

**RESOLUTION NO. 2005-149**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
APPROVING POLICY REGARDING THE USE BY OTHER PUBLIC AGENCIES  
OF REVENUE FROM DEVELOPMENT IMPACT FEES LEVIED BY THE CITY**

**WHEREAS**, the City of Elk Grove requires private land developers to pay impact fees to finance public improvements and public services necessary to serve new development, some of which public improvements will be operated and maintained and some of which public services will be provided by other local agencies;

**WHEREAS**, the City has an interest in assuring that the public facilities and services financed by development impact fees that it has levied are provided as intended by the City Council;

**WHEREAS**, the proposed "Policy Regarding the Use by Other Public Agencies of Revenue from Development Impact Fees Levied by the City" that has been presented to the City Council prescribes terms and conditions for the disbursement of impact fee revenues to other agencies in order to assure accountability and the effectiveness of such programs;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Elk Grove:

**Section 1. Recitals.** The foregoing recitals are true and correct, and this Council so finds and determines.


**Section 2. Approval of Policy.** The City Council hereby approves the policies as set forth in that document entitled "Policy Regarding the Use by Other Public Agencies of Revenue from Development Impact Fees Levied by the City" attached to this resolution and made a part hereof by this reference.

**Section 3. Effective Date.** This Resolution shall take effect immediately.

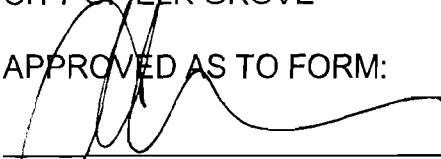
**PASSED AND ADOPTED** by the City Council of the City of Elk Grove this 25th day of May 2005.

ATTEST:

  
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PEGGY E. JACKSON, CITY CLERK

  
\_\_\_\_\_  
DANIEL BRIGGS, MAYOR of the  
CITY OF ELK GROVE

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ANTHONY B. MANZANETTI,  
CITY ATTORNEY

CITY OF ELK GROVE  
POLICY REGARDING THE USE BY OTHER PUBLIC AGENCIES  
OF REVENUE FROM DEVELOPMENT IMPACT FEES LEVIED BY THE CITY

Premises

- A. The City has authority and responsibility under California law to plan the physical development of land within its boundaries.
- B. As part of the planning process, the City exercises its police power under the California Constitution to require private land developers to pay impact fees to finance the acquisition, construction, and maintenance of the public improvements and facilities and the provision of some of the public services necessary to serve new development.
- C. Some of those public improvements and facilities will be owned, managed, operated, and/or maintained and some of those public services will be provided by other local agencies whose geographic jurisdiction overlaps that of the City. In those cases, as appropriate, the City will make development impact fee revenue available to the local agency that is responsible for the facilities or services.
- D. California Government Code section 66006 provides that "if a local agency requires the payment of a fee [for improvements] in connection with the approval of a development project, the local agency receiving the fee shall ... expend those fees solely for the purpose for which the fee was collected."
- E. While another local agency that receives revenues from impact fees levied by the City will have responsibility under Government Code section 66006 to properly use and account for the impact fee revenues, the City has an interest in assuring that the public facilities and services financed by development impact fees that it has levied are provided to its citizens as intended by the City Council.

Policies

1. Planning. With respect to public improvements and facilities located within the City's geographical jurisdiction that are to be owned, managed, operated, and/or maintained by other local agencies and services that are to be provided within the City's geographical jurisdiction by other local agencies, and with respect to facilities and services provided by the City jointly or in cooperation with other local agencies, the City will work with each local agency to identify those facilities and services that are necessary to serve new development, to establish cost estimates and acquisition/construction timetables for them, and to develop such other information as is required under relevant law to validly levy the necessary development impact fees to finance them. However, nothing contained in this Policy shall require the City to levy any development impact fee or levy a fee in the amount requested by another agency.
2. Cost of Fee Implementation. The City will require such other local agencies to bear the costs associated with levying development impact fees for their

facilities and services, including (without limitation) the cost of any required impact fee justification (nexus) studies. Such administrative costs may, but not necessarily will be, taken into account in establishing impact fee amounts and will be recovered from fees collected.

3. Conditions for Disbursement of Funds. Before the City will disburse impact fee revenues to, or expend revenue jointly or in cooperation with, another local agency, that agency shall provide to the City:

- a. a detailed cost estimate for all the facilities and services described in the nexus study used to justify the impact fee amounts, including (without limitation) a categorization of facility costs by preliminary engineering costs and costs of acquisition/construction;
- b. in the case of facilities that are to be acquired or constructed, a timeline for each project, including (at a minimum) the estimated times for commencement and completion of construction;
- c. if other sources of funds are required to finance the facilities or services or any portion thereof, a description of each of those sources, including the amount and timing of receipts of funds from such other sources;
- d. if other sources of funds are available (or could be made available) to the other agency for the facilities or services or any portion thereof, an identification of such other funds and their amounts;
- e. an undertaking by the other agency to comply with the provisions of Government Code section 66006 and to provide to the City annually within 180 days of the end of each fiscal year the information required by subsection (b)(1) thereof with respect to each account that holds revenues from impact fees levied by the City, namely
  - (i) the beginning and ending balance of the account;
  - (ii) the amount of the fees collected and the interest earned;
  - (iii) an identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees;
  - (iv) an identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement

(v) a description of each interfund transfer or loan made from the account, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account will receive on the loan; and

(vi) the amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001;

- f. evidence that the other agency has obtained public liability and property damage insurance with respect to any facilities financed by the development impact fees, in amounts and with deductibles acceptable to the City, naming the City as an additional insured. The insurance shall extend to claims, losses, damages, injury, costs, including attorney fees, and liability for property damage and personal injury, including death, occurring during construction, directly or indirectly arising out of or in any way connected with the construction of any facilities financed by the development impact fees; and
- g. an undertaking by the other agency to hold harmless, defend, and indemnify the City from liabilities arising out of the other agency's use of and accounting for development impact fees.

4. Disbursement Approval and Implementation. Following staff review of the information submitted by the other local agency, staff will forward a proposed expenditure plan to the City Council for its action. The proposed expenditure plan submitted to the City Council may include a schedule of disbursements and conditions to be satisfied prior to individual disbursements. City staff will administer the collection and disbursement of impact fee revenues to assure timely delivery of funds to meet contractual and debt service obligations of other local agencies; provided that such agencies timely provide the City staff with the required information and undertakings described above.

**CERTIFICATION  
ELK GROVE CITY COUNCIL RESOLUTION NO. 2005-149**

STATE OF CALIFORNIA        )  
COUNTY OF SACRAMENTO    )       ss  
CITY OF ELK GROVE         )

*I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing resolution was duly introduced, approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on the 25<sup>th</sup> day of May, 2005 by the following vote:*

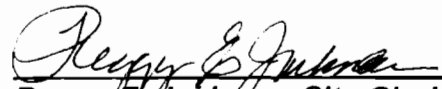
**AYES 5:       COUNCILMEMBERS:       Scherman, Soares, Briggs, Leary, Cooper**

**NOES:        COUNCILMEMBERS:**

**ABSTAIN:    COUNCILMEMBERS:**

**ABSENT:     COUNCILMEMBERS:**



  
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**Peggy E. Jackson, City Clerk  
City of Elk Grove, California**