

RESOLUTION NO. 124-07

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
ADOPTING AN ADMINISTRATIVE FEE IN ORDER TO COVER
ADMINISTRATIVE COSTS TO REVIEW DEVELOPMENT PROJECTS THAT
ARE WITHIN THE CITY OF OAKLEY THAT ARE SUBJECT TO HABITAT
CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN
(HCP/NCCP).**

WHEREAS, in June 2000, the East Contra Costa County Habitat Conservation Plan Association ("HCPA") was formed to provide regional conservation and development guidelines to protect natural resources while improving and streamlining the permit process for endangered species and wetland regulations; and,

WHEREAS, on January 22, 2007, the City Council authorized the City Manager to execute the Implementing Agreement for the East Contra Costa Habitat Conservation Plan/Natural Community Conservation Plan ("HCP/NCCP") and approved the HCP/NCCP as revised; and,

WHEREAS, the main element of the proposed HCP/NCCP conservation strategy is the creation of a Preserve System that would preserve approximately 23,800 acres of species habitat land with the initial urban development area, or approximately 30,300 acres of species habitat land under the maximum urban development area; and,

WHEREAS, the City Council is adopted by ordinance the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan Implementing Program on November 13, 2007, (Ordinance #19-07 and City Council Reso. No. #112-07) together with appropriate development mitigation fees in order to implement and fund the HCP/NCCP; and,

WHEREAS, the administrative costs to review development projects that are within the City of Oakley that are subject to the HCP/NCCP include the City's overhead costs, such as personnel, maintenance, operation, professional service and capital cost; and

WHEREAS, staff recommends fully recovering those costs incurred by the City to review development projects within the City of Oakley that are subject to the HCP; and

WHEREAS, in adopting an Administrative Deposit Amount as set forth in this resolution, the City Council of the City of Oakley is exercising its powers under Article XI, Section 7 of the California Constitution; and

WHEREAS, pursuant to the *Mitigation Fee Act*, California Government Code Section 66000, et seq., a local agency is authorized to charge an administrative fee to development applicants in connection with approval of a development project for the purpose of defraying all administrative costs incurred during review related to the development project; and

WHEREAS, at least 10 days prior to the public hearing at which this resolution was considered, notice of the time and place of the hearing was mailed to eligible interested parties who filed written requests with the City for mailed notice of meetings on new or increased or service charges; and

WHEREAS, in accordance with the Government Code 66016, the cost analysis (Exhibit A) was available for public review and comment for 10 days prior to the public hearing at which this Resolution was adopted; and

WHEREAS, 10 days advance notice of the public hearing at which this Resolution was adopted was given by publication in accordance with Section 6062a of the Government Code; and

FINDINGS

WHEREAS, the City Council of the City of Oakley finds as follows:

- A. The purpose of the deposit amounts set forth in this resolution is to recover up to the full, lawfully recoverable costs incurred by the City to review development projects within the City of Oakley that are subject to the HCP and such fees are not levied for general revenue purposes.
- B. Adoption of the deposit amount as set forth in this resolution is intended to recover costs necessary to maintain the services within the City for which the fees are charged. As such the fee related to this provision of is not a "project" within the meaning of the California Environmental Quality Act (Public Resources Code §21080(b)(8)(D)).
- C. In adopting the deposit amounts as set forth in this resolution, the City Council of the City of Oakley is exercising its powers under Article XI, Section 7 of the California Constitution.

NOW, THEREFORE, the City Council of the City of Oakley does resolve as follows:

2. HCP/NCCP Administrative Fee Imposed.

The administrative fee shall be imposed and paid at the times, and in the amounts, and otherwise apply and be administered as prescribed in this resolution.

3. Time for Payment of Fee.

All fees are due and payable at the time services subject to the fees are requested from the City. In the case of fees calculated on a time and materials basis, an estimated amount shall be deposited with the City upon the submission of an application for a development project.

4. Deposit Amounts.

- a. As of the Effective Date of this Resolution, the initial deposit amount for HCP/NCCP incidental take authorization applications shall be \$1,200.
- b. The City Manager is authorized to charge the full cost hourly rates for services provided, and to amend the Fees as the full cost hourly rates change.

5. Use of Fees Revenue.

The revenues received by payment of the fees and deposits shall be used to fund the estimated reasonable cost of providing the services for which the fees and deposits are charged, and the revenues shall not be used for general revenue purposes.

6. Subsequent Analysis and Revision of the Fees.

The fees and deposit amounts set herein are adopted and implemented by the City Council in reliance on the Record identified above. The City may continue to conduct further study and analysis to determine whether the fees should be revised. When additional information is available, the City Council may review the fees to determine that the fees amounts do not exceed the estimated reasonable cost of providing the services for which the fees are charged.

7. Effective Date.

This resolution shall become effective immediately. In accordance with Government Code Section 66017, the fees shall be effective 60 days from the effective date of this resolution.

8. Severability.

The fees and all portions of this resolution are severable. Should any of the fees or any portion of this resolution be adjudged to be invalid and unenforceable by a body of competent jurisdiction, then the remaining fees and/or resolution portions shall be and continue in full force and effect, except as to those fees and/or resolution portions that have been adjudged invalid. The City Council of the City of Oakley hereby declares that it would have adopted each of the fees and this resolution and each section, subsection, clause, sentence, phrase and other portion thereof, irrespective of the fact that one or more of the fees or sections, subsections, clauses, sentences, phrases or other portions of this resolution may be held invalid or unconstitutional.

PASSED AND ADOPTED this 26th day of November, 2007, by the following vote:

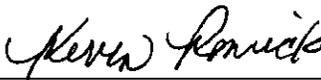
AYES: Anderson, Connelley, Nix, Rios, Romick

NOES: None

ABSENT: None

ABSTENTIONS: None

APPROVED:



Mayor

ATTEST:



City Clerk