

**CITY OF OAKLAND  
AGENDA REPORT**

2006 JUN - 1 PM 12: 50

TO: Office of the City Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: June 8, 2006

RE: **A Report And An Ordinance Authorizing The City Administrator To Establish The Development Service Fund, Effective July 1, 2006, and To Implement The Fund By January 1, 2007**

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**SUMMARY**

An ordinance has been prepared establishing a Development Service Fund (DSF), effective July 1, 2006, for the Planning and Zoning and Building Services Divisions of the Community and Economic Development Agency (CEDA). As part of the adopted FY 2005-07 Budget, the City Council directed staff to return during the Mid-Cycle Budget Review with a specific proposal for a DSF, which would be separate from the General Purpose Fund (GPF) and would create a more direct correlation between the revenues and the expenditures for providing the legal and community programs and services that are necessary to support development and enforcement activities in Oakland.

By establishing the DSF, the City will more transparently demonstrate the need for future adjustments of development and enforcement fees and penalties to fully reimburse the City for related costs. The DSF will be implemented by January 1, 2007. The six months delay in implementation will provide sufficient time to establish administrative procedures and complete the budgetary and financial tasks necessary to transfer the revenues and expenditures from the GPF to DSF. The implementation date can be adjusted by the City Administrator without returning to Council. The DSF will not require any changes to the proposed fees in the FY 2006-07 Master Fee Schedule.

**FISCAL IMPACTS**

Based on an analysis of the last eight years, the GPF has not always recovered the cost of development services and programs in Oakland. The GPF has subsidized development and enforcement costs by an estimated total of \$3.89 million. However, over the last three years due to a strong housing market, the GPF has realized revenues greater than these costs. The creation of the DSF will eliminate any future subsidies between the GPF and development and enforcement activities.

Table I below illustrates the actual revenues and expenditures for FY 1998-2005 and an estimate of FY 2005-06 for development and enforcement activities. This analysis also considers estimates of overhead recoveries the GPF would have received if a separate DSF had been in existence for the last eight years.

<b>Fiscal Year</b>	<b>Expenditure</b>	<b>Revenue</b>	<b>Variance</b>
2005-06 (projected)	25,000,914	30,816,877	5,815,962
2004-05	21,602,935	25,554,125	3,951,190
2003-04	21,525,641	22,541,334	1,015,693
2002-03	24,536,784	20,998,162	(3,538,622)
2001-02	23,030,338	19,399,541	(3,630,797)
2000-01	20,356,021	18,772,486	(1,583,535)
1999-00	19,979,680	18,055,430	(1,924,250)
1998-99	18,201,657	14,205,236	(3,996,422)
<b>Total</b>	<b>174,233,970</b>	<b>170,343,189</b>	<b>(3,890,781)</b>

The DSF will reimburse the GPF for prior year subsidies (\$3.89 million), recently purchased telephone equipment (\$0.06 million) and CIP funding of the new Permit Enforcement and Records Tracking System, PERTS (\$2.70 million) for a total of \$6,640,779. The repayments to the GPF will begin in FY 2006-07 and will be made from any excess revenues over a 3%, temporary minimum reserve. At the end of FY 2006-07, an estimated repayment of \$1.4 million will be paid to GPF towards the total repayment. DSF will pay interest to the GPF at the City’s cost of funds on the DSF’s outstanding balance beginning July 1, 2006.

Full repayment to the GPF will be made within six (6) years from the establishment of the Development Service Fund. Based on the current proposal of establishing the Development Service Fund on July 1, 2006, full repayment to the GPF shall be completed by June 30, 2012. To ensure the integrity of the DSF, a reserve of 7.5% of the current annual budgeted revenues will be maintained after full repayment has been made to the GPF. Upon full repayment, future transfers from the DSF reserve to the GPF or vice versa will be treated as loans with interest accruals. Loans to the GPF shall be made from the DSF reserve. The interest on loans will be based on the City’s cost of funds at the time the loan was transacted.

The budgeted revenues and expenditures to be transferred from the GPF to the new DSF are summarized in Attachment A.

The revenue sources for the DSF will be the fees and penalties for development and enforcement services provided by Building Services and Planning and Zoning, as reflected in the City’s Master Fee Schedule under the Community and Economic Development Agency (see attached Ordinance and page 5 of this report for more details). The revenues in the GPF Adjusted Budget for Fiscal Year 2006-07 (approximately \$30.3 million) will be transferred to the DSF. The

revenues budgeted for FY 2006-07 have been adjusted upward from \$28.3 million due to an increase in building construction valuation and new fees proposed in the FY 2006-07 Master Fee Schedule.

The expenditures transferred into DSF will be approximately \$29.4 million which consist of the following:

- \$21.6 million in personnel and operating and maintenance appropriations in the FY 2006-07 Adopted Budget
- \$1.6 million for twelve new positions in the Planning and Zoning and Building Services Divisions
- \$1.4 million in FY 2006 – 07 GPF repayments for:
  - Full repayment (\$0.06 million) for recent upgrades of telecommunications equipment.
  - Partial repayment (\$1.34 million) of the eight year cumulative subsidy
- \$4.8 million for indirect costs associated with the City's overhead charges and legal services related to development and enforcement activities.

Based on the above projected revenues and expenditures, the DSF will have an estimated 3% reserve totaling \$909,339 at the end of FY 2006-07.

## **KEY ISSUES AND IMPACTS**

*The establishment of the DSF will create a more accurate framework to ensure that the cost of development and enforcement activities are fully reimbursed and not subsidized by the GPF. Based upon an analysis of the past eight fiscal years, the GPF has seldom recovered the full cost of development and enforcement services through the charging of the land use and permit fees and the assessment of enforcement fees and penalties. Specifically, the GPF has subsidized development and enforcement costs by approximately \$3.89 million from FY 1998-99 to FY 2005-06. The establishment of the DSF will eliminate future subsidies between the GPF and development and enforcement activities.*

### Need For The Development Service Fund (DSF)

The City charges fees associated with a variety of development and enforcement activities, such as land use, permit, inspection, and abatement services for both direct and indirect costs. Currently, revenues from these activities are deposited into the GPF. By separating these specific revenues and expenditures into a DSF, the City would be able to:

- Establish a direct correlation between revenues collected for development and enforcement fees paid by the general public and the expenditures related to planning, zoning, building, code enforcement, and other related activities; and
- Ensure that development and enforcement programs and services are not subsidized by the GPF.

By establishing the new DSF, the City will ensure that the full cost of development and enforcement activities are fully reimbursed by the associated fees and penalties, without GPF subsidy. In addition, the DSF will provide a transparent mechanism to accurately monitor and measure the cost of development and enforcement activities. California Health and Safety Code Section 17951 requires that ***“the amount of the [development] fees... shall not exceed the amount reasonably required to administer or process these permits, certificates, or other forms or documents, or to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes.”*** Such a correlation will allow the City to clearly demonstrate compliance with State Law and fully justify the need for future fee increases to the general public and the professionals involved with development and enforcement activities.

### Key Operating Components of the Proposed Development Service Fund (DSF)

The new DSF will be established as a Special Revenue Fund and will be reported in the Comprehensive Annual Financial Report (CAFR). This Special Revenue Fund will be a legally separate fund from other special revenue funds (OBRA, Work Force Investment, etc.) and the GPF. This action will allow the City to meet statutory requirements that fees collected for development and enforcement services are self-supporting and are not used to subsidize other City programs.

The revenues generated by each of the separate programs and permits identified in the existing FY 2005-06 Master Fee Schedule for “BUILDING SERVICES-ADMINISTRATION” on page

N-1 through “PLANNING & ZONING” on page N-30 and all associated liens and penalties assessed by the Planning and Zoning and Building Service Divisions of CEDA will be deposited in the DSF.

The following revenues will not be included in the DSF:

- Jobs/Housing Impact Fee (page N-2)
- Creek Protection Permit (page N-9)
- Commercial & Residential Lending (page N-22)
- Miscellaneous (page N-23)
- Real Estate (page N-23)
- Residential Rent Adjustment (page N-23)
- Workforce Development (page N-24)

The establishment of the DSF will not include additional fee increases in the Master Fee Schedule at this time. In the future, should the City be able to demonstrate the need for an increase (or decrease) to the fees associated with programs and permits that provide revenue to the DSF, adjustments will be made in the Master Fee Schedule. Such adjustments would be made concurrent with annual updates to the Master Fee Schedule.

Expenditures from the DSF shall be restricted to paying the direct and indirect cost of the services and programs supported by the fees identified above. Direct costs are personnel salaries, fringe benefits, and operating and maintenance expenditures that are not specially included in indirect costs as defined below. Indirect costs are overhead expenses.

Deposits in the GPF (20000 series accounts) related to development permits (consultant peer review, site grading restoration, phased construction inspection, etc.) and enforcement projects (building rehabilitation, blight abatement, etc.) will be transferred to the DSF. Anticipated revenues from prior enforcement actions (invoices and liens) will not be transferred to the DSF.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The creation of this fund will allow for more direct accounting of the revenues and expenditures related to the development and enforcement activities.

**Environmental:** No direct environmental opportunities are anticipated.

**Social:** The establishment of this fund will allow better accountability of the City's revenues and expenditures related development and enforcement activities.

### **RECOMMENDATION AND RATIONALE**

Staff recommends that the City Council approve the establishment of the Development Service Fund (DSF). Establishment of the DSF will:

- Institute an accurate and a more direct correlation between the revenues and the expenditures for providing the legal and the community programs and services that are required to support development and enforcement activities in Oakland.
- Create a direct correlation between the development and enforcement activities offered and demonstrate the need for increases (or decreases) to the fees associated with these services.
- Allow more efficient and effective management and use of resources in the Planning and Zoning, and Building Services Divisions of the Community Economic Development Agency.

### **ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council accept this report and adopt the attached ordinance:

- Establishing the new Development Service Fund effective July 1, 2006
- Implementing the Development Service Fund by January 1, 2007

- Authorizing the City Administrator to adjust the date of implementation without returning to Council.

Respectfully submitted,



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CLAUDIA CAPPIO  
Development Director,  
Community and Economic Development Agency

Prepared by:  
Maziar Movassaghi  
Community and Economic Development Agency

APPROVED AND FORWARDED TO THE  
CITY COUNCIL:

  
\_\_\_\_\_  
OFFICE OF THE CITY ADMINISTRATOR

Development Service Fund

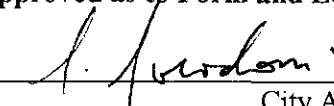
Attachment A

<b>FY 2006-07</b>			
<b>Proposed Development Service Fund and General Purpose Fund Budget Comparison</b>			
	<b>Adopted GPF Budget</b>	<b>Proposed DSF Budget</b>	<b>Variance</b>
<b>REVENUES</b>			
Budgeted Fees and Penalties	28,273,021	28,273,021	0
Fee Increases Due to Construction Valuation Increase	0	2,038,250	2,038,250
<b>Total Estimated Revenues</b>	<b>28,273,021</b>	<b>30,311,271</b>	<b>2,038,250</b>
<b>EXPENDITURES</b>			
Direct Costs:			
Planning and Zoning	4,783,427	4,783,427	0
Building Services	16,810,456	16,810,456	0
12 New FTEs including O&M	0	1,630,994	1,630,994
Sub-total Direct Costs	<u>21,593,883</u>	<u>23,224,877</u>	<u>1,630,994</u>
Indirect Costs:			
City Central Service Overhead @ 32.40% for Budgeted FTEs	0	3,496,354	3,496,354
City Central Service Overhead @ 32.40% for 12 New FTEs	0	266,029	266,029
Legal Services - Office of the City Attorney	0	1,057,902	1,057,902
Reimbursements to the General Purpose Fund	0	1,356,770	1,356,770
Sub-total Indirect Costs	<u>0</u>	<u>6,177,055</u>	<u>6,177,055</u>
<b>Total Estimated Expenditures</b>	<b>21,593,883</b>	<b>29,401,932</b>	<b>7,808,049</b>
<b>RESERVE</b>			
Revenues over Expenditures - 3% Temporary Minimum Reserve		<b>909,339</b>	

OFFICE OF THE CITY CLERK  
INTRODUCED BY COUNCILMEMBER: \_\_\_\_\_

2006 JUN -1 PM 12:50

Approved as to Form and Legality

  
\_\_\_\_\_  
City Attorney

# OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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**ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO ESTABLISH THE DEVELOPMENT SERVICE FUND, EFFECTIVE JULY 1, 2006, AND TO IMPLEMENT THE FUND BY JANUARY 1, 2007**

**WHEREAS**, the City of Oakland desires to establish a separate fund, to be known as the Development Service Fund, to account for the revenues and expenditures related to development and enforcement activities in the City of Oakland; and

**WHEREAS**, establishment of the Development Service Fund (DSF) will create a direct correlation between revenues realized from fees and penalties which are collected for development and enforcement services paid by citizens of the City and the associated expenditures related to these activities and made necessary by providing services; and

**WHEREAS**, establishment of the Development Service Fund will help ensure that the City complies with the requirements of California Government and Health and Safety Codes including Health and Safety Code Section 17951; and

**WHEREAS**, development and enforcement fees and penalties are currently recorded in the General Purpose Fund (GPF) of the City of Oakland; and

**WHEREAS**, recording all development and enforcement revenues and expenditures in the General Purpose Fund does not allow for audits or analysis to identify whether the General Purpose Fund is subsidizing development and enforcement programs and services; and

**WHEREAS**, the City of Oakland can establish a more direct correlation between development and enforcement fees and penalties and the services provided for those activities; and

**WHEREAS**, the establishment of this direct correlation will allow for a clear explanation and justification of future increases and decreases to development and enforcement fees and penalties as identified in the Master Fee Schedule, the Oakland Municipal Code and State Law, and make it possible for the City to eliminate subsidies by the General Purpose Fund for the services provided; now therefore,



**THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1:** The Development Service Fund (Fund 2415) shall be established effective July 1, 2006 and shall be implemented through a transfer of budgeted and actual revenues and expenditures from the General Purpose Fund (Fund 1010) to Development Service Fund by January 1, 2007.

**Section 2:** The City Administrator, or his or her designee, is hereby authorized to adjust the date of implementation of the Development Service Fund, without returning to Council, upon his or her determination that all required administrative procedures and budgetary and financial tasks necessary to transfer the revenues and expenditures from General Purpose Fund to the Development Service Fund have been completed.

**Section 3:** The Development Service Fund shall receive all fees and penalties authorized by State Law and City ordinance, including all fees and penalties identified under "Community and Economic Development" Section in the FY 2005-06 Master Fee Schedule, and its successors, as set forth in Ordinance 12611 C.M.S., as amended and beginning in section "BUILDING SERVICES-ADMINISTRATION" on page N-1 through "PLANNING & ZONING" on page N-30.

The following fees and programs are not included in the Development Service Fund:

- (a) Jobs/Housing Impact Fee (page N-2)
- (b) Creek Protection Permit (page N-9)
- (c) Commercial & Residential Lending (page N-22)
- (d) Miscellaneous (page N-23)
- (e) Real Estate (page N-23)
- (f) Residential Rent Adjustment (page N-23)
- (g) Workforce Development (page N-24)

**Section 4:** All FY 2006-07 budgeted and actual revenues in the General Purpose Fund (Fund 1010), as of July 1, 2006, which are related to the Development Service Fund shall be transferred to the Development Service Fund.

**Section 5:** All FY 2006-07 budgeted and actual expenditures in the General Purpose Fund, as of July 1, 2006, which are related to the identified land use and enforcement services and programs shall be transferred to the Development Service Fund. Expenditures from the Development Service Fund shall be restricted to paying direct and indirect cost of the services and programs supported by the fees identified in Section 3.

**Section 6:** The actual balance of deposit accounts in the General Purpose Fund (20000 series), as of July 1, 2006, which are related to the identified land use and enforcement services and programs shall be transferred to the Development Service Fund.

**Section 7:** To ensure the integrity of the Development Service Fund, a reserve of 7.5% of the current annual budgeted revenues shall be maintained.

**Section 8:** The Development Service Fund shall reimburse the General Purpose Fund a total outstanding balance of \$6,640,779 for repayment of prior year subsidies, recently purchased telephone equipment, and Capital Improvement Program (CIP) funding of the Permit, Enforcement and Record Tracking System (PERTS). These repayments to the General Purpose Fund shall begin in FY 2006-07 and shall be made from accumulated funds, if any, in the reserve identified in Section 6 above, that exceed a 3% temporary minimum accumulated reserve. The Development Service Fund shall pay interest to the General Purpose Fund at the City's cost of funds on the Development Service Fund's outstanding balance effective July 1, 2006. Full repayment to the General Purpose fund shall be completed six (6) years from the date of establishment of the Development Service Fund. If Development Service Fund is initiated by July 1, 2006 repayment shall be completed by June 30, 2012.

**Section 9:** After full repayment to the General Purpose Fund has been completed, future transfers from Development Service Fund to General Purpose Fund and from General Purpose Fund to Development Service Fund shall be considered and treated as loans. Loans to the General Purpose Fund shall be made from the accumulated reserve, if any, in the Development Service Fund. The interest on loans shall be based on the City's cost of funds at the time of loan.

**Section 10:** The City Administrator, or his or her designee, is hereby authorized to transfer revenue and expenditures between the Development Service Fund and the General Purpose Fund from time to time and subject to the requirements set forth herein, without returning to Council.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2006

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID AND  
PRESIDENT DE LA FUENTE

NOES-

ABSENT-

ABSTENTION-

ATTEST : \_\_\_\_\_  
LaTonda Simmons  
City Clerk and Clerk of the Council  
of the City of Oakland, California