

OFFICE OF  
CONTROLLER

February 21, 2008

LAURA CHICK  
CONTROLLER

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LOS ANGELES 90012  
(213) 485-5066

The Honorable Antonio Villaraigosa  
The Honorable Rockard Delgadillo  
The Honorable Members of the City Council

Dear Mayor Villaraigosa, City Attorney Delgadillo and Councilmembers:

To be truly great, a City must have ample and safe parks and recreation facilities. It is no secret that Los Angeles suffers from a lack of open space...a problem that we have long grappled with to find adequate solutions.

In 1975, the California Legislature passed the Quimby Act which requires developers to set aside land or pay fees for parks and recreational facilities. This important law was designed to help balance the burgeoning demand for new housing with the need for public parks.

My audit of the City's collection and use of Quimby funds finds that after more than 30 years, the program falls short in fulfilling its goals to provide additional parks and enhance existing ones. As of last month, the City had \$129 million in Quimby funds sitting, waiting to be spent.

Part of the problem rests with the Recreation and Parks Department and the fact that they have been operating without a comprehensive plan to effectively use Quimby monies. The Department has been painfully slow in using these needed dollars to address the shortfalls in open space and recreational facilities in the areas with the greatest population growth.

It is hard to fathom, that as the City faces a \$300 million dollar budget shortfall, we have \$129 million intended for our youth, families, seniors and pets sitting unused and gathering dust.

It is more than clear that we are overdue in rewriting our City Quimby codes so that these funds can be more quickly utilized and maximized. The current Municipal Code states that Quimby funds must be spent for parks within two miles of the development which pays the fee. The arbitrary two mile rule greatly restricts our options to provide more parks and should be changed to something that makes more sense for the Los Angeles of 2008. For decades our City has come up against this obstacle, yet there is no evidence that there have been any serious attempts to change the rule.

The lack of available and affordable park space, especially in downtown, is clearly a challenge even if we had the funds. What is called for is a strategy that has Recreation and Parks, the Planning Department, City Council offices, the school district and the developer community working together for creative options, including land swapping and public private partnerships.

My audit also found that the Planning Department, which sets Quimby fees, has miscalculated in the past, resulting in overcharges to developers of more than \$4 million. The City Attorney and Recreation and Parks Department should address the issue of repayment of these overcharges.

We are Los Angeles, the second largest city in America, known to be a "real estate town," the entertainment capital of the world, poised on the digital coast, the gateway city to trade with Asia.; yet we can't figure out a way to collect and properly spend these precious dollars for parks. It's time for a Citywide plan and strategy to leverage these dollars and deliver the parks and open space our residents need.

Sincerely,

A handwritten signature in black ink that reads "Laura N. Chick". The signature is written in a cursive, flowing style.

LAURA N. CHICK  
City Controller



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February 21, 2008

Jon Kirk Mukri, General Manager  
Department of Recreation & Parks  
1200 West 7<sup>th</sup> Street, Suite 700  
Los Angeles, CA 90017

S. Gail Goldberg, Dir. of Planning  
City Planning Department  
Room 525, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Enclosed is a report entitled "Audit of Quimby Fee Collections and Uses." A draft of this report was provided to your offices. Comments provided by your departments at the exit conference meetings were evaluated and considered prior to finalizing this report.

Please review the final report and advise the Controller's office by March 21, 2008 on actions to be taken to implement the recommendations, including target implementation dates. If you have any questions or comments, please contact me at (213) 978-7392.

Sincerely,

A handwritten signature in black ink, appearing to read 'Farid Saffar'.

FARID SAFFAR, CPA  
Director of Auditing

Enclosure

cc: Robin Kramer, Chief of Staff, Office of the Mayor  
Jimmy Blackman, Deputy Chief of Staff, Office of the Mayor  
Karen L. Sisson, City Administrative Officer  
Frank T. Martinez, City Clerk

Page 2

Gerry F. Miller, Chief Legislative Analyst  
June Ellison Usher, President, City Planning Commission  
Barry A. Sanders, President, Board of Recreation and Parks  
Independent City Auditors



# City of Los Angeles Office of the Controller

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## Audit of Quimby Fee Collections and Uses

February 21, 2008

**Laura N. Chick**  
City Controller

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# AUDIT OF QIMBY FEE COLLECTIONS AND USES

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## EXECUTIVE SUMMARY

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The Auditing Division has completed an audit of Quimby collections and uses. The main objective of the audit was to evaluate the controls and oversight over the Quimby program. After the initiation of our audit and in response to inquiries from council members and various developers with subdivision projects in the downtown area, the Department of Recreation and Parks' General Manager, on October 12, 2007, submitted a status report to the Mayor, Council, Controller, City Administrative Officer and others addressing the Quimby program's collections and account balance. The Department also provided a more detailed report of collections for each council district on October 23, 2007.

This audit attempted to validate the collection figures provided by the Department of Recreation and Parks (RAP or the Department) in its two status reports, determined whether Quimby funds were used to pay for eligible expenditures, assessed whether fees charged were properly calculated and collected, and evaluated the oversight and internal controls in place over the Quimby program.

### **Background**

State law established a provision for Quimby fees in the 1970s. The government code allows local municipalities, by ordinance, to require the dedication of land or payment of fees for park or recreational purposes as a condition to the approval of a parcel map for subdivision projects. Subdivision projects include a condominium project, a community apartment project or the conversion of five or more existing dwelling units to a stock cooperative. The intent was to use the fee to mitigate the cost of providing parks and recreational amenities for future residents of subdivision projects.

The City established its Quimby ordinance to govern the administration of the program in the 1970s. The City's Quimby ordinance specifies how fees should be set, how credits should be granted and how fees collected can be used. According to the City's Financial Management Information System (FMIS), Quimby fees have generated approximately \$130 million over the last ten years, fueled primarily by the real estate boom that saw a high number of subdivision developments in certain areas of the City,

including the downtown area. As of January 2008, the Department had a balance of approximately \$129 million in Quimby funds (see Table 2 on page 17).

### **Scope**

The audit was performed in accordance with Generally Accepted Government Auditing Standards and covered Quimby financial activities from Fiscal Year 2002-03 to January 2008. Our detailed expenditure testwork was limited to expenses incurred for projects in Council District #9. Fieldwork was conducted between October and December 2007.

### **Summary of Audit Results**

Quimby fees are intended to be used to address the shortfalls in open space and recreation facilities in areas with the greatest population growth. Despite the program being in existence for over 30 years, this audit found a program that lacks adequate planning and oversight, from fee assessment by the Planning Department to program administration by RAP. The lack of oversight by Planning resulted in overcharging developers by several million dollars. In addition, RAP does not have a comprehensive plan for Quimby in order to develop adequate parks and recreational facilities. The lack of a comprehensive plan has resulted in RAP being slow in responding to the needs of the highest growth areas of the City and has contributed to the high balance of \$129 million in the fund.

To a certain degree, current Quimby ordinances and operational guidelines contributed to the Department's difficulties in planning projects with Quimby funds. The 2-mile rule, for example, stipulates that funds can only be expended within a maximum of a two mile radius from the development that generated the fees. These guidelines, developed in the 70s and 80s, are outdated. The Department also indicated that its inability to use a portion of the fees for administrative expenses also contributed to the limited resources devoted to administering the program. The City needs to reexamine these procedures and policies to allow the program the flexibility to meet the needs of City residents. The following are the audit's key findings:

### **Key Findings**

- **Quimby fees for 2004 and 2007 were incorrect, resulting in overcharges of approximately \$4.5 million.**

The Municipal Code requires that Quimby fees be increased (or decreased) each year by the amount of the percent change in value of existing single-family dwellings. We reviewed the annual fee adjustments that were applied since 2003 and noted that for 2004 and 2007, the Planning Department incorrectly applied the rate increases. The errors occurred because, instead of using the published percent change in values, Planning Department staff attempted to compute the percent changes. The computations were incorrect, resulting in the 2004 rates being increased by 24.2%, instead of the correct percentage of 20%. For 2007,

the fees were increased by 14.8%, instead of by 6.4%. We estimate that the two errors resulted in total (cumulative) over collections of \$4.5 million since May 2004.

Even though there are sufficient Quimby funds to refund the overcharges, RAP management has expressed concerns that for certain geographic collection areas, all collections may have been spent or committed. Thus, funds would have to be taken from other areas to be able to cover these shortages, which may not be legal. We have recommended that the Planning Department work immediately with the City Attorney and RAP management to develop a refund process to correct the overcharges.

- **RAP lacks a comprehensive plan to effectively use Quimby monies to address the many shortfalls in open space, recreation facilities, and activities in areas with the greatest population growth.**

In December 2006, RAP prepared a draft of an Open Space Plan. The plan identifies Quimby as a funding source, along with other potential sources such as Proposition 40, Proposition K, Proposition 1C and Proposition 84. However, the plan is not specific in terms of how the Quimby monies will be leveraged with these other sources to meet the shortfalls.

Because of the lack of a comprehensive plan, the Department has been slow in using Quimby funds to address the shortfalls in open space and recreational facilities in areas with the greatest population growth. The downtown area, for example, has seen significant growth in the last the five years in terms of the number of new condo constructions and other subdivisions. As a result, Quimby collections have increased significantly over the last five years. However, very little progress has been made over the last five years to provide open space and recreational amenities for the downtown area residents.

Of the \$12 million the Department indicated it has allocated or earmarked for projects within District #9 since fiscal year 2003-2004, only \$1.3 million has been spent for improvements to existing facilities over the last five years. No new park land has been acquired and only two rehabilitation projects were completed in the downtown area.

The Department indicated it has never really needed a comprehensive plan for using Quimby monies, because until Fiscal Year 2005-06, collections had been fairly low. However, City records show that the Quimby balance at the end of Fiscal Year 2004-05 was approximately \$50 million. Therefore, RAP should have developed and implemented a plan several years ago to provide guidance on how funds collected would be used to meet the needs of the residents in the subdivisions that paid the fees.

□ **The City’s Quimby codes and procedures are outdated.**

General guidelines for a public program should reflect current conditions and public needs. Quimby ordinances and operational guidelines, developed in the 70s and 80s, are outdated and need to be revised. These requirements have contributed to the difficulties in planning projects with Quimby funds. For example, the 2-mile rule that stipulates that funds can only be expended within a maximum of two miles from the development that generated the fees, the requirement that prevents projects less than 50 units from donating land instead of paying fees, and the policy to only spend funds within the council district where they are collected need to be reevaluated.

□ **Within its annual Expenditure Allocation Program, RAP allocates fees collected to existing facilities and not to specific projects. This may not be meeting the intent of “committing” the funds.**

The Government Code requires the city, county, or other public agency to which the land or fees are conveyed or paid to develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop a park or recreational facility to serve the residents of the subdivisions. Fees are required to be committed within five years after the payment of the fees.

In order to meet this five year “commitment” requirement, RAP developed an annual Expenditure Allocation Program. The Department allocates unspent funds equally among all parks and facilities that are within the two mile radius from the development that generated the fees. The problem with this approach is that receipts allocated through the annual expenditure program are not tied to specific projects. Because funds are not committed to specific projects, there is a risk that funds could later be transferred between facilities without consideration for where they were collected and then could be inappropriately spent. The Department should identify and commit unspent funds to specific projects rather than merely allocating the funds to facilities. This would help ensure that funds are spent for the intended purpose of benefiting future residents of subdivisions that paid the fees and help ensure the department meets the intent of the government code.

With regard to committing funds within five years, RAP believes that it is meeting the intent of the law. However, the department indicated that it will continue to consult with the City Attorney’s office on this issue.

The details of these and other findings are discussed in the findings and recommendations section of this report.

## Review of Report

A draft report was provided to management of the City Planning Department and Recreation and Parks Department on February 11, 2008. We discussed the contents of the report with City Planning management on February 13, 2008 and with RAP management on February 15, 2008.

We considered the comments provided by both City Planning and RAP before finalizing this report. We would like to thank management and staff of both departments for their cooperation and assistance during the audit.

### **TABLE of RECOMMENDATIONS**

| RECOMMENDATIONS  | PAGE REFERENCE |
|--|----------------|
| <b>Section I – Fee Assessment and Figures Reported</b>   |                |
| 1. Planning Department management should calculate the current correct fees and begin charging these fees as soon as practical.  | 12             |
| 2. Planning Department management should use the percent value changes published by the Real Estate Research Council (Los Angeles County Area) when calculating the yearly Quimby fees.  | 13             |
| 3. Planning Department management should work with RAP management and the City Attorney to develop a method, under current laws, to refund developers who overpaid Quimby fees.  | 13             |
| 4. Recreation and Parks Department should reconcile its collection database to FMIS records monthly. Any future reporting of Quimby activities using data from different systems should properly disclose any differences.   | 14             |
| <b>Section II – Project Planning and Administration</b>  |                |
| 5. Recreation and Parks Department management develop, in conjunction with other stakeholders, a long range comprehensive plan for the Quimby program. The plan should be an element of the Open Space Plan and should identify how Quimby funds will be leveraged with other funding sources to address shortfalls in open space and recreational facilities. | 18             |
| 6. Recreation and Parks Department management should develop a system to track and report Quimby funds. The system should enable the Department to readily report Quimby collections, what projects Quimby is funding, the current status of projects, etc.  | 19             |

| RECOMMENDATIONS  | PAGE REFERENCE |
|--|----------------|
| 7. Planning Department management should work with the City Attorney's office, RAP management, other stakeholders, and the State, to revise key outdated Quimby ordinance terms and procedures with the goals of providing more flexibility to expend funds and increasing park space in the City. If unable to revise the terms, explore the feasibility of switching to an equivalent fee structure. | 21             |
| 8. Recreation and Parks Department management, in consultation with the City Attorney, reevaluate its policies and procedure to ensure it meets the intent of the Government Code with respect to committing funds within five years.  | 22             |
| 9. Recreation and Parks Department management should ensure that payments from developers are made directly to the Cashier's office instead of to Quimby staff.  | 22             |

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## BACKGROUND AND METHODOLOGY

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### **Background**

State law established for the provision of Quimby fees in the 1970s. Section 66477 of the government code allows cities, by ordinance, to require the dedication of land or payment of fees for park or recreational purposes as a condition to the approval of a parcel map for subdivision projects. Subdivision includes a condominium project, a community apartment project or the conversion of five or more existing dwelling units to a stock cooperative. The fee was named after a former state legislator, John P. Quimby, who initiated the legislation. The intent was for local municipalities to use the fees to mitigate the cost of providing parks and recreational amenities for future inhabitants of subdivisions that pay the fees. The City's Quimby ordinance was passed in the 1970s.

According to the City ordinance, final subdivision maps cannot be approved or recorded unless land is dedicated or fees paid to the satisfaction of the Department of Recreation and Parks (RAP or the Department). Developers can pay the fees prior to the recording of the final map or make deposits in trust accounts, guaranteed to be paid within one year after Council approval of the final map. Fees are assessed on a residential per unit basis. For mixed-use buildings, where some units are solely for commercial purposes and other units are for residential, the residential units pay the regular per unit Quimby fees. Commercial developments do not pay Quimby fees.

In addition, some subdivisions include live-work units in which buyers such as artists or professionals both live and work at the same property. The developers had been granted a 66% Quimby fee discount for each live-work unit. However, effective September 2007, this discount was eliminated. The City ordinance also allows for exemptions or deferments of Quimby fees when the development or conversion involves low-income housing units. Apartment projects are currently excluded from paying Quimby fees.

Similar to Quimby, the City adopted Zone Change Park fees in 1985. The zone change fee applies only to the approval of zone changes for multiple residential projects. For example, if a condominium project is proposed to be built on a land that is currently located in a commercial zone, a zone change fee may apply. The fee schedule for both zone changes and Quimby is exactly the same. For purposes of our report, we will refer to Quimby fees as those paid under either the Quimby ordinance or the Zone Change ordinance.

The Quimby fees are revised annually each May by the percentage change in value of single-family dwellings as determined by the Real Estate Research Council of Southern California. There are five different fee categories depending on the zone of the tract. A

zone defines the permitted legal uses for a property. In 2007, fees increased 14.8% over the prior year. Quimby collections have increased considerably over the last five years as a result of the surge in new condominium constructions and other subdivision developments in certain areas within the City, including the downtown area. According to the City's official records, Quimby's account balance as of January 2008 was approximately \$129 million (See Table 2 on page 17).

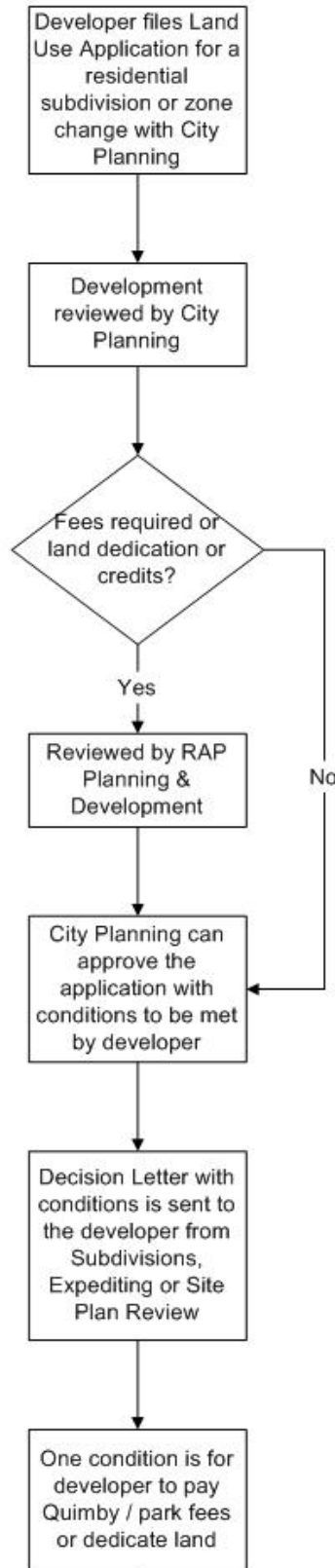
### **Quimby Administration**

Three city departments are involved in administering the Quimby program. RAP, by virtue of its mission, has primary responsibility for administering the program. RAP accepts land donations, collects the fees and can grant exemptions and/or fee credits. RAP also determines how collections will be used to create parks and recreational amenities. The City Planning Department (Planning) reviews the initial maps and prepares Quimby fee calculations once each subdivision map has been approved by the Advisory Agency<sup>1</sup>. Planning is also charged with updating the fee every year. The Bureau of Engineering (BOE) tracks development conditions as related to Quimby and follows up with RAP to ensure that Quimby conditions have been met before a final subdivision map can be recorded. The flowchart on the following page shows the subdivision plan approval and Quimby collection process.

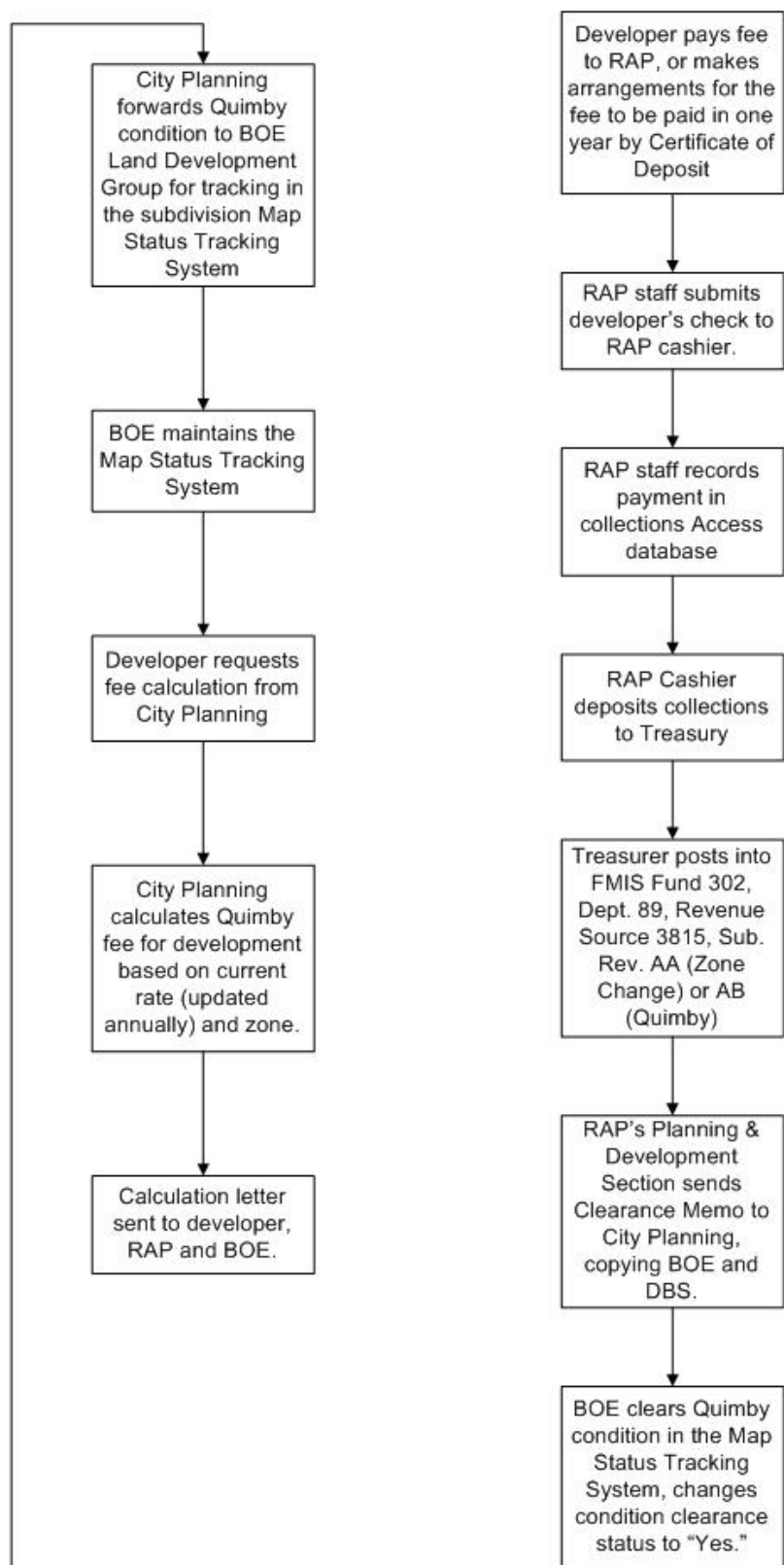
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<sup>1</sup> The City Charter designates the City Planning Department as the City's Advisory Agency.

## Quimby Fee Assessment



## Payment and Recording of Fee



Source: RAP and Planning staff

## **Objectives, Scope and Methodology**

In response to inquiries from Councilmember Jan Perry (9<sup>th</sup> District) and various developers with subdivision projects in the downtown area, RAP's General Manager issued, on October 12, 2007, a status letter to the Mayor, Council, Controller, City Administrative Officer and others addressing the Quimby program's collections and account balance. The Department also provided a more detailed report of collections for each council district on October 23, 2007.

This audit attempted to validate the collection figures provided by the Department, determined whether funds were used to pay for eligible expenditures, assessed whether fees charged were properly calculated and collected, and evaluated the oversight and internal controls over the Quimby program.

To meet our audit objectives, we performed the following procedures:

- Tested sample Quimby expenditures for the 9th District to determine whether expenditures were eligible, reasonable and properly approved.
- Analyzed the figures provided by the Department to the Council in comparison to the official city records maintained in the City's Financial Management Information System.
- Traced sample subdivision maps recorded to RAP's records to verify that maps recorded have paid Quimby fees.
- Recalculated the annual fees for 2003 through 2007 to determine whether the fees implemented were accurate.
- Tested credits by selecting sample developments from downtown districts and verified that credits were according to policy.
- Evaluated RAP's compliance with key provisions of the Municipal Code.
- Reviewed RAP management's oversight and internal controls to ensure fees are assessed for recorded subdivision maps within the City, and that fees assessed are collected and properly allocated for eligible projects.

The remainder of this report details our findings, comments and recommendations.

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## AUDIT FINDINGS AND RECOMMENDATIONS

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### SECTION I: FEE ASSESSMENT AND FIGURES REPORTED

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In order to simplify its fee schedule, the City passed ordinance #155458 in 1981. The ordinance, which was incorporated in Section 17.12 of the City's Municipal Code, replaced the complex fee formula with a simplified, citywide, per-unit-per-zone fee schedule. A zone defines the permitted legal uses for a property. The following table shows the current fee schedule effective May 1, 2007.

Table 1

Quimby/Zone Change Fee Effective May 1, 2007

| ZONE                                     | FEE PER DWELLING UNIT |
|--|-----------------------|
| A, RA, RE, RS, R1, RU, RZ,<br>RW1 AND R2 | \$3,407               |
| RW2, RD, R3, RAS3                        | \$5,122               |
| R4, RA, S4                               | \$6,976               |
| R5                                       | \$9,489               |
| All Other Zones                          | \$6,976               |

*Source: City Planning Department*

**Finding #1: Quimby fees for 2004 and 2007 were incorrect, resulting in overcharges of approximately \$4.5 million.**

Section 17.12 of the Municipal Code requires that fees should be levied for the Quimby program to keep pace with property values. The Municipal Code requires that the fee be increased (or decreased) each year by the amount of the percent change in value of existing single-family dwellings. The percent change is determined by comparing the October index to the preceding year as determined by the Real Estate Research Council of Southern California (RERCSC). Planning publishes the new fees each April and the fees become effective on May 1<sup>st</sup>.

Each year, the RERCSC publishes the percent change in value for various Southern California areas, such as Los Angeles County, Orange County, Riverside County, etc. Each County is further broken down into individual areas. For example, values are shown for eight separate Los Angeles County areas (San Fernando Valley, Southeast,

Southwest, etc.) To test the accuracy of fee changes applied over the last several years, we obtained the percent change in values published by the RERCSC and recomputed the fees that should have been charged. We noted that for 2004 and 2007, the Planning Department incorrectly applied the rate increases.

The errors occurred because, instead of using the published percent change in values, Planning Department staff attempted to compute the percent changes. For the two erroneous years, the Planning Department applied the “net index value” change, instead of the percent value change. For example, to calculate the 2007 increase, the Planning Department subtracted the October 2005 index of 232.9 from the October 2006 index of 247.7 to arrive at a net change of 14.8. The Planning Department then raised the fees by 14.8% instead of the correct percentage of 6.4% (14.8 / 232.9). For 2004, the Planning Department raised the fees 24.2% when they should have raised them 20%.

Although the increases applied in 2005 and 2006 were correct, the 2004 error impacted the fees charged during those years. We estimated that the 2004 and 2007 errors resulted in total (cumulative) overcharges of \$4.5 million in fees collected since May 2004.<sup>2</sup> Since the Planning Department is tasked with the Quimby fee assessment, RAP was unaware of the errors and the overcharges. The dollar impact is an estimate because there are five different rate levels, depending on the zone of the subdivision, and data on the amounts collected at each rate level is not readily available.

Even though there are sufficient Quimby funds to refund the overcharges, RAP and Planning management have expressed concerns that for certain geographic collection areas, all collections may have been spent or committed. Thus, funds would have to be taken from other areas to be able to cover these shortages, which may not be legal. RAP management also expressed concerns about the time required to identify the amount that each developer overpaid and to identify projects that each collection was allocated to. For these reasons, Planning Department management should work together with RAP management and the City Attorney to develop a plan for refunding the overcharges. It is critical that the City begin charging correct rates as soon as possible. Each month that passes could result in approximately \$250,000 of additional overcharges.

### **Recommendations**

#### **Planning Department management should:**

- 1. Calculate the current correct fees and begin charging these fees as soon as practical.**

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<sup>2</sup> We calculated the estimated overcharge based on the collections recorded in RAP's records from May 2004 to January 31, 2008.

2. **Use the percent value changes published by the Real Estate Research Council (Los Angeles County Area) when calculating the yearly Quimby fees.**
3. **Work with RAP management and the City Attorney to develop a method, under current laws, to refund developers who overpaid Quimby fees.**

**Finding #2: Figures reported on status reports are inconsistent.**

In order for various reports to be useful management tools for decision making, they must have consistent information. At the request of the Council, RAP provided two status reports in October 2007. One report provided a summary of collections citywide and the other provided detailed amounts for each council district. We expected the two reports to match.

The first report, dated October 12, 2007, used the total revenue amount as reported in the Financial Management Information System (FMIS). In order to report the details by council district, the Department, in its October 23, 2007 report, used the collection data reported in its Access Collection Database. The total of annual revenue amounts reported for all council districts in the October 23rd report did not match the total collection amounts reported in the October 12<sup>th</sup> report. The summary amounts reported for each year in the October 12, 2007 report were higher than the totals of the details reported on the October 23, 2007 report by approximately \$1.8 million. For four of the five years, the summary data were higher.

The differences were primarily due to collections that were zeroed from the Collection Database because of anticipated refunds. In cases where developers who already paid their fees inform RAP that they plan to cancel their subdivision projects and will likely request refunds in the future, RAP notes the pending refund in the database and does not include these amounts in its collection figures. Since refunds have not been officially requested by the developers, the FMIS would still reflect these amounts as collections. While we recognize the Department's rationale, we believe that the detailed reports provided to stakeholders should also reflect all collections but clearly identify and disclose any collections that may be subject to future refunds.

We also noted that, the Department does not reconcile its collection database to FMIS on a regular basis. The last reconciliation was performed for Fiscal Year 2003-04 collections. Periodic reconciliation would help identify discrepancies. For example, based on a sample of payments from District #9, we found a payment of \$211,233 that was recorded in FMIS but was not posted to RAP's records. Therefore, this amount was not included in the October 23<sup>rd</sup> report provided to the Council as a receipt for District #9, nor was it accounted for as funds available for District #9.

We also noted instances where collections were posted to the wrong district in the collections database. For example, two collections totaling \$165,161 were reported for Council District #9. However, based on the location of the development, these

collections belonged to Council District #14. Typically, the Department records the district numbers identified by Planning on the calculation letter sent to developers and does not verify whether the correct district is identified until it is ready to allocate the collection which could be several years later.

**Recommendation**

- 4. Recreation and Parks Department should reconcile its collection database to FMIS records monthly. Any future reporting of Quimby activities using data from different systems should properly disclose any differences.**

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## SECTION II: PROJECT PLANNING & ADMINISTRATION

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In January 2006, the Controller' Office issued two reports on the performance of the Department's leisure and maintenance activities. In both reports, the auditors recommended that the Department develop a strategic plan that encompasses its wide variety of activities. The reports identified various resources and approaches that the Department could use to develop an effective strategic plan.

**Finding #3: RAP lacks a comprehensive plan to effectively use Quimby monies to address the many shortfalls in open space, recreation facilities, and activities in areas with the greatest population growth.**

In December 2006, RAP prepared a draft of an Open Space Plan. The plan identifies Quimby as a funding source, along with other potential sources such as Proposition 40, Proposition K, Proposition 1C and Proposition 84. However, the plan is not specific in terms of how the Quimby monies will be leveraged with these other sources to meet the shortfalls.

Because of the lack of a comprehensive plan, the Department has been slow in using Quimby funds to address the shortfalls in open space and recreational facilities in areas with the greatest population growth. The downtown area, for example, has seen significant growth in the last the five years in terms of the number of new condo conversions and other subdivisions. As a result, Quimby collections have increased significantly over the last five years. The downtown area comprises all of council district #9, and parts of council districts #1 and #14.

According to RAP's records, Quimby generated \$15 million in fees between July 2003 and October 2007 from subdivisions located within District #9. While the Department stated it has earmarked or allocated over \$12 million to several projects, very little progress has been made over the last five years to provide open space and recreational amenities to one of the highest growth areas of the City. No new park land has been acquired with Quimby funds over the last five years in the downtown area. In general, it appears that instead of taking a proactive approach in planning and identifying park land acquisitions, RAP relies on Council offices to identify park land.

The Department indicated it has had difficulty finding locations within the downtown area that are available and suitable for park purposes. RAP pursued three land acquisitions at the following locations:

- 410 North Center – In September 2007, RAP obtained approval from its Board to start the process of acquiring this parcel for development park purposes. The 51,808 square foot property is located in a heavy industrial zone and is part of L.A. River Revitalization Master Plan. The property was

offered for sale for \$6 million. The Department indicated that it is in the process of completing an environmental assessment.

- 735 E. 3<sup>rd</sup> Street – Approval to proceed with purchasing this property for a pocket park was granted in June 2007. The 0.11 acres, privately owned property was offered for \$735,036. RAP indicated that the appraised value was much less than the asking price. Therefore it no longer wishes to pursue this site, unless the property can be acquired for closer to its appraised value.
- 1130 S. Hope Street – This property is a three story building that has been vacant for several years. In early 2005, a developer proposed that RAP purchase this property and then develop a park using Quimby funds paid by the developer for nearby developments.

Over the last three years, RAP has had several discussions with the developer and the City Attorney about acquiring the property. At one time, the developer initially agreed to loan the City \$800,000 to help with the construction with a condition that the developer would be paid back from any Quimby fees collected in the future for up to ten years. The developer has since withdrawn this offer, although RAP states that the loan was not a critical issue since there are enough Quimby funds available for the project.

RAP is still contemplating purchasing the property. However, one long-standing issue that needs to be resolved is determining the current owner of the property.

Based on RAP's records, only \$1.3 million of the \$12 million in District #9 allocations and earmarks were spent for improvements to existing facilities over the last five years. The funds were spent on the following four projects.

- Trinity Recreation Center – Building Addition and Outdoor improvements – this project originally began in 2002 at an estimated cost of \$660,000 to be funded with Prop A funds of \$537,000 and Quimby funds of \$123,000. The project involved renovating the northwest corner of the building to accommodate the expanded new Americans with Disabilities Act restrooms and a new storage room off the existing kitchen. The project was completed by the General Services Department and managed by the Bureau of Engineering. Due to delays, the construction cost increased and the project was finally completed in June 2006 at a total cost of \$1.15 million, with Quimby picking up the difference of \$490,000.
- Trinity Recreation Center – outdoor improvements including the refurbishment of HVAC, basketball court, gym ceiling, hardwood floors and the installation of new play equipment and perimeter fencing. The project was allocated \$675,000 and was approved in December 2006. This project is still ongoing, and as of December 2007, \$485,000 has been expended.

- Central Recreation Center – RAP expended \$154,000 in Quimby funds at this facility to install new air conditioners and fencing. This project was completed in 2006.
- Ross Snyder Recreation Center – This project involves baseball field refurbishments at an estimated cost of \$1.5 million. Prop K is funding \$551,000 and the remainder of \$900,000 is from Quimby. GSD is completing this project and it was approved by RAP’s Board in June 2006. As of December 2007, a year and a half after it was approved, only \$8,000 in expenditures was recorded. The project is expected to be completed in November 2008.

The Department stated that it is in the process of developing a comprehensive plan. When we asked the Department why it is now just developing plans for a program that has been around for over 30 years, the Department indicated that until FY 2005-06 Quimby collections had been fairly low. Therefore, it had never really needed a comprehensive plan. However, as shown in Table 2 below, the City’s financial records show that Quimby collections have steadily increased since 2001.

**Table 2**

| <b>Quimby and Zone Change Fee Citywide Collections and Expenses<br/>Between Fiscal Years 00-01 and 07-08</b> |                       |                      |                        |                           |
|--|-----------------------|----------------------|------------------------|---------------------------|
| <b>Fiscal Year</b>   | <b>Fees Collected</b> | <b>Fees Expended</b> | <b>Unspent Balance</b> | <b>Cumulative Balance</b> |
| Pre 00-01  |                       |                      |                        | \$ 17,019,020             |
| 00-01  | \$ 8,168,126          | \$ 2,753,944         | \$ 5,414,182           | \$ 22,433,202             |
| 01-02  | \$ 2,310,670          | \$ 3,671,463         | \$ (1,360,793)         | \$ 21,072,409             |
| 02-03  | \$ 6,546,479          | \$ 1,547,268         | \$ 4,999,211           | \$ 26,071,620             |
| 03-04  | \$ 9,644,598          | \$ 1,843,741         | \$ 7,800,857           | \$ 33,872,477             |
| 04-05  | \$ 18,208,363         | \$ 2,048,782         | \$ 16,159,581          | \$ 50,032,058             |
| 05-06  | \$ 43,994,689         | \$ 2,348,410         | \$ 41,646,279          | \$ 91,678,337             |
| 06-07  | \$ 31,982,590         | \$ 5,311,721         | \$ 26,670,869          | \$ 118,349,206            |
| 07-08*   | \$ 5,100,478          | \$ 1,253,000         | \$ 3,847,478           | \$ 122,196,684            |
| Accrued Int  |                       |                      | \$ 7,290,203           | \$ 129,486,887            |
|  | <u>\$ 125,955,992</u> | <u>\$ 20,778,328</u> | <u>\$ 112,467,867</u>  |                           |

\* As of January 31, 2008

**Source: Financial Management Information System**

Although it is true that collections significantly increased in fiscal years 2005-06 and 2006-07, the balance at the end of Fiscal Year 2004-05 was approximately \$50 million. Therefore, RAP should have developed a comprehensive plan to provide guidance on how funds collected would be used, in conjunction with other available funding, to meet

the needs of the residents in the subdivisions that paid the fees. Because of this lack of a comprehensive plan, the balance in the account continues to grow.

### **Recommendation**

- 5. Recreation and Parks Department management develop, in conjunction with other stakeholders, a long range comprehensive plan for the Quimby program. The plan should be an element of the Open Space Plan and should identify how Quimby funds will be leveraged with other funding sources to address shortfalls in open space and recreational facilities.**

### **Finding #4: RAP lacks an effective system to manage the Quimby program.**

RAP does not have an effective system in place to track and report Quimby balances, expenditures and project statuses. RAP currently uses four different systems to track Quimby collections and expenditures.

Currently, when a payment is collected from a developer, the collection is recorded in the Department's collection database. The payment is also recorded in FMIS and the Department's Action Information Management System (AIMS). The FMIS provides a total of all collections and expenditures while the Department's AIMS system provides a breakdown among the Department's 270 facility sub-accounts to which collections are allocated. Annual Expenditure Allocation amounts by Council district are tracked using an excel spreadsheet before they are posted to AIMS. These different systems are not always reconciled to one another, which could lead to unidentified errors. As indicated in finding #2, we noted discrepancies between amounts in reports generated from RAP's records and amounts in the FMIS.

It is difficult to determine how much has been spent on a particular project because actual expenditure data for ongoing projects are not maintained in any of these systems. Details of each project are maintained outside of these systems and would have to be reviewed to determine how much has been spent on a particular project and whether the project is on budget.

The lack of an effective reporting system also makes it difficult to generate necessary management reports. Consequently, RAP does not generate Quimby status reports.<sup>3</sup> For example, RAP cannot produce real time reports that give a true picture of how much in Quimby fees have been collected, what projects Quimby is funding, amounts already expended towards each project, current status of projects being funded with Quimby funds and timeliness of project completion. These types of reports would provide useful information to City management and other stakeholders on ongoing and planned projects funded with Quimby fees.

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<sup>3</sup> At its meeting on November 6, 2007, the City Council requested RAP to start providing quarterly status reports.

The Department acknowledged this lack of an effective system and is working to develop a Geographic Information System (GIS) to help with mapping of Quimby and Zone Change Park fees. According to the Department, the GIS will allow anyone, including the general public, to acquire information as to where Quimby fees were collected and where they can be legitimately spent. The Department anticipates incorporating Quimby financial data into the GIS at a later date.

### **Recommendation**

- 6. Recreation and Parks Department management should develop a system to track and report Quimby funds. The system should enable the Department to readily report Quimby collections, what projects Quimby is funding, the current status of projects, etc.**

### **Finding #5: The City's Quimby codes and procedures are outdated.**

General guidelines for a public program should reflect current conditions and public needs. Quimby's operational guidelines are stipulated in the City's Municipal Code and the Recreational General Plan. These guidelines, developed in the 70s and 80s, are outdated and need to be revised. To a certain extent, some of these requirements have contributed to the difficulties in planning projects with Quimby funds. Discussed below are major requirements that should be reconsidered to provide added flexibility for the Department to expend Quimby funds for projects and to increase park space in the City. According to RAP management, it has discussed some of these issues over the past several years with the Planning Department. However, they have not made a formal request to Council to consider these issues, including the two mile radius requirement. We believe that RAP should have adopted a more proactive and aggressive effort to resolve these long-standing issues.

**Two-mile Requirement** – The state law requires the location of land donated or acquired with Quimby fees to bear a "reasonable relationship" to the location of the subdivision that pays the fee. The City defines its "reasonable relationship" distance to be a 2-mile radius from a community park or a 1-mile radius for a neighborhood park or recreational facility. This requirement was adopted and contained in the Recreational Element of the City's General Plan. With the increased availability of public transportation in many areas of the City today, residents may be more willing to travel further distances to parks than they were in the past. One possible option would be to change the criteria to require the funds be spent within the Community Plan Area (there are 35 areas in the City) in which the funds were collected.

According to the City Attorney's office, changing the requirement to allow the fees to be expended a greater distance from the subdivision generating the fees would, in light of the constitutional laws regarding developer fees, require justification by a nexus study. The Department indicated it is currently conducting a needs assessment study from which information supporting such nexus may be gathered. The 2-mile rule restricts how funds can be used. If collections within two miles are

not enough to acquire park land or embark on a recreational facility project, funds would tend to accumulate in the account.

We contacted five other governmental agencies to inquire whether the agency assesses Quimby fees and what reasonable distance requirement the agency follows. Of the five agencies, two agencies have Quimby, two have a developmental impact fee and the other agency stated it has neither but requires developers to provide private open space within their developments for their residents.

For the agencies that assess Quimby fees, one city also has a two mile distance requirement, and the other requires that 2/3 of funds collected be spent in the quadrant where the fees were collected with the remaining 1/3 available to spent in any other quadrant. For the agencies that assess developmental impact fees instead of Quimby, the developmental impact program gives them more flexibility related to distance. In addition, since Quimby fees are not collected from commercial developments or apartments, developmental impact fees provide an avenue for these agencies to assess these projects fees to mitigate their parks impact. It should be noted that one city switched from assessing Quimby fees to developmental impact fees.

**Credit Allowances** - Current recreational credit allowances provide limited incentive for developers to provide recreation amenities within their subdivisions. Since these credit amounts were last modified over twenty years ago, developers might consider them too low when compared to the cost of providing the amenities. According to the Municipal Code, credit allowances are calculated as follows:

- (a) High intensity development recreational areas are granted a credit of \$5.00 per square foot. Examples of high intensity projects are swimming pools and spas, spa decks, children's play areas with playground equipment, etc.
- (b) Low intensity development recreational areas are granted credit of \$2.50 per square foot. Examples of low intensity projects are putting greens, landscaped open areas, equestrian areas and picnic grounds.

The ordinance for credit allowances was last amended in 1988, and the code should be revised to reflect current costs of construction.

**Projects with less than 50 units** – The Quimby ordinance does not currently permit land dedication from projects less than 50 units. Therefore, developers for these types of projects must pay the required Quimby fee. With the Department having difficulties in acquiring park land in certain areas of the City, the City should consider giving smaller developments that are willing to dedicate park land instead of paying fees the option to do so.

**Collections Restricted to Council District** – While not necessarily required by ordinance, it is RAP's policy to spend Quimby funds only in the council district where

the funds are collected. This also likely puts undue restrictions on the use of available funds.

### **Recommendation**

- 7. Planning Department management should work with the City Attorney's office, RAP management, other stakeholders, and the State, to revise key outdated Quimby ordinance terms and procedures with the goals of providing more flexibility to expend funds and increasing park space in the City. If unable to revise the terms, explore the feasibility of switching to an equivalent fee structure.**

**Finding #6: Within its annual Expenditure Allocation Program, RAP allocates funds received to existing facilities and not to specific projects. This may not be meeting the intent of "committing" the funds.**

Section 66477 (a) (2) (B) (6) of the Government Code states, in part, "the city, county, or other public agency to which the land or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop a park or recreational facility to serve the residents of the subdivisions. Any fees shall be committed within five years after the payment of the fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later."

In order to meet this five year "commitment" requirement, RAP developed an Annual Expenditure Allocation program. When a payment is received from a developer, it is posted to RAP's collection database and all existing park or recreational facilities located within two miles from the development that generated the fees. The payment is also posted to the Department's Action Information Management System in an "unallocated" account until the funds are allocated. If a viable project is not identified within five years, RAP equally allocates the receipt to the previously identified parks and facilities and prepares a list of potential projects for each park or facility. There are no dollar amounts tied to the potential projects.

RAP's methodology may not be meeting the intent of the Government Code. Typically, funds are considered to be "committed" when there is an obligation to purchase goods or services and the funds have been encumbered. RAP indicated that funds could be considered committed if the Department has identified specific projects for the funds. However, RAP also may not be meeting this requirement because without dollar amounts tied to specific projects, there is no assurance that each of the projects will be completed.

Another problem with RAP's approach is that since funds are not committed to specific projects, there is a risk that funds could later be transferred between facilities without consideration from where they were collected and then could be inappropriately spent. In fact, we noted several transfers of previously allocated funds between facilities;

however, we were usually unable to determine whether these transfers violated the current 2-mile rule because of inadequate collection records to show where the funds were collected. It should be noted that we did note one instance where a transfer between two facilities appeared to violate the two mile requirement. A transfer was made between two facilities that were eight miles apart.

### **Recommendation**

- 8. Recreation and Parks Department management, in consultation with the City Attorney, reevaluate its policies and procedure to ensure it meets the intent of the Government Code with respect to committing funds within five years.**

**Finding #7: There is a lack of proper segregation of duties over Quimby collections and recording.**

Good internal controls over cash collections should include proper segregation of duties. Also, the number of collection points should be kept to the minimum number possible and customers should make payments only to designated cashiers.

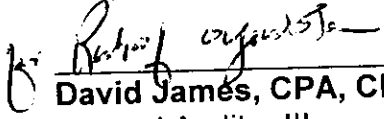
Currently, developers make payments to Quimby staff, who then forwards the checks to the Cashier's office. Quimby staff also clears the Quimby condition upon receipt of payment by issuing a clearance memo to the BOE certifying that the Quimby condition has been satisfied. In essence, the current system allows one staff to collect the check, record the payment in its collection database, and clear the Quimby condition in the database. This increases the risk of misappropriations or payment errors occurring and remaining undetected.

RAP staff indicated that because some developers need to consult with Quimby staff regarding payment amounts, credits or other matters that might result in a fee adjustment, it is their policy to have Quimby staff receive payments from developers and then forward them to the cashier. While these consultations may be necessary in some cases, once they are resolved, the developer should be directed to RAP's Cashier's office to make payments. Since the Cashier's office is on the same floor as Quimby staff, this requirement should not place an imposition on customers.

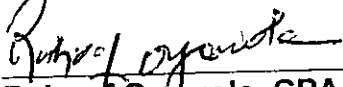
### **Recommendation**

- 9. Recreation and Parks Department management should ensure that payments from developers are made directly to the Cashier's office instead of to Quimby staff.**

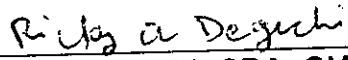
Respectfully submitted,



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January 12, 2008

**APPENDIX I  
OFFICE OF THE CONTROLLER**

**AUDIT OF QUIMBY FEE COLLECTIONS AND USES**

**Ranking of Recommendations**

| Finding Number | Description of Finding  | Ranking Code        | Recommendations   |
|----------------|---|---------------------|---|
|                | <b>Section I – Fee Assessment and Figures Reported</b>  |                     |   |
| 1              | Quimby fees for 2004 and 2007 were incorrect, resulting in overcharges of approximately \$4.5 million.  | U<br><br>U<br><br>U | <p>Planning Department management should:</p> <ol style="list-style-type: none"> <li>1. Calculate the current correct fees and begin charging these fees as soon as practical.</li> <li>2. Use the percent value changes published by the Real Estate Research Council (Los Angeles County Area) when calculating the yearly Quimby fees.</li> <li>3. Work with RAP management and the City Attorney to develop a method, under current laws, to refund developers who overpaid Quimby fees.</li> </ol> |
| 2              | Figures reported on status reports are inconsistent.  | N                   | <ol style="list-style-type: none"> <li>4. Recreation and Parks Department should reconcile its collection database to FMIS records monthly. Any future reporting of Quimby activities using data from different systems should properly disclose any differences.</li> </ol>  |
|                | <b>Section II – Project Planning and Administration</b>   |                     |   |
| 3              | RAP lacks a comprehensive plan to effectively use Quimby monies to address the many shortfalls in open space, recreation facilities, and activities in areas with the greatest population growth. | N                   | <ol style="list-style-type: none"> <li>5. Recreation and Parks Department management develop, in conjunction with other stakeholders, a long range comprehensive plan for the Quimby program. The plan should be an element of the Open Space Plan and should identify how Quimby funds will be leveraged with other funding sources to address shortfalls in open space and recreational facilities.</li> </ol>  |
| 4              | RAP lacks an effective system to manage the Quimby program.   | D                   | <ol style="list-style-type: none"> <li>6. Recreation and Parks Department management should develop a system to track and report Quimby funds. The system should enable the Department to readily report Quimby collections, what projects Quimby is funding, the current status of projects, etc.</li> </ol>   |

|   |   |   |  |
|---|---|---|--|
| 5 | The City's Quimby codes and procedures are outdated.  | N | 7. Planning Department management should work with the City Attorney's office, RAP management, other stakeholders, and the State, to revise key outdated Quimby ordinance terms and procedures with the goals of providing more flexibility to expend funds and increasing park space in the City. If unable to revise the terms, explore the feasibility of switching to an equivalent fee structure. |
| 6 | Within its annual Expenditure Allocation Program, RAP commits funds received to existing facilities and not to specific projects. This may not be meeting the intent of "committing" the funds. | N | 8. Recreation and Parks Department management, in consultation with the City Attorney, reevaluate its policies and procedure to ensure it meets the intent of the Government Code with respect to committing funds within five years.  |
| 7 | There is a lack of proper segregation of duties over Quimby collections and recording.  | D | 9. Recreation and Parks Department management should ensure that payments from developers are made directly to the Cashier's office instead of to Quimby staff.  |

**Description of Recommendation Ranking Codes**

**U-** Urgent-The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

**N-** Necessary- The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. The recommendation should be implemented within six months.

**D-** Desirable- The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

**N/A-** Not Applicable