



## **CITY OF KIRKLAND**

City Attorney's Office

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### **MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Robin S. Jenkinson, City Attorney

**Date:** May 28, 2013

**Subject:** MODIFYING THE TIMING OF PAYMENT OF CITY IMPACT FEES FOR MIXED USE BUILDINGS OR DEVELOPMENTS THROUGH DEVELOPMENT AGREEMENTS

### **RECOMMENDATION**

That the City Council approves the attached ordinance amending the Kirkland Municipal Code to allow for the modification of the timing of the payment of City impact fees for transportation and parks for certain mixed use buildings or development, through a development agreement approved by the City Council.

### **BACKGROUND**

The City Council recently approved Ordinance O-4407 amending the KMC provisions relating to transportation, park, and school impact fees, to allow the deferral of impact fee payments for single-family residential building permits. Since the approval of Ordinance O-4407, the City has received a request to assist the Kirkland Park and Ride Transit Oriented Development (TOD) by modifying the timing of the payment of transportation and park impact fees to a date certain. As Council is aware, the Kirkland Park and Ride TOD was a key initiative in the 2011 City Work Program and includes affordable and market rate housing and ground floor commercial uses over a shared parking garage. At the May 21, 2013 City Council meeting, the Council authorized staff to develop legislation to allow such modification. This ordinance is the result.

Staff modeled the attached ordinance after the approach taken by the City of Bellevue. Bellevue allows for the modification of the timing of the payment of impact fees through a development agreement approved by the Bellevue City Council.

The Local Project Review Act, Chapter 36.70B RCW, provides specific authority and direction for development agreements. The City must hold a public hearing prior to approving a development agreement. Staff believes the ability to modify the timing for payment for impact fees, through a development agreement, would be a useful option to have available for any appropriate mixed use buildings or developments. If the Council approves this ordinance, staff will return with a development agreement for the Kirkland Park and Ride TOD and schedule a public hearing at the June 18, 2013 Council meeting. Staff will also evaluate if there are additional fees for which the time of payment may be modified through the proposed development agreement. Staff recommends adoption of this ordinance.

ORDINANCE O-4411

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION AND PARK IMPACT FEES AND AMENDING THE KIRKLAND MUNICIPAL CODE TO ALLOW FOR THE MODIFICATION OF THE TIMING OF THE PAYMENT OF IMPACT FEES FOR MIXED USE BUILDINGS OR DEVELOPMENTS IN A DEVELOPMENT AGREEMENT APPROVED BY THE CITY COUNCIL.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Subsection 27.04.030(e) is amended to read as follows:

**27.04.030 Assessment of impact fees.**

(e) For mixed use buildings or development, impact fees shall be imposed for the proportionate share of each land use based on the applicable unit of measurement found on the schedule in Section 27.04.150. The timing of the payment of impact fees may be modified in a development agreement approved by the City Council pursuant to Chapter 36.70B RCW.

Section 2. Kirkland Municipal Code Subsection 27.06.030(e) is amended to read as follows:

**27.06.030 Assessment of impact fees.**

(e) For building permits for mixed use developments, impact fees shall be imposed on the residential component of the development found on the schedule in Section 27.06.150 of this chapter. The timing of the payment of impact fees may be modified in a development agreement approved by the City Council pursuant to Chapter 36.70B RCW.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this \_\_\_\_ day of \_\_\_\_\_, 2013.

Signed in authentication thereof this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney