

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 30 (STREETS AND SIDEWALKS), ARTICLE VIII (TRANSPORTATION IMPACT FEES) OF THE CODE OF THE CITY OF FORT WORTH, TEXAS (1986), AS AMENDED; ADOPTING UPDATED LAND USE ASSUMPTIONS; ADOPTING AN UPDATED CAPITAL IMPROVEMENTS PLAN FOR TRANSPORTATION FACILITIES; ADOPTING REVISED TRANSPORTATION IMPACT FEE PER SERVICE UNIT SCHEDULES 1 AND 2; AMENDING PROVISIONS ADMINISTERING THE TRANSPORTATION IMPACT FEE PROGRAM; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 395, Tex. Loc. Gov't Code, provides requirements and procedures for updating land use assumptions, capital improvements plans and impact fees; and

WHEREAS, on May 13, 2008, the City of Fort Worth adopted Ordinance No. 18083-05-2008 creating impact fees for transportation facilities in accordance with the statutory procedures for adopting such fees, known as the Fort Worth Transportation Impact Fee Regulations, which were effective July 1, 2008; and

WHEREAS, the City of Fort Worth has appointed a Capital Improvements Advisory Committee to advise the City Council concerning amendments to the land use assumptions, impact fee capital improvements plans and impact fees for transportation facilities; and

WHEREAS, as required by Section 395.056, the Capital Improvements Advisory Committee submitted its written comments on the proposed amendments to the Land Use Assumptions, Capital Improvements Plan, and Transportation Impact Fees on December 18, 2012; and

WHEREAS, the City has retained consultants to prepare land use assumptions, impact fee capital improvements plans, impact fees and ordinance provisions in order to meet statutory requirements; and

WHEREAS, on October 23, 2012, the City made available to the public, copies of the proposed amended Land Use Assumptions, Capital Improvements Plan, and Maximum Assessable Transportation Impact Fees; and

WHEREAS, as required by Section 395.054 of the Texas Local Government Code, the City Council conducted a public hearing to discuss an ordinance amending the Land Use Assumptions, Capital Improvements Plans and Transportation Impact Fees on January 15, 2013; and

WHEREAS, the City Council must act upon the proposed amendments to the Land Use

Assumptions, Capital Improvements Plan, and Transportation Impact Fees within 30 days of such public hearing; and

WHEREAS, the City Council desires to adopt the updated Land Use Assumptions, Capital Improvements Plan, and Transportation Impact Fees for roadway facilities; and

WHEREAS, the City Council further desires to adopt revisions to Chapter 30, Article VIII of the Code of Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH:

SECTION 1
2013 TRANSPORTATION IMPACT FEE STUDY
UPDATED LAND USE ASSUMPTIONS, TRANSPORTATION IMPROVEMENTS
PLAN, AND MAXIMUM ASSESSABLE TRANSPORTATION IMPACT FEES

The 2013 Transportation Impact Fee Study, performed by Kimley-Horn and Associates, Inc. (“2013 Study”), which contains updated land use assumptions for transportation facilities, an updated Transportation Improvements Plan, and updated Maximum Assessable Transportation Impact Fees Per Service Unit, as contained in Table 7 of the Study, is hereby adopted to update all previously adopted land use assumptions, Transportation Improvements Plans, and Maximum Assessable Transportation Impact Fees Per Service Unit, (a/k/a Schedule 1) of the City of Fort Worth. The 2013 Study is incorporated herein by reference as if fully set forth, to be maintained in the Office of City Secretary.

SECTION 2
UPDATED MAXIMUM ASSESSABLE TRANSPORTATION IMPACT FEES PER
SERVICE UNIT

SCHEDULE 1

The Maximum Assessable Transportation Impact Fees Per Service Unit, Table 7 of the 2013 Study is hereby specifically adopted for all purposes as the 2013 Schedule 1 and updates the previously adopted Schedule 1 of the City. An exhibit containing the revised Schedule 1 is attached hereto as Attachment A and incorporated herein for all purposes.

SECTION 3
UPDATED TRANSPORTATION IMPACT FEES PER SERVICE UNIT
SCHEDULE 2

The 2013 City of Fort Worth Transportation Impact Fees Per Service Unit, the 2013 Schedule 2, is hereby specifically adopted for all purposes and, subject to the provisions of Chapter 30, Article VIII, Division 2, Sec. 30-173, Collection of Impact Fees, updates the

previously adopted Schedule 2 of the City. An exhibit containing Schedule 2 is attached hereto as Attachment B and incorporated herein for all purposes.

SECTION 4
AMENDMENTS TO DIVISION 1 OF
CHAPTER 30, ARTICLE VIII

Chapter 30 (Streets and Sidewalks), Article VIII (Transportation Impact Fees), Division 1 (General Provisions) is hereby amended by revising Sections 30-154 (Definitions) and 30-156 (Computation of maximum impact fees per service unit) as follows:

1. Section 30-154: the definition of “site-related facility,” shall read:

Site-related facility means an improvement or facility which is for the primary use or benefit of one or more new developments and/or which is for the primary purpose of safe and adequate provision of transportation facilities to serve the new development, including access to the development, which is not included in the transportation improvements plan, and for which the developer(s) or property owner(s) is solely responsible under subdivision or other applicable development regulations.

2. Section 30-156: subsection (d) shall read:

(d) The maximum impact fee per service unit for transportation facilities, as may be amended from time to time, hereby is declared to be an approximate and appropriate measure of the impacts generated by a new unit of development on the City's transportation system. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference hereby is declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's transportation system. The maximum impact fee may be used in evaluating any claim by a property owner that the dedication or construction of a capital improvement within a service area imposed as a condition of development approval pursuant to the City's subdivision or development regulations is disproportionate to the impacts created by the development on the City's transportation system.

SECTION 5.
AMENDMENTS TO DIVISION 2 OF
CHAPTER 30, ARTICLE VIII

Chapter 30 (Streets and Sidewalks), Article VIII (Transportation Impact Fees), Division 2 (Assessment and Collection of Impact Fees) is hereby amended by revising Sections 30-171 (Assessment and Collection Schedules for Impact Fees), 30-172 (Assessment of impact fees) and 30-173 (Collection of Impact Fees) as follows:

1. Section 30-171 shall read:

The amount of the impact fees to be assessed shall be as set forth in Schedule 1, attached hereto and made a part of this Article by reference. The amount of the impact fees which are to be paid shall be as set forth in Schedule 2 attached hereto and made a part of this Article by reference. The amount of the impact fees to be collected by vehicle-mile may be phased over a period of years, such amount to be set forth by year in Schedule 2. Schedules 1 and 2 may be amended from time to time utilizing the amendment procedure set forth in Section 30-191.

2. Section 30-172 (a)(1) shall read:

(1) For land first made subject to an impact fee upon adoption of the original or an amendatory transportation impact fee ordinance, and which land was finally platted before the effective date of such ordinance, assessment shall occur on the effective date of the original or amendatory transportation impact fee ordinance, as the case may be, and shall be the amount of the maximum impact fee per service unit established by such original or amendatory ordinance, as set forth in Schedule 1 thereof.

3. Section 30-173 (b) shall read:

(b) The impact fees to be paid and collected per service unit for a new development, less any applicable discounts in accordance with Section 30-173(d), shall be based on the amount listed in Schedule 2 and Section 30-173(d) in effect at the time of final plat approval for a period of two (2) years after such approval and thereafter the impact fees to be paid and collected per service unit shall be the amount listed in Schedule 2, less any applicable discounts, then in effect. The city may enter into an agreement with a developer for a different time and manner of payment of impact fees, in which case the agreement shall determine the time and manner of payment

4. Section 30-173 (c)(4) shall read:

(4) An applicant may request an alternative service unit computation for land uses not contained in the most current edition of the Institute of Transportation Engineers Trip Generation Manual by submitting a trip generation study demonstrating the appropriateness of the trip generation rates for the proposed development to the director for decision. An applicant may also include an alternative service unit calculation in an appeal taken pursuant to Section 30-192.

5. Section 30-173 (d)(1) shall read:

(1) *Adequate public facilities discount.* The Schedule 2 transportation impact fees shall be reduced by fifty (50) percent for any development where (a) one (1) or more points of access serve at least seventy-five (75) percent of the PM peak-hour site-generated traffic volumes; (b) such point(s) connect the development to the city's thoroughfare system, as depicted in the city's master thoroughfare plan (MTP); and (c) the transportation facility so connected has been improved to its ultimate capacity as classified under the current master thoroughfare plan, or will be improved to its ultimate capacity within twenty-four (24) months of the date of

final plat approval for the development pursuant to a funded capital improvement plan of the city. Eligibility for this discount must be determined no later than issuance of the first building permit for land subject to the final plat.

6. Section 30-173 (d)(3) shall read:

(3) *Extraordinary investment discount.* The amount of transportation impact fees due under Schedule 2 shall be reduced fifteen (15) percent for any development that results in all of the following qualifications, as jointly determined by the Department of Transportation and Public Works and the Department of Housing and Economic Development: (1) \$15 Million in capital investment, excluding land costs; (2) creation of 100 new jobs; and (3) the projected salary of the new jobs is at least twice the current minimum wage, plus benefits. For each additional \$15 Million in capital investment or additional 100 qualified new jobs, the impact fee amount due under Schedule 2 will be further reduced by an additional five (5) percent, up to a maximum reduction of fifty (50) percent. A development may receive this discount and have a period of up to 3 years from the issuance of a building permit to qualify under the terms of this discount. Impact fees otherwise paid shall be refunded to the original payor at the time of issuance of the building permit. A development shall refund a pro rata share of this discount should the development not continue to maintain the number of new jobs for a period of at least 10 years from the date of building permit (or the date of qualification for this discount), equal to ten (10) percent per annum for each year that the number of jobs is not maintained. The terms related to this discount shall be incorporated within an agreement for credits pursuant to Section 30-182.

7. Section 30-173 (d)(4) shall read:

(4) *Discounts cumulative.* Discounts identified in subparagraphs (1) to (3) are cumulative, so that a development that qualifies for the maximum discount under each provision may reduce impact fees otherwise due up to one hundred (100) percent.

8. Section 30-173 (h) shall be deleted in its entirety.

**SECTION 6.
AMENDMENTS TO DIVISION 3 OF
CHAPTER 30, ARTICLE VIII**

Chapter 30 (Streets and Sidewalks), Article VIII (Transportation Impact Fees), Division 3 (Credits against impact fees) is hereby amended by revising Section 30-181 (Credits against transportation impact fees) as follows:

1. Section 30-181 (b) shall read:

(b) Master planned projects, including subdivisions containing multiple phases, and whether approved before or after the effective date of these impact fee regulations, may apply for credits against transportation impact fees for the entire

project based upon contributions of land, improvements or funds toward construction of system facilities, or other transportation improvements supplying excess capacity. Credits shall be determined by comparing costs of transportation improvements supplied by the project with the costs of transportation improvements to be utilized by development within the project, utilizing a methodology approved by the City. The credit determination shall be incorporated within an agreement for credits, in accordance with Section 30-182.

2. Section 30-181 (c) shall read:

(c) The City's policies and regulations, as amended, governing community facilities agreements shall apply to determine a new development's obligations to construct adjacent system facilities. The obligation to construct, however, shall not exceed the maximum impact fees assessed against the new development under Schedule 1. Construction required under such policies and regulations shall be credited against the amount of transportation impact fees otherwise due. If the costs of constructing a system facility in accordance with the community facilities agreement are greater than the amount of impact fees due, the amount of the credit due shall be deemed to be one hundred (100) percent of the impact fees and no impact fee shall be collected thereafter for the development, unless the number of service units is subsequently increased.

**SECTION 7.
AMENDMENTS TO DIVISION 5 OF
CHAPTER 30, ARTICLE VIII**

Chapter 30 (Streets and Sidewalks), Article VIII (Transportation Impact Fees), Division 5 (Transportation Impact Fees) is hereby amended by revising Sections 30-201 (Transportation service areas) and 30-202 (Transportation improvements plan) as follows:

1. Section 30-201 (a) shall read:

(a) There are hereby established nineteen (19) transportation service areas, constituting land within the City's boundaries, as described and depicted in the "2013 Transportation Impact Fee Study", dated October 23, 2012, prepared by Kimley-Horn and Associates, Inc., on file with the City Secretary's Office.

2. Section 30-202 (a) shall read:

(a) The Transportation Improvements Plan for the City of Fort Worth is as presented in the "2013 Transportation Impact Fee Study", dated October 23, 2012, prepared by Kimley-Horn and Associates, Inc., on file with the City Secretary's Office.

3. Section 30-202 (b) shall be amended by adding a full stop period to the end of the sentence.

4. Section 30-203 (a) shall read:

(a) The maximum impact fees per service unit for transportation facilities are as shown on Schedule 1, on file with the City Secretary's Office.

5. Section 30-203 (b) shall read:

(b) The impact fees per service unit for transportation facilities, which are to be paid by each new development, are as shown on Schedule 2, on file with the City Secretary's Office.

**SECTION 8.
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if the validity of any section, subsection, sentence, clause or phrase of this ordinance should be declared to be invalid, the same shall not affect the validity of any other section, subsection, sentence, clause or phrase of this ordinance.

**SECTION 9
CONFLICTS**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances for the City of Fort Worth, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and Code are hereby repealed.

**SECTION 10
EFFECTIVE DATE**

This ordinance shall take effect on April 1, 2013.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Assistant City Attorney

Adopted: _____

Effective: _____