

# City of Lemoore

## East Side Streets & Thoroughfares Impact Fee Study

Draft Report

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## Executive Summary

The purpose of this study is to calculate development impact fees for street and thoroughfare improvements for the area within Lemoore's Urban Growth Boundary east of 19 ½ Avenue. That area is referred to in this report as the East Side study area. Costs for certain improvements serving both the East Side and the West Side study areas are pro-rated between the two areas.

Impact fees for street and thoroughfare improvements in the West Side study area were calculated in a separate 2010 impact fee study by Colgan Consulting Corporation, and were previously adopted by the City Council.

## Legal Requirements and Methodology

Chapter 1 of this report discusses legal requirements for the establishment and imposition of impact fees and methodologies used in the calculation of impact fees. The fees calculated in this report are intended to comply with California's Mitigation Fee Act (Government Code Sections 66000 et seq.) and relevant case law.

The Mitigation Fee Act requires that in establishing, increasing, or imposing fees as a condition of development approval, the City Council make certain findings regarding the purpose of the fees and the use of the fees, and to determine that there is a reasonable relationship between the fees and the impacts of development. Those findings are discussed in more detail in Chapter 4, which deals with implementation of the fees.

## Development and Demand Data

Chapter 2 of this report presents data on planned future development in East Side study area. Chapter 2 contains a breakdown of future development in eight land use categories: two residential categories and four non-residential categories as well as a Public/Institutional category and a Parks/Open Space category. Tables in Chapter 2 show acreage, units of development, and vehicle trips by development type.

## Impact Fee Calculations

Chapter 3 of this report presents the impact fee analysis, impact fee calculations and revenue projections for street and thoroughfare improvements in the East Side study area. Table 3.1 contains a list of future improvements needed to serve future development and the estimated costs of those improvements.

Table 3.2 calculates the average cost per trip for the study area, and Table 3.3 applies that average cost per trip to the number of trips generated by various types of development to arrive at an impact fee per unit of development. Table 3.3 is reproduced on the next page to show the calculated impact fee amounts for each type of development.

Table 3.3  
Impact Fees per Unit of Development - East Side Development

Development Type	Units <sup>1</sup>	Future Units <sup>2</sup>	Trips per Unit (ADT) <sup>3</sup>	Cost per Trip <sup>4</sup>	Impact Fee per Unit <sup>5</sup>
Residential, Single-Family	DU	3,796.00	9.57	\$205.31	\$ 1,965.00
Residential, Multi-Family	DU	745.00	6.52	\$205.31	\$ 1,339.00
Neighborhood Commercial	Acre	36.38	292.19	\$205.31	\$ 59,990.00
Regional Commercial	Acre	15.17	398.57	\$205.31	\$ 81,831.00
Professional Office	Acre	36.39	58.59	\$205.31	\$ 12,029.00
Industrial	Acre	678.95	25.09	\$205.31	\$ 5,151.00
Public/Institutional	Acre	22.30	60.00	\$205.31	\$ 12,319.00
Parks/Open Space	Acre	64.92	1.60	\$205.31	\$ 328.00

<sup>1</sup> Units: DU = dwelling unit

<sup>2</sup> Forecasted future units (see Table 2.3)

<sup>3</sup> Added trips per unit (see Table 2.1)

<sup>4</sup> Cost per trip (see Table 3.2)

<sup>5</sup> Impact fee per unit = cost per unit = trips per unit X cost per trip, rounded to nearest \$

It is important to note that the impact fees for non-residential development types are shown on a per-acre basis. The impact fee analysis includes the Public/Institutional category and the Parks/Open Space category so that the cost of serving them is accounted for in the fee calculations. Table 3.3 shows the calculated impact fees for those categories, even though it may not be practical for the City to charge fees to some development in those categories.

Table 3.4 in Chapter 3 projects impact fee revenue for each category of development. That table is reproduced on the next page.

Table 3.4  
Projected Impact Fee Revenue - East Side Development

Development Type	Units <sup>1</sup>	Future Units <sup>2</sup>	Impact Fee per Unit <sup>3</sup>	Projected Revenue <sup>4</sup>
Residential, Single-Family	DU	3,796.00	\$ 1,965	\$ 7,459,140
Residential, Multi-Family	DU	745.00	\$ 1,339	\$ 997,555
Neighborhood Commercial	Acre	36.38	\$ 59,990	\$ 2,182,436
Regional Commercial	Acre	15.17	\$ 81,831	\$ 1,241,376
Professional Office	Acre	36.39	\$ 12,029	\$ 437,735
Industrial	Acre	678.95	\$ 5,151	\$ 3,497,271
Potential Impact Fee Revenue from Private Development				\$ 15,815,514
Public/Institutional	Acre	22.30	\$ 12,319	\$ 274,714
Parks/Open Space	Acre	64.92	\$ 328	\$ 21,294
Potentially Uncollectable Costs Related to Public Uses				\$ 296,007
Total Allocated Costs				\$ 16,111,522

<sup>1</sup> Units: DU = dwelling unit

<sup>2</sup> See Table 2.2

<sup>3</sup> See Table 3.3

<sup>4</sup> Projected revenue = future units X impact fee per unit

## Implementation

Chapter 4 of this report outlines the requirements of the Mitigation Fee Act regarding adoption and administration of the impact fees calculated in Chapter 3. Proposed language for required findings is included. Chapter 4 also contains recommendations regarding a variety of issues that may arise in the implementation of impact fees.

## Recovery of Study Cost

Colgan Consulting normally recommends that the impact fees be increased by a small percentage to recover the cost of the study required to calculate the fees. That percentage would spread the cost of the study over five years of anticipated impact fee revenue, based on the assumption that the impact fees will need to be updated every five years. However, in light of the significant uncertainty regarding the timing of an economic recovery and the amount of development that might occur within the next five years, that approach does not appear useful at this time.

A substantial number of California cities add an administrative fee of 2% or 2.5% to impact fees to cover the cost of calculating and administering the fees. That alternative appears more appropriate under the current circumstances.

# Chapter 1

## Introduction

### Purpose

The purpose of this report is to calculate development impact fees for transportation improvements on Lemoore’s East Side, i.e., the area within the City’s Urban Growth Boundary that lies east of 19 ½ Avenue. This report provides the technical analysis necessary to support findings required by the Mitigation Fee Act (Government Code 66000, *et seq.*) when impact fees are established or increased.

### Legal Framework for Impact Fees

Development impact fees must comply with the U. S. and State Constitutions, and with the California Mitigation Fee Act. The following brief summary of legal issues related to development impact fees is intended as a general overview. It was not prepared by an attorney, and is not intended as legal advice.

**U. S. Constitution.** Over the past thirty years, development impact fees have become an increasingly important source of funding for development-related capital facilities in California and many other states. As the use of impact fees has expanded, the attitude of courts regarding the constitutionality of those fees has evolved. Over time, a number of legal theories have been advanced to challenge the constitutionality of impact fees.<sup>1</sup>

At present, constitutional challenges to impact fees tend to focus on whether, in a particular case, the fees are valid land use regulations constituting a legitimate exercise of local government police power. Otherwise, the fees might be characterized either as invalid taxes imposed without statutory authorization, or as an unconstitutional taking of private property without just compensation.

Government clearly has a legitimate interest in protecting the public health, safety, and welfare by ensuring that additional development does not adversely affect the quality and availability of essential public services provided to the community at large. To justify impact fees as valid land use regulations, the agency imposing the fees must demonstrate that the fees are reasonably necessary to mitigate impacts created by development subject to the fees.

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<sup>1</sup> For a helpful discussion of the evolving legal framework for impact fees, see Chapter 3 of *A Guide to Impact Fees and Housing Affordability*, by Arthur C. Nelson, Liza K. Bowles, Julian C. Jurgensmeyer and James C. Nicholas, Island Press, 2008.

As case law on impact fees evolved, the “rational nexus” test emerged as the standard most often used to evaluate the validity of impact fees. To demonstrate the existence of a proper nexus or connection between the fees and development on which the fees are imposed, an agency must show: (1) that development creates a *need* for the facilities to be funded by the fees; (2) that development receives a *benefit* from facilities funded by the fees; and, (3) that the fees imposed on a development project are *proportional* to the impacts created by that development.<sup>2</sup>

Legislatively adopted impact fees that apply to development in general are likely to be treated with greater judicial deference than exactions involving either (1) the dedication of land or an interest in land, or (2) fees imposed as a condition of approval for a single development project. Where either of those conditions exists, heightened scrutiny applies (See the U. S. Supreme Court decision in *Dolan v. City of Tigard*, 1994). However, even where heightened scrutiny does not apply, an agency enacting impact fees should take care to substantiate a clear nexus between its fees and the impact of development on facilities to be funded by the fees.

**California Constitution.** The California Constitution grants broad police power to local governments, including the authority to regulate land use and development. That police power is the source of authority for California cities and counties to impose impact fees on development to pay for capital facilities. Some impact fees have been challenged on grounds that they are special taxes imposed without voter approval in violation of Article XIII A. However, that objection is valid only if the fees exceed the cost of providing capital facilities needed to serve new development. If that were the case, then the fees would also run afoul of the U.S. Constitution and the Mitigation Fee Act. Articles XIII C and XIII D, added by Proposition 218 in 1996, require voter approval for some “property-related fees,” but exempt “the imposition of fees or charges as a condition of property development.”

**The Mitigation Fee Act.** California’s impact fee statute originated in Assembly Bill 1600 during the 1987 session of the Legislature, and took effect in January, 1989. AB 1600 added several sections to the Government Code, beginning with Section 66000. Since that time the impact fee statute has been amended from time to time, and in 1997 was officially titled the “Mitigation Fee Act.” Unless otherwise noted, code sections referenced in this report are from the Government Code.

The Mitigation Fee Act is very liberal as to the types of capital improvements for which impact fees may be charged. It defines public facilities very broadly to include “public improvements, public services and community amenities.” Although the issue is not specifically addressed in the Mitigation Fee Act, another provision of the Government

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<sup>2</sup> Proportionality may be treated as an implied aspect of the “need” element rather than as a separate element of the nexus. In the interest of clarity, it is treated as a separate element in this document.

Code (see Section 65913.8) prohibits the use of such fees for maintenance or operating costs.<sup>3</sup>

The Mitigation Fee Act does not use the term “mitigation fee” except in its official title. Nor does it use the terms “development impact fee” or “impact fee.” The Act simply uses the term “fee,” which is defined as “a monetary exaction, other than a tax or special assessment...that is charged by a local agency 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 ....” To avoid confusion with other types of fees, this report uses the widely-accepted term “development impact fee” or simply “impact fee,” which should be understood to mean “fee” as defined in the Mitigation Fee Act.

The Mitigation Fee Act contains requirements for establishing, increasing and imposing impact fees. They are summarized below. It also contains provisions that govern the collection and expenditure of fees and require annual reports and periodic re-evaluation of impact fee programs. Those administrative requirements are discussed in the Implementation Chapter of this report.

**Required Findings.** Section 66001 requires that an agency establishing, increasing or imposing impact fees, must make findings to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and,
3. Determine that there is a reasonable relationship between:
  - a. The use of the fee and the development type on which it is imposed;
  - b. The need for the facility and the type of development on which the fee is imposed; and
  - c. The amount of the fee and the facility cost attributable to the development project.

Each of those requirements is discussed in more detail below.

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<sup>3</sup> That prohibition is consistent with case law on impact fees. Thus, in general, impact fees must be based on capital costs only. However, certain “soft” costs related to the provision of capital facilities are normally considered eligible for impact fee financing. Those costs include, preparation of facility master plans, capital improvement plans, and impact fee studies, project design, engineering, and administration, appraisals and other costs associated with land acquisition, legal services related to capital improvements and enactment of the impact fee program, interest on bonds or other instruments used to finance capital facilities, and costs for administering the impact fee program.

**Identifying the Purpose of the Fees.** The broad purpose of impact fees is to protect the public health, safety and general welfare by providing for adequate public facilities to serve new development. The specific purpose of the fees calculated in this study is to fund the construction of certain capital improvements identified in this report. Those improvements are needed to provide public services to development in the study area.

**Identifying the Use of the Fees.** According to Section 66001, if a fee is used to finance public facilities, those facilities must be identified. A capital improvement plan may be used for that purpose, but is not mandatory if the facilities are identified in a General Plan, a Specific Plan, or “in other public documents that identify the public facilities for which the fee is charged.” In this case, the Colgan Consulting recommends that this report be referenced as the source of information on facilities to be financed with the fees.

**Reasonable Relationship Requirement.** As discussed above, Section 66001 requires that, for fees subject to its provisions, a “reasonable relationship” must be demonstrated between:

1. The use of the fee and the type of development on which it is imposed (equivalent to the *benefit* element of the nexus);
2. The need for a public facility and the type of development on which a fee is imposed (equivalent to the *need* element of the nexus); and,
3. The amount of the fee and the facility cost attributable to the development on which the fee is imposed (equivalent to the *proportionality* element of the nexus).

As indicated in parentheses, above, the three reasonable relationship requirements in California’s statute mirror the three elements of the rational nexus test, which were discussed earlier in this chapter.

**Demonstrating an Impact.** All new development in a community creates additional demand for some or all public facilities provided by local government. If the supply of facilities is not increased to satisfy the additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is occasioned by the development project subject to the fees.

The 1987 U. S. Supreme Court decision in *Nollan v. California Coastal Commission* reinforced the principle that a development exactions may be used only to mitigate impacts created by the development project upon which it is imposed. In this study, the impact of development on facility needs is analyzed in terms of quantifiable relationships between various types of development and their impact on the need for public facilities, based on applicable level-of-service standards.

**Demonstrating a Benefit.** A development project benefits from the use of impact fees to the extent that those fees are used to provide facilities that serve the project. The Mitigation Fee Act requires that impact fee revenues be segregated from other funds and expended only to pay for facilities for which the fees were charged. In some cases, proximity to the development project has become an issue in determining whether facilities such as parks provide an adequate benefit to a development that has paid fees to help fund those facilities. However, nothing in applicable statutes or case law requires that facilities paid for with impact fees be available *exclusively* to developments paying the fees.

Another dimension of the benefit element is timeliness. Fees should be spent in a timely manner to provide the facilities funded by the fees. Procedures for earmarking and expenditure of fee revenues are mandated by the Mitigation Fee Act, as are procedures to ensure that the fees are expended expeditiously or refunded. Those requirements are intended to ensure that developments benefit from the impact fees they are required to pay.

**Demonstrating Proportionality.** Proportionality in impact fees depends on properly identifying development-related facility costs and on calculating the fees in such a way that the amount of an impact fee charged to a development project is proportionate to the facility needs created by that development. In calculating impact fees, costs for development-related facilities must be allocated in proportion to the impacts created by different types and amounts of development.

**Development Agreements and Reimbursement Agreements.** The requirements of the Mitigation Fee Act do not apply to fees negotiated as part of a development agreement (see Govt. Code § 66000) or reimbursement agreement (see Govt. Code § 66003). The same is true of fees in lieu of park land dedication imposed under the Quimby Act (see Govt. Code § 66477).

**Implementation.** Recommendations for implementing the development impact fees in accordance with the Mitigation Fee Act are provided in the Implementation Chapter of this report.

**Existing Deficiencies.** In 2006, Section 66001(g) was added to the Mitigation Fee Act (by AB 2751) to emphasize that impact fees may not be used to correct existing deficiencies in public facilities. The legislature's intent in adopting this amendment was to codify the holdings in *Bixel v. City of Los Angeles* (1989), *Rohn v. City of Visalia* (1989), and *Shapell Industries Inc. v. Governing Board* (1991). That amendment does not appear to be a substantive change. It is settled in relevant case law that impact fees may not include costs for correcting existing deficiencies.

## Impact Fee Calculation Methodology

Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics and planning requirements for the facility type being addressed. Each method has advantages and disadvantages in a particular situation. To some extent they are interchangeable, because they are all designed to allocate facility costs in proportion to the needs created by development.

Reduced to its simplest terms, the process of calculating impact fees involves two steps: (1) determining the cost of development-related capital improvements, and (2) allocating those costs equitably to various types of development. In practice, though, the calculation of impact fees can become quite complicated because of the many factors involved in defining the relationship between development and the need for facilities.

Allocating facility costs to various types and amounts of development is central to all methods of impact fee calculation. Costs are allocated by means of formulas that quantify the relationship between development and the need for facilities. In this report, the attribute of development that is used in cost allocation formulas to represent the impact of different types and amounts of development is called the “demand variable.” Different variables are used in analyzing different types of facilities. In this study, average daily trip generation is used as the demand variable for transportation improvements.

The following paragraphs discuss various general approaches to calculating impact fees and how they can be applied. Each approach is subject to variations, and different terms may be used by different practitioners to refer to essentially the same method.

**Plan-Based Fees.** “Plan-based” or “improvements-driven” impact fee calculations are based on the relationship between a specified set of improvements and a specified increment of development that is served by those facilities. The improvements are typically identified by a facility plan, while the development is identified by a land use plan that identifies potential development by type and quantity. Facility costs are allocated to various categories of development in proportion to the relative intensity of demand created by each category. To calculate impact fees using this approach, it is necessary to define an end point or “buildout” condition for development, and to determine what facilities will be needed to serve the additional development that occurs from the time of the analysis to buildout. Buildout is a hypothetical condition in which undeveloped land encompassed by the study has been developed to its expected intensity.

Using this approach, the total cost of eligible facilities is divided by the total units of additional demand (represented by the demand variable) to calculate a cost per unit of demand. Then, the cost per unit of demand is multiplied by the units of demand per unit of development (e.g. dwelling units or square feet of building area) for each development type to arrive at a cost per unit of development. This method is somewhat

inflexible in that it is based on the relationship between a particular facility plan and a particular land use plan. If either plan changes significantly, the fees should be updated.

**Capacity-Based Fees.** The “capacity-based” approach, sometimes referred to as “demand driven” or “consumption-driven” is useful where the relationship between facility needs and development can be measured by the amount of facility capacity needed to serve a particular type and amount of development. This method calculates a cost per unit of capacity based on the relationship between total cost and total capacity of a system. Fees based on a unit cost of capacity can be applied to any type of development, by estimating the capacity needed to serve a particular type of development.

Since capacity-based fees do not depend on advance knowledge of the type or quantity of development to be served, this method is quite flexible with respect to changing development plans. Under this method, the cost of unused capacity is not allocated to development, and the resulting fees would not recover the cost of any portion of a facility that is not absorbed by development. Capacity-based fees are commonly used for water and wastewater systems, where the cost of a system component is divided by the capacity of that component to derive a unit cost. To produce a schedule of impact fees based on standardized units of development (e.g. dwelling units or square feet of non-residential building area), the cost per unit of capacity is multiplied by the amount of capacity required to serve a typical unit of development by development type.

**Standard-Based Fees.** “Standard-based” or “incremental expansion” fees are calculated using a specified relationship or service standard that determines the number of service units to be provided for each unit of development. The standard can be established as a matter of policy or it can be based on the level of service being provided to existing development in the study area.

Using the standard-based method, costs are estimated on a unit-cost basis and then applied to development according to a standard that defines the amount of service or capacity to be provided for each unit of development. The standard-based method is useful where facility needs are defined directly by a service standard, and where unit costs can be determined without reference to the total size or capacity of a facility or system. Parks are a good example. Cities and counties typically establish a service standard for parks in terms of acres per thousand residents. Using that standard, and the estimated cost-per-acre for parks, impact fees can be calculated without knowing the ultimate population to be served, or the total acreage of parks to be provided.

This approach can also be used for facilities such as libraries and administrative buildings where it is possible to estimate a generic cost per square foot before a building is actually designed. One advantage of the standard-based method is that a fee can be established without committing to a particular size of facility, and facility size can be adjusted to serve the demand created by the development that actually occurs.

**Recoupment Fees.** It is important to note that impact fees may be used to recover costs for existing facilities, provided they have capacity available to serve the development projects paying the fees. A particular impact fee may be based on the cost of existing facilities, planned facilities, or a combination of the two. Impact fees that include costs for existing facilities can be calculated using any of the methods described above. Revenue generated by recoupment fees can be returned to the source from which funds were advanced to cover future development's share of the cost of the facility.

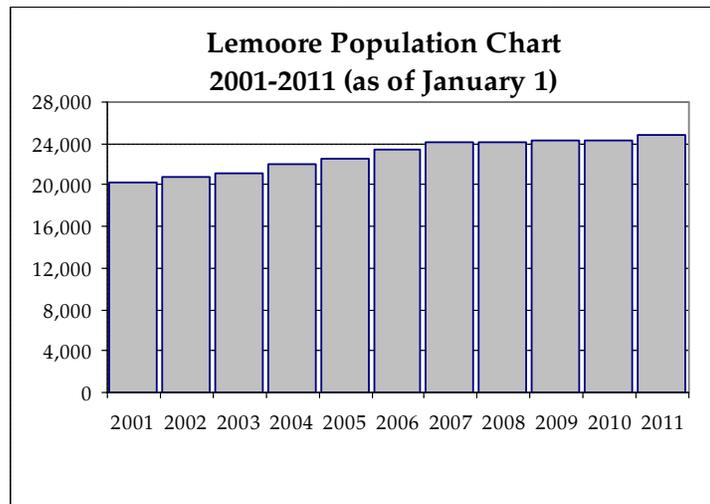
The next chapter presents development and demand data that will be used in the impact fee calculations.

## Chapter 2 Development and Demand Data

This chapter organizes and correlates information on existing and planned development to provide a framework for the impact fee analysis presented later in this report. The information in this chapter forms a basis for allocating the cost of capital facilities between existing and future development and among various types of new development.

### Population Growth in Lemoore

The chart at right depicts Lemoore’s estimated January 1 population year-by-year from 2001 through 2011, as estimated by the California Department of Finance (DOF). The 2011 estimate, derived from the 2010 Census is 24,835. That number is lower than the previous DOF estimate for 2010, and DOF has also lowered the 2010 estimate to 24,282, which is below earlier estimates for 2008 and 2009. The 2008 and 2009 estimates shown in this chart have been adjusted accordingly. The revised estimates show very little population growth in Lemoore from 2006 through 2009. The average yearly rate of growth for the entire period shown in the chart is approximately 2.1%. The average for the most recent five years is 1.2%. The Lemoore 2030 General Plan projects a buildout population of 48,250, almost double current levels.



### Study Area and Time Frame

This study area for this analysis is the East Side of the City, which is defined as the area within the City’s Urban Growth Boundary that lies east of 19 ½ Avenue. Impact fees for the area west of 19 ½ Avenue, including the area designated in the General Plan as the Employment Reserve, were calculated in a separate study. Costs for certain improvements that serve the entire City have been prorated between the East Side and West Side study areas as explained later in this chapter and in Chapter 3.

The timeframe for this study extends from the present to buildout of all land designated for development within the study area. The term “buildout” is used to describe a hypothetical condition in which all currently undeveloped land in the study area has been

developed for the uses designated in the Land Use Element of the General Plan. The time required for buildout depends on the rate at which development occurs, but is expected to be 20-25 years.

## Development Types

Fees are calculated in this study for several broad land use categories, referred to as “development types” in the report. Exhibit 2A lists those development types and their correlation with land uses defined in the General Plan.

In this study, the term single-family residential generally refers to detached dwelling units, while the term multi-family residential generally refers to attached dwelling units. The Lemoore 2030 General Plan contains a designation for Mixed Use development, which may include multi-family residential, neighborhood commercial and/or professional office development. The development projections contained in this chapter assume that land designated as Mixed Use will be developed with specified percentages of those development types, as indicated in Exhibit 2A.

Exhibit 2A  
Development Types and Land Use Designations

Impact Fee Development Type	General Plan Land Use
Residential, Single-Family	Very Low Density Residential Low Density Residential Low-Medium Density Residential
Residential, Multi-Family	Medium Density Residential High Density Residential Mixed Use (57%) *
Neighborhood Commercial	Neighborhood Commercial Mixed Use (19%) *
Regional Commercial	Regional Commercial
Professional Office	Professional Office Mixed Use (24%) *
Industrial	Light Industrial Heavy Industrial
Public/Institutional	Community Facilities
Parks/Open Space	Parks/Recreation/Ponding Basin Agricultural/Rural Wetlands

\* In the land use tables, land designated as Mixed Use are assigned to the Multi-Family Residential, Neighborhood Commercial, and Professional Office categories using the percentages shown in this exhibit.

## Units of Development and Conversion Factors

In this study, quantities of existing and planned development are measured in terms of certain units of development. Units that may be used in this study are discussed below.

**Developable or Developed Acreage.** Land area is a fundamental attribute of all types of development. “Developable acreage” is defined in this study as gross acreage less right of way for arterial and collector streets, and is used as the standard unit of development for some types of development. (In the case of existing development, the term “developed acreage” is used.) Where the term “acreage” is used unmodified in this report, it is intended to mean developable or developed acreage.

**Dwelling Units.** The dwelling unit (DU) is the most commonly used measure of residential development, and is the standard unit for residential development in this study.

**Building Area.** For private non-residential development and public facilities, gross building area in thousands of square feet (KSF) may appear in this report as a unit of development.

Some of the factors used for conversions from one unit of development to another are discussed below.

**Residential Density.** The relationship between dwelling units and acreage is referred to as “density,” and is defined by the average number of dwelling units per acre for a particular type of residential development. The inverse of density is acres per dwelling unit. For example, single family residential development might have a density of 4.0 dwelling units per acre, which equates to 0.25 acres per dwelling unit.

**Floor Area Ratio.** Floor area ratio (FAR) is a factor that represents the relationship between building area and site area. FAR is typically used in connection with non-residential development. For example, a FAR of 0.25 : 1 (or more commonly just 0.25) indicates that building floor area equals 25% of site area. Translated into square feet, a floor area ratio of 0.25 equates to 10,890 square feet of building floor area per acre (0.25 X 43,560 square feet per acre). When stated in terms of thousands of square feet (KSF) that would equate to 10.89 KSF of building floor area.

## Demand Variable – Trip Generation

When calculating impact fees, the relationship between facility needs and development must be quantified in cost allocation formulas. Certain measurable attributes of development (“demand variables”) are used in those formulas to reflect the impact of different types and amounts of development on the demand for specific public services. Demand variables are selected either because they directly measure service demand created by various types of development, or because they are reasonably correlated with that demand.

This report addresses only one type of facility—street system improvements. Consequently, only one demand variable is used in the impact fee analysis. That variable is vehicle trip generation, and more specifically average daily (weekday) trips (ADT).

Each demand variable has a specific value per unit of development for each type of development. Those values may be referred to as “demand factors.” For example, data from the Institute of Transportation Engineers manual *Trip Generation* shows that, on average, a single family dwelling unit generates 9.57 trips per day.<sup>1</sup> The trip factors for other land use categories have different values. Specific values of demand factors for each development type defined in this study are shown in Table 2.1.

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<sup>1</sup> Technically, the number of “trips” indicated in this report refers to the number of trip ends related to each type of development. Since fees are based on *relative* shares of traffic, the distinction is not significant for this analysis.

Trip generation rates used in this study for residential development types are from the Institute of Transportation Engineers manual *Trip Generation*. Rates used for non-residential development types are mainly from the Kings County Association of Governments (KCAG) Travel Demand Model, except for the Public/Institutional category, where rates are estimated based on ITE rates for schools. Table 2.1 presents the values of demand and conversion factors used in this study.

Table 2.1  
Demand and Conversion Factors (East Side Future Development)

Development Type	Units <sup>1</sup>	Floor Area Ratio <sup>2</sup>	Units per Acre <sup>3</sup>	Trips (ADT) per Unit <sup>4</sup>	Trips (ADT) per Acre <sup>5</sup>
Residential, Single-Family	DU	N/A	3.88	9.57	37.13
Residential, Multi-Family	DU	N/A	10.85	6.52	70.74
Neighborhood Commercial	KSF	0.20	9.58	30.50	292.19
Regional Commercial	KSF	0.30	13.07	30.50	398.57
Professional Office	KSF	0.25	10.89	5.38	58.59
Industrial	KSF	0.20	8.71	2.88	25.09
Public/Institutional	Acres	N/A	1.00	60.00	60.00
Parks/Open Space	Acres	N/A	1.00	1.60	1.60

<sup>1</sup> Units of Development: DU = dwelling units; KSF = 1,000 square feet of building area

<sup>2</sup> Typical floor area ratio (FAR = sq. feet of building area / sq. feet of site area) based on assumed buildout FAR from the 2030 General Plan

<sup>3</sup> Units per acre for residential categories based on assumed buildout densities from the 2030 General Plan; units per acre for non-residential development types based on the effective FAR for each category; where mixed use development is included in a category, (see Exhibit 2A), the units per acre factor is adjusted to reflect the average density for the category, including the mixed use development

<sup>4</sup> Average daily vehicle trips (ADT) per unit of development for residential development from ITE Trip Generation Manual; ADT per acre for Commercial, Professional Office and Industrial development based trips per KSF data from the KCAG Traffic Model; ADT per unit for Public/Institutional estimated based on ITE rate for schools

<sup>5</sup> Average daily vehicle trips (ADT) per unit of development are converted to ADT per acre using the formula: ADT per acre = units per acre X ADT per unit

## Development Data

As indicated previously, the primary study area for this analysis is the East Side of the City, as defined on page 2-1. Table 2.2 on the next page shows forecasts of planned future development in that study area and average daily vehicle trips (ADT) to be generated by that development. Those forecasts will be used in allocating the costs of street system improvements to new development. Traffic studies conducted by the City have concluded that there are no current deficiencies in the street system serving the East Side service area. Therefore, none of the costs for future street improvement projects will be allocated to existing development in that area.

Table 2.2  
Forecasted Future Development to Buildout - East Side Study Area

Development Type	Units <sup>1</sup>	Developable Acres <sup>2</sup>	Units per Acre <sup>3</sup>	Units <sup>4</sup>	Trips (ADT) <sup>5</sup>
Residential, Single-Family	DU	978.36	3.88	3,796	36,328
Residential, Multi-Family	DU	68.66	10.85	745	4,857
Subtotal Residential	DU	1,047.02		4,541	41,185
Neighborhood Commercial	KSF	36.38	9.58	348.0	10,614
Regional Commercial	KSF	15.17	13.07	198.2	6,046
Professional Office	KSF	36.39	10.89	396.3	2,132
Industrial	KSF	678.95	8.71	5,915.0	17,035
Subtotal Comm/Ofc/Ind	KSF	766.89		6,857.5	35,827
Public/Institutional	Acre	22.30	1.00	22.3	1,338
Parks/Open Space	Acre	64.92	1.00	64.9	104
Subtotal Public/Open Sp	Acre	87.22		87.2	1,442
Total		1,901.13			78,454

<sup>1</sup> Units of Development: DU = dwelling unit; KSF = 1,000 square feet of building area

<sup>2</sup> Developable acres estimated by the City of Lemoore Planning Department

<sup>3</sup> Units per acre: see Table 2.1

<sup>4</sup> Forecasted future units = available acres X units per acre from Table 2.1

<sup>5</sup> Forecasted average daily vehicle trips (ADT) = units X trips per unit from Table 2.1

Some interchange and intersection improvements related to State Route 41 will serve future development in both the East Side and West Side service areas. Costs for those improvements are being prorated between the two service areas. Table 2.3 shows the shares of forecasted future trips for each service area.

Table 2.3  
Share of Future Trips - West Side and East Side Service Areas

Area	Future Trips <sup>1</sup>	% of Total
West Side Service Area	109,830	58.3%
East Side Service Area	78,454	41.7%
Total	188,284	100.0%

<sup>1</sup> Future Trips for the West Side service area from the 2010 West Side Streets and Thoroughfares Impact Fee Study.  
Future trips for the East Side Service Area from Table 2.2

The forecast of future East Side service area trips in this study is slightly larger than the number being forecasted at the time of the West Side Streets and Thoroughfares Impact Fee Study in 2010. As a result, the share attributed to the East Side in Table 2.3 is 41.7% vs. 41.3% in the 2010 study. In the interest of fairness this study will use the smaller percentage when calculating the impact fees in the next chapter.

## Chapter 3

# Impact Fee Calculations

This chapter presents the impact fee analysis, fee calculations, and revenue projections for improvements to streets and thoroughfares addressed in this study. Those improvements include widening and extension of arterial streets as well as intersection improvements, traffic signals, and interchange improvements serving the study area.

### Methodology

This chapter calculates impact fees for streets and thoroughfares using the plan-based method discussed in Chapter 1. Plan-based fees are calculated by allocating the cost of a specified set of facilities to the development served by those facilities.

All street improvement costs allocated to future development in the calculation of impact fees are for improvements needed to serve future development in the portion of Lemoore east of 19 ½ Avenue. Traffic studies have determined that there are no existing deficiencies in the street system serving that area, so with a few exceptions identified later in this chapter, the entire cost of those improvements will be attributed to future development in the impact fee calculations.

### Demand variable

As indicated in Chapter 2, the demand variable used to allocate costs in this analysis is vehicle trip generation in terms of average daily trips (ADT). Impact fees charged to a particular development project will be based on the additional traffic generated by that project. Sources for trip generation rates used in this study are identified in Chapter 2 (See Table 2.1).

### Facility Needs and Costs

Table 3.1 lists the improvements and costs that serve as the basis for impact fee calculations shown in this chapter. All of the improvements shown in Table 3.1 were identified in the Circulation Element of the Lemoore 2030 General Plan. During preparation of the General Plan, traffic modeling was used to identify the roadway and intersection improvements needed to maintain an acceptable level of service (LOS D) at buildout. Impact fees are intended to fund the full cost of improvements listed in Table 3.1, except as shown in that table. The column headed “New Div %” shows the percentage of total cost allocated to new development. Where that allocation is less than 100%, the reasons are explained in the footnotes to that table.

City of Lemoore – East Side Streets and Thoroughfares Impact Fee Study

Table 3.1  
East Side Street and Thoroughfare Improvements with Estimated Costs

Project	Location	Improvement	Estimated Project Cost <sup>1</sup>	New Dev %	New Dev Cost Share <sup>2</sup>
18th Avenue	SR 198 to Iona Ave	Widen to 4 Lanes	\$ 280,000	100.0%	\$ 280,000
19th Avenue	Hanford-Armona Rd to the North	Construct 2 Lanes	\$ 1,300,000	100.0%	\$ 1,300,000
19th Avenue	Hanford-Armona Rd to Idaho Avenue	Widen portions from 2 to 4 Lanes As Needed	\$ 1,000,000	100.0%	\$ 1,000,000
19 1/2 Avenue	Cinnamon Dr to Silverado	Widen from 2 to 4 Lanes	\$ 800,000	100.0%	\$ 800,000
Bush Street	19 1/2 Ave to 19 Ave	Widen from 2 to 4 Lanes w/ Landscaped Median	\$ 500,000	100.0%	\$ 500,000
Cedar Lane	Blue Jay Ave to 19 1/2 Avenue	Construct 2 Lanes	\$ 800,000	100.0%	\$ 800,000
Cedar Lane	Brooks Drive to Lemoore Avenue	Construct 2 Lanes	\$ 1,175,000	100.0%	\$ 1,175,000
Cinnamon Dr	19 1/2 Avenue to Lemoore Avenue	Stripe and Widen from 2 to 4 Lanes	\$ 440,000	100.0%	\$ 440,000
D Street	Smith Avenue to 17th Avenue	Widen from 2 to 4 Lanes	\$ 730,000	100.0%	\$ 730,000
Daphne Lane	Daphne Ln to D St	Extend Daphne to 4-Lane Collector w/ RR Crossing	\$ 840,000	100.0%	\$ 840,000
Follett Street	Cinnamon Dr to G Street	Construct 2 Lanes	\$ 120,000	100.0%	\$ 120,000
Iona Avenue	19th Av to Lemoore Av	Widen from 2 to 4 Lanes	\$ 770,000	100.0%	\$ 770,000
Lemoore Ave	Bush St to G St	Widen Street	\$ 400,000	100.0%	\$ 400,000
Liberty Drive	Hanford-Armona Rd to Lacey Blvd	Widen from 2 to 4 Lanes	\$ 1,400,000	100.0%	\$ 1,400,000
Sierra Drive		Remove/Abandon - repl w/ New Sierra Drive	By CalTrans	0.0%	\$ 0
Silverado Ave	19 1/2 Ave to 19 Ave	Stripe from 2 to 4 Lanes	\$ 5,000	100.0%	\$ 5,000
Vine Street	Both sides of SR 198	Construct Cul-de-sacs	By CalTrans	0.0%	\$ 0
1/4 Mile North of Glendale	Liberty Dr (18 3/4 Av) to 17th Avenue	Construct New East-West Collector Street	\$ 3,450,000	100.0%	\$ 3,450,000
Intersection	19th Av/Hfd-Armona	Traffic Signal or Roundabout	\$ 277,500	100.0%	\$ 277,500
Intersection	Fox St /Cinnamon Dr	Traffic Signal or Roundabout	\$ 252,500	100.0%	\$ 252,500
Intersection	Cinnamon Dr/ Hanford-Armona Rd	Traffic Signal or Roundabout	\$ 277,500	100.0%	\$ 277,500
Intersection	Bush St/19th Avenue	Traffic Signal or Roundabout	Complete	0.0%	\$ 0
Intersection	19th Ave/Cedar Ln	Traffic Signal or Roundabout	\$ 252,500	100.0%	\$ 252,500
Intersection	East D St/East Bush St	Traffic Signal or Roundabout	\$ 252,500	100.0%	\$ 252,500
Intersection	Iona Ave/Lemoore Ave	Traffic Signal or Roundabout	\$ 252,500	100.0%	\$ 252,500
Intersection <sup>4</sup>	SR 41/Hfd-Armona	Various Imprvmts & Signals	\$ 2,784,678	47.6%	\$ 1,325,507
RR Crossing <sup>3</sup>	Lemoore Avenue	Upgrade Crossing	\$ 450,000	0.0%	\$ -
RR Crossing <sup>3</sup>	19th Avenue	Upgrade Crossing	\$ 350,000	0.0%	\$ -
RR Crossing <sup>3</sup>	19 1/2 Avenue	Upgrade Crossing	\$ 350,000	0.0%	\$ -
Interchange	SR 198/19th Avenue	Construct Interchange	By CalTrans	0.0%	\$ 0
Interchange <sup>5</sup>	SR 41/Bush	Wdn Bush: Belle Haven to 19 1/2 + Ramp Imprvmts	\$ 3,426,345	41.3%	\$ 1,415,080
Traffic Signals <sup>3</sup>	SR/41 Bush Interchg	NB/SB Ramp Signals (2)	\$ 800,000	0.0%	\$ 0
Total			\$ 22,936,023		\$ 18,315,587

<sup>1</sup> Estimated project cost by the Lemoore City Engineer includes design, engineering, construction, right-of-way, project administration, permits, testing, etc.

<sup>2</sup> Share of project cost allocated to new development in the East Side study area

<sup>3</sup> Entire project cost to be funded by the Redevelopment Agency

<sup>4</sup> A portion of the project cost is being allocated to future development on the West Side; the percentage allocated to the East Side is based on detailed analysis of the project by the City

<sup>5</sup> A portion of the project cost is being allocated to future development on the West Side (see Table 2.3)

## Average Cost per Trip

Table 3.2 calculates the average cost per trip for improvements identified in Table 3.1. To compute the average cost per trip, the total cost allocated to new development in Table 3.1 is divided by the number of new trips that will be added by future development in the East Side study area.

Table 3.2  
Average Cost per Trip - East Side Development

New Dev Cost Share <sup>1</sup>	Current Acct Bal East Side St DIF <sup>2</sup>	Adj New Dev Cost Share <sup>3</sup>	New Dev Added Trips (ADT) <sup>4</sup>	Average Cost per Trip <sup>5</sup>
\$18,315,587	\$2,208,168	\$16,107,419	78,454	\$205.31

<sup>1</sup> East Side new development cost share (see Table 3.1)

<sup>2</sup> Current balance in East Side streets development impact fee account

<sup>3</sup> Adjusted new development cost share = new development cost share - current account balance

<sup>4</sup> Projected future ADT (see Table 2.3)

<sup>5</sup> Average cost per trip = new development cost / future trips

## Impact Fees per Unit of Development

To calculate impact fees per unit of development by development type, the average cost per trip from Table 3.2 is multiplied by the average number of trips generated by each unit of development. Those trip generation rates are from Table 2.1. Table 3.3 shows the resulting impact fees, by development type. Impact fees for non-residential development are calculated on a per-acre basis.

Table 3.3  
Impact Fees per Unit of Development - East Side Development

Development Type	Units <sup>1</sup>	Future Units <sup>2</sup>	Trips per Unit (ADT) <sup>3</sup>	Cost per Trip <sup>4</sup>	Impact Fee per Unit <sup>5</sup>
Residential, Single-Family	DU	3,796.00	9.57	\$205.31	\$ 1,965.00
Residential, Multi-Family	DU	745.00	6.52	\$205.31	\$ 1,339.00
Neighborhood Commercial	Acre	36.38	292.19	\$205.31	\$ 59,990.00
Regional Commercial	Acre	15.17	398.57	\$205.31	\$ 81,831.00
Professional Office	Acre	36.39	58.59	\$205.31	\$ 12,029.00
Industrial	Acre	678.95	25.09	\$205.31	\$ 5,151.00
Public/Institutional	Acre	22.30	60.00	\$205.31	\$ 12,319.00
Parks/Open Space	Acre	64.92	1.60	\$205.31	\$ 328.00

<sup>1</sup> Units: DU = dwelling unit

<sup>2</sup> Forecasted future units (see Table 2.3)

<sup>3</sup> Added trips per unit (see Table 2.1)

<sup>4</sup> Cost per trip (see Table 3.2)

<sup>5</sup> Impact fee per unit = cost per unit = trips per unit X cost per trip, rounded to nearest \$

## Projected Revenue

To project revenue from the impact fees calculated in this chapter, the impact fees per unit from Table 3.3 are multiplied by the number of future units forecasted in the study area. The revenue projections are shown in Table 3.4.

Although the City may not be able to collect impact fees for development in the Public/Institutional category or the Parks/Open Space category, those categories are included in this analysis so that cost of serving them is accounted for and not shifted to private development.

Table 3.4 shows the total potential impact fee revenue from private development, as well as the potentially uncollectible costs allocated to public uses. . The small difference between new developments adjusted cost share in Table 3.2 and the total allocated costs shown in Table 3.4 is due to rounding and amounts to only 0.03% of total cost.

Table 3.4  
Projected Impact Fee Revenue - East Side Development

Development Type	Units <sup>1</sup>	Future Units <sup>2</sup>	Impact Fee per Unit <sup>3</sup>	Projected Revenue <sup>4</sup>
Residential, Single-Family	DU	3,796.00	\$ 1,965	\$ 7,459,140
Residential, Multi-Family	DU	745.00	\$ 1,339	\$ 997,555
Neighborhood Commercial	Acre	36.38	\$ 59,990	\$ 2,182,436
Regional Commercial	Acre	15.17	\$ 81,831	\$ 1,241,376
Professional Office	Acre	36.39	\$ 12,029	\$ 437,735
Industrial	Acre	678.95	\$ 5,151	\$ 3,497,271
Potential Impact Fee Revenue from Private Development				\$ 15,815,514
Public/Institutional	Acre	22.30	\$ 12,319	\$ 274,714
Parks/Open Space	Acre	64.92	\$ 328	\$ 21,294
Potentially Uncollectable Costs Related to Public Uses				\$ 296,007
Total Allocated Costs				\$ 16,111,522

<sup>1</sup> Units: DU = dwelling unit

<sup>2</sup> See Table 2.2

<sup>3</sup> See Table 3.3

<sup>4</sup> Projected revenue = future units X impact fee per unit

The costs, fees, and revenue projections shown in this report are in current dollars and do not include any financing costs. These fees should be indexed for cost inflation or reviewed annually to determine whether cost estimates need to be adjusted. See the Implementation Chapter for more on indexing and for a discussion of developer credits.

If plans for development of the study area change significantly, the impact fee analysis should be updated to reflect differences in the need for transportation improvements and the allocation of costs to various types of development.

## Chapter 4 Implementation

This chapter of the report contains recommendations for adoption and administration of a development impact fee program based on this study, and for the interpretation and application of impact fees recommended herein. Statutory requirements for the adoption and administration of fees imposed as a condition of development approval in California are found in the Mitigation Fee Act (Government Code Sections 66000 *et seq.*).

### Adoption

The form in which development impact fees are enacted, whether by ordinance or resolution, should be determined by the City Attorney. Ordinarily, it is desirable that specific fee amounts be set by resolution to facilitate periodic adjustments. Procedures for adoption of fees subject to the Mitigation Fee Act, including notice and public hearing requirements, are specified in Government Code Sections 66016 and 66018. It should be noted that Section 66018 refers to Government Code Section 6062a, which requires that the public hearing notice be published at least twice during the 10-day notice period. Government Code Section 66017 provides that fees subject to the Mitigation Fee Act do not become effective until 60 days after final action by the governing body.

Actions establishing or increasing fees subject to the Mitigation Act require certain findings, as set forth in Government Code Section 66001 and discussed below and in Chapter 1 of this report.

**Establishment of Fees.** Pursuant to the Mitigation Fee Act (Section 66001(a)), when the City establishes fees to be imposed as a condition of development approval, it must make findings to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and
3. Determine how there is a reasonable relationship between:
  - a. The use of the fee and the type of development project on which it is imposed;
  - b. The need for the facility and the type of development project on which the fee is imposed

Examples of findings that could be used for impact fees calculated in this study are shown below. The specific language of such findings should be reviewed and approved by the City Attorney.

**Finding: Purpose of the Fee.** The City Council finds that the purpose of the impact fees hereby enacted is to provide transportation improvements needed to serve future development in the West Side study area, as defined in the 2011 East Side Street and Thoroughfares Impact Fee Study prepared by Colgan Consulting Corporation.

**Finding: Use of the Fee.** The City Council finds that revenue from the impact fees hereby enacted will be used to construct transportation improvements i needed to serve new development in the West Side study area. Those public facilities are identified in the Circulation Element of the Lemoore 2030 General Plan Circulation Element and in the 2011 East Side Street and Thoroughfares Impact Fee Study prepared by Colgan Consulting Corporation. <sup>1</sup>

**Finding: Reasonable Relationship:** Based on analysis presented in the Circulation Element of the Lemoore 2030 General Plan Circulation Element, and in the 2011 East Side Streets and Thoroughfares Impact Fee Study prepared by Colgan Consulting Corporation, the City Council finds that there is a reasonable relationship between:

- a. The use of the fees and the types of development projects on which they are imposed; and,
- b. The need for facilities and the types of development projects on which the fees are imposed.

## Administration

The California Mitigation Fee Act (Government Code Sections 66000 et seq.) mandates procedures for administration of impact fee programs, including collection and accounting, reporting, and refunds. References to code sections in the following paragraphs pertain to the California Government Code.

**Imposition of Fees.** Pursuant to the Mitigation Fee Act (Section 66001(a)), when the City imposes an impact fee upon a development project, it must make essentially the same findings adopted upon establishment of the fees to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and
3. Determine how there is a reasonable relationship between:
  - a. The use of the fee and the type of development project on which it is imposed;

---

<sup>1</sup> According to Gov't Code Section 66001 (a) (2), the use of the fee may be specified in a capital improvement plan, the General Plan, or other public documents that identify the public facilities for which the fee is charged. The findings recommended here identify this study as the source of that information.

- b. The need for the facility and the type of development project on which the fee is imposed

Per Section 66001 (b), at the time when an impact fee is imposed on a specific development project, the City is also required to make a finding to determine how there is a reasonable relationship between:

- c. The amount of the fee and the facility cost attributable to the development project on which it is imposed.

It is common practice among California cities to make the necessary finding regarding the amount of the fee and the facility cost attributable to the development project on which it is imposed at the time the fee amounts are adopted, since the fees are imposed based on a formula that relates the amount of the fee for a specific project to the facility costs attributable to that project.

Section 66006 (f) provides that a local agency, at the time it imposes a fee for public improvements on a specific development project, "... shall identify the public improvement that the fee will be used to finance." In this case, the fees will be used to finance improvements specifically identified in this study.

Section 66020 (d) (1) requires that the City, at the time it imposes an impact fee provide a written statement of the amount of the fee and written notice of a 90-day period during which the imposition of the fee can be protested. Failure to protest imposition of the fee during that period may deprive the fee payer of the right to subsequent legal challenge. Section 66022 (a) provides a separate procedure for challenging the establishment of an impact fee. Such challenges must be filed within 120 days of enactment.

The City should develop procedures for imposing fees that satisfy those requirements for findings and notice.

**Collection of Fees.** Section 66007 (a), provides that a local agency shall not require payment of fees by developers of residential projects prior to the date of final inspection, or issuance of a certificate of occupancy, whichever occurs first. However, "utility service fees" (not defined) may be collected upon application for utility service. In a residential development project of more than one dwelling unit, Section 66007 (a) allows the agency to choose to collect fees either for individual units or for phases upon final inspection, or for the entire project upon final inspection of the first dwelling unit completed.

Section 66007 (b) provides two exceptions when the local agency may require the payment of fees from developers of residential projects at an earlier time: (1) when the local agency determines that the fees "will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspec-

tion or issuance of the certificate of occupancy” or (2) the fees are “to reimburse the local agency for expenditures previously made.” Statutory restrictions on the time at which fees may be collected do not apply to non-residential development.

In cases where the fees are not collected upon issuance of building permits, Sections 66007 (c) (1) and (2) provide that the city may require the property owner to execute a contract to pay the fee, and to record that contract as a lien against the property until the fees are paid.

**Earmarking and Expenditure of Fee Revenue.** Section 66006 (a) mandates that fees be deposited “with other fees for the improvement” in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments and expend those fees solely for the purpose for which the fee was collected. Section 66006 (a) also requires that interest earned on the fee revenues be placed in the capital account and used for the same purpose.

The language of the law is not clear as to whether depositing fees “with other fees for the improvement” refers to a specific capital improvement or a class of improvements (e.g., street improvements). We are not aware of any city that has interpreted that language to mean that funds must be segregated by individual projects. As a practical matter, that approach is unworkable because it would mean that no pay-as-you-go project could be constructed until all benefiting development had paid the fees. Common practice is to maintain separate funds or accounts for impact fee revenues by facility category (i.e., streets, park improvements), but not for individual projects. We recommend that approach.

**Impact Fee Exemptions, Reductions, and Waivers.** In the event a development project is found to have no impact on facilities for which impact fees are charged, such project must be exempted from the fees. If a project has characteristics that indicate its impacts on a particular public facility or infrastructure system will be significantly and permanently smaller than the average impact used to calculate impact fees in this study, the fees should be reduced accordingly. Per Section 66001 (b), there must be a reasonable relationship between the amount of the fee and the cost of the public facility attributable to the development on which the fee is imposed. The fee reduction is required if the fee is not proportional to the impact of the development on the relevant public facilities.

In some cases, the City may desire to voluntarily waive or reduce impact fees that would otherwise apply to a project to promote goals such as affordable housing or economic development. Such a waiver or reduction may not result in increased costs to other development projects, and are allowable only if the City offsets the lost revenue from other fund sources.

**Credit for Improvements provided by Developers.** If the City requires a developer, as a condition of project approval, to construct facilities or improvements for which impact fees have been or will be charged, the impact fee imposed on that development project

for that type of facility should be adjusted to reflect a credit for the cost of the facilities or improvements constructed by the developer. Such credits should be provided only where the developer constructs the permanent improvements identified in this study for which impact fees are being charged. In the event the credit would exceed the amount of the impact fees to be paid by the developer for the same type of improvements (e.g., transportation improvements) the City and the developer should negotiate a reimbursement agreement whereby the cost exceeding the amount of the impact fees would be repaid from impact fees collected from other developments benefiting from the improvement.

The value on which developer credits are based should not exceed the estimated costs used in the impact fee calculations for the projects in question.

In the event a developer volunteers to dedicate land, buildings, or other valuable consideration in lieu of paying impact fees, the City has the discretion to accept or reject such offers, and may negotiate the terms under which such an offer would be accepted.

**Credit for Existing Development.** If a project involves replacement, redevelopment or intensification of previously existing development, impact fees should be applied only to the portion of the project which represents a net increase in demand for relevant City facilities, applying the measure of demand used in this study to calculate that particular impact fee. Since residential service demand is normally estimated on the basis of demand per dwelling unit, an addition to a single family dwelling unit typically would not be subject to an impact fee if it does not increase the number of dwelling units in the structure. In any project that results in a net increase in the number of dwelling units, the added units would normally be subject to impact fees. A similar analysis can be applied to non-residential development, using measure of demand on which the impact fees are based.

**Reporting.** Section 66006 (b) (1) requires that once each year, within 180 days of the close of the fiscal year, the local agency must make available to the public the following information for each separate account established to receive impact fee revenues:

1. A brief description of the type of fee in the 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 interest earned;
5. Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the percentage of the cost of the public improvement that was funded with fees;
6. Identification of the approximate date by which the construction of a public improvement will commence, if the City determines sufficient funds have been collected to complete financing of an incomplete public improvement;

7. A description of each inter-fund transfer or loan made from the account or fund, including interest rates, repayment dates, and a description of the improvement on which the transfer or loan will be expended;
8. The amount of any refunds or allocations made pursuant to Section 66001, paragraphs (e) and (f).

That information must be reviewed by the City Council at its next regularly scheduled public meeting, but not less than 15 days after the statements are made public, per Section 66006 (b) (2).

**Refunds.** Prior to the adoption of Government Code amendments contained in SB 1693 (1996), a local agency collecting impact fees was required to expend or commit the fee revenue within five years or make findings to justify a continued need for the money. Otherwise, those funds had to be refunded. SB 1693, adopted in 1996, changed that requirement in material ways.

Now, Section 66001 (d) requires that, for the fifth fiscal year following the first deposit of any impact fee revenue into an account or fund as required by Section 66006 (b), and every five years thereafter, the local agency shall make all of the following findings for any fee revenue that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee will be put;
2. Demonstrate the 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 improvements for which impact fees are to be used;
4. Designate the approximate dates on which the funding necessary to complete financing of those improvements will be deposited into the appropriate account or fund.

Those findings are to be made in conjunction with the annual reports discussed above. If such findings are not made as required by Section 66001, the local agency could be required to refund the moneys in the account or fund, per Section 66001 (d). Once the agency determines that sufficient funds have been collected to complete an incomplete improvement for which impact fee revenue is to be used, it must, within 180 days of that determination, identify an approximate date by which construction of the public improvement will be commenced (Section 66001 (e)). If the agency fails to comply with that requirement, it must refund impact fee revenue in the account according to procedures specified in Section 66001 (d).

**Annual Update of the Capital Improvement Plan.** Section 66002 (b) provides that if a local agency adopts a capital improvement plan to identify the use of impact fees, that plan must be adopted and annually updated by a resolution of the governing body at a noticed public hearing. The alternative, per Section 66001 (a) (2) is to identify improve-

ments by applicable general or specific plans or in other public documents. We recommend that the City Council identify this study as the public document on which the use of the fees is based. In most cases, the CIP identifies projects for a limited number of years and may not include all improvements needed to serve future development covered by the impact fee study.

**Update of the Impact Fee Study.** The Mitigation Fee Act does not include any specific requirement that impact fee calculations be updated on a particular schedule. However, Section 66001 (a) does require the findings be made every time fees are imposed. Five years is widely considered a good rule-of-thumb for impact fee updates. Fees may remain valid for a longer period if the City's land use plans and facility plans do not change. However, the validity of impact fees may be undermined at any time by significant changes in the land use plans or facility plans underlying the fees.

**Indexing of Impact Fee Rates.** Except as otherwise noted in the report, impact fees calculated in this report assume the facilities in question will be constructed on a pay-as-you-go basis. Those fees are based on current costs and should be adjusted annually to account for inflation. That adjustment is intended to account for future escalation in costs for land and construction. We recommend the *Engineering News Record* Building Cost Index as the basis for indexing construction costs. Where land costs make up a significant portion of the costs covered by a fee, land costs should be adjusted relative to changes in local land costs.

## Training and Public Information

Effective administration of an impact fee program requires considerable preparation and training. It is important that those responsible for collecting the fees, and for explaining them to the public, understand both the details of the fee program and its supporting rationale. Before fees are imposed, a staff training workshop is highly desirable if more than a handful of employees will be involved in collecting or accounting for fees. It is also useful to pay close attention to handouts that provide information to the public regarding impact fees. Impact fees should be clearly distinguished from other fees, such as user fees for application processing, and the purpose and use of particular impact fees should be made clear.

Finally, anyone who is responsible for accounting, capital budgeting, or project management for projects involving impact fees must be fully aware of the restrictions placed on the expenditure of impact fee revenues. The fees recommended in this report are tied to specific improvements and cost estimates. Fees must be expended accordingly and the City must be able to show that funds have been properly expended.