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December 15, 2009

Honorable Board of Supervisors
County Government Center
Hall of Administration
800 South Victoria Avenue
Ventura, CA 93009

**SUBJECT: COMPLETE THE ANNUAL REVIEW BY BOARD OF SUPERVISORS OF
ACCOUNTS OR FUNDS CONTAINING DEVELOPER FEES AS OF JUNE
30, 2009**

RECOMMENDATION:

- 1) Complete an annual review of the information on Exhibits I, II and III regarding the County of Ventura Developer Fees;
- 2) Find that for the fees and fee purposes identified on Exhibit I, there is a reasonable relationship between the fees and the purpose for which they are committed; and
- 3) Find that anticipated fund sources, amounts and dates of receipt of funding to complete projects, and the date of construction commencement, are identified and designated as required by Government Code Sections 66000, 66001 and 66006.

FISCAL IMPACT:

Mandatory: Government Code Sections 66000, 66001, and 66006. Voluntary reporting for Government Code Section 66477 (Quimby Act park and recreation fees).

Impact on Departments: Reporting requirements for departments receiving developer fees.

Revenue and Cost Summary: See Exhibit III for cash receipts and disbursements within County agency funds and other entities.

DISCUSSION:

The information on Exhibits I, II and III regarding the County of Ventura developer fees was received by your Board on November 24, 2009.

Government Code Section 66006(b) requires the Board of Supervisors to review information annually at a regularly scheduled meeting, not less than 15 days after availability, regarding separate accounts or funds containing developer fees for public facilities.

The Auditor-Controller's staff, as required by Government Code Sections 66000, 66001, and 66006, compiled information received from the various departments administering developer fees. Exhibit I includes a brief summary of the purpose, authorization, and approval of each agency's developer fees. Exhibit I and Exhibit II reflect developer funds held for five (5) years or more. Exhibit III includes a summary of the qualifying accounts, including the beginning and ending balance, the fee, interest, other income and transfers, and the amount of expenditure and refunds made during the fiscal year for each separate account or fund containing fees of this nature for fiscal year 2008-2009.

Government Code Section 66006(b) applies to any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements that is imposed by the local agency as a condition of approving the development project. Fees in Government Code Section 66477 (Quimby park and recreation fees) are excluded from the definition of Section 66000(b). However, the Quimby fees have similar requirements for developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the related subdivision. Government Code Section 66477(a)(6) also requires commitment of these funds within five (5) years after collection of the fees or after issuance of 50 percent of building permits, whichever occurs later. In the interest of providing full disclosure to the public, the Quimby fees are voluntarily included in this general developer fee Board letter.

Government Code Section 66001(d), effective January 1, 1994, established additional requirements for an annual review with findings by your Board regarding fees which are established, increased or imposed after January 1, 1989, as a condition of approval of a development project. Government Code Section 66001(e) lists requirements for fees unexpended or uncommitted after five years. In addition, Government Code Sections 66001(d)(1)(C) and (D), and 66001(e) require identification of the sources and amounts needed to complete financing on incomplete projects and to designate the approximate dates for receipt of funding for deposit into the appropriate accounts, and the approximate date of construction commencement where funding is sufficient.

As required by Government Code Section 66001(d) for the annual fiscal year report on developer fees as of June 30, 2009, your Board must make findings with respect to any of these 66001(a) fees which remain unexpended or uncommitted after five years from the date deposited. At this time, findings are required for those fees on deposit which were collected between January 1, 1989, and June 30, 2004. Your Board will also be required to make findings to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

Findings information is summarized on Exhibit I. As noted on Exhibit I, each of the unexpended funds held five years or more is committed to a project that is a suitable purpose for the use of the developer fee, and the sources and amounts to complete financing are identified.

As required by Government Code Section 66001(e), if a need for the project cannot be demonstrated pursuant to Government Code Section 66001(d), or, if within 180 days of receipt of sufficient funding, the entity does not provide an approximate date by which construction will be commenced, your Board would be required to direct a refund to the then current recorded owner or owners of lots or units of the development project or projects on a prorated basis of the unexpended or uncommitted portion of the fee and any interest accrued thereon (except where administrative costs of refunding exceed the amount to be refunded).

The various departments receiving development fees will continue to maintain records to comply with these Government Code requirements.

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This Board letter has been reviewed by the County Executive Office and by County Counsel. Any questions may be referred to the Auditor-Controller's Office at 654-3151.

Sincerely,



CHRISTINE L. COHEN
Auditor-Controller

Exhibits:

- Exhibit I-Summary Description of Developer Fee Accounts and Findings
- Exhibit II-Review of Accounts or Funds Containing Developer Fees Five Year Funds Commitments
- Exhibit III- Review of Accounts or Funds Containing Developer Fees Fiscal Year 2008-2009

cc: Honorable Bob Brooks, Sheriff
Marty Robinson, County Executive Officer
Noel A. Klebaum, Esq., County Counsel
Jeff Pratt, Public Works Agency
Bob Roper, Fire Protection District
Paul Grossgold, General Services Agency
John Adams, Finance Director, City of Thousand Oaks
Ron Ahlers, Finance Director, City of Moorpark
James Purtee, Director Administrative Services, City of Simi Valley