

## **REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT**

**FEBRUARY 3, 2014**

The Planning and Development Department hereby forwards to the Rules Committee, Transportation, Energy & Utilities Committee, Land Use and Zoning Committee and City Council its comments and recommendations on:

### **ORDINANCE 2013-761**

**AN ORDINANCE CONCERNING MOBILITY FEE CREDITS IN CONJUNCTION WITH A TRANSPORTATION IMPROVEMENT PROJECT; AMENDING SECTION 655.507 (TRANSPORTATION IMPROVEMENT PROJECTS CONSTRUCTED BY A LANDOWNER OR DEVELOPER) AND SECTION 655.508 (MOBILITY FEE CONTRACT), CHAPTER 655 (CONCURRENCY AND MOBILITY MANAGEMENT SYSTEM), ORDINANCE CODE, TO PERMIT MOBILITY FEE CREDITS OF EQUAL VALUE EVEN IF THE TRANSPORTATION IMPROVEMENT PROJECT IS NOT SPECIFICALLY IDENTIFIED IN THE 2030 MOBILITY PLAN OR IN THE CAPITAL IMPROVEMENTS ELEMENT OF THE JACKSONVILLE 2030 COMPREHENSIVE PLAN; PROVIDING AN EFFECTIVE DATE.**

#### **I. GENERAL INFORMATION**

This bill amends Ordinance Code Chapter 655 – Concurrency and Mobility Management System – to allow a landowner or developer to receive mobility fee credits of equal value even if the transportation improvement project is not specifically identified in the 2030 Mobility Plan or in the Capital Improvements Element (CIE) of the 2030 Comprehensive Plan. Mobility fee credits are only permitted for entire transportation improvement projects identified in the 2030 Mobility Plan. Additionally, the costs must be the same as the applicant's mobility fee or cost less than the applicant's mobility fee and the applicant pays the difference between the mobility fee and the cost of the improvement project.

There is an associated text amendment (Ordinance 2014-57) being considered to the Transportation and Capital Improvements Elements of the 2030 Comprehensive Plan, which amends Transportation Element Policy 1.4.3 and CIE Policy 1.6.7 to ensure consistency with the 2030 Comprehensive Plan for the proposed changes to Ordinance Code Chapter 655.

#### **II. EVALUATION**

- A. *The need and justification for the change:* The change is needed in order to allow a transportation improvement project that is not specifically identified in the 2030 Mobility Plan or the CIE to be constructed by a landowner or developer and receive credit against the mobility fee. Without this change, a landowner or developer is limited to transportation

improvement projects listed in the 2030 Mobility Plan, which may not be relevant to a landowner or developer's proposed development. Expanding the option for a landowner or developer to construct a transportation improvement project not listed in the 2030 Mobility Plan would provide flexibility and coordination between the specific impacts of the transportation improvement project to a proposed development's impacts, as well as provide for a more predictable recoupment of credits for the cost of the transportation improvement project.

The proposed amendment addresses the following areas of concern:

**Mobility Score.** The legislation establishes criteria requiring any transportation improvement project to maintain or improve the adopted City-wide and 2030 Mobility Zone minimum mobility score. There is no discernable difference between the mobility score of a transportation improvement project that's not included in the 2030 Mobility Plan versus one that is in the Mobility Plan. Therefore, the legislation is consistent with the requirement to maintain or improve the aforementioned mobility score.

**Consistency with the Text Amendment.** The proposed amendment specifies that the roadway improvement credits issued to the landowner shall be equal to the design, construction and permitting costs of the transportation improvement project, which is generally consistent with the text amendment (Ordinance 2014-57).

**Effect on Prioritized Projects.** The 2030 Mobility Plan directs 89% of mobility payments to the number one prioritized transportation improvement project listed in the Mobility Plan. The remaining 11% of mobility fee payments are allocated to the prioritized bicycle and pedestrian transportation mode improvement projects.

The fiscal impact of a developer constructed transportation improvement project not listed in the 2030 Mobility Plan would result in decreased funding of the current prioritized transportation improvement project located in the same mobility zone by redirecting the developer's share of allocated credits to the non-prioritized roadway project. However, the reduced funding of the prioritized project is less adverse if the mobility fee credits awarded to a landowner or developer are less than or equal to the calculated mobility fee because the applicant's mobility credits will most likely be recouped as the development is built. Awarding excess mobility fee credits could negatively impact the viability of the prioritized transportation projects by siphoning off more credits than the development's impacts can reasonably expect to recoup. Therefore, to mitigate the possible funding erosion of the prioritized transportation improvement project associated with the excess credits, the following amendment is recommended: *Excess credits issued against a mobility fee for a transportation improvement project that is not specifically listed in the 2030 Mobility Plan as a prioritized project shall be limited to a maximum of fifty percent (50%) of the calculated mobility fee.*

Additionally, in order to maintain prioritized funding for bicycle/pedestrian requirements, as required pursuant to Transportation Element Policy 1.4.10 of the 2030 Comprehensive Plan, the use of excess credits shall be limited to 89% of an applicant's calculated mobility fee.

Thus, the applicant would be required to pay eleven percent (11%) of the calculated mobility fee into the bike/pedestrian fund. The following amendment is recommended: *Any excess credit transaction shall not include the eleven percent (11%) as required for the bicycle/pedestrian funding under the 2030 Comprehensive Plan, which should be payable to the City of Jacksonville prior to permitting for the development.*

To ensure accuracy of construction costs of a transportation improvement project the following amendment to the Mobility Fee Contract is recommended: *The applicant shall include in the Mobility Fee Contract to the Planning and Development Department verification of actual road improvement costs of the design and permitting of the proposed transportation improvement, including signed contracts in order to validate the requested mobility fee credit.*

B. Summary of Bill The bill amends Ordinance Code Chapter 655 – Concurrency and Mobility Management System – to allow a landowner or developer to receive mobility fee credits of equal value even if the transportation improvement project is not specifically identified in the 2030 Mobility Plan or in the Capital Improvements Element (CIE) of the 2030 Comprehensive Plan. Currently, mobility fee credits are only permitted for entire transportation improvement projects identified in the 2030 Mobility Plan.

C. The relationship of the proposed amendment to the Comprehensive Plan and the work of the Department with appropriate consideration as to whether the proposed amendment will further the purposes of the Concurrency and Mobility Management System and Comprehensive Plan.

As noted previously, the 2030 Mobility Plan currently allows credit for transportation improvement projects constructed by a landowner or developer. The legislation expands the options to allow a transportation improvement project not listed in the 2030 Mobility Plan to receive credit for construction by a landowner or developer which furthers the purpose of the 2030 Mobility Plan by providing an additional option for a landowner or developer to construct a transportation improvement project and receive credit against the mobility fee. To ensure consistency involving the cost of construction estimates, the following amendment is recommended:

D. Consistency with the Comprehensive Plan.

Ordinance 2013-761 is consistent with the following Goals, Objectives, and Policies of the 2030 Comprehensive Plan:

CIE Objective 1.1: The City shall provide capital improvements to correct existing public facilities determined to be deficient, to accommodate desired future growth, and replace those facilities determined to be irreparable in a capital improvements schedule within the element.

Transportation Element Policy 1.4.3 (per amendment Ord. 2014-57): The Capital Improvements Element shall be based upon the transportation modes improvement project list set forth in the Mobility Plan or a project set forth pursuant to Capital Improvements Element Policy 1.6.7.

### III. RECOMMENDATIONS

Based upon examination of the proposed ordinance with respect to the goals, objectives and policies of the 2030 Comprehensive Plan, and the intent of the 2030 Mobility Plan, the Planning and Development Department finds that Ordinance 2013-761 is consistent with the Comprehensive Plan, subject to approval of Ordinance 2014-057 (Text Amendment to the Transportation and Capital Improvements Elements) and does further the spirit and intent of the 2030 Mobility Plan. Therefore, it is the recommendation of the Planning and Development Department that Ordinance 2013-761 be **APPROVED**, subject to the following amendments:

1. **Excess credits issued against a mobility fee for a transportation improvement project that is not specifically listed in the 2030 Mobility Plan as a prioritized project shall be limited to a maximum of fifty percent (50%) of the calculated mobility fee.**
2. **Any excess credit transaction shall not include the eleven percent (11%) as required for the bicycle/pedestrian funding under the 2030 Comprehensive Plan, which should be payable to the City of Jacksonville prior to permitting for the development.**
3. **The applicant shall include in the Mobility Fee Contract to the Planning and Development Department verification of actual road improvement costs of the design and permitting of the proposed transportation improvement, including signed contracts in order to validate the requested mobility fee credit.**

**CITY COUNCIL RESEARCH DIVISION  
LEGISLATIVE SUMMARY**



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**Bill Type and Number:** Ordinance 2013-761

**Introducer/Sponsor(s):** Council Member Jones

**Date of Introduction:** November 26, 2013

**Committee(s) of Reference:** TEU, LUZ

**Date of Analysis:** November 28, 2013

**Type of Action:** Ordinance Code amendment

**Bill Summary:** The bill amends Ordinance Code Chapter 655 – Concurrency and Mobility Management Fee – to permit a developer to obtain credit toward a mobility fee liability for complete construction and dedication of a transportation project not listed in the 2030 Mobility Plan, provided the project meets all applicable standards and is approved by the City Council. The amendment also explicitly provides that credit for donation of right-of-way for a transportation project may be transferred from the landowner who made the donation to other landowners or developers for payment of mobility fees owed on other projects within the same mobility zone as the zone in which the donation is made. The amendment also clarifies that in order to receive mobility fee credit for a privately constructed improvement, the improvement must be dedicated to the City.

**Background Information:** The mobility fee system enacted by the City in 2011 to replace the former “fair share” system of private developer contributions to road construction and improvement provides that a private developer may only receive credit toward a mobility fee calculation for construction of a transportation improvement if that improvement is already listed on the City’s adopted 2030 Mobility Plan. This bill provides that transportation projects that are not listed on the Mobility Plan, but which nevertheless help to increase overall mobility efficiency within a mobility zone, as demonstrated by professionally accepted standards and criteria, may be used to obtain mobility fee credit upon approval by the City Council. The amendments regarding mobility fee credit for right-of-way donation being transferrable from one landowner or developer to another within a mobility zone and the requirement that an improvement be dedicated to the City are clarifications of existing practices that are not explicitly stated in the Code.

**Policy Impact Area:** Mobility fee system administration

**Fiscal Impact:** Undetermined

**Analyst:** Clements



1 The Transportation, Energy and Utilities Committee offers the  
2 following substitute to file no. 2013-761:

3  
4 Introduced by Council Member Bishop:

5  
6 **ORDINANCE 2013-761**

7 AN ORDINANCE AMENDING CHAPTER 655 (CONCURRENCY  
8 AND MOBILITY MANAGEMENT SYSTEM), PART 5  
9 (MOBILITY FEE), ORDINANCE CODE, SECTION  
10 655.507 (TRANSPORTATION IMPROVEMENT PROJECTS  
11 CONSTRUCTED BY A LANDOWNER OR DEVELOPER) AND  
12 SECTION 655.508 (MOBILITY FEE CONTRACT), TO  
13 ALLOW A LANDOWNER OR DEVELOPER TO CONSTRUCT  
14 AND DEDICATE A TRANSPORTATION IMPROVEMENT  
15 PROJECT THAT WILL MAINTAIN OR IMPROVE ADOPTED  
16 CITY-WIDE AND MOBILITY ZONE MINIMUM MOBILITY  
17 SCORES AND ALLOW A LANDOWNER OR DEVELOPER TO  
18 RECEIVE MOBILITY FEE CREDITS OF EQUAL VALUE  
19 EVEN IF THE TRANSPORTATION IMPROVEMENT PROJECT  
20 IS NOT SPECIFICALLY IDENTIFIED IN THE 2030  
21 MOBILITY PLAN OR IN THE CAPITAL IMPROVEMENTS  
22 ELEMENT OF THE JACKSONVILLE 2030 COMPREHENSIVE  
23 PLAN; PROVIDING AN EFFECTIVE DATE.

24  
25 **WHEREAS**, on September 13, 2011 the City Council adopted  
26 Ordinance 2011-536-E which implemented the 2030 Mobility Plan,  
27 after having opted out of transportation concurrency and the fair  
28 share assessment contract system by Ordinance 2011-241-E on May 24,  
29 2011; and

30 **WHEREAS**, as initially adopted, Part 5 of the Mobility  
31 Ordinance provides for a Mobility Fee Contract between a landowner

1 or developer and the City, to memorialize an arrangement for  
2 credits as set forth in Sections 655.507 and 655.511 for the  
3 payment or satisfaction of the mobility fee; and

4 **WHEREAS**, as initially adopted, Section 655.507 limits mobility  
5 fee credits for a transportation improvement project to those  
6 identified in the 2030 Mobility Plan, while other transportation  
7 improvement projects that would maintain or improve adopted City-  
8 wide and Mobility Zone minimum mobility scores would not be  
9 eligible for credits; and

10 **WHEREAS**, as initially adopted, Section 655.507 limits the  
11 amount of mobility fee credits to the mobility fee assessed and  
12 thereby fails to incentivize construction of transportation  
13 improvements projects that would maintain or improve adopted City-  
14 wide and Mobility Zone minimum mobility score; now therefore

15 **BE IT ORDAINED** by the Council of the City of Jacksonville:

16 **Section 1. Amending Section 655.507 (Transportation**  
17 **improvement projects constructed by a landowner or developer), Part**  
18 **5 (Mobility Fee), Chapter 655 (Concurrency and Mobility Management**  
19 **System), Ordinance Code.** Section 655.507 (Transportation  
20 improvement projects constructed by a landowner or developer), Part  
21 5 (Mobility Fee), Chapter 655 (Concurrency and Mobility Management  
22 System), *Ordinance Code*, is hereby amended to read as follows:

23 **CHAPTER 655. CONCURRENCY AND MOBILITY MANAGEMENT SYSTEM**

24 \* \* \*

25 **PART 5. MOBILITY FEE.**

26 \* \* \*

27 **Sec. 655.507. - Transportation improvement projects**  
28 **constructed by a landowner or developer.**

29 (a) *Applicability.* A landowner or developer may construct, or  
30 cause to be constructed, any transportation improvement project  
31 ~~that is identified in the 2030 Mobility Plan~~ to offset a calculated



1 mobility fee if the transportation improvement project:

- 2 (1) Is located within the applicable Mobility Zone(s);  
3 (2) Using professional accepted standards and criteria,  
4 to the satisfaction of the City, the transportation  
5 improvement project maintains or improves the  
6 adopted City-wide and Mobility Zone(s) minimum  
7 mobility score; and

8 ~~(3) Either:~~

9 ~~(i) Costs the same as the applicant's mobility~~  
10 ~~fee; or~~

11 ~~(ii) Costs less than the applicant's mobility fee~~  
12 ~~and the applicant pays the difference between~~  
13 ~~the mobility fee and the cost of the~~  
14 ~~improvement project.~~

15 (3) Is approved by City Council pursuant to Section  
16 655.508, Ordinance Code.

17 (b) Notwithstanding anything in subsection (a) of this  
18 Section, a landowner or developer may construct, or cause to be  
19 constructed, any transportation improvement project that is  
20 identified in the 2030 Mobility Plan to offset a calculated  
21 mobility fee if the transportation project:

22 (1) Is located within the applicable Mobility Zone(s);  
23 and

24 (2) Using professionally accepted standards and  
25 criteria, to the satisfaction of the City, maintains  
26 or improves the adopted City-wide and Mobility  
27 Zone(s) minimum mobility score.

28 ~~(b) (c) Credit against mobility fee.~~ A landowner or developer  
29 who constructs, or causes to be constructed, an entire  
30 transportation improvement project that ~~is identified in the 2030~~  
31 ~~Mobility Plan as authorized in subsection (a)~~ meets the

1 requirements and standards of subsection (a) or (b) shall receive  
2 credit against the applicable mobility fee as provided in this  
3 section for the design, permitting, and construction and dedication  
4 of the entire transportation improvement project located within the  
5 same Mobility Zone(s) or Mobility Zones as the development. Credits  
6 issued to a landowner or developer shall be equal to the design,  
7 construction and permitting costs of the transportation improvement  
8 project. Credit may be transferred to other landowners or  
9 developers for payment of a mobility fee owed to the City for  
10 development within the same Mobility Zone(s) of Mobility Zone as  
11 the development.

12 ~~(e)~~(d) *Calculation of Credit.* The credit authorized in  
13 subsection ~~(b)~~(c) shall be calculated using the cost estimates in  
14 the most recent issue of the Florida Department of Transportation,  
15 Office of Policy Planning, Policy Analysis and Program Evaluation  
16 publication entitled *Transportation Costs*. The cost estimates for  
17 facilities and/or projects not identified in *Transportation Costs*  
18 shall be determined by the Public Works Department, prior to the  
19 approval of any credit.

20 ~~(d)~~(e) *Timing of credit.* The costs shall be deemed incurred  
21 and credit shall be provided pursuant to this section when a  
22 contract for the construction of the entire transportation  
23 improvement project is awarded, and a payment and performance bond,  
24 or other form of security approved by the Office of General  
25 Counsel, is provided to the City to guarantee the funding of the  
26 facilities and/or projects. The City shall be a co-obligee under  
27 the bond or other form of security.

28 ~~(e)~~(f) *Public Works Department review.* All transportation  
29 improvement projects shall be approved by the Public Works  
30 Department prior to, and after construction to verify completion  
31 and fulfillment of any mobility fee requirements.

1        ~~(f)~~(g) *Right-of-way donation.*    A landowner or developer  
2 may receive credit in the Mobility Zone(s) for donating land within  
3 the same Mobility Zone(s), if the land is necessary for a  
4 transportation improvement ~~identified as a prioritized~~  
5 ~~transportation improvement project identified in the Capital~~  
6 ~~Improvement Element of the Comprehensive Plan Priority Project~~  
7 authorized in subsections (a) or (b) or a bicycle or pedestrian  
8 improvement identified in the Master Plan in the 2030 Mobility  
9 Plan. An appraisal shall be required for any donation of land. The  
10 landowner or developer and the City of Jacksonville Public Works  
11 Department shall mutually agree to the appraiser prior to the  
12 appraisal being performed. The Public Works Department's agreement  
13 shall be evidenced by a memorandum or letter executed by the Real  
14 Estate Officer, applicable Division Chief or Deputy Director in the  
15 Public Works Department or the Director of the Public Works  
16 Department. Credit may be transferred to other landowners or  
17 developers for payment of a mobility fee owed to the City for  
18 development within the same Mobility Zone(s) as the development.  
19 Credits issued to a landowner or developer shall be equal to the  
20 value of the land donated, based on the established value by the  
21 appraisal of an MAI appraiser.

22            **Section 2.        Amending      Section    655.508      (Mobility fee**  
23 **Contract), Part 5 (Mobility Fee), Chapter 655 (Concurrency and**  
24 **Mobility Management System), Ordinance Code.** Section 655.508  
25 (Mobility fee contract), Part 5 (Mobility Fee), Chapter 655  
26 (Concurrency and Mobility Management System), Ordinance Code, is  
27 hereby amended to read as follows:

28            **CHAPTER 655. CONCURRENCY AND MOBILITY MANAGEMENT SYSTEM**

29                                    \* \* \*

30                                    **PART 5.    MOBILITY FEE.**

31                                    \* \* \*

1           **Sec. 655.508. Mobility fee contract.**

2           ~~(a) After a landowner or developer has obtained a mobility~~  
3 ~~fee calculation certificate or expedited mobility fee calculation~~  
4 ~~certificate for proposed development of property, the landowner or~~  
5 ~~developer may apply to the Planning and Development Department to~~  
6 ~~enter into Mobility Fee Contract wherein the owner or developer of~~  
7 ~~property desires to memorialize an agreement between the City and~~  
8 ~~the landowner or developer concerning a mobility fee, including,~~  
9 ~~but not limited to any arrangement for credits as set forth in~~  
10 ~~Section 655.507 and Section 655.511, establishment a payment~~  
11 ~~schedule of the mobility fee according to a phased development~~  
12 ~~pattern, and/or to memorialize credits against future mobility fee~~  
13 ~~payments for the demolition of any structure or use on the subject~~  
14 ~~property.~~

15           (a) A landowner or developer may apply to the Planning and  
16 Development Department to enter into a Mobility Fee Contract  
17 wherein the owner or developer of property desires to memorialize  
18 an agreement between the City and the landowner or developer  
19 concerning a mobility fee, including, but not limited to any  
20 arrangement for credits as set forth in Section 655.507 and Section  
21 655.511, establishment of a payment schedule of the mobility fee  
22 according to a phased development pattern, and/or to memorialize  
23 credits against future mobility fee payments for the demolition of  
24 any structure or use on the subject property. Credits may be  
25 transferred to other landowners or developers for payment of a  
26 mobility fee owned to the City for development within the same  
27 Mobility Zone(s) as the development.

28                           \* \* \*

29           (d) After the Director has executed the Mobility Fee  
30 Contract, the CMMSO shall record a short form of the fully executed  
31 contract in the public records within five calendar days of its

1 receipt of same. Notwithstanding, any Mobility Fee Contract which  
2 includes any credit for any transportation improvement project not  
3 identified in the 2030 Mobility Plan as set forth in Section  
4 655.507, Ordinance Code, shall require City Council review and  
5 approval prior to the Director executing such Mobility Fee  
6 Contract.

7 \* \* \*

8 **Section 3. Effective Date.** This ordinance shall become  
9 effective upon signature by the Mayor or upon becoming effective  
10 without the Mayor's signature.

11  
12 Form Approved:

13  
14 /s/ Margaret M. Sidman

15 Office of General Counsel

16 Legislation Prepared By: Paul M. Harden

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