

## CITY COUNCIL STUDY SESSION ITEM

### SUBJECT

Capital Funding Strategy—Role of Impact Fees and other capital funding sources, and proposal for revisiting the Mobility & Infrastructure Initiative (MII) project list and prioritization.

### STAFF CONTACT

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### POLICY ISSUES

Given the City's overall capital funding philosophy, what role should Impact Fees play? Should the City revisit the existing impact fee schedule, the timing on collection of impact fees, and/or the policy to address impact fees citywide versus reverting to a district approach?

What role should other capital funding sources play?

Should the MII Plan be revisited to address additional emerging needs and evolving revenue assumptions?

### DIRECTION NEEDED FROM COUNCIL

Action

Discussion

Information

The Council has requested the opportunity to discuss the City's capital funding strategy, including the expanded list of capital needs and the various funding tools available, early in the budget process. Tonight's discussion focuses on the use of Impact Fees, walks through other available capital funding sources, and introduces the possible reprioritization of the MII capital projects list. The intent is to provide a wide array of capital funding information to Council in advance of the Budget Workshop scheduled for April 2 and the biennial budget process which is just getting under way.

### BACKGROUND/ANALYSIS

#### **The Capital Funding Challenge – updated from the February 21 Council Packet**

The City has a growing list of capital needs, and limited funding tools available to address them. These go beyond the needs that can be met through basic CIP revenues, and include:

- The Mobility and Infrastructure Initiative (M&I),
- The East Link MOU contribution,
- Timing of the Park system levy match,
- Other emerging needs, which could include implementing the results of the Downtown Transportation Plan currently under development, the Eastgate/I-90 corridor recommendations, redevelopment of the Wilburton District, and
- Other previously-identified unmet needs.

While the list of “beyond-the-basic” capital needs has been growing, the revenue picture has declined compared to earlier forecasts. Given the prolonged economic downturn, some capital funding revenues have been performing worse than projected, and some revenue components have not been adopted as planned. Moreover, expectations of **future** federal and state grants are much reduced, so the City may need to be increasingly self-reliant in funding future capital infrastructure. Together, these various factors have coalesced to significantly impair the City’s ability to construct planned capital projects. Thus questions have been raised about the right mix of tax/revenue tools that should be used in moving forward and which capital projects are of highest priority.

Tonight’s Study Session focuses particularly on the use of Impact Fees, and is one in a series of discussions intended to update the City’s capital funding strategy. The first discussion occurred on February 21, with the role of Local Improvement Districts (LIDs). Future Council discussions, particularly at the planned April Budget Workshop, will explore in depth the issues of which projects have highest priority for funding, and the appropriate types and levels of funding tools to be used.

**Current Funding Philosophy – repeated from the February 21 Council packet**

The last major review of the City’s capital funding strategy, with the opportunity to look at new revenue sources that could fund non-basic needs, occurred with development of the M&I Finance Plan. This plan was endorsed by the Council in January 2009. The M&I funding philosophy was driven by six fundamental principles:

- *The Finance Plan should take the long view, with the understanding that the basic infrastructure, livability investments, and amenities will occur as redevelopment takes place;*
  - *The Finance Plan should maintain the City’s long-term financial stability (thus preserving the City’s Aaa bond rating);*
  - *The cost for the public infrastructure should be shared based on the relative impacts and benefits of development;*
  - *The Finance Plan should enable the Bel-Red vision to be realized;*
  - *The Finance Plan should be complementary to the long-term economic development goals for Bellevue; and*
  - *Public investments should be made strategically in order to leverage them for the greatest public good.*
- (excerpt from the 2009 M&I Plan)

These principles resulted in the overall strategy and the mix of funding tools the Council selected to fund the \$299 million Plan (see Attachments A and B, reprinted from the October 13, 2008 Council packet). The package included four major funding components:

1. “baseline revenues” (Bel-Red tax increment, incentive zoning, storm drainage fees, ROW dedication, and grants),
2. LIDs (discussion on this element occurred on February 21, 2012—see Attachment C for responses to questions raised by Councilmembers),
3. development impact fees (tonight’s discussion), and
4. general taxes (property tax including debt issued thereon).

The intent was that these revenue sources provide a balanced funding package consistent with the fundamental principles expressed above.

**Focus on Impact Fees**

Impact Fees were one of the four major funding components intended to support the entire M&I Plan. They were planned to raise \$65 million of the Plan’s total revenues. The M&I Finance Plan described the use of Impact Fees as follows (see Attachment D for the Final Financing Plan):

Transportation Impact Fees. *Transportation impact fees are currently levied by the City against new development to help pay for the cost of new transportation improvements serving that new development. This Plan anticipates new transportation impact fee revenue of about \$65 million over the next 10 years.*

The use of Impact Fees was a direct response to the principle that *the cost for the public infrastructure should be shared based on the relative impacts and benefits of development.*

Under State Law (RCW 82.02.050—Attachment E), impact fees are authorized as a local government funding source to ensure that adequate facilities are available to serve new growth and development by establishing standards by which counties, cities, and towns may require that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development. In addition, RCW 82.02.050 goes on to note that impact fees are to be imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact, and that impact fees are one part of an overall financial strategy. Under State Law, impact fees can **only** be imposed for system capacity improvements adopted in the Capital Facilities Plan. Impact fees **cannot** pay for existing deficiencies, operating or maintenance expenses, non-capacity costs, on-site improvements, or multi-modal projects such as transit or park and rides.

Bellevue began employing impact fees as a transportation capacity project funding source in 1990 following a two-year public process initiated in 1988 by receipt of a Citizens' Traffic Initiative containing signatures of over 8,200 Bellevue residents (roughly 10% of the City's population). Initial recommendations to employ impact fees as a funding source resulted from the work of a citizen-based Traffic Impact Task Force and a Council-appointed Traffic Oversight Committee. The concept of impact fees was also a key funding element for the CBD Implementation Plan, the precursor to the current DIP, that was adopted in the same timeframe.

Following adoption of the Traffic Standards Code on June 5, 1989 (Ordinance No. 4017), the Council took up consideration of a transportation financing plan that included the use of impact fees, a new business tax (employee head tax), and a "public share" to finance capacity-related improvements. Following several meetings and extended public hearings, the Council, on December 18, 1989, adopted Ordinance No. 4104 (codified at BCC 22.16—Attachment F) that authorized the imposition of impact fees on new development to provide a portion of funding to mitigate the cumulative impacts of growth and development. Consistent with the Citizens' Initiative, the impact fee tool was intended to ensure that development pay its appropriate share toward the infrastructure needed to support its impacts on City facilities, and to help generate sufficient revenues to maintain adequate levels of service. Since then, this section of City Code has been updated five times, most recently in 2009. The purpose of BCC 22.16 is to:

- 1. Adopt a program for the purpose of jointly funding, from public and private sources, system improvements necessitated in whole or in part by development and growth within the service area.*
- 2. Provide a fair and predictable method for allocating the cost of reasonable and necessary transportation improvements between the public and private sectors.*
- 3. Create a mechanism to charge and collect transportation impact fees from new development.*
- 4. Provide a portion of the funding for reasonable and necessary system improvements to mitigate the cumulative impacts of growth and development in the service area.*
- 5. Create a system for the collection and administration of transportation impact fees."*

In order to accomplish these goals, BCC 22.16 currently:

- Provides for the imposition of Transportation Impact Fees;
- Provides that the service area for impacts is city wide
- Provides that impact fees shall be paid at the time of permit issuance
- Clarifies the fee calculation and methodology
- Allows for modifications by development agreement (most recent example is the Kelsey Creek Center Development Agreement, Resolution No. 8248, adopted on June 6, 2011)
- Provides that separate ordinance would adopt a fee schedule.
- Updates definitions, impact fee processes.

The current capital funding challenge presents several policy issues related to impact fees that will need to be resolved prior to moving forward:

- Should the existing fee schedule be updated?
- Should the required payment of impact fees at permit issuance be adjusted?
- Should the shift from a multi-district impact fee program to a citywide program be revisited?

### Current Fee Schedule

❖ Policy question: How do current and future adopted rates compare to maximum allowable rates?

Under City Code, impact fees are calculated as the ratio of growth-related transportation facility improvement (project) costs to land use growth estimates (converted to new PM peak hour trip ends). In 2009, based on the adopted impact fee projects and costs in the 2009-2020 Transportation Facilities Plan (TFP), the actual cost per growth trip, and the maximum allowable impact fee, was calculated to be \$8,667 per new trip. The 2009 Update to the City's Transportation Impact Fee Program was adopted by Council on May 4, 2009 (Ordinance No. 5871--Attachment G). A detailed report entitled "Transportation Impact Fee Program for Bellevue Washington, 2009 Update" was adopted by reference and is available for review in the Council Office.

The actual impact fee rate schedule was set by separate Council action on May 4 (Ordinance No. 5872—Attachment H). The fee schedule was adopted with "stepped" fee increases over time as outlined below:

- |   |                               |
|---|-------------------------------|
| • January 1, 2010 until December 31, 2012 (Current) | \$2,000/Trip                  |
| • January 1, 2013 until December 31, 2015           | \$3,000/Trip                  |
| • January 1, 2016 until December 31, 2016           | \$5,000/Trip                  |
| • January 1, 2017 and annually thereafter           | \$5,000 plus annual indexing. |

The current fee reflects only 23% of the maximum allowable impact fee, and the highest fee step within the adopted schedule reflects only 58% of the maximum allowable impact fee. The fee schedule may be revised at any time the Council deems "just and appropriate". Attachment I to this memo displays impact fees under currently-adopted rate steps for several types of sample developments.

Based on Council comments made at the time the current impact fee program was adopted (including the specified step increases), staff committed to return to Council with a review of the program prior to the next scheduled fee increase on January 1, 2013. An update of the current 2009-2020 TFP is included in the Transportation Department's 2011-2012 work plan (adopted per Budget One) and is currently underway with the Transportation Commission. Besides the specific impact fee projects listed within the TFP, the project cost estimates and capital revenue forecasts used in the TFP will be updated. The other key factor in the calculation of the eligible maximum impact fee rate, the land use growth forecasts, will also be updated.

A concern has been raised in recent Council discussions that current capital funding constraints may make some adopted TFP projects unaffordable, which may in turn put at risk the legal defensibility of the adopted impact fee schedule.

While it **does not replace** the complete and detailed process of the TFP and impact fee program updates, staff has conducted a high-level scenario test to determine if a major reduction in capital revenue on top of a modest decrease in land use growth forecast over the 12-year plan period would continue to support the adopted impact fee schedule. A 50 percent reduction in the project costs and a 15 percent reduction in the land use growth numbers included in the current TFP and impact fee program would continue to support an eligible impact fee rate of \$5,100/trip, still in excess of the adopted \$5,000/trip in 2016. This suggests that, even with significant modification to the impact fee project list, the adopted impact fee rates are likely to remain legally defensible.

❖ Policy question: How competitive are Bellevue's rates with other jurisdictions in the region?

Bellevue's impact fee rates remain very competitive with the adopted rates of cities and counties throughout western Washington. Attachment J includes two impact fee comparison charts, one focused just on Bellevue's closest neighbors and the second on a much larger list of cities and counties. Some other cities, including Seattle, do not impose a transportation impact fee. This does not mean that these cities do not require the mitigation of a development's impacts to the transportation system. Agencies, including Seattle, that do not impose a transportation impact fee use SEPA to require new development to mitigate its impact on the city's transportation infrastructure. Seattle also provides for voluntary impact fee payment in two neighborhoods, South Lake Union and Northgate. The developer may choose either the fee payment (with additional traffic operation analysis, as needed) or the SEPA-based traffic analysis (with resulting mitigation required).

City staff has consulted with staff from City of Seattle relating to their handling of transportation mitigation payments for South Lake Union and Northgate development activity. Attachment K provides details, including the fee structure, on the voluntary alternative to mitigation required by SEPA permit conditions that is offered to developers in these two areas. If Bellevue were to return to the SEPA-based method of identifying traffic impacts and associated mitigation, staff anticipate it will require greater use of traffic consultant and City staff resources and, therefore, greater permit review costs and less predictability to developers. Comparative mitigation requirements (fee payment or physical improvements by the developer) cannot be predicted at this time. City staff is continuing to seek additional information from Seattle on SEPA fee rates and mitigation requirements for specific project examples, and will report back to Council when received.

**Staff Recommendation:** Maintain the currently-adopted impact fee schedule adopted by Council in Ordinance No. 5872 on May 4, 2009, including the 2013 fee increase to \$3,000/Trip. The timing and amount of subsequent fee increases may be revisited at any time the Council deems appropriate.

#### Impact Fee Revenue Collections - Actual and Projected

❖ Previous Council Question: How have actual impact fee collections compared to impact fee revenue projections adopted into the capital budget?

As discussed above, the current transportation impact fee program was adopted in 2009, although the first actual fee increase did not take effect until January 1, 2010. The City, region and country were already in the midst of the economic downturn. This was a significant factor in the development of impact fee revenue forecasts for the current 2011-2017 CIP. **It is important to note that no fee revenue was projected for 2010, and only \$600,000 in fee revenue was projected in 2011** (\$2,000/Trip multiplied by a projection of 300 new trips). Actual impact fee revenue in 2010/2011

totaled approximately \$614,000. Growth and fee revenue projections for 2012 and subsequent years stepped up sharply. Fee revenue in 2012 is projected at \$1.9 million and for 2013, after the next step fee increase, the projection reflects \$3.5 million. Attachment L displays transportation impact fee revenue budgeted in the 2011-2017 CIP compared to actual collections to date.

Staff has also evaluated current development activity. Several large projects are in the development review "pipeline", though active development review activity is no guarantee that permits will be issued and impact fees paid. Currently, larger projects in the development review pipeline (Land Use Approvals issued and/or Building Permit Applications submitted) include approximately 2.4 million square feet of commercial space, approximately 1,200 multi-family units (apartments and condominiums), and over 300 hotel rooms. If permits were issued for all of this development in the 2012-2014 timeframe, impact fee revenues could range between \$6.3 million and \$9.5 million, depending on whether permits are issued in 2012 or in 2013/2014, after the fee step increase.

#### Timing of Collection of Impact Fees

- ❖ Policy Question: Should the City continue to collect impact fees at time of issuance or allow some deferral in timing of fee payment?

As noted above, current code (BCC 22.16) provides that payment of impact fees shall be at the "issuance of building permit" or, in the event the project does not require a building permit, then at the "time of issuance of the approval of the development". Timing of payment may be modified as part of a Development Agreement approved by Council. At Council's discretion, Council may determine an alternate milestone for the collection of impact fees through a code amendment to BCC 22.16.

There are a variety of alternatives for structuring collection of impact fees in addition to Bellevue's current approach. Some cities (i.e. Federal Way and Sammamish) and at least one county (King), **for residential developments only**, have allowed for the payment of impact fees to be deferred by 18 months or associated with the issuance of a Certificate of Occupancy (or final inspection notice) or the sale of the new development, whichever is earlier. Deferred impact fee payment is also a subject that has been taken up by the state legislature in recent sessions; however, to date there have been no associated changes in state law governing the payment timeframe for impact fees (RCW 82.02.050) – thus leaving the matter up to each local jurisdiction. Another alternative is to collect a portion of the fee upfront at time of permitting and the remainder at occupancy.

Several pros and cons are worthy of consideration before any changes to City Code are made.

#### Pros:

- Improved cash flows benefitting project developers. The developer can approach sale or lease of the development prior to being required to pay the impact fee.

#### Cons:

- There would be an opposite, negative impact to the City's cash flow. Deferred payment may require the City to use alternate funding sources or mechanisms, including borrowing, to complete projects that serve the new growth.
- Allowing deferred fee payment would require greater administrative effort and costs, likely including delinquent fee collection activities (the cost of which could exceed the impact fee itself).
- Requires placement of liens against residential and/or commercial property or other payment security devices.

Depending on Council's interest in pursuing one or more of the available options for restructuring collection of impact fees, staff will return with additional analysis for consideration.

**Staff Recommendation:** Consider a Code amendment that would provide flexibility for the development community in the required timing of impact fee payments associated with 2013-2014 Transportation Facility Plan Update (currently underway). Ensure appropriate fee payment assurance devices are required and that any added costs to the City for processing and collection and any short-term borrowing costs can be recovered through administrative fees.

King County Ordinance No. 17190 adopted in July 2011, which authorizes the deferred payment option in the County, also requires that a report be prepared two years after passage on the use of the program and any adverse impacts to the County's ability to construct projects made necessary by new development. Information from this report and other agency experience may inform future discussion on this concept with the Council.

#### Impact Fee Districts: Citywide vs. Multiple Districts

- ❖ Policy question: Should the City maintain its new citywide impact fee program or reconsider multiple districts?

Historically, the City's transportation impact fee program used a system composed of 14 impact fee areas or zones. At first, the City based the fee on the cost per trip within each district, but that led to widely varied impact fee rates between the districts. The City later modified that approach by averaging each district's cost per trip - making the cost per trip in each district equal - before applying a trip length factor that again made each district's fees distinct, though not as varied as the original method. Longer trips use more overall street capacity; therefore it is logical that the impact fee was higher in districts with longer trip lengths.

The City's impact fee program was typical of the earliest transportation impact fees adopted in Washington, in that it used multiple impact fee districts. Multiple districts have been used by jurisdictions to address the statutory requirements that impact fees be "reasonably related" to and "reasonably needed" by new development. Impact fee districts are based on the idea that these statutory requirements were fulfilled, in part, if impact fees were spent in some proximity to the development that paid the fees. The belief was that proximity indicated use and benefit; therefore, the impact fee was "related" and "needed" by development in the district. Even under the City's prior 14-district approach, impact fees were collected, pooled, and spent on the City's highest priority transportation capacity projects.

Impact fee districts have experienced a number of problems. Multiple districts are more complex for the development community. Multiple districts mean some districts may not generate or receive enough impact fee revenue to pay for a transportation project - though state law does permit pooling of fee revenue from separate districts to fund priority improvements. Multiple districts also cost the City more to administer.

Also, the measure of benefits to development is broader than geographic proximity. While some benefits derive from presumed use due to proximity, traffic models show that actual use of a street can be traced to trips originating from, or destined to, locations that are not proximate to the development. These trips provide substantial benefit to the development's residents, owners, visitors, or customers, and are thus "reasonably related" and "reasonably needed" by new development. In other words, new development benefits from trips on the street network, not just the streets near the development. Washington law allows flexibility in determining impact fee districts. RCW 82.02.060(6) authorizes each city that adopts an impact fee to "...include one or more reasonable service areas..." for impact fees,

and leaves the determination of the number, size and location of service areas (e.g., districts) to each city.

The current trend is to use a single citywide district for impact fees or to use very few districts. All cities on the Eastside except Woodinville now use the citywide approach. Bellevue amended its program from the multiple district approach to the citywide approach with the adoption of the 2009 update, adopted by Council in Ordinance No. 5871 on May 4, 2009. The primary rationale for this approach was the stated goal to “simplify the program,” from imposing 14 different fee rates to just one.

**Recommendation:** Continue to calculate the transportation impact fees based on the 2009 citywide methodology, but allocate spending as directed by Council to the highest priority capacity projects. Regardless of the City’s use of a single citywide or multiple districts in the calculation and collection of impact fees, the geographic location of developments paying the fee can be tracked and used as a policy factor by Council to govern the programming and expenditure of these funds on a citywide or by-district basis.

**Other Capital Funding Sources**

In addition to the use of impact fees, several other funding sources are included in the capital funding toolkit for Council’s consideration. Tonight staff will introduce discussion of some of these sources on which Council has had previous discussions and/or expressed interest in the past.

**Property Tax**

Bellevue’s levy rate remains among the lowest of neighboring jurisdictions. Property tax generates a stable revenue source at approximately \$37 million in 2012 with a tax rate of \$1.19 per \$1,000 of assessed value (\$1.06 regular levy plus \$.13 Parks voted levy). The City’s current banked capacity is approximately \$8.8 million. If Council were to choose to use 100% of the banked capacity, the levy rate would increase to approximately \$1.48 per \$1,000 of assessed value. The maximum statutory limit for Bellevue’s levy rate is 3.10 per \$1,000 of assessed value, or a total levy of \$96 million (\$59 million increase to the current levy).

The City has not taken the allowed property tax increase since 1997. The City has opted to use “banked capacity” as noted below:

- 2007 – City levied 2%, or \$525,000 of banked capacity, to support a portion of the capital improvements identified in the Supplemental CIP.
- 2008 – City levied 2%, or \$553,000 of banked capacity, to support a portion of the capital improvements identified in the Supplemental CIP.
- 2009 – City levied 3%, or \$867,000 of banked capacity, to fund a portion of the major capital improvements identified in the MII.

The table below shows a comparison to neighboring jurisdictions for 2011.

Comparisons of 2011 Property Tax Burden Selected Washington Cities Property Tax 2011 Total Statutory Maximum: \$3.10/per \$1,000 of AV			
City	Levy Rate	Avg. Home Value	Levy Cost
Bellevue	1.14 (1.02 General; .12 Parks)	\$ 563,600	\$ 644
Issaquah	1.38	503,700	695
Kirkland	1.39	503,900	699
Mercer Island	1.22	1,037,500	1,270

Redmond	1.72	445,900	766
Renton	2.83	285,500	809
Seattle	3.06	453,300	1,387

As noted previously, a 1% increase in City property taxes generates \$325,000 a year, and under current market conditions could generate up to \$4 million in bonded capacity. The cost to the homeowner of a \$500,000 home for a 1% increase in property taxes is approximately \$5.25 a year.

Voted Ballot Measures -- Bond vs. Levy

Voter initiatives are another major funding mechanism available to government. Depending on the size of funding package, Council has a number of financing tools available to finance a ballot measure package. The two major tools are voter-approved bonds and a voter-approved levy. While State law limits the amount of voted debt allowed for voter initiative packages, Bellevue currently does not have any voter approved general obligation debt. The following provides a summary of the two major tools:

- Voter-approved bonds, also known as Unlimited Tax General Obligation Bonds (UTGO), may be used for capital purposes only (e.g., engineering, land acquisition, construction and development) and are typically repaid over 20 years through increased property taxes.
  - Pros:
    - Provides capital funding up front
    - Bonds are the more appropriate financing mechanism for larger voter packages as they produce a lower annual cost per homeowner due to spreading costs over 20 years.
  - Cons:
    - Voter approved bonds cannot be used for ongoing maintenance.
    - Requires separate M&O ballot measure if maintenance funding is needed. Running companion bond and levy measures can confuse voters.
    - Bonds require supermajority approval (60%) and the vote must be validated (i.e., the total number of votes cast cannot be less than 40% of the number of votes cast in the last general election).
    - Counts against the City's voted debt capacity.

As a note: A 1% increase on City property taxes generates approximately \$325,000 a year, and under current market conditions could generate up to \$4 million in bonded capacity. The cost to the homeowner of a \$500,000 home for a 1% increase in property taxes is approximately \$5.25 a year.

- A voter-approved levy can be used for capital purposes (e.g., engineering, land acquisition, construction and development), but also for ongoing maintenance and operation needs. It provides a "pay as you go" operating or capital funding source over the duration of the levy.
  - Pros:
    - Can incorporate permanent M&O element within single ballot measure
    - A levy requires simple majority approval (50% + 1).
    - Best used on smaller projects, otherwise rise in levy would have a greater impact on households.
  - Cons:
    - For larger capital investments, the levy impact would be greater on households than an equivalent voter-approved bond.

Attachment -M provides an overview of recent voter initiatives, early information on anticipated Fall 2012 voter initiatives, and Council timeline for actions. As noted in Attachment M, the last date on which Council may adopt an Ordinance calling for a special election (ballot measure) and meet all other requirements prior to Council recess is July 23, 2012.

### Transportation Benefit Districts

Transportation Benefit Districts (TBDs) are independent taxing districts that can impose an array of taxes or fees either through a vote of the people or through Council action. TBD's may be established by cities (alone or jointly) and counties to fund transportation improvement projects.

There are several revenue options allowable under current legislation.

#### Revenue Options subject to voter approval

- Property taxes – a one year levy or an excess levy for capital purposes (RCW 36.73.060 allows for TBDs to levy property tax, if approved by the voters, in excess of the 1% limit for one year, or for multiple years for bond redemption.)
- Sales and Use Tax - up to 0.2%
  - Tax may not be in effect longer than 10 years unless reauthorized by voters
- Vehicle License Fee – up to \$100 annually per vehicle registered in the district; and
- Vehicle tolls.

#### Revenue Options subject to majority Council approval (Note: TBD boundaries must be citywide)

- Vehicle License Fee – up to \$20 annually per vehicle registered in the district. Would generate approximately \$2 million a year, and under current market conditions could generate up to \$28 million in bonded capacity.

The 2012 Legislature is considering local transportation revenue options (ESSB 6582 as amended by the House on March 3) that would allow the following:

- Raise the limit of the vehicle license fee from \$20 to \$40 with no public vote required, which could generate approximately \$4.4 million a year and, under current market conditions, could generate up to \$56 million in bonded capacity. The additional revenue may not be used to supplant existing local transportation funding for local road operations and maintenance.
- Authorizes the county to impose, by voter approval, a 1% motor vehicle excise tax (MVET). Preliminary analysis indicates that a 1% MVET within Bellevue city limits could generate approximately \$7.7 million a year, and under current market conditions could generate up to \$90 million in bonded capacity.

Attachment N provides a quick view of jurisdictions using TBDs and the funding source imposed by each of them.

### **Questions about the Future of the M&I Funding Plan**

One of the key elements in the City's recent capital investment strategy is the Mobility and Infrastructure Initiative (M&I) Funding Plan. The original M&I Plan contemplated a set of project investments that go considerably beyond what could be funded through the basic CIP. To meet these exceptional needs, the Plan contemplated raising \$299 million in new revenues over 10 years, from a variety of sources. The funds would be spent over 7 years, on a series of infrastructure needs in Bel-Red, Wilburton, Downtown, and elsewhere in the city.

Part of any complete discussion of the City's capital investment strategy moving forward must be a re-examination of the M&I Plan. On the revenue side, several of the M&I assumptions are not in place:

- The Plan called for ten successive property tax increases over the years 2009-2018; only the first of these (2009) has occurred to date.

- Given the economic downturn, the pace of development-generated revenues (Bel-Red tax increment, impact fees) has lagged behind what was anticipated.
- While it may be re-constituted, the first LID has not moved forward as of this date.
- The timing assumption of generating the \$299 million in the ten years from 2009-2018 does not appear realistic.

Given the current M&I revenue picture, and additional capital investment needs including the East Link MOU, staff has begun the process of examining the M&I project list. We are taking a hard look at the development outlook in Bel-Red, Wilburton, and Downtown, and the factors that could affect the need and timing for the various M&I projects. The goal is to identify a constrained list of key M&I projects needed to support City and private sector development plans in the near to intermediate future, recognizing revenue limitations and other capital priorities. Staff intends to bring some preliminary conclusions forward at the April 2 budget retreat. The Transportation Commission would then be used to meld this constrained list of key M&I projects with the other transportation needs city-wide, ultimately leading to a Commission-recommended prioritized project list for Council's consideration.

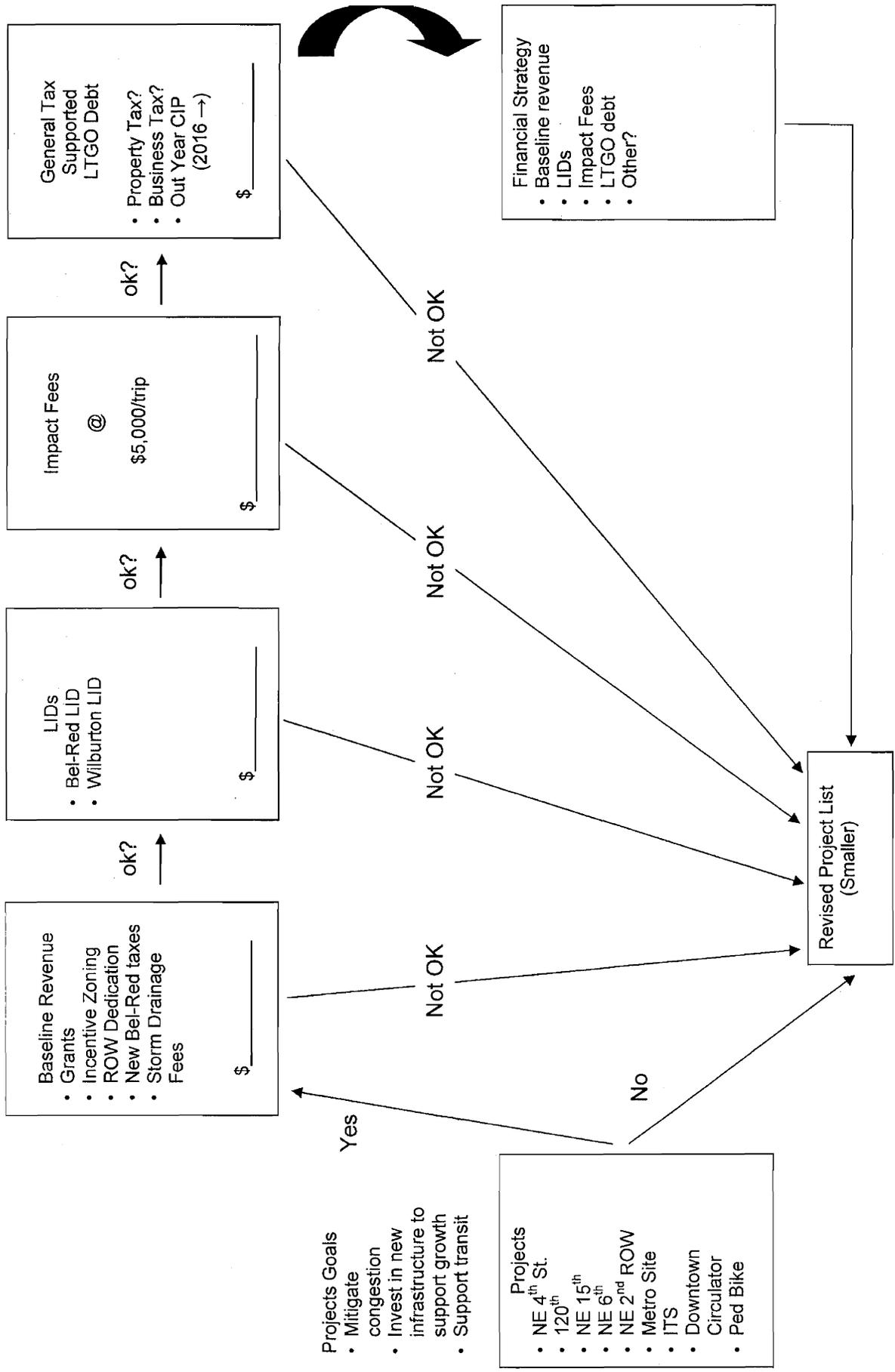
#### **ATTACHMENT(S)**

- A. Capital Investment – Long-range strategic Direction (reprinted from October 13, 2008 Council packet)
- B. Policy Implications (reprinted from October 13, 2008 Council packet)
- C. Response to Council questions relating to LID financing
- D. Endorsed MII Finance Plan (January 20, 2009)
- E. RCW 82.02 – Excise Taxes: General Provisions (Section 82.02.050 relates to Impact Fees)
- F. Bellevue City Code 22.16 – Transportation Impact Fee Program
- G. Ordinance No. 5871 – updating the City's transportation impact fee program
- H. Ordinance No. 5872 – adopting the current impact fee rate schedule
- I. Current adopted impact fee rates for sample developments
- J. Comparisons of Impact Fees across other Jurisdictions
- K. Seattle Department of Planning and Community Development Client Assistance Memo 243 – Transportation Mitigation Payments – South Lake Union and Northgate
- L. Budgeted and actual Impact Fee revenues in 2011-2017 CIP
- M. Additional Ballot Measure Information
- N. Quick View of Jurisdictions with Transportation Benefit Districts

#### **AVAILABLE IN COUNCIL OFFICE**

- A. Detailed Transportation Impact Fee Program for Bellevue Washington, 2009 Update

# Capital Investment - Long Range Strategic Direction



## Policy Implications Who Pays?

Residential	Commercial	Developers	Other
<ul style="list-style-type: none"> <li>• New Bel-Red taxes</li> <li>• Property taxes</li> </ul>	<ul style="list-style-type: none"> <li>• New Bel-Red taxes</li> <li>• Bel-Red LID</li> <li>• Wilburton LID</li> <li>• Business taxes</li> </ul>	<ul style="list-style-type: none"> <li>• Incentive Zoning</li> <li>• ROW Dedication</li> <li>• Bel-Red LID</li> <li>• Wilburton LID</li> <li>• Impact Fees</li> </ul>	<ul style="list-style-type: none"> <li>• Grants</li> <li>• Out Year CIP \$</li> </ul>



Revenue  
Options



## **Memorandum**

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**Date:** March 8, 2012

**To:** Mayor Davidson and City Councilmembers

**From:** Dave Berg, Director of Transportation, 452-6468  
 Dan Stroh, Assistant Director Planning & Community Development, 452-5255  
 Jan Hawn, Finance Director, 452-6846

**RE:** Responses to Questions from Council

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Attached are questions posed by Council at the February 21, 2012 meeting related to the role of LID's.

1. *How was the original \$56 million in LID revenue determined within the MII Revenue Plan?*

Response:

During the spring and early summer of 2008, the Director of Planning and Community Development led several discussions with PCD, Transportation, and Finance staff to determine an appropriate mix of funding options to propose as part of the Mobility & Infrastructure Initiative. They sought a basis for assumptions that could be easily adjusted for different scenarios and settled on new trips generated by planned development in the Bel-Red and Wilburton areas. To ensure no double counting, the various base scenarios assumed a split of trips between Local Improvement Districts and Impact Fees and also an LID credit toward Impact Fees. The scenarios placed potential LID revenue between \$50 and \$63 million from the two proposed LIDs.

Then the city contracted with Heartland LLC to evaluate the feasibility of the funding scenarios and the potential impacts on existing property owners resulting from the variety and magnitude of the proposed MII funding mechanisms. The report concluded that LID revenue of at least \$50 million was feasible given the growth projections and that the balance of revenue generation (from LIDs, impact fees, and incentive zoning) with private partner impacts could be achieved with an LID assessment ratio of 55 percent.

Based on the Heartland analysis staff refined the MII assumptions (including what project segments would be included in the proposed LIDs) and set the final LID revenue projection at \$56 million. The Wilburton Connections LID Special Benefits Analysis was generally consistent with the MII projection. This, the smaller of the two proposed LIDs, was initially intended to include NE 4th Street and 120th Avenue from NE 4 to NE 12th Street and was projected to generate \$10 million. The

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Wilburton Connections LID included a reduced set of projects and generated special benefits of \$10.17 million with a 75% assessment ratio.

2. *What would the delay from the LID do to the cost of Right of Way acquisition and construction bids?*

Response:

Right of way acquisition could remain on its current schedule, with Phase 1 being completed in September 2012 and Phase 2 early 2013 (pending litigation). There should be no change to the cost of acquisition related to formation of the LID.

The current construction schedule for Phase 1 of NE 4th anticipates ad and award to begin in October/November 2012. Construction ad and award for Phase 1 would need to be delayed until after the protest and appeal period, and Council forms the LID (April 2013). This equates to an approximate delay of six to nine months in construction pricing. Current construction cost inflation is estimated at approximately 3.5% according to the Engineering News Record CCI for the Seattle metropolitan area.

Due to neighborhood concerns construction of NE 4th Phase 2 has been expected to follow, or occur simultaneously with, construction of 120th Stage 2 (NE 8th to NE 12th). Due to timelines associated with the relocation of the Barrier Porsche property, construction for 120th Stage 2 is expected to begin in December 2014. NE 4th Phase 2 could begin at the same time.

3. *Could we use a latecomers agreement instead of an LID?*

Response:

Latecomer agreements allow a property owner who has installed street or utility improvements to receive a portion of the costs of those improvements from other property owners who later (within 15 years) develop property in the vicinity and use the improvements. A latecomer assessment can only be triggered if a property owner submits an application for development that would have required similar improvements if they were not already in place. (Note: A municipality can be considered a property owner under Ch 35.72 RCW.)

A latecomer agreement would not apply to this scenario because the properties east of the BNSF are not likely to redevelop in the stated timeframe. In addition, because the parcels already have roadway access, the property owners would not likely be required to make additional street improvements if they did re-develop.

4. *What is the property owner engagement plan? Can we get a sense of whether the primary property owners may support a revised LID?*

Response:

Property owner engagement has been a significant on-going component of the project to date, and they are well aware of the potential of another LID. For better understanding of how the NE 4<sup>th</sup> Street project specifically benefits each property, staff would like to engage in two preliminary work efforts with the aid of outside resources. One is an economic analysis and the other is an updated traffic analysis. We heard a lot of comments during the previous LID that property owners (and other stakeholders) did not fully understand what special benefit they received from the project(s). Supplemental economic assessment, along with updated traffic analysis, would provide property owners (and other stakeholders) with a better understanding of project(s) benefits specific to each property.

It is always difficult to determine support for an LID until specific assessed values have been reached and each property owner can make a determination of how that assessment will affect them financially. Mutual coordination, information sharing and discussion is essential throughout the process not only for property owners, but also for the city to understand property owner concerns and obstacles.

Specific feedback has been heard from the tenant (Best Buy) that they would support an LID only if the Shifted alignment was selected.

5. *What is process to strike the current financial policy that was superseded by the MII guiding principle? Can we also strike TR-109 as part of the 2012 CPA?*

Response:

Each Budget cycle Council reviews and changes the financial policies, if necessary. In the 2011-2012 Budget process, Council updated the reserve policies. On April 2, staff as part of the Budget Workshop will bring the financial policies again to the Council for their review and modification (if necessary). This would be a good time to address the LID financial policy as well.

TR-109 could be amended through the 2012 Comprehensive Plan Amendment (CPA) Process. This 2012 process is currently beginning its initial stages, with completion scheduled for late this year.

Council Endorsed  
Mobility and Infrastructure Initiative Finance Plan  
January 20, 2009

In January 2008, the City Council initiated work on development of a Mobility and Infrastructure Initiative financing strategy. The purpose of this effort was to fund high priority transportation and other capital investments to mitigate growing congestion problems in the City. A recent survey of Bellevue Residents identified investment in transportation facilities as the highest priority municipal investments to maintain or enhance quality of life in Bellevue. The Finance Plan would supplement the City's existing Capital Improvement Plan and special property tax (known as the "Supplemental CIP") levied by the Council to fund high priority capital needs in the community, and deliver new transportation and other capital projects within a 10 year timeframe.

This Plan provides general policy guidance for capital project and funding decisions. Future actions by the City Council will need to be taken to fully implement this Plan, and those actions may require periodic adjustments to this Plan.

The transportation investments identified in this Plan respond to travel demand caused by development in the Downtown, and provide initial capital investment in the Bel-Red area to support planned growth.

Growth in downtown. Downtown Bellevue experienced phenomenal growth in office space and in residential construction between 2005 and 2008. During that period, approximately 2.5 million square feet of new office space was developed. Most of that space is now leased, and 6,000-8,000 new employees are expected to be working in Downtown in 2009. During that same period, 3,700 new residential units were permitted. While leasing and sales of these units have not occurred as rapidly as the office space, the combined impact of this growth will add congestion to our downtown streets.

Growth Planned for Bel-Red. The City initiated work on the development of a long-term plan for the redevelopment of the Bel-Red area of the City in 2005 in order to establish a solid and dynamic economic future for the Bel-Red area, and also to be proactive on planning for the potential of high capacity transit through the corridor (connecting Downtown Bellevue with Overlake). In initiating the Bel-Red planning project, the City Council adopted principles that stress the importance of a long range vision, economic vitality, land use/transportation integration, protecting natural resources, and creating new community amenities.

Over a two year planning process, the Bel-Red Steering Committee developed a new vision for Bel-Red of denser, transit oriented new neighborhoods that will require significant public investments in transportation, parks, and

environmental improvements. The Committee concluded that new investment in infrastructure and amenities would be needed to transform the area, and that a significant share of the investment would need to come from the properties undergoing redevelopment. The Committee stressed the importance of use of incentives to provide this investment, capitalizing on the additional intensity and height provided by new zoning.

The Mobility and Infrastructure Initiative financing strategy contains specific capital projects and a financing strategy. Each are described below.

**Capital Projects.** The strategy contains a core group of transportation investments designed to address growth in travel demand from Downtown development and from growth anticipated in the Bel-Red area. These transportation investments have been selected because they have the greatest positive impact in reducing congestion.

NE 4th extension, from 116<sup>th</sup> to 120<sup>th</sup> Avenue NE (\$50M). This project will construct a 5 lane arterial street, connecting the NE 4th Street/I-405 interchange with 120<sup>th</sup> Avenue NE. The project includes realignment of the 120<sup>th</sup>/NE8th intersection with lane transition on 120<sup>th</sup> to NE10th Street. The project will include sidewalks and bike lanes, and provide a new arterial connection to and from the Downtown, allowing traffic to move from Downtown to the east and northeast parts of the City. This new street will reduce congestion on NE 8th Street, and provide congestion relief for north bound traffic on 116<sup>th</sup> Avenue NE, thereby relieving access constraints to the hospital district north of NE 8<sup>th</sup> Street, on 116<sup>th</sup> Avenue.

NE 6th Street Extension, from I-405 to 120<sup>th</sup> Avenue NE (\$6M). Like the NE 4<sup>th</sup> Street project, this street improvement will provide a new east/west connection to and from Downtown by connecting the existing NE 6th Street interchange at I-405 with 120<sup>th</sup> Avenue NE. The function of this street will be to serve transit, carpools, and van pools seeking to enter or leave the Downtown. Like the NE 4<sup>th</sup> Street project, this improvement will reduce congestion on NE 8th Street, and provide an important travel time benefit to high occupancy vehicles entering and leaving the Downtown. Funding in this Plan supports engineering and some right-of-way acquisition for this project. Construction funding is anticipated from State and other sources.

120<sup>th</sup> Avenue NE Street Widening (\$13M). This project will widen the existing 120<sup>th</sup> Avenue street to 5 lanes from NE 10<sup>th</sup> Street to Northup Road, and provide sidewalk, bike lanes, and street light improvements. The project will provide new street capacity serving travel demand from the Downtown to the east and northeast parts of the City. It reduces congestion on NE 8<sup>th</sup> Street, and on 116<sup>th</sup> Street. The northerly part of this project will support planned growth in the Bel-Red area.

NE 15<sup>th</sup> Street, from 116<sup>th</sup> Avenue NE to 124<sup>th</sup> Avenue NE (\$83M). NE 15<sup>th</sup> Street is the centerpiece of the transportation strategy for Bel-Red. It provides for auto access to new development, accommodates new trips moving through the area from Downtown and elsewhere, provides a light rail corridor, establishes a major east/west pedestrian and bicycle connection between Downtown and Overlake, and is designed as a 'green' street, functioning as a visual and usable amenity for people living and working in the area.

124<sup>th</sup> Avenue NE, from NE 15<sup>th</sup> Street to the SR 520 Interchange (\$3M). This project will widen the existing street to 5 lanes, and add sidewalks and street lights. This capacity improvement will support planned growth in Bel-Red, and connect the arterial improvement described above to SR 520; this project will also help support completing the interchange at 124<sup>th</sup> and SR 520 to allow access to and from the east. Funding in this Plan supports engineering and some right-of-way acquisition. Construction of this project will be accomplished through future City capital investment when funding becomes available.

The strategy contains other capital projects needed to support growth in the Downtown or in Bel-Red or to fund other high priority capital infrastructure needs. These projects include:

Other Downtown Projects (\$16M). This allocation provides supplemental funding for ongoing Downtown projects. Allocation of this earmark to specific projects will occur by a future Council action.

Intelligent Transportation Improvements (\$2M). This project will help to replace the City's Traffic Signal System, including a new fiber optic communication network, and new computer software and hardware. This investment will improve signal timing and operations for vehicles and pedestrians, provide for Transit Signal Priority technology, ensure better signal coordination and operation, and support the development of a multimodal transportation system in Downtown.

Downtown Circulator (\$3M). This project completes funding for a new fare free transit service downtown, linking key destinations via a circular transit route providing efficient service to people moving between locations downtown.

Pedestrian and Bike Improvements (\$15.5M). This project is intended to fund one key north/south or east/west bike corridor and potentially neighborhood sidewalk projects. The Transportation Commission is now prioritizing key pedestrian/bike investments, and their recommendations will assist the City Council in selecting which project(s) to implement.

Metro Site Acquisition (\$18M). Acquisition of this property, located adjacent to City Hall is identified as a key acquisition priority for Downtown, and will provide a home to a new Downtown Fire Station, and other City Facilities.

Bel-Red Land Acquisition (\$32M). The Bel-Red Plan contains new community parks, neighborhood parks clustered in the mixed use residential area, and a system of trails providing connections through the area. The park system is designed to capitalize on adjacent stream locations so that the benefits of the open space, stream restoration and trails work together as an integrated system of green spaces. The park and stream restoration strategy is a necessary component to the overall redevelopment, making the area more livable. These open spaces will also serve the broader community by providing destination recreational opportunities and by linking key recreation destinations through development of the trail system. This project funds property acquisition and stream restoration to support development in the Bel-Red area.

Public Safety Project (\$3M). The Council has 'earmarked' \$3 million to support public safety facility needs. Projects that have been discussed include possible investment in a new Downtown fire station, relocation of District Courts, or a possible investment in a short term detention facility. Direction on how this money is spent will be determined by future Council action.

The projects in total will cost about approximately \$299 million, and will be constructed within the next 10 years. These projects will be added to the City's Capital Investment Program by future action of the City Council.

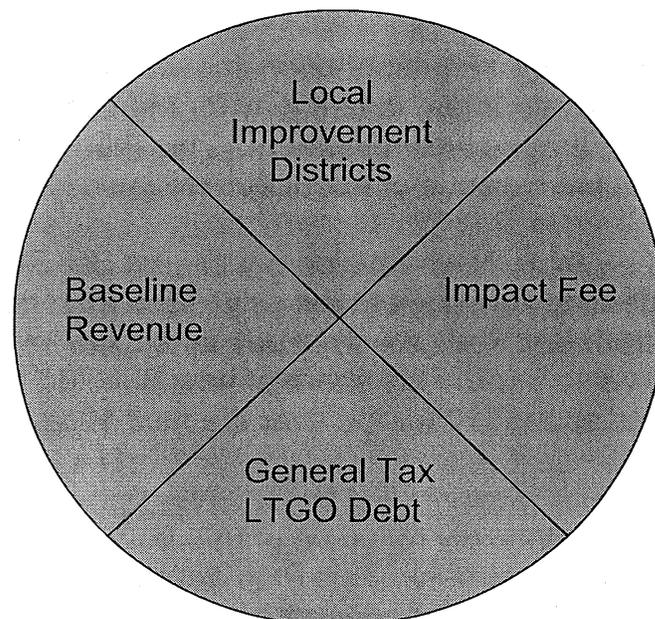
Mobility and Infrastructure Initiative Finance Plan	
Projects	Project Costs
NE 4th	\$50M
NE 6th ext	\$6M
120th	\$13M
NE 15th	\$83M
124th	\$3M
Other Downtown Projects	\$16M
ITS capital improvements	\$2M
Downtown Circulator	\$3M
Ped/Bike/Neighborhood sidewalks	\$15M
Metro Site	\$18M
Bel-Red Land Acquisition	\$32M
Public Safety Project	\$3M
Finance Costs*	\$55m
<b>Total</b>	<b>\$299M</b>

\*estimated costs for 2009-2015 CIP planning period.

**Financial Strategy.** The Plan outlines general policy guidance for a financial strategy to generate the funding to pay for these investments. The financial strategy is generally expected to generate sufficient revenue necessary to pay for these improvements, and is based on the philosophy that those who benefit from the improvements should help pay for them. The financial strategy was informed by the following principles.

- The Finance Plan should take the long view, with the understanding that the basic infrastructure, livability investments, and amenities will occur as redevelopment takes place;
- The Finance Plan should maintain the City's long-term financial stability (thus preserving the City's Aaa bond rating);
- The cost for the public infrastructure should be shared based on the relative impacts and benefits of development;
- The Finance Plan should enable the Bel-Red vision to be realized;
- The Finance Plan should be complementary to the long-term economic development goals for Bellevue; and
- Public investments should be made strategically in order to leverage them for the greatest public good.

These principles are illustrated by the following graphic.



The Plan proposes a combination of traditional and new funding strategies to pay for the investments outlined above. These funding sources are described below:

Property Tax Annually. The City Council has chosen to raise property taxes by 1% over 10 years to help fund this package of improvements. This tax increase recognizes the general public benefit provided by these transportation and other investments, and will generate approximately \$35 million in bonds over the next 10 years. The City Council has also elected to extend the 2% annual increase

in property taxes by two years (to coincide with the 1% increases) and committed approximately \$70 million in bonds from the Supplemental CIP to support these improvements, for a total property tax supported investment of \$105 million.

Storm Drainage Utility Funds. The City has a long history of funding storm drainage and stream corridor improvements through the City Storm and Surface Water Utility. The Plan contains a storm water rate increase of about 1.5% per year, levied City-wide over 10 years, to pay for storm water improvements in the Bel-Red area. This rate increase will raise \$10 million for these improvements over the 10 year period.

Local Improvement District Funding. Local Improvement Districts (LIDs) are a capital funding method authorized by State statute, and recognize that transportation improvements provide improved access to private property, thereby increasing the value of that property. LIDs assign the cost of improvements to private property based on the benefit these properties receive. This Plan contemplates the creation of two LIDs - one for the NE 4<sup>th</sup> Street project, and a second for the NE 15<sup>th</sup>/120<sup>th</sup> project. The Plan assumes that the LID will be funded from private property owner assessments, and from the City through general revenue sources. The LIDs are expected to generate about \$56 million from private property participants in the LID.

Transportation Impact Fees. Transportation impact fees are currently levied by the City against new development to help pay for the cost of new transportation improvements serving that new development. This Plan anticipates new transportation impact fee revenue of about \$65 million over the next 10 years.

New Bel-Red Tax Revenue. New development in the Bel-Red area will generate net new general revenues to the City. This Plan dedicates 40% of the net new revenues from Bel-Red growth to pay for capital investment needed to support Bel-Red development. This share of new Bel-Red tax revenue is expected to generate about \$10 million over the next 10 years to support capital investment.

Grants. The City has historically relied on grants from State, Federal, and other sources to fund capital investment. This Plan anticipates that \$13 million will be obtained over the next 10 years to support these investments. Grants, unlike the other revenues sources identified in this Plan, are highly variable, and may be significantly influenced by changes in federal policy.

Right of Way Dedication. Property owners may dedicate property for rights-of-way (ROW) provided that it benefits their development and that they receive development credits for the land dedicated. The amount dedicated would vary depending on the timing of the transportation projects and private development.

The Plan assumes that 15% of the total ROW costs would be acquired through dedication. This would generate about \$19 million in cost savings for the investments identified in this Plan.

Incentive Zoning. The Bel-Red Plan contains an incentive zoning provision that links the density of private development to participation in the incentive zoning scheme, where additional density above a base level is allowable only if that development provides park land, stream corridor improvements, or affordable housing. This Plan anticipates about \$22 million will be generated through incentive zoning.

Revenue sources	10-Year Revenue Estimate
Baseline revenues	
• New Bel Red taxes	\$10M
• Grants	\$12M
• ROW dedication	\$19M
• Storm drainage funds	\$10M
• Incentive zoning	\$22M
LID funding	\$56M
Impact fees	\$65M
Property Tax	\$105M
Out-Year CIP Funding	\$0M
Total revenue	\$299M
Gap	\$0

The combination of these revenue sources is expected to provide sufficient funding to pay for the investments identified in the Plan. Because many of these revenues are sensitive to economic activity and to the pace of private development, the City will have to use financing techniques that involve the issuance of debt. The City anticipates that delivery of the projects contained in this Plan will be staged over the next decade or so, so that the cash flow issues associated with the variability in revenues can be managed.

Staff will return to the City Council in Spring 2009 with a more detailed implementation strategy describing how the transportation projects can be delivered over the next 7 years, a detailed financing plan for each project, and related actions that the Council will have to take to move the plan forward. This work will also identify other actions the City should take to coordinate capital construction, like linking planned water and sewer improvements to the road construction projects.

**Adoption of the Plan and subsequent actions by the City to implement the Plan.** The Plan outlines the projects and revenue sources that will be used to fund the Plan. This Plan will be implemented in steps, as outlined below:

Step 1. Action by the City Council to adopt the property tax increase and storm drainage rate increase outlined in this Plan.

Step 2. Review and endorsement of the Mobility and Infrastructure Initiative Finance Plan, anticipated on January 20, 2009.

Step 3. Action by the City Council to adopt the Bel-Red Subarea Plan, Zoning, and Land Use Code amendment, anticipated in February or March 2009.

Step 4. Action by the City Council to amend the City Capital Improvement Plan to include the projects contained in this Plan, March 2009, following adoption of the Bel-Red Plan.

Step 5. Action by the City Council to amend the City Transportation Facility Plan and Transportation Impact fee Ordinance, anticipated in March 2009.

Step 6. Action by the City Council to form the NE 4<sup>th</sup> LID and the Bel-Red LID.

City staff will initiate work to complete engineering, acquire necessary property and implement the projects following these City Council actions. Further refinement of this Plan will occur in the upcoming months based on the direction provided by Council.

Adoption of this Plan meets the requirements of the proposed Bel-Red Land Use Code for City Council approval of a financial plan, and allows the phasing limitation of a .5 FAR throughout the Bel-Red area to be eliminated.

RCW Sections

- 82.02.010 Definitions.
- 82.02.020 State preempts certain tax fields -- Fees prohibited for the development of land or buildings -- Voluntary payments by developers authorized -- Limitations -- Exceptions.
- 82.02.030 Additional tax rates.
- 82.02.040 Authority of operating agencies to levy taxes.
- 82.02.050 Impact fees -- Intent -- Limitations.
- 82.02.060 Impact fees -- Local ordinances -- Required provisions.
- 82.02.070 Impact fees -- Retained in special accounts -- Limitations on use -- Administrative appeals.
- 82.02.080 Impact fees -- Refunds.
- 82.02.090 Impact fees -- Definitions.
- 82.02.100 Impact fees -- Exception, mitigation fees paid under chapter 43.21C RCW.
- 82.02.110 Impact fees -- Extending use of school impact fees.
- 82.02.200 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.
- 82.02.210 Washington compliance with streamlined sales and use tax agreement -- Intent.
- 82.02.220 Exclusion of steam, electricity, or electrical energy from definition of certain terms.
- 82.02.230 One statewide rate and one jurisdiction-wide rate for sales and use taxes.
- 82.02.240 Professional employer organizations -- Liability for certain taxes and fees.

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**82.02.010**  
**Definitions.**

For the purpose of this title, unless the context clearly requires otherwise:

- (1) "Department" means the department of revenue of the state of Washington;
- (2) "Director" means the director of the department of revenue of the state of Washington;
- (3) "Taxpayer" includes any individual, group of individuals, corporation, or association liable for any tax or the collection of any tax hereunder, or who engages in any business or performs any act for which a tax is imposed by this title. "Taxpayer" also includes any person liable for any fee or other charge collected by the department under any provision of law, including registration assessments and delinquency fees imposed under RCW 59.30.050; and
- (4) Words in the singular number include the plural and the plural include the singular. Words in one gender include all other genders.

[2011 c 298 § 37; 1979 c 107 § 9; 1967 ex.s. c 26 § 14; 1961 c 15 § 82.02.010. Prior: 1935 c 180 § 3; RRS § 8370-3.]

**Notes:**

**Purpose -- Intent -- Agency transfer -- Contracting -- Effective date -- 2011 c 289:** See notes following RCW 19.02.020.

**Effective date -- 1967 ex.s. c 26:** See note following RCW 82.01.050.

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**82.02.020**  
**State preempts certain tax fields — Fees prohibited for the development of land or buildings — Voluntary payments by developers authorized — Limitations — Exceptions.**

Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales and use

taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no county, city, town, or other municipal corporation shall impose any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, or on the development, subdivision, classification, or reclassification of land. However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

This section does not prohibit voluntary agreements with counties, cities, towns, or other municipal corporations that allow a payment in lieu of a dedication of land or to mitigate a direct impact that has been identified as a consequence of a proposed development, subdivision, or plat. A local government shall not use such voluntary agreements for local off-site transportation improvements within the geographic boundaries of the area or areas covered by an adopted transportation program authorized by chapter 39.92 RCW. Any such voluntary agreement is subject to the following provisions:

(1) The payment shall be held in a reserve account and may only be expended to fund a capital improvement agreed upon by the parties to mitigate the identified, direct impact;

(2) The payment shall be expended in all cases within five years of collection; and

(3) Any payment not so expended shall be refunded with interest to be calculated from the original date the deposit was received by the county and at the same rate applied to tax refunds pursuant to RCW 84.69.100; however, if the payment is not expended within five years due to delay attributable to the developer, the payment shall be refunded without interest.

No county, city, town, or other municipal corporation shall require any payment as part of such a voluntary agreement which the county, city, town, or other municipal corporation cannot establish is reasonably necessary as a direct result of the proposed development or plat.

Nothing in this section prohibits cities, towns, counties, or other municipal corporations from collecting reasonable fees from an applicant for a permit or other governmental approval to cover the cost to the city, town, county, or other municipal corporation of processing applications, inspecting and reviewing plans, or preparing detailed statements required by chapter 43.21C RCW, including reasonable fees that are consistent with RCW 43.21C.420(6).

This section does not limit the existing authority of any county, city, town, or other municipal corporation to impose special assessments on property specifically benefited thereby in the manner prescribed by law.

Nothing in this section prohibits counties, cities, or towns from imposing or permits counties, cities, or towns to impose water, sewer, natural gas, drainage utility, and drainage system charges. However, no such charge shall exceed the proportionate share of such utility or system's capital costs which the county, city, or town can demonstrate are attributable to the property being charged. Furthermore, these provisions may not be interpreted to expand or contract any existing authority of counties, cities, or towns to impose such charges.

Nothing in this section prohibits a transportation benefit district from imposing fees or charges authorized in RCW 36.73.120 nor prohibits the legislative authority of a county, city, or town from approving the imposition of such fees within a transportation benefit district.

Nothing in this section prohibits counties, cities, or towns from imposing transportation impact fees authorized pursuant to chapter 39.92 RCW.

Nothing in this section prohibits counties, cities, or towns from requiring property owners to provide relocation assistance to tenants under RCW 59.18.440 and 59.18.450.

Nothing in this section limits the authority of counties, cities, or towns to implement programs consistent with RCW 36.70A.540, nor to enforce agreements made pursuant to such programs.

This section does not apply to special purpose districts formed and acting pursuant to Title 54, 57, or 87 RCW, nor is the authority conferred by these titles affected.

[2010 c 153 § 3; 2009 c 535 § 1103; 2008 c 113 § 2; 2006 c 149 § 3; 2005 c 502 § 5; 1997 c 452 § 21; 1996 c 230 § 1612; 1990 1st ex.s. c 17 § 42; 1988 c 179 § 6; 1987 c 327 § 17; 1982 1st ex.s. c 49 § 5; 1979 ex.s. c 196 § 3; 1970 ex.s. c 94 § 8; 1967 c 236 § 16; 1961 c 15 § 82.02.020. Prior: (i) 1935 c 180 § 29; RRS § 8370-29. (ii) 1949 c 228 § 28; 1939 c 225 § 22; 1937 c 227 § 24; Rem. Supp. 1949 § 8370-219. Formerly RCW 82.32.370.]

#### Notes:

**Intent -- 2010 c 153:** See note following RCW 43.21C.420.

**Intent -- Construction -- 2009 c 535:** See notes following RCW 82.04.192.

**Application -- Effective date -- 2008 c 113:** See notes following RCW 64.34.440.

**Findings -- Construction -- 2006 c 149:** See notes following RCW 36.70A.540.

**Effective date -- 2005 c 502:** See note following RCW 1.12.070.

**Intent -- Severability -- 1997 c 452:** See notes following RCW 67.28.080.

**Savings -- 1997 c 452:** See note following RCW 67.28.181.

**Part headings not law -- Effective date -- 1996 c 230:** See notes following RCW 57.02.001.

**Severability -- Part, section headings not law -- 1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**Severability -- Prospective application -- Section captions -- 1988 c 179:** See RCW 39.92.900 and 39.92.901.

**Intent -- Construction -- Effective date -- Fire district funding -- 1982 1st ex.s. c 49:** See notes following RCW 35.21.710.

**Effective date -- 1979 ex.s. c 196:** See note following RCW 82.04.240.

**Severability -- 1970 ex.s. c 94:** See RCW 82.14.900.

### **82.02.030**

#### **Additional tax rates.**

The rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 82.16.020(2), 82.27.020(5), and 82.29A.030(2) shall be seven percent.

[1993 sp.s. c 25 § 107; 1993 c 492 § 312; 1990 c 42 § 319. Prior: 1987 1st ex.s. c 9 § 6; 1987 c 472 § 15; 1987 c 80 § 4; 1986 c 296 § 5; 1985 c 471 § 9; 1983 2nd ex.s. c 3 § 6; 1983 c 7 § 8; 1982 2nd ex.s. c 14 § 1; 1982 1st ex.s. c 35 § 31.]

#### **Notes:**

**Severability -- Effective dates--Part headings, captions not law--1993 sp.s. c 25:** See notes following RCW 82.04.230.

**Findings -- Intent--1993 c 492:** See notes following RCW 43.20.050.

**Short title--Severability -- Savings--Captions not law--Reservation of legislative power--Effective dates--1993 c 492:** See RCW 43.72.910 through 43.72.915.

**Purpose -- Headings -- Severability -- Effective dates -- Application -- Implementation -- 1990 c 42:** See notes following RCW 82.36.025.

**Severability -- Effective date -- 1987 1st ex.s. c 9:** See notes following RCW 46.29.050.

**Severability -- 1987 c 472:** See RCW 79.71.900.

**Severability -- Effective date -- 1986 c 296:** See notes following RCW 48.14.020.

**Severability -- Effective date -- 1985 c 471:** See notes following RCW 82.04.260.

**Construction -- Severability -- Effective dates -- 1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

**Construction -- Severability -- Effective dates -- 1983 c 7:** See notes following RCW 82.08.020.

**Effective date -- Applicability -- 1982 2nd ex.s. c 14:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

The tax rates imposed under this act are effective on the dates designated in this act notwithstanding the date this act becomes law under Article III, section 12 of the state Constitution." [1982 2nd ex.s. c 14 § 3.]

**Severability -- Effective dates -- 1982 1st ex.s. c 35:** See notes following RCW 82.08.020.

### 82.02.040

#### Authority of operating agencies to levy taxes.

Nothing in this title may be deemed to grant to any operating agency organized under chapter 43.52 RCW, or a project of any such operating agency, the authority to levy any tax or assessment not otherwise authorized by law.

[1983 2nd ex.s. c 3 § 55.]

#### Notes:

**Construction -- Severability -- Effective dates -- 1983 2nd ex.s. c 3:** See notes following RCW 82.04.255.

### 82.02.050

#### Impact fees — Intent — Limitations.

(1) It is the intent of the legislature:

- (a) To ensure that adequate facilities are available to serve new growth and development;
- (b) To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and
- (c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

(2) Counties, cities, and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

(3) The impact fees:

- (a) Shall only be imposed for system improvements that are reasonably related to the new development;
- (b) Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and
- (c) Shall be used for system improvements that will reasonably benefit the new development.

(4) Impact fees may be collected and spent only for the public facilities defined in RCW 82.02.090 which are addressed by a capital facilities plan element of a comprehensive land use plan adopted pursuant to the provisions of RCW 36.70A.070 or the provisions for comprehensive plan adoption contained in chapter 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town is required to adopt its development regulations under chapter 36.70A RCW, continued authorization to collect and expend impact fees shall be contingent on the county, city, or town adopting or revising a comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying:

- (a) Deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time;
- (b) Additional demands placed on existing public facilities by new development; and
- (c) Additional public facility improvements required to serve new development.

If the capital facilities plan of the county, city, or town is complete other than for the inclusion of those elements which are the responsibility of a special district, the county, city, or town may impose impact fees to address those public facility needs for which the county, city, or town is responsible.

[1994 c 257 § 24; 1993 sp.s. c 6 § 6; 1990 1st ex.s. c 17 § 43.]

**Notes:**

**Severability -- 1994 c 257:** See note following RCW 36.70A.270.

**Effective date -- 1993 sp.s. c 6:** See note following RCW 36.70A.040.

**Severability -- Part, section headings not law -- 1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

SEPA: RCW 43.21C.065.

**82.02.060****Impact fees — Local ordinances — Required provisions.**

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or proratable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that are required by the county, city, or town as a condition of approving the development activity;

(4) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

(5) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

(6) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development;

(7) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

[1990 1st ex.s. c 17 § 44.]

**Notes:**

**Severability -- Part, section headings not law -- 1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**82.02.070****Impact fees — Retained in special accounts — Limitations on use — Administrative appeals.**

(1) Impact fee receipts shall be earmarked specifically and retained in special interest-bearing accounts. Separate accounts shall be established for each type of public facility for which impact fees are collected. All interest shall be retained in the account and expended for the purpose or purposes for which the impact fees were imposed. Annually, each county, city, or town imposing impact fees shall provide a

report on each impact fee account showing the source and amount of all moneys collected, earned, or received and system improvements that were financed in whole or in part by impact fees.

(2) Impact fees for system improvements shall be expended only in conformance with the capital facilities plan element of the comprehensive plan.

(3)(a) Except as provided otherwise by (b) of this subsection, impact fees shall be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(b) School impact fees must be expended or encumbered for a permissible use within ten years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than ten years. Such extraordinary or compelling reasons shall be identified in written findings by the governing body of the county, city, or town.

(4) Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

(5) Each county, city, or town that imposes impact fees shall provide for an administrative appeals process for the appeal of an impact fee; the process may follow the appeal process for the underlying development approval or the county, city, or town may establish a separate appeals process. The impact fee may be modified upon a determination that it is proper to do so based on principles of fairness. The county, city, or town may provide for the resolution of disputes regarding impact fees by arbitration.

[2011 c 353 § 8; 2009 c 263 § 1; 1990 1st ex.s. c 17 § 46.]

**Notes:**

**Intent -- 2011 c 353:** See note following RCW 36.70A.130.

**Severability -- Part, section headings not law -- 1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

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**82.02.080**

**Impact fees — Refunds.**

(1) The current owner of property on which an impact fee has been paid may receive a refund of such fees if the county, city, or town fails to expend or encumber the impact fees within ten years of when the fees were paid or other such period of time established pursuant to RCW 82.02.070(3) on public facilities intended to benefit the development activity for which the impact fees were paid. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out basis. The county, city, or town shall notify potential claimants by first-class mail deposited with the United States postal service at the last known address of claimants.

The request for a refund must be submitted to the county, city, or town governing body in writing within one year of the date the right to claim the refund arises or the date that notice is given, whichever is later. Any impact fees that are not expended within these time limitations, and for which no application for a refund has been made within this one-year period, shall be retained and expended on the indicated capital facilities. Refunds of impact fees under this subsection shall include interest earned on the impact fees.

(2) When a county, city, or town seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds, including interest earned, shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the county, city, or town shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first-class mail to the last known address of claimants. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the local government, but must be expended for the indicated public facilities. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(3) A developer may request and shall receive a refund, including interest earned on the impact fees, when the developer does not proceed with the development activity and no impact has resulted.

[2011 c 353 § 9; 1990 1st ex.s. c 17 § 47.]

**Notes:**

**Intent -- 2011 c 353:** See note following RCW 36.70A.130.

**Severability -- Part, section headings not law -- 1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

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**82.02.090**

**Impact fees — Definitions.**

Unless the context clearly requires otherwise, the following definitions shall apply in RCW 82.02.050 through 82.02.090:

(1) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land, that creates additional demand and need for public facilities. "Development activity" does not include buildings or structures constructed by a regional transit authority.

(2) "Development approval" means any written authorization from a county, city, or town which authorizes the commencement of development activity.

(3) "Impact fee" means a payment of money imposed upon development as a condition of development approval to pay for public facilities needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for public facilities, that is a proportionate share of the cost of the public facilities, and that is used for facilities that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

(4) "Owner" means the owner of record of real property, although when real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

(5) "Project improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in a capital facilities plan approved by the governing body of the county, city, or town shall be considered a project improvement.

(6) "Proportionate share" means that portion of the cost of public facility improvements that are reasonably related to the service demands and needs of new development.

(7) "Public facilities" means the following capital facilities owned or operated by government entities: (a) Public streets and roads; (b) publicly owned parks, open space, and recreation facilities; (c) school facilities; and (d) fire protection facilities.

(8) "Service area" means a geographic area defined by a county, city, town, or intergovernmental agreement in which a defined set of public facilities provide service to development within the area. Service areas shall be designated on the basis of sound planning or engineering principles.

(9) "System improvements" mean public facilities that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

[2010 c 86 § 1; 2008 c 42 § 1; 1990 1st ex.s. c 17 § 48.]

**Notes:**

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Severability -- Part, section headings not law -- 1990 1st ex.s. c 17:** See RCW 36.70A.900 and 36.70A.901.

**82.02.100**

**Impact fees — Exception, mitigation fees paid under chapter 43.21C RCW.**

(1) A person required to pay a fee pursuant to RCW 43.21C.060 for system improvements shall not be required to pay an impact fee under RCW 82.02.050 through 82.02.090 for those same system improvements.

(2) A person installing a residential fire sprinkler system in a single-family home shall not be required to pay the fire operations portion of the impact fee. The exempted fire operations impact fee shall not include the proportionate share related to the delivery of emergency medical services.

[2011 c 331 § 3; 1992 c 219 § 2.]

**Notes:**

**Intent -- 2011 c 331:** "The legislature recognizes that fire sprinkler systems in private residences may prevent catastrophic losses of life and property, but that financial, technical, and other issues often discourage property owners from installing these protective systems.

It is the intent of the legislature to eradicate barriers that prevent the voluntary installation of sprinkler systems in private residences by promoting education regarding the effectiveness of residential fire sprinklers, and by providing financial and regulatory incentives to homeowners, builders, and water purveyors for voluntarily installing the systems. It is the further intent of the legislature to fully preserve the rulings of *Fisk v. City of Kirkland*, 164 Wn.2d 891 (2008), *Stiefel v. City of Kent*, 132 Wn. App.523 (2006), and similar cases." [2011 c 331 § 1.]

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**82.02.110****Impact fees — Extending use of school impact fees.**

Criteria must be developed by the office of the superintendent of public instruction for extending the use of school impact fees from six to ten years and this extension must require an evaluation for each respective school board of the appropriateness of the extension.

[2009 c 263 § 2.]

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**82.02.200****Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.**

The director may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW.

[1997 c 51 § 6.]

**Notes:**

**Intent -- 1997 c 51:** See note following RCW 19.02.300.

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**82.02.210****Washington compliance with streamlined sales and use tax agreement — Intent.**

(1) It is the intent of the legislature that Washington join as a member state in the streamlined sales and use tax agreement referred to in chapter 82.58 RCW. The agreement provides for a simpler and more uniform sales and use tax structure among states that have sales and use taxes. The intent of the legislature is to bring Washington's sales and use tax system into compliance with the agreement so that Washington may join as a member state and have a voice in the development and administration of the system, and to substantially reduce the burden of tax compliance on sellers.

(2) Chapter 168, Laws of 2003 does not include changes to Washington law that may be required in the future and that are not fully developed under the agreement. These include, but are not limited to, changes relating to online registration, reporting, and remitting of payments by businesses for sales and use tax purposes, monetary allowances for sellers and their agents, sourcing, and amnesty for businesses registering under the agreement.

(3) It is the intent of the legislature that the provisions of this title relating to the administration and collection of state and local sales and use taxes be interpreted and applied consistently with the agreement.

(4) The department of revenue shall report to the fiscal committees of the legislature on January 1, 2004, and each January 1st thereafter, on the development of the agreement and shall recommend changes to the sales and use tax structure and propose legislation as may be necessary to keep Washington in compliance with the agreement.

[2007 c 6 § 105; 2003 c 168 § 1.]

**Notes:**

**Part headings not law -- Savings -- Effective date -- Severability -- 2007 c 6:** See notes following RCW 82.32.020.

**Findings -- Intent -- 2007 c 6:** See note following RCW 82.14.495.

**Part headings not law -- 2003 c 168:** See note following RCW 82.08.010.

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**82.02.220****Exclusion of steam, electricity, or electrical energy from definition of certain terms.**

When the terms "ingredient," "component part," "incorporated into," "goods," "products," "by-products," "materials," "consumables," and other similar terms denoting tangible items that may be used, sold, or consumed are used in this title, the terms do not include steam, electricity, or electrical energy.

[2003 c 168 § 701.]

**Notes:**

**Effective dates -- Part headings not law -- 2003 c 168:** See notes following RCW 82.08.010.

**82.02.230**

**One statewide rate and one jurisdiction-wide rate for sales and use taxes.**

(1) There shall be one statewide rate for sales and use taxes imposed at the state level. This subsection does not apply to the taxes imposed by RCW 82.08.150, 82.12.022, or 82.18.020, or to taxes imposed on the sale, rental, lease, or use of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

(2) There shall be one jurisdiction-wide rate for local sales and use taxes imposed at levels below the state level. This subsection does not apply to the taxes imposed by chapter 67.28 RCW, RCW 35.21.280, 36.38.010, 36.38.040, \*67.40.090, 82.80.030, or 82.14.360, or to taxes imposed on the sale, rental, lease, or use of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

[2009 c 289 § 3; 2004 c 153 § 405; 2003 c 168 § 801.]

**Notes:**

**\*Reviser's note:** RCW 67.40.090 was repealed by 2010 1st sp.s. c 15 § 14, effective November 30, 2010.

**Retroactive effective date -- Effective date -- 2004 c 153:** See note following RCW 82.08.0293.

**Effective dates -- Part headings not law -- 2003 c 168:** See notes following RCW 82.08.010.

**82.02.240**

**Professional employer organizations — Liability for certain taxes and fees.**

(1) A professional employer organization is not liable for any tax imposed by or under the authority of this title or Title 35 RCW or any other tax, fee, or charge that the department administers based solely on the activities or status of a covered employee having a coemployment relationship with the professional employer organization.

(2) This subsection does not exempt a professional employer organization from:

(a) Any tax imposed by or under the authority of this or any other title based on:

(i) Professional employer services provided by the professional employer organization; or

(ii) The status or activities of employees of the professional employer organization that are not covered employees coemployed with a client; or

(b) The duty to withhold, collect, report, and remit payroll-related and unemployment taxes as required by state law and regulation.

(3) The definitions in RCW 82.04.540 apply to this section.

[2006 c 301 § 8.]

**Notes:**

**Effective date -- Act does not affect application of Title 50 or 51 RCW -- 2006 c 301:** See notes following RCW 82.32.710.

**Chapter 22.16**  
**TRANSPORTATION IMPACT FEE PROGRAM**

## Sections:

22.16.010	Authority and purpose.
22.16.020	Definitions.
22.16.030	<i>Repealed.</i>
22.16.040	Designation of capital facilities plan.
22.16.050	Transportation improvements.
22.16.060	<i>Repealed.</i>
22.16.070	Imposition of transportation impact fees.
22.16.080	Calculating transportation impact fees.
22.16.085	Impact fee rate schedule.
22.16.087	Credits.
22.16.090	Determination, collection and administration of fees.
22.16.095	Appeal of fees.
22.16.100	Refund of fees.
22.16.110	<i>Repealed.</i>

**22.16.010 Authority and purpose.**

A. This Chapter 22.16 BCC is enacted pursuant to Chapter 82.02 RCW. It is the purpose of this chapter to:

1. Adopt a program for the purpose of jointly funding, from public and private sources, system improvements necessitated in whole or in part by development and growth within the service area.
2. Provide a fair and predictable method for allocating the cost of reasonable and necessary transportation improvements between the public and private sectors.
3. Create a mechanism to charge and collect transportation impact fees from new development.
4. Provide a portion of the funding for reasonable and necessary system improvements to mitigate the cumulative impacts of growth and development in the service area.
5. Create a system for the collection and administration of transportation impact fees.

B. This Chapter 22.16 BCC supplements existing authority of the city to regulate development. This chapter does not supplant the requirements of environmental review and mitigation under the State Environmental Policy Act (SEPA) and Chapter 22.02 BCC. Any transportation impact fees paid in accordance with the program established by this chapter shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development. This program may serve as one method by which the developer may meet, in part or in whole, its obligations under SEPA; provided, that a developer required to pay a fee as mitigation under SEPA and Chapter 22.02 BCC for system improvements shall not be required to pay any portion of an impact fee under this chapter imposed for those same system improvements. (Ord. 5871 § 1, 2009; Ord. 4824 § 1, 1995; Ord. 4104 § 1, 1989.)

**22.16.020 Definitions.**

A. "Affordable housing" means all categories of affordable housing as defined in the Bellevue Land Use Code, LUC 20.50.010, now or as hereafter amended. "Affordable housing" as used in this chapter is determined to be consistent with "low-income housing" referred to in RCW 82.02.060 and is considered a development activity with broad public purposes.

B. "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.

C. "Development" means any construction or expansion of a building, structure, or use for which a permit, approval, or other authorization is required that creates additional demand and need for transportation improvements; provided, that such development generates at least one new p.m. peak hour trip, when the permit, approval, or other authorization for the development is processed pursuant to BCC Title 20 (Land Use Code) or Chapter 23.10 BCC (Construction Code). In the case of tenant improvement permits, "development" means any proposed new use or expanded existing use for which SEPA review is required; the threshold for imposing the impact fee for a tenant improvement is 11 new trips in the p.m. peak hour. Development does not include buildings or structures constructed by a regional transit authority.

D. "Director" means the director of the transportation department or his or her designee or any other person designated by the city manager.

E. "Downtown" shall have the same definition as set forth in LUC 20.50.016, now or as hereafter amended.

F. "Fair market value" means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities.

G. "Gross floor area" means the sum in square feet of the area at each floor level of a building that is included within the principal outside faces of exterior walls. The gross floor area of any parking garages within the building shall not be included.

H. "Impact fee area" means one or more geographic areas within the service area, as shown on the map in the transportation impact fee program report.

I. "Impact fee project list" means those transportation improvement projects in the transportation facilities plan which are determined to be reasonably related to new development, as developed pursuant to BCC 22.16.050. Unless otherwise specified, references to the impact fee project list shall refer to such list in effect at the time of application of this chapter to a particular development.

J. "Impact fee schedule" means a schedule of impact fee rates per development unit (e.g., square footage) for specific land uses within each impact fee area calculated pursuant to BCC 22.16.080, supported by the concurrently adopted transportation impact fee program report, and adopted by ordinance. Unless otherwise specified, references to the impact fee schedule shall refer to such schedule in effect at the time of application of this chapter to a particular development.

K. "Level of service" means a measure of traffic congestion along a roadway or at an intersection identified by a letter from A to F as defined by the Institute of Transportation

Engineers and as adopted in the transportation element of the city's comprehensive plan, now or as hereafter amended.

L. "P.M. peak hour" means the 60-minute period between 3:00 p.m. to 7:00 p.m. which experiences the highest volume of traffic on a roadway or passing through a roadway intersection.

M. "P.M. peak hour trips" means the total vehicular trips entering and leaving a development during the p.m. peak hour on the adjacent roadway.

N. "P.M. peak hour trip generation rate" means the trip generation rate per unit of development, as specified in the transportation impact fee program report. A unit of development is the element used to describe the size of the development, e.g., gross floor area in square feet for an office building, students for a school. Other trip generation definition sources may be used where the proposed development has special trip-generating characteristics, subject to approval of the transportation department.

O. "Project improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.

P. "Proportionate share" means that portion of the cost of transportation improvements that are reasonably related to the service demands and needs of new development.

Q. "Service area" means the geographic area which is benefited by the transportation improvements proposed to be constructed with transportation impact fees collected under this Chapter 22.16 BCC and within which transportation impact fees will be imposed. The boundaries of the service area shall be the same as the legal boundaries of the city of Bellevue and shall include all unincorporated areas annexed to the city on and after the effective date of the ordinance codified in this chapter. Pursuant to the adoption of interlocal agreements with other local and regional governments, including any transportation benefit district created pursuant to Chapter 36.73 RCW, the geographic boundaries of the service area may be expanded consistent with the provisions of such interlocal agreements.

R. "System improvements" mean transportation improvements that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

S. "Transportation facilities plan" means the 12-year program adopted by the city council for jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by development within the service area. The transportation facilities plan is based on the transportation facility plans adopted in the city's comprehensive plan. Unless otherwise specified, references to the transportation facilities plan shall refer to such plan in effect at the time of application of this chapter to a particular development.

T. "Transportation impact fee" means a payment of money imposed upon development as a condition of development approval to pay for transportation improvements needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for

transportation improvements, that is a proportionate share of the cost of the transportation improvements, and that is used for improvements that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

U. "Transportation impact fee program report" means the report entitled "Transportation Impact Fee Program for Bellevue, Washington." Unless otherwise specified, references to the transportation impact fee program report shall refer to the edition of such report in effect at the time of application of this chapter to a particular development.

V. "Transportation improvement" means any and all capital improvements to the transportation infrastructure of the city constructed pursuant to city design and development standards and requirements, including without limitation roads, bridges, overpasses, sidewalks, curbs, turn lanes, traffic signals, traffic signs, HOV lanes, bus shelters, associated landscaping. The cost of the transportation improvement shall include any debt service payments, including interest, for any of these improvements. (Ord. 5871 § 2, 2009; Ord. 4824 § 2, 1995; Ord. 4104 § 2, 1989.)

#### **22.16.030 Description of plan area.**

*Repealed by Ord. 4824. (Ord. 4104 § 3, 1989.)*

#### **22.16.040 Designation of capital facilities plan.**

The city designates the transportation facilities plan as the city's comprehensive capital facilities plan for the purpose of identifying the proposed transportation improvements reasonable and necessary to meet the future development needs of the service area consistent with the city's level of service policy, as required by RCW 82.02.050. (Ord. 5871 § 3, 2009; Ord. 4824 § 3, 1995; Ord. 4104 § 4, 1989.)

#### **22.16.050 Transportation improvements.**

A. The transportation facilities plan is a 12-year list of transportation improvements in the service area. These transportation improvements include design, acquisition of right-of-way, and construction. Every two years or as otherwise directed by the council, the transportation commission shall review and as necessary present an update of the transportation facilities plan to the city council for consideration.

B. The impact fee project list consists of the transportation improvements in the transportation facilities plan needed to provide capacity on city of Bellevue roadways, where the capacity needs are reasonably related in part or in whole to new development. The impact fee project list is adopted by the city council when it adopts the transportation facilities plan. (Ord. 5871 § 4, 2009; Ord. 4824 § 4, 1995; Ord. 4104 § 5, 1989.)

#### **22.16.060 Adoption of capital funding program.**

*Repealed by Ord. 4824. (Ord. 4104 § 6, 1989.)*

### **22.16.070 Imposition of transportation impact fees.**

A. Any development in the service area, except a development or portion thereof specifically exempt pursuant to subsection B of this section shall be required to pay a transportation impact fee to the extent and in the amount provided herein.

B. The following types of development or portion thereof are development activities with broad public purposes, and are exempt from the requirement to pay a transportation impact fee as otherwise required by this Chapter 22.16 BCC:

1. Any development or portion thereof used exclusively for "child care services" as defined in LUC 20.50.014 now or as hereafter amended; provided, that no such exemption shall be provided unless the developer has first signed an agreement satisfactory to the city which provides assurance that such child care services use shall continue for at least that term specified in such agreement;
2. Any development or portion thereof used exclusively for affordable housing; provided, that no such exemption shall be provided unless the developer has first signed an agreement satisfactory to the city which provides assurance that any units granted an exemption under this section shall remain affordable for the life of the project;
3. Public transportation facilities;
4. City parks or public parks each as defined in LUC 20.50.040, now or as hereafter amended;
5. Privately operated not-for-profit social service facilities recognized by the Internal Revenue Service under Internal Revenue Code Section 501(c)(3);
6. Public libraries;
7. Publicly funded educational institutions;
8. Hospitals, as defined in LUC 20.50.024 now or as hereafter amended, if not operated for profit.

Impact fees for these exemptions shall be paid from public funds other than the impact fee fund.

C. Timing of Calculation and Payment. This chapter shall be applied at and impact fees for development shall be paid at the time of issuance of a building permit based on the impact fee rate schedule then in effect. In the event the development does not require a building permit, application of this chapter and payment of impact fees shall be at the time of issuance of the approval of the development. The timing of payments may be modified in a development agreement approved by the city council pursuant to Chapter 36.70B RCW. (Ord. 5871 § 5, 2009; Ord. 4824 § 5, 1995; Ord. 4104 § 7, 1989.)

### **22.16.080 Calculating transportation impact fees.**

A. Concurrently with adoption of an updated transportation facilities plan, the director shall prepare an updated transportation impact fee program report using the following methodology:

1. Determine the share of costs attributable to growth. For the transportation improvements listed in the impact fee project list, calculate any transportation deficiencies based upon the adopted level of service standards. Remove the proportion of the total costs of such transportation improvements attributable to deficiencies. The remaining "growth share of costs" are attributable to new growth occurring within and outside of the city.

2. Calculate the city development percentage of growth on the transportation improvements. Multiply this percentage by the total growth share of costs to determine the share of the transportation costs attributable to development in the city. This total constitutes the “city development share of cost.”

3. Divide the “city development share of cost” by the total number of p.m. peak hour vehicle trips generated by development within the city. The resulting value is the “impact fee per trip.”

4. Adjust the “impact fee per p.m. peak hour trip” for specific land use types to account for:

a. Pass-by trips, as defined in the Institute of Transportation Engineers’ Trip Generation Report, now or as hereafter amended; and

b. Average trip length; and

c. Expected levels of ridesharing and transit usage.

5. Produce a schedule of impact fee rates per development unit (e.g., square footage, housing units) for specific land use types for consideration pursuant to BCC 22.16.085.

B. The director shall calculate the amount of the applicable transportation impact fee for each development by:

1. Verifying the development land use type and units of development;

2. Determining the applicable per unit transportation impact fee from the impact fee schedule;

3. Multiplying the applicable per unit transportation impact fee by the development unit to obtain the transportation impact fee for such development.

C. If the development does not fit into any of the categories specified in the transportation impact fee schedule, the director shall use the impact fee applicable to the most directly comparable type of land use specified in the impact fee schedule. If the development includes mixed uses, the fee shall be determined by apportioning the space committed to uses specified in the impact fee schedule.

D. The director shall be authorized to adjust the impact fees for any development based on analysis of specific trip generating characteristics of the development. Such adjustments may consider mixed-use characteristics and/or expected levels of ridesharing and transit usage of the development.

E. No transportation impact fee shall be collected if the transportation improvements are incapable of being reasonably accomplished because of lack of public funds. No impact fee shall be imposed by the city on a development when mitigation for the same transportation impact of the development is being required by any other governmental agency pursuant to any other local, state, or federal law.

F. The director may consider unusual circumstances for specific developments and may adjust the otherwise applicable impact fee for specific developments in order to ensure that impact fees are imposed fairly. The director shall set forth his/her reasons for adjusting the impact fee in written findings.

G. Through a development agreement approved by the city council pursuant to Chapter 36.70B RCW, the impact fees calculated for a specific development may be adjusted or reduced upon a finding that the public interest is served by such adjustment and so long as any reduction of impact fees is paid from public funds other than the impact fee fund. (Ord. 5871 § 6, 2009; Ord. 4824 § 6, 1995; Ord. 4104 § 8, 1989.)

**22.16.085 Impact fee rate schedule.**

A. The transportation impact fee schedule determined pursuant to BCC 22.16.080(A) shall be adopted by a separate ordinance; provided, that the schedule of impact fee rates per development unit for specific land use types may be reduced below the amounts determined by BCC 22.16.080(A) as the council deems appropriate.

B. In no event shall the impact fee scheduled authorized pursuant to this chapter exceed the maximum amounts authorized pursuant to BCC 22.16.080(A) as calculated in the transportation impact fee program report.

C. The transportation impact fee schedule may be revised at any time the council deems just and appropriate, including but not limited to, concurrent with the update of the transportation facilities plan and transportation impact fee program report. The council shall revise the impact fee schedule in the event that the transportation impact fee program report prepared in accordance with BCC 22.16.080(A) indicates that the impact fee schedule must be updated to avoid fees in excess of the maximum rate established by such report.

D. The ordinance adopting the impact fee schedule may include authority for the director to adjust the fee rates through the use of the Washington State Department of Transportation Construction Cost Index. This provision shall apply prospectively only. No transportation impact fee for a specific development shall be increased or decreased once said fee has been paid. (Ord. 5871 § 7, 2009.)

**22.16.087 Credits.**

A. A developer shall be given a credit against a transportation impact fee for the fair market value of any dedication of land plus the actual costs of construction of any improvements to or new construction of any system improvements provided by the developer, where such system improvements are identified in the impact fee project list and are required as a condition of approving the development activity. If the value of any such dedication, improvements and/or construction exceeds the amount of the transportation impact fee obligation, the developer shall be entitled to reimbursement from transportation impact fees that are paid by subsequent developers within the service area. To ensure that reimbursements are paid only from impact fees and not from general city funds, the reimbursement amount may not exceed the city growth percentage of the impact fee project multiplied by the value of the dedication, improvement and/or construction. The city growth percentage of a project is identified in the impact fee project list. In the event that the developer donates land for a system improvement in exchange for an increase in floor area ratio, the fair market value of the increase in the floor area ratio provided shall be deducted from the credit calculated pursuant to this subsection A. Any land or system improvement proposed to be dedicated to must be accepted by the city in the form and manner provided by applicable city codes and regulations.

B. A developer shall be given a credit against a transportation impact fee in the amount equal to the amount of the developer's obligation to pay for local improvement district assessments for any transportation improvement project on the impact fee list; provided, that no such credit shall be required if the amount of the local improvement district payment for the transportation improvement project was used in the

transportation impact fee program report to reduce the cost of the transportation improvement project that is the basis for the impact fee rate schedule.

C. A developer shall be given a credit against a transportation impact fee in the amount of transportation impact mitigation fees already paid or improvements already constructed where a prior recorded concomitant agreement provided for the payment for or the construction of any transportation improvement or portion thereof included in the impact fee project list. This provision applies only where the property subject to the concomitant agreement is the property on which the development is proposed to be located.

D. Payment of the transportation impact fee entitles the developer and its successors or assigns to a credit in the amount of the impact fee against any other fee or assessment made specifically for the designated system improvements covered by the transportation impact fee imposed under this Chapter 22.16 BCC. (Ord. 5871 § 8, 2009.)

#### **22.16.090 Determination, collection and administration of fees.\***

A. The director shall determine the amount of the transportation impact fee required for any development pursuant to the transportation impact fee schedule and the provisions of this chapter.

B. Consistent with the provisions of BCC 22.16.070(C), no building permit, or other development approval if a building permit is not required, for any development requiring payment of a transportation impact fee pursuant to this Chapter 22.16 BCC shall be issued until the transportation impact fee has been paid in full.

C. There is hereby created and established a special purpose, nonoperating transportation impact fee fund ("the impact fee fund"). All transportation impact fees, and investment income received pursuant to this Chapter 22.16 BCC shall be deposited into the impact fee fund. Procedures for administration of the fund shall be established by the director of the finance department. The impact fee fund is not intended as a fund from which direct transportation capital expenditures will be made. This fund is intended to serve as an accounting device to receive revenues generated as described herein for automatic transfer to other fund(s) where expenditure purposes associated with these revenues have been budgeted. In consideration of this, appropriations in this fund may be administratively adjusted periodically; that is, without additional ordinance requirements, in order to equal revenue expectations. Appropriation changes by ordinance will continue to be provided for the funds in which expenditures will actually occur.

D. The transportation department shall pool impact fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six years. The city council shall adopt written findings setting forth its reasons for holding any fees longer than six years. Pooling for such purpose shall be accomplished by determining which project has the highest priority among the projects for which impact fees were collected, and the fees shall be transferred to the budget of that project. Any interest earned on impact fee installment payments, or on invested monies in the impact fee fund may be pooled and expended on any one or more of the transportation improvements for which impact fees have been collected.

E. Fees may be collected for system improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements; provided such fee shall not be imposed to make up for any system improvement deficiencies.

F. The director is authorized to establish rules and regulations to administer the provisions of this chapter. (Ord. 5871 § 9, 2009; Ord. 4824 § 7, 1995; Ord. 4104 § 9, 1989.)

\*Ord. 4907 § 4 provides:

[The Impact Fee Fund] shall be consolidated into the "General Capital Investment Program Fund" and thereby closed. All assets and operations of such funds shall be transferred to the "General Capital Investment Program Fund" which shall carry out the purposes and functions for which such consolidated funds were originally created.

#### **22.16.095 Appeal of fees.**

The developer may appeal the determination of the amount of the transportation impact fee, including whether or to what extent an exemption applies or a credit should be provided. The developer must file an appeal with the city clerk within 14 days of the date that notice is given to the developer of the fee. The appeal shall be processed pursuant to the Process II appeal procedures of the LUC 20.35.250 et seq., now or as hereafter amended. Pending determination on any appeal, a building permit may only be issued if the developer first pays under protest the full amount of the fee, as determined by the director. (Ord. 5871 § 10, 2009; Ord. 4978 § 33, 1997; Ord. 4824 § 8, 1995.)

#### **22.16.100 Refund of fees.**

A. If a building permit or other approval expires or if the application is withdrawn or canceled and no construction has commenced, the current property owner shall be entitled to a refund of any transportation impact fee paid plus interest earned less a reasonable administrative charge for the processing of said fee. Any fee erroneously paid or collected shall be refunded in full, with interest earned.

B. All transportation impact fees not expended or encumbered within six years of collection shall be refunded in full to the property owner currently of record, with interest earned unless the city council has made written findings extending the six-year period. (Ord. 4824 § 9, 1995; Ord. 4104 § 10, 1989.)

#### **22.16.110 Amendments.**

*Repealed by Ord. 5871.* (Ord. 4824 § 10, 1995; Ord. 4104 § 11, 1989.)

1077-ORD  
04/30/09

CITY OF BELLEVUE, WASHINGTON  
ORDINANCE NO. 5871

AN ORDINANCE amending the Bellevue City Code to update the City's transportation impact fee program; amending Sections 22.16.010, 22.16.020, 22.16.040, 22.16.050, 22.16.070, 22.16.080, 22.16.090, and 22.16.095 of the Bellevue City Code; creating new Sections 22.16.085 and 22.16.087 in the Bellevue City Code; deleting Section 22.16.110 of the Bellevue City Code; and establishing an effective date.

WHEREAS, the State of Washington Growth Management Act, Chapter 36.70A RCW and related sections ("GMA") requires the city to adopt a Comprehensive Plan that provides adequate public facilities to serve development; and

WHEREAS, Counties, cities, and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity as part of the financing for public facilities, provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees; and

WHEREAS, the city council finds that new development activity in the City of Bellevue will create additional demand and need for public facilities; and

WHEREAS, the City of Bellevue has previously adopted a transportation impact fee program pursuant to the authority provided in Chapter 82.02 RCW; and

WHEREAS, the city council finds that the city's transportation impact fee program generates impact fees: that are imposed for system improvements that are reasonably related to new development; that do not exceed a proportionate share of the costs of system improvements that are reasonably related to new development; and that shall be used for system improvements that will reasonably benefit the new development; and

WHEREAS, this ordinance is exempt from the requirements of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES  
ORDAIN AS FOLLOWS:

Section 1. Section 22.16.010.B of the Bellevue City Code is hereby amended as follows:

B. This Chapter 22.16 BCC supplements existing authority of the city to regulate development. This chapter does not supplant the requirements of environmental review and mitigation under the State Environmental Policy Act ("SEPA") and Chapter 22.02 BCC. Any transportation impact fees paid in accordance with the program established by this chapter shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development. This program may serve as one method by which the developer may meet, in part or in whole, its obligations under SEPA; provided, that a developer required to pay a fee as mitigation under SEPA and Chapter 22.02 BCC for system improvements shall not be required to pay any portion of an impact fee under this chapter imposed for those same system improvements.

Section 2. Section 22.16.020 of the Bellevue City Code is hereby amended as follows:

**22.16.020 Definitions.**

A. "Affordable housing" means all categories of affordable housing as defined in the Bellevue Land Use Code, Section 20.50.010, now or as hereafter amended. "Affordable housing" as used in this chapter is determined to be consistent with "low-income housing" referred to in RCW 82.02.060 and is considered a development activity with broad public purposes.

B. "Developer" means an individual, group of individuals, partnership, corporation, association, municipal corporation, state agency, or other person undertaking development and their successors and assigns.

C. "Development" means any construction or expansion of a building, structure, or use for which a permit, approval, or other authorization is required that creates additional demand and need for transportation improvements; provided, that such development generates at least one new p.m. peak hour trip, when the permit, approval, or other authorization for the development is processed pursuant to Bellevue City Code (Land Use Code) Title 20 or Bellevue City Code (Construction Code) Chapter 23.10. In the case of tenant improvement permits, "development" means any proposed new use or expanded existing use for which SEPA review is required; the threshold for imposing the impact fee for a tenant improvement is eleven new trips in the P.M. peak hour. Development does not include buildings or structures constructed by a regional transit authority.

D. "Director" means the director of the transportation department or his or her designee or any other person designated by the city manager.

E. "Downtown" shall have the same definition as set forth in Bellevue Land Use Code section 20.50.016, now or as hereafter amended.

F. "Fair market value" means the price in terms of money that a property will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by

undue stimulus, measured at the time of the dedication to local government of land or improved transportation facilities.

G. "Gross floor area" means the sum in square feet of the area at each floor level of a building that is included within the principal outside faces of exterior walls. The gross floor area of any parking garages within the building shall not be included.

H. "Impact fee area" means one or more geographic areas within the service area, as shown on the map in the transportation impact fee program report.

I. "Impact fee project list" means those transportation improvement projects in the Transportation Facilities Plan which are determined to be reasonably related to new development, as developed pursuant to Section 22.16.050. Unless otherwise specified, references to the impact fee project list shall refer to such list in effect at the time of application of this chapter to a particular development.

J. "Impact fee schedule" means a schedule of impact fee rates per development unit (e.g., square footage) for specific land uses within each impact fee area calculated pursuant to section 22.16.080, supported by the concurrently-adopted transportation impact fee program report, and adopted by ordinance. Unless otherwise specified, references to the impact fee schedule shall refer to such schedule in effect at the time of application of this chapter to a particular development.

K. "Level of service" means a measure of traffic congestion along a roadway or at an intersection identified by a letter from A to F as defined by the Institute of Transportation Engineers and as adopted in the Transportation Element of the City's Comprehensive Plan, now or as hereafter amended.

L. "P.M. peak hour" means the 60-minute period between 3:00 p.m. to 7:00 p.m. which experiences the highest volume of traffic on a roadway or passing through a roadway intersection.

M. "P.M. peak hour trips" means the total vehicular trips entering and leaving a development during the p.m. peak hour on the adjacent roadway.

N. "P.M. peak hour trip generation rate" means the trip generation rate per unit of development, as specified in the transportation impact fee program report. A unit of development is the element used to describe the size of the development, e.g., gross floor area in square feet for an office building, students for a school. Other trip generation definition sources may be used where the proposed development has special trip-generating characteristics, subject to approval of the transportation department.

O. "Project improvements" mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities plan shall be considered a project improvement.

P. "Proportionate share" means that portion of the cost of transportation improvements that are reasonably related to the service demands and needs of new development.

Q. "Service area" means the geographic area which is benefited by the transportation improvements proposed to be constructed with transportation impact fees collected under this Chapter 22.16 BCC and within which transportation impact

fees will be imposed. The boundaries of the service area shall be the same as the legal boundaries of the city of Bellevue and shall include all unincorporated areas annexed to the city on and after the effective date of the ordinance codified in this chapter. Pursuant to the adoption of interlocal agreements with other local and regional governments, including any transportation benefit district created pursuant to Chapter 36.73 RCW, the geographic boundaries of the service area may be expanded consistent with the provisions of such interlocal agreements.

R. "System improvements" mean transportation improvements that are included in the capital facilities plan and are designed to provide service to service areas within the community at large, in contrast to project improvements.

S. "Transportation Facilities Plan" means the 12-year program adopted by the city council for jointly funding, from public and private sources, transportation improvements necessitated in whole or in part by development within the service area. The Transportation Facilities Plan is based on the transportation facility plans adopted in the city's Comprehensive Plan. Unless otherwise specified, references to the Transportation Facilities Plan shall refer to such Plan in effect at the time of application of this chapter to a particular development.

T. "Transportation impact fee" means a payment of money imposed upon development as a condition of development approval to pay for transportation improvements needed to serve new growth and development, and that is reasonably related to the new development that creates additional demand and need for transportation improvements, that is a proportionate share of the cost of the transportation improvements, and that is used for improvements that reasonably benefit the new development. "Impact fee" does not include a reasonable permit or application fee.

U. "Transportation impact fee program report" means the report entitled "Transportation Impact Fee Program for Bellevue, Washington". Unless otherwise specified, references to the transportation impact fee program report shall refer to the edition of such report in effect at the time of application of this chapter to a particular development.

V. "Transportation improvement" means any and all capital improvements to the transportation infrastructure of the city constructed pursuant to city design and development standards and requirements, including without limitation roads, bridges, overpasses, sidewalks, curbs, turn lanes, traffic signals, traffic signs, HOV lanes, bus shelters, associated landscaping. The cost of the transportation improvement shall include any debt service payments, including interest, for any of these improvements.

Section 3. Section 22.16.040 of the Bellevue City Code is hereby amended as follows:

**22.16.040 Designation of capital facilities plan.**

The city designates the Transportation Facilities Plan as the city's comprehensive capital facilities plan for the purpose of identifying the proposed transportation improvements reasonable and necessary to meet the future development needs of

the service area consistent with the city's level of service policy, as required by RCW 82.02.050.

Section 4. Section 22.16.050 of the Bellevue City Code is hereby amended as follows:

**22.16.050 Transportation improvements.**

A. The Transportation Facilities Plan is a 12-year list of transportation improvements in the service area. These transportation improvements include design, acquisition of right-of-way, and construction. Every two years or as otherwise directed by the Council, the transportation commission shall review and as necessary present an update of the Transportation Facilities Plan to the city council for consideration.

B. The impact fee project list consists of the transportation improvements in the Transportation Facilities Plan needed to provide capacity on city of Bellevue roadways, where the capacity needs are reasonably related in part or in whole to new development. The impact fee project list is adopted by the city council when it adopts the Transportation Facilities Plan.

Section 5. Section 22.16.070 of the Bellevue City Code is hereby amended as follows:

**22.16.070 Imposition of transportation impact fees.**

A. Any development in the service area, except a development or portion thereof specifically exempt pursuant to subsection B of this section shall be required to pay a transportation impact fee to the extent and in the amount provided herein.

B. The following types of development or portion thereof are development activities with broad public purposes, and are exempt from the requirement to pay a transportation impact fee as otherwise required by this Chapter 22.16 BCC:

1. Any development or portion thereof used exclusively for "child care services" as defined in Bellevue City Code (Land Use Code) Section 20.50.014 now or as hereafter amended; provided, that no such exemption shall be provided unless the developer has first signed an agreement satisfactory to the city which provides assurance that such "child care services" use shall continue for at least that term specified in such agreement;

2. Any development or portion thereof used exclusively for affordable housing; provided, that no such exemption shall be provided unless the developer has first signed an agreement satisfactory to the city which provides assurance that any units granted an exemption under this section shall remain affordable for the life of the project;

3. Public transportation facilities;

4. City parks or public parks each as defined in Bellevue City Code (Land Use Code) 20.50.040, now or as hereafter amended;

5. Privately operated not-for-profit social service facilities recognized by the Internal Revenue Service under Internal Revenue Code Section 501(c)(3);

6. Public libraries;

7. Publicly-funded educational institutions;

8. Hospitals, as defined in Bellevue City Code (Land Use Code) 20.50.024 now or as hereafter amended, if not operated for profit.

Impact fees for these exemptions shall be paid from public funds other than the impact fee fund.

C. Timing of calculation and payment. This chapter shall be applied at and impact fees for development shall be paid at the time of issuance of a building permit based on the impact fee rate schedule then in effect. In the event the development does not require a building permit, application of this chapter and payment of impact fees shall be at the time of issuance of the approval of the development. The timing of payments may be modified in a development agreement approved by the city council pursuant to RCW chapter 36.70B.

Section 6. Section 22.16.080 of the Bellevue City Code is hereby amended as follows:

**22.16.080 Calculating transportation impact fees.**

A. Concurrently with adoption of an updated Transportation Facilities Plan, the director shall prepare an updated transportation impact fee program report using the following methodology:

1. Determine the share of costs attributable to growth. For the transportation improvements listed in the impact fee project list, calculate any transportation deficiencies based upon the adopted level of service standards. Remove the proportion of the total costs of such transportation improvements attributable to deficiencies. The remaining "growth share of costs" are attributable to new growth occurring within and outside of the City.

2. Calculate the city development percentage of growth on the transportation improvements. Multiply this percentage by the total growth share of costs to determine the share of the transportation costs attributable to development in the City. This total constitutes the "city development share of cost."

3. Divide the "city development share of cost" by the total number of p.m. peak hour vehicle trips generated by development within the city. The resulting value is the "impact fee per trip."

4. Adjust the "impact fee per p.m. peak hour trip" for specific land use types to account for:

a. Pass-by trips, as defined in the Institute of Transportation Engineers' Trip Generation Report, now or as hereafter amended; and

b. Average trip length; and

c. Expected levels of ridesharing and transit usage.

5. Produce a schedule of impact fee rates per development unit (e.g., square footage, housing units) for specific land use types for consideration pursuant to 22.16.085.

B. The director shall calculate the amount of the applicable transportation impact fee for each development by:

1. Verifying the development land use type and units of development;

2. Determining the applicable per unit transportation impact fee from the impact fee schedule;

3. Multiplying the applicable per unit transportation impact fee by the development unit to obtain the transportation impact fee for such development.

C. If the development does not fit into any of the categories specified in the transportation impact fee schedule, the director shall use the impact fee applicable to the most directly comparable type of land use specified in the impact fee schedule. If the development includes mixed uses, the fee shall be determined by apportioning the space committed to uses specified in the impact fee schedule.

D. The director shall be authorized to adjust the impact fees for any development based on analysis of specific trip generating characteristics of the development. Such adjustments may consider mixed-use characteristics and/or expected levels of ridesharing and transit usage of the development.

E. No transportation impact fee shall be collected if the transportation improvements are incapable of being reasonably accomplished because of lack of public funds. No impact fee shall be imposed by the city on a development when mitigation for the same transportation impact of the development is being required by any other governmental agency pursuant to any other local, state, or federal law.

F. The director may consider unusual circumstances for specific developments and may adjust the otherwise applicable impact fee for specific developments in order to ensure that impact fees are imposed fairly. The director shall set forth his/her reasons for adjusting the impact fee in written findings.

G. Through a development agreement approved by the city council pursuant to RCW chapter 36.70B, the impact fees calculated for a specific development may be adjusted or reduced upon a finding that the public interest is served by such adjustment and so long as any reduction of impact fees is paid from public funds other than the impact fee fund.

Section 7. A new section 22.16.085 is hereby added to the Bellevue City Code as follows:

**22.16.085 Impact fee rate schedule.**

A. The transportation impact fee schedule determined pursuant to Section 22.16.080.A shall be adopted by a separate ordinance; provided that the schedule of impact fee rates per development unit for specific land use types may be reduced below the amounts determined by Section 22.16.080.A as the Council deems appropriate.

B. In no event shall the impact fee scheduled authorized pursuant to this Chapter exceed the maximum amounts authorized pursuant to Section 22.16.080.A as calculated in the transportation impact fee program report.

C. The transportation impact fee schedule may be revised at any time the Council deems just and appropriate, including but not limited to, concurrent with the update of the Transportation Facilities Plan and transportation impact fee program report. The Council shall revise the impact fee schedule in the event that the transportation impact fee program report prepared in accordance with Section 22.16.080.A above

indicates that the impact fee schedule must be updated to avoid fees in excess of the maximum rate established by such report.

D. The ordinance adopting the impact fee schedule may include authority for the director to adjust the fee rates through the use of the Washington State Department of Transportation Construction Cost Index. This provision shall apply prospectively only. No transportation impact fee for a specific development shall be increased or decreased once said fee has been paid.

Section 8. A new Section 22.16.087 is hereby added to the Bellevue City Code as follows:

### **22.16.087 Credits**

A. A developer shall be given a credit against a transportation impact fee for the fair market value of any dedication of land plus the actual costs of construction of any improvements to or new construction of any system improvements provided by the developer, where such system improvements are identified in the impact fee project list and are required as a condition of approving the development activity. If the value of any such dedication, improvements and/or construction exceeds the amount of the transportation impact fee obligation, the developer shall be entitled to reimbursement from transportation impact fees that are paid by subsequent developers within the service area. To ensure that reimbursements are paid only from impact fees and not from general city funds, the reimbursement amount may not exceed the city growth percentage of the impact fee project multiplied by the value of the dedication, improvement and/or construction. The city growth percentage of a project is identified in the impact fee project list. In the event that the developer donates land for a system improvement in exchange for an increase in floor area ratio, the fair market value of the increase in the floor area ratio provided shall be deducted from the credit calculated pursuant to this subsection A. Any land or system improvement proposed to be dedicated to must be accepted by the city in the form and manner provided by applicable city codes and regulations.

B. A developer shall be given a credit against a transportation impact fee in the amount equal to the amount of the developer's obligation to pay for local improvement district assessments for any transportation improvement project on the impact fee list, provided that no such credit shall be required if the amount of the local improvement district payment for the transportation improvement project was used in the transportation impact fee program report to reduce the cost of the transportation improvement project that is the basis for the impact fee rate schedule.

C. A developer shall be given a credit against a transportation impact fee in the amount of transportation impact mitigation fees already paid or improvements already constructed where a prior recorded concomitant agreement provided for the payment for or the construction of any transportation improvement or portion thereof included in the impact fee project list. This provision applies only where the property subject to the concomitant agreement is the property on which the development is proposed to be located.

D. Payment of the transportation impact fee entitles the developer and its successors or assigns to a credit in the amount of the impact fee against any other fee or assessment made specifically for the designated system improvements covered by the transportation impact fee imposed under this Chapter 22.16 BCC.

Section 9. Section 22.16.090 of the Bellevue City Code is hereby amended as follows:

**22.16.090 Determination, collection and administration of fees.\***

A. The director shall determine the amount of the transportation impact fee required for any development pursuant to the transportation impact fee schedule and the provisions of this chapter.

B. Consistent with the provisions of 22.16.070.C above, no building permit, or other development approval if a building permit is not required, for any development requiring payment of a transportation impact fee pursuant to this Chapter 22.16 BCC shall be issued until the transportation impact fee has been paid in full.

C. There is hereby created and established a special purpose, nonoperating transportation impact fee fund ("the impact fee fund"). All transportation impact fees, and investment income received pursuant to this Chapter 22.16 BCC shall be deposited into the impact fee fund. Procedures for administration of the fund shall be established by the director of the finance department. The impact fee fund is not intended as a fund from which direct transportation capital expenditures will be made. This fund is intended to serve as an accounting device to receive revenues generated as described herein for automatic transfer to other fund(s) where expenditure purposes associated with these revenues have been budgeted. In consideration of this, appropriations in this fund may be administratively adjusted periodically; that is, without additional ordinance requirements, in order to equal revenue expectations. Appropriation changes by ordinance will continue to be provided for the funds in which expenditures will actually occur.

D. The transportation department shall pool impact fees whenever necessary to ensure that the fees are expended or encumbered for a permissible use within six years of receipt, unless there exists an extraordinary or compelling reason for fees to be held longer than six years. The city council shall adopt written findings setting forth its reasons for holding any fees longer than six years. Pooling for such purpose shall be accomplished by determining which project has the highest priority among the projects for which impact fees were collected, and the fees shall be transferred to the budget of that project. Any interest earned on impact fee installment payments, or on invested monies in the impact fee fund may be pooled and expended on any one or more of the transportation improvements for which impact fees have been collected.

E. Fees may be collected for system improvement costs previously incurred by the city to the extent that new growth and development will be served by the previously constructed improvements; provided such fee shall not be imposed to make up for any system improvement deficiencies.

F. The director is authorized to establish rules and regulations to administer the provisions of this chapter.

Section 10. Section 22.16.095 of the Bellevue City Code is hereby amended as follows:

**22.16.095 Appeal of fees.**

The developer may appeal the determination of the amount of the transportation impact fee, including whether or to what extent an exemption applies or a credit should be provided. The developer must file an appeal with the city clerk within 14 days of the date that notice is given to the developer of the fee. The appeal shall be processed pursuant to the Process II appeal procedures of the LUC 20.35.250 et. seq., now or as hereafter amended. Pending determination on any appeal, a building permit may only be issued if the developer first pays under protest the full amount of the fee, as determined by the director.

Section 11. Section 22.16.110 of the Bellevue City Code is hereby deleted.

Section 12. Chapter 22.16 of the Bellevue City Code shall be known as the "Transportation Impact Fee Program."

Section 13. This ordinance shall take effect and be in force five (5) days after adoption and legal publication.

1077-ORD  
04/30/09

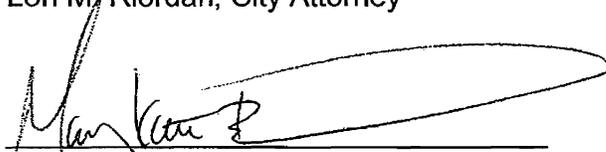
PASSED by the City Council this 4th day of may, 2009,  
and signed in authentication of its passage this 4th day of may,  
2009.

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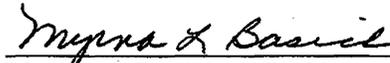
  
\_\_\_\_\_  
Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

  
\_\_\_\_\_  
Mary Kate Berens, Deputy City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published May 7, 2009

1078-ORD  
04/30/09

## CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5872

AN ORDINANCE adopting the impact fee rate schedule,  
as authorized by Bellevue City Code Section 22.16.085;  
and establishing an effective date.

WHEREAS, the City's transportation impact fee program authorizes imposition of transportation impact fees based on the methodology established in Bellevue City Code Section 22.16.080; and

WHEREAS, the city council has approved and adopted the Transportation Facilities Plan pursuant to Resolutions 7896 and 7914, which Plan includes the impact fee project list; and

WHEREAS, the director of the transportation department has prepared the transportation impact fee program report, demonstrating a maximum allowable impact fee rate of \$8667 per PM peak hour trip end; and

WHEREAS, the city council finds that establishing phased implementation of impact fee increases is consistent with the authority provided in Bellevue City Code chapter 22.16 and in chapter 82.02 RCW; and

WHEREAS, the city council finds that establishing the impact fee rate schedule as set forth in this ordinance below the maximum allowable rate is in the public interest; and

WHEREAS, this ordinance is exempt from the requirements of the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, and the City's Environmental Procedures Code, BCC 22.02; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES  
ORDAIN AS FOLLOWS:

Section 1. The report entitled the "Transportation Impact Fee Program for Bellevue Washington, 2009 Update" dated April 2009 and given Clerk's Receiving No. \_\_\_\_\_ is hereby adopted by reference and designated the impact fee program report.

Section 2. Subject to the adjustments, credits and other modifications authorized pursuant to Bellevue City Code chapter 22.16, the following impact fee schedule is adopted pursuant to Bellevue City Code Section 22.16.085 and the rates established in such schedule shall be assessed as follows: commencing on January 1, 2010 until December 31, 2012 the impact fee rate schedule shall be as set forth in the column headed "Impact Fee Rate 1/1/2010"; commencing on January 1, 2013 until December 31, 2015 the rate shall be as set forth in the column headed "Impact Fee Rate 1/1/2013", and commencing on January 1, 2016 and thereafter, subject to

1078-ORD  
04/30/09

adjustment as set forth in Section 3, the rate shall be as set forth in the column headed "Impact Fee Rate 1/1/2016":

Land Use	Unit of Measure	Impact Fee Rate 1/1/2010	Impact Fee Rate 1/1/2013	Impact Fee Rate 1/1/2016
Cost Per Trip End		\$2,000	\$3,000	\$5,000
<b>Residential</b>				
Single Family	dwelling	\$1,768	\$2,651	\$4,419
Multi-Family	dwelling	\$907	\$1,360	\$2,266
Senior Citizen Dwelling	dwelling	\$224	\$336	\$560
<b>Commercial - Services</b>				
Bank/ S&L without Window	sf/GFA	\$10.55	\$15.83	\$26.38
Bank/ S&L with Window	sf/GFA	\$20.59	\$30.89	\$51.48
Hotel/Motel	room	\$864	\$1,296	\$2,160
Day Care Center	sf/GFA	\$9.35	\$14.02	\$23.36
Service Station w or wo Convenience Mkt	VFP	\$5,118	\$7,677	\$12,795
Quick Lubrication Vehicle Shop	serv pos	\$3,088	\$4,632	\$7,720
Car Wash - Self Service	stall	\$2,881	\$4,321	\$7,202
Movie Theater w/ Matinee	screen	\$44,877	\$67,316	\$112,193
<b>Commercial - Institutional</b>				
Elementary/ Middle School	student	\$222	\$333	\$555
High School	student	\$192	\$289	\$481
Junior College	student	\$200	\$300	\$500
Religious Institution	sf/GFA	\$1.02	\$1.53	\$2.54
Nursing Home	bed	\$308	\$462	\$770
Congregate Care/Assisted Living	dwelling	\$238	\$357	\$595
Medical Clinic	sf/GFA	\$9.32	\$13.99	\$23.31
Hospital	sf/GFA	\$2.28	\$3.42	\$5.70
<b>Commercial - Restaurant</b>				
Quality Restaurant	sf/GFA	\$7.64	\$11.46	\$19.10
High Turnover Restaurant	sf/GFA	\$7.69	\$11.54	\$19.23
Fast Food Restaurant without Window	sf/GFA	\$13.08	\$19.61	\$32.69
Fast Food Restaurant with Window	sf/GFA	\$16.92	\$25.38	\$42.30
<b>Commercial - Retail Shopping</b>				
Shopping Center	sf/GLA	\$2.74	\$4.11	\$6.85
Supermarket	sf/GFA	\$7.17	\$10.75	\$17.92
Convenience Market	sf/GFA	\$13.63	\$20.44	\$34.07
Convenience Market with Gas Pumps	sf/GFA	\$13.58	\$20.37	\$33.95
Discount Supermarket	sf/GFA	\$6.54	\$9.81	\$16.35
Discount Store	sf/GFA	\$3.40	\$5.10	\$8.50
Discount Superstore	sf/GFA	\$2.94	\$4.41	\$7.35
Miscellaneous Retail	sf/GFA	\$1.90	\$2.85	\$4.76
Retail Warehouse (Hardware)	sf/GFA	\$2.09	\$3.13	\$5.21
Retail Warehouse (General Merchandise)	sf/GFA	\$4.75	\$7.12	\$11.87
Furniture Store	sf/GFA	\$0.19	\$0.29	\$0.48
Pharmacy with or without Drive-Through	sf/GFA	\$3.62	\$5.43	\$9.05
Auto Parts Store	sf/GFA	\$2.58	\$3.86	\$6.44
Car Sales -New/ Used	sf/GFA	\$4.77	\$7.15	\$11.91
<b>Commercial - Office</b>				
Office	sf/GFA	\$3.42	\$5.13	\$8.55
Medical/ Dental Office	sf/GFA	\$6.23	\$9.34	\$15.57
<b>Industrial</b>				
Light Industry/Manufacturing	sf/GFA	\$2.47	\$3.71	\$6.18
Industrial Park	sf/GFA	\$2.19	\$3.29	\$5.48
Warehousing	sf/GFA	\$0.82	\$1.22	\$2.04
Mini-Warehouse	sf/GFA	\$0.66	\$0.99	\$1.66
<b>Downtown Land Uses</b>				
Multi-Family	dwelling	\$685	\$1,027	\$1,711
Hotel/Motel	room	\$656	\$984	\$1,640
Office	sf/GFA	\$2.57	\$3.86	\$6.43
Notes:				
sf/GFA = square feet Gross Floor Area		sf/GLA = square feet Gross Leasable Area		
For uses with Unit of Measure given in sf, trip rate is given as trips per 1,000 sf				
VFP = Vehicle Fueling Station (Maximum number of vehicles that can be fueled simultaneously)				
serv pos = Service Position				

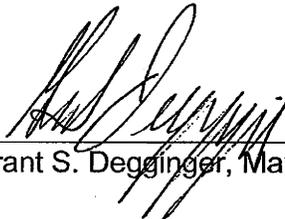
Section 3. On January 1, 2017 and annually thereafter, the director of the transportation department shall adjust the impact fee rate schedule by the same percentage amount of change as was included in the most recent amendment to the Washington State Department of Transportation Construction Cost Index. This provision shall apply prospectively only. No transportation impact fee for a specific development shall be increased or decreased once said fee has been paid.

Section 4. The impact fee schedule adopted by Ordinance 5559 shall remain in effect through December 31, 2009.

Section 5. This ordinance shall take effect and be in force five days after adoption and legal publication.

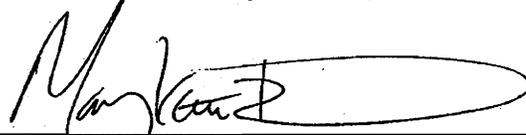
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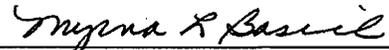
  
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Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published May 7, 2009

# Impact Fees for Sample Developments

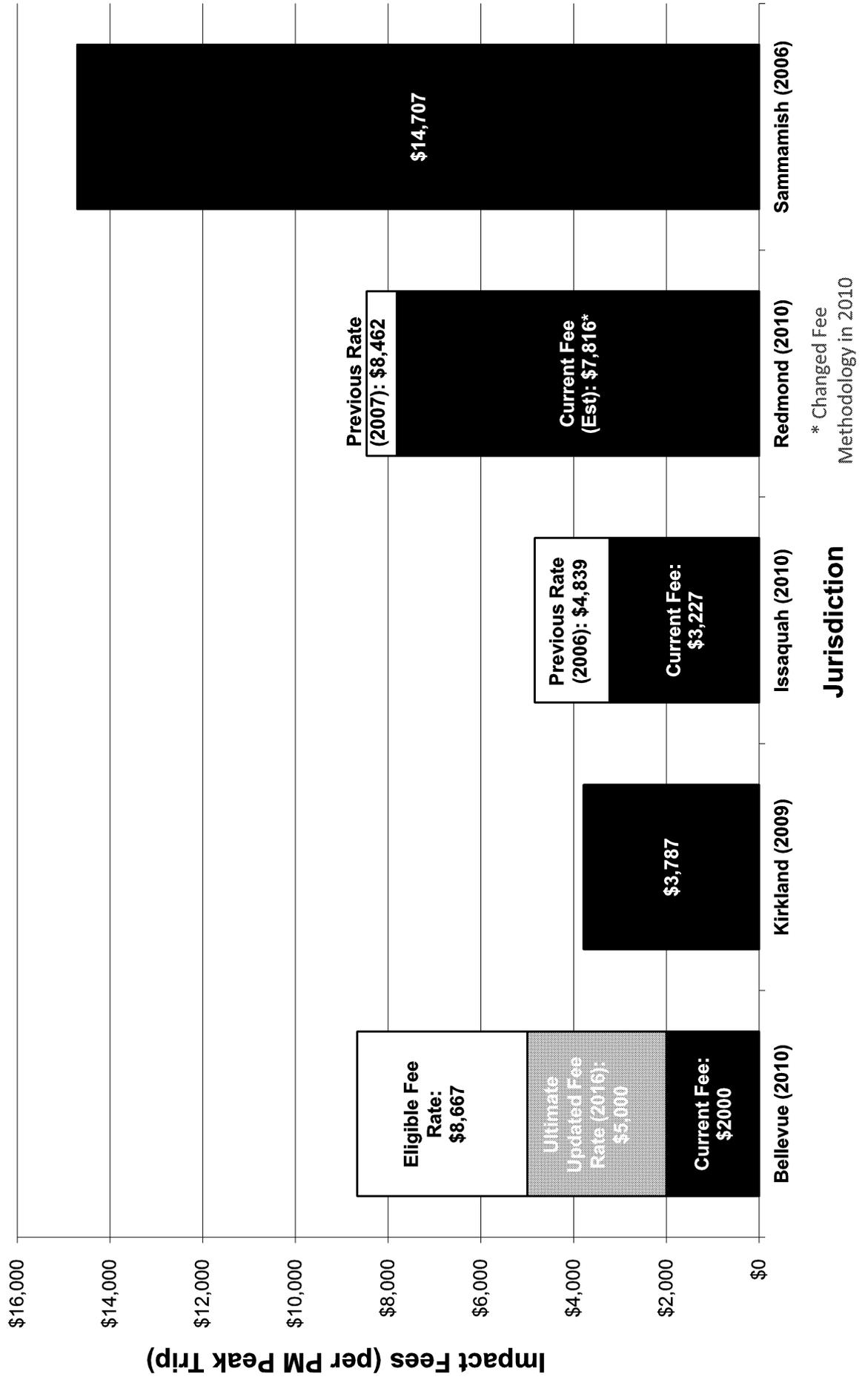
ATTACHMENT I

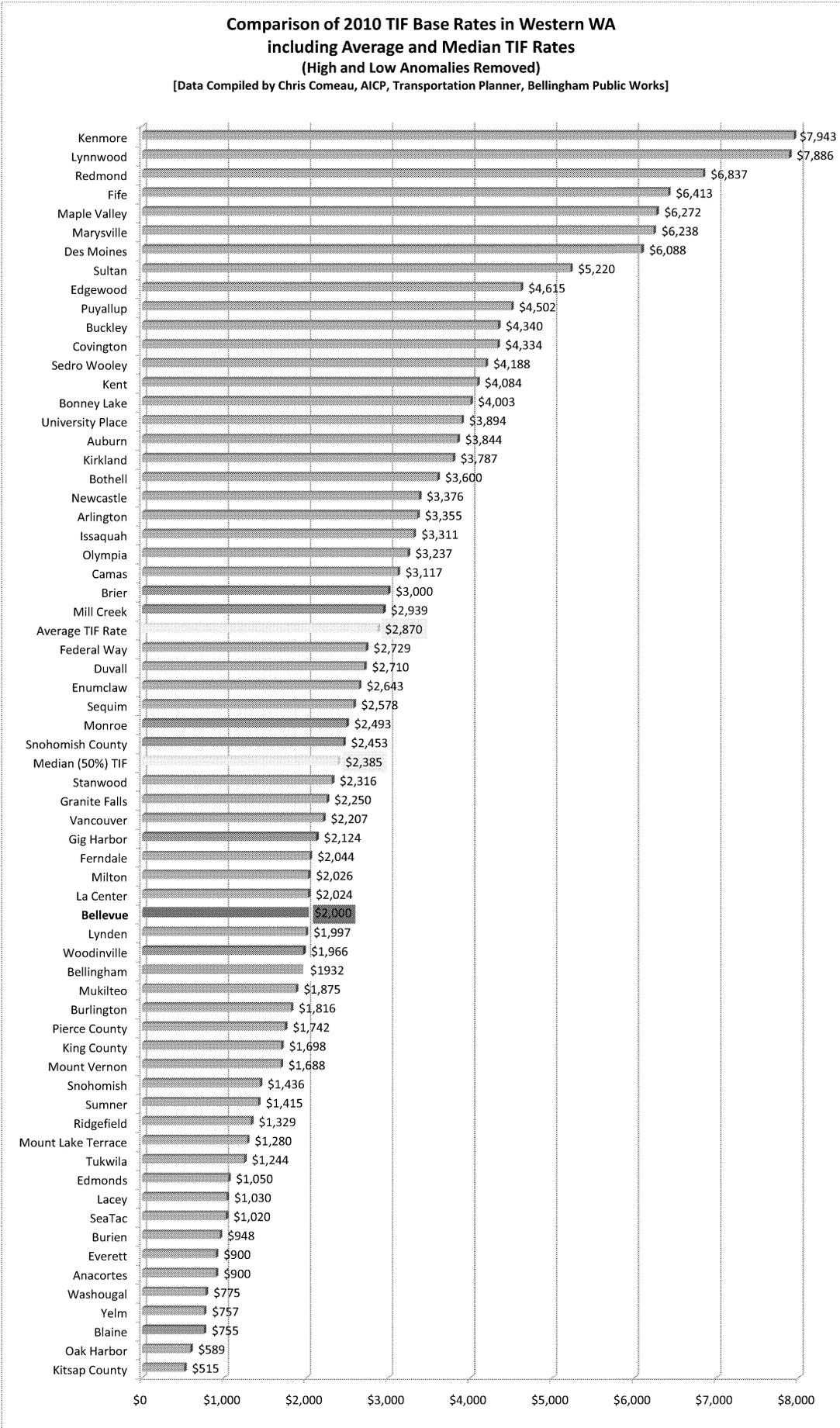
Sample Development	Impact Fee Rate per Trip	Impact Fee Per Unit (per Sq.Ft. or Dwelling)	Fee
Downtown Office (550K sq ft)	\$2,000	\$2.57	\$1,413,500
	\$3,000	\$3.86	\$2,123,000
	\$5,000	\$6.43	\$3,536,500
Downtown Office (250K sq ft)	\$2,000	\$2.57	\$642,500
	\$3,000	\$3.86	\$965,000
	\$5,000	\$6.43	\$1,607,500
Office (250K sq ft)	\$2,000	\$3.42	\$855,000
	\$3,000	\$5.13	\$1,282,500
	\$5,000	\$8.55	\$2,137,500
Downtown Mixed-Use Building (25K sq ft retail/200 housing units)	\$2,000	\$1.90/\$685	\$184,500
	\$3,000	\$2.85/\$1,027	\$276,650
	\$5,000	\$4.76/\$1,711	\$461,200
Mixed-Use Building (25K sq ft retail/200 housing units)	\$2,000	\$1.90/\$907	\$228,900
	\$3,000	\$2.85/\$1,360	\$343,250
	\$5,000	\$4.76/\$2,266	\$572,200
Big Box Retail (100K sq ft)	\$2,000	\$4.75	\$475,000
	\$3,000	\$7.12	\$712,000
	\$5,000	\$11.87	\$1,187,000
Downtown Residential (400 units)	\$2,000	\$685	\$274,000
	\$3,000	\$1,027	\$410,800
	\$5,000	\$1,711	\$684,400
Residential (300 units)	\$2,000	\$907	\$272,100
	\$3,000	\$1,360	\$408,000
	\$5,000	\$2,266	\$679,800
Downtown Hotel (350 rooms)	\$2,000	\$656	\$229,600
	\$3,000	\$984	\$344,400
	\$5,000	\$1,640	\$574,000
Hotel (350 rooms)	\$2,000	\$864	\$302,400
	\$3,000	\$1,296	\$453,600
	\$5,000	\$2,160	\$756,000
Single Family Residence	\$2,000	\$1,768	\$1,768
	\$3,000	\$2,651	\$2,651
	\$5,000	\$4,419	\$4,419

Note: Downtown developments have a lower Impact Fee Per Unit acknowledging the land use density and greater opportunity for use of alternate travel modes currently available in Downtown Bellevue.

# Local Agency Impact Fee Comparison

## Cost per PM Peak Trip





# Seattle Permits

— part of a multi-departmental City of Seattle series on getting a permit

## Transportation Mitigation Payments

### *South Lake Union and Northgate*

Updated November 10, 2010

This Client Assistance Memo (CAM) explains the applicable regulations and process for making transportation mitigation payments in South Lake Union and Northgate. This can be done as an alternative to directly providing mitigation required by permit conditions imposed pursuant to the State Environmental Policy Act (SEPA) as part of environmental review conducted in the master use permit process.

Payments are based on the cost of transportation improvements identified in a City of Seattle prepared area-wide transportation study. Payments are calculated by general land use categories and amount of floor area or number of dwelling units in a proposed development. The payments will be applied to a comprehensive set of transportation improvements identified in the transportation study, based on a development's impact.

Permit applicants have the option of making use of the City's transportation study for purposes of the transportation analysis often required as part of environmental review, and making the mitigation payment; or preparing their own study of the proposed project's impact and developing mitigation proposals for the department's consideration. In some cases, the department may require additional transportation analysis, such as when aspects of a development proposal have not been adequately considered in the City study. By choosing this option, applicants agree to the transportation improvements on the list. In any event, the department will review each development proposal to make sure the mitigation is appropriately related to the anticipated impacts.

Currently this mitigation payment option is available for development in South Lake Union and Northgate.

### Why South Lake Union and Northgate?

These areas are designated as urban centers in the City's Comprehensive Plan. Urban centers will be home to new jobs and housing units, as targeted in the Comprehensive Plan. To prepare for this growth and to fix existing conditions, the Seattle Department of Transportation (SDOT) prepared area-wide transportation studies, which include a list of projects for the next 20 years.

The studies coordinate analysis and recommendations identified through applicable neighborhood plans, for known major transportation projects. The studies also include a funding plan. Part of the funding includes contributions from new development in the form of mitigation payments. These contributions are not used to fix existing conditions, but to mitigate impacts of new development.

A list of the transportation improvements to be funded and a mitigation payment schedule for each neighborhood are listed on pages 4-8 of this CAM.

### Benefits of Transportation Mitigation

In many cases, participation in this mitigation program will result in a faster permit review process. For example, a development proposal that receives a determination of significance from the department may qualify for a mitigated determination of nonsignificance, as comprehensive mitigation is essentially built into the proposal by participation in this program. Other benefits of the mitigation program are that it:

- allows systematic, neighborhood-wide improvements rather than piecemeal, project-by-project transportation improvements;
- applies funding to transportation projects instead of traffic studies; and
- increases predictability for development with more expedient environmental review. Fewer projects will likely go through an Environmental Impact Statement (EIS) process, particularly in urban centers, where transportation impacts often trigger an EIS

[www.seattle.gov/dpd](http://www.seattle.gov/dpd)



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## Environmental Review

The environmental impacts of development proposals must be assessed per SEPA, RCW Chapter 43.21C, and the City's SEPA ordinance, Seattle Municipal Code Chapter 25.05. This is required when establishing a new use or changing or expanding an existing use that meets the criteria listed in the City's SEPA ordinance.

Environmental review is part of the Department of Planning and Development (DPD) master use permit process. Other components may be required. If a project is required to have SEPA review, DPD analyzes environmental impacts and issues an environmental threshold decision. The following are the three major types of threshold determinations:

- **Determination of Non-Significance (DNS):** No probable significant adverse environmental impacts will result from a proposal. Conditions may be imposed to mitigate adverse impacts.
- **Determination of Significance (DS):** Probable significant adverse impacts may result from a proposal and an EIS is required.
- **Mitigated Determination of Non-Significance (MDNS):** Changes are made to or mitigation included in a proposal prior to or after a DS that reduces or eliminates probable significant adverse impacts. No EIS is required.

## What is transportation mitigation?

DPD has the authority to deny or reasonably condition any proposal in order to mitigate or prevent adverse environmental impacts. As a result of environmental review, a project may be conditioned when a DNS or MDNS is made or when a permit decision involving an EIS (the result of a DS) is made. Conditioning is based on adopted City policies, plans, rules or regulations.

Mitigation is generally a one-time obligation by new development to provide capital or programmatic improvements to the transportation system, or to pay the City for the cost of facilities or programs that are needed to serve new development.

Development impacts on transportation typically take the form of increased use of transportation systems and programs including roads, transit, bicycle and pedestrian. The increased use of one or more of these modes of travel consumes resources and without improvement may cause them to become less effective and efficient. Other impacts include decreased safety and increased air pollution. Conditioning for transportation mitigation is guided by the transportation policies

in SEPA, and these policies generally seek to require new development to offset some or all of its impacts on transportation.

## How were the mitigation payments set?

The mitigation payments are based on a list of transportation improvements identified in the study for each mode of travel. This list of improvements is the basis for calculating the cost of mitigation needed to reduce or eliminate the impacts of growth. A portion of the costs for these improvements is attributable to existing deficiencies and must be funded with resources other than private developer mitigation payments. The portion attributable to a new project should be paid for by that development, as mitigation.

To calculate the payment, the portion of improvements that serve new growth is divided by the number of trips generated by the new development. The term "trips" refers to people coming to or going from a new development, which can vary by the type of use or mix of uses in a new development.

The payment amounts, related to general land use categories, are on pages 6 and 9 of this CAM. Transportation Management Plans (TMPs) may be used in conjunction with mitigation payments and may lead to reductions in the payment amount commensurate with single occupancy vehicle trip reductions. In addition to transportation mitigation payments, applicants may be required to make other improvements such as curbcuts or sidewalk improvements adjacent to their development site.

## City Use of Funds Received Through Transportation Mitigation Payments

Funds received through transportation mitigation payments will be earmarked specifically for improvements on the attached list. The funds will be retained in special reserve accounts. Any payment not expended within five years will be refunded with interest, unless the delay is attributable to the developer, in which case it will be refunded without interest.

## Area-Wide Transportation Studies

The South Lake Union Study was completed in July 2004 and the Northgate Study in 2006 by the Seattle Department of Transportation (SDOT) with the help of consultants. Both studies present a package of transportation improvements for the respective area, with broad support from a diverse group of neighborhood, business and community representatives.

The South Lake Union Transportation Study is available at the Department of Transportation's website:  
[www.seattle.gov/transportation/southlakeunion.htm](http://www.seattle.gov/transportation/southlakeunion.htm)

The Northgate Transportation Study is available at the Department of Transportation's website:  
[www.seattle.gov/transportation/nctip.htm](http://www.seattle.gov/transportation/nctip.htm)

### Further Information

For more detailed information on the environmental review process, and transportation mitigation in particular, you may:

1. Visit the DPD Applicant Services Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave., to discuss your plans with a land use planner. You may need an appointment and a fee may apply.
2. Call DPD's transportation planner or the land use policy group at 684-8860.

### Access to Information

Links to electronic versions of DPD **Client Assistance Memos (CAMs)** and **commonly used forms** are available on the "Publications" page of our website at [www.seattle.gov/dpd/publications](http://www.seattle.gov/dpd/publications). Paper copies of these documents, as well as additional regulations mentioned in this CAM, are available from our Public Resource Center, located on the 20th floor of Seattle Municipal Tower at 700 Fifth Ave. in downtown Seattle, (206) 684-8467.

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## SOUTH LAKE UNION TRANSPORTATION IMPROVEMENT PROJECTS BY MODE

### Auto Traffic Projects

#### Two-Way Mercer/Narrow Valley Concept

1. Construct seven-lane two-way on Mercer St. between Fairview and Dexter Ave.
2. Construct two-lane with left turn lanes on Valley St.
3. Add signal at Dexter Ave. and Republican St.

#### Mercer/Fairview/I-5 Ramps

1. Widen roadway (northbound right-turn) and improve signage on northbound Fairview Ave. approach to I-5 on-ramps.

#### Thomas East of Aurora

1. Construct three-lane on Thomas St. from Fairview Ave. to 5th Ave. (including left turn lanes).

#### Two-way traffic on 9th and Westlake

1. Construct two-way on Westlake Ave. (four to five lanes) and 9th Ave. (three lanes) from Aloha St. to Denny Way.

#### Eastlake Ave.

1. Add U-turn or center turn lane to allow southbound left-turn from Eastlake Ave. to northbound I-5 express lanes south of Denny Way.
2. Add signal at Eastlake Ave. and Thomas St.
3. Add signal at Eastlake Ave. and Republican St.

### Bicycle Projects

Improve Around-the-Lake Bicycle Facilities

1. Include bicycle lanes on Fairview Ave. between Eastlake Ave. and Valley St.
2. Modify intersection for bicycle/pedestrian access on Fairview (near Eastlake).

#### Bicycle Routes

1. Add sign for Lakeview Ave. across I-5.
2. Add sign for bicycle route on Eastlake Ave. E (E. Garfield St. to Denny Way) for bicycle commuters.
3. Add signs for bicycle routes on commonly-used streets per SDOT Bicycle Guide Map.

#### Maintain/Improve Dexter as a North/South Bicycle Corridor

1. Add signs for bicycle route on Dexter Ave. bicycle lanes to 2nd Ave. bicycle lanes and CCCR proposed bicycle lanes on 4th Ave. (via Blanchard & Bell).

### Pedestrian Projects

#### Cascade Neighborhood Pedestrian Improvements

1. Add up to 16 stop signs at uncontrolled intersections on Thomas St. and Harrison St. between Fairview and Eastlake Ave.
2. Widen sidewalks on Harrison, Minor & Pontius around Cascade Park.

#### Improve Denny Way Pedestrian Environment and I-5 Crossing

1. Add 10-foot sidewalk to north side and 5-foot bicycle lane on south side of Denny Way I-5 crossing.
2. Add curb bulb-outs and countdown signals at five Denny Way intersections.

**Transit Projects****Create Transit Emphasis/Transit Priority Street on Fairview Ave. N**

1. On Fairview Ave., add northbound and southbound transit signal priority at Denny Way.
2. Add northbound queue jump (a signal that allows buses to go before cars) and southbound transit signal priority on Fairview Ave. at Harrison St.
3. Add transit signal priority on Fairview Ave. northbound and southbound at Mercer St.
4. Add northbound and southbound transit signal priority on Fairview Ave. at Valley St.

**Construct Proposed South Lake Union Streetcar and Trolley Route**

1. Construct streetcar on Westlake, Valley and Terry from Westlake Center to Fred Hutchison Cancer Research Center.
2. Create new route (trolley or other electric) from Uptown to N. Capitol Hill via Mercer or Republican St.

**Install Transit Bus Shelters along Bus Routes in Study Area**

1. Install nine transit bus shelters and include appropriate lighting at shelters.

**SOUTH LAKE UNION MITIGATION PAYMENT TABLE**

Use Categories	Payment
<b>Category 1. Including but not limited to:</b> <ul style="list-style-type: none"> <li>■ Offices</li> <li>■ Restaurants</li> <li>■ Retail</li> <li>■ Lodging</li> <li>■ Medical Offices</li> </ul>	\$1.95 per square foot*
<b>Category 2. Including but not limited to:</b> <ul style="list-style-type: none"> <li>■ Research and development labs</li> </ul>	\$1.40 per square foot*
<b>Category 3. Including but not limited to:</b> <ul style="list-style-type: none"> <li>■ Warehouse</li> <li>■ Industrial (manufacturing)</li> </ul>	\$.60 per square foot*
<b>Category 4.</b> <ul style="list-style-type: none"> <li>■ Market-rate residential</li> </ul>	\$930.00 per dwelling unit

\*Gross floor area.

For uses not specifically mentioned in the table, the payment amount shall be determined by the Director. The Director's determination shall be based on the most comparable use(s).

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## NORTHGATE TRANSPORTATION IMPROVEMENT PROJECTS BY MODE

The following projects are summarized and include the CTIP project identifier in parentheses.

### Auto Traffic Projects

**1. Roosevelt Way NE at NE 125th St**

Upgrade intersection geometry and include signalization. (A-5)

**2. Northgate Way/SB I-5 Off Ramp/Corliss Ave N**

Develop an access management plan that includes construction of a median and restriction of mid-block left turns from Meridian Avenue N to the Corliss Ave N/I-5 off-ramp. Consider where a break in the median may be allowed for access. Investigate the feasibility of providing a business access street south of N Northgate Way. (C-8)

**3. SB I-5 Off Ramp/Corliss Ave N/Northgate Way**

Extend westbound left turn lanes on Northgate Way. (C-7)

**4. SB I-5 Off Ramp/Corliss Ave N/N 107th St**

Provide a roundabout at the southbound I-5 on-ramp/Corliss Avenue N/N 107th Street intersection. (C-9)

**5. Meridian Ave N at N 107th St**

Provide a roundabout at the Meridian Ave N/ N 107th Street intersection. (C-10)

**6. Northgate Way - optimize signals**

Coordinate all signals and optimize signal operation for peak, non-peak weekdays and weekend days based on vehicle volumes on N/NE Northgate Way. (E-1)

**7. NE Northgate Way at 3rd Ave NE**

Provide a new access driveway to the 3rd Avenue NE alignment at NE Northgate Way; with pedestrian crossing and other safety improvements and possible widening of 3rd Ave NE north of Northgate Way. (E-4, E-5)

**8. NE Northgate Way at 5th Ave NE**

Add a second westbound left turn lane on NE Northgate Way at 5th Avenue NE; lane assignment and alignment improvements; enhance pedestrian crossings. (E-6)

**9. NE Northgate Way - 5th Ave NE to Roosevelt Way**

Access management plan improvements that include construction of medians and restriction of mid-block left turns. (E-7)

**10. NE Northgate Way at 8th Ave NE**

Replace the existing pedestrian signal with a full traffic signal and allow left turns on all approaches at this intersection. (E-8)

**11. NE 100th St at 3rd Ave NE**

Add four-way stop control and, ultimately, install a traffic signal at this intersection. (F-5)

**12. 1st Ave NE at NE 103rd St**

Add a westbound right turn lane and implement the intersection improvement concept prepared by King County Metro and SDOT at this intersection. (F-1)

**13. NE 103rd St at 5th Ave NE**

Allow eastbound left turns from the existing curb lane at the NE 103rd Street / 5th Avenue NE intersection. (F-3)

**14. 15th Ave NE/NE 117th St/Pinehurst Way NE**

Install a traffic signal after adopted warrants have been met and modify the intersection geometry at this intersection. (G-3)

**15. 5th Ave NE at Northgate Way**

Extend northbound right turn lane on 5th Avenue NE south of NE Northgate Way to NE 106th Street. (I-1)

**16. NE 130th St at I-5 SB On-ramp**

Add a westbound left turn pocket at this intersection. (A-2)

**17. NE 130th St at 5th Ave NE**

Add an eastbound left turn pocket at this intersection. (A-3)

**18. N 115th St at Meridian Ave N**

When warrants are met, install a traffic signal. (C-3)

**19. NE 92nd St at 1st Ave NE**

When warrants are met, install a traffic signal; and

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replace nearby speed humps with humps meeting current SDOT design and construction standards. (D-2)

**20. Northgate Way/1st Ave NE/I-5 On-ramp**

Modify westbound approach – curb lane: right-turn and I-5 on-ramp, 2nd lane: I-5 on-ramp and through, and 3rd lane: through-only. Widen the on-ramp to have two lanes on northbound I-5 on-ramp from N Northgate Way. (E-2)

**21. Pinehurst Way NE/NE 115th St/12th Ave NE**

Construct a roundabout at this intersection. (G-2)

**Bicycle Projects**

**22. Meridian Ave N - N 115th St to N 122nd St**

Add bike lanes on both sides of Meridian Avenue N. (C-2)

**23. Meridian Ave N - Northgate Way to N 100th St**

Provide bicycle lanes on both sides of Meridian Avenue N. (C-4)

**24. College Way - N 100th St to N 92nd St**

Provide bicycle lanes on both sides of College Way by converting the curb lanes. (C-5)

**25. 1st Ave NE - NE 103rd St. to NE 92nd St**

Provide a bicycle lane on the west side of 1st Avenue (by extending the shoulder by 4 feet). (F-7)

**26. 5th Ave NE - NE 115th St to NE 125th St**

Stripe bike lanes on 5th Avenue NE from NE 115th Street to NE 125th Street. (I-2)

**27. 1st Ave NE - N 117th St to N 130th St**

Add bike lanes or widen shoulders to accommodate bike traffic on 1st Avenue NE (C-1)

**Pedestrian Projects**

**28. NE 125th St - 5th Ave NE to Roosevelt Way**

Provide curbs, gutters, and sidewalks on both sides of NE 125th Street. (A-6)

**29. Meridian Ave N - N 115th St to N 122nd St**

Add sidewalks on both sides of Meridian Avenue N. (C-2)

**30. N 107th St - Meridian Ave N to Corliss Ave/SB I-5 On Ramp**

Provide curbs, gutters and sidewalks on N 107th Street. (C-11)

**31. Northgate Way - Corliss Ave N to 1st Ave NE**

Enhance the pedestrian connection on N Northgate Way between Corliss Avenue N and 1st Ave NE, particularly under I-5. Place the sidewalks behind the I-5 bridge columns. (C-12)

**32. NE 92nd St - 1st Ave NE to 5th Ave NE**

Provide curbs, gutters, and sidewalks on both sides of NE 92nd Street from 1st Ave NE to 5th Ave NE. Provide curb bulbs as appropriate to assist pedestrian crossings. (D-1)

**33. 1st Ave - NE 103rd St to NE 92nd St**

Reconstruct the existing sidewalk on the east side of 1st Avenue NE from NE 92nd Street to NE 97th Street. Also see bicycle project extending from NE 92nd to 103rd Street. (F-7)

**34. 15th Ave NE - NE 92nd St to NE 117th St**

Add curbs, gutters, and sidewalks on both sides of 15th Avenue NE. (G-1)

**35. Northgate Way - Meridian Ave N to Ashworth Ave N**

Upgrade N Northgate Way to meet the City’s principal arterial roadway design standards. Key improvements needed within this corridor are adding sidewalks along the north edge of North Seattle Park, improving substandard sidewalks, and adding urban design treatments. (C-13)

**Transit Projects**

**36. CTIP Area - Install 3 bus shelters (J-14)**

**LEGAL DISCLAIMER:** This Client Assistance Memo (CAM) should not be used as a substitute for codes and regulations. The applicant is responsible for compliance with all code and rule requirements, whether or not described in this CAM.

**NORTHGATE MITIGATION PAYMENT TABLE**

Use Categories	Payment
<b>Category 1. Including but not limited to:</b> <ul style="list-style-type: none"> <li>■ Offices</li> <li>■ Restaurants</li> <li>■ Retail</li> <li>■ Lodging</li> <li>■ Medical Offices</li> </ul>	\$1.33 per square foot*
<b>Category 2. Including but not limited to:</b> <ul style="list-style-type: none"> <li>■ Research and development labs</li> </ul>	\$0.96 per square foot*
<b>Category 3. Including but not limited to:</b> <ul style="list-style-type: none"> <li>■ Warehouse</li> <li>■ Industrial (manufacturing)</li> </ul>	\$0.42 per square foot*
<b>Category 4.</b> <ul style="list-style-type: none"> <li>■ Market-rate residential</li> </ul>	\$634.00 per dwelling unit

\*Gross floor area.

For uses not specifically mentioned in the table, the payment amount shall be determined by the Director. The Director's determination shall be based on the most comparable use(s).

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Transportation Impact Fees 2011-2017 Adopted CIP and Actual Collections 2010-2011

TRIPS	2011	2012	2013	2014	2015	2016	2017	Total 2011-2017
Adopted 2011-2017 CIP	300	949	1,150	1,298	1,500	1,500	1,600	8,297

RATE	2011	2012	2013	2014	2015	2016	2017	Total 2011-2017
Adopted 2011-2017 CIP: \$2,000 for 2 years, increase to \$3,000 for three years; increase to \$5,000 in 2016	\$2,000	\$2,000	\$3,000	\$3,000	\$3,000	\$5,000	\$5,000	N/A
No rate increase: \$2,000 no increase	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	\$2,000	N/A

\$ in millions								
	2011	2012	2013	2014	2015	2016	2017	Total 2011-2017
<b>IMPACT FEE REVENUE</b>								
Adopted 2011-2017 CIP: \$2,000 for 2 years, increase to \$3,000 for three years; increase to \$5,000 in 2016	\$0.6	\$1.9	\$3.5	\$3.9	\$4.5	\$7.5	\$8.0	\$29.8
No rate increase: \$2,000 no increase	\$0.6	\$1.9	\$2.3	\$2.6	\$3.0	\$3.0	\$3.2	\$16.6
<b>Variance if Impact Fee Rate remains @ \$2,000</b>	\$0.0	\$0.0	(\$1.2)	(\$1.3)	(\$1.5)	(\$4.5)	(\$4.8)	(\$13.2)

	\$ in millions	
	2010	2011
Budget to Actual Performance	\$0.0	\$0.6
Adopted Budget	\$0.2	\$0.4
Actuals		
Year End Projection	\$0.2	\$0.6

Councilmember Wallace's Question

Councilmember Wallace's question references 2011 impact fee budget as \$9.3M. This amount is actually the amount of impact fee revenue that would be used to ultimately fund project costs budgeted for 2011. Impact fees totaling \$29.8M were projected to be collected through 2017 and cash flow borrowing would be required to make up for the frontloading of the project costs.

## Additional Ballot Measure information

### Results of 2011 Local Government Ballot Measures in Washington State (MRSC)

- Of 110 local government ballot measures, 67 measures (61%) passed and 43 failed.
- Of the measures, 83% were funding measures: 51 measures passed (61%) and 32 failed.
- Of 13 measures to fund EMS services, 11 passed (85%)
- Of 12 measures to fund Fire services, 4 passed (33%)
- Of 8 measures to fund Criminal Justice/Public Safety, 4 passed (50%)
- Of 12 measures to fund Transportation improvements, 6 passed (50%).

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### Other planned 2012 ballot measures:

- Primary
- Children and Family Justice Center levy* (intended to replace facilities – School, offices, detention center, courts)
- 9-year property tax levy lid lift (new levy)
- \$.07/\$1,000 AV
- Generates \$200M County-wide -- \$2.1M in Bellevue
- Impact on a \$500,000 Bellevue household -- \$35/year

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### General

- AFIS levy*
- 6-year property tax levy (replacement levy)
- Current levy is \$.03528/\$1,000 AV
- Proposed levy is \$.0556/\$1,000 AV
- Generates \$160M County-wide -- \$1.7M in Bellevue
- Impact on a \$500,000 Bellevue household -- \$28/year

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### BD

- April 2012 Issaquah School District bond issue will be re-run in fall if unsuccessful (provides future capacity, rebuilds old schools, M&O for all facilities, increase usability/safety of athletic fields and stadiums)
- 20-year bonds
- Generates \$219M for projects over next eight years (1/2 as much as the bond debt retiring in 2012)
- Estimated tax rate \$4.05/\$1,000 AV (down from \$4.85/\$1,000 AV)
- Affects 3216 Bellevue households – Impact on \$500,000 Bellevue household -- \$400 reduction per year.

### Results of 2012 Budget Survey

- Letting money's worth for tax dollars -- 80%
- Keep taxes and services about where they are - 60.7%
- Increase services and raise taxes - 9.2%
- Decrease services and taxes - 10.6%
- Depends/no opinion/don't know - 18.5%

## Voted General Obligation Bonds: A Guide for Washington Cities

**General Obligation Bonds.** Washington cities may issue general obligation bonds under state law, including:

- Councilmanic or limited tax general obligation bonds (“LTGO” bonds), issued within a city’s nonvoted debt capacity. LTGO bonds are paid from regular property taxes and other available city funds.
- Voter-approved unlimited tax general obligation bonds (“UTGO” bonds), issued within a city’s more generous voted debt capacity. UTGO bonds are paid from voter-approved “excess levies”, outside the constitutional and statutory limitations that apply to regular property taxes.

**Constitutional Authority.** The ground rules for issuing UTGO bonds are set forth directly in Article VII, section 2(b) of the Washington State Constitution, which provides that UTGO bonds may be issued:

- “By any taxing district otherwise authorized by law to issue general obligation bonds for capital purposes, for the sole purpose of making the required payments of principal and interest on general obligation bonds issued solely for capital purposes, other than the replacement of equipment...”
  - This provision permits UTGO bonds to be issued only for *capital purposes*. Capitalizable costs may be funded, including engineering, architectural and other soft costs, costs of issuance and, subject to certain limitations, capitalized interest.
  - The project may not include equipment replacement.
- “when authorized so to do by majority of at least three-fifths of the voters of the taxing district voting on the proposition to issue such bonds and to pay the principal and interest thereon by annual tax levies in excess of the limitation herein provided during the term of such bonds...” This provision:
  - Requires 60% voter approval; and
  - Authorizes “excess” property tax levies to pay the bonds.

- “submitted not oftener than twice in any calendar year, at an election held in the manner provided by law for bond elections in such taxing district”. This provision:
  - Limits the frequency of ballot submittals to twice a year; and
  - Defers to general election laws for ballot and election requirements. State and local election law and regulations govern the specific steps involved in placing a ballot measure before the voters, and in communicating with voters (through the voters pamphlet, for example) about the measure.

Additional provisions require “validation” of the vote (the total number of voters in the election must be at least 40% of the total voters in the prior *general* election), permit UTGOs to be refinanced without returning to the voters for approval, and make clear that UTGO bonds are subject to voted debt limitations.



**Election Timeline.** Cities may seek voter approval to issue UTGO bonds at any of the four election dates a year. The two special elections are generally held the second Tuesday in February and the fourth Tuesday in April. The primary election is traditionally the first Tuesday in

August. The general election is the first Tuesday after the first Monday in November.

For 2012, the election dates are as follows:

- special elections on February 14 and April 17 (note that this is the *third* Tuesday in April);
- a primary election on August 7; and
- the general election on November 6.

A city must meet several deadlines well in advance of the election, to place a bond measure on the ballot.

**Election Resolution.** The city council must pass an election resolution. The election resolution:

- Proposes the form of the ballot measure requesting voter approval for the issuance of UTGO bonds and excess levies to pay debt service on the bonds. Under RCW 29A.36.071, the ballot language consists of:
  - An identification of the enacting legislative body (the city council);
  - A statement of the subject matter;
  - A concise description of the measure (no more than 75 words long, prepared or approved by the city attorney); and
  - A question (essentially, whether or not the proposition should be approved).
- Describes the capital project to be funded and outlines the circumstances, if any, under which the project may be changed. The city may reserve flexibility to reduce or expand the project scope, substitute project components or otherwise respond to changed circumstances over time;
- Sets certain parameters for the bonds, including the maximum principal amount and term; and
- Authorizes a request to the county auditor to submit the ballot proposition to the voters at a special election to be held on one of the statutory special, primary or general election dates.

The approved election resolution must be filed with the county auditor.

For 2012, the special election filing deadlines are December 30, 2011 and March 2, 2012. The primary election filing deadline is May 11, 2012. The general election filing deadline is August 7, 2012.

**Voters Pamphlet.** Under RCW 29A.32.241, a local voters' pamphlet includes, among other things,

- The text of each measure;
- An explanatory statement stating the effect of a ballot measure, if passed into law (in King County, the explanatory statement may not be more than 250 words) prepared and reviewed by the city attorney; and
- Arguments for and against the measure
  - Submitted by pro/con committees;
  - Selected pursuant to RCW 29A.32.280 (appointed by the city council not later than 45 days before the publication of the pamphlet).

It is important to review the county administrative rules regarding elections to understand the timeframe and other requirements of the voters pamphlet. The current King County administrative rules for its voter pamphlet are available at <http://www.kingcounty.gov/operations/policies/rules/elections/ele912pr.aspx>.

**Public Disclosure Commission Rules.** As always, the city must abide by Public Disclosure Commission statutes and regulations, in connection with communications or use of resources regarding the ballot measure.

**Questions and More Information.** Please call any of our public finance attorneys if you have questions about the bond election process or would like a form of election resolution. Please call Matthew Segal or Greg Wong if you have questions regarding the Public Disclosure Commission requirements and their application to local bond measures.

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## Quick View of Jurisdictions with Transportation Benefit Districts

Jurisdictions are listed in the table below by the year the transportation benefit district was created. The funding source is noted as vehicle license fees or sales tax. The date the funding was first collected is noted in parenthesis. The name of each jurisdiction is linked to related documents and websites listed in the next section.

Jurisdiction	Vehicle License Fee	Sales Tax
<b>TBDs Passed in 2011</b>		
<a href="#">Ferndale</a>		\$0.002 sales tax (passed, election 02/14/2012)
<a href="#">Grandview</a>	\$20 (02/01/2012)	
<a href="#">Mabton</a>	\$20 (12/01/2011)	
<a href="#">Mountlake Terrace</a>	\$20 (passed 12/05/2011)	
<a href="#">North Bend</a>		\$0.002 sales tax (passed, election 11/08/2011)
<a href="#">Snohomish County</a>		\$0.002 sales tax (passed 08/16/2011)
<a href="#">Spokane</a>	\$20 (09/01/2011)	
<a href="#">Walla Walla</a>		\$0.002 sales tax (passed, election 02/14/2012)
<a href="#">Wenatchee</a>	\$20 (passed 01/26/2012)	
<b>TBDs Passed in 2010</b>		
<a href="#">Bellingham</a>		\$0.002 sales tax on car dealers and leasing companies (04/01/2011)
<a href="#">King County</a>		
<a href="#">Leavenworth</a>		\$0.002 sales tax (04/01/2011)
<a href="#">Lynnwood</a>	\$20 (07/01/2011)	
<a href="#">Seattle</a>	\$20 (05/01/2011)	
<a href="#">Snohomish</a>		\$0.002 sales tax (01/01/2012)
<a href="#">Snoqualmie</a>	\$20 (03/01/2011)	
<b>TBDs Passed in 2009</b>		
<a href="#">Bremerton</a>	\$20 (12/07/2011 res. passed)	
<a href="#">Burien</a>	\$10 (02/01/2010)	
<a href="#">Prosser</a>	\$20 (11/01/2009)	
<a href="#">Shoreline</a>	\$20 (02/01/2010)	

<u>University Place</u>		
<b>TBDs Passed in 2008</b>		
<u>Des Moines</u>	\$20 (09/01/2009)	
<u>Edmonds</u>	\$20 (09/01/2009)	
<u>Lake Forest Park</u>	\$20 (09/01/2009)	
<u>Olympia</u>	\$20 (10/01/2009)	
<u>Ridgefield</u>		\$0.002 sales tax (04/01/2009)
<u>Sequim</u>		\$0.002 sales tax (04/01/2010)
<b>TBDs Passed Prior to 2008</b>		
<u>Liberty Lake (2002)</u>		
<u>Point Roberts, Whatcom County (1992)</u>		Special gas tax \$0.01/gallon (1992)