THE CITY OF SAN DIEGO

REPORT TO THE CITY COUNCIL

DATE ISSUED: REPORT NO:

ATTENTION: Committee on Land Use and Housing
Agenda of July 20, 2011

SUBJECT: Ordinance amending the section of the San Diego Municipal Code relating to the City's Facilities Benefit Assessments and Development Impact Fee provisions

REQUESTED ACTION:

Recommend City Council approval of an Ordinance amending the section of the San Diego Municipal Code relating to the City's Facilities Benefit Assessment (FBA) and Development Impact Fee (DIF) provisions.

STAFF RECOMMENDATION:

Recommend to the City Council adoption of the amended FBA/DIF Ordinance.

SUMMARY:

On November 10, 2011, Ordinance 19893, which authorizes the FBA and DIF Fee Deferral Program, will expire for the FBA portion of the Program, including fee deferrals for affordable housing projects sited in FBA communities. The proposed amended ordinance will extend, for an additional three year period ending December 31, 2014, the deferral of FBA fees from building permit issuance until final inspection.

Ordinance 19893 stipulates that a waiver, adjustment, or reduction of the Development Impact Fee due may be requested and decided in accordance with Process Five (City Council public hearing of Planning Commission recommendation). As a request for a waiver, adjustment, or reduction of a Development Impact Fee has not traditionally been a land development issue considered by the Planning Commission, it is recommended that Ordinance 19893 be amended to provide for a public hearing at City Council of a request for a waiver, adjustment or reduction of Development Impact Fee(s).

Additionally, it is recommended that Ordinance language be modified to clarify that either FBA or DIF fee deferrals for affordable housing projects will continue to be available indefinitely;

but, that under the Fee Deferral Program, each authorized fee deferral will defer the fee for a period of up to two years or until final inspection is requested, whichever time period is shorter.

DISCUSSION:

On November 10, 2011, Ordinance 19893, which authorizes the FBA and DIF Fee Deferral Program, will expire for the FBA portion of the Program, including fee deferrals for affordable housing projects sited in FBA communities. Approval of the proposed amendment to Ordinance 19893 will allow FBA fees to continue to be deferred at building permit issuance until final inspection. Additionally, a recommended revision to the Ordinance will allow for the ability to collect, as well as defer, the Facilities Benefit Assessments should a permit other than a building permit be issued that would result in the development benefiting from the Public Facilities Projects in the Area of Benefit. The extension of the FBA Fee Deferral Program will be in effect for three years from November 11, 2011 until December 31, 2014.

The fee deferral will allow the applicant to pay the fees listed on the fee schedule in effect at the time building permits are issued unless subsequent fees are lower. For example, if the building permits are issued in FY 2012 but the inspection is not performed until FY 2014, the fee due would be the FY 2014 fee listed in the financing plan in effect when the fee deferral application is processed, even if subsequent updates to the financing plan result in increased FBA fees. This provision provides the developer with greater certainty regarding the amount of fees to be paid.

Fee deferrals must be requested by the applicant and require a fee deferral agreement which costs an administrative fee of $500 per application. Attachment 1, which summarizes fee deferral information for the period November 10, 2009 through June 30, 2011, is presented for informational purposes.

Typically, Process Five defines a public hearing process through which development project applications/plans are submitted, staff level review is performed, Planning Commission hearing/recommendation is made and the City Council considers Planning Commission recommendation(s).

As a request to waive, adjust, or reduce a development impact fee does not require Planning Commission review or recommendation, it is appropriate that a request for waiver, adjustment or reduction proceed directly to City Council public hearing. A deposit will be required to cover the cost of processing the request for waiver, adjustment or reduction of a development impact fee to City Council for review. The amendments to Ordinance 19893 incorporates these procedures.

Affordable housing projects, whether in FBA or DIF communities, will continue to be eligible for fee deferrals under the Fee Deferral Program. Each affordable housing project fee deferral will be available for a period of up to two years or until final inspection is requested, whichever time period is shorter.

FISCAL CONSIDERATIONS:

A $500 processing fee will be required for each fee deferral application and each partial release for phased development. A nominal amount of interest is lost due to the delayed payment of fees. A processing deposit up to $2,500 will be required for a request for a development impact fee waiver, adjustment or reduction.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

Ordinance 19893 approved by City Council on September 11, 2009.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:
On April 20, 2011, the extension of the FBA Fee Deferral Program was discussed with the San Diego Regional Chamber of Commerce Housing Committee. On June 17, 2011, the proposed revisions to Ordinance 19893 were discussed with the Building Industry Association (BIA) San Diego City/County Legislative Committee.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Any individual or entity requesting fee deferrals on building permits.

Tom Tomlinson
Facilities Financing Manager
Development Services Department

Kelly Broughton
Director
Development Services Department

Attachment:
1. FBA and DIF Fee Deferral Activity
2. Proposed Ordinance Strikeout/Underline

7/11/2011

ATTACHMENT 1

FBA and DIF Fee Deferral Activity (November 11, 2009 - June 30, 2011)

FBA COMMUNITIES:

Community	All Fee Deferrals		Paid Fee Deferrals			Outstanding Fee Deferrals		
	Number of Fee Deferrals	Amount	Number Paid	Average Time to Payment (Months)	Amount	Number Active	Average Age (Months)	Amount
Black Mountain Ranch	13	$3,353,448	2	5.1	$447,128	11	2	$2,906,320
Carmel Valley	28	$5,409,936	23	4.6	$3,848,421	5	2.3	$1,561,515
Del Mar Mesa	1	$93,905	0	n/a	$0	1	3.8	$93,905
Mira Mesa	1	$535,331	0	n/a	$0	1	9.3	$535,331
North University City	1	$741,601	0	n/a	$0	1	8.7	$741,601
Pacific Highlands Ranch	13	$7,030,890	13	4.1	$7,030,890	0	n/a	$0
Rancho Penasquitos	1	$25,723	0	n/a	$0	1	4.7	$25,723
Rancho Encantada	2	$24,512	2	5.9	$24,512	0	n/a	$0
Torrey Highlands	21	$17,799,842	15	3.6	$11,887,969	6	5.6	$5,911,873
	81	**$35,015,188**	**55**	**4.5**	**$23,238,920**	**26**	**3.2**	**$11,776,268**

DIF COMMUNITIES:

Community	All Fee Deferrals		Paid Fee Deferrals			Outstanding Fee Deferrals		
	Number of Fee Deferrals	Amount	Number Paid	Average Time to Payment (Months)	Amount	Number Active	Average Age (Months)	Amount
Barrio Logan	1	$938,400	0	n/a	$0	1	3.7	$938,400
Centre City	4	$474,147	3	5.9	$310,345	1	5.8	$163,802
Mission Valley	1	$922,148	0	n/a	$0	1	0.5	$922,148.00
Otay Mesa-Nestor	1	$38,813	0	n/a	$0	1	0.9	$38,812.93
SESD	3	$154,521	2	14.6	$21,105	1	26.9	$133,416
San Ysidro/Tijuana River Valley	1	$722,160	1	12.5	$722,160	0	n/a	0
Uptown	1	$45,990	0	n/a	$0	1	11	$45,990
	12	**$3,296,179**	**6**	**9.9**	**$1,053,610**	**6**	**10.9**	**$2,242,568**

	FBA	DIF
Number of Communities with Fee Deferrals	**9**	**5**
Total Number of Building Permits Issued	**183**	**213**
Total Number of Fee Deferral Agreements	**81**	**12**
Number of Fee Deferrals as a Percent of Building Permits Issued	**44%**	**6%**
Total Impact Fees for Building Permits Issued	**$49,286,684**	**$16,122,392**
Total Impact Fees of Fee Deferral Agreements	**$35,015,188**	**$3,296,179**
Fee Deferrals as a Percent of Impact Fees for Building Permits Issued	**71%**	**20%**

ATTACHMENT 2

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 6, ARTICLE 1, DIVISION 22 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 61.2200, 61.2202, AND 61.2210; AND AMENDING CHAPTER 14, ARTICLE 2, DIVISION 6 BY AMENDING SECTION 142.0640; ALL PERTAINING TO PUBLIC FACILITIES FEES AND ASSESSMENTS.

§61.2200 Purpose

(a) through (b) [No change in text.]

(c) The purpose of this ordinance is to implement, in part, the City's General Plan ~~adopted by Resolution No. 303473 on March 10, 2008~~, which establish~~ed~~s guidelines for future urban development in the City, including the financing of public facilities. ~~These guidelines include the division of the City into two planning designations, Proposition A Lands and Urbanized Lands.~~

(d) The communities ~~subject to Facilities Benefit Assessments (previously designated Planned Urbanizing Areas) are designated Urbanized Areas~~ identified as Facilities Benefit Assessment Planning Areas, and Future Urbanizing Areas Planning Areas that are phase shifted, in the City's General Plan are subject to this Division, until such time as all FBA funds are collected and expended in each individual community.

(e) The City's General Plan ~~referred to in this Division expresses a~~ contains policy~~ies concerning~~ to maintain an effective facilities financing program to ensure the impact of new development is mitigated through appropriate fees and to address current and future public facility needs through a diverse funding and management strategy ~~the acquisition, construction and improvement of public facilities which states that certain public facilities may be financed by special assessment proceedings, consideration from developers, the City's General Fund~~, including ~~some combination thereof, as well as other appropriate funding mechanisms~~ special assessment proceedings for local facilities. This Division is intended to establish procedures ~~for the implementation~~ in furtherance of ~~that policy~~ the City's General Plan policies by ~~providing for the designation of~~ designating lands ~~within the Urbanized Lands~~ which will receive special benefits from the acquisition, construction and improvement of certain public facilities ~~set forth in this Division,~~ and ~~the imposition of special~~ imposing assessments on land related to the special benefits received.

§61.2202 Definitions

~~Unless the context requires otherwise, t~~The definitions set forth in this section apply to the following terms as used in this Division:

(a) through (b) [No change in text.]

(c) "~~Building~~ Construction Permit" ~~means the permit issued or required for the construction of any structure in connection with the development of land pursuant to and as defined by the California Building Code, as~~

~~adopted in Chapter IX of the Municipal Code~~ has the same meaning as stated in Section 113.0103;

(d) through (j) [No change in text.]

§61.2210 Payment of Facilities Benefits Assessments

(a) ~~Regular~~ Payment

After the adoption by the City Council of ~~its~~ a Resolution of Designation, ~~no building permits shall be issued for development on any land included within the Area of Benefit unless and until the Facilities Benefit Assessments established by the Resolution of Designation for such lands have been paid. The~~ the Facilities Benefit Assessment for the Area of Benefit shall be paid by the Construction Permit applicant or landowner ~~upon~~ prior to the issuance of any ~~building permits(s)~~ Construction Permit issued or required for development that would benefit from the Public Facilities Projects ~~for development or at such time as the Capital Improvement Program for the Area of Benefit in which the assessed land is located calls for the commencement of construction of the Public Facilities Project. In the event that a landowner desires to proceed with development of a portion of the landowner's property, based on a phased development program, which is subject to a lien for the total amount of Facilities Benefit Assessments as provided in this Division, the landowner may obtain building permits for the development phase after paying a portion of the Facilities Benefit Assessments and making provision for payment of the remainder of the Facilities Benefit Assessments to the~~

~~satisfaction of the City Manager. The Facilities Benefit Assessment due shall be the amount in effect upon the issuance of building permit(s) for development or the amount in effect at such time as the Capital Improvement Program for the Area of Benefit in which the assessed land is located calls for the commencement of construction of the Public Facilities Project. Money received by the City as payment of the Facilities Benefit Assessments shall be deposited in an interest earning special fund established for the Area of Benefit and shall thereafter be expended solely for the purposes for which it was assessed and levied.~~

~~Upon payment of the Facilities Benefit Assessments as provided in this Division, the lien which attaches pursuant to Section 61.2209 shall be discharged. In the event partial payment is made based on a phased construction program, the City shall only release *lots* (as defined in San Diego Municipal Code section 113.0103) on which all building permits have been issued for that development from the lien of the Facilities Benefit Assessment~~.

(b) Partial Payment for Phased Development

In the event that a Construction Permit applicant or landowner desires to proceed with development of a portion of the property, based on a phased development program, which is subject to a lien for the total amount of Facilities Benefit Assessments as provided in this Division, the Construction Permit applicant or landowner may obtain Construction Permits for a particular development phase after paying a partial Facilities

Benefit Assessment payment in an amount proportional to the amount of development occurring under that particular development phase to the satisfaction of the City Manager, plus the administrative processing fee, as set forth in the Comprehensive Fee Schedule on file in the Office of the City Clerk. After a partial payment is made, the City Manager will release the existing Facilities Benefit Assessment lien in accordance with Section 61.2210(d), and shall record a new Facilities Benefit Assessment lien against the property with the revised Facilities Benefit Assessment amount.

(c) Payment Amount

The amount of Facilities Benefit Assessment due shall be determined by the City Manager by the actual type and size of the development permitted by the applicable Construction Permit, and by the applicable Facilities Benefit Assessment schedule in effect and on file in the Office of the City Clerk upon the issuance of Construction Permit(s).

(d) Use of Facilities Benefit Assessments

Money received by the City as payment of the Facilities Benefit Assessments shall be deposited in an interest earning special fund established for the Area of Benefit and shall thereafter be expended solely for the purposes for which it was assessed and levied.

(e) Release of Facilities Benefit Assessment Lien

Upon payment of Facilities Benefit Assessments as provided in this Division, the City Manager will release the lien which was attached to the land pursuant to Section 61.2209.

(~~b~~f) Deferral of Facilities Benefit Assessment Payment in Certain Circumstances

Notwithstanding Section 61.2210(a), Construction Permits may be issued if the City Manager defers payment of the Facilities Benefit Assessments in accordance with this Section.

(1) Payment of Facilities Benefit Assessments may be deferred in the following circumstances:

(~~1~~A) ~~Payment on assessments may be deferred for~~ Where a developments ~~is~~ located in a Facilit~~y~~ies Benefit Assessment areas that has~~ve~~ a sufficient cash balances to fund existing programmed facilities for the next two fiscal years~~.~~;

(~~2~~B) ~~Payment on assessments may be deferred for~~ Development of affordable housing ~~units~~projects. For purposes of this ~~s~~Subsection, an affordable housing ~~units~~ project means ~~all units that meet the affordability requirements of the Inclusionary Ordinance codified in San Diego Municipal Code section 142.1309 by providing on-site units and moderate units consistent with the California Health and Safety Code section 50093~~ a project that consists entirely (with the exception of a manager's unit) of residential

housing units reserved for extremely low, very-low, low, or moderate income households as defined in California Health and Safety Code Sections 50105, 50106, 50079.5 and 50093, as evidenced through a recorded agreement with the San Diego Housing Commission and/or the Redevelopment Agency of the City of San Diego.; and

(3C) ~~Until November 10, 2011 the City Manager is authorized to enter into agreements to defer the collection of Facilities Benefit Assessments for a maximum deferral period of two years or until request for Final Inspection, whichever is shorter, provided the City's Fee Deferral Agreement is properly executed and duly recorded, and the applicable administrative fee is paid.~~ Until December 31, 2014, all other development that is otherwise subject to this Division.

(2) Payment of Facilities Benefit Assessments may be deferred for a maximum period of two years from the effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur, and where applicable no certificate of occupancy shall be issued, until the applicable Facilities Benefit Assessments are paid.

(3) Payment of Facilities Benefit Assessments may only be deferred if the applicable administrative processing fee, as set forth in the

Comprehensive Fee Schedule on file in the Office of the City Clerk, is paid by the Construction Permit applicant or landowner.

(4) Payment of Facilities Benefits Assessments may not be deferred unless and until a Fee Deferral Agreement is entered into with the Construction Permit applicant or landowner to the satisfaction of the City Manager. The Fee Deferral Agreement shall be recorded against the applicable property in the Office of the San Diego County Recorder and shall constitute a lien for the payment of the Facilities Benefit Assessment. The Fee Deferral Agreement shall be binding upon, and the benefits of the agreement shall inure to, the parties, and all successors in interest, to the Fee Deferral Agreement.

(5) At the end of the Facilities Benefit Assessment deferral period set forth in Section 61.2210(f)(2), ~~T~~the deferred Facilities Benefit Assessments~~, including all annual inflationary rate increases,~~ due ~~under this subsection~~ shall be determined in accordance with Section 61.2210(c), except that the Facilities Benefit Assessment shall be determined by the Facilities Benefit Assessment rate for the year in which the Facilities Benefit Assessment is actually paid as set forth in the Facilities Benefit Assessment fee schedule in effect when the Fee Deferral Agreement ~~is~~ was executed by the City, or the Facilities Benefit Assessment fees schedule approved by the City Council for a subsequent update or amendment of the

applicable public facilities financing plan, whichever ~~fee schedule~~ is lower. ~~The Final Inspection shall not be scheduled until the applicable Facilities Benefit Assessments are paid.~~

§142.0640 Payment of ~~Facilities Benefit Assessments and~~ Development Impact Fees

~~(a) The payment of Facilities Benefit Assessments (as defined in paragraph (i) of Municipal Code Section 61.2202) shall be required before the issuance of any Building Permit in accordance with Municipal Code Section 61.2210.~~

(~~b~~a) The payment of Development Impact Fees (as defined in ~~paragraph (b) of~~ California Government Code Section 66000) shall be required before the issuance of any Building Permit in areas where Development Impact Fees have been established by ~~the~~ Resolution of the City Council. The Development Impact Fee due shall be determined in accordance with ~~as set forth in~~ the fee schedule approved by the ~~most recent~~ applicable Resolution of the City Council ~~and in the amount~~ in effect upon the issuance of a Building Permit, ~~plus~~ and may include an automatic increase consistent with ~~subsection (c)~~Section 142.0640(b) below.

(e~~b~~) Unless otherwise specified in the applicable Resolution(s) establishing the Development Impact Fees, the amount of the Development Impact Fee shall be increased, starting on July 1, 2010, and on each July 1st thereafter, based on the one-year change (from March to March) in the ~~Los Angeles~~ Construction Cost Index for Los Angeles as published monthly in the Engineering News-Record. ~~For reference purposes, this update is based on~~

~~the March 2009, Los Angeles Construction Cost Index of 9799.19.~~

Increases to Development Impact Fees consistent with the Construction Cost Index in Los Angeles shall be automatic and shall not require further action of the City Council. This Subsection shall not be applicable to Development Impact Fees in communities that are also subject to Chapter 6, Article 1, Division 22.

(~~d~~c) Notwithstanding ~~the above~~ Section 142.0640(a) ~~the City Manager is authorized to defer the collection of Development Impact Fees (except those Development Impact Fees due pursuant to the City's Regional Transportation Congestion Improvement Program) for a maximum period of two years or until request for Final Inspection, whichever is shorter, provided the City's Fee Deferral Agreement is properly executed and duly recorded and the applicable administrative fee is paid.~~, Building Permits may be issued if the City Manager defers payment of the Development Impact Fees in accordance with this Subsection. Development Impact Fees due pursuant to the City's Regional Transportation Congestion Improvement Program shall not be deferred under any circumstance.

(1) Payment of Development Impact Fees may be deferred for a maximum period of two years from the effective date of a Fee Deferral Agreement, or until a final inspection is requested, whichever occurs earlier. A final inspection shall not occur until the applicable Development Impact Fees are paid.

(2) Payment of Development Impact Fees shall not be deferred unless and until a Fee Deferral Agreement is entered into to the satisfaction of the City Manager. The Fee Deferral Agreement shall be recorded against the applicable property in the Office of the San Diego County Recorder. The Fee Deferral Agreement shall be binding upon, and the benefits of the agreement shall inure, to the parties and all successors in interest to the parties to the Fee Deferral Agreement.

(3) Payment of Development Impact Fees shall only be deferred if the applicable administrative processing fee, as set forth in the Comprehensive Fee Schedule on file in the Office of the City Clerk, is paid by the applicant or landowner.

(4) At the end of the Development Impact Fee deferral period as set forth in Section 142.0640(c)(1), ~~T~~the deferred Development Impact Fees due ~~under this subsection~~ shall be determined ~~the amount in effect when~~ in accordance with Section 142.0640(a), except that the Development Impact Fee shall be determined by the Development Impact Fee rate for the year in which the Development Impact Fee is actually paid as set forth in the Development Impact Fee schedule in effect when the Fee Deferral Agreement ~~is~~ was executed by the City, plus an automatic increase consistent with ~~subsection (c) above~~ Section 142.0640(b), or the fee schedule approved by the City Council for a subsequent update

or amendment of the applicable public facilities financing plan, whichever fee schedule is lower. ~~The Final Inspection shall not be scheduled until the applicable Development Impact Fees are paid.~~

(ed) ~~Notwithstanding paragraphs (a) and (b) above,~~ Any party on whom Development Impact Fees are imposed, may file an application for a waiver, adjustment, or reduction of the Development Impact Fees ~~due may be requested and decided in accordance with Process Five and shall require the findings in paragraph (f) be made.~~ with the City Manager in accordance with this Subsection. Nothing in this Subsection shall affect the requirements set forth in Section 142.0640(a). The procedures provided in this Subsection are additional to any other procedure authorized by law for protesting or challenging Development Impact Fees.

(1) An application for a waiver, adjustment, or reduction of Development Impact Fees ~~shall be filed in accordance with Section 112.0102 and~~ shall set forth the factual and legal basis to support the application ~~include financial and other information the City Manager determines necessary to perform an independent evaluation of the *applicant's* rationale~~ for ~~the~~ a waiver, adjustment, or reduction ~~and shall be a matter of public record~~ of Development Impact Fees.

(2) An application for a waiver, adjustment, or reduction of Development Impact Fees shall only be processed after the applicable fee or amount of deposit, as set forth in the

Comprehensive Fee Schedule on file in the Office of the City Clerk, has been paid in full. If a deposit is required, and the deposit as shown in the Comprehensive Fee Schedule is insufficient to cover the actual cost to the City to process the application, an additional deposit, in an amount determined by the City Manager, shall be required. Any unused portion of a deposit shall be returned. If the City Council grants the application for a waiver of the Development Impact Fees, then the fee or the amount of the deposit expended shall be returned, minus a processing fee equal to 10 percent of the refund amount up to a maximum of five hundred dollars. If the City Council grants the application for an adjustment or reduction of the Development Impact Fees, then a portion of the fee or amount of the deposit expended, determined by the percentage reduction in the Development Impact Fee imposed, shall be returned, minus a processing fee equal to 10 percent of the refund amount up to a maximum of five hundred dollars.

(3) An application for a waiver, adjustment, or reduction of Development Impact Fees shall be filed no later than ten (10) calendar days after the Development Impact Fees are imposed or ten (10) calendar days after the Development Impact Fees are paid, whichever occurs earlier.

(4) The decision on an application for a waiver, adjustment, or reduction of Development Impact Fees shall be decided by the City

Council within sixty (60) calendar days of the date that the application is received by the City Manager. The *applicant* shall bear the burden of presenting evidence to support the application for a waiver, adjustment, or reduction of Development Impact Fees.

(5) Notice of the time and place of the City Council hearing, including a general explanation of the matter to be considered shall be mailed at least 14 days prior to the hearing to the *applicant*, and any interested party who files a written request with the City Manager requesting mailed notice of all applications for a Development Impact Fee waiver, adjustment, or reduction. Written requests for such notice shall be valid for one year from the date on which it is filed unless a renewal request is filed prior to the end of the one-year term. If established by resolution of the City Council, an annual charge for sending notices based on the estimated cost of providing the service, shall be required prior to the requestor's name being placed on a notice list.

(~~f~~6) ~~No~~ An application for a waiver, adjustment, or reduction of ~~the~~ Development Impact Fees may only be granted if:

(A) The City Council makes the following *finding*: ~~due shall be issued unless the City Council finds~~ there is no reasonable relationship ~~or nexus~~ between the ~~impact of the~~ ~~*development*~~ ~~and the~~ amount of the Development Impact

Fee and the cost of the public facilities attributable to the *development* on which the fee is imposed.

(B) The landowner enters into an agreement with the City providing that an intensification of use of the *development* shall subject the *applicant* or landowner to full payment of the Development Impact Fee to the satisfaction of the City Manager. The agreement shall be recorded with the Office of the San Diego County Recorder and shall constitute a lien against the applicable property for the payment of the Development Impact Fee. The agreement shall be binding upon, and the benefits of the agreement shall inure, to the parties and all successors in interest to the parties to the agreement.

(7) If an application for a waiver, adjustment, or reduction of Development Impact Fees is granted, any Development Impact Fees previously paid with respect to the application at issue shall be refunded in accordance with the resolution adopted by the City Council granting the application, plus any interest earned by the City on the fee, as applicable.

HKV: cw
06/01/11
Or.Dept: Facilities Financing