

**ORDINANCE NO. 2400**

**AN ORDINANCE, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TERRELL, TEXAS, CHAPTER 14: IMPACT FEES; IMPOSING AN IMPACT FEE ON NEW DEVELOPMENT FOR PROVIDING WATER AND WASTEWATER FACILITIES NECESSITATED BY SUCH DEVELOPMENT; PROVIDING ROADWAY IMPROVEMENTS TO SUPPORT NEW DEVELOPMENT; ADOPTING UPDATED LAND USE ASSUMPTIONS, SERVICE AREA BOUNDARIES, AND CAPITAL IMPROVEMENTS PLANS; AND APPROVING REVISED ASSESSMENT AND COLLECTION SCHEDULES FOR WATER, WASTEWATER AND ROADWAY IMPACT FEES; PROVIDING DEFINITIONS; PROVIDING FOR USE OF PROCEEDS FROM SUCH ACCOUNTS; PROVIDING FOR APPEALS, RELIEF PROCEDURES AND EXEMPTIONS; PROVIDING FOR CREDITS; PROVIDING FOR UPDATES TO PLANS AND REVISION OF FEES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Terrell, Texas previously has approved Land Use Assumptions and Capital Improvements Plans and adopted water, wastewater and roadway impact fees by Ordinance No. 2217 on April 6, 2004; and

**WHEREAS**, the City Council has appointed a Capital Improvements Advisory Committee to advise the City Council concerning amendments to land use assumptions, impact fee capital improvements plans and impact fees for water, wastewater and roadway facilities; and

**WHEREAS**, the City Council finds that in all things the City has complied with Chapter 395 of the Texas Local Government Code in the notice, adoption, promulgation and methodology necessary to adopt impact fees; and

**WHEREAS**, the City has retained consultants to prepare and/or update land use assumptions, capital improvements plans, and impact fees water, wastewater and roadway facilities; and

**WHEREAS**, the Capital Improvements Advisory Committee has made its recommendations to the City Council to update and replace Schedule 1 (Capital Improvement Costs) and Schedule 2 rates for collecting impact fees originally adopted by Ordinance No. 2217, adopted April 6, 2004 ; and

**WHEREAS**, the adoption of impact fees and the periodic updates and amendments to the adopted ordinance are intended to ensure the availability of adequate water, wastewater and roadway facilities in order to serve new development consistent with the policies in the City's Comprehensive Plan and development regulations; and

**WHEREAS**, to the extent that such new development places demands upon the public infrastructure, finding that those demands should be satisfied by partially shifting responsibility for financing the provision of such facilities from the public at large to the development actually creating the demands for them; and

**WHEREAS**, the City Council, after careful consideration of the matter, hereby finds and declares that impact fees imposed upon residential and nonresidential development to finance specified major public facilities in designated service areas, the demand for which is created by such development, are in the best interest of the general welfare of the City and its residents, are equitable, and do not impose an unfair burden on such development;

**WHEREAS**, this ordinance is intended to and satisfies the statutory requirements for adoption of land use assumptions, capital improvements plans and impact fees; and

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:**

**ARTICLE I.  
General Provisions**

**SECTION 1.**

**Short Title.**

This Chapter shall be known and cited as the Terrell Impact Fee Regulations.

**SECTION 2.**

**Purpose.**

This Chapter is intended to ensure the provision of adequate public facilities to serve new development in the City by requiring each new development to pay its share of the cost of such improvements necessitated by and attributed to such new development.

**SECTION 3.**

**Authority.**

This Chapter is adopted pursuant to Texas Local Government Code Chapter 395 and the City Charter. The provisions of this Chapter shall not be construed to limit the power of the City to utilize other methods authorized under State law, or pursuant to other City powers to accomplish the purposes set forth herein, either in substitution, resolution, or otherwise to implement and administer this Chapter.

## SECTION 4.

### **Definitions.**

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Assessment* –The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this Ordinance.

*Building Permit* –Written permission issued by the City for the construction, repair, alteration or addition to a structure.

*Capital Improvements Advisory Committee (Advisory Committee)* –Advisory committee, appointed by the City Council, to regularly review and update the Capital Improvement plan in accordance with the requirements of Chapter 395.

*Capital Improvement Plan (CIP)* –The plan or plans which identify water, wastewater, and roadway capital improvements or facility expansions pursuant to which impact fees may be assessed. The Capital Improvement Plan may be composed of a separate Water and Wastewater Capital Improvement Plan and a Roadway Capital Improvement Plan.

*City* –City of Terrell.

*City Council (Council)* – Governing body of the City of Terrell.

*Credit* –The amount of the reduction of an impact assessment for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.

*Commercial Development* – For the purposes of this Ordinance, all development which is not single-family residential.

*Existing Development* – All development within the service area which has a water or wastewater tap on the City's water or wastewater system, or which has access to the City's roadway system as of the date of adoption of this Ordinance.

*Facility Expansion* – The expansion of the capacity of an existing facility, which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

*Final Plat* – The map, drawing or chart meeting the requirements of the City's Subdivision Ordinance on which is provided a subdivider's plan of a subdivision, and which has received approval by the City, and which is recorded with the office of the County Clerk.

Growth Related Cost – Capital construction cost of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities.

Impact Fees – Fee for water, wastewater and roadway facilities to be imposed upon new development, in order to generate revenue to fund or recoup all the eligible costs of capital improvements or facility expansion necessitated by and attributable to such new development. Impact fees do not include dedication of land for public parks or payment in lieu of the dedication to serve park needs; dedication of right-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities or internal roadways required by other ordinances of the City Code.

Land Use Assumptions – Description of the service area and projections of changes in land uses, densities, intensities, and population therein over at least a 10-year period, adopted by the City, as may be amended from time to time, upon which capital improvement plans are based.

Land Use Equivalency Table – A table converting the demands for capital improvements generated by various land uses to numbers of service units, as may be amended from time to time, which table is attached hereto and incorporated by reference herein as Exhibit 1.

New Development – The subdivision of land; or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units for water; wastewater or roadway services, or requires the purchase of a new water or wastewater tap. New development includes the purchase of a water tap resulting from the conversion of an individual well to the City’s water utility and includes the purchase of a wastewater tap resulting from the conversion of an individual septic or other individual waste disposal system to the City’s wastewater utility.

Offset – The amount of the reduction of an impact fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the City’s subdivision regulations or requirements.

Plat – The meaning given in the City’s subdivision regulations. Plat includes replat.

Property Owner – Any person, corporation, legal entity or agent thereof having a legal or equitable interest in the land for which an impact fee becomes due. Property owner also includes the developer of the new development.

Recoupment – The imposition of an impact fee to reimburse the City for capital improvements which the City has constructed.

Residential Development – A lot developed for use and occupancy as a residence or residences, according to the City’s zoning ordinance and subdivision ordinance.

Roadway – Any freeway, expressway, principal or minor arterial or collector roadways designated in the City’s adopted Thoroughfare Plan, as may be amended from time to time. Roadway also includes any roadway designated as a numbered highway on the official federal or Texas highway system, to the extent that the City incurs capital improvement costs for such facility.

Roadway Facility – Improvement for providing roadway service including, but not limited to, pavement, right-of-way, intersection improvements, drainage and traffic control devices. Roadway facility excludes roadways which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities. Roadway facilities also exclude dedication of right-of-way or easements or construction or dedication of off-site roadways required by valid ordinances of the City of Terrell, Texas and necessitated and attributable to the new development.

Roadway Facility Expansion – Expansion of the capacity of any existing roadway improvement for the purpose of serving new development, not including repair, maintenance, modernization, or expansion of the existing roadway facility to serve existing development.

Roadway Improvement Plan – Portion of the CIP, as may be amended from time to time, which identifies the roadway facilities or roadway expansions and their associated cost which are necessitated by and which are attributable to new development, and which are to be financed in whole or in part through the imposition of roadway impact fees pursuant to this Ordinance.

Service Area – An area defined in this Ordinance within the corporate boundaries of the City for roadway facilities or with the corporate boundaries or extraterritorial jurisdiction of the City or other areas served in the City for water and wastewater facilities to be served by the capital improvements or facility expansions specified in the Capital Improvement Plan applicable to the service area.

Service Unit – Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions. Service units for water and wastewater impact fees are expressed in Service Unit Equivalents (SUE’s). Service units for roadway impact fees are expressed in vehicle miles.

Service Unit Equivalent (SUE) – Basis for establishing equivalency among and within various customer classes and land uses. The table of equivalencies for water, wastewater, and roadway are included in Exhibit 1.

Site-related Facility - improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water, wastewater or roadway facilities to serve the new development, and which is not included in the impact fees capital improvements plan and for which the developer or property owner is solely responsible under subdivision or other applicable regulations.

Tap Purchase – The filing with the City of a written application of water or wastewater service and the acceptance of applicable fees by the City. The term “tap purchase” shall not be applicable to a meter purchased for and exclusively dedicated to fire protection.

Wastewater Facility – A wastewater interceptor or main, lift station, treatment facility or other facility included within and comprising an integral component of the City’s collection and transmission system for wastewater. Wastewater facility includes land, easements or structures associated with such facilities. Wastewater facility excludes a site-related facility.

Wastewater Facility Expansion – Expansion of the capacity of any existing wastewater facility for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater facility to serve existing development.

Wastewater Improvement Plan – Portion of the Capital Improvement Plan, as may be amended from time to time, which identifies the wastewater facilities or wastewater expansions and their associated cost which are necessitated by and which are attributed to new development, and for a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this Ordinance.

Water Facility – A water main, pump station, storage tank or other facility included within and comprising an integral component of the city's water storage or distribution system. Water facility includes land, easements or structures associated with such facilities. Water facility excludes on site-related facilities or that portion of a water line or main which is constructed by a developer, the costs of which are reimbursed from charges paid by subsequent users of the facilities.

Water Facility Expansion – Expansion of the capacity of any existing water facility for the purpose of serving new development and not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.

Water Improvement Plan – Portion of the Capital Improvement Plan, as may be amended from time to time, which identifies the water facilities or water expansions and their associated cost which are necessitated by and which are attributable to new development, and for a period not to exceed ten (10) years, and which are to be financed in whole or in part through the imposition of water impact fees pursuant to this Ordinance.

Water Meter – A device for measuring the flow of water to a development, whether for domestic or for irrigation purposes.

Vehicle Mile – A unit used to express both supply and demand provided by and placed on the roadway system. A combination of a number of vehicles traveling during a given time period and the distance in which these vehicles travel in miles; for supply, it is the capacity provided by facility type over a given segment distance.

## SECTION 5.

### **Applicability of Impact Fees.**

The provisions of this Ordinance apply to all new development within the corporate boundaries of the city and its extraterritorial jurisdiction which lie within the service area for each category of capital improvement, except that it shall not apply to tracts of land that were platted prior to the adoption of this ordinance for a period of one year subsequent to the date of its adoption. The provisions of this article apply to all new development uniformly within each service area, which will include roadways in city limits only.

## SECTION 6.

### **Impact Fees as Conditions of Development Approval.**

No application for new development shall be approved within the City without assessment of impact fees pursuant to this Ordinance, and no water and wastewater tap shall be installed and no building permit shall be issued unless the applicant has paid the applicable impact fees imposed by and calculated hereunder.

## SECTION 7.

### **Establishment of Water and Wastewater Service Areas and Roadway Service Areas.**

- A) There are hereby established Service Areas for Water and Wastewater Impact Fees as depicted on Exhibits 2 & 3 attached to this Ordinance.
- B) There are hereby established Service Areas for Roadway Impact Fees as depicted on Exhibit 4 attached to this Ordinance.
- C) The service areas shall be established consistent with any facility service area defined in the CIP for each utility or facility. Additions or revisions to the service areas may be approved by the City Council consistent with the procedure set forth in Chapter 395.

## **SECTION 8.**

### **Impact fees per service unit.**

- A) The maximum impact fee per service unit for each service area shall be established by category of capital improvement as set forth in Schedule 1.
- B) The amount of the impact fees to be assessed by water meter size or by vehicle mile shall be as set forth in Schedule 1, attached hereto and made a part of this Ordinance by reference. Impact fees may be amended from time to time utilizing the amendment procedure set forth in Section 18.
- C) The City may vary the rates of collection or amount of impact fees per service unit among or within service districts in order to reasonably further goals and policies affecting the adequacy of system facilities serving new development, or other regulatory purposes affecting the type, quality, intensity, economic development potential or development timing of land uses within such service districts.
- D) The maximum impact fee per service unit for system facilities, as may be amended from time to time, hereby is declared to be an approximate and appropriate measure of the impacts generated by a new unit of development on the City's system facilities. To the extent that the impact fee charged against a new development, as may be amended from time to time, is less than the maximum impact fee per service unit, such difference hereby is declared to be founded on policies unrelated to measurement of the impacts of the new development on the City's system facilities. The maximum impact fee rate may be used in evaluating any claim by a property owner that the dedication or construction of a capital improvement imposed as a condition of development approval pursuant to the City's subdivision or development regulations is disproportionate to the impacts created by the development on the City's system facilities.

## **SECTION 9.**

### **Service unit determination.**

- A) The number of service units for a new development shall be determined by using the land use equivalency table, attached hereto and incorporated herein by reference as Exhibit 1.
- B) In determining the number of water and wastewater service units, the following rules shall apply:
  - 1) Each new freestanding building requires a new water meter, except as provided in subsection (2).

- 2) Where a site is redeveloped (clearance and reconstruction), no new service units will be attributed to such redevelopment, provided that the water meter is of the same size as the development previously occupying the site. If the meter size is increased, the number of new service units will be based upon the increase in capacity of the meter.
  - 3) Existing buildings or land uses may be expanded using existing meter service. No service units will be attributed to such development if the water meter size remains the same. If the meter size is increased, the number of service units will be based upon the increase in capacity of the meter.
  - 4) In determining the number of service units for wastewater impact fees, no service units will be attributed to irrigation meters.
  - 5) If a new development does not require water or wastewater service, no service units will be attributable to the development.
  - 6) For purposes of determining water impact fees, no service units will be attributable to an increase in the size of a water meter installed solely to provide capacity for sprinkler systems for fire safety.
  - 7) Required meter size shall be determined by the City, based upon the proposed land use and AWWA Guidelines regarding meter sizing.
- C) In determining the number of roadway service units, the following rules shall apply:
- 1) For residential structures, the number of units on the site shall be multiplied by the number of vehicle-miles per dwelling unit in Exhibit 1 to compute the total service units attributed to the site.
  - 2) For business uses, the gross floor area (GFA) of a proposed structure divided by 1,000 shall be multiplied by the number of vehicle-miles per development unit for the proposed land use in Exhibit 1 to compute the total service units attributed to the site.
  - 3) Where a site is redeveloped, no new service units will be attributed to the site provided that there is no increase in GFA and the proposed land use falls within the same category as the prior use. If the GFA is increased or if the proposed land use is in a different category, then the number of service units attributed to the site will be as computed for the change in impact.

## SECTION 10.

### **Assessment of Impact Fees.**

- A) Assessment of the impact fee for any new development shall be at the time of final plat approval or upon approval of a building permit for property already platted for either new development, redevelopment resulting in an increase in service units, when possible (see G below) and shall be based upon the maximum impact fees per service unit then in effect, as set forth in Schedule 1. Assessment of the maximum impact fee for any new development shall be made as follows:
- 1) For land which is platted at the time of application for a building permit or utility connection, or for a new development which received final plat approval prior to the effective date of this Ordinance, and for which no replatting is necessary pursuant to the City's subdivision regulations prior to development, assessment of impact fees shall occur at the time application is made for the building permit or utility connection, whichever first occurs, and shall be at the rates set forth in Schedule 2.
  - 2) For a new development which is submitted for approval pursuant to the City's subdivision regulations on or after the effective date of this Ordinance, or for which replatting results in an increase in the number of service units after such date, assessment of impact fees shall be at the time of final plat approval, and shall be at the rates set forth in Schedule 1.
- B) Following assessment of the impact fee pursuant to subsection A, the amount of the impact fee assessment per service unit for that development cannot be increased, unless the owner proposes to change the approved development by the submission of a new application for final plat approval or other development application that results in approval of additional service units, in which case a new assessment shall occur at the Schedule 1 rate then in effect for such additional service units.
- C) Following the vacating of any plat or submittal of any replat, a new assessment must be made in accordance with the provisions set forth herein.
- D) Approval of an amended plat pursuant to Texas Local Government Code, Section 212.016 and the City's subdivision regulations is not subject to reassessment for any impact fee.
- E) For a development which received final plat approval prior to adoption of impact fees by the City, or for which no plat approval is required, assessment of impact fees shall be at the time of application for permit of service in the amount set forth herein.
- F) After a development has been assessed impact fees under this ordinance, no new impact fee shall be assessed against that development unless:

- 1) The final plat lapses or expires or a new application for final plat approval is submitted on the property; or
  - 2) The number of service units to be developed on the property increases.
- G) For business developments where building gross floor area is not known at the time of final plat approval, assessment of impact fees shall occur upon application for building permit.

## **SECTION 11.**

### **Computation and Collection of Impact Fees.**

- A) Impact fees shall be collected at the time the City issues a building permit for land within the corporate limits, or at the time an application for an individual water meter connection to the City's water system is filed for land in Extra-Territorial Jurisdiction.
- B) The impact fees to be paid and collected by water meter size or by vehicle-mile shall be at the rates listed in Schedule 2.
- C) The City shall compute the impact fees for the new development in the following manner:
- 1) The amount of each impact fee shall be determined by multiplying the number of service units generated by the new development by the impact fee per service unit for the service area using Schedule 2. The number of service units shall be determined by using the land equivalency table (Exhibit 1).
  - 2) The amount of each impact fee shall be reduced by any allowable offsets or credits for that category of capital improvements.
  - 3) The total amount of the impact fees for the new development shall be calculated and attached to the development application or request for connection as a condition of approval.
- D) The amount of each impact fee for a new development shall not exceed an amount computed by multiplying the fee assessed per service unit pursuant to Section 8 by the number of service units generated by the development.
- E) If the building permit for which an impact fee has been paid has expired, and a new application is thereafter filed, the impact fees shall be computed using Schedule 2 then in effect, with credits for previous payment of fees being applied against the new fees due.

- F) Whenever the property owner proposes to increase the number of service units for a development, the additional impact fees collected for such new service units shall be determined by using Exhibit 1 then in effect, and such additional fee shall be collected at the time prescribed by this section.

## **SECTION 12.**

### **Credits Against Impact Fees.**

- A) A property owner who constructs an area-related facility pursuant to an improvements agreement approved by the city following adoption of this ordinance may be charged reduced impact fees due for the property for that category of capital improvement by the value of such improvement, as determined in Subsection (C). The credit shall be associated with the plat of the property that is to be served by the capital improvement constructed.
- B) The improvements agreement required by subsection (A) may provide for participation by the City in the costs of the capital improvement to be constructed by the property owner, as provided in the City's subdivision regulations. The amount of any credit shall be reduced by the amount of the city's participation.
- C) The amount of a credit shall be determined pursuant to rules established in this Section or pursuant to administrative guidelines promulgated by the City. A credit against impact fees is limited to that portion of the cost of an area-related facility attributable to new development within the service area and does not include that portion of the cost of the equivalent to the cost of a standard or minimum size facility.

The unit costs used to calculate offsets and credits shall not exceed those assumed for the capital improvements included in the impact fees capital improvements plan for the category of facility for which the impact fee is imposed, nor shall the amount of the offset or credit exceed the actual costs of constructing a capital improvement. For roadway facilities, the costs of any roadway improvement not included within the roadway improvements plan or the Master Thoroughfare Plan are not eligible for offsets or credits.

- D) A credit associated with a plat shall be applied to reduce an impact fee at the time of final plat approval for developments. For all other developments, the credit shall be applied to reduce an impact fee at the time of application for the first building permit or at the time of application for the first utility connection for the property and, thereafter, to all subsequently issued building permits or utility connections, until the credit or offset is exhausted.
- E) Unused credits or oversize costs which are not attributable to a new development shall be reimbursed.
- F) Offsets or credits created after the effective date of an ordinance establishing an impact fee for a particular category of capital improvement shall expire within 10

years from the date the offset or credit was created. Offsets or credits arising prior to such effective date shall expire ten years from such effective date. Credits for construction of improvements shall be deemed created when the improvements are completed and the City has accepted the facility, or in the case of improvements constructed and accepted prior to the effective date of the ordinance establishing the impact fee for a particular category of capital improvements, on such effective date.

### **SECTION 13.**

#### **Establishment of Accounts.**

- A) The City's Finance Department shall establish an account to which interest is allocated for each service area for each category of capital facility for which an Impact Fee is imposed pursuant to this Ordinance. Each impact fee collected within the service area shall be deposited in such account.
- B) Interest earned on the account into which the impact fees are deposited shall be considered funds of the account, and shall be used solely for the purposes authorized in Section 14.
- C) The City's Finance Department shall establish adequate financial and accounting controls to ensure that impact fees disbursed from the account are utilized solely for the purposes authorized in Section 14. Disbursement of funds 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 any fee paid shall be expended within a reasonable period of time, but not to exceed ten (10) years from the date the fee is deposited into the account.
- D) The City's Finance Department shall maintain and keep financial records for impact fees, which shall show the source and disbursement of all fees collected in or expended from each service area. The records of the account into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours. The City may establish a fee for copying services.
- E) The Finance Department shall maintain and keep adequate financial records for said account which shall show the source and disbursement of all funds placed in or expended from such account.

### **SECTION 14.**

#### **Use of Proceeds of Impact Fee Accounts.**

- A) The impact fees collected for each service area pursuant to this article may be used to finance or to recoup the costs of any capital improvements or facility expansion identified in the applicable capital improvements plan for the service area, including but not limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards

and costs, attorney's fees and expert witness fees). Impact fees may also be used to pay the principal sum and interest and other finance costs on bonds, notes or other obligations issued by or on behalf of the city to finance such capital improvements or facility expansion.

- B) Impact fees collected pursuant to this ordinance shall not be used to pay for any of the following expenses:
- 1) Construction, acquisition or expansion of capital improvements or assets other than those identified in the applicable capital improvements plan;
  - 2) Repair, operation, or maintenance of existing or new capital improvements or facility expansion;
  - 3) Upgrade, expansion or replacement of existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
  - 4) Upgrade, expansion or replacement of existing capital improvements to provide better service to existing development; provided, however, that impact fees may be used to pay the cost of upgrading, expanding, or replacing existing capital improvements in order to meet the need for new capital improvements generated by new development; or
  - 5) Administrative and operating cost of the City.

## **SECTION 15.**

### **Appeals.**

- A) The property owner or applicant for new development may appeal the following administrative decisions to the City Council.
- 1) The applicability of an impact fee to the development;
  - 2) The amount of the impact fee due;
  - 3) The denial of or the amount of a credit;
  - 4) The amount of the impact fee assessment versus the benefit received by the new development; or
  - 5) The amount of refund due, if any.
- B) The burden of proof shall be on the appellant to demonstrate that the amount of the fee or the amount of the offset or credit was not calculated according to the

applicable schedule of impact fees or the guidelines established for determining offsets or credit.

- C) The appellant must file a written notice of appeal with the City within thirty (30) days following the decision. If the notice of appeal is accompanied by a payment or other security satisfactory to the City Manager in an amount equal to the original determination of the impact fee due, the development application may be processed while appeal is pending.

## **SECTION 16.**

### **Refunds.**

- A) Upon written application, any impact fee or portion thereof collected pursuant to these regulations, which has not been expended within the service area within ten (10) years from the date of payment, shall be refunded to the record owner of the property for which the impact fee was paid or, if the impact fee was paid by another governmental entity, to such governmental entity, together with the interest calculated from the date of the collection to the date of refund at the statutory rate as set forth in Chapter 1.03, Title 79, Revised Statutes (Chapter 5069-1.03, Vernon's Texas Civil Statutes) or its successor statute. The application for refund pursuant to this section shall be submitted within sixty (60) days after the expiration of the ten-year period for expenditure of the fee. An impact fee shall be considered expended on a first-in, first-out basis,
- B) An impact fee collected pursuant to these regulations shall also be considered expended if the total expenditures for capital improvements or facility expansion authorized in Section 14 within the service area within ten (10) years following the date of payment exceeds the total fees collected within the service area for such improvements or expansions during such period.
- C) Upon written application, any impact fee or portion thereof collected pursuant to these regulations shall be refunded if:
  - 1) Existing service is available and service is denied; or
  - 2) Service was not available when the fee was collected and the City has failed to commence construction of facilities to provide service within two (2) years of fee payment; or
  - 3) Service was not available when the fee was collected and has not subsequently been made available within a reasonable period of time considering the type of capital improvement or facility expansion to be constructed, but in any event later than five (5) years from the date of fee payment.

## **SECTION 17.**

### **Rebates.**

- A) If a tract of land for which an impact fee has been paid is replatted, resulting in a reduction in the number of service units for water and wastewater facilities, and the new impact fee to be collected is less than that paid, the City shall rebate the difference, provided that water meters to serve the development have not been installed.
  
- B) If the building permit for a new development for which an impact fee has been paid has expired, no tap purchases for that category of capital improvements have been made to the development (for water and wastewater facilities), and a modified or new application has not been filed within six (6) months of such expiration, the City shall, upon written application, rebate the amount of the impact fee to the record owner of the property for which the impact fee was paid. If no application for rebate pursuant to this subsection has been filed within this period, no rebate shall become due.

## **SECTION 18.**

### **Updates to Plans and Revision of Fees.**

The City shall update its land use assumptions and capital improvements plans at least every five (5) years commencing from the date of adoption of such plans, and shall recalculate the impact fees based thereon in accordance with the procedures set forth in Texas Local Government Code, Chapter 395, or in any successor statute. At the discretion of the Council, the fee structure in Schedule 2 may be updated or amended without revising land use assumptions and capital improvements plans as deemed necessary, not to exceed the maximum amounts as set forth in Schedule 1. Public notice and hearing is required to amend Schedule 2 in accordance with the procedure for amending impact fees set forth in Texas Local Gov't Code, Ch. 395, or in any successor statute.

## **SECTION 19.**

### **Relief Procedures.**

- A) Any person who has paid an impact fee or an owner of land upon which an impact fee has been paid may petition the City Council to determine whether any duty required by this ordinance has not been performed within the time so prescribed. The petition shall be in writing and shall state the nature of the unperformed duty and request that the duty be performed within sixty (60) days of the request. If the City Council determines that the duty is required pursuant to the ordinance and is late in being performed, it shall cause the duty to commence within sixty (60)

days of the date of the request and to continue until completion. This subsection is not applicable to matters which may be appealed pursuant to Section 15.

- B) The City Council may grant a variance from any requirement of this Ordinance, upon written request by a developer or owner of property subject to the Ordinance, following a public hearing, and only upon finding that a strict application of such requirement would, when regarded as a whole, result in confiscation of the property.
- C) If the City Council grants a variance to the amount of the impact fee due for a new development under this section, it may cause to be appropriated from other City funds the amount of the reduction in the impact fee to the account for the service area in which the property is located.

## **SECTION 20.**

### **Exemptions.**

- A) Pursuant to Tex. Loc. Gov't Code section 395.022, as amended, a school district is not required to pay impact fees imposed under this ordinance unless the board of trustees of the district consents to the payment of the fees by entering a contract with the City imposing the fees.
- B) Any building permit application which was duly accepted for filing prior to the adoption of this Ordinance and which was subsequently granted after its adoption shall pay impact fees according to the schedule in Ordinance 2217.

## **ARTICLE II. Water Facilities Impact Fees**

### **SECTION 21.**

#### **Water Service Area.**

- A) There is hereby established a water service area, constituting land within the City limits and within the City's extraterritorial jurisdiction, as depicted on Exhibit 2 attached hereto and incorporated herein by reference.
- B) The boundaries of the water service area may be amended from time to time, or new water benefit areas may be delineated, pursuant to the procedures in Section 18.

## **SECTION 22.**

### **Water Improvements Plan.**

- A) The Water Improvements Plan for the City Of Terrell, Texas, is hereby adopted as depicted on Exhibit 5, attached hereto and incorporated herein by reference.
- B) The Water Improvements Plan may be amended from time to time, pursuant to the procedures in Section 18.

## **SECTION 23.**

### **Water Facilities Impact Fee.**

- A) The maximum impact fees per service unit for water facilities are hereby adopted and incorporated in Schedule 1 attached hereto and made a part hereof by reference.
- B) The impact fees per service unit for water facilities, which are to be paid by each new development, are hereby adopted and incorporated in Schedule 2 attached hereto and made a part hereto by reference.
- C) The impact fees per service unit for water facilities may be amended from time to time, pursuant to the procedures in Section 18.

## **ARTICLE III.**

### **Wastewater Facilities Impact Fees**

## **SECTION 24.**

### **Wastewater Service Area.**

- A) There is hereby established a wastewater service area, constituting land within the City limits and within the City's extraterritorial jurisdiction, as depicted on Exhibit 3 attached hereto and incorporated herein by reference.
- B) The boundaries of the wastewater service area may be amended from time to time, or new wastewater benefit areas may be delineated, pursuant to the procedures in Section 18.

## **SECTION 25.**

### **Wastewater Improvements Plan.**

- A) The Wastewater Improvements Plan for the City Of Terrell, Texas, is hereby adopted as depicted on Exhibit 6, attached hereto and incorporated herein by reference.
- B) The Wastewater Improvements Plan may be amended from time to time, pursuant to the procedures in Section 18.

## **SECTION 26.**

### **Wastewater Facilities Impact Fee.**

- A) The maximum impact fees per service unit for wastewater facilities are hereby adopted and incorporated in Schedule 1 attached hereto and made a part hereof by reference.
- B) The impact fees per service unit for wastewater facilities, which are to be paid by each new development, are hereby adopted and incorporated in Schedule 2 attached hereto and made a part hereto by reference.
- C) The impact fees per service unit for wastewater facilities may be amended from time to time, pursuant to the procedures in Section 18.

## **ARTICLE IV. Roadway Impact Fees**

## **SECTION 27.**

### **Roadway Service Areas.**

- A) There are hereby established two (2) roadway service areas, constituting land within the City limits as depicted on Exhibit 4 attached hereto and incorporated herein by reference.
- B) The boundaries of the roadway service area may be amended from time to time, or new roadway benefit areas may be delineated, pursuant to the procedures in Section 18.

**SECTION 28.**

**Roadway Improvements Plan.**

- A) The Roadway Improvements Plan for the City Of Terrell, Texas, is hereby adopted as depicted by Exhibit 7, attached hereto and incorporated herein by reference.
- B) The Roadway Improvements Plan may be amended from time to time, pursuant to the procedures in Section 18.

**SECTION 29.**

**Roadway Facilities Impact Fee.**

- A) The maximum impact fees per service unit for roadway facilities are hereby adopted and incorporated in Schedule 1 attached hereto and made a part hereof by reference.
- B) The impact fees per service unit for roadway facilities, which are to be paid by each new development, are hereby adopted and incorporated in Schedule 2 attached hereto and made a part hereto by reference.
- C) The impact fees per service unit for roadway facilities may be amended from time to time, pursuant to the procedures in Section 18.

**ARTICLE V.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if 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 unconstitutionally 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.

**ARTICLE VI.**

This Ordinance will take effect immediately from and after its passage and the publication of the caption, as the law in such cases provides.

**Passed and Approved on this the 17<sup>th</sup> day of March, 2009.**  
**Passed and Adopted on this the 7<sup>th</sup> day of April, 2009.**

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**HAL RICHARDS, MAYOR**

**ATTEST:**

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**JOHN ROUNSAVALL, CITY SECRETARY**

**APPROVED AS TO FORM:**

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**MARY GAYLE RAMSEY, CITY ATTORNEY**

## Impact Fees

### EXHIBIT 1

#### LAND USE OR SERVICE UNIT EQUIVALENCY

##### WATER AND WASTEWATER

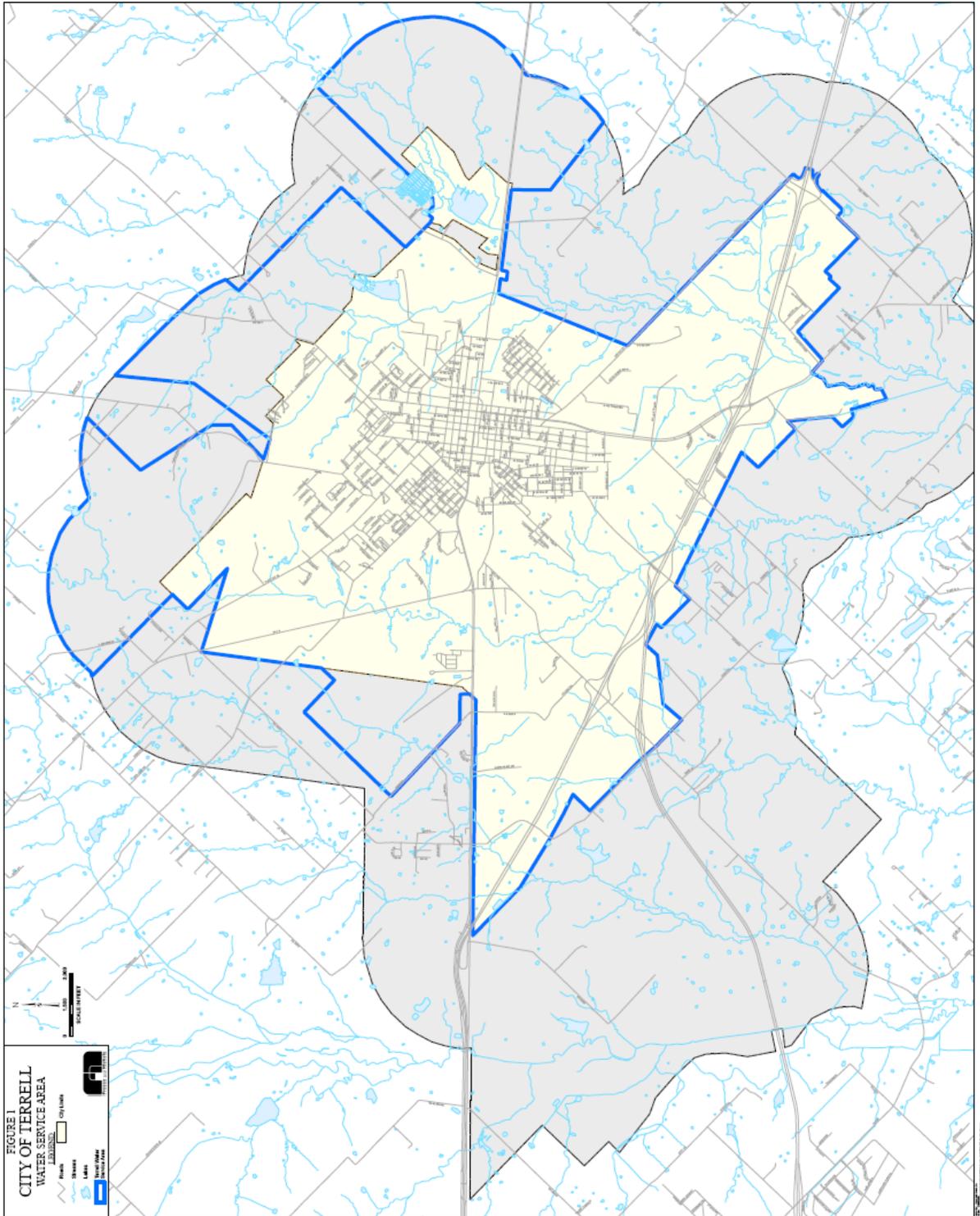
Meter Size	Service Unit Equivalents
3/4"	1
1"	1.67
1 1/2"	3.33
2"	5.33
3"	10.0
4"	16.67
6"	33.33
8"	53.33
10"	76.67

##### ROADWAYS

Land Use	Development Unit	Total Service Units (Veh-mi/Dev Unit)
<b>Residential-Single Family</b>	Dwelling Unit (D.U.)	2.88
<b>Multi- Family</b>	Dwelling Unit (D.U.)	1.77
<b>Office</b>	1,000 GFA*	5.15
<b>Retail/Commercial</b>	1,000 GFA*	5.54
<b>Industrial</b>	1,000 GFA*	3.70
<b>Institutional</b>	1,000 GFA*	2.02

\*GFA = Gross Floor Area

**EXHIBIT 2**



**EXHIBIT 3**

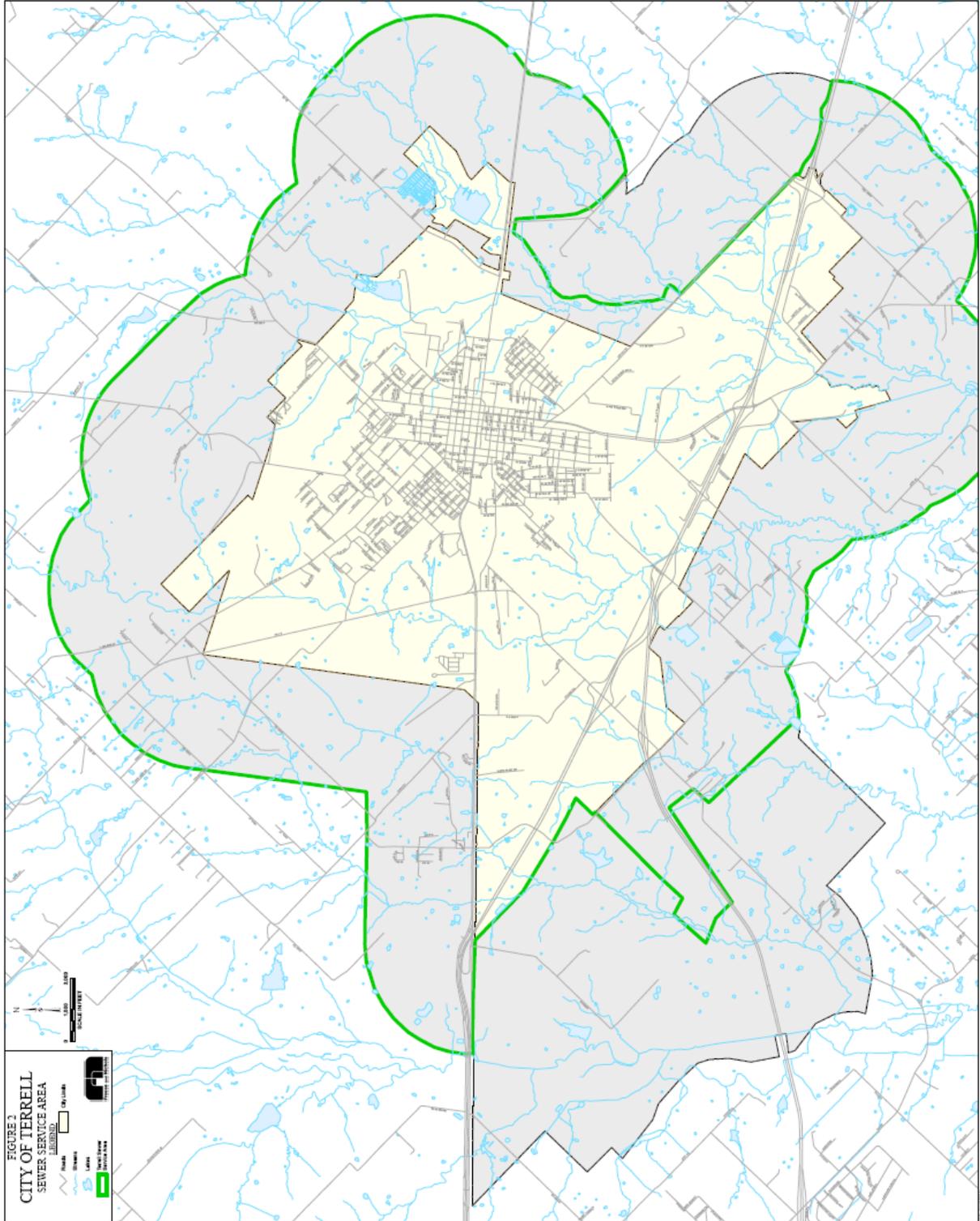
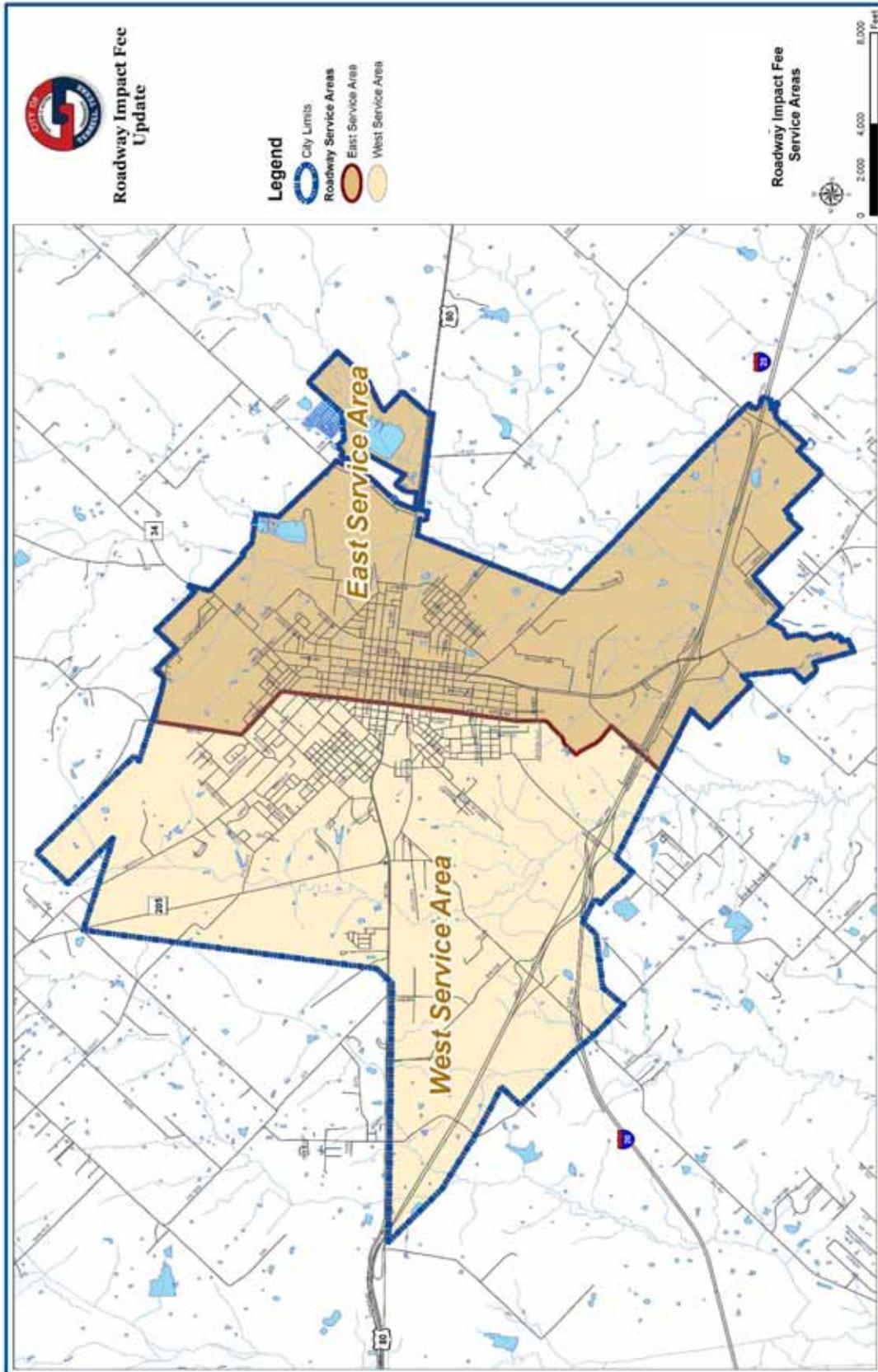


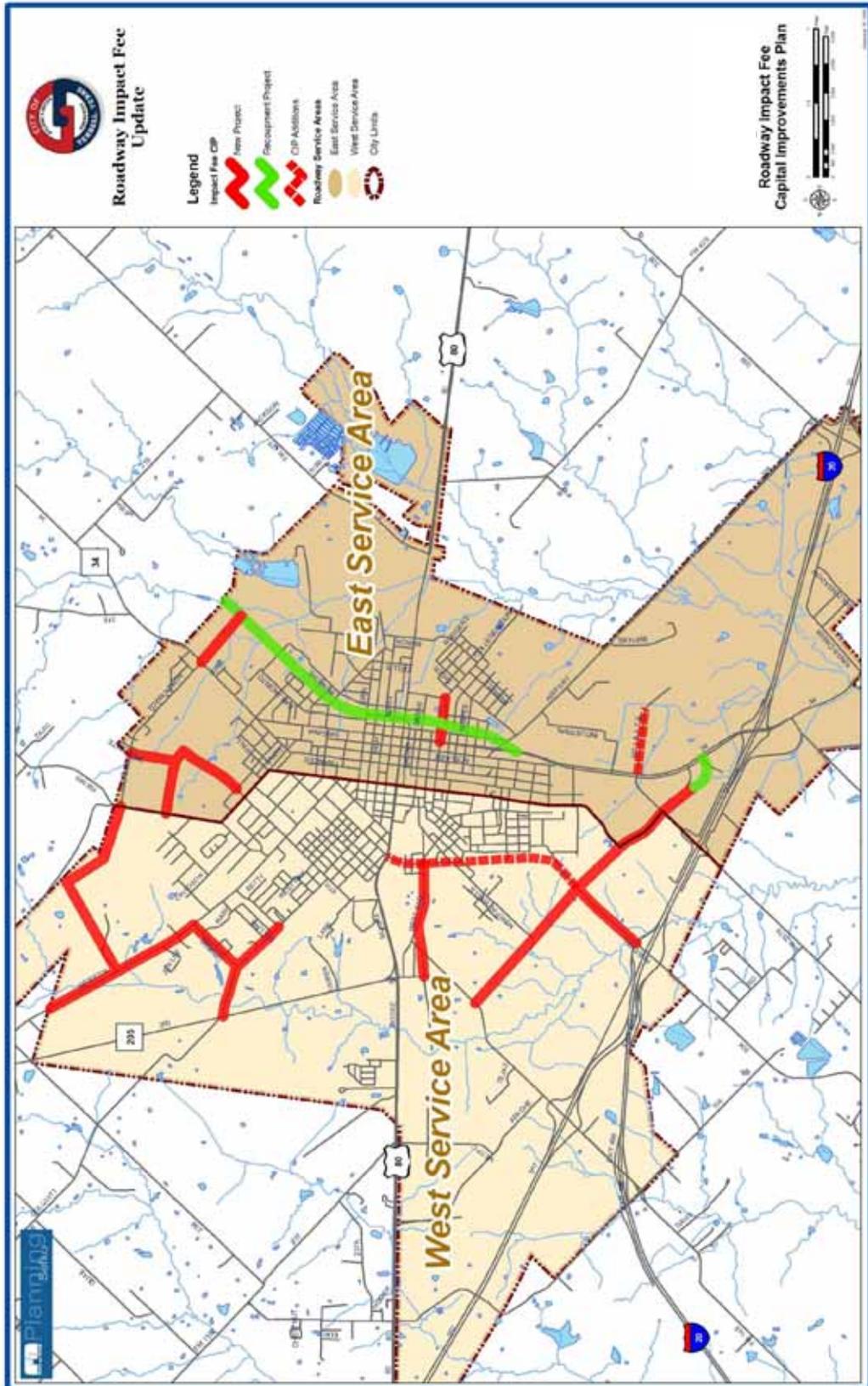
EXHIBIT 4







# EXHIBIT 7



# SCHEDULE 1

Page 1 of 2

## Water Impact Fee Summary

Existing Capital Improvement Costs	\$3,000,000
Proposed Capital Improvement Costs	\$12,331,525
<b>Total Capital Improvement Costs</b>	<b>\$15,331,525</b>
Financing Costs	\$5,272,762
CIP Study and Updates	\$23,000
<b>Total Financing and Consulting Costs</b>	<b>\$5,295,762</b>
<b>Total Eligible Costs</b>	<b>\$20,627,287</b>
<b>50% Credit</b>	<b>\$10,313,643</b>
<b>Ten Year Growth in SUEs</b>	<b>3,870</b>
<b>Base Maximum Calculated Water Impact Fee Per Service Unit With 50% Credit</b>	<b><u>\$2,665</u></b>

## Sewer Impact Fee Summary

Existing Capital Improvement Costs	\$0
Proposed Capital Improvement Costs	\$18,483,178
<b>Total Capital Improvement Costs</b>	<b>\$18,483,178</b>
Financing Costs	\$6,356,668
CIP Study and Updates	\$23,000
<b>Total Financing and Consulting Costs</b>	<b><u>\$6,379,668</u></b>
<b>Total Eligible Costs</b>	<b>\$24,862,845</b>
<b>50% Credit</b>	<b>\$12,431,423</b>
<b>Ten Year Growth in SUEs</b>	<b>3,870</b>
<b>Base Maximum Calculated Sanitary Sewer Impact Fee Per Service Unit With 50% Credit</b>	<b><u>\$3,212</u></b>

# SCHEDULE 1

Page 2 of 2

## Roadway Impact Fee Summary

### West Service Area

Proposed Capital Improvement Costs	<u>\$39,349,080</u>
<b>Total Capital Improvement Costs</b>	<b>\$39,349,080</b>
Financing Costs	\$13,378,687
CIP Study and Updates	<u>\$45,917</u>
<b>Total Costs</b>	<b>\$52,773,684</b>
<b>Total Costs (with 50% credit)</b>	<b>\$26,386,842</b>
<b>Cost Attributable to New Development</b>	<b>\$18,648,368</b>
<b>Total 10-year Projected Growth in Service Units (veh-mi)</b>	<b>10,069</b>
<b>Base Maximum Calculated Roadway Impact Fee Per Service Unit with 50% Credit</b>	<b>\$1,852.00</b>

### East Service Area

Proposed Capital Improvement Costs	<u>\$14,233,099</u>
<b>Total Capital Improvement Costs</b>	<b>\$14,233,099</b>
Financing Costs	\$4,839,254
CIP Study and Updates	<u>\$24,083</u>
<b>Total Costs</b>	<b>\$19,096,436</b>
<b>Total Eligible Costs (with 50% credit)</b>	<b>\$9,548,218</b>
<b>Cost Attributable to New Development</b>	<b>\$8,041,159</b>
<b>Total 10-year Projected Growth in Service Units (veh-mi)</b>	<b>6,293</b>
<b>Base Maximum Calculated Roadway Impact Fee Per Service Unit with 50% Credit</b>	<b>\$1,277.00</b>

## Schedule 2

### Impact Fees City of Terrell April 7, 2009

#### Per Service Unit

Effective Date	April 7, 2008	April 7, 2009	April 7, 2010	April 7, 2011	April 7, 2012	April 7, 2013
Roadway <sup>1</sup>	\$403.00	\$403.00	\$454.64	\$506.28	\$557.92	\$630.21
Water	\$1,384.00	\$1,384.00	\$1,366.95	\$1,349.91	\$1,332.86	\$1,309.00
Wastewater	\$1,055.00	\$1,055.00	\$1,104.09	\$1,153.18	\$1,202.27	\$1,271.00
Total Per Service Unit	\$2,843.00	\$2,843.00	\$2,925.68	\$3,009.37	\$3,093.05	\$3,210.21
Total Per Single-Family Dwelling Unit <sup>2</sup>	\$3,600.00	\$3,600.00	\$3,780.00	\$3,961.00	\$4,141.00	\$4,395.00

1. Per service unit impact fee is based on the West Service Area; Roadway impact fees apply only inside the city limits.

2. Example for April 2013:  $\$630.21 \times 2.88 = \$1,815.00$  (roadway) +  $\$1,309.00$  (water) +  $\$1,271.00$  (wastewater) =  $\$4,395$  per single-family dwelling unit