

ORDINANCE NO. _____

AN ORDINANCE to create a new Article XIII in Chapter 10 of the Omaha Municipal Code dealing with Finance; to provide for an arterial Street improvement program fund for street improvements in the unincorporated suburban areas of Douglas County; to provide for special funds for designing and constructing such arterial street improvements; to provide for the management and expenditure of such funds, and to specifically provide for certain fees for new residential, commercial, and industrial construction permits, and for certain contributions by Sanitary and Improvement Districts (each an "SID") through their tax Levies; and to provide for an effective date hereof.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That a new Article XIII is created in the Omaha Municipal Code, which new article, shall be titled as follows:

"ARTICLE XIII.
SUBURBAN DEVELOPMENT FUNDING — ARTERIAL STREET
IMPROVEMENT PROGRAM (ASIP)."

Section 2. That within said Article XIII a new Section 10-310 shall be added, which shall read as follows:

"Section 10-310. Suburban Development Improvement — Arterial Street Improvement Program — Purpose.

The purpose of this article is to provide a mechanism for funding, managing, and expending, certain funds, as hereinafter more fully described, for the purpose of paying for the design and construction costs of arterial street improvements in unincorporated portions of Douglas County. It is the specific intent of the Ordinance to develop a separate fund, to be managed by the City, as hereinafter described, such funds to be paid by the new developments which have been and are generating the need for such new roadway construction outside the corporate limits of the City of Omaha and that of any other municipality within Douglas County and to be spent on such street projects by Douglas County. One of the new sources of funding is to come from fees for building permits issued for construction in areas outside the City limits, within the zone of present development or agricultural zone. The other source of funding will come from certain tax levies which are or may be imposed by an SID created within Douglas County, Nebraska. The initial projects to be constructed are listed below."

Section 3. That a new Section 10-311 be added to the Omaha Municipal Code, which section shall read as follows:

“Section 10-311. Arterial Street Improvement Program Fund.

There is hereby created a special fund to be known as the Arterial Street Improvement Program (ASIP Fund) that shall be collected, held and invested by the City of Omaha, but expended on the initial projects, and disbursed to Douglas County as a supplement for the design and construction of such projects. Initial and later projects are hereafter referred to as “Projects”. The priority of Projects is shown in Section 10-315. This ordinance shall be studied by the City and County every three years following the effective date of this ordinance for possible amendment to project priorities and fee adjustments. Prior to submittal to City Council, public meetings will be held with the Metropolitan Omaha Builders Association “MOBA”, the Omaha Commercial Property Owners Association “CPO” and the Eastern Nebraska Development Council “ENDC” to discuss any revision to the ordinance. All such revisions shall be reasonable; based upon engineering studies reasonably establishing the extent of project need and the costs for the same. In making any revisions to such fees, the City shall be mindful of the overall costs of similar fees upon new development, including without limitation neighborhood and regional park fees and interceptor sewer fees. Revisions to any and all such fees shall be based upon studied need and properly estimated costs to maintain a proper balance of appropriate revenue sources for such infrastructure development. Nothing in the creation of this fund implies that the City, County, State of Nebraska, or federal government is prohibited or discouraged from using any other source of funds for such suburban street improvements, or that any private party is prohibited from using any private source of funds for such design or construction activity.”

Section 4. That a new Section 10-313 of the Omaha Municipal Code shall be created, which section shall read as follows:

“Section 10-313. ASIP Fund — Revenue.

For land that is located within both the unincorporated parts of Douglas County and also within the zone of present development or an agricultural zone as created and recognized by the City of Omaha, the following fees shall be charged:

- (a) (i) A fee of 1.25% of the building permit value shall be charged at the time the permit is granted, on all new residential construction, including single family, townhomes, and duplexes; and,
- (ii) A fee for mobile home pads in the amount of \$1,000.00/unit shall be charged when the site is permitted; and,

(iii) A multifamily, commercial and industrial fee in the amount of \$5000.00/development acre shall be charged when the construction permit is granted.

For purposes of this Article XIII, the term “development acre” shall mean only the area of land located within the lot lines of the lot for which the permit is sought. Development acre specifically excludes all land located within any street right-of-way, any dedicated land such as public parks, and any land that can not be developed within the boundaries of any lot because such land is located within a dedicated or granted easement area for utilities or public services, or such land is subject to restrictions such as wetlands or topography which prohibit or severely limit the ability of the developer to improve or construct improvements on the area.

If the City requests the installation of public street improvements that exceed the traffic improvements required by the approved traffic study, the development’s ASIP fees may be used for such improvements. The developer has the option to pay the acreage fee to the ASIP Fund at the time the final plat is recorded to help reduce the overall S&ID debt ratio to 4%. The City will reimburse from ASIP fee funds or credit the developer for the costs of improvements. The reimbursements or credits will be made as lots are developed and fees paid by the developer of such plat. Calculations shall be included in the Subdivision Agreement and on the Source and Use of Funds Form of such subdivision.

(b) A dedicated ASIP tax levy of up to five cents from an SID as set out in subdivision agreements with such SID. The SID shall be required to institute the tax levy in stages, as soon as the total levy (Bond and General) necessary to support the other debt and obligations of the SID for all projects drops below the rate initially approved in the Subdivision Agreement including deferred Community Park Fees. Such a levy would then continue until the date, if any, that the SID is annexed. All such tax proceeds shall be remitted to the City upon collection.

Section 5. That a new Section 10-3 14 shall be added to the Omaha Municipal Code, which section shall read as follows:

“Section 10-3 14. County participation.

County participation in this program shall be generally as described herein, but shall not commence until a resolution is passed by the Douglas County Board consenting to the same. If such resolution is not passed, then this Article shall not be enforced and the funds herein provided shall not be collected. Douglas County shall agree to continue to help finance the initial arterial street improvements adjacent to new development. In addition, the County, by such consent, would agree that the additional ASIP Funds provided for herein would be used only as a supplement to, and not a replacement for, County arterial street improvement funds. The County specifically understands that such ASIP Funds shall be spent for the Projects and study updates as funding allows, and agrees to undertake these Projects in a reasonably expeditious manner, considering all of the construction market, right-of-way acquisition, and civil engineering and seasonal variables that apply to such contracts and Projects.”

Section 6. That a new Section 10-315 shall be added to the Omaha Municipal Code, which section shall read as follows:

“Section 10-3 15. Initial projects.

The initial projects to be funded by the ASIP Fund, as construction money is available, are:

- (1) “Q” Street from 169th Street to 204th Street; and
- (2) 156th Street from State Street to Blondo Street.”

Section 7. That a new Section 10-316 shall be added to the Omaha Municipal Code, which section shall read as follows:

“Section 10-316. Construction responsibilities and supervision.

The City Public Works Department and the Douglas County Engineer’s Office will decide the sequencing of construction of the initial Projects and construct the Projects as money is available. The County Engineer shall request payment from the fund as the Projects are designed and built. The County shall have full authority and supervision over the construction process, including right-of-way acquisition, to construct the same according to the previously agreed upon general specifications and conforming to all applicable state and federal law.”

Section 8. “Section 10-319. That this Ordinance shall be in full force and take effect fifteen (15) days after its passage by the City Council, provided however, that any construction on any lot in a development that has received final plat approval from the City Council prior to

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the effective date of this Ordinance, may have the ASIP fee waived provided authenticated copies of prior binding contracts for the construction of an improvement on such lot are submitted to the City Public Works Department prior to June 1, 2005.

INTRODUCED BY COUNCILMEMBER

APPROVED BY:

MAYOR OF THE CITY OF OMAHA DATE

PASSED _____

ATTEST:

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

[Signature] 2-2-05
CITY ATTORNEY DATE
[Signature]