

**ORDINANCE NO. 19-1931**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, ADDING ARTICLE XI - INTERIM DEVELOPMENT IMPACT FEES TO THE CARSON MUNICIPAL CODE, ESTABLISHING THE AUTHORITY AND PROCEDURE FOR THE IMPOSITION OF DEVELOPMENT IMPACT FEES**

**WHEREAS**, the State of California, through enactment of the Mitigation Fee Act in Government Code Sections 66000 *et. seq.*, has authorized the City of Carson (the “City”) to establish and impose Interim Development Impact Fees; and

**WHEREAS**, pursuant to the economic development authority, general land use authority, and municipal finance and tax authority established in Sections 206.C(14), 207.B(12), and 906.C of the City of Carson’s City Charter, the City may establish Interim Development Impact Fees; and

**WHEREAS**, Interim Development Impact Fees are a method of ensuring that development in the City bears its proportionate share of the cost of Public Facilities necessary to accommodate such development, which thereby promotes and protects the public, health, safety and welfare; and

**WHEREAS**, development in the City increases the demand for Public Facilities and the City’s burden to provide the Public Facilities necessary to serve such development; and

**WHEREAS**, in the last 5 years the City has faced an influx of new development projects, including, 1,470 multiple family dwelling units; 810,000 square feet of commercial; 68,360 square feet of office; 1,073,280 square feet of industrial/business park; 2,187 truck yard spaces; 247 hotel rooms; 599,000 square feet of recreational development and 300 dormitory rooms, the City must consider strategies for maintaining and improving current services and facilities in response to incoming developments that reflect economic growth but also place demands on City infrastructure and services.

**WHEREAS**, the City engaged Kelly Associates Management Group (“KAMG”) as a fee consultant to research the City’s needs due to the growth and demands of current and future development, and provide a report outlining how Interim Development Impact Fees can mitigate negative impacts of development; and

**WHEREAS**, to ensure that development in the City pays a proportional share of any burden placed on upon Public Facilities, the City Council wishes to add Article XI – Interim Development Impact Fees to the Carson Municipal Code to establish a process for imposing impact fees on new developments; and

**WHEREAS**, faced with the demands on Public Facilities and services resulting from new development, without an Interim Development Impact Fee, the City will not be able to sustain its existing level of Public Facilities due to the fact that:

1. Carson is a very low property tax city, meaning it had no local property rate in the three years preceding the adoption of Prop. 12 in 1978, and therefore, has a permanently small share of the 1% property tax allowed by Prop. 13 as compared to other cities (6.75%);

2. The City's assessed property values have not increased at the same rate as neighboring cities in part due to the heavy industrial presence in the City of petroleum and other industrial and manufacturing uses, resulting in slower property tax revenue growth;
3. Carson also has one of, if not the lowest, utility users tax in the region with a sunset clause.
4. Prior to the 1950s the County of Los Angeles allowed cities to incorporate as full property tax cities;
5. Carson incorporated in 1968 and was required to accept low property tax status in order for the County to agree to city formation. Although, many cities use property and utility user's taxes to fund City services, the low tax property tax and low utility user's tax rates in Carson amplify the City's fiscal challenges; and
6. While Carson was long able to rely on redevelopment revenues to fund capital costs in the City, the State's decision to terminate redevelopment, has stripped the City of those revenues.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The forgoing recitals are true and correct and are incorporated herein by this reference.

**SECTION 2.** Article XI – Interim Development Impact Fees is hereby added to the Carson Municipal Code to read in its entirety as follows:

**Chapter 1 – Title, Authority, and Purpose**

**11100 Title**

This Article may be cited as the Interim Development Impact Fee Ordinance.

**11101 Authority**

This Chapter is enacted pursuant to the Mitigation Fee Act (Title 7, Division 1 of the Government Code). The Community Development Director may, in his or her discretion, present to the Planning Commission for review and recommendation any proposed revisions to this Chapter.

**11102 Intent and Purpose**

Interim Development Impact Fees are authorized by the City Charter and are charged by the City to applicants in connection with approval of development projects for the purpose of defraying all or a portion of the costs of Public Facilities (defined in Section 11300 below) required to serve the development.

The legal requirements for enactment of Interim Development Impact Fee programs are set forth in the Mitigation Fee Act (Title 7, Division 1 of the Government Code). Interim

Development Impact Fees are legislatively adopted based on objective fair-share studies and standardized pro-rata formulas. Development impact fee programs contrast with negotiated exactions, which are determined on an ad hoc project-by-project basis during the development approval process.

The provisions in this Chapter are intended to comply with the City Charter and the Mitigation Fee Act. In the event of any ambiguity in the provisions of this Chapter, such provisions shall be interpreted so as to be consistent with the City Charter and the Mitigation Fee Act. In the event that any provisions of the Chapter conflict with the Mitigation Fee Act, the provisions of the Charter shall control, and the Mitigation Fee Act shall secondarily control.

## **Chapter 2 – Legislative Findings**

### **11200 Reports and Studies**

The Reports (defined in Section 11300 below), which have been approved and adopted by the City, establish:

1. The need for and nexus to required Public Facilities throughout the City;
2. The total cost of such Public Facilities;
3. The allocation of such cost among the development types;
4. Formulas based on the development type to determine the amount of fees payable for each such type of development;
5. Maximum fees to impose upon each development type;
6. The relationship between the use of the fees and the type of uses within development projects on which the fees are imposed;
7. The relationship between the need for such Public Facilities and the type of uses within development projects on which the fees are imposed
8. The reasonable relationship between the amount of the fee and the cost of the Public Facility or portion of the Public Facility attributable to the development upon which the fee is imposed; and
9. The reasonable cost of constructing and installing such Public Facilities.

### **11201 Need for Public Facilities**

New development generates impacts on Public Facilities, and community amenities for which revenues generated through property taxes are generally insufficient to accommodate. If additional capital facilities and public services are not added as development occurs, the existing facilities and services will not be adequate to serve the community. In order to avoid detrimental impacts new development will impose on the City's existing facilities, and to

address new development's resulting demands for new Public Facilities, the City needs Public Facilities to accommodate the expected growth.

### **11202 Need for Interim Development Impact Fees**

The City Council has determined, based on the Reports, as well as substantial evidence submitted in a public hearing before the City Council, that Interim Development Impact Fees are needed citywide in order to finance these Public Facilities and to allocate the cost of Public Facilities to each development project.

## **Chapter 3 – Definitions**

### **11300 Definitions**

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them by this Section:

- A. "Administrative Fee" means a fee collected by the City to offset the administrative costs related to the Interim Development Impact Fee program. The fee shall be twelve percent (12%) of the total Interim Development Impact Fee obligation charged to the developer for all Interim Development Impact Fee categories.
- B. "Building Permit" means the permit, as defined by the Building Code of the City of Carson, issued or required for the construction of residential dwelling units or for the construction or improvements of additional square footage of floor area for any non-residential structure pursuant to and as defined by the Building Code of the City of Carson.
- C. "City" means the City of Carson and its various employees, officers and officials.
- D. "City Council" means the City Council of the City of Carson.
- E. "Commercial" means any building with a primary use of general retail sales and/or services.
- F. "Conditions of Approval" means the conditions of approval and mitigation measures imposed upon the land use entitlements for a property, and any subdivision improvement, development or other agreement with the City relating to development of the property.
- G. "Costs" means amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of a Public Facility, including, without limitation, the costs of land, construction, inspection, engineering, administration, and consulting fees.
- H. "Credits" means offsets to the payment of specific components of the Interim Development Impact Fee program.
- I. "Department" means the Carson Community Development Department.
- J. "Developer" means any land owner or other person or entity undertaking development of real property in the City.

- K. "Development Project" means any project undertaken for the purpose of development, including a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.
- L. "Director" means the Director of the Carson Community Development Department.
- M. "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by the City to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of Public Facilities related to the development project, but does not include fees specified in Section 66477 of the Government Code, nor fees for processing applications for regulatory actions or approvals (unless such meaning is clearly indicated by context), nor fees collected under development agreements.
- N. "Hotel" means a building with the primary use as either a hotel, motel or residence inn, or a building containing six (6) or more rooms intended to be used for sleeping purposes by guests.
- O. "Industrial Uses" means a building with the primary use of warehouse, manufacturing, storage or distribution, logistics, including multi-tenant buildings designated for industrial uses, and business parks.
- P. "Office" means a building with primarily office uses. This includes office uses such as banks, other financial institutions, and professional and medical offices.
- Q. "Public Facilities" means public improvements, public services, and community amenities included in the Reports.
- R. "Reimbursement" means a payment made to a developer for the construction of a public improvement or facility included in the Reports.
- S. "Reports" means the Interim Development Impact Fee Nexus Study prepared by Kelly Associates Management Group and dated March 19, 2019, and approved by the City Council on April 2, 2019, along with all reports, studies, assessments, and memorandums referenced within that Study.
- T. "Residential" means and includes dwellings or permanent living accommodations.
- U. "Square Footage" means the area within the interior walls of a building, exclusive of the vent shafts and courts. When no exterior walls are provided, the Square Footage shall be the usable area under the roof and/or on the roof. Exterior hardscaped areas (i.e. parking, walkways, courtyards) covered by a roof shall be excluded.

## **Chapter 4 – Procedure for Adoption of Fees**

### **11400 Procedure for Adoption of Fees**

Except as provided in Section 11401, the procedural requirements in Government Code Sections 66018 and 66019 shall be followed for the adoption or increase of an Interim Development Impact Fee:

- A. The City shall hold at least one public hearing at a regularly scheduled City Council meeting.
- B. Notice of the public hearing shall be published in a newspaper regularly published at least once a week. The notice shall be published twice, with at least five days intervening between the dates of the first and last publication, not counting such publication dates. The first publication shall occur ten (10) days prior to the public hearing.
- C. Notice for the public hearing must be mailed to those who have filed a written request with the City at least fourteen (14) days prior to the City Council meeting.
- D. At least ten (10) days before the City Council meeting, the City shall make available for public review the data indicating the amount of the cost required to provide the Public Facilities for which the fee is charged and the revenue sources anticipated to fund those Public Facilities.
- E. Any new fee or increase to an existing fee shall be made by ordinance or resolution of the City.
- F. Any costs incurred in conducting the public hearing may be recovered from the fees to be collected.
- G. The Interim Development Impact Fees are effective sixty (60) days after the City Council's final action on the adoption or increase of the fees.

#### **11401 Urgency Measure for Adopting Fees**

Pursuant to Government Code Section 66017, if the City determines that a new fee or an increase in an existing fee is necessary to protect the public health, safety and welfare, then an Interim Development Impact Fee can be adopted or increased on an interim basis by urgency measure without following the procedures outlined in Section 11400. The urgency measure must be adopted by a four-fifths (4/5) vote of the City Council and must include written findings that describe the current and immediate threat to the public health, safety, and welfare that justifies the urgency measure. The initial urgency measure is effective for thirty (30) days, but may be extended for up to two (2) additional thirty-day (30-day) periods by a four-fifths (4/5ths) vote following notice and a public hearing.

#### **Chapter 5 – Establishment of Interim Development Impact Fees**

#### **11500 Interim Development Impact Fees**

The Interim Development Impact Fees established under this Chapter shall be in the amounts determined by City Council resolution. The amounts of such Interim Development Impact Fees shall be increased annually on July 1 of each year based on the State of California Construction Cost Index (the “CCCI”) increase for the previous calendar year as determined on March 1 of each year. Such Interim Development Impact Fee amounts also shall be reviewed and revised every five years, based on the current estimated costs of the proposed Public Facilities in the Report, as required by the Mitigation Fee Act.

#### **11501 Establishment of Fee Categories**

The following Interim Development Impact Fees are established for each development project located within the City:

- A. General Government Facilities – A fee for general government facilities is established to finance the expansion, design, and construction of governmental facilities as specified in the Reports, such as City Hall and Corporate Yard improvements.
- B. Transportation Infrastructure and Facilities – A fee for transportation infrastructure and facilities is established to finance the expansions, design, and construction of transportation infrastructure and facilities specified in the Reports, such as roads, bridges, public transit, bikeways, and pedestrian walkways.
- C. Utilities and Sustainability – A fee for utilities and sustainability is established to finance the expansion, design, and construction of utilities and sustainable facilities as specified in the Reports, such as green streets and renewable energy projects.
- D. Beautification – A fee for beautification is established to finance the expansion, design, and construction of citywide beautification infrastructure and facilities as specified in the Reports, including signage and street furniture that assist in reducing congestion and associated pollution.

- E. Parks and Related Facilities – A fee for parks and related facilities is established to finance the land acquisition and infrastructure costs to meet the demand for park space attributable to new development, as specified in the Reports.
- F. Traffic Facilities – A fee for traffic facilities and related facilities is established to finance traffic improvements necessary to accommodate the increase in traffic generated by new development, as specified in the Reports.

#### **11502 Imposition of Interim Development Impact Fees**

Unless otherwise specified in this Article, development projects and developers thereof shall pay the Interim Development Impact Fees if the development project includes the new construction, significant demolition and redevelopment in relationship to the project site, or building additions of 10% or more of the on-site building footprint.

#### **11503 Notice of Imposition of Interim Development Impact Fees**

At the time of approval or conditional approval of a development project, or within fifteen (15) days from the date of approval, the City shall give written notice to each developer of the Interim Development Impact Fees imposed, as well as a description of any dedication, reservation, or other exaction imposed on such development project as a condition of its approval. The notice shall also state that the developer may protest the imposition of any such fee, dedication, reservation, or other exaction and that the ninety (90) day approval period in which the developer may submit a protest has begun.

#### **11504 Payment of Interim Development Impact Fees**

Except as provided below and in Government Code Section 66007, Interim Development Impact Fees shall be calculated and paid prior to issuance of the building permit. Notwithstanding the above, at the discretion of the City Council, the payment of specified fees may be deferred to a time no later than the issuance of a certificate of occupancy or up to twelve (12) months following the issuance of the building permit, whichever occurs first. The deferred fee payments will be based on the fees in effect at the time of actual payment.

### **Chapter 6 – Accounting and Reporting**

#### **11600 Creation of Special Fund and Accounts**

The Mitigation Fee Act requires the City to account for all Interim Development Impact Fees collected. Interim Development Impact Fees shall be deposited into a separate capital facilities account or accounts and shall not be commingled with any other City funds, except for temporary investments. All collected Interim Development Impact Fees (“IDIF”) shall be distributed into the six (6) IDIF categories in accordance with their respective percentages as it relates to the IDIF amount. See Table A below. Interim Development Impact Fees shall be expended solely for the purpose for which they were collected. While funds are accruing for individual Public Facilities, the City must track each fund and provide an annual report.



**TABLE A**

<b>INTERIM DEVELOPMENT IMPACT FEE ALLOCATION</b>		
<b>Project Type</b>	<b>Fee Category</b>	<b>Percentage Breakdown of IDIF Fee</b>
Hotel	Traffic	51.91%
	Parks	42.76%
	Beautification	0.17%
	General Government Facilities	1.19%
	Transportation Infrastructure	2.43%
	Utilities and Sustainability	1.54%
	<b>TOTAL (PER ROOM)</b>	<b>100%</b>
Truck Yard	Traffic	38.36%
	Parks	49.33%
	Beautification	0.38%
	General Government Facilities	2.76%
	Transportation Infrastructure	5.62%
	Utilities and Sustainability	3.55%
	<b>TOTAL (PER TRUCK SPACE)</b>	<b>100%</b>
Recreational	Traffic	98.04%
	Parks	0.00%
	Beautification	0.06%
	General Government Facilities	0.44%
	Transportation Infrastructure	0.89%
	Utilities and Sustainability	0.56%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>
Industrial / Business Park	Traffic	29.75%
	Parks	35.17%
	Beautification	1.10%
	General Government Facilities	7.86%
	Transportation Infrastructure	16.02%
	Utilities and Sustainability	10.11%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>

**TTABLE A (continued)**

Project Type	Fee Category	Percentage Breakdown of IDIF Fee
Residential MFR Studio / 1 Bedroom	Traffic	3.77%
	Parks	85.57%
	Beautification	0.33%
	General Government Facilities	2.39%
	Transportation Infrastructure	4.87%
	Utilities and Sustainability	3.07%
	<b>TOTAL (PER UNIT)</b>	<b>100%</b>
Residential MFR All Other	Traffic	2.13%
	Parks	87.03%
	Beautification	0.34%
	General Government Facilities	2.43%
	Transportation Infrastructure	4.95%
	Utilities and Sustainability	3.12%
	<b>TOTAL (PER UNIT)</b>	<b>100%</b>
Commercial	Traffic	58.75%
	Parks	20.65%
	Beautification	0.64%
	General Government Facilities	4.62%
	Transportation Infrastructure	9.41%
	Utilities and Sustainability	5.94%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>
Office	Traffic	40.53%
	Parks	29.76%
	Beautification	0.93%
	General Government Facilities	6.66%
	Transportation Infrastructure	13.56%
	Utilities and Sustainability	8.56%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>
Dormitory	Traffic	20.79%
	Parks	70.43%
	Beautification	0.27%
	General Government Facilities	1.97%
	Transportation Infrastructure	4.01%
	Utilities and Sustainability	2.53%
	<b>TOTAL (PER BED)</b>	<b>100%</b>

## **11601 Reporting Requirements**

- A. Annual Reporting Requirements – Pursuant to Government Code Section 66006, within 180 days after the last day of the fiscal year (i.e. by December 27th), the City must make the following information available:
1. A brief description of the type of fee in each account or fund;
  2. The amount of the fee;
  3. The beginning and ending balance of the account or fund;
  4. The amount of the fees collected and the interest earned;
  5. An identification of each Public Facility on which fees were expended and the amount of each expenditure, including the total percentage of the cost of the Public Facility that was funded with fees;
  6. An identification of an approximate date by which the construction of the Public Facility will commence if the City determines that sufficient funds have been collected to complete financing on an incomplete Public Facility and the Public Facility remains incomplete.
  7. A description of any interfund transfer or loan, and the Public Facility on which the transferred funds will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan; and
  8. The amount of any refunds made and any allocations of unexpended fees that are not refunded.
- B. At the next regularly scheduled City Council meeting occurring within 15 days after the annual reporting requirements described above are made available to the public, the City Council shall review the annual report.
1. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the City Council for mailed notice of the meeting. The City Council may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.
  2. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year.
- C. Five-Year Reporting Requirements – Pursuant to Government Code Section 66001, the fifth fiscal year following the first deposit into each Public Facility account or fund, and every five

years thereafter, the City must make the following findings for any portion of the account or fund remaining unexpended:

1. Identify the purpose to which the fee is to be put.
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete Public Facilities.
4. Designate the approximate date on which the funding referred to above is expected to be deposited into the appropriate account or fund.

If the City fails to make these findings, it must refund any undisbursed monies to the owner of record of the project sites originally contributing to the funds, to the extent required by State law.

## **Chapter 7 - Exemptions**

### **11700 Exemptions**

The following exceptions apply to the fees imposed by this Chapter:

- A. Senior citizen housing developments as defined by the Carson Municipal Code;
- B. Affordable Housing as described in the Carson Municipal Code;
- C. Accessory dwelling units as defined by State law;
- D. Tenant Improvements;
- E. Business License Renewals;
- F. Lease Extensions;
- G. Renovations of existing structures;
- H. Building Additions of less than 10% of the on-site building footprint; and
- I. Development projects owned by the City of Carson, the Carson Successor Agency, the Carson Reclamation Authority, and the Carson Housing Authority.

## **Chapter 8 – Credits and Reimbursements**

### **11800 Fee Credits (Based on Demolition and New Construction)**

The amount of Interim Development Impact Fee which would otherwise be due and payable in accordance with the provisions of this Article may be reduced by Interim Development Impact Fee credits (“fee credits”) described in this Chapter 8.

#### **A. General Provisions of Fee Credits for Demolitions.**

1. Eligibility. A Developer may be eligible for fee credits if a Development Project meets both of these criteria:
  - a. The Development Project includes demolition of an existing structure or structures at the Development Project site prior to construction of the new Development Project; and
  - b. The Development Project is subject to Interim Development Impact Fees pursuant to this Article, payable in an amount determined by City Council resolution setting the Interim Development Impact Fees.
2. Applying for a Fee Credit.
  - a. A Developer may apply for a fee credit by applying for a demolition permit for the existing structure(s) on the Development Project site. On the demolition permit application, the Developer shall specify in writing if the Developer requests a fee credit.
  - b. The demolition permit application shall include the prior use, the floor area, and other information necessary to determine the amount of fee credits available. If the existing structure or the Development Project’s new construction, or both, consist of industrial/business parks or recreational projects, then the demolition permit application shall also include building volume of the existing structure and the proposed new structure(s). All information submitted in a demolition permit application is subject to review and verification by the Director or his/her designees.
  - c. The Building Official may issue a corrected demolition permit if the City determines that the Developer provided inaccurate information on its demolition permit application.
  - d. If a Developer is eligible for fee credits, then the fee credits shall be calculated based on approved and verified information on the demolition permit application, and according to the formulas and procedures described in this Chapter.
  - e. The amount of the fee credit shall be determined at the time of demolition permit issuance, or prior to issuance. The Director shall provide written approval of a fee credit and the amount of the fee credit.
3. Applying Fee Credits to Interim Development Impact Fees.

- a. Fee credits shall apply when Interim Development Impact Fees are due. Unused fee credits shall be forfeited. Fee credits cannot be transferred to another Development Project, whether on the same site or different site than the Development Project for which the fee credits are approved.
  - b. Fee credits shall not apply to the administrative fee.
  - c. Fee credits shall not exceed Interim Development Impact Fee minus the administrative fee.
  - d. After deducting applicable fee credits and administrative fees, the remaining IDIF shall be distributed into the six (6) IDIF categories in accordance with their respective percentages. See Table A above.
4. Fee Credits For Demolition (Same Development Project Type)

Interim Development Impact Fee balance (Interim Development Impact Fees including administrative fees less any fee credits) for Development Projects replacing an existing structure with a new structure of the same development project type (e.g. residential development project replacing existing residential) shall be calculated based on the following:

- a. For Residential MFR Studio/1 Bedroom and Residential MFR All Other, Dormitory, Hotel, Truck Yard (permanent structure(s) on truck yards are only eligible for Industrial Credits), Commercial, and Office project types, the following steps will determine the Interim Development Impact Fee balance:
  - i. Determine the "Total IDIF of the New Development Project," which includes IDIF Administrative Fees.
  - ii. Determine the fee credit amount. The fee credit shall be the "Existing Structure Net IDIF," which is the hypothetical total IDIF of the existing structure (i.e., the total IDIF for which the existing structure would be responsible if the existing structure was a new Development Project subject to the IDIF) minus the Administrative Fee.
  - iii. Subtract the fee credit (i.e. the Existing Structure Net IDIF) from the Total IDIF of the New Development Project to determine the IDIF balance due.
$$[(\text{Total IDIF of New Development Project}) - (\text{Existing Structure Net IDIF})] = \text{IDIF balance due}$$
- b. For Recreational and Industrial/Business Park project types, the following steps will determine the Interim Development Impact Fee balance:
  - i. Determine the Building Volume of existing structure as specified on the City's fee credit approval letter from the Demolition Permit Application.

- ii. Calculate Building Volume of new Development Project. In general, this means, multiply the total building footprint by the average building height as approved by the appropriate approval authority. Final volume is measured in cubic feet.
- iii. Determine the Net Building Volume (i.e. the increase in building volume, if any) arising from the new Development Project by subtracting the Building Volume of existing structure from the Building Volume of the new Development Project:  
  

$$\text{New Development Project Building Volume} - \text{Existing Structure Building Volume} = \text{Net Building Volume}$$
- iv. Divide the Net Building Volume by the Average New Building Height to get the Net Floor Area of the building footprint (i.e., the increase in square footage of the first floor).
- v. Add the Net Floor Area of the building footprint to all other Building Areas ("other Building Areas" meaning second floor and above, including any mezzanine areas) to obtain Total Net Square Footage.
- vi. Multiply Total Net Square Footage by IDIF rates to obtain final Total IDIF balance.

5. Fee Credits Calculations for Demolitions (Change in Development Project Type)

Interim Development Impact Fee balance (total Interim Development Impact Fees including administrative fees, less any fee credits) for Development Projects replacing an existing structure with a Development Project type that is different from the existing structure (e.g. industrial building converting to Commercial) shall be calculated based on the following steps:

- a. Determine the "Total IDIF of the New Development Project," which includes IDIF Administrative Fees.
- b. Determine the fee credit amount. The fee credit shall be the "Existing Structure Net IDIF," which is the hypothetical total IDIF of the existing structure (i.e., the total IDIF for which the existing structure would be responsible if the existing structure was a new Development Project subject to the IDIF) minus the Administrative Fee.
- c. Subtract the fee credit (i.e. the Existing Structure Net IDIF) from the Total IDIF of the New Development Project to determine the IDIF balance due.

$$[(\text{Total IDIF of New Development Project}) - (\text{Existing Structure Net IDIF})] = \text{IDIF balance due}$$

**11801 Fee Credits (Based on Construction of Public Facilities)**

If a developer constructs Public Facilities to satisfy a condition of approval on a development project for which an Interim Development Impact Fee is imposed, then the developer may be eligible to receive a fee credit toward the Interim Development Impact Fee imposed on the development project. The credit shall be limited to the fee category applicable to the constructed Public Facility. For example, construction of a park facility may be eligible for a credit against Interim Development Impact Fees for Parks, but shall not apply as a credit against other fee categories. Fee credits shall be issued in accordance with the following requirements:

- A. The developer must enter into a credit agreement with the City prior to receiving credits. If a credit agreement is not in place at the time the Interim Development Impact Fees are due to the City, the developer shall pay its Interim Development Impact Fee obligation in full or will not receive building permits.
- B. The amount of the credit shall be the developer's reasonable and actual costs of construction, as determined by the City Engineer. The reasonable and actual costs of construction shall not, however, exceed the City's engineering cost estimates. Notwithstanding the above, the credit shall not be greater than the amount of the fee owed for the relevant fee category. If the credit is less than the fee owed for the relevant fee category, then developer shall pay the balance of the fee to the City.
- C. Credits earned for the construction of Public Facility can only be applied to the Interim Development Impact Fee category for which the Public Facility is programmed. Credits shall not apply outside the category for which the Public Facility is programmed.
- D. Credits cannot be applied to the administrative fee.
- E. Credits shall accrue when the developer has completed the construction of a creditable improvement and the improvement has been accepted by the City, or when the developer has bonded for the construction of the improvement per the credit agreement with the City and to the satisfaction of the City Engineer.
- F. All rights to fee credits shall be personal to the property owner that was financially responsible for building or funding the improvement. The constructing property owner may transfer and or assign its rights upon sale of the property to the new owner with a written document approved in form and acknowledged by the City. Fee credits shall not be sold and or transferred to other property owners or guest builders, unless otherwise agreed upon in a written document that has been reviewed and approved by the City Council. Project credits shall not be sold and or transferred.



## **11802 Reimbursements**

If a developer constructs Public Facilities to satisfy a condition of approval on a development project for which an Interim Development Impact Fee is imposed, and the cost of constructing the Public Facility exceeds the amount of the Interim Development Impact Fee for the relevant fee category, then the developer may be entitled to a reimbursement for the difference between the cost of construction and the relevant Interim Development Impact Fee. Cost reimbursement shall be made in accordance with the following requirements:

- A. The developer shall enter into a reimbursement agreement prior to commencing construction of a Public Facility.
- B. The amount of the reimbursement shall be the difference between the fees owed and developer's reasonable and actual costs of construction, as determined by the City Engineer; provided that the reasonable and actual costs of construction shall not exceed the engineering cost estimates included in the Reports, unless approved by City Council.
- C. The agreement shall set forth the amount to be reimbursed, the time and manner in which payments are to be made, and shall require the City to reimburse the developer from the applicable fund when funds are available.
- D. The City's General Fund shall not be used for payment of any obligations rising from a reimbursement agreement under this Section.
- E. Reimbursement priority will be determined on a first-in and first-out basis. When funds are available, and no high priority projects need to be financed (as determined by the City Manager), reimbursements will be paid to the developer that first became eligible for reimbursement. Once that developer is paid in full, the developer that next became eligible for reimbursement will be paid until paid in full. A developer will only become eligible for reimbursement after the Public Facility constructed by that developer is formally accepted by the City Council.
- F. The developer shall submit a request for reimbursement in accordance with the reimbursement agreement, including full documentation therefore, no later than one (1) year after the Public Facility is accepted by the City Council. The time to apply for reimbursement may be extended up to one (1) additional year by the City Council for good cause shown. Failure to submit a timely request for reimbursement shall constitute a waiver of developer's right to reimbursement.

## **11803 Requirements for Construction of Public Facilities**

The construction of Public Facilities under this Section shall comply with the following requirements. A developer that fails to comply with these requirements shall not be eligible for a credit or reimbursement under this Section.

- A. Contracts for the construction of Public Facilities shall be advertised and awarded in accordance with the requirements of the Public Contract Code and City's purchasing

ordinance (Article II, Chapter 6 of this Code) relating to public works projects, or as otherwise directed by City staff.

- B. Developer shall ensure compliance with all provisions of the Labor Code regarding payment of prevailing wages and similar provisions, including Labor Code Section 1720 et seq. and Labor Code Section 1810 et seq.
- C. Prior to soliciting bids for any portion of the Public Facilities, developer shall submit to the City for review and approval the bid packet and a set of construction drawings signed by developer or another authorized representative designated by developer for the work being bid. The City's approval shall be granted or denied within fifteen (15) calendar days after submission of such bid packet. If the City denies approval of such bid packet and construction drawings, the City shall specify the reasons for such disapproval and developer shall resubmit a revised bid packet for review and approval until such approval is obtained.
- D. Developer shall provide the City with copies of all bids received from contractors and a bid summary in a form approved by the City to assure that the contractor/subcontractors adhere to the applicable legal requirements for public works projects. The contract or contracts for the construction of the Public Facilities shall be awarded to the responsible bidder(s) submitting the lowest responsive bid(s) for the construction of the Public Facilities. Developer shall enter into a construction contract with each contractor selected to perform work on the Public Facilities (after competitive bidding as set forth above), for the performance of the work set forth in the selected bid, and the terms of each construction contract entered into by developer and each contractor/subcontractor shall be reasonably acceptable to the City. Developer shall submit to City a copy of each executed construction contract for the Public Facilities within fifteen (15) days after execution thereof.
- E. All work shall be done and the Public Facilities completed as shown on the plans and specifications, as well as any subsequent alterations thereto mutually agreed upon by City and developer. If developer desires to make any alterations to the plans and specifications resulting in a change order to the contract, it shall provide written notice to the City of such proposed alterations. City shall have ten (10) business days after receipt of such written notice for change or work to administratively approve or disapprove such alterations, which approval shall not be unreasonably withheld, conditioned or delayed. If City fails to provide written notice to developer of its approval or disapproval of the alterations within such ten (10) business day period, City will be deemed to have disapproved such alterations to the plans and specifications.
- F. Developer shall complete construction of the Public Facilities in accordance with the City-approved plans and specifications within one (1) year of the issuance of a building permit, unless both the City and developer agree to an extension in writing.
- G. City shall not be responsible or liable for the maintenance or care of, and shall exercise no control over, the Public Facilities until such Public Facilities are accepted by City. Developer shall have no obligation to make the Public Facilities available for public use at any time before the Public Facilities are accepted by City. Any use by any person of the Public Facilities, or any portion thereof, shall be at the sole and exclusive risk of developer at all times prior to City's acceptance of the improvements.

#### **11804 Improvements Not Eligible for Credit or Reimbursement**

Unless otherwise negotiated in the credit or reimbursement agreement between the City and the developer, the developer shall not receive Interim Development Impact Fee credits or reimbursements for the following improvements:

- A. Interim Public Facilities. A developer may elect, with the approval of the City, to construct interim Public Facilities pending the construction of needed improvements included in the Reports. No credits or reimbursement shall be available for such interim or temporary improvements.
- B. Frontage Improvements. Unless otherwise specified in the Reports, developers shall not be entitled to credits or reimbursement for the construction of frontage improvements, including concrete curbs, gutters, asphalt concrete street pavement, landscaping, and sidewalks.
- C. Utility Undergrounding and Utility Poles. Developers shall be not entitled to credits or reimbursement for the undergrounding of utility devices or relocation of utility poles.

#### **Chapter 9 – Protest Procedures**

##### **11900 Protests**

In accordance with Government Code Section 66020, a developer may protest the imposition of Interim Development Impact Fees on a development project by complying with the following requirements:

- A. Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due; and
- B. Serving a written notice on the City Clerk, including (i) a statement that the required payment is tendered or will be tendered when due and (ii) a statement informing the City of the factual elements of the dispute and the legal theory forming the basis for the protest.

##### **11901 – Time Limits on Filing Protests**

Any such protest shall be filed within the applicable timeframe, as follows:

- A. For projects that require approval or conditional approval of a development, the protest shall be filed at the time of the approval or conditional approval. For purposes of this Section, and pursuant to Government Code Section 66020(g), “approval or conditional approval of a development” occurs when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved, or when the parcel map is recorded if a tentative map or tentative parcel map is not required.
- B. For projects that do not require approval or conditional approval of a development, as defined above, the protest shall be filed within ninety (90) days after approval by the City of the entitlement or permit that imposes the Interim Development Impact Fees on the development.

### **11902 – Council Consideration of Protests**

The City Council shall consider the protest at a public hearing within sixty (60) days after it is filed, and the decision of the City Council shall be final.

**SECTION 3.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

**SECTION 4.** This Ordinance shall be in full force and effect thirty (30) days after its adoption.

**SECTION 5.** The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and codified in the manner required by law.

**PASSED, APPROVED and ADOPTED** at a regular meeting of the City Council on this 16<sup>th</sup> day of April, 2019.

[Signatures on Following Page]

APPROVED AS TO FORM:

CITY OF CARSON:

\_\_\_\_\_  
Sunny K. Soltani, City Attorney

\_\_\_\_\_  
Albert Robles, Mayor

ATTEST:

\_\_\_\_\_  
Donesia Gause-Aldana, MMC, City Clerk

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   ) ss.  
CITY OF CARSON             )

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, hereby attest to and certify that the foregoing ordinance, being Ordinance 19-1931 passed first reading on the 2<sup>nd</sup> day of April, 2019, adopted by the Carson City Council at its meeting held on the 16<sup>th</sup> day of April, 2019, by the following roll call vote:

AYES:           COUNCIL MEMBERS:  
NOES:           COUNCIL MEMBERS:  
ABSTAIN:       COUNCIL MEMBERS:  
ABSENT:        COUNCIL MEMBERS:

\_\_\_\_\_  
Donesia Gause-Aldana, MMC, City Clerk

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   ) ss.  
CITY OF CARSON             )

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, do hereby certify that Ordinance No. 19-1931 has been duly and regularly published according to law and the order of the City Council of said City and that same was so published in *Our Weekly*, a newspaper of general circulation on the following date(s):

Adopted Ordinance: \_\_\_\_\_

In witness whereof, I have hereunto subscribed my name this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Donesia Gause-Aldana, MMC, City Clerk

**ATTACHMENT A**

<b>INTERIM DEVELOPMENT IMPACT FEE ALLOCATION</b>		
<b>Project Type</b>	<b>Fee Category</b>	<b>Percentage Breakdown of IDIF Fee</b>
Hotel	Traffic	51.91%
	Parks	42.76%
	Beautification	0.17%
	General Government Facilities	1.19%
	Transportation Infrastructure	2.43%
	Utilities and Sustainability	1.54%
	<b>TOTAL (PER ROOM)</b>	<b>100%</b>
Truck Yard	Traffic	38.36%
	Parks	49.33%
	Beautification	0.38%
	General Government Facilities	2.76%
	Transportation Infrastructure	5.62%
	Utilities and Sustainability	3.55%
	<b>TOTAL (PER TRUCK SPACE)</b>	<b>100%</b>
Recreational	Traffic	98.04%
	Parks	0.00%
	Beautification	0.06%
	General Government Facilities	0.44%
	Transportation Infrastructure	0.89%
	Utilities and Sustainability	0.56%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>
Industrial / Business Park	Traffic	29.75%
	Parks	35.17%
	Beautification	1.10%
	General Government Facilities	7.86%
	Transportation Infrastructure	16.02%
	Utilities and Sustainability	10.11%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>

INTERIM DEVELOPMENT IMPACT FEE ALLOCATION		
Project Type	Fee Category	Percentage Breakdown of IDIF Fee
Residential MFR Studio / 1 Bedroom	Traffic	3.77%
	Parks	85.57%
	Beautification	0.33%
	General Government Facilities	2.39%
	Transportation Infrastructure	4.87%
	Utilities and Sustainability	3.07%
	<b>TOTAL (PER UNIT)</b>	<b>100%</b>
Residential MFR All Other	Traffic	2.13%
	Parks	87.03%
	Beautification	0.34%
	General Government Facilities	2.43%
	Transportation Infrastructure	4.95%
	Utilities and Sustainability	3.12%
	<b>TOTAL (PER UNIT)</b>	<b>100%</b>
Commercial	Traffic	58.75%
	Parks	20.65%
	Beautification	0.64%
	General Government Facilities	4.62%
	Transportation Infrastructure	9.41%
	Utilities and Sustainability	5.94%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>
Office	Traffic	40.53%
	Parks	29.76%
	Beautification	0.93%
	General Government Facilities	6.66%
	Transportation Infrastructure	13.56%
	Utilities and Sustainability	8.56%
	<b>TOTAL (PER KSF)</b>	<b>100%</b>
Dormitory	Traffic	20.79%
	Parks	70.43%
	Beautification	0.27%
	General Government Facilities	1.97%
	Transportation Infrastructure	4.01%
	Utilities and Sustainability	2.53%
	<b>TOTAL (PER BED)</b>	<b>100%</b>