



PUBLIC WORKS COMMITTEE

**Meeting Agenda for
Wednesday, October 2, 2019
7:30 AM to 9:00 AM**

Leawood City Hall-Main Conference Room
(4800 Town Center Drive
Leawood, Kansas 66211

MISSION STATEMENT

To recommend to the Governing Body how to support and enhance the high quality of life for the City's residents and businesses by providing a public forum to address issues such as transportation, safety, and infrastructure maintenance.

ANDREW OSMAN, COMMITTEE CHAIR – COUNCILMEMBER WARD 1

JULIE CAIN, VICE-CHAIR- COUNCILMEMBER WARD 4

CHUCK SIPPLE, - COUNCILMEMBER WARD 3

JIM RAWLINGS, COUNCILMEMBER WARD 2

LORI AMES

KEN CONRAD

ABBAS HAIDERI

TODD ALAN HARRIS

MARSHA MONICA

CHRISTOPHER WHITE

WELCOME- Introductions –

OLD BUSINESS:

1. Approve previous meeting Minutes of September 4, 2019.
2. (Continued from previous meeting)
Request from Public Works on the Design Consultant Selection Process for the 2022 Mission Road (133rd to 143rd Street Project)

NEW BUSINESS:

3. REVIEW FEES FOR:
135TH Corridor Impact Fee
and South Leawood Transportation Fee

ADJOURN

If you require any accommodation (i.e. qualified interpreter, hearing assistance, etc.) in order to attend this meeting, please notify this office at 913-663-9130.

CITY OF LEAWOOD

***INFORMATION FOR
PUBLIC WORKS COMMITTEE
October 2, 2019***

**TO: Andrew Osman, CHAIR
Committee Members**

**FROM: David Ley, P.E.
Director of Public Works**

SUBJECT: See attached agenda

APPROVAL OF MINUTES

Approve Minutes from the September 4, 2019 Committee Meeting

OLD BUSINESS

***REQUEST FROM PUBLIC WORKS ON THE DESIGN CONSULTANT SELECTION PROCESS
FOR THE 2022 MISSION ROAD (133RD ST TO 143RD ST) PROJECT***

Staff sent Request for Qualifications (RFQ) to six consultants and we will be meeting with those consultants over the next couple of weeks. During the September PW Committee Meeting there was discussion to have staff provide an updated ranking sheet and for the committee to have further discussion on each category of the ranking sheets. Included is a preliminary scoring sheet with all categories at 10 points and additional information on each category that we can review at the meeting.

NEW BUSINESS

REVIEW THE 135TH STREET CORRIDOR IMPACT FEE

Pursuant to Section 13-509 of Chapter XIII, Article 5, of the City Code, an annual report along with a recommendation from the Public Works Committee is required to be made to the Governing Body regarding the 135th Street Corridor Impact Fee. This report contains a statement from the Director of Community Development summarizing developments and enforcement of the fee, a statement from the Director of Finance on fees collected and disbursed, and a statement from the City Engineer on transportation improvements over the past year and those planned in the future.

Director of Community Development:

Based on requirements of the 135th Street Corridor Impact Fee ordinance, the City collects fees for all properties along the 135th Street corridor between 133rd Street and 137th Street. These

fees are collected from retail, office and residential properties at different rates based on when the project received preliminary site plan approval. The following is a summary of the current rates: If a project has received a preliminary site plan approval after December 1, 2004: retail is \$1.95 per square foot of the building, office is \$.58 per square foot of the building, and residential is \$389.40 per unit. The fees are designed to reimburse the City for the improvements made to 135th Street.

The City received 135th Street Corridor Impact Fees in the amount of \$141,727.95 in 2018, for the following projects.

- Cornerstone: located north of 135th Street and east of Nall Avenue.
Element Hotel: - \$141,727.95

Director of Finance

The January 1, 2018, the fund balance was \$72,792.03. During 2018, impact fees of \$141,727.95 were collected. Interest earnings for 2018 were \$743.12. Expenditures were \$72,900.00; leaving a fund balance at December 31, 2018, of \$142,363.10.

City Engineer

In 2018, the Public Works Department replaced high pressure sodium light fixtures with more efficient LED fixtures along 135th Street. No projects along this corridor are currently planned for 2019.

Future Project

Public Works is proposing in 2021, to install fiber along 135th Street from Nall Avenue to State Line Road. The fiber will serve multiple uses; provide cameras at each intersection for Police, Public Works and Operation Green Light (OGL) to utilize during emergency events, provide connection for Police license plate readers and to maintain signals in coordination throughout the day.

We will receive 80% federal funding on the construction of this project. The total construction cost is estimated at \$712,500.00 with Leawood's share at \$142,500 (20%). Staff is proposing to use the 135th Street Corridor Impact Fee funds to cover Leawood's 20% share of this project.

REVIEW THE SOUTH LEAWOOD TRANSPORTATION IMPACT FEE

As set forth in Chapter XII, Article 6 of the Leawood City Code, an annual report along with a recommendation from the Public Works Committee is required to be made to the Governing Body regarding the South Leawood Transportation Impact Fee. Included in the report is a statement from the Director of Community Development summarizing developments and the enforcement of the fee, a statement from the Director of Finance on fees collected and disbursed, and a statement from City Engineer regarding transportation improvements over the past year and those planned in the future.

Director of Community Development:

Based on requirements of the South Leawood Transportation Impact Fee ordinance, the City collects fees for all properties south of 137th Street that are not located on an improved arterial road. These fees are collected from all types of developments at the same rate, which is based on distance from 135th Street, gross acreage of land to be developed, and an impact fee coefficient

of \$625.00. During 2018, there were no impact fees collected for the South Leawood Transportation Impact Fee.

Director of Finance:

The January 1, 2018, fund balance was \$288,545.72. During 2018, there were no impact fees collected. Interest earnings for 2018 were \$3,709.78. Expenditures in 2018 were \$12,121.00; leaving a fund balance at December 31, 2018, of \$280,134.50.

City Engineer:

In 2018, the Public Works Department purchased additional right-of-way for turn lanes at the intersection of 151st Street and Mission Road.

Future Project

In 2019, the City completed intersection improvements consisting of left turn lanes for eastbound and westbound at 151st Street and Mission Road. The estimated cost for that work is \$179,000 (this was bid as part of a larger project which has not been finalized).

Public Works does not have a future project utilizing these remaining funds at this time.

MINUTES of the PUBLIC WORKS COMMITTEE

Meeting held: Wednesday, September 4, 2019
Leawood City Hall- Main Conference Room, 7:30 AM

COMMITTEE MEMBERS PRESENT:

Andrew Osman, Chair, Councilmember Ward 1
Ken Conrad
Abbas Haideri
Todd Harris
Marsha Monica
Jim Rawlings, Councilmember Ward 2
Chris White

ABSENT:

Julie Cain, Vice Chair, Councilmember Ward 4
Lori Ames
Chuck Sipple, Councilmember Ward 3

GUEST:

Paulo Harris, Student & Boy Scout, 3003 W 82nd Terrace, Leawood, KS 66206

STAFF PRESENT:

David Ley, P.E., Director of Public Works
Brian Scovill, P.E., City Engineer
Julie Stasi, Public Works Admin. Services Manager, Sr.

Chair Osman called the meeting to order at 7:32 AM.

Today, son of Todd Harris attended the meeting; Paulo Harris. Paulo is a student at Corinth Elementary. Palo is also a Boy Scout and is working on his Citizenship in Community Merit Badge. Committee and staff members introduced themselves and also with their introductions gave a brief background on their occupation/interests and connections with the City of Leawood.

FIRST ITEM OF BUSINESS (OLD BUSINESS): Review/approve the previous meeting Minutes.

ACTION: Marsha Monica- Motioned to approve the Minutes of the Public Works Meeting held August 7, 2019. Ken Conrad-Seconded the motion to approve the Minutes. All present members were in favor. Motion passed. Minutes Approved.

SECOND ITEM OF BUSINESS (NEW BUSINESS): Review Request from Public Works on the Design Consultant Selection Process for the 2022 Mission Road (133rd to 143rd) Project.

David Ley began the discussion. This is for the reconstruction of Mission Road. Typically we start the design at least two years in advance so we can get through the design process, get the utilities moved ahead of construction. This project begins at 133rd Street and extends to the north side of 143rd where we have already completed that intersection improvement. The plan for the improvements between 133rd and 135th is to add an additional lane on the west side as this section of road has been improved. We are looking at extending the island up to 133rd and down to 135th. Between 135th and 137th Mission Road will be reconstructed to a four lane divided roadway and that will allow any developments in the future adjacent to Mission Road to have a right in and right out to that roadway.

The big question that Public Works has is a revision to what we would like to see of Mission Road from 137th down to 143rd and actually even further south: The current plan is to have a four lane undivided roadway. We do not think Mission will carry as much traffic as 143rd so the consultant that the City hires we would like to have them perform traffic engineering study for us to determine the future traffic counts. Then we could decide if we could have a three (3) lane section from 137th St to 143rd St through the Mission Road Corridor.

Marsha Monica-That area of Mission Road from 133rd to 137th is kind of like Lee Boulevard. It has those gullies and no curbs, no gutters and very rural. What are your thoughts for the sides?

David Ley-What is planned and what we have been discussing is to whether we do a 4-lane section with bike lanes or whether we do a 3-lane section. The total width of the street would be built to accommodate a four lane section with curbs and storm sewers. This would allow the area outside of the roadway to be completed so the sidewalks and utilities could be located in those areas. If we do construct a 3 lane section and in the future they need to modify it to a 4 lane section for more capacity we could remove the island and add lanes. The outside curb,

sidewalk and utilities would not have to be relocated.

Chris White-So you do it the width of a 4-lane with an island but make it a 3-lane.

David Ley-When you are going across the roadway there is a school on the south end, so pedestrians are trying to cross. If you are crossing a 4-lane roadway such as 143rd street with bike lanes its concrete pavement to cross. Where this would at least give you an island for a refuge area if you are crossing one direction at a time. Sidewalks will be on both sides. We are looking at doing 8 foot wide sidewalks so that is the minimum width for what is considered a trail. You could actually get two way bicycle traffic on there and we would have bike lanes on the roadway also.

Chris White-That is really important. That is a huge bike lane out there. There are several people that use the bike lane down south.

Ken Conrad-This project that ultimately will be awarded for the design of this. This is also going to include a lot of study and configuration scheme of what it will need to look like?

David Ley-Correct. We have in the budget funding for a 4-lane. It will look just like 143rd Street. Four (4) eleven foot travel lanes, two (2) four foot bike lanes, curbs, street lighting, stormsewer and sidewalks with trails adjacent to the roadway. So the thought is if we do a three lane section it will probably cost the same, it will be less pavement but we will be adding additional curb and there are other costs figured into that. So it is not a huge cost savings to go to a 3-lane section. We are wanting to build what we think is actually needed and that would be determined from the traffic study.

Ken Conrad-So included in this project will also be more global area traffic study to help make that determination of what we build. Is that different that we've approach projects before, are we grouping more into a project than what we normally do?

David Ley-That's correct that it will have a more global area traffic study. Most projects do have a lot of traffic engineering. For example 143rd Street had a lot of studying that had to be performed with the school to determine that configuration and the traffic signal configurations. Some cities do or may have already done this in the past, but with this project, it was always scheduled to be a 4-lane section and it is just that staff believes we could possibly be overbuilding the roadway. So we want to verify that this is the width we need.

Abbas Haideri-Is a 3 lane similar to what is between 151st and 159 on Mission? Two lane on one side and one on the other side.

David Ley-It would be 1 lane each direction with a middle island and then wherever there is a left turn lane, we would cut into the island so the island would be more narrow.

Julie Stasi-Are you meaning an island with grass?

David Ley-Yes. An island with curb and grass. We would be doubling up the amount of curb and gutter we have and so there is some additional work that goes into that.

Abbas Haideri-To have some impervious area that is great, but the flip side is if you need the room, then you end up tearing all of this out.

David Ley-That is why we want to hire someone that has a good background in traffic engineering.

Andrew Osman-If we hire someone to take a look at a 3-Lane or a 4-Lane and they come back with their recommendation, are we going to take that as gospel?

David Ley-We will come back to the Public Works Committee if they recommend a 3-Lane section only. Then we will want the Committee's recommendation. But not if they say a 4-Lane because we currently have it set up for a 4-Lane, and that is what we have been telling anybody who calls in requesting information on the future Mission Road. We are telling them it is planned for a 4-Lane roadway.

Chair Osman-Asks about private developments that could possibly happen on the north east side of this project between 133 & 135th and if something develops before the roadway project, how is that handled.

David Ley-That could be handled separately by the developer. Most of the improvements will be on the west side of Mission Road so we could as a requirement ask the developer to bury the power lines. Either we would estimate the cost and have them pay the City that cost and we could do it in the future or we could have it built with their project. They might want to go ahead and do it themselves instead of having to wait for us (if they are planning to open prior to 2022) and they might not want us there.

Abbas Haideri-Thinking of the school and bikers in the area, if you have four lanes, it would allow traffic to move

over and give them more room.

Jim Rawlings-Curious about the neighborhood, have they been told to expect a four lane road? It's in the plan, are they looking forward to something changing, whether it's 3 or 4 lanes?

David Ley-Yes. It is in the plan to be four lanes. Not sure if they are looking forward to it. The biggest complaint we have had about Mission Road is the lack of sidewalks, the connectivity from 138th out to 133rd Street and then all the cyclists that use Mission Road.

Chris White-Not sure anyone would be sad if it went to a 3-lane instead of 4. There is a lot of hesitancy to see that road get expanded. People like being calmer area and they get worried about more traffic. If you build it, they will come. I think there are a lot of people that do not go that route. I live in that area a lot of times I take Roe instead of Mission.

David Ley-The volumes of 143rd Street is anticipated to have over 20,000 vehicles a day. That is one reason why we did four lanes on 143rd Street. Just from our prior traffic models we are showing 14,000 vehicles a day on Mission Road. So there is a significant amount reduced traffic on Mission from the east/west traffic.

Todd Harris-To follow up to what Chris is saying, Prairie Village as you recall, they took Mission Road at 75th from four down to three lanes (as it had become a race track). Just by doing that it made traffic go different directions and calmed the whole area down. I would agree if you build if 4-lanes that is an example of what you just said.

Chair Osman-So the recommendation is to review these six consultants and sent out an RFQ; request for qualifications.

David Ley-That is correct. The City Engineer and I selected six consultants that we feel would be good firms. Either of these firms would be great for the design of the project. We wanted feedback from the Committee to see if you are okay with these firms or is there anybody else you wanted us to include?

Marsha Monica-Did not have anybody else but had comments on the rating sheet. Noted that "Customer Service" should be ranked much higher. That is such a key to making a project run smoothly and go well with the residents and the people in the City. Then, "Project Understanding" is another category that needs an adjustment and this one is given too many points.

Brian Scovill-For a design engineer, Customer Service could also be looked at as meeting staffs timelines and providing adequate quality submittals, do they set up regularly scheduled meetings or did they wait until the last minute and then staff had to change the date and time because they didn't get the room reserved. We look at things like that in addition to the public outreach, media relation type items.

Ken Conrad-Can discuss the review categories but when we talk about the firms, he will need to recuse himself from that part. Ken added that he is not happy with the questions we are asking on the grade card. He would like to hear the firms speak, like we have done in the past although that might make the process more complicated.

David Ley -Advised we can do that. More recently we have gone through the first rating of all the firms and then brought in the top two and hear them. It does take quite a lot of time up to half a day to do several firms.

Ken Conrad-Will or is this going to create a short list where there are interviews?

David Ley-It could and that is if we get two firms that score fairly close then you may want to interview them. If there is one that stands above the rest then it would/could be up to the committee to choose the top one to negotiate with.

Chris White-Agrees the format is kind of off with the points. The first two categories start with the same approach and we kind of assume of they are bidding that they all are able to understand the project and approach to take. But unless there are two very similar does not want to get into a dog and pony show as then you might be more apt to grade on personality and not competency. Also agrees Customer Service is a huge item to grade them on. From a City's standpoint that is something that protects the residents and to make sure they are satisfied the way the project is done. That is a big deal. Is it possible that when we get their packages that the Committee can also get something from staff that talks about their past experience? You have the networks and you have the interactions. To me it would be helpful to get some information from the staff. According to them their listing of past projects in their RFQ is all according to them and not you-staff. Would like to reevaluate the point distributions on the grade card and possibly consider some new questions.

Brian Scovill-Advised they had tweaked the grades on a Stormwater Committee review.

David Ley-said before they would take all the points, sum all up from each member. However if there are some that grade higher than other members you could end up with firms with a much wider gap between the high and low, so it un-intentionally skews the grade. Now we take a person's top (number one) and give them 6 points. Todd Harris-Last time we took an absolute ranking and then rescored it to be a relative to each other ranking. Is that how we would boil it down to? A relative ranking amount each one? Yes. Okay.

ACTION: Chris White-Made a Motion to recommend to send Request for Qualifications (RFQ) to the six consultants listed in Staff's report (Burns & McDonnell, HDR, HNTB, Olsson & Associates, TREKK Design Group, Walter P. Moore) and advise the consultants that their submittals will be evaluated on the general six criteria headings of: Project Understanding, Project Approach, Similar Experience, Key Personnel & Availability, Project Schedule, and Customer Service (withholding any kind of point structure).

Todd Harris-Seconded the Motion. Members Osman, Haideri, Harris, Monica, Rawlings, and White were in favor. Committee Member Conrad recused himself and did not vote. Motion passed.

FOLLOW UP: Staff will bring back to the Committee in October a revised draft of the Design Engineering Selection Score Sheet and that will give us one more meeting to go through the form with the Committee's input on point distribution.

THIRD ITEM OF BUSINESS (NEW BUSINESS): Review Retaining Wall Repair needed at the Northeast corner of 127th & Roe Avenue. David Ley-Advised that the wall was constructed in 2005 and along with that project there were several retaining walls. One in particular at the northeast corner of 127th & Roe has a 28 foot section that is rotating out. David showed pictures that were taken in April of this year. We took the stone off because of the rotation of the wall and we were concerned about it. All the loose stones were removed from each end. Last year we noticed it and we started measuring it to document the rotation. We noticed over this past 6 months the wall is really starting to accelerate on the rotation. It is rotating away at the top. So we hired Lochner Engineers to review the construction plans, and do some bores in the field to see if they can determine what is wrong with it and why it is rotating. They came up with a few reasons why they believe it could be rotating but never a definitive reason on why it is rotating. We also asked them if we should make a temporary solution to stabilize the wall before we can get this repair in a budget and they advised after the rains this year and what they've seen they are concerned that by the time we get a temporary repair, it will cost just as much as tearing the portion of the wall and doing a full repair. We have been provided a construction cost estimate of \$100,000 to repair. They would design the plans to remove the 28 foot section of the wall and build a gravity wall which is different structure than what is there right now. In addition to that once the wall has been removed we would inspect the drain pipe that is behind the wall to make sure the drain pipe is not clogged or collapsed, make sure it is actually there and then we would reconstruct that in order to make sure everything is good behind the wall. Brian Scovill-When asked how the other parts of the wall are tied together. Brian said the vertical faces of the wall are actually not tied together so they can rotate or move separately, independently of one another if need be. They have joints.

David Ley-We would like a recommendation to move forward with repairing the wall and we would like to use either funding from the Arterial Streets Program Budget or the General Funds in order to make this repair. This is not within our 2019 budget.

Chris White-What are the alternatives? Do it now or wait until it falls over.

ACTION: Abbas Haideri-Made a Motion to recommend Public Works proceed with fixing the 28 foot section of retaining wall in the best way they (City Staff) feel appropriate. Chris White-Seconded the Motion. All present members were in favor. Motion passed.

Staff recommends bidding the project in 2019, and using the Arterial Street Fund as the funding source.

Chair Osman- Advised we have assignments for October 2, November 6, and December 4th, so we hope all members or as many as possible can attend to make our quorum of 6 members out of 10 in attendance.

Chair Osman adjourned the meeting at 8:35 A.M.

Minutes submitted by: Julie Stasi, Administrative Services Manager, Sr.

Design Engineering Selection – Mission Road (133rd St to 143rd St)

Firm: _____

SCORING 10 Point
 Question

Outstanding 10
Exceeds Acceptable 8
Acceptable 6
Marginal 4

	<u>Maximum Points</u>	<u>Score</u>
1. <u>Project Understanding:</u> Does the firm have an understanding of the basic scope of services and key issues or concerns? Is it clear they did their research, visited the site, and met with staff?	10	_____
2. <u>Project Approach:</u> Does the proposal communicate a logical approach or design process? Did they describe any methods or tools that could set their firm apart from others? What does this firm recommend that others did not?	10	_____
3. <u>Similar Experience:</u> Consider previous project experience and references in relation to the proposed project. How recent was the experience? Did they describe their firm's role (i.e.; concept study, survey, lead designer)? Are they proposing the same staff for this project? Does the firm's staff have experience with traffic studies for constructing the right size roadway?	10	_____
4. <u>Key Personnel & Availability:</u> Consider comparable experience and background of the Project Manager and Lead Engineer assigned to this project. Do they indicate staff availability or work load? What portion of work are they sub-contracting (survey, geotech, or structural design)?	10	_____
5. <u>Project Schedule:</u> In evaluating the schedule, does the firm indicate they can meet the project design timeline? Do they show milestones and allow for survey, utility coordination, easement acquisition, bid documents, etc.? Does the firm have obtaining R/W and Easements in early 2021, utility relocations beginning no later than June 2021 and bidding the street construction project no later than February 2022?	10	_____
6. <u>Customer Service:</u> Evaluate the team on proposed communication with the City, Residents, schools, businesses and developers. Do they describe other approaches to customer service such as timeliness and quality control?	10	_____
TOTAL POINTS		_____

Ranked By: _____

Date: _____

CHAPTER XIII. STREETS AND SIDEWALKS

ARTICLE 5. 135TH STREET CORRIDOR IMPACT FEE

SECTIONS

13-501	SHORT TITLE
13-502	PURPOSE
13-503	DEFINITIONS
13-504	APPLICABILITY OF IMPACT FEE
13-505	IMPOSITION OF IMPACT FEE
13-506	AMOUNT OF IMPACT FEE
13-507	COLLECTION OF IMPACT FEE
13-508	CALCULATION OF IMPACT FEE
13-509	ANNUAL REVIEW
13-510	RESTRICTIONS ON USE OF AND ACCOUNTING FOR IMPACT FEE FUNDS
13-511	REFUNDS
13-512	APPEALS
13-513	EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION REGULATIONS
13-514	IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL REQUIREMENT
13-515	VARIANCES AND EXCEPTIONS

ARTICLE 5. 135TH STREET CORRIDOR IMPACT FEE

- 13-501. SHORT TITLE.** This Ordinance shall be known and cited as the "Leawood, Kansas 135th Street Corridor Impact Fee Ordinance".
(Ord. 1027C; 01-04-88)
(Ord. 2554C; 07-16-12)
- 13-502. PURPOSE.** A 135th Street corridor impact fee is imposed on new development in the 135th Street corridor for the purpose of assuring that 135th Street transportation improvements are available and provide adequate transportation system capacity to support new development while maintaining levels of transportation service on 135th Street deemed adequate by the City. The impact fee shall be imposed on all new development in the 135th Street corridor and all fees collected shall be utilized solely and exclusively for transportation improvements in the 135th Street corridor serving such new development.
(Ord. 1027C; 01-04-88)
(Ord. 2554C; 07-16-12)

- (p) **Public and Quasi-Public Use:** a development owned, operated or used by the City of Leawood, Kansas; any political subdivision of the State of Kansas, including but not limited to school districts; the State of Kansas, and any agencies or departments thereof; the Federal Government, and any agencies and departments thereof. For purposes of this Ordinance only, "places of worship" are hereby defined as quasi-public uses.
- (q) **Residential Development:** the development of any property for a dwelling or dwellings as indicated by an application for final plat approval.
- (r) **Subdivision Regulations:** The Subdivision Regulations of the City of Leawood contained in the Leawood Development Ordinance, including all duly adopted amendments thereof.
- (s) **Transportation Improvements:** the development of Phase I roads and roadway improvements in the 135th Street corridor, which may include but which are not limited to, widening, paving, intersectional improvements, signalization, grading, acquisition of right-of-way, medians, turn lanes, curbs, gutters, signage, sidewalks, street lighting and ancillary facilities or any portion thereof pursuant to the City Master Plan and this Ordinance.
- (t) **Transportation Improvement Costs:** the amounts spent, to be spent or authorized to be spent in connection with the provision of transportation improvements, which may include, but which are not limited to, funds spent on the planning, design, engineering, financing, acquisition of land or easements, construction, administration or incidental expenses associated with the provision of transportation improvements.
- (u) **Zoning Ordinance:** The Leawood Development Ordinance including all duly adopted amendments thereto.
- (v) **135th Street Corridor:** means all of that land within and between 133rd Street and 137th Street in the City of Leawood, as more further set forth in the Leawood Master Development Plan, all as formerly known as or may be referred to as the K-150 Corridor.

(Ord. 1027C; 01-04-88)

(Ord 2073C; 08-16-04)

(Ord. 2554C; 07-16-12)

13-504. APPLICABILITY OF IMPACT FEE.

- (a) This Ordinance shall be uniformly applicable to residential and nonresidential development, but not public and quasi-public uses, on property in the City of Leawood which is in the 135th Street corridor.
- (b) This Ordinance shall be applicable to development occurring prior to, in conjunction with, or subsequent to the initiation of Phase I transportation improvements in the 135th Street corridor as set forth in the Master Plan and in Attachment "A" to Ordinance 1027C; provided, however, that such transportation improvements are actually provided within a reasonable period of time following payment of the impact fee imposed by this Ordinance.

(Ord. 1027C; 01-04-88)

(Ord. 2554C; 07-16-12)

13-507. COLLECTION OF IMPACT FEE.

- (a) The Director of Community Development shall be responsible for the processing and collection of the applicable impact fee.
- (b) Applicants for building permits for nonresidential development and applicants for final plat approval for residential development subject to this Ordinance must submit the following information:
 - (1) the number of dwelling units for residential development;
 - (2) the type and amount of finished floor area for nonresidential development (in square feet);
 - (3) both the number of dwelling units and the type and finished floor area of nonresidential development(in square feet) for a mixed-use project;
 - (4) relevant supporting documentation as may be required by the Director of Community Development.
- (c) The Director of Community Development shall be responsible for determining that:
 - (1) the applicant has paid the applicable impact fee; or
 - (2) an appeal has been taken and a bond or other surety posted pursuant to Section 13-512.
- (d) The Director of Community Development shall collect the applicable impact fee prior to issuance of a building permit for nonresidential development and prior to final plat approval for residential development.

(Ord. 1027C; 01-04-88)

(Ord. 2554C; 07-16-12)

13-508. CALCULATION OF IMPACT FEE. Upon receipt of an application for a building permit or final plat approval for development subject to this Ordinance, the Director of Community Development shall calculate the amount of the applicable impact fee due in accordance with the following procedure:

- (a) determination of the applicability of this ordinance to the subject property shall be made within three (3) working days of receipt of such application by the Director of Community Development;
- (b) if this Ordinance is not applicable, the Director of Community Development shall indicate the inapplicability of this Ordinance on such application, shall notify the applicant of said inapplicability, and shall process the application in accordance with all relevant City ordinances and regulations.

13-509.

ANNUAL REVIEW.

- (a) Each year the City Administrator, or his duly authorized agent, shall prepare a report to the Governing Body on the 135th Street Corridor Transportation Impact Fees. In preparation of such report, the City Administrator or his duly designated agent shall review the following information:
- (1) a statement from the City Finance Director summarizing impact fees collected and disbursed during the year;
 - (2) a statement from the City Engineer summarizing transportation improvements completed during the past year and planned for the next succeeding year.
 - (3) a statement from the Director of Community Development summarizing the type, location, timing and amount of development for which building permits were issued or final plat approval granted in the year and summarizing the administration and enforcement of the impact fee.
 - (4) a statement and recommendation from the Leawood Public Works Committee on any and all aspects of the Impact Fee and 135th Street corridor transportation improvements and land uses.
- (b) The City Administrator's Report shall make recommendations, if appropriate, on amendments to the Ordinance; changes in the administration or enforcement of the Ordinance; changes in the impact fee rate; and changes in the Master Plan.
- (c) The impact fee rate shall be reviewed annually. Based upon the City Administrator's Report and such other factors as the Governing Body deems relevant and applicable, the Governing Body may amend the impact fee rate by Resolution. If the Governing Body fails to take such action, the impact fee rate then in effect shall remain in effect. Nothing herein precludes the Governing Body or limits its discretion to amend the impact fee rate and/or the Impact Fee Ordinance at such other times as may be deemed necessary.
- (d) In the annual review process, the Governing Body may take into consideration the following factors: inflation as measured by changes in an appropriate construction cost index used by the City; improvement and land acquisition cost increases as measured by actual experience during the year; changes in the design, engineering, location, or other elements of proposed transportation improvements; revisions to the Master Plan; changes in the anticipated land use mix and/or intensity of development in the 135th Street corridor; and such other factors as may be deemed relevant and appropriate.

(Ord. 1027C; 01-04-88)
(Reso. No. 1357; 07-07-97)
(Reso. No. 2287; 08-16-04)
(Ord. 2554C; 07-16-12)
(Ord. 2891C; 06-04-18)

13-511.

REFUNDS.

- (a) The current owner of property on which an impact fee has been paid may apply for a refund of such fee if:
- (1) the City has failed to initiate transportation improvements within five (5) years of the date of payment of the impact fee; or
 - (2) the building permit for nonresidential development pursuant to which the impact fee has been paid has lapsed for non commencement of construction; or
 - (3) the nonresidential development for which a building permit has been issued has been altered resulting in a decrease in the amount of impact fee due; or
 - (4) the final plat for a residential development pursuant to which an impact fee has been paid is vacated; or
 - (5) a replat for fewer residential lots or dwelling units is submitted on property pursuant to which an impact fee had been paid prior to final plat approval.
- (b) Only the current owner of property may petition for a refund. A petition for refund must be filed within one year of the event giving rise to the right to claim a refund.
- (c) The petition for refund must be submitted to the City Administrator or his duly designated agent on a form provided by the City for such purpose. The petition must contain: a statement that petitioner is the current owner of the property; a copy of the dated receipt for payment of the impact fee issued by the Director of Community Development; a certified copy of the latest recorded deed for the subject property; and a statement of the reasons for which a refund is sought.
- (d) Within one month of the date of receipt of a petition for refund, the City Administrator or his duly designated agent must provide the petitioner, in writing, with a decision on the refund request. The decision must include the reasons for the decision. If a refund is due petitioner, the City Administrator or his duly designated agent shall notify the City Treasurer and request that a refund payment be made to petitioner.
- (e) Petitioner may appeal the determination of the City Administrator to the Governing Body.

(Ord. 1027C;01-04-88)
(Ord. 2554C; 07-16-12)

13-512.

APPEALS. After a determination by the Director of Community Development of the applicability of the impact fee or the amount of the impact fee due, or after a determination by the City Administrator of the amount of refund due, if any, an applicant or a property owner may appeal to the Governing Body. The appellant must file a Notice of Appeal with the Governing Body within thirty (30) days following the determination by the Director of Community Development or City Administrator. If the Notice of Appeal is accompanied by a bond or other sufficient surety satisfactory to the City Attorney in an amount equal to the impact fee due as calculated by the Director of Community Development, the application shall be processed. The filing of an appeal shall not stay the collection of the impact fee due unless a bond or other sufficient surety has been filed.

(Ord. 1027C; 01-04-88)
(Ord. 2554C; 07-16-12)

ARTICLE 6. SOUTH LEAWOOD TRANSPORTATION IMPACT FEE

SECTIONS

13-601	SHORT TITLE
13-602	PURPOSE
13-603	DEFINITIONS
13-604	APPLICABILITY OF IMPACT FEE
13-605	IMPOSITION OF IMPACT FEE
13-606	IMPACT FEE RATE
13-607	COLLECTION OF IMPACT FEE
13-608	CALCULATION OF IMPACT FEE
13-609	ANNUAL REVIEW
13-610	RESTRICTIONS ON USE OF AND ACCOUNTING FOR IMPACT FEE FUNDS
13-611	REFUNDS
13-612	EXEMPTIONS
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13-615	EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION REGULATIONS
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13-617	VARIANCES AND EXCEPTIONS

13-601. SHORT TITLE. This Ordinance shall be known and cited as the "South Leawood Transportation Impact Fee Ordinance".

(Ord. 1031C; 02-01-88)

13-602. PURPOSE. A Transportation Impact Fee is imposed on new development in South Leawood for the purpose of assuring that transportation improvements are available and provide adequate transportation system capacity to support new development while maintaining levels of transportation service deemed adequate by the City. The Impact Fee shall be imposed on all new development in South Leawood, except as may be otherwise provided herein, and all fees collected shall be utilized solely and exclusively for transportation improvements in South Leawood serving such new development.

(Ord. 1031C; 02-01-88)

13-603. DEFINITIONS.

- (a) **Applicant:** the property owner, or duly designated agent of the property owner, of land for which final plat approval has been requested for residential or nonresidential development or for which a building permit has been requested for nonresidential development for which no final plat is required.
- (b) **Building:** any enclosed structure designed or intended for the support, enclosure, shelter or protection of persons or property.

- (p) **South Leawood:** all of that land within the City of Leawood lying south of 137th Street [formally known as the southern reverse frontage road of the Highway K-150 Corridor] as set forth in the Leawood Master Development Plan.
- (q) **Subdivision Regulations:** The Subdivision Regulations of the City of Leawood as contained in the Leawood Development Ordinance including all duly adopted amendments thereof.
- (r) **Transportation Improvements:** the development of off-site secondary arterial streets in South Leawood pursuant to the Major Street Plan, including but not limited to, widening, paving, intersectional improvements, signalization, grading, acquisition of right-of-way, medians, turn lanes, curbs, gutters, signage, sidewalks, street lighting, bridges and ancillary facilities or any portion thereof, except for the development of on-site or abutting arterial streets required pursuant to City subdivision, zoning, or planned development regulations and the collector portion of off-site arterial streets.
- (s) **Transportation Improvement Costs:** the amounts spent, to be spent or authorized to be spent in connection with the provision of transportation improvements, which may include, but which are not limited to, funds spent on the planning, design, engineering, financing, acquisition of land or easements, construction, administration or incidental expenses associated with the provision of transportation improvements.
- (t) **Zoning Ordinance:** The Leawood Development Ordinance including all duly adopted amendments thereto.

(Ord. 1031C; 02-01-88)

(Ord. 2076C; 08-16-04)

13-604.

APPLICABILITY OF IMPACT FEE.

- (a) This Ordinance shall be uniformly applicable to residential and nonresidential development, but not public and quasi-public uses, on property in South Leawood which must be served by transportation improvements as a condition of development approval. For purposes of this Ordinance, property is "served by" transportation improvements when off-site secondary arterial street improvements are necessary in order to provide north-south and east-west access to and from the property via continuous, improved arterial streets. For purposes of this Ordinance, "improved arterial streets" means and refers to secondary arterial streets identified on the Major Street Plan and constructed to secondary arterial street standards pursuant to applicable City regulations.
- (b) This Ordinance shall be applicable to development occurring prior to, in conjunction with, or subsequent to the initiation of transportation improvements in South Leawood as set forth in the Master Plan and Major Street Plan; provided, however, that such transportation improvements are actually provided within a reasonable period of time following payment of the Impact Fee imposed by this Ordinance.

(Ord. 1031C; 02-01-88)

13-607. COLLECTION OF IMPACT FEE.

- (a) The Director of Planning and Development shall be responsible for the processing and collection of the applicable Impact Fee.
- (b) Applicants for development approval subject to this Ordinance must submit the following information:
 - (1) the gross acreage of property for which approval is being sought;
 - (2) the principal access of the development to an arterial street;
 - (3) the distance from the principal access point to Highway 150;
 - (4) relevant supporting documentation as may be required by the Director of Planning and Development.
- (c) The Director of Planning and Development shall be responsible for determining that:
 - (1) the applicant has paid the applicable Impact Fee; or
 - (2) the applicant is exempt pursuant to Section 13-612; or
 - (3) an appeal has been taken and a bond or other surety posted pursuant to Section 13-614.
- (d) The Director of Planning and Development shall collect the applicable Impact Fee prior to final plat approval or prior to building permit issuance for nonresidential development for which final plat approval is not required.

(Ord. 1031C; 02-01-88)

13-608. CALCULATION OF IMPACT FEE. Upon receipt of an application for a building permit or final plat approval for development subject to this Ordinance, the Director of Planning and Development shall calculate the amount of the applicable Impact Fee due in accordance with the following procedure:

- (a) determination of the applicability of this ordinance to the subject property shall be made within three (3) working days of receipt of such application by the Director of Planning and Development;
- (b) if this Ordinance is not applicable, the Director of Planning and Development shall indicate the inapplicability of this Ordinance on such application, shall notify the applicant of said inapplicability, and shall process the application in accordance with all relevant City ordinances and regulations.
- (c) if this Ordinance is determined to be applicable, the Director of Planning and Development shall:
 - (1) Determine the gross acreage of the proposed development;
 - (2) determine the applicable Impact Fee coefficient;
 - (3) determine the applicability of credit, if any;
 - (4) calculate the amount of the Impact Fee due pursuant to the building permit application or application for final plat approval as submitted and the requirements of this Ordinance in effect at the time of submission.

- (d) In the annual review process, the Governing Body may take into consideration the following factors: inflation as measured by changes in an appropriate construction cost index used by the City; construction cost increases as measured by actual experience during the year; changes in the design, engineering, location, or other elements of proposed transportation improvements; revisions to the Comprehensive Plan and Major Street Plan; changes in the anticipated land use mix and/or intensity of development in South Leawood; and such other factors as may be deemed relevant and appropriate.

(Ord. 2564C; 08-20-12)

(Ord. 1031C; 02-01-88)

(Ord. 2892C; 06-04-18)

13-610. RESTRICTIONS ON USE OF AND ACCOUNTING FOR IMPACT FEE FUNDS.

- (a) The funds collected by reason of the establishment of the South Leawood Transportation Impact Fee must be used solely for the purpose of funding transportation improvements as described herein and pursuant to the Master Plan and Major Street Plan or for reimbursement to the City for costs incurred in providing such transportation improvements.
- (b) Upon receipt of Impact Fees, the Director of Planning and Development shall transfer such funds to the City Treasurer who shall be responsible for the placement of such funds in a segregated, interest bearing account designated as the "South Leawood Transportation Impact Fee Account". All funds placed in said account and all interest earned therefrom shall be utilized solely and exclusively for the provision of transportation improvements as described herein in South Leawood pursuant to the Master Plan and this Ordinance. At the discretion of the Governing Body, other revenues as may be legally utilized for such purposes may be deposited to such account. The City Treasurer shall establish adequate financial and accounting controls to ensure that Impact Fee funds disbursed from such accounts are utilized solely and exclusively for transportation improvements in South Leawood as described herein or for reimbursement to the City of advances made from other revenue sources to fund such transportation improvements. Disbursement of funds from said accounts shall be authorized by the City at such times as are reasonably necessary to carry out the purposes and intent of this Ordinance; provided, however, that funds shall be expended within a reasonable period of time, but not to exceed five (5) years from the date such funds are collected.
- (c) The City Treasurer shall maintain and keep adequate financial records for said account which shall show the source and disbursement of all funds placed in or expended by such account.
- (d) Interest earned by such account shall be credited to the account and shall be utilized solely for the purposes specified for funds of the account.
- (e) Impact Fee funds collected shall not be used to maintain or repair transportation improvements nor to finance improvements other than those described herein.

13-612.

EXEMPTIONS.

- (a) A property owner shall be exempt from the Impact Fee otherwise due if:
- (1) access to and from the applicable development can be obtained via a continuous, improved arterial street;
 - (2) the property owner has constructed, escrowed money for the construction of, or established a benefit district for the construction of "transportation improvements" necessary to ensure that access to and from the applicable development can be obtained via a continuous, improved arterial street concurrent with development; or
 - (3) the property owner has agreed, as a condition of preliminary or final plat approval or rezoning, to construct, escrow money for the construction of, or to establish a benefit district for the construction of "transportation improvements" necessary to ensure that access to and from the applicable development can be obtained via a continuous, improved arterial street concurrent with development.
- (b) An exemption may only be given for final plat approval or for building permits for nonresidential development for which no final plat is required on the subject property for which access, as described in subsection (a) above, is assured.
- (c) An applicant must apply for an exemption in conjunction with final plat approval or at the time of application for a building permit for nonresidential development for which no final plat is required. The applicant shall file a petition for exemption with the City Administrator or his duly designated agent on a form provided by the City for such purpose. The petition shall contain: a statement by the property owner or a duly designated agent of the property owner certifying that petitioner is the current owner of the property; documentary evidence of the ownership of the property at the time of occurrence of the event giving rise to the claim for exemption; documentary evidence of appropriate access, as described in subsection (a) above with respect to the affected property; a certified copy of the latest recorded deed for the subject property; and a statement of the reasons for which the exemption is being sought. Within one month of the date of receipt of a petition for exemption, the City Administrator or his duly designated agent must provide the petitioner, in writing, with a decision on the exemption request; provided, however, that a decision on a petition for exemption filed in conjunction with a final plat shall be made by the City Administrator concurrently with Planning Commission action on the final plat. The decision must include the reasons for the decision. Upon making the decision, the City Administrator or his duly designated agent shall notify the petitioner in writing. Petitioner may appeal the determination of the City Administrator to the Governing Body.

13-615.

EFFECT OF IMPACT FEE ON ZONING AND SUBDIVISION REGULATIONS.

This ordinance shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements or any other aspect of the development of land or requirements for the provision of public improvements that may be imposed by the City pursuant to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development.

(Ord. 1031C; 02-01-88)

13-616.

IMPACT FEE AS ADDITIONAL AND SUPPLEMENTAL REQUIREMENT.

The Impact Fee is additional and supplemental to, and not in substitution of, any other requirements imposed by the City as a condition of the development of land or the issuance of building permits; provided, however, that the Impact Fee requirement and the payment of such fee by a developer for the transportation improvements described herein shall not be duplicative of other street improvement requirements imposed pursuant to City zoning, subdivision, planned unit development or other applicable ordinances or regulations and the payment of the Impact Fee shall not be used to meet such requirements. The Impact Fee requirement is intended to be consistent with and to further the objectives and policies of the Master Plan and Major Street Plan and to be coordinated with other City policies, ordinances and resolutions by which the City seeks to ensure the provision of an adequate street system in conjunction with the development of land. In no event shall a property owner be obligated to pay an Impact Fee in an amount in excess of the amount calculated pursuant to this Ordinance; but, provided that a property owner may be required, pursuant to City zoning and subdivision regulations to dedicate land and/or to construct or escrow money for the construction of local and collector streets and on-site and abutting arterial streets, to collector street standards, in addition to meeting the Impact Fee requirements set forth herein.

(Ord. 1031C; 02-01-88)

13-617.

VARIANCES AND EXCEPTIONS. Petitions for variances and exceptions to the application of this Ordinance shall be made to the City Administrator in accordance with procedures to be established by Resolution of the Governing Body.

(Ord. 1031C; 02-01-88)