DRAFT CODE AMENDMENTS AND REVIEW SHEET:

PROPORTIONALITY DETERMINATIONS & TRANSPORTATION IMPROVEMENTS REQUIRED AS A CONDITION TO DEVELOPMENT APPROVAL

Summary of Proposed Amendments:

The amendments described below were developed by staff in response to the Planning Commission's action, on October 13, 2015, initiating amendments to provisions of the Land Development Code concerning transportation improvements that may be required as a condition to development approval.

Substantively, the most significant change is to clarify and refine the City's authority to require transportation improvements for projects that do not trigger a Traffic Impact Analysis or a Neighborhood Traffic Analysis. The amendments also include other changes and enhancements to existing Code, including new standards and procedures for determining traffic impacts attributable to a proposed development.

Taken together, these amendments would: (1) authorize the City to obtain certain offsite improvements for smaller scale developments; (2) formalize the City's process for making "proportionality determinations" whenever an applicant is required to construct, fund, or dedicate offsite transportation improvements; (3) clarify the process for reserving right-of-way; (4) better define the type of improvements that may be required, including the "border street" policy; and (5) authorize the Transportation Department to adopt administrative guidelines regarding the method for determining a development's overall impacts on the transportation system.

It should be noted that these amendments build on the City's existing process for requiring transportation improvements, which is distinct from an impact fee and governed by separate legal requirements. While the two types of procedures may be used concurrently, additional amendments would be required if Council chooses to adopt an impact fee in the future. Additionally, CodeNext is also likely to include proposed changes to these code sections.

Text of Proposed Amendments:

1. Definitions.

Add the following definitions of "transportation system" and "transportation plan" to Section 25-6-1 (*Definitions*):

(10) TRANPORTATION PLAN means the Austin Metropolitan Area Transportation Plan, or its successor plan, and other multi-modal transportation plans referenced in the Imagine Austin Comprehensive Plan, including the CAMPO Mobility Plan, Sidewalk Master Plan, Bicycle Plan, and Urban Trails Plan.

(11) TRANSPORTATION SYSTEM is an individual component of the overall transportation network designed for the movement of people and goods, including arterials and collector streets, sidewalks, trails, and other multi-modal transportation facilities identified in the Transportation Plan.

These definitions help inform later sections of the Code describing the type of improvements that may be required and would include traditional as well as multi-modal components.

2. Clarify Scope of Article 2.

To better reflect the scope of Chapter 25-6, Article 2, its title should be changed to read:

ARTICLE 2. [~~RESERVATION AND DEDICATION OF~~] RIGHT-OF-WAY AND TRANSPORTATION IMPROVEMENTS.

3. Requirement to Make a Proportionality Determination.

This new Code section would require a proportionality determination whenever the dedication of offsite right-of-way or transportation improvements is required. This amendment, coupled with suggested changes to other sections of Chapter 25-6, would better reflect the City's existing practices as well the procedures required by Local Government Code § 212.904.

§ 25-6-23 PROPORTIONALITY OF REQUIRED INFRASTRUCTURE.

(A) If the City requires an applicant to construct or fund offsite transportation improvements or dedicate right-of-way beyond the boundaries of a

development, the applicant's costs may not exceed the amount required for infrastructure improvements that is roughly proportionate to the proposed development as determined by a professional engineer licensed under Chapter 1001, Occupations Code, and retained by the City.

(B) The director shall issue a written determination of an applicant's roughly proportionate share of infrastructure costs attributable to a proposed development prior to approval of an application for which dedication of right-of-way or the construction or funding of offsite transportation improvements is required. A determination issued under this section:

(1) need not be made to a mathematical certainty, but is intended to be used as a tool to fairly assess the roughly proportionate impacts of a development based on the level of transportation demand created by a proposed development relative to the capacity of existing public infrastructure;

(2) shall be completed in accordance with generally recognized and approved measurements, assumptions, procedures, formulas, and development principles; and

(3) shall state the roughly proportionate costs to the property owner for land dedications and construction of transportation-related improvements necessary to ensure a useable and workable transportation system that is sufficient to accommodate the traffic generated by a proposed development.

(C) If a proposed development is subject to a proportionality determination under this section, the director shall identify in writing all infrastructure improvements required in conjunction with approval of the development application. The infrastructure improvements may include land dedications, the construction or funding of offsite improvements, or any combination thereof, in an amount not to exceed the total infrastructure costs attributable to the proposed development as established by the proportionality determination.

(D) To aid in making a proportionality determination and identifying required infrastructure improvements, the director may:

(1) adopt administrative guidelines establishing requirements for:

(a) conducting a traffic impact analysis and neighborhood traffic analysis under Article 3 (*Traffic Impact Analysis and Mitigation*); and

(b) funding or constructing offsite transportation improvements required under Section 25-6-101 (*Mitigation of Transportation Impacts*); and

(2) require an applicant to provide:

(i) a transportation impact analysis under Section 25-6-113 (*Traffic Impact Analysis Required*);

(ii) a neighborhood traffic analysis under Section 25-6-114 (*Neighborhood Traffic Analysis Required*); or

(ii) other information related to the traffic impacts of a proposed development.

4. Clarifications re: Reservation of Right-of-Way

As currently written, Section 26-6-51 (*Dedication of Right-of-Way*) implies that certain right-of-way is automatically "reserved,"[1] with no action required on staff's part. That doesn't reflect actual practice, however, and may be in conflict with other parts of the Code which seem to characterize reservation of right-of-way as a discretionary requirement. This amendment to Section 25-6-51 eliminates the assumption that right-of-way reservation is automatic and instead authorizes it as a condition in certain circumstances.

§ 25-6-51 RESERVATION OF RIGHT-OF-WAY.

(A) The City <u>may, as a condition to approval of a site plan or subdivision, reserve</u> [~~reserves~~] right-of-way <u>that is reasonably likely to be acquired for public use consistent with this article. To be subject to reservation, land must be located</u> along a roadway designated in:

(1) the Transportation Plan;

[1] Reservation of right-of-way is used when dedication is not required as a condition to development approval, but the City anticipates acquiring land for planned improvements in the future. Development within reserved right-of-way is limited, although a landowner may request waivers.

(2) an approved collector plan; or

(3) an established capital improvement project located in the planning jurisdiction of the City.

(B) The extent and location of the right-of-way reserved under Subsection (A) must conform to the Transportation Plan, approved collector plan, or capital improvement project.

5. Clarifications re: Requirements for ROW Dedications & Border Street Policy

These amendments would specify that a Proportionality Determination is required (per new Section 25-6-23, above) for all right-of-way dedications, other than dedications internal to a development.[2] Additionally, the amendment removes provisions related to traffic mitigation and offsite improvements, which are consolidated into new provisions in Article 3 (*see* pp. 6-8).

§ 25-6-55 DEDICATION OF RIGHT-OF-WAY.

(A) If the director [~~city manager~~] determines that dedication of [~~all or a portion of a~~] right-of-way is needed to accommodate the estimated traffic demand generated by a proposed development, the applicant may be required to dedicate the amount of land determined to be roughly proportionate to the development under Section 25-6-5 (*Proportionality of Required Infrastructure*) or a lesser amount, as determined by the director based on the adequacy of the transportation system.[~~:~~

~~(1) an amount of land not to exceed 150 feet for a roadway that is subject to reservation of right-of-way under Section 25-6-51 (*Reservation Of Right-Of-Way*) and that is internal to a proposed subdivision or development project; or~~

~~(2) an amount of land not to exceed 50 percent of the total right-of-way requirement for an existing or proposed roadway that: (a) is subject to reservation of right-of-way under Section 25-6-51 (*Reservation Of Right-Of-Way*); and (b) adjoins a proposed subdivision or development project~~].

[2] Based on discussions with our consultants, Kimley-Horn, the prevailing practice among municipalities is to treat purely internal street networks dedicated at subdivision or site plan as general design standards or regulatory requirements rather than as development exactions.

(B) [~~An applicant may not be required to dedicate more than 75 feet of land under Subsection (A)(2)~~].

[~~(C) The director may require the dedication of right-of-way in an amount greater than established in Subsection (A):~~

~~(1) for a street that is not subject to reserved right-of-way and that does not comply with the standards in the Transportation Criteria Manual; or~~

~~(2) if the additional right-of-way is necessary to accommodate traffic generated by the proposed development.~~]

[~~(D)~~] The director may defer the dedication of right-of-way required at one stage of the development process to a later stage. A person must comply with all dedication requirements before the release of the subsequent application.

(C) Land required for dedication under this section must be used for improvements to the transportation system or a boundary street adjoining the proposed development.

[~~(E) In addition to the dedication of right-of-way, the City may require the applicant to construct a roadway improvement or may assess a fee instead of requiring construction of a roadway improvement to offset the traffic effects generated by the proposed development.~~]

6. Offsite Transportation Improvements

These amendments would clarify staff's authority to require offsite improvements for projects not trigging a Traffic Impact Analysis or Neighborhood Traffic Analysis. The amendments also authorize staff to either require construction or allow payment of a fee in-lieu, subject to listed criteria. Finally, the amendments make a few organizational changes to better accommodate the addition of future code sections related to offsite mitigation.

- The first change is to retitle Article 3 as follows:

ARTICLE 3. ***TRAFFIC IMPACT ANALYSIS AND MITIGATION.***

- The second change is to add a new Division 1, to read as follows, and to renumber the remaining divisions accordingly:

Division 1. – Offsite Transportation Improvements

§ 25-6-101 MITIGATION OF TRANSPORTATION IMPACTS.

(A) In addition to requiring dedication of right-of-way under Section 25-6-55 (*Dedication of Right-of-Way*), the director may require an applicant to construct or fund all or a portion of off-site improvements required to mitigate traffic impacts of a proposed development.

(B) If a proposed development does not require an impact analysis under Section 25-6-113 (*Traffic Impact Analysis Described*) or Section 25-6-114 (*Neighborhood Traffic Impact Analysis Described*), the director may condition approval of the application on construction or funding offsite improvements as described in this subsection.

(1) Required offsite improvements are limited to:

(a) sidewalks and curb ramps;

(b) traffic signs, markings, and upgrades to signal infrastructure;

(c) traffic calming devices;

(d) bike lanes and upgrades to bike facilities;

(e) rectangular rapid flashing beacons;

(f) pedestrian refuge islands;

(g) pedestrian hybrid beacons;

(h) urban trail improvements;

(i) right-of-way dedications; and

(j) measures to limit transportation demand, as provided under the Transportation Criteria Manual.

(2) Required offsite improvements may not be further than from the proposed development than:

(a) one-quarter mile; or

(b) three-fourths of a mile, for an improvement required to provide access between the proposed development and a school, bus stop, public space, or major street.

(C) If a proposed development requires a traffic impact analysis under Section 25-6-113 (*Traffic Impact Analysis*) or Section 25-6-114 (*Neighborhood Traffic*

Impact Analysis), the director may require an applicant to construct or fund offsite improvements identified by the traffic impact analysis.

(D) The total cost of offsite improvements required under this section may not exceed the applicant's roughly proportionate share of infrastructure costs as established by the proportionality determination required under Section 25-6-23 (*Proportionality of Required Infrastructure*), less the cost of any right-of-way dedication required under Section 25-6-55 (*Dedication of Right-of-Way*).

§ 25-6-102 FEE IN-LIEU OF OFFSITE MITIGATION.

(A) The director may allow an applicant to pay a fee in-lieu of constructing one or more offsite transportation improvements required under Section 25-6-101 (*Mitigation of Transportation Impacts*). In determining whether to allow payment of a fee in-lieu or to require construction of offsite improvements, the director shall consider:

(1) the applicant's roughly proportionate share of infrastructure costs, as determined under Section 25-6-23 (*Proportionality of Required Infrastructure*), relative to the cost of constructing one or more identified offsite improvements;

(2) future transportation improvements anticipated for the area through capital improvement projects or as a condition to the approval of other proposed developments; and

(3) the feasibility of constructing one or more identified offsite improvements by supplementing the amount collected through payment of a fee in-lieu with city funds.

(B) A fee in-lieu collected under Subsection (A) of this section shall be placed in a dedicated fund and used solely for the purpose of constructing one or more offsite improvements identified under Section 25-6-23 (*Proportionality of Required Infrastructure*).

(C) A fee in-lieu collected under this section shall be spent, consistent with the requirements of Subsection (B), within ten-years from the date fee is paid to the City. The owner of a property for which a fee in-lieu was paid under this section may request a refund of any funds that remain unspent after the end of the ten-year period. A refund request under this section must be submitted in writing, on a form provided by the director.