

ORDINANCE NO. 23656-05-2019

AN ORDINANCE AMENDING CHAPTER 9 OF THE CODE OF THE CITY OF FORT WORTH TO ADOPT REGULATIONS FOR COMMUNITY FACILITIES AGREEMENTS; AMENDING CHAPTER 2, SECTION 2-148 OF THE CODE OF THE CITY OF FORT WORTH TO PROVIDE FOR ACCEPTANCE OF ENGINEERING PLANS FOR COMMUNITY FACILITIES AGREEMENTS; AMENDING CHAPTER 2, SECTION 2-321 OF THE CODE OF THE CITY OF FORT WORTH TO ADOPT MATERIAL TESTING, INSPECTION, WATER TESTING, AND ENGINEER PLAN REVIEW FEES FOR COMMUNITY FACILITIES AGREEMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 212.002 of the Texas Local Government Code provides that after a public hearing, the governing body of a municipality may adopt rules governing plats and subdivision of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality; and

WHEREAS, the Subdivision Ordinance of the City of Fort Worth requires compliance with the City's policies related to community facilities agreements in order to obtain approval of a plat; and

WHEREAS, the City Council has determined that it is necessary to revise the City's policies related to community facilities agreements; and

WHEREAS, the City Council desires to codify in Chapter 9 of the Code of the City of Fort Worth, the City's policies related to community facilities agreements;

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

SECTION 1.

Chapter 9 of the Code of the City of Fort Worth, Texas (2015), as amended, is hereby amended in its entirety to be as follows:

**ARTICLE I:
IN GENERAL**

§ 9-1 SHORT TITLE

This Ordinance shall be known as the Community Facilities Agreements Ordinance or CFA

Ordinance.

§ 9-2 REFERENCES TO THE POLICY FOR THE INSTALLATION OF COMMUNITY FACILITIES

All references to the Policy for the Installation of Community Facilities contained in the City Code or City policies after the effective date of this Ordinance shall mean and refer to this Ordinance.

§ 9-3 PURPOSE AND SCOPE

This Ordinance applies to the design, construction of or payment for public infrastructure, and the dedication of property by Developers in the City of Fort Worth and its extraterritorial jurisdiction, to ensure that all developments are adequately served by public infrastructure and that the public infrastructure is constructed according to City standards.

§ 9-4 DEFINITIONS

The following terms, when used in this Chapter, shall have the meanings respectively ascribed to them by this section:

BUSINESS DAY. An official work day from Monday through Friday, not including Saturdays, Sundays, or officially recognized holidays on which the City is closed for business.

CITY. The City of Fort Worth, Texas.

CITY CODE. The Code of the City of Fort Worth (2015), as amended.

CITY COUNCIL. The governing body of the City of Fort Worth.

CITY PARTICIPATION. The City's financial participation in a Community Facilities Agreement for the construction of public infrastructure.

COMMERCIAL DEVELOPMENT. The development of property for commercial and industrial use, or multi-family developments.

COMMUNITY FACILITIES. Streets, sidewalks, storm drains, water and sanitary sewer facilities, bridges, culverts, and other public infrastructure constructed pursuant to a Community Facilities Agreement or other agreement between the City and a Developer.

COMMUNITY FACILITIES AGREEMENT OR CFA. A contract between a Developer and the City for the construction of Community Facilities, on property in which the City has or will have an ownership or other legal interest, that the City requires to be constructed as a condition of plat or plan approval, or the issuance of a building permit.

COMPLIANCE REVIEW. The infrastructure plan review stage at which the City confirms that

the Design Engineer has revised the engineering plans to adequately address the comments received in the First Review, or Pre-Submittal Conference for Express CFA Review Projects, and ensures that the Submittal Package is complete and complies with the City's policies and specifications.

CONCURRENT CFAs. A CFA in which one or more of the Community Facilities being constructed by a Developer is dependent upon connecting to Community Facilities being constructed by a different Developer pursuant to a separate CFA.

CONSTRUCTION INSPECTOR. An employee or contractor of the City responsible for inspecting Community Facilities.

DESIGN ENGINEER. A professional engineer, licensed by the State of Texas, working for a Developer, who performs studies and tests, and prepares a complete set of plans, specifications, and contract documents for the construction of Community Facilities.

DEVELOPER. The owner, or the agent of an owner, of a tract of land that has been subdivided, is being subdivided, or requires the construction of public infrastructure as a condition of the approval of a plat, building permit, or other plans.

DEVELOPMENT. Property on or to which a Developer is extending or constructing public infrastructure to provide service to one or more existing or proposed lots, regardless of whether the property is located in an area that was previously developed, or the act of making improvements to property.

DEVELOPMENT COORDINATION OFFICE. A division of the Planning and Development Department responsible for managing Community Facilities Agreements.

ENGINEERING MANAGER. An employee of the City responsible for the contract administration of engineering related to Community Facilities.

ENGINEERING SHEET. Each page of plans, drawings or documents prepared by the Design Engineer for the design of Community Facilities.

EXPRESS CFA REVIEW. An expedited IPRC review process in which the Pre-Submittal Conference will serve as the First Review.

FIRST REVIEW. The infrastructure plan review stage at which engineering plans and other documents submitted by a Design Engineer are distributed to and simultaneously reviewed by a team of City staff and review comments are provided by City staff to the Design Engineer.

FUTURE IMPROVEMENTS AGREEMENT. An agreement between the City and a Developer through which the Developer pays to the City the cost of constructing one or more public improvements in lieu of constructing the public improvements.

GOVERNMENTAL ENTITY. The State, the federal government, or a political subdivision of the State or federal government. The term does not include a charter school.

GRADING AND EARTHWORK. The clearing, grubbing, or other disturbance or alteration of land, including bringing additional dirt or other fill to a site.

INFRASTRUCTURE PLAN REVIEW CENTER (IPRC). The division of the Transportation and Public Works Department responsible for the consultation, intake and review of public infrastructure plans that will be constructed pursuant to a CFA or other agreement between the City and a Developer.

INTERIOR STREET. A current or future street located within the boundaries of a Development.

OVERSIZING. When City Participation in a CFA is used to make the public improvements larger, longer or more enhanced than the Developer is required to construct.

PARENT PROJECT. The public infrastructure being constructed pursuant to a CFA that some or all of the public infrastructure constructed pursuant to a Phased CFA will directly connect to and is dependent upon.

PHASED CFA. Community Facilities being constructed by a Developer that will connect to public infrastructure being constructed in a Parent Project by the same Developer.

PRE-DEVELOPMENT CONFERENCE. An optional meeting a Developer may have with City staff to discuss a proposed Project to assist in determining the requirements for and feasibility of the Project.

PRE-SUBMITTAL CONFERENCE. A mandatory meeting between a Design Engineer and City staff prior to a Design Engineer or Developer being allowed to submit engineering plans for review that allows the Developer, the Design Engineer, and City staff to conduct a cursory review of the engineering plans for completeness and to identify any issues that may cause the engineering plans to be rejected or require major modifications.

PRIMARY PROJECT. Community Facilities being constructed by a Developer that will be connected to and relied upon by Community Facilities being constructed pursuant to a Concurrent CFA.

PROJECT. A Developer's plan to develop a specific area.

PROJECT MANAGER. An employee of IPRC responsible for managing a CFA Project for the City.

RECORD DRAWINGS. As-built drawings prepared by a Design Engineer after construction that show the public infrastructure that was constructed.

RESIDENTIAL DEVELOPMENT. The development of property for a residential use that does not require a certificate of occupancy issued by the City.

ROUGH PROPORTIONALITY. The construction of public infrastructure, dedication of land, or payment of fees that the City is authorized by state and federal law to require from a Developer based upon the information and studies required to be submitted to the City by the Developer.

STANDARD CONDITIONS. The document promulgated by the City entitled *Standard City Conditions of the Construction Contract for Developer Awarded Projects*.

STANDARD PLAN REVIEW. The engineering plan review process conducted by the Infrastructure Plan Review Center that encompasses the First Review and Compliance Review.

STREET. Any highway, alley, road, avenue, or bridge, and their respective appurtenances, dedicated or devoted to public use.

SUBMITTAL PACKAGE. Design plans and related documentation submitted by a Design Engineer to the Infrastructure Plan Review Center for review of a Project.

UNIT PRICE ORDINANCE. An ordinance adopted by the City Council that establishes unit prices and methods for calculating City Participation in a Community Facilities Agreement or Future Improvements Agreement.

§ 9-5 ADMINISTRATIVE REGULATIONS

Administrative guidelines may be adopted to implement and administer this Ordinance.

§ 9-6 AUTHORITY TO ESTABLISH IMPACT FEES RETAINED

As provided by state law, this Ordinance shall not diminish the authority or modify the procedures specified by Chapter 395 of the Texas Local Government Code.

§§ 9-7 – 9-99 Reserved.

ARTICLE II: DETERMINATION OF REQUIRED PUBLIC INFRASTRUCTURE

§ 9-100 ROUGH PROPORTIONALITY

- (a) As a condition of approval for a property development project, the City requires Developers to bear a portion of the costs of municipal infrastructure improvements by the making of dedications, the payment of fees, or the payment of construction costs.
- (b) Developers are required to submit to the City various studies and impact analyses as a condition of Development review. These submittals help to define the demand the

Development will have on public infrastructure systems and identify the extent and size of new infrastructure necessary to support the Development.

- (c) A Developer must deliver to the City studies and other information necessary for the City to make a Rough Proportionality determination. The information the Developer must submit to the City may include traffic impact analyses, water and wastewater loading analyses and comprehensive studies, site grading plans, assessments of existing site drainage, stormwater management plans, or other information necessary for the City to make a Rough Proportionality determination.
- (d) The City will determine Rough Proportionality in accordance with state and federal law.
- (e) Impact fees for transportation facilities assessed and collected in accordance with Chapter 30, Article VIII of the City Code and impact fees for water and wastewater facilities assessed and collected in accordance with Chapter 35, Article III, Division 2 of the City Code shall be charged by the City independently of a Developer's requirement to bear a roughly proportionate cost of municipal infrastructure improvements. Credits to impact fees may be available as provided by state law and the City Code.

§ 9-101 TRANSPORTATION IMPROVEMENTS

- (a) The Developer shall be responsible for the entire cost to design and construct Interior Streets for a Project unless there is City Participation for the Interior Streets in the Project.
- (b) Street improvements bordering or extending beyond the final plat boundaries of a Development may be required to be constructed based upon the City's Rough Proportionality determination. The requirements may include improvements to the intersections near the Development as determined by the City based upon the information required to be submitted by the Developer, the Rough Proportionality analysis, and the City's policies and plans.
- (c) Streets shall be required to be improved at the time of Development unless conditions preclude improvements as determined by the Director of the Transportation and Public Works Department. If street improvements cannot be made at the time of Development, the Developer may be required to deliver to the City the cost of the street improvements and execute a Future Improvements Agreement in accordance with this Ordinance.

§ 9-102 APPEAL OF ROUGH PROPORTIONALITY DETERMINATION

- (a) A Developer may appeal the City's Rough Proportionality determination to the City Council. The Developer must deliver a written notice of appeal to the Director of the Planning and Development Department. The Director of the Planning and Development Department will schedule the date of the appeal before the City Council. The Director of the Planning and Development Department may attempt to resolve the appeal with the Developer before the hearing before the City Council.

- (b) At the hearing before the City Council, the Developer and City staff may present testimony and other evidence and cross-examine witnesses. The City Council must uphold, reverse, or modify the Rough Proportionality determination made by the City's engineer within thirty (30) days following the final submission of any testimony or other evidence. The Developer may appeal the determination of the City Council in accordance with state law.

§§ 9-103 – 9-199 Reserved

**ARTICLE III:
INFRASTRUCTURE PLAN REVIEW PROCESS**

§ 9-200 INFRASTRUCTURE PLAN REVIEW CENTER

The IPRC will be responsible for managing the design and construction of Community Facilities on behalf of the City to ensure the Community Facilities comply with the City's policies and specifications. The IPRC is comprised of a team of professional engineers and administrative staff. The professional engineers serve as Project Managers for their assigned projects. The IPRC, in conjunction with City staff responsible for public infrastructure, will review and provide comments on engineering plans, contract documents, and other documents necessary for the construction of public infrastructure. The IPRC will accept final plans for construction, assist with public bidding, and coordinate with the Developer, the Design Engineer, the Construction Inspector, and City staff during construction of Community Facilities. Developers and Design Engineers must comply with the processes established by the IPRC for the submission, review, and approval of construction plans and related information by the IPRC.

§ 9-201 PRE-SUBMITTAL CONFERENCE

- (a) To schedule a Pre-Submittal Conference, a complete set of engineering plans and all detailed checklists must be fully completed, executed, and delivered to the IPRC in the form and manner specified by the IPRC.
- (b) City staff will review the engineering plans and provide the Design Engineer with comments on the plans before the Pre-Submittal Conference. Engineering plans shall be discussed by City staff and the Design Engineer during the mandatory Pre-Submittal Conference before the Design Engineer will be allowed to submit the applicable Submittal Package to IPRC for the first formal review.
- (c) A Project Manager will be assigned to the Project before the Pre-Submittal Conference.

§ 9-202 EXPRESS CFA REVIEW DETERMINATION

- (a) To be eligible for an Express CFA Review the following criteria must be met:
 - (1) Eight hundred feet or less of total Street and alley paving;

- (2) Eight hundred feet or less of either water or sewer infrastructure;
 - (3) Minor stormwater infrastructure, such as lateral and inlet reconstruction as determined by the IPRC Engineering Manager;
 - (4) Approximately, eight hundred feet or less of streetlights; and
 - (5) All required studies have been accepted and approved by the City.
- (b) To be considered for an Express CFA Review, the Design Engineer must have a meeting with the IPRC Engineering Manager prior to submitting plans for the Pre-Submittal Conference. At the meeting, the Engineering Manager will determine if the Project is eligible for Express CFA Review based upon the criteria in this section.
 - (c) The intent of the City is for this section to be interpreted broadly to allow Express CFA Review for as many Projects as possible, while providing staff with the discretion to determine which Projects meet the criteria in this section required for Express CFA Review. The City will make the final determination on whether a Project will need a Standard Review or Express CFA Review.
 - (d) A Project that does not meet the requirements for an Express CFA Review will have a Standard Review.

§ 9-203 FEES REQUIRED FOR FIRST REVIEW

- (a) All IPRC engineering plan review fees and the CFA application fee specified in section 2-321 of the City Code shall be paid to the City:
 - (1) before a Standard Review Project will be scheduled by IPRC for a First Review; or
 - (2) before an Express CFA Review Project will be scheduled by IPRC for a Pre-Submittal Conference.
- (b) For purposes of calculating the IPRC engineering plan review fee, all detail sheets, regardless of the number of pages, will be considered one page.
- (c) The IPRC engineering plan review fee will not apply to the following Engineering Sheets:
 - (1) Cover Sheet;
 - (2) Plat Notes; and
 - (3) General Notes.
- (d) When there is City Participation in the design of a Project, the IPRC engineering plan review

fees will not be charged to the Developer for the portion of the design that is attributable to the City Participation in the design of the Project as outlined in the written agreement between the City and the Developer.

§ 9-204 ACCEPTANCE OF PLANS

- (a) The City's signing of the cover sheet for the plans and specifications shall not constitute or be deemed to be a release of the responsibility and liability of the Developer, the Design Engineer, or the Developer and Design Engineer's officers, agents, employees, and subcontractors, for the accuracy and competency of the plans and specifications, including but not limited to surveys, location of subsurface investigations, design, working drawings and specifications, and other engineering documents.
- (b) The City's signing of the cover sheet for the plans and specifications shall not be deemed to be an assumption of such responsibility and liability by the City for any negligent act, error or omission in the conduct or preparation of the subsurface investigation, surveys, designs, working drawings and specifications, and other engineering documents by the Developer, the Design Engineer, or the Developer and Design Engineer's officers, agents, employees, and subcontractors, it being the intent of the Developer, Design Engineer and the City that acceptance by the City of the plans, contracts between the Developer and the Developer's contractors, payment, performance, and maintenance bonds, insurance certificates, and other documents signifies the City's acceptance only of the format of the documents and the general design concept of the Community Facilities.

§ 9-205 REQUIREMENTS OF CONTRACTORS

- (a) The contracts between the Developer and the Developer's contractors must incorporate the City's Standard Conditions.
- (b) The insurance policy from the Developer's contractor must be in the amounts required by the Standard Conditions and must name the City as an additional insured under all insurance policies.
- (c) The payment, performance, and maintenance bonds must be in the total amount of the construction contract between the Developer and the contractor. The bonds must meet the requirements of the City's Standard Conditions, Chapter 2253 of the Texas Government Code, and the Texas Insurance Code. The maintenance bond must cover the Community Facilities to be constructed against defects in materials and workmanship for a period of two (2) years after completion and final acceptance of the Community Facilities by the City.

§ 9-206 ADJUSTMENT OR DISTURBANCE OF INFRASTRUCTURE DURING MAINTENANCE BOND PERIOD

If a Project requires an adjustment, cut, relocation, or disturbance of public infrastructure that has been accepted by the City and is covered by a maintenance bond, the contractor for the Project must

provide the City with a new maintenance bond covering the scope of work being performed by the contractor that is valid for a period of two years from acceptance of the Community Facilities. Compliance with the City's Utility Construction Policy, if applicable, is required.

§ 9-207 DESIGN STANDARDS; REQUESTS FOR ALTERNATIVE SPECIFICATIONS

- (a) All engineering plans must be designed in accordance with state and federal law, and with all applicable City policies, design specifications, and design standards, including but not limited to the:
- (1) Subdivision Ordinance;
 - (2) Traffic Engineering Manual;
 - (3) Master Thoroughfare Plan;
 - (4) Installation Policy and Design Criteria for Water, Wastewater, and Reclaimed Water Infrastructure;
 - (5) Access Management Policy;
 - (6) Neighborhood and Community Park Dedication Policy;
 - (7) Form Based Codes;
 - (8) Design Overlay Zoning District requirements;
 - (9) Stormwater Criteria Manual; and
 - (10) Utility Construction Policy.
- (b) All engineering plans and CFA exhibits must identify the public infrastructure that the Community Facilities will connect to. If the public infrastructure that Community Facilities will connect to has not been constructed and accepted by the City, the engineering plans and CFA exhibits must identify that the public infrastructure has not been constructed.
- (c) Any request for an alternative to a City design specification must be submitted in writing to the City Engineer by the Design Engineer no later than seven (7) Business Days after the Design Engineer receives review comments from IPRC. The policies in subsection (a) may contain a separate appeal process that must be complied with by the Developer or Design Engineer.

§ 9-208 EXPIRATION OF ENGINEERING PLANS

Engineering plans accepted by the City shall be valid for a period of two (2) years. A CFA will

not be executed for engineering plans that are more than two (2) years old.

§§ 9-209 – 9-299 Reserved.

**ARTICLE IV:
COMMUNITY FACILITIES AGREEMENTS**

§ 9-300 CFA APPLICATION

Before submitting engineering plans to the Infrastructure Plan Review Center for First Review, or Compliance Review for an Express CFA Review Project, the Developer must submit a completed CFA application and the CFA application fee set forth in section 2-321 of the City Code to the Development Coordination Office.

§ 9-301 MATERIAL TESTING

- (a) The City shall determine the estimated amount of material testing necessary for a CFA based upon the engineering plans submitted to the City for First Review. The estimated cost of material testing will be provided by the City to the Developer.
- (b) The City will maintain a list of pre-approved material testing laboratories. The Developer must contract with material testing laboratories on the City's list. Material testing laboratories must provide copies of all test results directly to the City and the Developer. If the community facilities being constructed fail a test, the Developer must correct or replace the community facilities until the community facilities pass a retest. The Developer must pay the material testing laboratories directly for all material testing and retesting. The City will obtain proof from the material testing laboratories that the material testing laboratories have been paid in full by the Developer before the City will accept the Community Facilities that were tested.
- (c) The Developer shall pay the City's administrative material testing service fee set forth in section 2-321 of the City Code for each material test required for Community Facilities constructed pursuant to a CFA to reimburse the City for the City's cost incurred for material testing.

§ 9-302 INSPECTION FEES

The City will inspect Community Facilities being constructed to ensure that the Community Facilities are constructed in accordance with the engineering plans. The Developer must pay the construction inspection service fees set forth in section 2-321 of the City Code to the City to cover the City's cost for performing inspections.

§ 9-303 WATER TESTING LAB FEES

- (a) The City will perform bacterial testing on water mains, firelines and fire hydrants being constructed by the Developer. The Developer must pay the water testing lab fee set forth in

section 2-321 of the City Code to the City to cover the City's cost for the tests. The water testing lab fee does not include the time required for the City's inspectors to collect and deliver water samples, which will be included in the construction inspection service fee.

- (b) Tests will be performed on every:
 - (1) one thousand feet of water mains;
 - (2) dead-end of a water main;
 - (3) branch at a minimum of one joint of pipe for water mains;
 - (4) fireline; and
 - (5) fire hydrant.
- (c) Two consecutive passing bacterial tests must be obtained before the City can accept the water mains, firelines and fire hydrants.

§ 9-304 CALCULATION AND PAYMENT OF ESTIMATED INSPECTION AND TESTING FEES

- (a) The City will calculate the estimated cost of administrative material testing service fees, construction inspection service fees, and water testing lab fees based on the engineering plans and construction schedule submitted to IPRC for First Review. The City will deliver a copy of the written estimate of the fee to the Developer with the comments from IPRC on the engineering plans submitted for First Review.
- (b) The Developer must pay the estimated cost of the administrative material testing service fees, construction inspection service fees, and water testing lab fees to the City before the CFA is executed. If there is City Participation in the Project; the City will be responsible for administrative material testing service fees, construction inspection service fees, and water testing lab fees attributable to the City Participation.

§ 9-305 STANDARD FORM OF CONTRACTS; CHANGES

The City uses standardized forms for Community Facilities Agreements and financial guarantees. The Developer may request changes to the language in the forms. The City is not required to accept the changes requested by the Developer.

§ 9-306 TERM OF THE CFA

- (a) The term for completing construction of Community Facilities pursuant to a CFA shall be two (2) years. The City and the Developer may agree upon a term of less than two (2) years.

- (b) If construction of the Community Facilities has commenced before the end of the term, the CFA may be amended to extend the term for up to one (1) additional year. The maximum term of a CFA may not be more than three (3) years.
- (c) If construction of Community Facilities pursuant to a CFA has not begun ninety days before the end of the term, the City may send written notice to the Developer of the City's intent to use the Developer's financial guarantee to construct the Community Facilities. If the Developer and the City do not agree on an extension of the term within sixty days before the term expires or if the term of the CFA is already three years, the City may use the Developer's financial guarantee to construct all or some of the Community Facilities contemplated by the CFA.

§ 9-307 CFA AMENDMENTS AND ASSIGNMENTS

All requests to amend or assign an executed CFA must be submitted by the Developer to the Development Coordination Office. The Developer must pay the CFA amendment fee set forth in section 2-321 of the City Code to the City before an amendment or a consent to an assignment of a CFA will be executed by the City. An amendment or assignment of a CFA shall be at the discretion of the City.

§ 9-308 FINANCIAL GUARANTEE REQUIRED

The Developer must provide the City with adequate financial security to guarantee the Developer's obligations under the CFA, which include, but are not limited to, the Developer's obligations to construct all the Community Facilities contemplated by the CFA and the payment by the Developer to all contractors and material suppliers with whom the Developer has a contract for the Project. No construction of Community Facilities shall ever begin until the financial guarantee has been delivered to and approved by the City and the CFA has been executed by the Developer and the City.

§ 9-309 TYPES OF FINANCIAL GUARANTEES

- (a) One or more of the following types of financial guarantees shall be provided by the Developer to the City to guarantee the Developer's obligations under the CFA:
 - (1) *Development Bond.* A development bond in the amount of 100% of the total amount of the Developer's share of the construction costs in the CFA. The development bond shall be executed by the Developer and guarantee that the Developer will construct the Community Facilities and pay all contractors, material suppliers, and equipment suppliers for the Project. The development bond must meet the requirements of Chapter 2253 of the Texas Local Government Code, and the Texas Insurance Code. The development bond may be required to cover the City's Participation in the CFA if the construction contracts are not publicly bid;
 - (2) *Cash Deposit.* A cash deposit with the City in the amount of 125% of the total amount of

the Developer's share of construction costs in the CFA. The additional 25% above the Developer's share of the construction costs shall cover charge orders to the CFA. The City will not pay any interest on cash deposits made with the City;

- (3) *Letter of Credit.* A letter of credit in the amount of 125% of the total amount of the Developer's share of the construction costs in the CFA. The additional 25% above the Developer's share of the construction costs shall cover change orders to the CFA. The expiration date of a Letter of Credit shall be no less than ninety (90) days after the Term of the CFA expires;
- (4) *Escrow Agreement.* An escrow agreement between the City, the Developer and a financial institution or escrow agent in the amount of 125% of the Developer's share of the construction costs in the CFA. The additional 25% above the Developer's share of the construction costs shall cover change orders to the Community Facilities Agreement;
- (5) *Completion Agreement.* The completion agreement provides that the plat will not be filed until the Community Facilities are accepted by the City and the Developer has submitted proof to the City that the Developer has paid all contractors and material suppliers. Completion Agreements will not be allowed:
 - i. for Community Facilities being constructed outside the boundaries of a plat;
 - ii. for Community Facilities constructed inside the boundaries of a plat, when the plat is only conveying right-of-way or an easement;
 - iii. when there is City Participation in a CFA; or
 - iv. for a Primary Project if there is a Concurrent CFA; and
- (6) *Statement of Appropriated Funds.* At the discretion of the City, written proof from a Governmental Entity that sufficient funding for the costs associated with the Community Facilities has been approved, appropriated, and set aside may be used as a financial guarantee. Only a Governmental Entity shall be allowed to use a statement of appropriated funds as a financial guarantee for a CFA.

(b) All financial guarantees must be on forms prescribed by or acceptable to the City.

§ 9-310 REDUCTIONS IN FINANCIAL GUARANTEES

- (a) The Developer may request a reduction in the amount of the financial guarantee for a CFA if the initial term of the CFA is more than four (4) months.
- (b) No more than two (2) reductions of the financial guarantee may be made for any CFA.
- (c) The first reduction in a financial guarantee may only be made after:

- (1) One-third of the value of Community Facilities being constructed pursuant to the CFA have been verified by the City's inspectors to have been constructed in accordance with the engineering plans; and
 - (2) The City has received an affidavit and release of lien executed by the contractor indicating that the contractor has been paid by the Developer and the contractor has paid all subcontractors and material suppliers for one-third of the value of the Community Facilities being constructed pursuant to the CFA.
- (d) After the City has confirmed that one-third of the Community Facilities have been constructed in accordance with the engineering plans and the City has received an affidavit and release of lien from the contractor in the amount of one-third of the value of the Community Facilities being constructed pursuant to the CFA, then the financial guarantee may be reduced in an amount that does not exceed one-third of the amount of the financial guarantee.
- (e) The second reduction in a financial guarantee may only be made after:
- (1) Two-thirds of the value of Community Facilities being constructed pursuant to the CFA have been verified by the City's inspectors to have been constructed in accordance with the engineering plans; and
 - (2) The City has received an affidavit and release of lien executed by the contractor indicating that the contractor has been paid by the Developer and the contractor has paid all subcontractors and material suppliers for two-thirds of the value of the Community Facilities being constructed pursuant to the CFA.
- (f) After the City has confirmed that two-thirds of the Community Facilities have been constructed in accordance with the engineering plans and the City has received an affidavit and release of lien from the contractor in the amount of two-thirds of the value of the Community Facilities being constructed pursuant to the CFA, then the financial guarantee may be reduced in an amount that does not exceed two-thirds of the amount of the financial guarantee if more than thirty calendar days have passed since the first reduction in the financial guarantee.
- (g) The Developer must pay the CFA amendment fee set forth in section 2-321 of the City Code to the City before a reduction in a financial guarantee will be authorized by the City.

§ 9-311 REDUCTIONS IN FINANCIAL GUARANTEES FOR STREETLIGHTS

- (a) In addition to the reductions in financial guarantees allowed by section 9-310, a Developer may request a reduction in the financial guarantee when the only Community Facilities remaining to be constructed in a Residential Development are streetlights.
- (b) To be eligible for a reduction in the financial guarantee under this section:

- (1) The construction and final inspection of all Community Facilities in the CFA, except streetlights, must be completed;
 - (2) The construction of all streetlights must be completed and the streetlights only require a connection to a permanent source of electrical power and final inspection by the City;
 - (3) The contract between the Developer and the Developer's contractor for the construction of streetlights must not include the construction of any other Community Facilities;
 - (4) The remaining financial guarantee for the CFA must cover one hundred twenty-five percent of the cost of constructing the streetlights; and
 - (5) The Developer shall pay to the City the CFA amendment fee set forth in section 2-321 of the City Code unless:
 - i. a separate financial guarantee for the streetlights, other than a completion agreement, was provided to the City when the CFA was executed; or
 - ii. the Developer previously provided a separate financial guarantee for the streetlights, other than a completion agreement, as authorized by this Ordinance.
- (c) The Developer shall connect the streetlights to the electricity provided by an electric utility company within thirty days of an electric utility company providing power to the Development.
- (d) The streetlights must pass a final inspection before the streetlights will be accepted by the City and the financial guarantee for the streetlights is released by the City.
- (e) A reduction in a financial guarantee for streetlights:
- (1) allows the plat hold for the CFA to be released;
 - (2) allows building permits to be issued if all other requirements of the City for the issuance of building permits have been met; and
 - (3) allows the Community Facilities being constructed pursuant to a CFA, other than the streetlights, to be accepted by the City when all requirements for approval of those Community Facilities have been met.

§ 9-312 REPLACING A COMPLETION AGREEMENT WITH A DIFFERENT FINANCIAL GUARANTEE

- (a) The Developer may request that a completion agreement be replaced with a different type of financial guarantee.

- (b) The completion agreement may only be replaced after:
 - (1) The value of the Community Facilities that have previously been constructed pursuant to the CFA have been verified by the City's inspectors to have been constructed in accordance with the engineering plans; and
 - (2) The City has received an affidavit and release of lien executed by the contractor indicating that the contractor has been paid by the Developer and the contractor has paid all subcontractors and material suppliers for the value of the Community Facilities that have previously been constructed pursuant to the CFA.
- (c) The financial guarantee that replaces the completion agreement must be in the amount of one hundred twenty five percent of the value of the remaining Community Facilities to be constructed pursuant to the CFA. If a development bond is used, the bond must be in the amount of one hundred percent of the value of the remaining Community Facilities to be constructed pursuant to the CFA.
- (d) The Developer must pay the CFA amendment fee to the City before the completion agreement may be replaced with another type of financial guarantee.

§ 9-313 PHASED CFAS

- (a) A Phased CFA allows a Developer constructing a multi-phased Development to construct subsequent phases of the Development before construction of the Community Facilities for the previous phases have been completed and accepted by the City. A Phased CFA is also allowed when one Developer is constructing two different Developments and would like to simultaneously construct the Community Facilities in the two Developments that will be connected to each other.
- (b) The Developer or Design Engineer must notify the City on the CFA application and on the IPRC Checklist that the CFA will be a Phased CFA.
- (c) The IPRC plans for a Phased CFA may be reviewed simultaneously with the review of the plans for the Parent Project regardless of whether the Parent Project includes on-site or off-site Community Facilities.
- (d) The Parent Project and the Phased CFA must be constructed by the same Developer.
- (e) Any type of financial guarantee a Developer is authorized by this Ordinance to use may be used for a Phased CFA.
- (f) If the Phased CFA is for a Residential Development, the City will not record the final plat related to the Phased CFA until the Community Facilities being constructed pursuant to the Phased CFA have been constructed and accepted by the City.

- (g) If the Phased CFA is for a Commercial Development, the City will not issue a Certificate of Occupancy for any buildings until the Community Facilities being constructed pursuant to the Phased CFA have been completed and accepted by the City.
- (h) The Developer must notify all of the Developer's contractors performing work on the Phased CFA that the Developer has elected to construct a Phased CFA, the provisions relating to Phased CFAs in the Community Facilities Agreement, the risks associated with a Phased CFA, and that the City will not bear any responsibility for the Developer's decision to proceed with a Phased CFA. The Developer will be responsible for resolving any disputes between contractors performing work on the Parent Project and contractors performing work on the Phased CFA. Technical conflicts relating to connection of the Community Facilities between the Parent Project and the Phased CFA are part of the at-risk nature of a Phased CFA and the Developer must resolve all conflicts.
- (i) A Developer may not make the final connection of the Community Facilities in the Phased CFA to the Community Facilities in the Parent Project until the Community Facilities in the Parent Project have been constructed and accepted by the City and the City has consented to the Developer making the connection.
- (j) The Developer of a Phased CFA must assume all risks associated with a Phased CFA and must indemnify, defend and hold the City harmless for the construction of the Community Facilities pursuant to a Phased CFA and the Developer's decision to construct Community Facilities pursuant to a Phased CFA.

§ 9-314 CONCURRENT CFAS

- (a) A Concurrent CFA allows a Developer to construct Community Facilities that will connect to and are dependent upon Community Facilities being constructed by another Developer, before the construction and acceptance by the City of the Community Facilities being constructed by the other Developer.
- (b) The Developer or Design Engineer must notify the City on the CFA application and the IPRC checklist that the CFA will be a Concurrent CFA.
- (c) The Primary Project must have reached Compliance Review before the engineering plans for a Concurrent CFA may be submitted to IPRC for Pre-submittal Review.
- (d) A Concurrent CFA will not be allowed if the financial guarantee for the Primary Project is a completion agreement. Any type of financial guarantee a Developer is authorized by this Ordinance to use may be used for a Concurrent CFA.
- (e) If the Concurrent CFA is for a Residential Development, the City will not record the final plat related to the Concurrent CFA until the Community Facilities being constructed pursuant to the Concurrent CFA have been constructed and accepted by the City.

- (f) If the Concurrent CFA is for a Commercial Development, the City will not issue a Certificate of Occupancy for any buildings until the Community Facilities being constructed pursuant to the Concurrent CFA have been completed and accepted by the City.
- (g) The Developer of a Concurrent CFA must acknowledge in writing to the City that due to the Developer's election to proceed with a Concurrent CFA, the potential exists for technical, delivery, acceptance, or performance problems which could result in the Developer having to remove and reconstruct, at the Developer's expense, the Community Facilities constructed under the Concurrent CFA.
- (h) The Developer of a Concurrent CFA must agree that the Developer will resolve all disputes with the Developer of the Primary Project and between contractors and subcontractors performing work on the Concurrent CFA and contractors and subcontractors performing work on the Primary Project.
- (i) The Developer of a Concurrent CFA must execute a written agreement with the Developer of the Primary Project that includes the following provisions:
 - (1) Provides access to the Developer of the Concurrent CFA onto property owned or controlled by the Developer of the Primary Project that is necessary for the construction of the Community Facilities pursuant to the Concurrent CFA;
 - (2) Stipulates that the Developer of the Concurrent CFA and the Developer of the Primary Project must resolve all disputes regarding the design and construction of the Concurrent CFA and the Primary Project; and
 - (3) Provides that the Developer of the Primary Project must notify the Developer of the Concurrent CFA of all changes to the design or construction of the Community Facilities in the Primary Project, including any field changes.
- (j) The written agreement between the Developer of the Concurrent CFA and the Developer of the Primary Project does not have to be delivered to the City for review.
- (k) The Developer of a Concurrent CFA must certify to the City in an attachment to the Developer's CFA that the written agreement required by subsection (i) has been executed.
- (l) The Developer of a Concurrent CFA must notify all of Developer's contractors performing work on the Concurrent CFA that:
 - (1) the Developer has elected to construct Community Facilities pursuant to a Concurrent CFA;
 - (2) the provisions relating to Concurrent CFAs in the Community Facilities Agreement;

- (3) the risks associated with a Concurrent CFA; and
 - (4) the City will not bear any responsibility for the Developer's decision to construct Community Facilities pursuant to a Concurrent CFA.
- (m) A Developer shall not make the final connection of Community Facilities constructed pursuant to a Concurrent CFA to Community Facilities in the Primary Project until the Community Facilities in the Primary Project have been constructed and accepted by the City and the City has consented to Developer making the connection.
- (n) The Developer of a Concurrent CFA must assume all risks associated with a Concurrent CFA and must indemnify, defend and hold the City harmless for the construction of the Community Facilities pursuant to a Concurrent CFA and the Developer's decision to construct Community Facilities pursuant to a Concurrent CFA.

§ 9-315 EXECUTION OF CFAS BASED ON ESTIMATES OF PROBABLE COSTS

- (a) At the discretion of the Project Manager, a CFA may be executed based upon the Design Engineer's estimate of probable costs before the engineering plans for the CFA have been accepted by the City. The engineering plans must have completed First Review before a CFA may be executed based upon the Design Engineer's estimate of probable costs.
- (b) The Project Manager and City infrastructure Departments shall review the cost estimates and must agree with the Design Engineer's estimate of probable costs before the CFA is executed.
- (c) The Developer's financial guarantee must be in the amount of one hundred fifty percent (150%) of the Design Engineer's estimate of probable costs.
- (d) Before a pre-construction meeting can be scheduled, the Developer must amend the financial guarantee if the financial guarantee is less than one hundred twenty-five percent (125%) of the cost of the Community Facilities based upon the bids received by the Developer's contractors.
- (e) If the CFA exhibits must be revised or the cost of the public infrastructure for the engineering plans accepted by the City is more than the amount in the CFA, the CFA must be amended and the Developer shall pay the CFA amendment fee.

§ 9-316 PROCUREMENT AND AWARD OF CONSTRUCTION CONTRACTS FOR COMMUNITY FACILITIES WITHOUT CITY PARTICIPATION

If there is no City Participation in a CFA, the Developer may procure the construction contracts by public or private bids, or any other lawful manner.

§ 9-317 REQUIREMENTS FOR CONTRACTORS CONSTRUCTING COMMUNITY FACILITIES

- (a) Community Facilities must be constructed by contractors that:
 - (1) are pre-qualified by the City, where required;
 - (2) are licensed, bonded, and insured; and
 - (3) have the proper permits required by the City Code and policies.
- (b) If the Developer provides a development bond as the financial guarantee for a CFA that does not involve City Participation, the Developer's contractors will not be required to provide the City with payment and performance bonds, but must provide a maintenance bond for the Community Facilities.

§ 9-318 REQUIREMENTS FOR A NOTICE TO PROCEED TO CONSTRUCTION

The following items are required before the City will issue a notice to proceed to construction for a CFA:

- (a) A complete set of engineering plans accepted by the City;
- (b) Proof of conveyance of all easements and temporary construction easements for the Community Facilities, and proof that all required permits have been issued;
- (c) A CFA executed by the City and the Developer;
- (d) A financial guarantee acceptable to the City;
- (e) Payment of all required fees;
- (f) Complete Contract Document Books that have been accepted by the City;
- (g) A maintenance bond in the amount of the construction contracts executed in the name of the City covering Community Facilities to be constructed against defects in materials and workmanship for a period of two (2) years after completion and acceptance of the Community Facilities by the City; and
- (h) Payment and performance bonds provided by the contractors, or a development bond provided by the Developer for a CFA that does not have City Participation which eliminates the requirement that the contractors provide payment and performance bonds as specified in section 9-317.

§§ 9-319 – 9-399 Reserved.

**ARTICLE V:
CITY PARTICIPATION IN COMMUNITY FACILITIES AGREEMENTS**

§ 9-400 PURPOSE OF CITY PARTICIPATION

- (a) City Participation in a CFA may be used to enlarge the scope of the Project beyond what the Developer is responsible for constructing or as an economic incentive.
- (b) City Participation in a CFA, allows the City to:
 - (1) Take advantage of the Developer's construction mobilization, allowing for faster delivery of public infrastructure;
 - (2) Increase the extent or capacity of the public infrastructure beyond what the Developer is responsible for constructing; or
 - (3) Replace or improve existing public infrastructure that is deficient or in a deteriorating condition.

§ 9-401 PUBLIC PROCUREMENT REQUIREMENTS

The City must comply with state laws relating to the expenditure of public funds. No City Participation will be paid for work performed prior to a CFA being executed or for work performed that was not procured in accordance with state law. Contractors working pursuant to a CFA that includes City Participation must be selected in accordance with state laws relating to the expenditure of public funds and the procurement of contractors for public works projects. The method of selection may include lowest responsive and responsible bid, or best value, as allowed by state law.

§ 9-402 CALCULATING CITY PARTICIPATION

City Participation in a CFA shall be calculated in accordance with the City's Unit Price Ordinance.

§ 9-403 LIMITS ON CITY PARTICIPATION

City Participation is limited to the availability of City funds and subject to approval of the City Council when required. The City's obligation to participate in a CFA will terminate if construction of the Community Facilities is not completed within the term of the CFA, including any extension period.

§ 9-404 CITY'S WAGE RATES

A Developer must pay wages that meet or exceed the City's currently adopted wage rates for all Community Facilities that have City Participation.

§ 9-405 AWARD OF PUBLICLY BID CONTRACTS WITH CITY PARTICIPATION

- (a) All public bids involving City Participation in a CFA will be opened at the Fort Worth City Hall or an alternative location designated by the City Manager. The City's Project Manager, or City staff designated by the Project Manager, will attend the bid opening.
- (b) Before construction contracts for a CFA that is publicly bid are awarded, the Developer must deliver the following items to the City:
 - (1) A bid tabulation showing the bid proposals of all prospective bidders;
 - (2) A publisher's affidavit from the newspaper showing that the notice of public bidding was properly advertised;
 - (3) A letter of recommendation from the Developer for contract award; and
 - (4) A breakdown of the Developer cost and City Participation based upon the bid items contained in the winning bid.

§ 9-406 CHANGE ORDERS

All change orders must be approved in writing by the Developer and the contractor and then submitted to the City for approval. If a change order increases City Participation by more than the current amount authorized by the City Council for administrative approval, the change order must be submitted to the City Council for approval. The additional City Participation is contingent upon compliance with public procurement laws, the approval of the City Council, and the availability of funds.

§§ 9-407 – 9-499 Reserved.

ARTICLE VI: ALTERNATIVE METHODS OF DELIVERING COMMUNITY FACILITIES

§ 9-500 FUTURE IMPROVEMENTS IN LIEU OF CONSTRUCTION

- (a) At the discretion of the City, the immediate construction of the public infrastructure required for a Development may be infeasible or impractical until a later date for reasons including, but not limited to:
 - (1) Scheduling or other conflicts with other planned public improvements the City or other entities may be making in the same general area; or
 - (2) The public infrastructure creating a potentially hazardous condition if they are constructed immediately.
- (b) To accommodate the later construction of the public improvements, the City may require a Developer to enter in a Future Improvements Agreement in lieu of the Developer constructing

the public improvements.

- (c) The Design Engineer must deliver to the City an estimated construction cost for the public infrastructure required for the Development based upon the City's Unit Price Ordinance.
- (d) After the City and Developer agree to the estimate, the Future Improvements Agreement will be executed by the City and the Developer and the Developer shall deliver a check to the City in the amount of one hundred twenty-five percent (125%) of the total estimated construction costs for the Community Facilities.
- (e) After the Future Improvements Agreement has been executed by the City and the Developer, and the Developer has paid the City the amount required by this section, the Developer's requirement to construct public infrastructure for the Development contained in the Future Improvements Agreement shall be met unless the Developer makes changes to the design of the Development that would require additional or different public infrastructure.

§ 9-501 WATER MISCELLANEOUS CONTRACTS

The Water Department's miscellaneous contract process is the City's in-house option for design and construction of water or wastewater infrastructure. The miscellaneous contract process is included in the City's Installation Policy and Design Criteria for Water, Wastewater and Reclaimed Water Infrastructure. If public improvements are accepted by the City for the miscellaneous contract process, all required fees must be paid to the City before any plat holds related to a CFA may be released.

§§ 9-502 – 9-599 Reserved.

ARTICLE VII: CONSTRUCTION, FINAL INSPECTION, AND CFA CLOSEOUT

§ 9-600 CONSTRUCTION NOTICE

For all construction activities in the right-of-way that impact traffic, the Developer must provide notice to residences and businesses. The notice must be posted by the Developer in the manner, form, and times proscribed by the City.

§ 9-601 FINAL INSPECTIONS

- (a) Except as otherwise provided in this Ordinance, a final inspection will not be scheduled until:
 - (1) the Community Facilities are fully constructed as determined by the Construction Inspector;
 - (2) all required material testing has been completed with a passing result and delivered to

the Construction Inspector;

- (3) redline engineering sheets completed by the contractors showing differences between the engineering plans and the Community Facilities that have been constructed have been delivered to the Construction Inspector; and
 - (4) compliance with the rules established by the Transportation and Public Works Department's Construction Office for obtaining a final inspection.
- (b) Any deficiencies in or adjustments needed to the Community Facilities that are found by the Construction Inspector during a final inspection shall be listed on a punch list. Once all of the items on the punch list have been addressed and closed, a follow-up final inspection may be scheduled with the Construction Inspector.
 - (c) Once the construction passes final inspection, an acceptance letter is initiated by the Construction Inspector. The acceptance letter starts the closeout of the CFA and the process by which the City accepts and capitalizes the Community Facilities.

§ 9-602 REQUIREMENTS FOR PROJECT CLOSEOUT

The following items must be delivered to the City before a CFA can be closed out:

- (a) An affidavit of bills paid and final lien waiver executed by the Developer's contractors on forms provided by the City;
- (b) Consent of surety forms for the payment and performance bonds executed by the surety company issuing the bonds; and
- (c) Record Drawings completed by the Design Engineer.

§ 9-603 ACCURACY OF RECORDS

- (a) The Developer, the Developer's contractors, and the Design Engineer must ensure that all changes to the Record Drawings have been made by making adequate and proper entries on each page of the specifications, each sheet of engineering plans, and on any other documents where such notations are required to reflect the change properly.
- (b) All changes to the Record Drawings shall be made in a manner that all information contained in the Record Drawings may be reasonably relied upon.
- (c) In order to ensure the accuracy of records, all redline changes or entries should be made within twenty-four (24) hours after the changes have occurred.
- (d) The Developer, the Developer's contractors, and the Design Engineer must provide factual information regarding all aspects of the Community Facilities that were constructed to enable

future modifications of the Community Facilities to be made without extensive site measurement, investigation, or examination.

§ 9-604 RECONCILIATION

- (a) The Development Coordination Office will reconcile the final actual construction costs with the costs reflected in the CFA.
- (b) The Development Coordination Office will reconcile the actual cost of administrative material testing service fees, construction inspection service fees, and water testing lab fees with the estimated fees paid by the Developer. If the actual costs of the fees is more than the estimated payments made by the Developer, the Developer must pay the difference to the City before the improvements will be accepted by the City. If the actual costs of the fees is less than the estimated payments made by the Developer, the City will refund the difference to the Developer. If the difference between the actual costs and the estimated payments made by the Developer for administrative material testing service fees, construction inspection service fees, and water testing lab fees is less than fifty dollars (\$50.00), the City will not issue a refund and the Developer will not be responsible for paying the difference.
- (c) If the Developer owes the City administrative material testing service fees, construction inspection service fees, or water testing lab fees, the fees shall be paid before the financial guarantee can be released by the City. Any refunds for administrative material testing service fees, construction inspection service fees, or water testing lab fees owed by the City to the Developer shall be processed after reconciliation of the CFA is complete.
- (d) Once the CFA has been fully reconciled and all fees have been paid to the City, the financial guarantee for the CFA will be released.

§ 9-605 MAINTENANCE AGREEMENTS

The City may allow a Developer to install Community Facilities that are enhanced beyond the City's standard specifications, including but not limited to, stamped or colored concrete sidewalks, lights within sidewalks or intersections, designs in the street paving, or decorative streetlights. If enhanced public infrastructure is authorized by the City, the Developer must execute a maintenance agreement with the City by which the Developer agrees to maintain the enhanced Community Facilities. The maintenance agreement must be executed by the Developer before the Community Facilities are constructed.

§§ 9-606 – 9-699 Reserved.

SECTION 2.

Chapter 2, Article 4, Division 4, Section 2-148(c) of the Code of the City of Fort Worth (2015), as amended, is amended to be and read as follows:

- (c) The City Engineer shall be a professional engineer registered and licensed to practice in the State of Texas. If the Director of the Department of Transportation and Public Works is a licensed professional engineer in the State of Texas, he or she may serve as the City Engineer or he or she may appoint a duly licensed employee of the Department to serve as the City Engineer. The City Engineer shall approve or accept all plans and specifications relating to the construction, reconstruction, repair or maintenance of public or private facilities located on, under, above or along City property and rights-of-way, such approval or acceptance to be evidenced by his or her signature on such plans and specifications. No such work shall be commenced unless and until such approval or acceptance has been obtained.

SECTION 3.

Chapter 2, Article XII, Section 2-321 of the Code of the City of Fort Worth, Texas (2015), as amended, is amended to add the following fees:

Inspection and Testing Fees		
a. Administrative Material Testing Service Fee	\$24.50 per test	
b. Construction Inspection Service Fee	\$245.00 per day	
c. Water Testing Lab Fee	\$30.00 per test	
IPRC Engineering Plan Review Fee	\$312.00 per page	The total number of detail pages shall be considered one page

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), 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 conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of the Code of the City of Fort Worth, or any other ordinances of the

City, that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance, but may be prosecuted until final disposition by the courts.

SECTION 7.

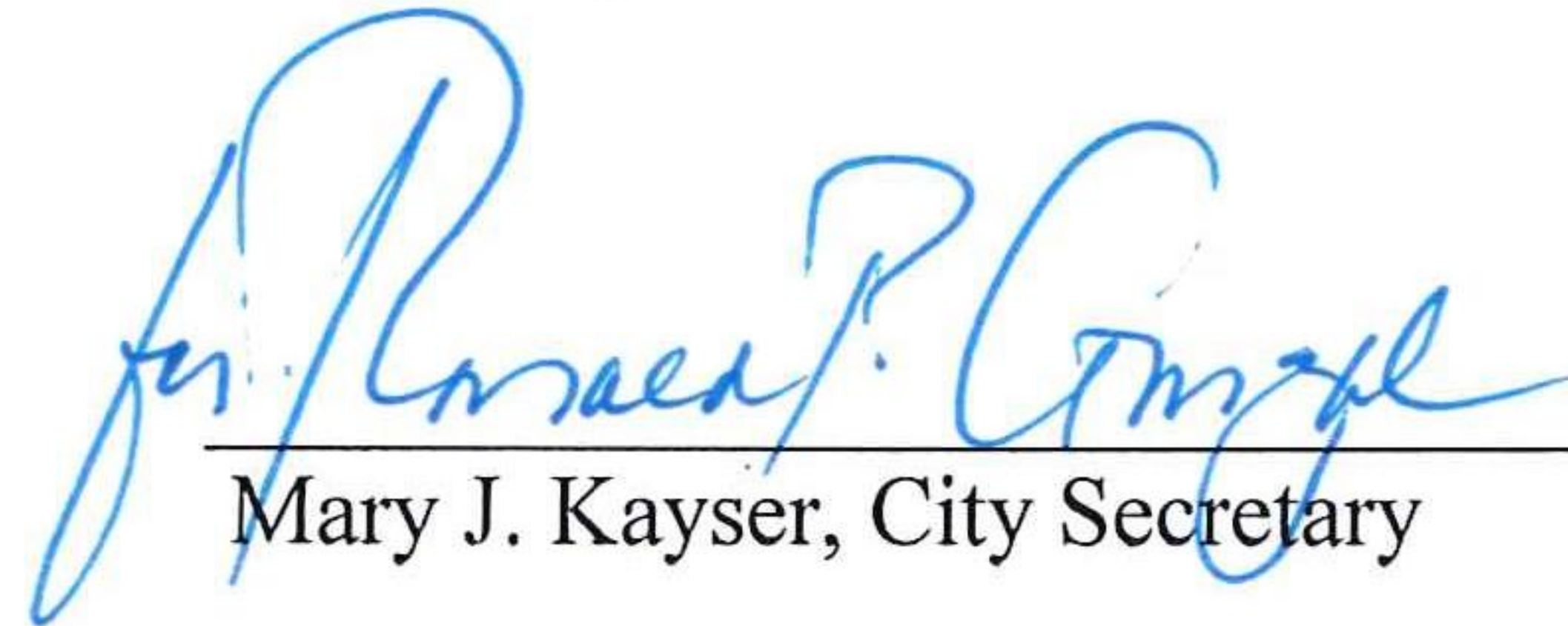
This ordinance shall take effect on June 1, 2019, and it is so ordained.

APPROVED AS TO FORM AND LEGALITY:

ATTEST:



Richard A. McCracken
Assistant City Attorney



Mary J. Kayser, City Secretary

ADOPTED: May 7, 2019

EFFECTIVE: June 1, 2019

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 5/7/2019 - Ordinance No. 23656-05-2019

DATE: Tuesday, May 7, 2019

REFERENCE NO.: G-19532

LOG NAME: 06POLICY FOR INSTALLATION OF COMMUNITY FACILITIES

SUBJECT:

Conduct Public Hearing and Adopt Ordinance Amending the Code of the City of Fort Worth (2015) by Amending Chapter 9 to Establish Regulations for Community Facilities Agreements; Amending Chapter 2, Section 2-148 to Provide for the Acceptance of Engineering Plans for Community Facilities by the City Engineer; and Amending Chapter 2, Section 2-321 to Adopt Material Testing, Inspection, Water Testing, and Engineering Plan Review Fees for Community Facilities Agreements (ALL COUNCIL DISTRICTS)

RECOMMENDATION:

It is recommended that the City Council conduct a public hearing and adopt the attached Ordinance amending the Code of The City of Fort Worth (2015), as amended, by:

1. Amending Chapter 9 to established regulations for community facilities agreements;
2. Amending Chapter 2, Article 4, Division 4, Section 2-148(c) to provide for the acceptance of engineering plans for community facilities by the City Engineer; and
3. Amending Chapter 2, Article XII, Section 2-321 to adopt administrative material testing service fees, construction inspection service fees, water testing lab fees, and IPRC engineering plan review fees for community facilities agreements.

DISCUSSION:

City staff is recommending that the City Council adopt new regulations for the design and construction of public infrastructure pursuant to community facilities agreements which will now be codified in Chapter 9 of the City Code and referred to as the Community Facilities Agreements Ordinance. In addition, City staff is recommending the City Council adopt corresponding amendments to other sections of the City Code that are necessary due to the enactment of the new regulations relating to community facilities.

The Community Facilities Agreements Ordinance will apply to the design, construction of or payment for public infrastructure, and the dedication of property, by developers in the City of Fort Worth and its extraterritorial jurisdiction, to ensure that all developments are adequately served by the public infrastructure and that the public infrastructure is constructed according to City standards.

On March 20, 2001, City Council approved major revisions to the Policy for the Installation of Community Facilities (" Policy"). Minor revisions to the Policy were subsequently adopted by the City Council several times between 2001 and 2008.

In 2016, City leaders launched the Infrastructure Delivery Process Improvement project to identify areas of needed improvements related to contracting and acceptance of developer-led infrastructure construction. The goal was to reduce lead times, redundancy and variation, eliminate bottlenecks, improve communication and expedite processing activities. This exercise lead to a team of representatives from

the development community working with City staff to commence the review of multiple policies, design criteria, and construction specifications associated with public infrastructure construction in an effort to aid both customers and staff across the organization in ensuring consistency and clarity among policies that, in some cases, had not been updated in decades.. The affected policies include; Installation Policy and Design Criteria for Water, Wastewater and Reclaimed Water Infrastructure, Utility Construction Policy, and the Transportation Engineering Manual and ordinances: Community Facilities Agreements Ordinance, and the Unit Price Ordinance. Additionally, City Code Chapter 30 Streets and Sidewalks and the Subdivision Ordinance will be presented for update as a result of coordination and consolidation related to the guidance documents listed above.

City staff is recommending the Policy for the Installation of Community Facilities be codified in the City Code. Major changes include the following:

1. Removing infrastructure design and specification requirements and placing them in the corresponding City department policies.
2. Eliminating the border streets policy and adopting a new transportation improvement requirement.
3. Allowing for the elimination of the double bonding requirement for community facilities agreements with no City Participation if the Developer provides a development bond.
4. Adopting a new process for material testing for public infrastructure constructed pursuant to community facilities agreements. Developers will now make payments directly to the City's pre-approved material testing laboratories. A new administrative material testing service fee in the amount of \$24.50 per test will be paid by developers to the City for the City's cost in administering the material testing program.
5. Revising the inspection fees to \$245.00 per day, which will be based upon the actual number of inspection days instead of estimates based on percentages of total construction cost.
6. Adopting a water lab testing fee of \$30.00 per test, including re-tests.
7. Creating an Express CFA review process to allow for review of engineering plans for smaller projects faster.
8. Allowing for reductions in financial guarantees during construction.
9. Adopting a policy for phased and concurrent CFAs.

City staff will be administratively adopting the Guidelines attached to this M& C in order to implement the CFA Ordinance. Staff recommends that this ordinance become effective on June 1, 2019.

This M&C does not request approval of a contract with a business entity.

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that approving the above recommendation will have no impact on City funds.

FUND IDENTIFIERS (FIDs):

TO

Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount

FROM

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Fund	Department ID	Account	Project ID	Program	Activity	Budget Year	Reference # (Chartfield 2)	Amount
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CERTIFICATIONS:

Submitted for City Manager's Office by:

Jay Chapa (5804)

Originating Department Head:

Randle Harwood (6101)

Additional Information Contact:

Janie Morales (7810)