



## Recommendation for Action

**File #:** 20-3569, **Agenda Item #:** 74.

11/12/2020

### Posting Language

Conduct a public hearing and consider an ordinance amending City Code Title 25 (Land Development) to include a Street Impact Fee program. Related to Item #73.

### Lead Department

Austin Transportation Department

### Fiscal Note

This item has no fiscal impact.

### Prior Council Action:

**20200917-064** - Set a public hearing to consider an ordinance amending City Code Title 25 (Land Development) to include a Street Impact Fee program. The public hearing was set for November 12, 2020, at Austin City Hall, 301 W. Second Street, Austin, Texas was approved on consent on an 11-0 vote.

**20200827-084** - Conduct a public hearing and consider an ordinance amending City Code Title 25 (Land Development) to include a Street Impact Fee program. Related to Item #69. This item was withdrawn without objection.

**20200827-069** - Approve an ordinance adopting the Street Impact Fee Land Use Assumptions, Street Impact Fee Capacity Improvements Plan, Street Impact Fee Service Area Boundaries, and Street Impact Fees. Related to Item #84. This item was withdrawn on consent on an 11-0 vote.

**20200730-008** - Conduct a public hearing and consider an ordinance amending City Code Title 25 (Land Development) to include a Street Impact Fee program. Related to Item #5. The public hearing was opened and continued to August 27, 2020.

**20200730-005** - Approve an ordinance adopting the Street Impact Fee Land Use Assumptions, Street Impact Fee Capacity Improvements Plan, Street Impact Fee Service Area Boundaries, and Street Impact Fees. Related to Item #8. This item was postponed to August 27, 2020 per changes and corrections.

**20200611-053** - Set a public hearing to consider an ordinance establishing a Street Impact Fee and program. The public hearing was set for July 30, 2020 at Austin City Hall, 301 W. Second Street, Austin, Texas on consent on Council Member Pool's motion, Council Member Harper-Madison's second on an 11-0 vote.

**20200730-005** - Approve an ordinance adopting the Street Impact Fee Land Use Assumptions, Street Impact Fee Capacity Improvements Plan, Street Impact Fee Service Area Boundaries, and Street Impact Fees. Related to Item #8. This item was postponed to August 27, 2020, per changes and corrections.

**20190822-087** - Conduct a public hearing and consider a resolution to adopt the Land Use Assumptions and Roadway Capacity Plan for a Street Impact Fee program. The public hearing was conducted and a motion to close the public hearing and approve Resolution No. 20190822-087 was approved on Council Member Alter's motion, Council Member Kitchen's second on an 11-0 vote.

**201908080-091** - Conduct a public hearing and consider a resolution to adopt the Land Use Assumptions and

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Roadway Capacity Plan for a Street Impact Fee program. This item was postponed to August 22, 2019 keeping the public hearing open on Council Member Kitchen's motion, Council Member Pool's second on an 11-0 vote.

**20190619-104** - Set a public hearing to consider a resolution to adopt the Land Use Assumptions and Roadway Capacity Plan for a Street Impact Fee program. The public hearing was set for August 8, 2019 at Austin City Hall, 301 W. Second Street, Austin TX on consent on Mayor Pro Tem Garza's motion, Council Member Alter's second on a 10-0 vote. Council Member Harper-Madison was absent.

**20190619-011** - Authorize negotiation and execution of an amendment to the professional services agreement with Kimley-Horn and Associates, Inc. for engineering services for the City of Austin Street Impact Fee project in the amount of \$239,946.76, for a total contract amount not to exceed \$1,412,848.51. Approved on consent on Mayor Pro Tem Garza's motion, Council Member Alter's second on a 10-0 vote. Council Member Harper-Madison was absent.

**20171019-050** - Conduct a public hearing and approve a resolution designating service areas and land use assumptions for street impact fees as required by Chapter 395 of Texas Local Government Code. The public hearing was conducted and a motion to close the public hearing was made by Council Member Flannigan and seconded by Council Member Houston. The motion was accepted without objection. No action occurred on the resolution.

**20160609-005** - Authorize negotiation and execution of a professional services agreement with KIMLEY-HORN AND ASSOCIATES, INC. (staff recommendation), or one of the other qualified responders for Request for Qualifications Solicitation No. CLMP195 to provide engineering services for the City Street Impact Fee project for a contract amount not to exceed \$ 1,175,000. Approved on a vote of 6-1-1 with Council Member Zimmerman voting nay and Council Member Gallo abstaining. Mayor Adler, Council Members Garza and Kitchen were absent.

**For More Information:**

Robert Spillar, 512-974-2488; Annick Beaudet, 512-974-7959; Cole Kitten, 512-974-6442; Liane Miller, 512-974-7922; Gilda Powers, 512-974-7092

**Council Committee, Boards and Commission Action:**

April 25, 2017 - Draft Land Use Assumptions and Services Areas reviewed by Impact Fee Advisory Committee.

July 25, 2017 - Land Use Assumptions and Service Areas recommended by the Impact Fee Advisory Committee on a 6-0 vote with Committee Member Dailey absent.

October 10, 2017 - Land Use Assumptions and Service Areas recommended by the Urban Transportation Commission on a 7-1-2 vote with Commissioner Gins voting nay and Commissioners Hosek and Johnson abstaining.

October 19, 2017 - Public hearing on Land Use Assumptions and Service Areas held by City Council.

June 13, 2019 - Roadway Capacity Plan reviewed by Council Mobility Committee.

June 13, 2019 - Roadway Capacity Plan recommended by the Impact Fee Advisory Committee on a 4-0-1 vote with Committee Member Soeur abstaining and Committee Members Dailey and Turrieta absent.

March 4, 2020 - Street Impact Fee Study recommended by the Impact Fee Advisory Committee on a 6-0 vote with Committee Member Dailey absent.

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April 14, 2020 - The Impact Fee Advisory Committee approved its comments on the Street Impact Fee Study, fee collection rate and policy on a 6-0 vote with Committee Member Dailey absent.

July 8, 2020 - Codes and Ordinances Joint Committee recommended the draft ordinance amending Title 25 (Land Development) establishing a street impact fee program with further direction to Planning Commission on a 7-0 vote.

July 10, 2020 - Recommendations approved by the Urban Transportation Commission on a 8-0 vote with Commissioners Leyton, Weatherby, and Wilfley absent.

July 14, 2020 - Ordinance considered by the Planning Commission.

July 28, 2020 - Recommendation approved by the Planning Commission on a 10-0 vote with Commissioners Llanes Pulido and Seeger abstaining and Commissioner Hempel absent.

**Additional Backup Information:**

Impact fees are authorized under Chapter 395 of the Texas Local Government Code. Impact fees are one-time charges imposed by a city to a new development for a portion of the costs related to specific capital improvement projects or facility expansions necessitated by and attributable to that new development. In Texas, impact fees are limited to water, sewer, streets, and drainage. In Fort Worth, the next largest city in Texas with a Street Impact Fee ordinance, the City collects approximately \$13 million/year in Street Impact Fees based on its policy.

In the FY 2015-16 Operating Budget, Council approved funding for the Austin Transportation Department to secure a consultant to conduct the technical analysis required to develop a Street Impact Fee. On April 11, 2019, City Council adopted the Austin Strategic Mobility Plan which calls for the implementation of a Street Impact Fee policy and program as a funding source for roadway capacity improvements necessitated by new development. On August 22, 2019, Council approved a resolution adopting the Land Use Assumptions and Roadway Capacity Plan developed as part of the Street Impact Fee Study. Staff then calculated the maximum assessable impact fee per Service Area. Fees may be set up to the maximum assessable fee in each Service Area.

This item is to conduct a public hearing to consider an ordinance that amends Title 25 (Land Development) establishing the street impact fee program.

**Street Impact Fee Process:**

The process to develop the Street Impact Fee program has occurred over three phases - Service Areas and Land Use Assumptions, Roadway Capacity Plan, and Maximum Fee Calculation and Fee Setting (Ordinance). The Public Hearing on July 30, 2020 began the final steps of Phase III. The hearing was left open and continued to August 27, 2020; however, staff withdrew the items to allow for additional time to incorporate recommendations made by the Planning Commission on July 28, 2020. The Public Hearing on November 12, 2020 would restart the process to adopt the ordinance. Per Section 395.051 of the Texas Local Government Code, Council shall approve or disapprove the imposition of a fee within 30 days after the date of the public hearing. Council should consider **not closing the public hearing until third ordinance reading.**

**Phase I: Service Areas and Land Use Assumptions**

A Service Area is a geographic area where a unique maximum impact fee is determined. In order to assess an impact fee, Land Use Assumptions must be developed to provide the basis for residential and employment growth projections within the Service Area. As defined by Chapter 395 of the Texas Local Government Code, these assumptions include a description of changes in land uses, densities, and development in the service area. The maximum Street Impact Fee determination by Service Area is required to be based on the projected

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growth and corresponding capacity needs within a 10-year window. This study considers the years 2017-2027. The study projects growth in terms of single-family and multi-family units and growth of employment in square footage. For roadway facilities, a Service Area is a sector within the City limits and cannot exceed six miles. The study identified 17 Service Areas for the City of Austin.

## **Phase II: Roadway Capacity Plan**

State law requires impact fees to be based on capacity improvements needed to serve new growth within a 10-year period. The study identified opportunities to add roadway capacity to the transportation network through new roadways, roadway expansions, access management, and intersection improvements. These proposed projects were vetted with the community during Phase III of public engagement for the Austin Strategic Mobility Plan. With the adoption of the Austin Strategic Mobility Plan on April 11, 2019, City Council established the roadway capacity projects for inclusion in the Street Impact Fee study. These improvements collectively are the Roadway Capacity Plan. The Roadway Capacity Plan is a list of projects in each Service Area eligible for funding through Street Impact Fees.

With the Public Hearing and Council action on August 22, 2019, Phase I and Phase II were completed.

## **Phase III: Maximum Fee Calculation & Fee Setting (Ordinance)**

The Maximum Fee calculation is based on the Land Use Assumptions and costs of improvements included in the Roadway Capacity Plan. The Land Use Assumptions are converted to demand, measured in vehicle-miles traveled. The recoverable costs for the Roadway Capacity Plan projects are calculated to only include the portion attributable to growth over a 10-year period. The result is a maximum assessable fee in terms of cost-per-vehicle-mile for each Service Area.

Setting development fees is a policy decision for Council to make. The fee collection rate can be set from 0% of the maximum assessable fee to 100%, and the percent of the maximum assessable fee charged can vary from one Service Area to another. It is Council's prerogative whether to set the fee at the maximum or at a lower rate based on policy preferences. Common policy decisions have been discussed with the Impact Fee Advisory Committee and public stakeholders during the development of the fee ordinance, including the following: reductions for the use of transportation demand management strategies and mixed use developments; offsets for system improvements; and the relationship to Transportation Impact Analyses and other traffic mitigation requirements.

Staff presented the results of the study, Impact Fee Advisory Committee recommendation and policy considerations to the community for feedback before bringing the draft ordinance to Council for approval and setting of fees.