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CITY ATTORNEY

REPORT NO. R 16 - 0 0 3 8
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REPORT RE:

DRAFT ORDINANCE AMENDING SECTION 5.321 OF THE LOS ANGELES ADMINISTRATIVE CODE AND SECTIONS 11.12, 19.08, 19.09, 61.03, 61.16, AND 98.0410 OF THE LOS ANGELES MUNICIPAL CODE; DELETING MUNICIPAL CODE SECTION 68.12; AND ADDING SECTIONS 57.118.4 AND 61.17 OF THE MUNICIPAL CODE TO RENAME THE CONSTRUCTION SERVICES TRUST FUND, UPDATE TRUST FUND PROCEDURES, UPDATE AND ESTABLISH ONE-STOP PERMIT CENTERS SURCHARGE FEE PROVISIONS, AND TEMPORARILY INCREASE THE SURCHARGE TO FUND BUILDLA

The Honorable City Council
of the City of Los Angeles
Room 395, City Hall
200 North Spring Street
Los Angeles, California 90012

Council File Nos. 15-0316 and 13-0046

Honorable Members:

Pursuant to your request, this Office has prepared and now transmits for your consideration, approved as to form and legality, the enclosed draft ordinance that would amend Los Angeles Administrative Code (Administrative Code) Section 5.321 and Los Angeles Municipal Code (LAMC) Sections 11.12, 19.08, 19.09, 61.03, 61.16 and 98.0410; delete LAMC Section 68.12; and add LAMC Sections 57.118.4 and 61.17 to: (1) rename the Construction Services Trust Fund and update trust fund procedures;

(2) rename and update the 2% Surcharge on development service fees for the One-Stop Permit Center (Surcharge); (3) establish the Surcharge on Fire Department development service fees; (4) increase the 2% Surcharge to three percent to fund the implementation of BuildLA; (5) relocate LAMC Section 68.12 to a new Section 61.17; and (6) return the Surcharge to two percent when the City Administrative Officer (CAO) determines the Surcharge increase has recovered the \$21.76 million cost of BuildLA.

Background and Summary of Ordinance Provisions

The Construction Services Trust Fund (Fund) was established in the Treasury of the City of Los Angeles by Ordinance No. 157384. All amounts currently received from surcharges imposed on fees pursuant to LAMC Sections 19.08, 68.12 and 98.0410 are placed in the Fund, in addition to any appropriations approved by the Council and Mayor. These surcharges are limited to the greater of 2% of the underlying fee or one dollar, and are each referred to as the One-Stop Permit Center Surcharge or Construction Services Surcharge (Surcharge). Fund expenditures may be made for the "design, construction and equipping of the City's Constituent Construction Services Centers and their functional support services, as well as any incidental expenses associated with said projects." These Construction Services Centers, also known as One-Stop Permit Centers, provide a physical infrastructure for the in-person delivery of development and construction services.

On August 27, 2014, Council adopted a report from the Planning and Land Use Management Committee (PLUM) requesting that the City Attorney draft an ordinance implementing the fees analyzed and recommended by the City Administrative Officer (CAO) in his August 20, 2014, report on the Development Services Reform Initiative (CF13-0046).

The CAO's August 20, 2014, report discussed co-locating development and construction services from the Department of Building and Safety (DBS), Planning Department (Planning), and other City departments, at Development Services Centers, also known as One-Stop Permit Centers or Construction Services Centers. It also discussed BuildLA, a web-enabled technology platform that will be used by multiple City departments to provide a more efficient delivery of land use and development services, an interactive customer web portal, and a virtual Development Services Center. In this discussion, the CAO recommended evaluating the Fund and Surcharge to ensure sufficient funding would be available to pay for the development and implementation of BuildLA.

On March 18, 2015, Planning, DBS, Fire Department, Department of Transportation (DOT) and Department of Public Works submitted a joint request to fund BuildLA (CF 15-0316). The request provided a fee analysis demonstrating that a temporary increase of the Surcharge to 3%, combined with other currently available funds, will be adequate to pay for the projected direct non-reoccurring cost of

developing and implementing BuildLA. The fee analysis explains that the use of Surcharge monies for BuildLA is appropriate because the purpose of BuildLA is to establish a web-enabled infrastructure and virtual Development Services Center to provide the development services currently available at the physical locations known as One-Stop Permit Centers, or Construction Services Centers. Thus, the allocation is consistent with the original intent of the Surcharge.¹

On April 1, 2015, Council adopted a report from PLUM also requesting the City Attorney draft an ordinance that increases the 2% Surcharge to 3%, with a sunset of seven years, for purposes of funding BuildLA (CF 15-0316).

The enclosed draft ordinance implements the recommended fees for the agencies providing development review. It also updates language establishing and administering the Construction Services Trust Fund, and updates the Surcharge to ensure sufficient funding for the development and implementation of BuildLA. In addition, the draft ordinance makes a technical correction in the organization of DOT's fee provisions in the LAMC by moving LAMC Section 68.12 to a new Section 61.17. Finally, the draft ordinance imposes a limit on the Surcharge increase consistent with the fee analysis by returning the Surcharge to 2% after the CAO determines the City has recovered the implementation cost of BuildLA.

CEQA Determination

The California Environmental Quality Act (CEQA) does not apply to continuing administrative activities or organizational activities of government that will not result in specific direct or indirect physical changes in the environment, or to the creation of government funding mechanisms or other governmental fiscal activities that do not commit to any specific project that may result in potentially significant environmental impacts. Public Resources Code Section 21065 and State CEQA Guideline Section 15378(b). This proposed ordinance establishes fees to support the enterprise-wide Development Services Centers and one-time costs for BuildLA. On that basis, the proposed ordinance is not subject to CEQA.

Charter Findings Not Required

The enclosed draft ordinance relates to the introduction of new fees related to certain applications and clearances, and activities already within the authority of DBS, DOT, Fire Department, Public Works and Planning, and is not a land use ordinance.

¹ The CAO's office will be filing a report on this matter concurrently with this Office's transmittal of the draft ordinance. That report includes a summary of the CAO's fee analyses and recommendations relative to BuildLA, which are consistent with the conclusions and recommendations set forth in the March 18, 2015, communication from the City departments. The report discusses recovering the \$21.76 million cost of developing and implementing BuildLA, and establishing the Surcharge on Fire Department fees.

For this reason, this draft ordinance is not subject to approval by the City Planning Commission pursuant to Charter Section 558.

Notice Requirements

We note that, because this ordinance would impose a new fee, notice of its proposed adoption should be given in accordance with the provisions of California Government Code Sections 66018 and 6062a. Those sections of State law require that prior to adoption of a new or increased fee a public hearing be held and notice of that hearing be published in a newspaper with two publications at least five days apart over a ten-day period. The notice period begins the first day of publication, and there must be at least five days intervening between the first and the second publications, not counting the dates of publication.

Council Rule 38 Referral

The draft ordinance was sent, pursuant to Council Rule 38, to the CAO, DBS, Fire Department, Public Works, Planning and DOT. The Departments were requested to report their comments directly to you at the time this matter is considered.

If you have any questions regarding this matter, please contact Deputy City Attorney Donna Wong at (213) 978-8064. She or another member of this Office will be present when you consider this matter to answer any questions you may have.

Very truly yours,

MICHAEL N. FEUER, City Attorney

By 

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DM:DW:mgm
Transmittal