5

IMPLEMENTATION AND FINANCING PLAN

This chapter provides technical guidance for implementing the Station Area Plan. It identifies potential sources of funds for proposed capital improvements to the public realm, considering both the volume and timing of funds from these sources in determining their suitability for funding specific public improvements. Additionally, the chapter describes mechanisms for generating sustainable funding for maintenance and operations of public infrastructure within the Plan Area.

Given the political hurdles and/or land owner voter requirements associated with many of the traditional funding sources identified in this chapter, it is the City's expectation that infill development and associated development standards will be the primary implementation tool. The City expects to make strategic use of development impact fee revenue and available grant funding as needed to ensure that the envisioned improvements are implemented in a timely manner.

What are Capital Improvements?

Capital improvements are new or significantly expanded physical facilities for the community that are relatively large and relatively permanent – such as parks, fire stations, and roads.

5.1 GENERAL PLAN

The Station Area Plan is consistent with the land use designations specified for the Plan Area in the City's General Plan. Therefore, no General Plan Amendments are needed. The Planning Commission will conduct an initial public hearing and consider recommending approval to the City Council. The City Council will conduct a public hearing to consider final approval and adoption of the Station Area Plan.

5.2 STATION AREA PLAN INFRA-STRUCTURE NEEDS

Implementation of the Station Area Plan will require near- and long-term public infrastructure improvements, including intersection-specific improvements as well as bicycle and pedestrian (including ADA) improvements to facilitate access to and from the station. Summaries of the improvements that may be completed to implement the Station Area Plan are provided below, while Appendix C provides the detailed improvement list.

ROADWAY/AUTOMOBILE IMPROVEMENTS

Several of the primary intersections within the Plan Area require comprehensive improvements and upgrades, which will benefit vehicular traffic as well as pedestrians and bicyclists. These include the following:

- Adjust and coordinate signal timing parameters.
- Improve roadway striping.
- Reduce curb radii.
- Extend curbs ("bulb outs").
- Implement traffic calming measures, such as speed humps and/or chicanes.

BICYCLE IMPROVEMENTS

Several bicycle-related improvements are needed in the Plan Area, many of which also indirectly affect pedestrian access to the station. These include the following:

- Install Class II (Buffered), Class III (Neighborhood), and Class IV (Separated) Bike Ways as appropriate.
- Install bicycle video detection for left-turn pockets.
- Stripe a bicycle detection marking to show bicyclists where to position themselves.
- Install bicycle wayfinding, especially to direct bicyclists toward the Irvington BART Station.
- Replace drain inlet grates parallel to the direction of bicycle travel with grates perpendicular to the direction of travel.

PEDESTRIAN IMPROVEMENTS

Improving pedestrian access to the station is a priority for the Plan Area. The list of pedestrian improvements is focused on pedestrian access and safety, including ADA improvements, as follows:

- Install rectangular rapid flashing beacons at key non-controlled street crossings.
- Add high-visibility crosswalk markings.
- Install median refuge areas where appropriate.
- Add truncated domes, tactile warnings that provide a cue to visually impaired pedestrians that they are entering a street or intersection.
- Install audible signals, which provide crossing information in non-visual formats, at all new and modified signalized intersections.
- Fill sidewalk gaps.

5.3 SOURCES OF FUNDS BY COST CATEGORY

The Plan Area will require new capital improvements in the coming years to support the increased activity generated by the Irvington BART Station and new development in the Plan Area.

Capital improvements proposed in this Station Area Plan include roadway and sidewalk improvements that will encourage biking and walking to and from the Irvington BART Station and the surrounding neighborhoods. In addition, this chapter evaluates funding sources for operations and maintenance, which is crucial to maximizing the public investment in infrastructure and extending the lifetime of these capital improvements.

A range of funding sources and financing mechanisms may be available to fund the roadway, traffic calming, bicycle, and pedestrian improvements within the Plan Area. Whether a particular funding source is appropriate for a given improvement or cost category depends on a number of factors, such as whether the funding is needed for one-time capital improvements or ongoing operations and maintenance, the type of improvement, the extent of the geographic area of benefit, the cost of the improvement, the number of competing projects, and the timing of funding sources versus the need for improvements.

Table 5-1 presents recommended funding options that can be used to address the costs associated with capital improvements, recognizing that the final approach to implementation will depend on when improvements are needed, the timing of private development in the Plan Area, the degree to which improvements are a part of required development standards, and other factors not fully known at this time. The City already makes use of some of these funding sources, while others are options for future consideration.

Each of these options is discussed in more detail in the following sections.

Table 5-1 Sample Funding Options for Irvington BART Station Area Plan Improvements

	Category of Improvement		
Recommended Funding Options	**Roadway/ Automobile**	**Bicycle**	**Pedestrian (including ADA)**
Development-Based Funding			
Development Standards	X	X	X
Transportation Development Impact Fees	X	X	X
Development Agreements	As opportunities become available		
Land-Secured Revenue			
Property Business Improvement Districts			X
Community Facility Districts	X	X	X
City-Based Funding			
Grants	X	X	X

Source: Economic & Planning Systems, Inc., 2018.

FUNDING SOURCES FOR CAPITAL IMPROVEMENTS

The following section identifies a range of traditional funding sources and financing mechanisms; however, it is the City's expectation that infill development and associated development standards will be the primary implementation tool to assure that the identified capital improvements are provided in a timely manner. The City is prepared to make strategic use of development impact fee revenue and available grant funding as needed to ensure this occurs.

DEVELOPMENT-BASED FUNDING

Development Exactions

Depending on the level of specificity provided in the Station Area Plan, developers may be required to dedicate rights-of-way to the City and/or build bike and pedestrian improvements in the City rights-of-way fronting private development projects. Policy documents can specify that the City requires right-of-way dedication, and that bike lanes or curb cuts be provided consistent with City specifications.

Implementation Considerations

It is the City's expectation that infill development will be the primary mechanism by which identified capital improvements are provided. However, the timing of private development is unpredictable, and the City is prepared to use grant revenue and impact fee revenue as needed to mitigate higher priority gaps when it appears that improvements by private development are unlikely in the foreseeable future.

Development Impact Fees

Development impact fees are charged to new private development to fund a range of public infrastructure improvements. A development impact fee is an ordinance-based, one-time charge on new development designed to cover a proportional share of the total capital cost of necessary public infrastructure and facilities. The creation and collection of impact fees is allowed under the Mitigation Fee Act, codified in California Government Code 66000.

To the extent that required improvements are needed to address both existing deficiencies as well as the projected impacts from growth, only the portion of costs attributable to new development can be included in the fee. Consequently, impact fees are commonly one of many sources used to finance a city's needed infrastructure improvements. Fees can be charged on a jurisdiction-wide basis or for a particular subarea of the jurisdiction.

The City of Fremont has an existing suite of development impact fees, which fund capital facilities, fire, traffic, park facilities, and affordable housing. The latest fee schedule was updated in January 2019. The current traffic impact fee funds intersections, street improvements, bicycle and pedestrian projects, and traffic signals related to new growth.

Implementation Considerations

Development impact fees require the City to conduct nexus studies, demonstrating that there is a rational nexus between new development and the improvement and that the fees are proportional to the impact caused by the development. The City has already completed such a study for the current Citywide development fee. Any future updates will require a new nexus study and may include eligible Plan Area capital improvements, as appropriate. Following preparation of the nexus study, the City Council accepts the nexus study and approves the fee schedule.

The key limitation of development impact fees (in addition to the nexus requirement) is the timing of funding. Infrastructure is often needed upfront while fees are paid over time as development occurs. This means that other funding or financing methods are needed to close the timing gap. Fees are also irregular, as they depend on development activity that varies with economic conditions.

Development Agreements and Partnerships

A development agreement is a legally binding agreement between a local government and developer authorized by State statute

(Government Code Section 65864 et seq.). A development agreement is a means for a developer to secure approval for a particular development project for an agreed-upon time period (often long-term approvals) in exchange for fulfilling requirements imposed by the City, such as infrastructure improvements, amenities, or other community benefits that cannot be obtained through the normal approval conditions applicable to the project. These arrangements tend to be available during times of strong market performance. In weaker markets, it can be difficult for developers to construct financially feasible projects while still constructing or funding the extensive public benefits that are often required under development agreements. The City could consider requesting in-kind improvements as part of development agreements, meaning the developer could build/provide identified improvements.

Implementation Considerations

Development agreements vary widely, and cities often establish their own policies and procedures for considering development agreements. Development agreements can specify consideration for either funding for capital improvements or funding for annual operations and maintenance. Development agreements are entirely discretionary on the part of local government (and developers) and must be individually adopted by local ordinance.

LAND-SECURED TAX REVENUE

Assessment districts charge special tax assessments on land owners, businesses, or residents within the district's boundaries to fund specific district-wide improvements. Commonly used assessment districts include Community Facilities Districts, Special Assessment Districts, Business Improvement Districts, and Landscape and Lighting Districts. Districts that could be used to fund improvements within the Plan Area are discussed below.

Mello-Roos Community Facilities Districts

California's Mello-Roos Community Facilities Act of 1982 allows for the creation of a special district authorized to levy a special tax and issue tax exempt bonds to finance public facilities and services. A community facilities district may be initiated by the legislative body or by property owner petition and must be approved by a two-thirds majority of either property owners or registered voters (if there are more than 12 registered voters living in the area).

Special taxes are collected annually with property taxes and may be prepaid if prepayment provisions are specified in the tax formula. The special tax amount is based upon a special tax lien against the property. There is no requirement that the tax be apportioned on the basis of direct benefit. Because there is no requirement to show direct benefit, Mello-Roos levies may be used to fund improvements of general benefit, such as schools, fire and police facilities, libraries, and parks, as well as improvements that benefit specific properties. The provision also allows for the allocation of cost burdens to alleviate burdens on specific classes of development.

Special Assessment Districts (1911, 1913, 1915 Acts)

California law provides procedures to levy assessments against benefiting properties and issue tax-exempt bonds to finance public facilities and infrastructure improvements. Assessment districts, also known as improvement districts, are initiated by the legislative body (e.g., city council), subject to majority protest of property owners. Assessments are distributed in proportion to the benefits received by each property as determined by engineering analysis and form a lien against property. Special assessments are fixed dollar amounts and may be prepaid, although they are typically paid back with interest over time by the assessed property owner. Only improvements with property-specific benefits (e.g., roads, sewer and water improvements) may be financed with assessments.

The City could initiate the establishment of such a district in the Plan Area. New development in the district around the BART station could be charged a special assessment based on the benefit derived from the development of the new transit station and associated improvements. The special assessment revenues could be used to finance the partial funding of transit area improvements. A special assessment district also requires the voter approval of two-thirds of the owners of property within the district.

Property Business Improvement Districts

A type of special assessment district, Business Improvement Districts can generate revenue to fund or finance capital improvements, streetscape enhancements, ongoing maintenance, etc. Businesses located within a defined business improvement district are required to pay an additional tax to fund projects, improvements, or programming within the district's boundaries.

Landscape and Lighting Maintenance Districts

Landscaping and lighting maintenance districts may be used for installation, maintenance, and servicing of landscaping and lighting through annual assessments on benefiting properties. They may also provide for construction and maintenance of appurtenant features, including curbs, gutters, walls, sidewalks or paving, and irrigation or drainage facilities. Additionally, they may be used to fund and maintain parks above normal park standards maintained from General Fund revenues.

Implementation Considerations

District-based assessments require voter approval of two-thirds of the owners of property within the district. The City may find that existing property owners may be opposed to new taxes, even if there is clear benefit.

PARCEL TAX

Parcel taxes are excise taxes on real property based on either a flat per parcel rate or a varying rate depending on use, size, and/or number of units on each parcel, and they can be used for any municipal purpose. Parcel tax rates are normally weighted in some capacity, such as by size of parcel, density of parcel, or demographics of parcels. Rates also often vary by land use depending on the nature of the infrastructure or services to be funded.

Parcel taxes are often used to finance bonds that are sold to fund capital projects. The annual revenues are used to make annual debt service payments and cover administration costs and required reserves. Parcel tax revenue also can be used to fund annual operations and maintenance expenses.

Implementation Considerations

In California, increasing or extending a parcel tax, which is imposed for a special purpose, requires a two-thirds approval by voters, based on Proposition 218 passed by voters in 1996. Otherwise, only a simple majority vote is needed if the funds are to be used for general purposes. Communities are more likely to support parcel taxes for parks and schools and other highly visible community-serving facilities or services.

CITY-BASED FUNDING

Enhanced Infrastructure Financing Districts

Enhanced Infrastructure Financing Districts (EIFDs) are forms of tax increment financing available to local public entities in California. Local agencies may establish an EIFD for a given project or geographic area to capture incremental increases in property tax revenue from future development. In the absence of an EIFD, this revenue would accrue to the City's General Fund (or other property-taxing entity revenue fund). EIFD funds can be used for project-related infrastructure, including roads and utilities, as well as parks and housing. EIFDs cannot be used to finance operations and maintenance expenses. Unlike prior tax increment financing/redevelopment law in California, EIFDs do not provide access to property tax revenue beyond the local jurisdiction's share.

Senate Bill 628 established EIFDs as a similar, but more flexible version of Infrastructure Financing Districts, where the scope of eligible projects is more expansive and the voter/landowner threshold to pass a bond is 55 percent instead of a two-thirds majority (as required for Infrastructure Financing Districts).

Implementation Considerations

While any tax increment, no matter how small, will generate revenue that can be reinvested in infrastructure, it is important to note that, in most cases, the percentage of the local property tax available to California cities is low (typically $0.10 to $0.20 of every property tax dollar). The Fremont General Fund currently receives approximately 15 percent of each property tax dollar, depending on the tax rate area. Moreover, the use of local property tax to support infrastructure financing has fiscal implications for California cities. Dedicating tax revenue to infrastructure limits funding for new public services costs associated with development.

General Obligation Bonds

A general obligation bond is a type of municipal bond that is secured by a state or local government's pledge to use legally available resources, most typically including property tax revenues, to repay bond holders. General obligation bonds are limited to capital improvement expenditures and are also limited in their use to the precise purposes outlined in the authorizing ballot measure. Commonly, general obligation bonds are restricted to specific capital uses like street improvements, drainage improvements, and parks and recreation.

General obligation bonds allow public entities to finance at a low fixed rate over the useful life of the asset. The incidence of burden of general obligation bonds is upon all property owners in the issuing jurisdiction proportional to the value of their property. It is this very broad base of funding that provides excellent security for general obligation bonds, thus typically garnering the lowest interest rate of any municipal debt instrument.

Implementation Considerations

For new general obligation bonds in the future, if the bond is being secured for unrestricted purposes through property taxes, a simple majority vote is needed to raise the property tax rate. Creation of general obligation bonds requires two-thirds voter approval if they are for specific purposes.

Grants

Investigation of potential grant funding for public facilities is appropriate for the Station Area Plan. Grants provide external funding from regional, state, and federal sources, but reflect local priorities. Many grants require local matches. Apart from local match requirements, there are significant staff costs associated with grant funding, including staff time during the application process and during the project. Grant funding is often limited to capital improvements, with maintenance responsibilities falling to the local jurisdiction.

While grant revenue is inherently unpredictable and highly competitive, the City of Fremont regularly applies for and receives grant funding. Throughout implementation of the Station Area Plan, it will be important to identify appropriate grant opportunities and to prioritize competitive infrastructure improvement projects. Several grants that may be worth considering are described below. Further analysis to align available grant resources with specific improvements is needed to determine which grants are worth pursuing.

Senate Bill 1 (SB 1) Road Repair and Accountability Act

The Road Repair and Accountability Act of 2017 invests $5.4 billion annually for ten years to fix roads, freeways, and bridges in California, while enhancing transit and safety. One-half of the funds will go towards the State highway system, and the other half will be allocated to local projects within cities/counties. Revenues are generated from an excise tax on gasoline ($0.12 per gallon) and diesel fuel ($0.20 per gallon), sales tax increases on diesel fuel, an annual Transportation Improvement Fee which is charged based on the market value of new vehicle purchases, and a Road Improvement Fee of $100 for Zero-Emission Vehicles (starting in 2020 for model year 2020 and later).

A portion of this revenue is deposited into the Road Maintenance and Rehabilitation Program to be spent on basic road maintenance, safety projects, and other transportation programs. At the local level, the State will annually set aside $200 million for city or county entities that have approved developer fees or sales/use taxes for transportation projects—the State's matching funds will support voter-approved transportation tax measures. Furthermore, $100 million will be spent on bicycle and pedestrian projects, and $1.5 billion will go towards repairing local streets and roads. Over 4,000 local projects are receiving SB 1 funds, and $5 billion has been allocated to improve local transportation infrastructure through competitive grants.

Measure BB

In 2014, Alameda County voters approved Measure BB, authorizing an extension and augmentation of the existing transportation sale tax, Measure B. Measure BB is projected to generate approximately $8 billion in revenues from April 2015 to March 2045 for transportation improvements within Alameda County.

The 2014 Transportation Expenditure Plan guides the investments of Measure BB revenues toward capital projects and programs that improve the county-wide transportation system. Priorities specifically include providing traffic relief by improving local streets and roads, improving air quality, and providing clean transportation by expanding bicycle and pedestrian paths.

As part of the 2014 Transportation Expenditure Plan, local agencies and transit jurisdictions receive direct local distributions from Measure BB funds to support these transportation investments, particularly bicycle and pedestrian improvements. County-wide, these direct local distributions amount to approximately $70 million annually and are prioritized for use locally by the recipient.

One Bay Area Grant Program

The One Bay Area Grant Program (OBAG), administered by the Metropolitan Transportation Commission, distributes federal funding to cities and counties to advance regional transportation priorities.

The OBAG program supports California's climate law, Senate Bill 375, which requires a Sustainable Communities Strategy to integrate land use and transportation to reduce greenhouse gas emissions. Per OBAG requirements, 70 percent of the funds must be used for transportation projects within priority development areas. The Alameda County Transportation Commission (Alameda CTC) is responsible for selecting and programming Alameda County's share of OBAG funds provided by the Metropolitan Transportation Commission.

The Alameda CTC supports the Association of Bay Area Government's (ABAG) Sustainable Communities Strategy by linking transportation dollars to land-use decisions and targeting transportation investments to support priority development areas, such as the Irvington Community Plan Area.

Transportation Fund for Clean Air

The Transportation Fund for Clean Air (TFCA) is a local fund source of the Bay Area Air Quality Management District. As the TFCA County Program Manager for Alameda County, Alameda CTC is responsible for programming 40 percent of the $4 vehicle registration fee collected in Alameda County for this program. Approximately $1.8 million in TFCA funding is programmed annually.

To be eligible for TFCA funding, projects are to result in the reduction of motor vehicle emissions. In general, eligible projects are those that conform to the provisions of the Alameda CTC Comprehensive Investment Plan (and the TFCA Program Guidelines contained within) and the Air District TFCA County Program Manager Fund policies.

Highway Safety Improvement Program

The Highway Safety Improvement Program is a federal grant program aimed at reducing traffic fatalities and serious injuries on all public roads. These funds can be used on any public road or pathway, including those owned by local governments. The City of Fremont envisions applying for Highway Safety Improvement Program funds to help improve the Five Corners intersection within the Plan Area.

Implementation Considerations

The unpredictability of grant funding and the timing of grant application cycles may affect project scheduling and delivery. However, because most state and regional funding is administered through the Alameda CTC, there are opportunities to mix and match funding sources to better align with City priorities. In all cases, grant funding requires administration and monitoring by City staff.

POTENTIAL FUNDING SOURCES FOR OPERATIONS AND MAINTENANCE

Following the one-time capital investment, public improvements, such as those described in Chapter 3, typically require annual funding for ongoing operations and maintenance. This section describes potential funding sources for operations and maintenance.

PARKING FEES

Parking fees represent a type of user fee, the revenue from which can be reinvested in the operations and maintenance of Plan Area improvements. Because local residents within walking or biking distance of the station may elect not to drive to the station, parking fees could be a way to spread the cost burden by having out-of-area BART users contribute financially to the Plan Area, thereby offsetting operations and maintenance costs.

Station Parking

BART charges a modest fee for parking at its stations (up to $3 per day, except at West Oakland where the daily fee is $10.50), and the parking is often in very high demand. The revenue goes to BART's General Fund to support systemwide operations and improvements. A Plan Area surcharge could be added to BART's base fee, and the incremental revenue could be collected and reinvested in the Plan Area.

On-Street Parking

So as not to burden local residents and businesses, on-street parking fees may need to be considered in the context of an overall parking management program, including the Residential Parking Permit (RPP) program identified in Chapter 3 of this Station Area Plan and short-term metered parking in front of businesses.

While this potential source of funding remains "on the table," preliminary research suggests significant unintended consequences. For example, charging for on-street parking requires infrastructure that adds to the capital costs and requires maintenance and, more importantly, enforcement, which adds to costs. In addition, under certain circumstances, the introduction of a parking fee should be coupled with on-street restrictions (time limits or outright restrictions) to reduce undesired spillover into surrounding neighborhoods.

Beyond revenue from an RPP program or on-street meters, additional revenue is generated through parking tickets if someone parks over the allowed time limit.

DEVELOPMENT AGREEMENTS AND PARTNERSHIPS

Development agreements can be used to extract funding for capital improvements or (less commonly) ongoing operations and maintenance. As future development agreements are negotiated, the City can target operations and maintenance within the Plan Area and weigh the relative need for capital versus annual funding.

GENERAL FUND

The General Fund, which is a governmental fund, is the City's main fund that accounts for the majority of City operations, including but not limited to police and fire services, recreation, planning, building inspection, library, engineering, parks maintenance, street maintenance, and general administration. Use of the General Fund to support infrastructure investments, including repair and replacement of existing infrastructure as well infrastructure that serves new development, requires little additional administrative effort and is typically secure given the broad range of revenue sources pledged to the financing. However, the use of existing General Fund revenue is limited by current demands to support municipal operations.

Additional Special Tax Measures

Increases in local taxes can also be considered as a mechanism to bolster the General Fund. Subject to a vote, cities can use a variety of existing or new funding sources to fund infrastructure directly. For example, local sales and transient occupancy taxes can be created or increased for this purpose. By enhancing General Fund revenues, the City gains the ability to divert some funds to infrastructure projects. A commitment to fund specific types of projects can be made in the ordinances that create new taxes or can be made as a matter of city policy. City funding can be used on infrastructure with a "pay-as-you-go" approach, as a source of reimbursement, or to support a municipal bond issue (e.g., to fill an initial funding gap associated with development impact fee programs or land secured financing programs).

The incidence of burden falls to those paying the taxes or rates. For example, sales taxes are paid by residents, businesses, employees, and visitors, while transient occupancy taxes are paid by visitors. The rationale for this payer burden is that these residents, businesses, employees, and visitors will benefit from the investments made in infrastructure and development.

Implementation Considerations

Creation of new general or special taxes and any related issuance of bonds supported by such revenues are limited by California constitutional requirements and statutes that require voter approval of 50 percent for general taxes and two-thirds approval for special taxes (i.e., those earmarked for particular uses).

CORPORATE/ORGANIZATION PARTNERSHIPS AND VOLUNTEERS

City staff and other volunteer-based organizations should explore philanthropic and nonprofit opportunities for in-kind services and/or donations. The potential use of volunteers could help offset certain maintenance and/or operating expenses. Potential cost savings from these efforts are not certain enough to estimate but should be considered.