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CITY ATTORNEY

REPORT NO. R 18 - 0 2 9 5
SEP 2 4 2018

REPORT RE:

**DRAFT ORDINANCE AMENDING SECTION 62.06 OF THE LOS ANGELES
MUNICIPAL CODE AND SECTION 5.121.6 OF THE LOS ANGELES
ADMINISTRATIVE CODE TO REVISE THE STREET DAMAGE RESTORATION FEE
AND THE STREET DAMAGE RESTORATION FEE SPECIAL FUND**

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 15-0600-S22 & 14-1571

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration the enclosed draft ordinance, approved as to form and legality. The draft ordinance amends Section 62.06 of the Los Angeles Municipal Code (LAMC) to update and increase the Street Damage Restoration Fee (SDRF). The draft ordinance also amends Section 5.121.6 of the Los Angeles Administrative Code (LAAC) to update the permissible uses of Street Damage Restoration Fee Special Fund.

Street Damage Restoration Fee – LAMC 62.06

The draft ordinance sets the SDRF at \$8.24 per square foot for Local Streets and \$19.44 for Select Streets, and specifies that the SDRF applies to an area that equals the actual area of a street excavation, plus 5 feet on all sides of the excavation. Select Streets are streets that are designated by the Bureau of Street Services as requiring a thicker asphalt design to accommodate greater traffic loads. Local Streets are streets not designated as Select Streets. The cost basis of the SDRF, including the 5-foot zone

not designated as Select Streets. The cost basis of the SDRF, including the 5-foot zone of influence, is based on a detailed fee study commissioned by the Bureau of Street Services.

The draft ordinance also provides that the SDRF amount will be recalculated annually by the Board of Public Works (Board) pursuant to the California Department of Transportation Price Index for Selected Highway Construction Items. Any proposed revision of the SDRF by the Board pursuant to this inflation factor will require the Board to adopt a resolution to revise the SDRF following a public hearing.

The draft ordinance retains the existing exemptions to the SDRF for: (1) any excavation in a street scheduled for resurfacing under the City's Annual Street Renewal Plan within one year prior to the scheduled resurfacing; and (2) any excavation made up to 23 months prior to scheduled resurfacing, provided the entity making the excavation has submitted to the Bureau of Street Services a five-year street excavation plan, and a one-year excavation plan identifying the entity's existing facilities and all planned excavation work.

Lastly, the draft ordinance provides that a full slab replacement shall be required for an excavation on a concrete street, in lieu of the SDRF.

Street Damage Restoration Fee Special Fund – LAAC 5.121.6

The draft ordinance amends the Street Damage Restoration Fee Special Fund to provide that SDRF funds may be used for a Bureau of Street Services street reconstruction program, as well as a Bureau of Contract Administration inspection program, and for material testing services by the General Services Department.

Fee Notice Requirement

We note that because this draft ordinance would increase an existing fee, notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that, prior to adoption of a new or increased fee, a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Rule 38 Referral

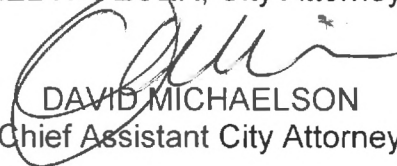
A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Department of Public Works - Bureau of Street Services and Bureau of Engineering, as well as the Department of Water and Power, with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

If you have any questions regarding this matter, please contact Assistant City Attorney Edward Jordan at (213) 978-8130. He or another member of this Office will be present when you consider this matter to answer questions you may have.

Sincerely,

MICHAEL N. FEUER, City Attorney

By


DAVID MICHAELSON
Chief Assistant City Attorney

DM:TJ:ac
Transmittal