However, the additional work that has been completed without additional recompense for the consultant does not leave adequate funds to complete these documents. The amendments specified in the attached resolution would provide the funds needed to finalize these documents.

ANALYSIS AND POLICY ALTERNATIVES

Incorporating Equity

At the time of the original contract in 2014, the DOSP did not include a Race and Equity component and did not anticipate the investment intensity that has occurred in Oakland over the past five years with the related consequences and disproportionate impacts across communities with historic presence and investment in Oakland's downtown. The original scope also did not address means to enhance the inclusion across race and class of economic opportunity from this surge in investment.

After the community's strong reaction against the *Plan Alternatives Report* in 2015 produced under that original project scope, a contract amendment in 2017 added funds for the work of an equity consultant, for over 20 additional community meetings, and for a *Plan Options Memo* to replace the poorly-received *Plan Alternatives Report*, as well as a grant to expand the scope of the EIR analysis.

The extension of the professional services contract between the City of Oakland and the project's consultant team from the original two years to the current five years created additional project management, coordination, and analysis costs for the consultant team than were not anticipated in either the original contract or the 2017 amendment.

This previous decision to extend the original timeline and scope of the DOSP has led to identifiable improvements over what the originally scoped consultant contract would have produced - allowing for a planning process far more responsive to community concerns, including:

- Expanded participation from communities of color;
- Integration of racial equity data, analysis, policies and measures of success; and

- Sections addressing homelessness, culture keeping, and community health.

The scope enhancements specified in the attached resolution include funds to defray the cost of this additional racial equity, outreach and analysis work, and complete the DOSP project within the current project timeline, which includes completion of the DOSP and EIR in 2020.

Through the amended DOSP planning process, the Planning Bureau has instituted innovative new practices, the use of new tools, and improvements to the way the City addresses racial inequities in its development strategies. The DOSP's Draft Plan, released in August 2019, reflects the value of this planning method with approaches and recommendations clearly intended to support people and businesses in place that reflect Oakland's diverse cultures, improve opportunity and access for people of color, and respond to the needs of Oakland's most vulnerable groups who are suffering racial disparities. See **Attachment B** for the Draft Plan's Equity Framework, which summarizes the Plan's approach to racial equity.

Once completed, the DOSP and its EIR will:

1. Provide a comprehensive environmental analysis, along with concurrent downtown-wide mitigation measures, in compliance with the California Environmental Quality Act (CEQA);
2. Be informed by an inclusive community engagement process, community-driven social and racial equity goals and outcomes, and community-driven action items to achieve those equity goals and outcomes.
3. Establish a comprehensive, clear and certain set of development standards, requirements, regulations and other criteria that will govern downtown development in a predictable way;
4. Establish land-use goals that balance environmental, economic, preservation, social equity and quality of life-related interests;
5. Identify the short-, medium- and long-term public infrastructure improvements needed to support the land uses and developments desired in the plan. These include, but are not limited to transportation, sewage, water, energy, and other essential services;
6. Lay out an economic, social and community development strategy that includes specific actions and initiatives and is consistent with the Economic and Workforce Development Department's projects and policies; and
7. Recommend a comprehensive downtown transit-oriented development strategy that includes specific actions to increase transit ridership, walking and biking, and supports Bay Area Rapid Transit's (BART's) goal of increasing ridership in the reverse commute direction.

The DOSP and EIR are scheduled to be completed in 2020, meeting the MTC grant deadline. The process of developing the DOSP and associated EIR that meet community needs, and follow the City's new policy direction to address racial equity has required greater coordination, technical analysis, research and reorganization of the Specific Plan document than Dover, Kohl & Partners and their sub-consultants were originally scoped to perform. The additional work that has been completed without additional recompense for the consultant does not leave adequate funds to complete these documents.

Completing the DOSP and EIR, which is required under CEQA, requires staffing and technical capacity that the City does not currently have.

The scope enhancements specified in the attached resolution would add the additional scope and budget required to complete these documents and meet the community and remaining grantor's expectations. Completion of the EIR for this expanded scope as legally mandated is beyond the technical and staffing capacity of the Strategic Planning division in the Planning and Building Department, which was the purpose of engaging this outside expertise initially. Moreover, the Planning and Building Department does not have the staff capacity to coordinate remaining elements to complete the Plan and EIR. There is no practical alternative inasmuch as the City would have to contract with another consultant with the technical capacity to complete this work in any case. Not only would there still be additional costs for those professional services, but any additional contract would require even greater administration and project costs, including expense and time to coordinate between the existing and additional consultant teams. Finally, the solicitation for new services and the execution of a contract with a new consultant would also create additional time delays, jeopardizing the City's ability to meet its deadline commitment under the MTC grant.

FISCAL IMPACT

This section explains the overall funding sources, costs, and value associated with preparing the DOSP and EIR.

Funding Sources

In 2015, the City received \$750,000 of MTC funding under the Priority Development Area (PDA) Planning grant program, and \$100,000 from the Jack London Redevelopment Project community benefit funds to fund the local match requirement to receive MTC grant funding for the Downtown Oakland Specific Plan. Additionally, the Planning and Building Department (PBD) contributed \$150,000 of contingency funding in the Development Services Fund (2415) toward the original contract amount of \$1,000,000.

For the contract amendment approved in 2017, several funding sources were leveraged for the additional \$1,353,440 (for an overall contract amount of \$2,353,440) as follows:

- \$600,000 from the BART Federal Transit Administration Transit-Oriented Development Pilot Program Funds for additional analysis of transportation, economic and environmental factors to develop a comprehensive transit-oriented development strategy that enables BART to increase transit ridership by encouraging reverse commuting to Oakland.
- \$753,440 from PBD's Development Services Fund (2415) for the social equity strategy contract with the I-SEED team of consultants (\$255,000), the enhanced contract with Dover, Kohl & Partners (\$453,440) and a project contingency (\$100,000). These funds were restricted to planning-related purposes.

The cost to complete the Final Specific Plan and Final EIR is reflected in a revised not-to-exceed project amount of the \$2,588,841 (see **Table 1**, below). This amount will cover

enhanced services to finalize the DOSP and EIR including responding to thousands of community comments, as well as conducting additional technical analysis.

Table 1: Sources of Funding

Original Contract Amount (2015)	
MTC PDA Planning Grant	\$750,000
Jack London Redevelopment Project community benefit funds	\$100,000
Planning and Building Department Development Services Fund	\$150,000
Subtotal	\$1,000,000
Contract Amendment #1 (2017)	
BART Federal Transit Administration Transit-Oriented Development Pilot Program Funds	\$600,000
Planning and Building Department Development Services Fund	\$753,440
Subtotal	\$1,353,440
Contract Amendment #2 (2019)	
Extension of project timeline; no change to budget	-
Subtotal	-
Contract Amendment #3 (2020 - subject of this report)	
PBD Development Services Fund:	
Contract Amendment	\$214,001
Contingency	\$21,400
Subtotal	\$235,401
TOTAL	\$2,588,841

Sources of Funding for Original Contract Amount

The MTC, Jack London District Association community benefit funds, and PBD funds were deposited and appropriated into the following City fund accounts: Fund 2163 (for MTC grant funds) and the Development Services Fund 2415 (Jack London District Association community benefit funds and PBD funds).

MTC and ABAG grant funds were deposited and appropriated into the following City fund accounts: Metro Transportation Com: Program Grant Fund (2163), Planning Organization (84211), Other Grant: From Other Agencies Account (46419), and Contract Contingencies Account (54011), MTC-Downtown Specific Plan Project (1000905), General Plan, Zoning Update & Strategic Analysis Program (SC09) totaling \$750,000.

Jack London Community Benefits match funding totaling \$100,000 were transferred from Development Services Fund (2415), Planning Organization (84211), Contract Contingencies Account (54011), Jack London Community Benefits Project (1000902), General Plan, Zoning Update & Strategic Analysis Program (SC09) to the Jack London Community Benefit Project (1000903).

PBD funds were used totaling \$150,000 in Development Services Fund (2415), Administration: Planning & Building Org (84111), Contract Contingencies Account (54011), Non-project (0000000), PBD Administration Program (IP49).

Sources of Funding for Contract Amendment #1

The BART FTA grant funds totaling \$600,000 were deposited and appropriated into the following City fund accounts: Miscellaneous Grant Fund (2999), Planning Organization (84211), Other Grant: From Other Agencies Account (46419) and Contract Contingencies Account (54011), in a project to be determined, General Plan, Zoning Update & Strategic Analysis Program (SC09).

PBD funds were identified totaling \$753,440 available in the Development Services Fund (2415) unrestricted fund balance, and were appropriated into Development Services Fund (2415), Planning Organization (84211), Contract Contingencies Account (54011), in a project to be determined, General Plan, Zoning Update & Strategic Analysis Program (SC09).

Sources of Funding for Contract Amendment #2

Contract Amendment #2 was a contract time extension and did not involve additional funding; the funding sources identified for Contract Amendment #1 continue to fund the project.

Sources of Funding for Contract Amendment #3

PBD funds have been identified totaling \$235,401 available in the Development Services Fund (2415) unrestricted fund balance, to be appropriated into Development Services Fund (2415), Planning Organization (84211), Contract Contingencies Account (54930), Downtown Specific Plan Contingency Project (1001420), and the General Plan, Zoning Update & Strategic Analysis Program (SC09).

Funding Uses (Scope and Deliverables)

Table 2, below, compares the funds and scope tasks designated in the original contract with those added during subsequent contract amendments, including those proposed for Contract Amendment #3 in the attached resolution.

Table 2: Contract Funds and Scope Tasks

Original Contract (2015)		
\$1,000,000	\$1,000,000 to DKP	Scope of Work: - Existing Conditions - Draft Specific Plan - Charrette - Final Specific Plan - Plan Alternatives Report - Draft EIR - Preferred Alternative Memo - Final EIR Scope significantly under-estimated amount of community engagement, technical analysis and iterations needed for specific plan; EIR was scoped to a "plan level" only (need "project-level" analysis to clear future projects)
Contract Amendment #1 (2017)		
\$1,353,440	\$453,440 (plus \$45,000 contingency) to DKP	New scope added to Original Contract: - (8) Neighborhood Design Sessions & Creative Solutions Labs - (5) Community Advisory Group meetings - Plan Options Report (for which Equity Assessment was prepared)
	Equity Strategy: \$255,000	New scope to augment specific plan: - Capacity building workshops - Equity Working Group Meetings - SWOT analysis of process to date and Plan Alternatives Report - Equity Assessment of Plan Options Report

	Economic Analysis: \$75,000	New scope to augment specific plan: <ul style="list-style-type: none"> - Memo of downtown's economic and fiscal role within the City, and policy considerations and tradeoffs between economic and fiscal priorities - Draft content for economic development section of specific plan
	Transportation Analysis: \$175,000	New scope to augment specific plan: <ul style="list-style-type: none"> - Transportation analysis (including multi-modal analysis) - Content for Mobility chapter
	EIR Analysis: \$350,000	New scope to augment EIR: <ul style="list-style-type: none"> - Transportation forecasts for anticipated future growth (given switch to VMT) & content for transportation chapter - Air Quality Analysis (plan & project level - to allow for tiering of future EIRs) - Updated noise measurements and traffic noise modeling
Contract Amendment #2 (2019)		
N/A		Time extension only; no change to Contract Amendment #1 funding amount.
Contract Amendment #3 (2020 – subject of this report)		
\$235,401	\$214,001 (plus \$21,400 contingency to DKP)	<ul style="list-style-type: none"> - Preliminary Draft Plan (additional interim product) - Overage for simultaneously preparing Draft Plan & Draft EIR, which required more iteration and collaboration than originally scoped - Content changes to Plan and EIR as a result of thousands of community comments (due to extended public review periods) - Project management ramifications of extension from 2017 to 2020
\$2,588,841	TOTAL	

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt A Resolution Authorizing the City Administrator To Amend The Professional Services Contract Between The City Of Oakland And Dover, Kohl & Partners In The Amount Of Two Hundred Fourteen Thousand, Four Hundred One Dollars (\$214,001), Plus An Additional Project Contingency Amount Of Twenty-One Thousand, Four Hundred Dollars (\$21,400) For Enhanced Services Related To The Downtown Oakland Specific Plan And Environmental Impact Report.

For questions regarding this report, please contact Joanna Winter, Acting Planner IV, at 238-2166.

Respectfully submitted,


WILLIAM A. GILCHRIST
Director, Planning & Building Department

Reviewed by:

Ed Manasse, Deputy Director, Bureau of
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Attachments (2):

A: Planning Process

B: Equity Framework