

INDIAN RIVER COUNTY, FLORIDA

MEMORANDUM

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TO: Jason E. Brown  
County Administrator

THROUGH: Stan Boling, AICP  
Community Development Director

FROM: Phil Matson, AICP  
MPO Staff Director

DATE: May 11, 2017

RE: Request to Review Scope of Services and Authorize Initiation of the Consultant Selection Process for an Impact Fee Update

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It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of June 13, 2017.

**DESCRIPTION AND CONDITIONS**

In May of 2005, the Board of County Commissioners adopted a new impact fee ordinance with an effective date of July 1, 2005. That ordinance established eight (8) new non-traffic impact fees and increased the traffic impact fee rate. At the time of adoption of the impact fee ordinance, it was recognized that periodic updates to the impact fee rate schedules would be necessary due to changes in the components of the fee, such as construction and land costs. Section 1000.13(2) of the impact fee ordinance requires that the impact fee schedule be reviewed by the Board of County Commissioners at least once every third year. Because the last update was conducted in 2014, the Board needs to consider another update.

The 2014 update was driven by the Board's direction to develop a sound methodology for reducing non-residential impact fees in order to encourage economic development. The resulting 2014 Impact Fee Update incorporated a new element (the Affordable Growth model), which enabled staff to calculate the amount that the County can "buy down" or subsidize non-residential impact fees with other revenues (such as the local option sales tax) relative to low-to-moderate background growth rates. Implicit in the adoption of the Affordable Growth model was the assumption that the County would periodically revisit the growth rates, available "buy down" revenue, and policies resulting in a reduction of impact fee rates for non-residential projects.

As with all impact fee updates, consultant expertise is needed. Staff has drafted the attached Scope of Services (Attachment 1) to update the County's impact fee ordinance and rate schedules. Once the scope of services is approved by the Board along with authorization to

proceed with the update, staff will incorporate the scope into a formal request for qualifications (RFQ) document and initiate the consultant selection process.

## **ANALYSIS**

### **Purpose of Impact Fees**

By definition, an impact fee is a one-time charge levied against new development for the purpose of financing expansion of a capital facility. In Florida, impact fee requirements have evolved through various court decisions over the years.

Impact fees are not taxes. For that reason, impact fees are subject to different rules than are taxes. As with fees generally, impact fees must be structured such that the fee, which a feepayer pays, must be directly proportional to the benefit that the feepayer receives.

Consistent with case law, impact fees must be used only for capacity producing capital improvements necessitated by new growth. Impact fees may not be used for operation and maintenance expenses, nor may impact fees be used to correct existing deficiencies.

Impact fees are thus intended to assign the burden of paying for a portion of new public capital facilities to new residents and businesses that use or benefit from the capital facility, while at the same time assuring that new development does not reduce the quality of life for existing residents and businesses. As part of an impact fee program, quality of life is measured through establishing a level of service standard for each impact fee program category (such as traffic, parks, schools, and fire/EMS). Maintaining the level of service for a particular public facility/service results in maintaining the quality of life for existing and new residents. The level of service for each of the impact fee program categories is listed within the County's Comprehensive Plan as well as the County impact fee ordinance.

### **Scope of Services**

As structured, the draft scope of services (Attachment 1) is greatly reduced in scale from the previous 2014 effort. That is because the previous effort included a full review of all components of all fee categories, development of a legally defensible methodology for reducing non-residential impact fees, and revisiting level of service standards. The current update focuses on updating those elements that were likely to have changed significantly since 2014, such as land and construction costs, grant funding, and other revenue data. On the other hand, fee variables such as trip length and trip generation rates will not be revisited in this scope largely because no new guidance has been issued and no major changes have occurred in the past three years affecting those variables.

Although some elements of previous updates will not be undertaken in this update, the attached Scope does include one new element: an update of the local growth rate and the availability of "buy down" revenue used in the Affordable Growth model and resulting changes in fee rates. Staff anticipates that changes in some components (such as the growth rate and facility costs) will push fees higher while other changes (such as the sales tax credit component and increased

availability of “buy down” revenue resulting from the sales tax extension) will push fees lower. Staff also anticipates applying the same policy decisions made during the 2014 update to keep non-residential impact fee rates low. On balance, staff does not expect significant changes in impact fee rates.

With approval of the draft scope of services by the Board at its June 13, 2017 meeting, an RFQ can be issued by the end of June with consultant proposals due by the end of July. Consistent with that schedule, the Board could approve a consultant contract in late August. Staff estimates the study will take six to nine months to complete from issuance of a notice to proceed.

### **FINANCIAL IMPACT**

The consultant’s fees will be paid with revenue from the Impact Fee administration fund (10320415-033110).

### **RECOMMENDATION**

Staff recommends that the Board of County Commissioners review the attached scope of services for the impact fee update, make any necessary changes, and authorize staff to initiate the consultant selection process for the update.

Attachment:

1. Scope of Services for Indian River County Impact Fee Update