

## EXHIBIT A

### TRAFFIC FEE CREDIT AND REIMBURSEMENT POLICY

Adopted \_\_\_\_\_

This Traffic Fee Credit and Reimbursement Policy ("Policy"), adopted by the Contra Costa County Board of Supervisors, shall be used to determine credits and reimbursements of Area of Benefit Traffic Fees.

#### I. TERMS AND DEFINITIONS

The terms set forth in this paragraph, as used in this Policy, are defined as follows:

A. Development Program Report: The report adopted by the Board of Supervisors for an Area of Benefit, identifying road improvements needed to serve that Area of Benefit, the estimated costs of those road improvements and recommended traffic fees.

B. Area of Benefit Traffic Fee Ordinance: The ordinance adopted for an Area of Benefit pursuant to Government Code section 66484 and Division 913 of the Contra Costa County Ordinance Code, establishing the traffic fees necessary to complete construction of the road improvements in that Area of Benefit.

C. Area of Benefit Fee Obligation: The traffic fee due on a development, as determined from the Area of Benefit Traffic Fee Ordinance.

D. Improvement Costs: The cost of installing road improvements identified in the Development Program Report for an Area of Benefit.

E. Eligible Costs. The portion of Improvement Costs eligible to be applied as credits against the Area of Benefit Fee Obligation or reimbursed to a developer, as more particularly described in Paragraph III of this Policy.

F. Onsite Road Improvements: Public road improvements required within the boundaries of a development and the first twenty feet (20) of pavement widening of the public road(s) along the frontage of the development.

G. Offsite Road Improvements: Public road improvements identified in the Development Program Report that are required outside the boundaries of a development, beyond the first twenty (20) feet of pavement widening of the public road(s) along the frontage of the development.

H. Credit: A deduction from a developer's Area of Benefit Fee Obligation for which a developer may be eligible if the developer has incurred Eligible Costs to install Offsite Road Improvements.

I. Reimbursement: A payment for which a developer may be eligible if Eligible Costs exceed the developer's Area of Benefit Fee Obligation.

## II. GENERAL

Installation of road improvements that are required as a condition of approval of development can be very costly and, in many cases, benefits other properties within an Area of Benefit. An Area of Benefit Traffic Fee Ordinance distributes the fee for these road improvements to all parcels within the Area of Benefit in proportion to the estimated benefits they will receive from the improvements. The ordinance becomes operative with respect to a specific parcel of land upon a request to develop or improve that parcel. The Area of Benefit Fee Obligation is limited to the fee due and is payable as a condition of approval of a final map or issuance of a building permit.

When a condition of development requires a developer to construct Offsite Road Improvements, the developer may be entitled to a credit against the Area of Benefit Fee Obligation. When a condition of development requires the construction of Offsite Road Improvements with a cost in excess of the Area of Benefit Fee Obligation, a portion of the excess cost may be eligible for reimbursement.

## III. ELIGIBLE COSTS

Eligible Costs may be applied as a credit against the Area of Benefit Fee Obligation and, to the extent Eligible Costs exceed the Area of Benefit Fee Obligation, reimbursed to the developer. Eligible Costs are as follows:

A. Actual costs of construction of Offsite Road Improvements, including but not limited to costs of grading, paving, erosion control, installation of fencing, walls and traffic signals, permit fees and public agency inspection fees. Actual costs shall be determined based on invoices submitted by the developer to the Public Works Department.

B. Costs of design of Offsite Road Improvements, including civil and geotechnical engineering, traffic consulting and traffic signal design, which shall equal the lesser amount of either (1) the developer's actual costs of design, determined based on invoices submitted by the developer to the Public Works Department; (2) 14 percent of the actual costs of construction of the Offsite Road Improvements; or (3) 14 percent of the lowest of three independent bids submitted by the developer and approved by the Public Works Department.

C. Costs of administration of contracts related to Offsite Road Improvements, which shall equal the lesser amount of (1) the developer's actual costs of administration of contracts, determined based on invoices submitted by the developer to the Public Works Department; (2) 14 percent of the developer's actual costs of construction of the Offsite Road Improvements; or (3) 14 percent of the lowest of three independent bids submitted by the developer and approved by the Public Works Department.

D. Costs of acquisition of right-of-way needed for the construction of Offsite Road Improvements, which shall equal the lesser amount of (1) the developer's actual costs of

acquisition or (2) fair market value of the right-of-way. Notwithstanding the foregoing, if the developer owns or possesses any other interest in the parcel or parcels of real property containing the right-of-way, costs of acquisition of the right-of-way shall not be applied as a credit or reimbursed to the developer.

Notwithstanding anything to the contrary herein, the County reserves the right to reject any or all of the developer's bids, invoices and/or any other proposed value of said Eligible Costs and to calculate said costs using then current prices as determined by Public Works staff.

If the developer elects to construct more costly road improvements than those shown on the adopted Development Program Report, the County reserves the right to calculate Eligible Costs using the then current prices for only the road improvements shown on the adopted Development Program Report, as determined by Public Works staff.

#### **IV. CREDIT**

When a condition of development requires the developer to construct Offsite Road Improvements, Eligible Costs may be applied as a credit against the Area of Benefit Fee Obligation.

#### **V. REIMBURSEMENT**

A. Where Eligible Costs exceed the Area of Benefit Fee Obligation, the developer, upon entering into a reimbursement agreement with the County, will be eligible for reimbursement of the amount of Eligible Costs that is in excess of the Area of Benefit Fee Obligation.

B. The reimbursement is subject to the following limitations:

1. Reimbursements will be paid only from fees collected pursuant to an Area of Benefit Traffic Fee Ordinance.
2. If more than one reimbursement agreement is in effect in an Area of Benefit, the reimbursement payment under each agreement will be based on the ratio of each agreement's original amount to the total original amount of all outstanding reimbursement agreements.
3. The County reserves the right to utilize not more than 80 percent of the Area of Benefit traffic fees collected annually, on a fiscal year basis, for the purpose of making reimbursement payments.
4. Reimbursement payments will be made quarterly, except that, during any quarter the County reserves the right not to make said payments if the amount of available funds to be disbursed is less than \$5,000.00.
5. Reimbursement agreements will remain in effect for a base period of ten years (forty quarters). The first quarter shall be the one following the

quarter in which the first reimbursement payment is made. The developer shall forfeit any outstanding balance owed at the end of the ten years if 80 percent or more of the money has been reimbursed. If at the end of the ten years, less than 80 percent of the money has been reimbursed, the agreement will be extended for five years. If after a period of five years the developer has not been reimbursed 80 percent of the amount due, the agreement shall be extended for another period of five years. Any remaining balance owed after twenty years shall be forfeited.

## **VI. SPECIAL CONDITIONS**

From time to time, project-specific situations may arise that, in the judgment of County staff, require special terms to be added to the standard reimbursement agreement. Such terms may address matters that are not specifically covered in the Policy or may be exceptions to the Policy. Such terms may be incorporated into the reimbursement agreement to be executed by the developer and approved by the Board of Supervisors.

## **VII. APPLICABILITY**

Upon adoption for a particular Area of Benefit, this Policy will be the basis for all subsequent reimbursement agreements in that Area of Benefit. This Policy will not alter any reimbursement agreement executed pursuant to a different policy.