

ATTACHMENT A. IMPLEMENTATION PLAN

BRET HARTE TRAFFIC IMPACT MITIGATION FEE PROGRAM March 2009

1. **Purpose.** The purpose of the Bret Harte Traffic Impact Mitigation Fee Program is to collect funds to offset the cost of roadway improvements that are necessary to provide adequate traffic infrastructure to serve new development that is anticipated within the Benefit Basin.
2. **Applicability.** Except as otherwise expressly provided herein, the Bret Harte Traffic Impact Mitigation Fee required hereunder shall be payable by (1) all Development Projects within the basin boundaries for which applications for building permits or other entitlements for Development Projects are made on or after the effective date of this Plan, and (2) all Development Projects within the basin boundaries for which building permits or other entitlements for Development Projects were issued prior to the effective date of this Resolution and for which permits or entitlements were issued subject to a condition requiring the developer to pay a traffic impact mitigation fee.
3. **Basin Boundary.** The Fee Program shall be applied to all legal parcels located, either in whole or in part, within the area of benefit as shown in Exhibit A. Such parcels are generally described as those parcels with access via Bret Harte Drive. Annexation or de-annexation of parcels to the basin shall be determined by reliance upon or independence from access via Bret Harte Drive, respectively, and certified by Board resolution.
4. **Definitions.** For the purposes of this Implementation Plan, the following definitions shall apply:
 - A. "Account" or "Fund" shall mean a designated fund entitled, "Bret Harte Traffic Impact Mitigation Fee Account."
 - B. "Administrator" or "Program Administrator" means Bret Harte Traffic Impact Mitigation Fee Program Administrator and shall be the Director of Public Works or his/her designee unless otherwise designated by a resolution of the Board of Supervisors.
 - C. "Basin" means the area included in the Bret Harte Traffic Impact Mitigation Program and identifies those parcels subject to the Fee.
 - D. "Board" or "Board of Supervisors" shall mean the Calaveras County Board of Supervisors.
 - E. "Capital Project" or "Project" shall mean a project or improvement as listed and described in Exhibit B–*Capital Improvement Plan*.
 - F. "Development" or "Development Project" or "Project" means any project undertaken for the purpose of development including but not limited to the issuance of a permit for the uses to which the land shall be put, the buildings to be constructed on it and all of the alterations of land and construction incident

- thereto. The term “Development” or “Development Project” or “Project” shall also include the erection of mobile homes and/or manufactured buildings and building structures moved into the County.
- G. “Developer” shall mean the entity holding entitlements that have been conditioned to require offsite improvements.
- H. “Existing” or “Existing Use” shall mean legally permitted use.
- I. “Fee” shall mean the Bret Harte Traffic Impact Mitigation Fee.
- J. “Fee Program” or “Program” shall mean the Bret Harte Traffic Impact Mitigation Fee Program.
- K. “Plan” shall mean the most recent version of the Implementation Plan adopted by the Calaveras County Board of Supervisors.
- L. “Technical Report” shall mean the Technical Report entitled Bret Harte Benefit Basin Update, Traffic Impact Mitigation Fee Program, Calaveras County, California, prepared by Veras Resources, Inc. and dated March 2009.
- M. “Trip” shall mean the average number of PM peak hour trips typically generated by a particular land use during the course of a day as determined by the Administrator relying upon the methodology established by the latest edition of the *Institute of Traffic Engineers* (ITE) Trip Generation Handbook.
5. ***Amount and Calculation of Fee.***
- A. Fees for all new development subject to the Program shall be applied in accordance with the attached Fee Schedule (Exhibit C) or calculated using the methodology established by the latest edition of the *Institute of Traffic Engineers* (ITE) Trip Generation Handbook and based on the fee per PM peak hour trip shown on the attached Fee Schedule.
- B. Fees collected as a part of this Program shall be in addition to any other obligations for other mitigation programs in effect at the time of adoption of the Fee Program.
- C. The Fee may be adjusted by a resolution of the Board of Supervisors on an annual basis at the beginning of each fiscal year (July 1) based on the California Department of Transportation, *Price Index for Selection Highway Construction Items*.
6. ***Levy and Collection of Fees.***
- A. Authority of the Administrator. The Administrator is hereby authorized to levy and collect the Fee and make all determinations required by this Board resolution.
- B. Time of Payment. The Fee shall be paid no later than the date of issuance of the building permit unless such permit has been issued upon condition of future payment and adequate security has been provided.
- C. Refunds. If a building permit expires, is revoked or is voluntarily surrendered and therefore voided, and no construction or improvement of land has commenced, the Fee payer shall be entitled to a refund of the Program Fee with any interest accrued thereon, paid as a condition of issuance of the building permit.

Assignment of the right to a refund may be requested in writing by the fee payer with a notarized signature.

D. Failure to pay the Fee in accordance with these provisions shall not relieve any property owner of its obligation to bear his/her fair share of Program costs.

7. Disposition of Fee Revenue.

A. All fees collected hereunder shall be deposited in a designated fund entitled, "Bret Harte Traffic Impact Mitigation Fee Account." The contents of this Fund shall be designated solely for the purpose of contributing to the financing of the capital improvements as listed and described in Exhibit B–*Capital Improvement Plan* and for the funding of administrative costs. Any funds borrowed from the Fund shall be repaid within one year with interest at the local agency pooled money investment fund rate. Any interest income earned on the Fund shall also be deposited therein and shall only be expended for the purposes as set forth in this Plan.

B. Construction.

i) Projects listed in Exhibit B–*Capital Improvement Plan* shall be constructed by the Developer of any project whose entitlements stipulate, through conditions or mitigation measures, the construction of the listed Capital Project. Where multiple Development Projects have been required to complete the same capital improvement, the Developer seeking the first entitlement shall be responsible for completion of the Capital Project. Timing of construction shall be in accordance with the Development Project entitlements.

ii) Projects listed in Exhibit B–*Capital Improvement Plan* shall be constructed by Public Works or its agents when sufficient funds have been deposited in the Account and in the absence of any Developer's obligation to construct such Capital Projects. Construction shall commence within one year following the accumulation of sufficient funding.

C. Eligible Uses. Fees collected pursuant to this Program shall be used exclusively as follows:

i) For the purpose of funding the Capital Projects listed and described in Exhibit B–*Capital Improvement Plan*. Eligible costs shall be limited to the actual costs for planning, design, permitting, administration, environmental review, construction, survey, quality control, inspection, testing, and right-of-way acquisition that is directly attributable to the improvements listed and described in Exhibit B–*Capital Improvement Plan* attached hereto.

ii) For the purpose of reimbursing Public Works for the ongoing administrative costs to implement and to maintain the Fee Program in accordance with this Implementation Plan.

D. Priority of Use. Available funds shall be used in the order of priority listed below:

- i) Funding reimbursement to Public Works for the cost to administer the Program in accordance with this Implementation Plan.
 - ii) Funding eligible Capital Projects to be completed by Public Works or its agents
 - iii) Funding reimbursement to Developers for the construction of eligible Capital Projects that create supplemental capacity pursuant to County Code §12.02.080.
- E. The Program Administrator will account for the collection and disposition of all fee revenue generated pursuant to the authorizing Resolution.

8. Maintenance of the Bret Harte Traffic Impact Mitigation Program.

A. The Fee Program shall be reviewed and adjusted by the Board of Supervisors within one year following its adoption and at a minimum of every five (5) years thereafter to reflect projected local or new funding sources, and to reflect changes in actual and estimated costs of the Capital Projects including, but not limited to, debt service, lease payments and construction costs.

B. Reporting Requirements.

- i) The Program Administrator shall prepare and deliver annual reports to the Board of Supervisors with respect to the status of the Fee Program, including fund balance, fees collected, funds expended, and capital project status. These annual reports will specify the amount of revenue collected and the corresponding fee generating activity (e.g. permits issued by land use category).
 - ii) The Program Administrator shall prepare and deliver reports to the Board of Supervisors with respect to the Fee Program for the fifth fiscal year following the first deposit into the Account and every five years thereafter, consistent with the requirements of the Fee Mitigation Act (Gov. Code § 66000 *et seq.*) which includes, but is not limited to, the following:
 - (1) Identifies the purpose (project need) to which the fee is to be applied;
 - (2) Demonstrates a reasonable relationship between the fee and the purpose for which it is charged;
 - (3) Identifies all sources and amounts of funding anticipated to complete financing of necessary future improvements;
 - (4) Commits Fee Program funds to Capital Projects and indicates that such funds are expended or reimbursed within the time periods established by the Fee Mitigation Act (Gov. Code §66000 *et seq.*) requirements; and
 - (5) Identifies the Capital Projects to be constructed, the estimated costs of the Capital Projects, the costs to be funded by the Program Fee revenue, and the availability or lack thereof of other funds with which to construct the Capital Projects.
- C. From time to time, the Board may review the Capital Improvement Plan to add, modify, or remove Capital Projects. Any new projects recommended for listing as

a Capital Project must be consistent with the requirements of the Mitigation Fee Act (Gov. Code §66000 *et seq.*) for establishing a rational nexus.

9. **Exemptions.** The following Development Projects shall be exempt from the Fee:

- A. Any internal or external alterations or expansions of an existing building subject to the Fee or use of land where no additional living units will be produced over and above those in the existing use of the property, the use is not changed, and where no additional vehicular trips will be produced over and above those produced by the existing use.
- B. Any replacement or reconstruction of any structure subject to this Fee that is damaged or destroyed as a result of fire, flood, explosion, wind, earthquake, riot, or other calamity or act of God. Any legally existing residential building replaced or reconstructed shall be exempt. Any legally existing non-residential building replaced or reconstructed shall be exempt only if it is built not to exceed the documented total floor area or use existing at the time of its destruction.
- C. Residential accessory structures, but not accessory dwellings, as defined by Title 17 of the Calaveras County Code.
- D. An agricultural building that is designed and constructed for storage, provided there is no use for human habitation or occupancy.
- E. Any temporary structure as defined in Title 17 of the Calaveras County Code.
- F. Development Projects which are the subject of a development agreement, including any extensions thereof whenever made, entered into pursuant to Government Code §65864 *et seq.* prior to the effective date of this Resolution, wherein the imposition of new fees are expressly prohibited by the agreement.
- G. Affordable housing, including low and very low income housing as defined by State and Federal regulations.

10. **Credits and Reimbursements.**

- A. Reimbursements. Where Capital Projects are constructed by a Developer at a cost in excess of the Development Project's fair share, the Developer may be reimbursed for eligible costs incurred by the Developer in excess of its fair share that would apply to the Development Project and subject to all of the following conditions:
 - i) Fees collected pursuant to this Implementation Plan shall be used to reimburse Developers for the cost of completing improvements identified in Exhibit B- *Capital Improvement Plan*; and,
 - ii) Reimbursement of Developers shall be consistent with a reimbursement agreement approved by the Board prior to incurring costs; and,
 - iii) Reimbursement for actual costs shall be limited to the actual verified costs, the "probable estimate of project costs" as shown in Exhibit B, or available funds, whichever is less.

- B. Reimbursements shall be enacted pursuant to an agreement between the Developer and the County contingent on payment of funds when available for reimbursement to the Developer. In all cases, however, reimbursements to Developers pursuant to any agreement must be consistent with construction of the transportation improvements as scheduled in Exhibit B–*Capital Improvement Plan* and based upon sufficient documentation supporting the construction costs as reviewed and approved by the County and the availability of funds collected through the program. Such agreements shall include a provision for Calaveras County to recapture preparation and administration costs attributable to these agreements.
- C. Credits. Capital Projects constructed by a Developer may be credited toward the Fee in accordance with the following:
- i) Improvement Credits: If a Developer constructs improvements identified in Exhibit B–*Capital Improvement Plan*, the Developer shall receive credit for the costs associated with the component based on reimbursement provisions outlined above and contained in a Board-approved reimbursement agreement.
 - ii) Supplemental Capacity. The credits will be allowed only for supplemental capacity constructed by the Developer that exceeds the traffic demand created by its development.
 - iii) The amount of the credit shall not exceed the actual verified costs, the “probable estimate of project costs” as shown in Exhibit B–*Capital Improvement Plan*, or available funds, whichever is less.
11. **Dissolution.** This Fee Program may be dissolved by majority vote of the Board of Supervisors.
12. **Distribution of Excess or Unexpended Funds.** Should excess funds be collected prior to dissolution of this Fee Program, those excess funds shall be refunded in accordance with the provisions of Government Code §66001(e).
13. **Appeals.** Any decision made by the Administrator in the course of administering this chapter may be appealed to the Board of Supervisors by filing a written notice of appeal which sets forth the grounds for the appeal with the Clerk of the Board of Supervisors within ten days after the decision. The cost to file a notice of appeal shall be set by resolution of the Board.
14. **Additional Exemptions in the Public Interest.** Notwithstanding any other provision of this Resolution, the Board of Supervisors may grant by resolution a partial or total exemption from the fees established herein for any project, upon findings by the Board that the public benefit and interest provided by the project exceeds the value of the fees that would otherwise be collected.
15. **Severability.** If any one or more of the terms, provisions or sections of this Resolution shall, to any extent, be judged invalid, unenforceable and/or avoidable for any reason whatsoever by a court of competent jurisdiction, then each and all of the remaining

terms, provisions and sections of this Resolution shall not be affected thereby and shall be valid and enforceable.

16. ***Effective Date.*** This *Implementation Plan* shall be in full force 60 days after its adoption by the Board of Supervisors, unless adopted by an interim measure providing for immediate implementation.

Exhibits

Exhibit A - Basin Boundary, March 2009

Exhibit B - Capital Improvement Plan, March 2009

Exhibit C - Fee Schedule, March 2009

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Exhibit A-Basin Boundary

Bret Harte Traffic Impact Mitigation Fee Program

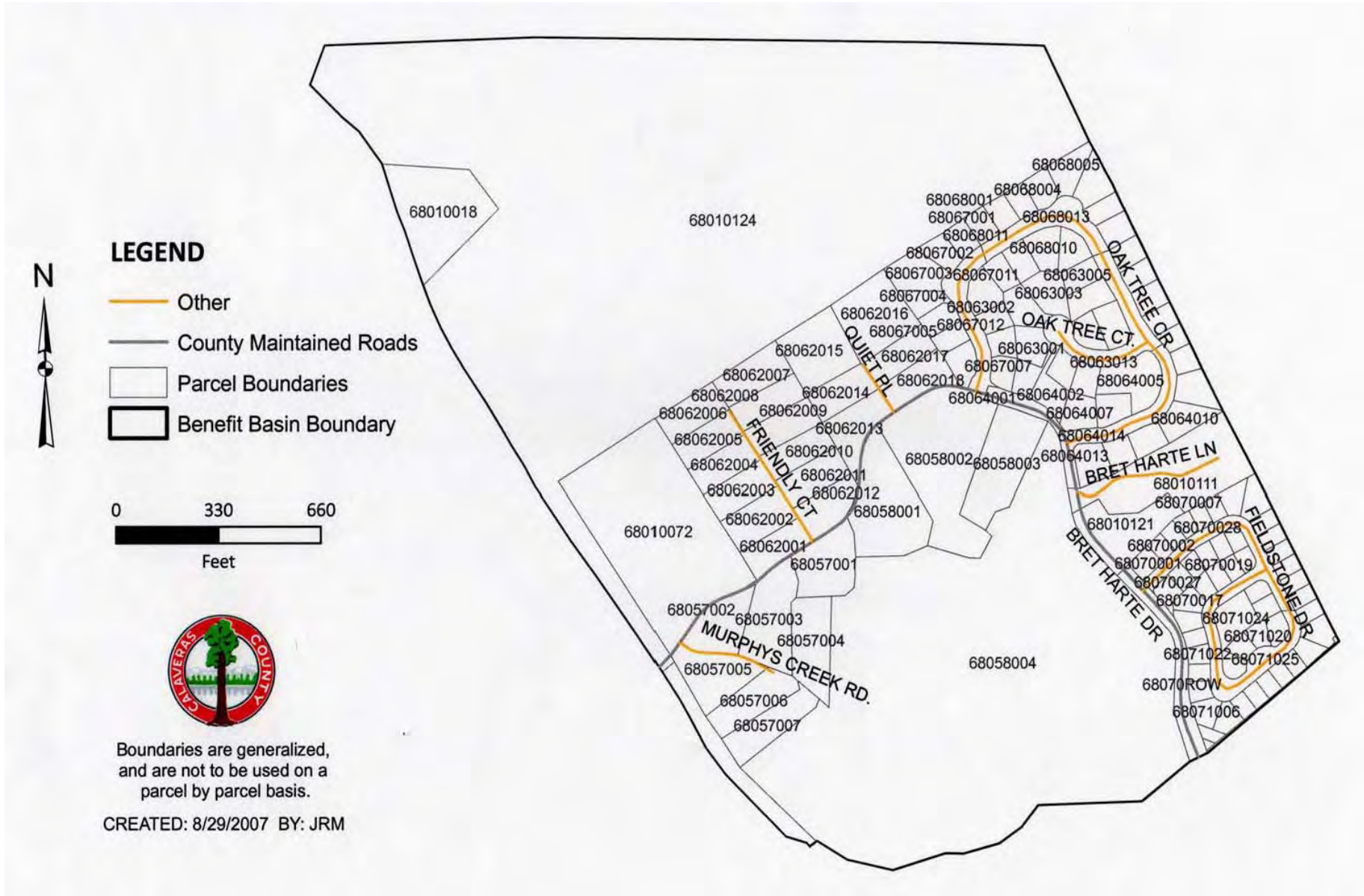


Exhibit B–Capital Improvement Plan

Bret Harte Traffic Impact Mitigation Fee Program

Location	Capital Project or Improvement ¹	Segment Length (feet)	Construction Cost
Roadway Improvements			
Bret Harte Drive	Upgrade to community connector	2,500 ²	\$1,137,433 ³
Emerald Creek Drive, Murphys Creek Drive (portion), and Creekview Drive	Construct new connector between Bret Harte Drive and SR4 including bridge	2,233 ⁴	\$1,434,060 ⁵
Intersection Improvements			\$657,606 ⁶
SR4 / Big Trees Road Intersection	Add dedicated left and right turn lanes in the east-, west- and south-bound directions		See note 6
SR4 / Bret Harte Drive	Install traffic controls for “right-in/right-out” only operations		See note 6
Big Trees Road / Creekview Drive	Construct new intersection		See note 6
TOTAL			\$3,263,222

¹ Refer to Section 3 of the Technical Report for project descriptions

² Segment to be improved extends from Surrey Lane to the eastern leg of Murphys Creek Drive. Remaining segment from eastern leg of Murphys Creek Drive to SR4 will receive surface treatment only.

³ Refer to Exhibit C of the Technical Report for documentation supporting this “Estimate of Probable Construction Cost”

⁴ Total length of new benefit basin roads is approximately 2,233 feet with Emerald Creek being approximately 592 feet, the connector portion of Murphys Creek Drive being approximately 1,077 feet, and Creekview Drive being approximately 564 feet.

⁵ Refer to Exhibit E of the Technical Report for documentation verifying this “Actual Cost of Construction”

⁶ All intersection improvements were bid and constructed as a single project. Total cost for all intersection improvements are included in noted item. Refer to Exhibit E of the Technical Report for documentation verifying this “Actual Cost of Construction”

Exhibit C. Fee Schedule by Land Use

Bret Harte Traffic Impact Mitigation Fee Program

Land Use	Unit	ITE Land Use Code	Adjusted PM Peak Hour Trips per Unit ¹	Fee per PM Peak Hour Trip ²	Fee per Unit
Single Family Residential ³	DU	210	1.03	\$14,184	\$14,541
Multi-family Residential ³	DU	231	0.83	\$14,184	\$11,773
Commercial - Office	1,000 SF ⁴	710	1.39	\$14,184	\$19,695
Commercial - Service	1,000 SF	110	0.86	\$14,184	\$12,149
Commercial - Storage Units	Storage unit	151	0.03	\$14,184	\$372

Notes

1: Value derived from ITE Trip Generation Manual and calculations presented in Section 5 of the Technical Report

2: Refer to Section 5 of the Technical Report for calculation of this value

3: Refer to Table 8 of the Technical Report for amount credited to owners of Golden Acre Subdivision parcels (that is, the amount to be deducted from the total Fee due)

4: 1,000 square feet of enclosed building area

DU: Dwelling Unit