

# **Paying for Growth**

## **Rough Proportionality & Transportation Impact Fee**

**Council Mobility Committee**

**June 3, 2015**



# Agenda

- Transportation Funding
- Use of Rough Proportionality
- Introduction to Transportation Impact Fee
- City of Ft Worth's Use of Transportation Impact Fee
- Next Steps



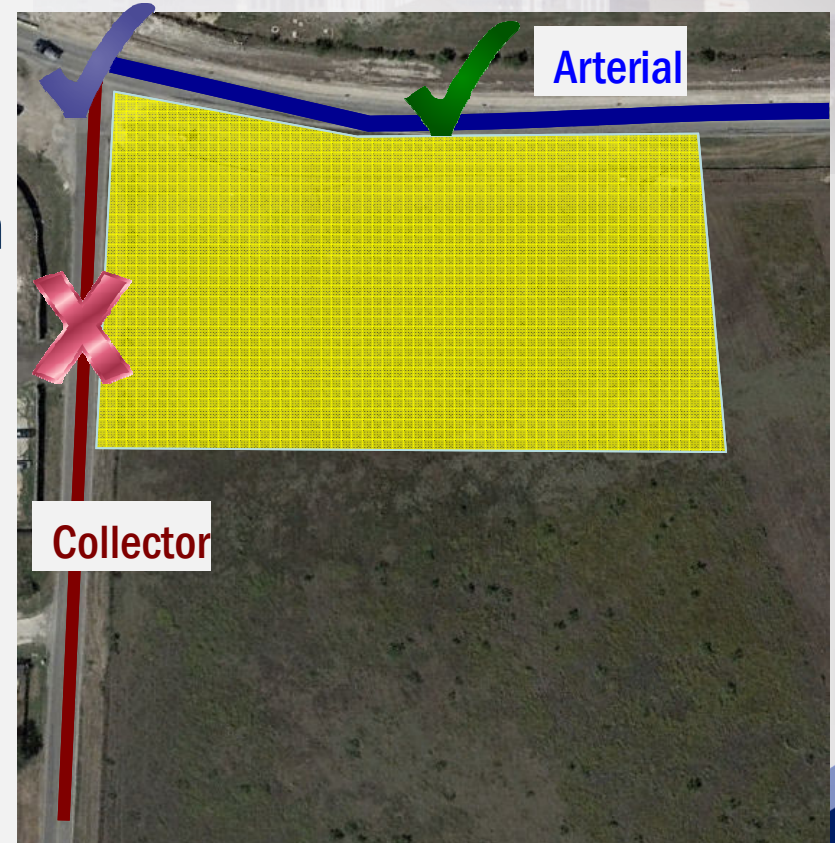
# Transportation Funding

- Property taxes not always enough to keep up with growth
  - Increased property taxes from development covers O&M, services, *but not infrastructure*
- Development should ‘pay its share’
  - Right-of-way dedication, street construction, intersection improvements, etc.
  - Should be ‘fair’



# Austin's Current Policy

- ✓ • **Border Street Policy**
  - Require right-of-way (ROW)
  - Require partial street construction
- ✗ • **Arterials only per Austin Metropolitan Area Transportation Plan (AMATP)**
- ✓ • **Traffic Impact Mitigation**
  - Intersection improvements, turn lanes, etc.
  - Pro-rata share for development-generated traffic





# Other Transportation Funding Tools

- Bonds / Debt
  - General Obligation (GO), Certificates of Obligation (CO)
- Tax Increment Financing (TIF), Tax Increment Reinvestment Zone (TIRZ), and/or Chapter 380 Agreements
- Impact Fees



# Rough Proportionality

Two important U.S. Supreme Court Cases established the principle of 'Rough Proportionality'

- **Nollan vs. California Coastal Commission (1987)** - established that an exaction must have an *essential nexus* to legitimate public interests
- **Dolan vs. City of Tigard (1994)** - established a two-part test for exaction: 1) *essential nexus* and 2) *roughly proportional* in nature and extent of the impact of the development



# Legal Background cont.

## Rough Proportionality comes to Texas via Court of Appeals of Texas

- **Flower Mound vs. Stafford Estates (2002)** – established need for an “individualized determination” or “rough proportionality test”; allows for consideration of development impact to total facilities system; does not require “precise mathematical calculation”

# Legal Background cont.

- Texas House Bill 1835
  - Adopted in September 2005
  - Amended Section 212 of the *Local Government Code (LGC)*
    - Dedications, fees, or construction costs
    - “[The] developer’s portion of the costs may not exceed the amount required for infrastructure improvements that are roughly proportionate to the proposed development...”





# What is Rough Proportionality?

## A. Legal Principle



Yes, US Supreme Court decisions, Texas Court of Appeals decision, and Texas State Law.

## B. Fairness Check



Yes, ensures requirements as a condition of permit are relevant and fair.

## C. Calculation Tool



Yes, a worksheet to compare value of impact to value of requirements.

## D. City Policy/Rule



No, the Rough Proportionality determination is a part of our standard permitting practice to check compliance with the law.

# Determination

## How is Rough Proportionality Determined?

- **Transportation Demand**
  - *Generated by Development*
  - Land Use Type
  - Intensity
  - Peak Hour Trip Rate & Length
- **Transportation Supply**
  - *Required by City/County*
  - Roadway Classification
  - Length
  - Cross-Section
  - Intersection Improvements
  - Right-of-Way

Vehicle Miles Traveled (VMT)  $\approx$   
 $\$2,276/\text{VMT} \approx \$1.6\text{M}/\text{lane mile} \approx$   
Construction Cost



# Example - Determination

## Transportation Demand

- General Office 150,000 SF
- 370 Peak Hour Vehicle Miles Traveled (VMT) @ \$2,276/VMT
- \$841,000 Demand

## Transportation Supply

- 2-Lanes of a 4-Lane Divided Major Arterial (MAD 4) @1000' = \$682,000
- 5' Right-of-way @1000' @ \$50/SF = \$50,000
- \$732,000 Supply

## Determination

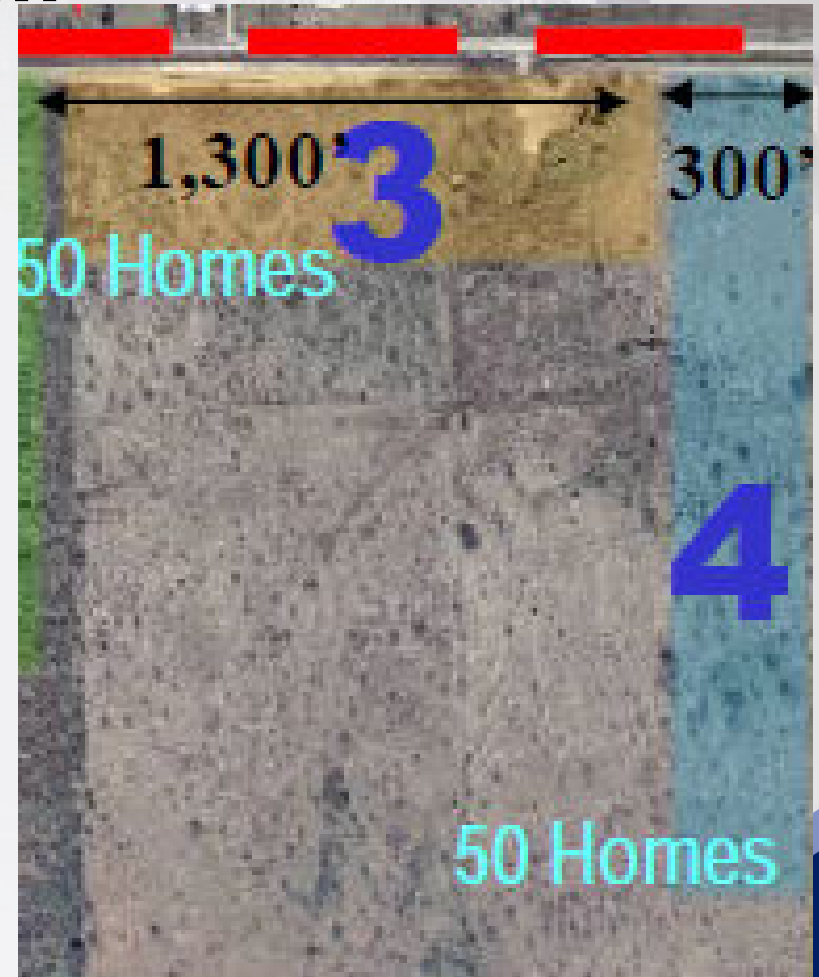
**Demand > Supply**

Therefore, Demand is roughly proportional to Supply



# Gaps in Current Policy...

- 3 & 4 Have Same Impact
- Border Street Policy Severely Limits ROW and CIP Requirements



# Gaps in Current Policy...



- **Border Policy Can Lead to Unnecessary 'Improvements'**
- **Inflexible – Developer Provisions Don't Always Match Needs**



# Gaps in Current Policy...

- TIA Fiscal Mitigation Generally Goes Unspent
  - Developer provides small portion (<20%)
  - City has come up with >80%
  - Returned after 10 years
- Limited TIA Fiscal Data Available
  - \$32.5M Collected since 1982
  - \$12.7M Currently held in cash, letters of credit, or bonds for 253 projects (as of 3/16/15)
  - Includes TIA mitigation *and* other Transportation fiscal

# A Better System...

- **Predictable** – for developers and City
- **Consistent**– ‘similar’ development should pay similar share
- **Flexible** – fiscal should be used -- not sit until returned
- **Aligned**– with City goals and objectives for growth; a tool to steer development
- **Legal** – compliant with rough proportionality



# Impact Fee Basics

## Impact Fee Definition

“Charge or assessment imposed...against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development.”



# Impact Fee Basics cont.

- Governed by Chapter 395 of the Texas Local Government Code (1987)
  - Water, Wastewater, Roadway, and Drainage impact fees allowed in Texas
  - Capacity-related costs (i.e. no public art, streetscape elements, expensive illuminations, etc.)
  - Recover infrastructure costs for *future* development
  - Subject to ‘Rough Proportionality’



# Impact Fee Basics cont.

## Impact Fee Service Areas

- Funds collected/spent in service area within 10 years
- Water Service Area: Citywide
- Sewer Service Area: Citywide
- Drainage Service Area: Watershed, Citywide & Regional
- Transportation Service Area: 6 miles (trip length limit)
  - Limited to Corporate Limits for roadways (not ETJ)





# Transportation Impact Fee

## Impact Fee Calculation

- 10 year Growth Horizon
- Proportional Share of Capacity Needed for Growth
- Impact Fee Calcs Updated Every 5 Years
- Adopted Capital Improvement Plan
- Future Land Use Plan

$$\text{Max Impact Fee Per Service Unit} = \frac{\text{Recoverable Cost of the CIP (\$)}}{\text{New Service Units (vehicle miles)}}$$



# Transportation Impact Fee

## Checks & Balances

- **Licensed Professionals Prepare**
  - Capital Improvement Plan
  - Land Use Assumptions
  - Maximum Assessable Impact Fee Calculations
- **Public Hearing Required**
  - Capital Improvement Plan
  - Land Use Assumptions
- **Capital Improvements Advisory Committee (CIAC)**
  - Representatives of Real Estate, Development, or Building Industries
  - Can be Existing Planning and Zoning Commission



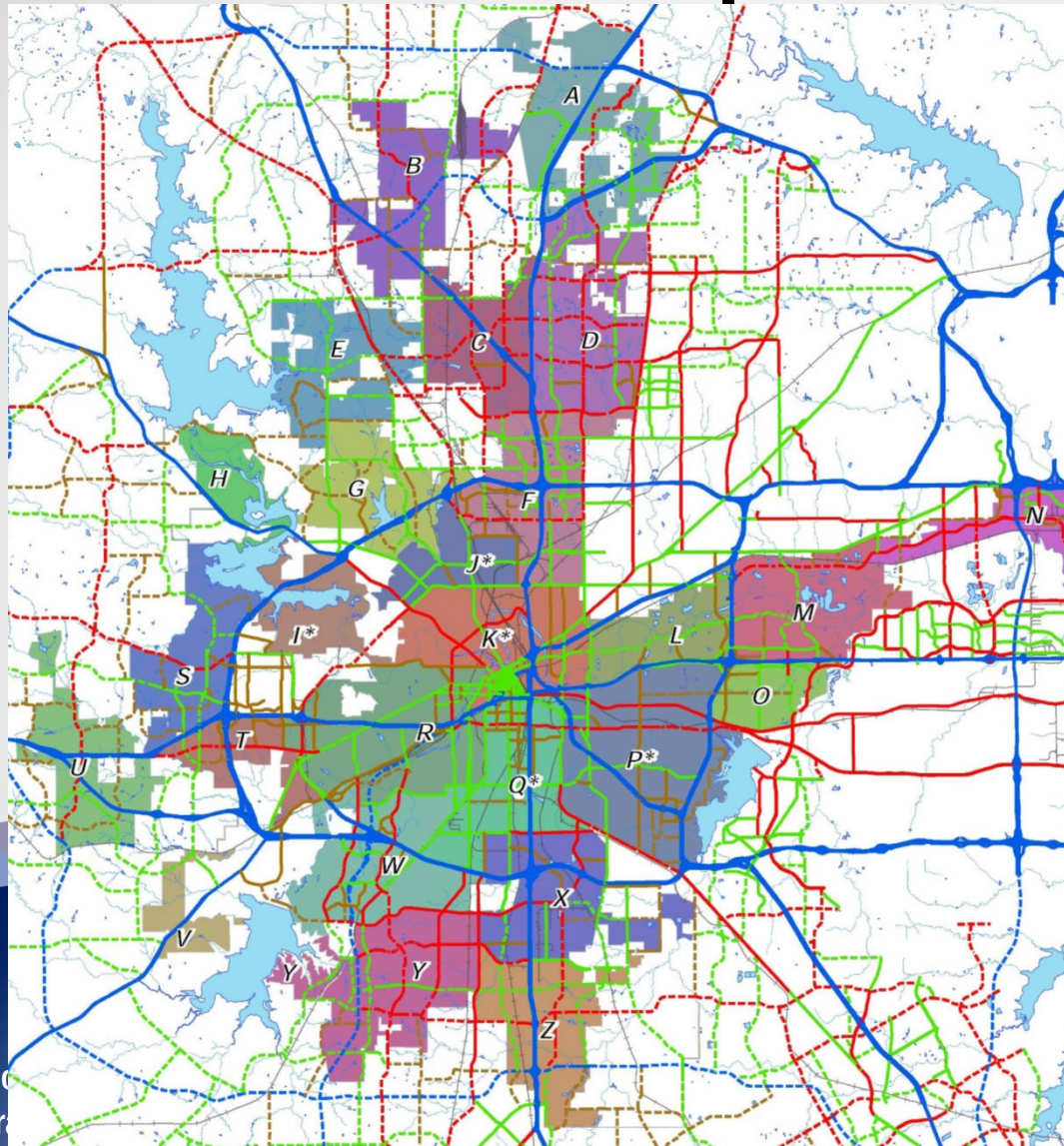
# Ft. Worth Transportation Impact Fee

- 2-Year Implementation
  - Piloted 1 Service Area
- 26 Services Areas
  - 5 Central City No-Fee Areas
- Impact Fee Assessed at Plan -> Collected at Building Permit
- Has 'Replaced' Rough Proportionality





# Ft. Worth Transportation Impact Fee



SERVICE AREA	Maximum Fee Per Service Unit (per Vehicle-Mile)
A	\$2,158
AA	\$228
B	\$2,419
C	\$1,323
D	\$966
E	\$2,708
F	\$998
G	\$2,091
L	\$1,562
M	\$2,551
N	\$1,283
O	\$1,014
S	\$2,398
T	\$2,322
U	\$2,921
W	\$860
X	\$2,312
Y	\$2,376
Z	\$2,962



# Ft. Worth Transportation Impact Fee

- **Maximum vs Actual Impact Fee**
  - Calculated maximum assessable
  - Actual established by Council (~ 15%)
  - Single-Family Detached House
    - Area D: Max Fee \$5,796 vs Actual Fee \$3,000 (52%)
    - Area M: Max Fee \$15,306 vs Actual Fee \$1,980 (13%)





# Summary – Current Policy

## Pros

- Legally compliant
- Consistent with other TX jurisdictions
- Transparent estimation of localized transportation impacts
- Easily implemented

## Cons

- Border street policy limits what City can require
- Inflexible
- Often not aligned with needs
- Localized improvements don't match system impacts



# Summary – Transportation Impact Fee

## Pros

- Predictable for developers and City
- Consistent fee structure for all development
- Established and tested approach
- Flexible and comprehensive approach to transportation funding

## Cons

- Implementation costs for Thoroughfare/CIP Plan, Service Areas, Max Fee per Service Unit, Future Land Use Map
- Increased cost for development

# Impact Fee Next Steps

- Continue to Evaluate Transportation Impact Fee
- Identify Budget Needs for Implementation
  - Transportation Impact Fee Study – Thoroughfare/CIP Plan, Service Areas, Max Fee per Service Unit, Future Land Use Map (10-year)
  - Supporting Studies – Historical Review, Peer Review of Cost of Development
- Bring Budget Request to City Manager
- Brief Planning and Neighborhoods Committee (tbd)
- Provide Informational Memo to Council (July)
- Update Mobility Committee (August/September)

# Questions?



# **Paying for Growth**

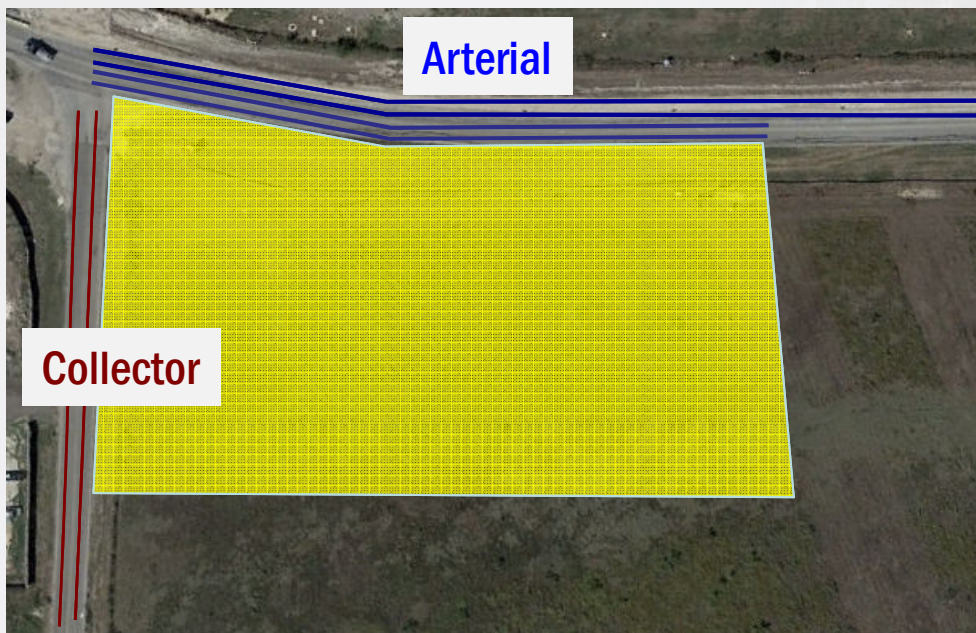
## **Rough Proportionality & Transportation Impact Fees**

**Council Mobility Committee  
June 3, 2015**









# Use of Rough Proportionality

- **What Applies?**
  - Requirements not design standards
    - Right-of-way/easement, boundary street construction, intersection improvements, of fiscal in lieu
  - Part of typical development approval process
- **How is Rough Proportionality Determined?**
  - Compare the peak hour demand created by development to the supply required by City/County
  - Spreadsheet comparison
  - Same approach to HB 1835 as ~30 other TX cities

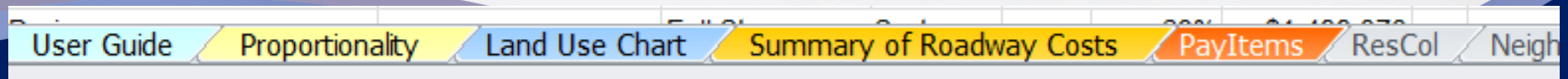




# Proportionality Worksheet

Includes the following, primary tabs:

- **User Guide** – brief descriptions of each section of and various inputs to the “Proportionality” tab
- **Proportionality** – the primary calculation worksheet
- **Land Use Chart** – a summary of the land uses for the demand calculations
- **Summary of Roadway Costs** – a summary of the costs and capacities provided by the various roadways
- **Pay Items** – a look up table for construction components costs
- **Detailed Roadway Costs Sheets** – tabs for each street type that calculate per mile construction and soft costs



# Example – Demand

## DEMAND - Traffic Generated by Proposed Development:

Peak Period to Analyze:

- ☐ AM Peak  
☒ PM Peak

Trip Generation Method:

- ☐ Linear Rates  
☒ Regression Equations

Land Use Type <sup>1</sup> :	Development Unit:	Intensity <sup>2</sup> :	Peak Hour Trip Rate <sup>3</sup> :	Internal Capture Rate <sup>4</sup> :	Adjusted Trip Length <sup>5</sup> : (miles)	Trip Length <sup>6</sup> : (miles)	Demand: (vehicle-miles)	Impact of Development <sup>7</sup> : (\$)
General Office Building	1,000 SF GFA	150	1.64	0%	1.50	5.375	369.68	\$841,233

*These rows allow for the entry of unique or uncommon land uses not included within the current ITE Trip Generation Manual; or when circumstances require manual entry of the development unit and/or trip rate. It shall only be used when (a) sufficient data is available to support an alternative calculation; and (b) it is agreed to by the City and/or County.*


**Zoning Class:** *(when only zoning class is known at time of preliminary plat)*

\$841,233

Zoning Class:	Net Acres:	Development Unit:	Estimated Intensity <sup>2</sup> :	PM Peak Hour Trip Rate <sup>3</sup> :	Internal Capture Rate <sup>4</sup> :	Trip Length <sup>5</sup> : (miles)	Demand: (vehicle-miles)

**IMPACT OF DEMAND PLACED ON THOROUGHFARE SYSTEM:**

369.68

\$841,233

Estimated Average Cost Per Vehicle Mile<sup>8</sup>: \$ 2,275.57



# Example - Supply

## Roadway Supply- Off-Site Roads to be Built or Funded by the Applicant:

Roadway Name:	Classification:	Roadway Length: (Feet)	Number of Thru Lanes:	Supply Cost Estimate <sup>1</sup> : (\$)	Supply Cost Estimate OR Detailed OPCC <sup>1*</sup> : (\$)
MAD-4	Major Arterial Divided 4-Lane	1,000	2	\$682,280	\$682,280

**ROADWAY SUPPLY ADDED TO SYSTEM SUBTOTAL: \$682,280**

## Other Improvements - Specific Improvements to be Built or Funded by the Applicant:

Location:	Description of Improvement:	Estimated Cost <sup>1*</sup> : (\$)

**OTHER IMPROVEMENTS ADDED TO SYSTEM SUBTOTAL: \$0**

## Right-of-Way Dedication - ROW to be dedicated by the Applicant:

ROW Dedication:	General Description of ROW Dedication:	Estimated Cost <sup>1*</sup> : (\$)
Sample	Strip 5' x 1000' @ \$50/SF	\$50,000

**RIGHT-OF-WAY DEDICATION SUPPLY ADDED TO SYSTEM SUBTOTAL: \$50,000**

**TOTAL VALUE OF SUPPLY ADDED TO THOROUGHFARE SYSTEM: \$732,280**

**Notes:** <sup>1</sup> Based on an estimated cost to provide the roadway supply (construction and engineering) based on the classification; <sup>1\*</sup> Revised cost estimate, if available, for construction and engineering based on more detailed preliminary engineering and/or design; <sup>1\*</sup> All estimated improvement costs; <sup>1\*</sup> Cost of right-of-way should be estimated using County Appraisal District values (number of square feet of dedication multiplied by the County Appraisal District Market Values).

# Example - Determination

## SUPPLY / DEMAND COMPARISON:

A comparison of the capacity provided by a development against the traffic impacts of the proposed development.

	Cost	Comparison
TOTAL IMPACT OF DEMAND PLACED ON THOROUGHFARE SYSTEM:	\$841,233	DEMAND > SUPPLY
TOTAL VALUE OF CAPACITY (SUPPLY) ADDED TO THOROUGHFARE SYSTEM:	\$732,280	115%

Based on the results of this rough proportionality analysis, the anticipated impact of demand on the system exceeds the value of capacity (supply) provided by the proposed development. Given these assumptions, the anticipated impact of demand of the development exceeds the value of capacity supplied by approximately 115%. Therefore, the roadway improvements required by the City are justified (i.e. the applicant is adding less capacity than needed to support their development).

Based on the results of this rough proportionality analysis, the anticipated impact of demand on the system exceeds the value of capacity (supply) provided by the proposed development. Given these assumptions, the anticipated impact of demand of the development exceeds the value of capacity supplied by approximately 115%. Therefore, the roadway improvements required by the City are justified (i.e. the applicant is adding less capacity than needed to support their development).

# Impact Fee Basics cont.

## Recoverable Costs

- Construction, Planning, Surveying, and Engineering
- Land Acquisition and Associated Costs
- Capital Imp. Planning and/or Financial Consulting
- Projected Interest and Finance Costs
- Local Share for State and Federal Roadways

## Non-Recoverable Costs

- Capital Improvements NOT Identified in the CIP
- Operations and Maintenance Costs
- Improvements to Remedy Existing Deficiencies
- Administrative and Operational Costs of the City
- Non-CIP Debt Service

