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CITY OF OAKLAND

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AGENDA REPORT

TO: JOHN A. FLORES
INTERIM CITY ADMINISTRATOR

FROM: Rachel Flynn

SUBJECT: Update on Citywide Impact Fee Nexus
Study And Implementation Strategy

DATE: March 23, 2015

City Administrator
Approval

Date

3/30/15

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council receive:

An Informational Report Regarding The Status of The Impact Fee Nexus Study and Implementation Strategy.

OUTCOME

Staff requests that this report be forwarded to the Full Council for discussion and to hear public comments. The report presents the background of how the Impact Fee Nexus Study and Implementation Strategy are being conducted as well as the current status of the project. This informational report contains no policy recommendations because the project, according to the Council agreed upon timeline, is still in the analysis stage of the study.

EXECUTIVE SUMMARY

Development impact fees are a common mechanism used by municipalities to address critical needs for transportation and infrastructure improvements, as well as affordable housing that can be attributed to new development. On December 9, 2014, the City Council authorized the City Administrator to enter into a contract with Hausrath Economics Group (HEG) to conduct a Citywide Impact Fee Nexus Study and Implementation Strategy ("Impact Fee Nexus Study").

The project schedule, as presented to City Council with the HEG contract authorization, proposes to bring a preliminary development impact fee proposal to the City Council in

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November 2015 and obtain Council approval in early 2016. The purpose of this informational report is to provide an update on the current status and approach of the study.

BACKGROUND/LEGISLATIVE HISTORY

Development impact fees are a commonly used method of collecting a proportional share of funds from new development for infrastructure improvements and other public facilities to serve the development. With rare exceptions, one-time development impact fees are restricted to funding capital costs for new facilities or upgrades to existing facilities, and are not used for annual operations and/or maintenance. The two key concepts for implementation of impact fees are that they may only be charged to new development and that the funds collected must be expended on improvements needed as a result of the new development. Pursuant to the Mitigation Fee Act, California Government Code Section 66000, *et seq.* (also known as AB 1600), adoption of impact fees requires documentation of the “nexus” or linkage between the fees being charged, the benefit of the facilities needed to mitigate new development impacts, and the proportional cost allocation to be funded by the fees. Impact fees are usually imposed either jurisdiction-wide or in other relatively large areas anticipating significant amounts of new development. The fees can vary by different geographical areas of the City. The revenue collected from impact fees may not be immediately available because they may take some time to accumulate since the fee is collected upon building permit issuance. In addition, impact fee programs are often phased-in to allow the real estate market to adjust to the higher development costs. Therefore, it may take time to accumulate enough revenue to, for example, pay for a major transportation project or to build an affordable housing project.

Legislative History

The concept of initiating a development impact fee program in Oakland has been considered in the past, as recently as 2009; however, these efforts were never funded. In 2013, the City Council identified funding and directed staff to prepare a nexus study for potential development impact fees for transportation, infrastructure (capital improvements), and affordable housing to offset impacts from new development on these City resources. In June 2013, as part of the Fiscal Year 2013-15 City of Oakland Adopted Policy Budget, \$500,000 was appropriated for a nexus study to support impact fees. An additional \$600,000 from other sources is also available for the project as set forth in the City’s Bond Spending Plan (specifically, \$200,000 each from the Central City East, Central District, and Coliseum Redevelopment Areas were identified for this purpose).

Policies to support preparing a nexus study and economic feasibility analysis for potential development impact fees for transportation, infrastructure (capital improvements), and affordable housing are included in the recently adopted specific plans for the Broadway Valdez District, West Oakland, and Lake Merritt Station Area, as well as in the final draft of the Coliseum Area Specific Plan, and the City’s 2015-2023 Housing Element Update. The 1998 *Land Use and*

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Transportation Element (LUTE) of the City's General Plan includes an objective T.5: "Secure funding for transportation infrastructure improvements and maintenance" and policies that support considering "a range of strategies to provide funding for transportation improvements... including, but not limited to, special user fees, development impact fees, or assessment districts" (Policy T5.4).

The consultant team, Hausrath Economics Group (HEG), was selected as a result of a formal consultant selection process. The Hausrath Economics Group team includes the following firms (areas of expertise and participating office location included):

- Hausrath Economics Group (Project management, development/growth scenario, economic feasibility analysis, affordable housing context, survey of impact fees in comparable cities, located in Oakland, CA);
- Urban Economics (Development impact fee programs, transportation and capital improvements impact fee nexus analyses, located in Oakland, CA);
- Fehr & Peers (Transportation planning, transportation impact fee nexus analysis, located in Oakland, CA);
- BKF Engineers (Utility infrastructure planning, located in Oakland, CA);
- Vernazza Wolfe Associates (Affordable housing nexus analysis, located in Berkeley, CA); and,
- Lamphier-Gregory (California Environmental Quality Act – CEQA compliance, located in Oakland, CA).

ANALYSIS

Development impact fees are a way to allocate facility costs proportional to the impacts from new development in a comprehensive, fair, and equitable manner (as opposed to a project-by-project basis) and at a level that does not hamper the economic feasibility of the development. The City is considering potential impact fees to address new development impacts for three critical City resources:

- Transportation - The City is experiencing renewed interest in major development projects, each of which requires transportation mitigation measures in proportion to the development size and impact. The costs of providing new transportation infrastructure are covered by individual developers on an ad hoc project-by-project basis. The City lacks a simple and clear mechanism to assess developers their fair-share costs for mitigations to address City transportation network impacts. A potential development impact fee could help to provide more certainty about development costs and provide revenue for enhancing the City's transportation system.

Note: Separate and apart from the Development Impact Fees, the City is also looking at alternatives to the current methodology of analyzing transportation impacts that could potentially offer streamlining benefits for projects. This effort depends, to a large degree, on the changes to the California Environmental Quality Act transportation impact methodology that the State Office of Planning and Research is developing.

- Affordable Housing - Oakland is in critical need of more affordable housing at all affordability levels. With the elimination of Redevelopment, the City is very limited in its resources to support the production of affordable housing. The City is interested in pursuing a potential affordable housing impact fee, to stimulate the production of affordable housing to meet the affordable housing needs associated with new market rate housing development in Oakland.
- Capital Improvements - As development continues to increase throughout the City and the population grows, new capital improvements will be required to serve new Oakland residents, employees, and visitors. A capital improvements impact fee could be used to pay for new or expanded public facilities, such as libraries, parks, recreation facilities, and police and fire stations, in addition to streetscape improvements (paving, sidewalks, lighting, trees), and various infrastructure improvements, such as sewer and storm drains.

In order to result in “fair and equitable” impact fee recommendations, the Impact Fee Nexus Study includes:

- Coordination and review across many different City departments;
- Technical analysis that is legally defensible under the Mitigation Fee Act while supporting funding for the City’s highest priority needs;
- A rigorous and credible economic feasibility analysis so that any impact fee program appropriately balances the need to accommodate development impacts without creating a disincentive for real estate investment in Oakland; and,
- An inclusive process to discuss and gain support from a diverse set of stakeholders to discuss fee allocation (for transportation, affordable housing and capital improvements) since economic constraints are likely to preclude adoption of the maximum justified impact fees. The level of fees that are economically feasible may be substantially lower than the maximum justifiable fees.

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Project Schedule

The current schedule is very aggressive and anticipates returning to the City Council with a draft Development Impact Fee proposal in November 2015 and final adoption during the first quarter of 2016, as detailed below. This is consistent with what was presented when the City Council awarded the professional services contract for the study.

Work Phase	Months	Dates
Data Collection	0 - 1	December 2014 – January 2015
Nexus Analyses	1 - 7	January – July 2015
Economic Feasibility Analyses	2 – 11	February – November 2015
Fee Program Options Development	7 – 11	July – November 2015
Draft Impact Fee Proposal to Council	11	November 2015
Adoption	12 – 15	December 2015 – March 2016

Status of Project

The following is a summary of the current status of the project and the major products and milestones ahead.

Data Collection and Technical Analyses (Months 1 to 7)

The consultant is working on this first project phase. The consultant team, directed by the project manager for the City, has been meeting twice a month with various members of the City Steering Committee, depending on the topic to be discussed. The City Steering Committee consists of representatives from the City Administrator office, office of the City Attorney and the Planning and Building Department for overall project coordination, as well as from the Public Works, Housing and Community Development, Police, Fire, and Parks and Recreation Departments, as appropriate, based on the topic(s) addressed. The technical work consists of:

- Data Collection, Assumption Development, and Fee Input Identification - The early phase work has focused on collecting data, developing study assumptions, addressing methodology issues, and identifying transportation, capital improvements, and the affordable housing production context. It also has included efforts to identify existing and future growth for use in the nexus analyses and on a survey of impact fees in comparable, nearby cities. These efforts are nearing completion with additional data collection and discussion of assumptions as needed.
- Nexus Analyses - The consultant is starting on the Nexus Analyses in the next phase, drawing upon the data collected and the assumptions made. Pursuant to the Mitigation Fee Act, the nexus analyses will establish the need for the fee based on impacts attributable to new development; the use of fee revenues to accommodate those impacts,

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and the proportionality of the fee amount to the level of impacts generated by development impacts.

- Economic Feasibility Analyses - Data collection for the Economic Feasibility Analyses is underway. The consultant will identify prototypical Oakland developments to be analyzed for testing potential effects of development fees on the feasibility of new development and investment in Oakland. The data collection and analyses will continue with findings developed in the next phase.

Economic Feasibility Analysis, Policy Deliberation and Draft Proposal to City Council (Months 7 to 11)

After much of the technical work is completed, the following five months of work, starting around July 2015, will consist of seeking preliminary agreement on an Impact Fee Program or Fee Program Alternatives which draw heavily on the findings of the Economic Feasibility Analysis. This will be a critical phase of the project that will tie together the previous streams of work. As noted above, because economic constraints are likely to preclude adoption of the maximum justified impact fees under the nexus analyses, the level of fees that are economically feasible may be substantially lower than the maximum justifiable fees. Furthermore, the allocation of a feasible level of impact fees to transportation, affordable housing, and/or capital facilities is a policy decision that will need to be addressed.

First, the results of the Nexus Analyses (identifying the maximum, justifiable levels of fees) and the preliminary findings of the Economic Feasibility Analysis (identifying the ability of the real estate market to pay new fees) will provide the basis for policy discussions with the City Steering Committee so as to develop preliminary draft development impact fee proposals. Then the focus will be on refining preliminary draft proposals through deliberations with a Working Group and the City Council. The Working Group will be composed of a cross section of stakeholders that can provide expertise and input on the proposed impact fees (see Public Outreach/Interest section of this report for a more detailed description of the Working Group).

The intent is to further refine the preliminary draft development impact fee proposal(s) and provide the economic feasibility context for the nexus studies, as a basis for creating a citywide impact fee program that can be implemented without adversely affecting Oakland's ability to attract new development. At the end of this last phase of the study, the product will be an Impact Fee Program that has been reviewed and vetted by the City Steering Committee, the Working Group of stakeholders, and the City Council.

Fee Adoption (Months 12 to 15)

Based on feedback from the City Steering Committee, Working Group, and City Council, the consultant will refine the Development Impact Fee Report, provide input for preparation of the draft ordinance and will work with City staff to take these items to City Council for adoption.

After the fee(s) are adopted, the scope of services also includes consultant hours to prepare procedures and training manuals for use by City staff to support program implementation.

PUBLIC OUTREACH/INTEREST

As noted above, the Economic Feasibility Analysis will likely indicate that the increment of impact fees feasible to charge is less than what may be the maximum justifiable amount according to the nexus study results. Thus, it will be important to solicit feedback from a range of stakeholders in order to develop and gain support to adopt a set of economically viable impact fees. The proposed Scope of Services includes a series of meetings with an informal Working Group, which will consist of a cross section of stakeholders with interests associated with the impact fee program and with subject matter expertise to contribute to Working Group discussions. The intent of these meetings is to engage and inform stakeholders, to seek input on policy issues, such as tradeoffs among the three types of impact fees in the context of the Economic Feasibility Analysis, to help shape alternatives and recommendations, and, ultimately, to gain support for the fee program.

COORDINATION

On-going project management, policy guidance, and implementation is being coordinated with the City Administrator's office, office of the City Attorney, and the Planning and Building Department as well as the Public Works, Housing and Community Development, Police, Fire, and Parks and Recreation Departments along with other departments, as appropriate, based on the topic(s) addressed.

COST SUMMARY/IMPLICATIONS

There is no fiscal impact of this report as it is an informational update report.

The fiscal impact to prepare the Citywide Impact Fee Study and Implementation Strategy is reflected in the not-to-exceed amount of the Professional Services Agreement of \$1,100,000. This amount includes \$863,409 for basic services and a project contingency of \$236,591 for a total project cost of \$1,100,000. There may be an opportunity to recoup costs

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associated with preparing the Impact Fee Nexus Study and ongoing administration of the program by including such in the development impact fees.

The fiscal impact of implementing the Citywide Impact Fee Study and Implementation Strategy, and of administering any future development impact fee program(s), will be unknown until the cost estimates tied to the project are completed.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed development of a nexus study and economic feasibility analysis will support the Council's consideration and adoption of a fair and equitable set of development impact fees that will require private development to fund its fair share of potential transportation, infrastructure, and affordable housing projects in a manner that does not hamper new development. The application of the Development Impact Fee process will help provide certainty about development costs.

Environmental: Establishing impact fees could pay for the impacts that a potential project creates and serve to mitigate the cumulative transportation impacts.

Social Equity: Establishing impact fees on new development could provide funding for transportation, capital improvements, and affordable housing units. These funds will be used to mitigate impacts of new development Citywide.

CEQA

This report is not a project under CEQA. The appropriate level of environmental review to adopt a development impact fee program will be determined and conducted as a part of the project.

For questions regarding this report, please contact Laura Kaminski, Planner III, at (510) 238-6809.

Respectfully submitted,



RACHEL FLYNN

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