



MICHAEL N. FEUER
CITY ATTORNEY

REPORT NO. R 19-0095

APR 03 2019

REPORT RE:

DRAFT ORDINANCES AMENDING SECTION 12.04 OF THE LOS ANGELES MUNICIPAL CODE TO AMEND THE COASTAL TRANSPORTATION CORRIDOR SPECIFIC PLAN AND THE WEST LOS ANGELES TRANSPORTATION IMPROVEMENT AND MITIGATION PROGRAM SPECIFIC PLAN; ADDING SECTION 19.19 TO THE LOS ANGELES MUNICIPAL CODE TO ESTABLISH A TRANSPORTATION IMPACT ASSESSMENT FEE; AND AMENDING ARTICLES 13.5 AND 13.6 OF CHAPTER 5 OF DIVISION 5 OF THE LOS ANGELES ADMINISTRATIVE CODE TO REVISE THE COASTAL TRANSPORTATION CORRIDOR AND THE WEST LOS ANGELES TRANSPORTATION IMPROVEMENT AND MITIGATION TRUST FUNDS

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. 07-0287, 08-0229

Honorable Members:

This Office has prepared and now transmits for your consideration four enclosed draft ordinances, approved as to form and legality. The first two draft ordinances amend Section 12.04 of the Los Angeles Municipal Code (LAMC) to update the Coastal Transportation Corridor Specific Plan (CTCSP) and the West Los Angeles Transportation Improvement and Mitigation Program Specific Plan (WLA TIMP) (collectively, Specific Plans). A third draft ordinance adds Section 19.19 to the LAMC to establish a transportation impact assessment fee (TIA Fee), fee exemptions,

methodologies to calculate fee credits, and the process to adopt and amend the list of improvements eligible for use of the TIA Fee monies (Fee Ordinance). The final draft ordinances amend Articles 13.5 and 13.6 to Chapter 5 of Division 5 of the Los Angeles Administrative Code (LAAC) to update the trust funds for the CTCSP and WLA TIMP fee programs.

Background

The Specific Plans establish two transportation impact fee programs to help mitigate the cumulative impacts of development on regional transportation within their boundaries. The purpose of the updates to the Specific Plans is to make the fee program in the CTCSP and the fee program in the WLA TIMP uniform, and to update the TIA Fee, the fee exemptions and credits, and list of TIA Fee program improvements. The updates to the Specific Plans and the fee programs resulted from the "Westside Mobility Plan," a multi-year comprehensive study and planning effort by the Departments of City Planning (DCP) and Transportation (DOT) to look at transportation issues in West Los Angeles.

On March 8, 2018, the City Planning Commission (CPC) approved the Planning Department's recommendation to update the CTCSP and the WLA TIMP pursuant to LAMC Section 11.5.7.G, and adopt a fee resolution (Fee Resolution) that would update the TIA Fee, as well as update the list of transportation improvements as amended by the Commission to include a phased implementation schedule for residential TIA fees similar to that used for the Affordable Housing Linkage Fee.

On June 13, 2018, the Transportation Committee recommended that the City Council adopt the Fee Resolution and request the City Attorney to prepare and present three ordinances: an ordinance amending Section 12.04 of the LAMC to amend the CTCSP; an ordinance amending Section 12.04 of the LAMC to amend the WLA TIMP; and an ordinance adding Article 13.5 to Chapter 5 of Division 5 of the LAAC revising the CTCSP and WLA TIMP Trust Funds. On the same day, the Planning and Land Use Management Committee waived consideration of the matter. On June 19, 2018, the City Council approved the Transportation Committee's recommendation.

Summary of Ordinance Provisions

The CPC's transmittal report to the City Council, dated June 4, 2018 (CPC Transmittal Report), includes the Planning Department's staff report, which provides a detailed description of the proposed fee update and the amendments proposed by the CTCSP, the WLA TIMP, and the LAAC to effectuate the fee update.

The first two draft ordinances amend LAMC Section 12.04, pursuant to LAMC 11.5.7.G, to update the CTCSP Ordinance and the WLA TIMP Ordinance (collectively, Specific Plan Ordinances). The proposed amendments to the Specific Plans include

making the plans uniform and authorizing the adoption of the fee, exemptions, the method for calculation of credits, and the list of transportation improvements by separate resolution. This Office revised the Specific Plan Ordinances during its review to provide that a separate ordinance, rather than a resolution, would be used to adopt the TIA Fee, the exemptions, credit calculation methods, and TIA improvements because pursuant to City Charter Section 240, legislation must be adopted by ordinance.

The third draft ordinance adds Section 19.19 to the LAMC (Fee Ordinance). This draft ordinance implements the Specific Plan updates and adopts the TIA Fee, the TIA Fee schedule, the fee exemptions, the methodologies for calculations of fee credits, the categories of improvements that are eligible for use of the TIA Fee monies, and a process to adopt and amend the list of TIA Fee improvements by resolution. (A resolution to adopt the TIA Fee Improvement List is expected to be transmitted by DCP for the City Council's consideration concurrently with the Fee Ordinance.) The TIA Fees are mitigation fees under the Mitigation Fee Act, Government Code Sections, 66000, *et seq.* (MFA). The CPC's Transmittal Report includes the Nexus Study prepared by Fehr & Peers, entitled "CTCSP & WLA TIMP Specific Plan Amendments TIA Fee Program Study Report," dated June 2016, to support the TIA Fee update consistent with the requirements of the MFA. The proposed findings required by the MFA and prepared by DCP to update mitigation fees are provided in the recitals to the draft Fee Ordinance.

The final ordinance the City Council requested this Office to prepare adds Article 13.5 to Chapter 5 of the LAAC (Trust Fund Ordinance). Currently, Article 13.5 to Chapter 5 of the LAAC establishes the existing Coastal Transportation Corridor Fund and Article 13.6 to Chapter 5 of the LAAC establishes the existing West Los Angeles Improvement and Mitigation Trust Fund. This Office in its review revised the proposed Trust Fund Ordinance to amend Articles 13.5 and 13.6 rather than add Article 13.5 because the current Articles 13.5 and Articles 13.6 already establish trust funds for the two Specific Plans. This draft Trust Fund Ordinance updates the trust funds to implement the amendments to the Specific Plans and the proposed adoption of the Fee Ordinance. Maintaining the two trust funds is consistent with the requirements of the Mitigation Fee Act and the Specific Plans, and is necessary for the maintenance of existing trust fund accounts.

Charter Findings

Charter Section 558(b)(3) requires the City Council to make the findings required in Subsection (b)(2) of the same section: namely, whether adoption of the proposed ordinance will be in conformity with public necessity, convenience, general welfare and good zoning practice. Charter Section 558(b)(3)(A) allows the City Council to adopt an ordinance conforming to the CPC's recommendation of approval of the three draft ordinances, if the CPC recommends such approval. Similarly, Charter Section 556 requires the City Council to make findings showing that the action is in substantial

conformance with the purposes, intent and provisions of the General Plan. The City Council can either adopt the CPC's findings and recommendations as set forth in the CPC's Transmittal Report or make its own.

CEQA Determination

At the March 8, 2018 meeting, the CPC certified the related CTCSP and WLA TIMP Final Environmental Impact Report No. ENV-2014-1458-EIR-SE-CE (SCH No. 2014051070) dated, September 2016. Pursuant to Section 15162, no subsequent EIR shall be prepared if there are no substantial changes to the project or circumstances or new information that require a major revision to the EIR. The Director of DCP recommends that the Council find, based on the independent judgment of the decision-maker, after consideration of the whole of the administrative record, that the project was assessed in the previously certified EIR and pursuant to CEQA Guidelines, Sections 15162 and 15164, no subsequent EIR, negative declaration, or addendum is required for approval of the project.

Additionally, and notwithstanding the preparation of an EIR, the Director of DCP recommends that the Council determines that the draft ordinances and resolutions are exempt from CEQA pursuant to Public Resources Code Section 21080(b)(8), as these are all related to the modification and/or restructuring of a fee to obtain funds for capital projects necessary to obtain service within an existing service area. To adopt this statutory exemption, the Council must adopt written findings that the fee modification to the TIA Fee is for capital projects necessary to obtain service within an existing service area. Proposed written findings prepared by DCP are found in the DCP staff report attached to the CPC Transmittal Report.

Notice Requirements

As this ordinance would impose a new mitigation 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.

Council Rule 38 Referral

A copy of the draft ordinance was sent, pursuant to Council Rule 38, to the Bureau of Engineering, the Los Angeles City Administrative Officer, the Department of Transportation, and the Department of Building and Safety, 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 Deputy City Attorney Kathryn C. Phelan at (213) 978-8242. She 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:KCP:mh
Transmittal