CHAPTER VII – FEE IMPLEMENTATION AND ANNUAL ADMINISTRATIVE DUTIES

FEE IMPLEMENTATION

According to California Government Code, prior to levying a new fee or increasing an existing fee, an agency must hold at least one open and public meeting. At least 10 days prior to this meeting, the agency must make data on infrastructure costs and funding sources available to the public. Notice of the time and place of the meeting, and a general explanation of the matter, are to be published in accordance with Section 6062a of the Government Code, which states that publication of notice shall occur, for 10 days in a newspaper regularly published once a week or more. The County may then adopt the new fees at the second reading.

The updated traffic fees should be adopted through a County or City ordinance or resolution. Any future increases to the traffic fee resulting from annual inflation or minor adjustments can be tied to an inflation adjustment factor or could be adopted annually by resolution. Once the updated traffic fees are adopted by the County Board of Supervisors or City Council, they shall become effective no sooner than sixty days later, unless an urgency measure is adopted. An urgency measure is an interim authorization that waives the sixty-day waiting period and allows the new fees to be collected immediately if a finding of a current and immediate threat to the public health, welfare, and safety can be demonstrated. The interim authorization requires a four-fifths vote of the Board or City Council and stays in effect for thirty days; no more than two extensions of the authorization can be granted.

ANNUAL ADMINISTRATIVE DUTIES

The Government Code requires the agency to report every year and every fifth year certain financial information regarding the fees. The agency must make available within 180 days after the last day of each fiscal year the following information for the prior fiscal year:

(a) A brief description of the type of fee in the account or fund.
(b) The amount of the fee.
(c) The beginning and ending balance in the account or fund.
(d) The amount of the fee collected and the interest earned.
(e) An identification of each public improvement for which fees were expended and the amount of expenditures.
(f) An identification of an approximate date by which time construction on the improvement will commence if it is determined that sufficient funds exist to complete the project.
(g) A description of each interfund transfer or loan made from the account and when it will be repaid.
(h) Identification of any refunds made once it is determined that sufficient monies have been collected to fund all fee-related projects.

The agency must make this information available for public review and must also present it at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public.

For the fifth fiscal year following the first deposit into the account or fund, and every 5-years thereafter, the agency must make the following findings with respect to any remaining funds in the fee account, regardless of whether those funds are committed or uncommitted:

(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 any incomplete improvements.
(4) Designate the approximate dates on which funding in item (3) above is expected to be deposited into the fee account

As with the annual disclosure, the five-year report must be made public within 180 days after the end of the agency's fiscal year and must be reviewed at the next regularly scheduled public meeting. These findings must be made by the agency otherwise the law requires that the agency refund the money to the then current record owners of the development projects on a prorated basis.

INFLATION ADJUSTMENTS

All fees calculated in this report are reflected in year 2005 dollars. These fees should be adjusted in future years to reflect revised facility standards, receipt of additional funding from alternative sources (i.e., state or federal grants), revised replacement costs, or changes in demographics or the County's land use plan. In addition to such periodic adjustments, the fees should be inflated each year by a predetermined index, such as the Engineering News Record 20-City Construction Cost Index.

FEE CREDITS OR REIMBURSEMENTS

The County may provide fee credits or possibly reimbursements to developers who dedicate land or construct facilities that are shown in fee program as being fee-funded. Fee credits or reimbursements may be provided up to the cost of the improvement included in the fee program, subject to periodic inflation adjustments, or the actual cost paid by the developer, whichever is lower. For construction cost overruns, only that amount shown in the fee program, subject to periodic inflation adjustments, should be credited or reimbursed.

The County will evaluate the appropriate fee credit or reimbursement based on the value of the dedication or improvement. Credits or reimbursements may be repaid based on the priority of the capital improvements, as determined by the County. In some cases, repayment for constructed facilities that have low priority may be postponed. The determination of providing fee credits must be based upon the priority of when certain transportation improvements are required. Lower priority improvements may not be eligible for fee credits.

PROJECT COSTS

Actual costs for a particular project may be more or less than the fee portion calculated for that project. It is expected that on average, the amount collected will be appropriate for financing the planned projects. Fee adjustments will need to be made during periodic updates to the fee program for differences based on actual costs incurred on project work completed and revised cost estimates for remaining projects.