

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: April 16, 2012

TO: Kelly Broughton, Director, Development Services Department

FROM: City Attorney

SUBJECT: Proposition 26 Review of Proposed Development Services Department User Fees for FY 2013

INTRODUCTION

Under Council Policy 100-05, general fund departments are required to conduct comprehensive user fee studies every three years. These fee studies ensure City departments identify and recover all reasonable and allowable costs incurred in providing government services.

Financial Management staff has asked participating departments to obtain an opinion on the legality of their proposed user fee adjustments and additions from the Office of the City Attorney in light of Proposition 26. Approved by the voters in 2010, Proposition 26 amends articles XIII A and XIII C of the California Constitution to provide that a levy, charge, or exaction of any kind imposed, increased, or extended by a local government is a tax unless an exception applies. Exceptions to Proposition 26 include user fees; government service or product fees; regulatory fees; government property entrance fees; fines and penalties imposed by a court or local government; property development impact fees; and assessments and property-related fees governed by Proposition 218.¹

Each Proposition 26 exception involves its own legal standard for determining the amount of a legally permissible fee. Under article XIII C, section 1(e)(1)(2)(3) of the California Constitution, which discusses some of the exceptions to Proposition 26, no fee may exceed the reasonable cost of providing the service. However, such fees should reimburse the government entity for all reasonable direct and indirect expenses incurred. *United Business Commission v. City of San Diego*, 91 Cal. App. 3d 156, 166 (1979). As noted in *United Business Commission*, “. . . the municipality need only apply sound judgment and consider ‘probabilities according to the best honest viewpoint of informed officials’ in determining the amount of the fee.” *Id.* This Office

¹ For a fuller discussion of Proposition 26, see City Att’y MOL No. 11-3 (Mar. 4, 2011), “Proposition 26 and Its Impact on City Fees and Charges.”

has advised City staff to explain the link between the cost and the service provided and justify all fee calculations based on a study of the costs associated with the fee for Council's consideration and approval. Therefore, depending on the particular type of fee and individual department activities, staff for each City department developed their proposed user fee adjustments using the comprehensive Citywide method developed by Financial Management and Comptroller staff.²

We have reviewed a detailed summary of the Development Service Department's cost recovery calculations as described in Exhibit A and proposed fee adjustments as described in Exhibit B. Our Proposition 26 analysis of each fee is discussed below.

General Plan Maintenance Fee

California Government Code section 65104 provides that a legislative body, including that of a charter city, may establish fees to support the work of its planning agency provided the fees not exceed the reasonable cost of providing the service for which the fee is charged and that the fees be imposed pursuant to Government Code section 66016.

The City currently charges a General Plan Maintenance Fee (GPMF) in the amount of \$108.00 for development projects that must be reviewed for consistency with the City's General Plan. *See* Exhibit B. City staff's comprehensive user fee study concludes that the total costs associated with a General Plan consistency review for a development permit is \$491.38. *See* Exhibit A. City staff proposes to raise the GPMF to \$275.00, which is estimated to recoup approximately 56% of costs associated with such reviews. *See* Exhibit B.

The amended GPMF would not be a "tax" under Proposition 26 because two exceptions apply: the "government service or product" exception and the "fee imposed as a condition of property development" exception.

Article XIII C, section 1(e)(2) exempts from Proposition 26's definition of "tax": "A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product." This exception would cover the GPMF because those who apply for development permits are paying for a government service (a General Plan consistency review necessary to the issuance of a permit) received directly by the applicants that is not provided to those not charged.

Article XIII C, section 1(e)(6) excludes from the Proposition's definition of "tax": "A charge imposed as a condition of property development." This exception would likewise cover the

² The method was approved by Financial Management and the Comptroller and provided to the departments by Financial Management. The number (budget item) used to apportion rates (overhead and load) against direct cost is the responsibility of each department based on the contents and knowledge of their individual department activities. This Office did not independently verify or recalculate the numbers provided or the validity of the methodology.

GPMF because the fee is charged as part of obtaining development permits necessary for the development of property.

Mills Act Application Fee

California Government Code sections 50280 through 50290, known as the Mills Act, provide that a local government may enter into contracts with homeowners whereby homeowners receive property tax benefits if they rehabilitate and maintain the historical and architectural character of designated historical resources.

The San Diego City Council approved the collection of a Mills Act Application Fee (MAAF) that is charged to homeowners seeking to enter into a Mills Act Agreement with the City of San Diego. San Diego Resolution R-304533 (Dec. 15, 2008). The MAAF pays for staff costs to receive and log applications, review applications for completeness, conduct site visits, prepare documents, including the development of a tailored agreement for the specific properties, correspondence and meetings with property owners, signing and recording of Mills Act Program Agreements, and updating of the historic designation file and database. The City currently charges a MAAF in the amount of \$590.00. *See Exhibit B.* City staff's user fee study concludes that the total costs associated with a Mills Act application are \$456.22. *See Exhibit A.* City staff therefore proposes to reduce the MAAF to \$456.00. *See Exhibit B.*

The amended MAAF would not be a "tax" under Proposition 26 because two exceptions apply: the exception for a "charge imposed for a specific benefit conferred or privilege granted" and the "government service or product" exception.

Article XIII C, section 1(e)(1) exempts from Proposition 26's definition of "tax": "A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege." This exception would cover the MAAF because property owners seeking to enter into Mills Act Agreements are applying for a specific property tax benefit that will be conferred directly to them as payors that is not provided to those not charged.

Article XIII C, section 1(e)(2) exempts from Proposition 26's definition of "tax": "A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product." This exception would also cover the MAAF because property owners seeking to enter into Mills Act Agreements are paying for a government service (staff's review of the application, preparation of a Mills Act Agreement, and other tasks described more fully above) received directly by the property owner that is not provided to those not charged.

Mills Act Maintenance Fee

California Government Code sections 50280 through 50290, known as the Mills Act, provide that a local government may enter into contracts with homeowners whereby homeowners receive property tax benefits if they rehabilitate and maintain the historical and architectural character of designated historical resources. The Mills Act requires that local governments inspect a property that is the subject of a Mills Act Agreement prior to a new agreement and every five years thereafter. Cal. Gov't Code § 50281(b)(2).

The San Diego City Council approved the collection of a Mills Act Monitoring Fee (MAMF) that is charged to homeowners who have entered into a Mills Act Agreement with the City of San Diego. San Diego Resolution R-304533 (Dec. 15, 2008). The MAMF pays for staff to review historic designation files and Mills Act Agreements, conduct field checks of properties, prepare conditions assessments with photos of properties, review previous permits if applicable, correspond with property owners, and update designation files and database with monitoring information. The City currently charges a MAMF in the amount of \$492.00. *See* Exhibit B. City staff's user fee study concludes that the total costs associated with the monitoring of a Mills Act Agreement are \$232.87. *See* Exhibit A. City staff therefore proposes to reduce the MAMF to \$232.00. *See* Exhibit B.

The amended MAAF would not be a "tax" under Proposition 26 because three exceptions apply: the exception for a "charge imposed for a specific benefit conferred or privilege granted," the "government service or product" exception, and the "investigations, inspections and audits" exception.

Article XIII C, section 1(e)(1) exempts from Proposition 26's definition of "tax": "A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege." This exception would cover the MAMF because property owners in Mills Act Agreements with the City are receiving a specific property tax benefit that is conferred directly to them as payors that is not provided to those not charged, the expenses covered by the MAMF are necessary to the maintenance of those Mills Act Agreements, and Exhibit A demonstrates that the MAMF does not exceed the reasonable costs to the City of maintaining Mills Act Agreements.

Article XIII C, section 1(e)(2) exempts from Proposition 26's definition of "tax": "A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product." This exception would also cover the MAMF because property owners seeking to enter into Mills Act Agreements are paying for a government service (the inspection of property subject to a Mills Act Agreement) received directly by the property owner that is not provided to those not charged.

Article XIII C section 1(e)(3) exempts from Proposition 26's definition of "tax": "A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof." This exception may also cover the MAMF because the fee pays for the inspections required by state law for Mills Act Agreements.

Mills Act Enforcement Fee

California Government Code sections 50280 through 50290, known as the Mills Act, provide that a local government may enter into contracts with homeowners whereby homeowners receive property tax benefits if they rehabilitate and maintain the historical and architectural character of designated historical resources. The Mills Act provides if a local government determines that the owner of a property subject to a Mills Act Agreement has breached any of that Agreement's conditions or allowed the property to deteriorate to the point it no longer meets the standards for a qualified historical property, the local government must either cancel the Agreement or bring an action in court to enforce the Agreement. Cal. Gov't Code § 50284.

The San Diego City Council approved the collection of a Mills Act Enforcement Fee (MAEF) that is charged to homeowners who have entered into a Mills Act Agreement with the City of San Diego. San Diego Resolution R-304533 (Dec. 15, 2008). The MAEF pays expenses that would be incurred by the City in the event of a violation of a Mills Act Program Agreement. The fee would cover expenses for staff to pursue compliance or process a revocation action, including staff time to identify the violation, prepare a restoration plan, conduct meetings and correspondence with the property owner, do a field review with photos, update the designation file and data base, and follow up on implementation of a restoration plan. If the owner did not agree to restore the property, the fee would cover expenses for staff time to prepare for and attend a hearing to revoke the Mills Act Agreement at issue. The City currently charges a MAEF in the amount of \$949.00. *See Exhibit B.* City staff's user fee study concludes that the total costs associated with the enforcement of a Mills Act Agreement would be \$750.37. *See Exhibit A.* City staff therefore proposes to reduce the MAEF to \$750.00. *See Exhibit B.*

The amended MAEF would not be a "tax" under Proposition 26 because two exceptions apply: the exception for a "charge imposed for a specific benefit conferred or privilege granted" and the "investigations, inspections and audits" exception.

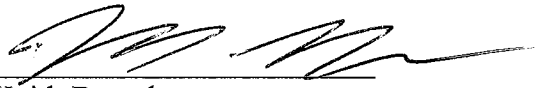
Article XIII C, section 1(e)(1) exempts from Proposition 26's definition of "tax": "A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege." This exception would cover the MAMF because property owners in Mills Act Agreements with the City are receiving a specific property tax benefit that is conferred directly to them as payors that is not provided to those not charged, and the expenses covered by the MAEF are necessary to the maintenance of the City's Mills Act Program that provides the payors those benefits.

Article XIIIC section 1(e)(3) exempts from Proposition 26's definition of "tax": "A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof." This exception may also cover the MAEF because the fee pays for "investigations, inspections, and audits" and resulting "administrative enforcement and adjudication" that may be necessary to enforce the terms of Mills Act Agreements.

CONCLUSION

The fees that the Development Services Department proposes to change fall within a number of exceptions to Proposition 26. The General Plan Maintenance Fee falls under the "government service or product" and the "fee imposed as a condition of property development" exceptions to Proposition 26. The Mills Act Application Fee falls within both the "charge imposed for a specific benefit conferred or privilege granted" and the "government service or product" exceptions to Proposition 26. The Mills Act Maintenance Fee falls within the "charge imposed for a specific benefit conferred or privilege granted," the "government service or product," and the "investigations, inspections, and audits" exceptions to Proposition 26. Last, the Mills Act Enforcement Fee falls within both the "charge imposed for a specific benefit conferred or privilege granted" and the "investigations, inspections, and audits" exceptions to Proposition 26. Accordingly, this Office concludes the fees listed in Exhibit "A" would be exempt from the definition of "tax" contained in Proposition 26.

JAN I. GOLDSMITH, CITY ATTORNEY

By 
Keith Bauerle
Deputy City Attorney

KB:hm:amt

Attachments: Exhibits A and B

cc: Marco Camacho, Supervising Management Analyst, Development Services Department
Mark Leonard, Department Director, Financial Management

MS-2012-17

Exhibit A

Fiscal Year 2013 Proposed User Fee Adjustments

Cost Recovery Calculations

User Fee Departmental Cost Recovery Calculations

DSD
21.0%
127.0%

Load Rate:
Overhead Rate:

Department: DSD-City Planning Dept No: 161115 Fee Title: General Plan Maintenance Fee
Preparer/Contact: Marco Camacho Date: 9/29/11 Fee Legal Authority: CA GC §65104,
§66014(b), §66016, R-278187; AR 95.25; CP

Fee Description: The General Plan Maintenance Fee (GPMF) is charged for projects with plans and documents to be reviewed for compliance with the General Plan or Land Development Code provisions. It is considered a submittal fee and paid at the time a project is submitted for plan review. The GPMF is a flat fee currently set at \$108 per permit application.

JOB CLASS and CLASS CODE	A		B		C		D		E		F		G		H		I		J		
	HOURLY SALARY RATE	LABOR HOURS PER SERVICE OCCURRENCE	LABOR COST (HOURLY RATE X HOURS)	ESTIMATED HOURLY FRINGE	FRINGE COST (EST HOURLY FRINGE X HOURS)	DIRECT COSTS (LABOR COST + FRINGE)	(C+E)	(D x E)	FRINGE COST (EST HOURLY FRINGE X HOURS)	DIRECT COSTS (LABOR COST + FRINGE)	(C+E)	(C x overhead rate %)	LABOR COST (LABOR LOAD X OVERHEAD)	DEP/INTN (LABOR COST X OH %)	(C+G)+OH	(E x load rate %)	FRINGE LOAD (FRINGE X LOAD RATE)	INDIRECT COSTS (LABOR COST X OH %)	FRINGE LOAD (FRINGE X LOAD RATE)	TOTAL COSTS (DIRECT COSTS + OVERHEAD + FRINGE LOAD)	(F+G+H+I)
Associate Planner - 1227	31.96	1,595.00	\$ 50,976.20	22.15	\$ 35,329.25	\$ 86,305.45	\$ 7,419.14	\$ 10,705.00	\$ 78,335.13	\$ 4,948.92	\$ 119,563.24	\$ 50,938.78	\$ 37,428.84	\$ 3,451.27	\$ 124,185.13	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Associate Traffic Engineer - 1233	37.12	893.00	\$ 33,148.16	26.39	\$ 23,566.27	\$ 56,714.43	\$ 4,948.92	\$ 6,961.11	\$ 50,938.78	\$ 4,948.92	\$ 119,563.24	\$ 37,428.84	\$ 3,451.27	\$ 124,185.13	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
CDS IV - 1354	37.93	637.00	\$ 24,161.41	25.80	\$ 16,434.60	\$ 40,596.01	\$ 3,451.27	\$ 5,073.90	\$ 37,428.84	\$ 3,451.27	\$ 86,250.01	\$ 37,428.84	\$ 3,451.27	\$ 124,185.13	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
ISA IV - 1926	37.81	237.00	\$ 8,960.97	26.54	\$ 6,288.98	\$ 15,250.95	\$ 1,320.90	\$ 1,881.80	\$ 13,770.32	\$ 1,320.90	\$ 32,223.97	\$ 13,770.32	\$ 1,320.90	\$ 32,223.97	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Park Designer - 1638	37.16	958.50	\$ 35,617.86	25.54	\$ 24,480.09	\$ 60,097.95	\$ 5,140.82	\$ 7,479.75	\$ 54,733.97	\$ 5,140.82	\$ 127,452.48	\$ 54,733.97	\$ 5,140.82	\$ 127,452.48	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Principal Engineering Aide - 1727	27.92	676.82	\$ 18,896.81	20.07	\$ 13,583.78	\$ 32,480.59	\$ 2,852.59	\$ 3,968.33	\$ 29,038.73	\$ 2,852.59	\$ 68,340.24	\$ 29,038.73	\$ 2,852.59	\$ 68,340.24	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Principal Planner - 2234	51.35	685.20	\$ 35,185.02	33.22	\$ 22,762.34	\$ 57,947.36	\$ 4,780.09	\$ 7,388.85	\$ 54,068.82	\$ 4,780.09	\$ 124,185.13	\$ 54,068.82	\$ 4,780.09	\$ 124,185.13	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Senior Planner - 1872	36.45	10,860.03	\$ 395,848.09	24.18	\$ 262,595.53	\$ 658,443.62	\$ 55,145.06	\$ 83,128.10	\$ 608,299.76	\$ 55,145.06	\$ 1,005,016.54	\$ 608,299.76	\$ 55,145.06	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Senior Traffic Engineer - 1878	43.07	514.28	\$ 22,150.04	30.87	\$ 15,772.97	\$ 37,923.01	\$ 3,312.32	\$ 4,851.51	\$ 34,037.97	\$ 3,312.32	\$ 79,924.81	\$ 34,037.97	\$ 3,312.32	\$ 79,924.81	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
Intern - 2186	12.83	87.00	\$ 1,116.21	0.92	\$ 80.04	\$ 1,196.25	\$ 16.81	\$ 234.40	\$ 1,715.28	\$ 16.81	\$ 3,162.74	\$ 1,715.28	\$ 16.81	\$ 3,162.74	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54	\$ 1,005,016.54
		17,143.83	\$ 626,060.77	235.48	\$ 420,894.85	\$ 1,046,955.62	\$ 88,387.92	\$ 131,472.76	\$ 962,067.59	\$ 88,387.92	\$ 2,228,883.89	\$ 962,067.59	\$ 88,387.92	\$ 2,228,883.89	\$ 2,228,883.89	\$ 2,228,883.89	\$ 2,228,883.89	\$ 2,228,883.89	\$ 2,228,883.89	\$ 2,228,883.89	\$ 2,228,883.89

Total Annual Program Cost: \$2,997,418.89

Total Cost per GPMF assessment (permit application): \$491.38

Notes:
The labor hours in Column B represent the total hours by classification spent on plan update/maintenance efforts for all FY 2011. Per FM's direction, DSD's FY11 load and overhead rates are applied to the FY11 activity entered on this tab using FY11 average position costs to calculate and estimate possible FY13 program costs. There was also \$788K in General Fund NPE for plan update/maintenance activity in FY11 for total program costs of nearly \$3.2M. Due to the possible variations in actual fiscal year activity and expenditures, the proposed fee rate and FY13 revenue are based on a historical average of actual program expenditures for FY 2009-2011. Program expenditures for FY12 and beyond are anticipated to increase due to the application of the new (greater) DSD load and overhead rates. The GPMF helps to offset the programmatic costs of plan updates and maintenance activity. It is not intended to recoup the labor cost of a fee assessment transaction. Therefore, the labor time entered in column C is based on annual program activity tracked. While not truly indicative of "service occurrence cost", the Total Annual Program Cost could be divided by roughly the number of permit applications (6,100) assessed the GPMF in FY11 to fit FM's User Fee Summary format.

NPE Costs	TYPE OF EXPENSE	COST
Contractual services		\$ 768,535.00
	Total:	\$ 768,535.00

User Fee Departmental Cost Recovery Calculations

Department: DSD-City PlanninDept No: 161115 Fee Title: Mills Act Enforcement Fee Load Rate: 21.0%
 Preparer/Contact: Marco Gam Date: 9/29/11 Fee Legal Authority: CA GC §50280-50290; R-30 Overhead Rate: 127.0%
 Fee Description: Fee imposed on an as-needed basis should terms of an existing Mills Act Agreement require enforcement.

PE Costs	A	B	C			D			E			F			G			H			I			J		
			LABOR HOURS PER SERVICE OCCURRENCE	LABOR COST (HOURLY RATE X HOURS)	ESTIMATE D HOURLY FRINGE	FRINGE COST (EST HOURLY FRINGE X HOURS)	DIRECT COSTS (LABOR COST + FRINGE)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)		
JOB CLASS and CLASS CODE	HOURLY SALARY RATE	LABOR HOURS PER SERVICE OCCURRENCE	LABOR COST (HOURLY RATE X HOURS)	ESTIMATE D HOURLY FRINGE	FRINGE COST (EST HOURLY FRINGE X HOURS)	DIRECT COSTS (LABOR COST + FRINGE)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)	LABOR LOAD (LABOR COST X LOAD RATE)	DEPT CITY OVERHEAD (LABOR COST X DEPT CITY OVERHEAD)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)		
Senior Planner - 1872	\$ 36.45	5.80	\$ 211.41	\$ 24.18	\$ 140.24	\$ 351.65	\$ 44.40	\$ 324.87	\$ 750.37	\$ 44.40	\$ 324.87	\$ 750.37	\$ 44.40	\$ 324.87	\$ 750.37	\$ 44.40	\$ 324.87	\$ 750.37	\$ 44.40	\$ 324.87	\$ 750.37	\$ 44.40	\$ 324.87	\$ 750.37		

Notes:

While this fee has been effective since FY09, no actual service expenditures have been incurred and no fee revenue has been generated for this purpose. It was adopted in the event enforcement activity becomes necessary in certain cases. This tab reflects the revised fee calculation per service. This fee update is based on staff hours from the last 2.75 years of actual time spent on related tasks by Historical Resources staff. The initial fee was based on an estimate of hours that would be required and appear to have been higher than the actual number of hours now expected on these tasks. Additionally, we anticipated hours for staff positions that ultimately are not anticipated to participate in the task, and those hours have been removed from the new estimate. The revised Mills Act Enforcement Fee is \$815.53 per service proposed for FY13 as calculated using FY12 average salary and fringe rates provided by FM, and DSD FY11 load and overhead rates. No "Projected Annual Revenue" is anticipated as proactive efforts continue to avoid the need for enforcement activity.

User Fee Departmental Cost Recovery Calculations

Department: DSD-City Plannin Dept No: 161115 Fee Title: Mills Act Monitoring Fee Load Rate: 21.0%
 Preparer/Contact: Marco Cam Date: 9/29/11 Fee Legal Authority: CA GC §50280-50290; R-30 Overhead Rate: 127.0%
 Fee Description: Mills Act Monitoring Fee to be paid upon submittal of a signed and notarized Mills Act Program Agreement.

JOB CLASS and CLASS CODE	A		B			C		D		E		F		G			H		I		J	
	HOURLY SALARY RATE	LABOR HOURS PER SERVICE OCCURRENCE	LABOR COST (HOURLY RATE X HOURS)	ESTIMATE D-HOURLY FRINGE	FRINGE COST (EST HOURS X FRINGE)	DIRECT COSTS (LABOR COST + FRINGE)	LABOR LOAD (LABOR COST X LOAD RATE)	IDENTITY OVERHEAD (LABOR COST X IDENTITY OVERHEAD)	LABOR LOAD (LABOR COST X LOAD RATE)	IDENTITY OVERHEAD ((C+G) x 0.1%)	FRINGE LOAD (FRINGE X LOAD RATE)	IDENTITY OVERHEAD ((C+G) x 0.1%)	FRINGE LOAD (FRINGE X LOAD RATE)	LABOR LOAD (LABOR COST X LOAD RATE)	IDENTITY OVERHEAD ((C+G) x 0.1%)	FRINGE LOAD (FRINGE X LOAD RATE)	IDENTITY OVERHEAD ((C+G) x 0.1%)	LABOR LOAD (LABOR COST X LOAD RATE)	IDENTITY OVERHEAD ((C+G) x 0.1%)	FRINGE LOAD (FRINGE X LOAD RATE)	IDENTITY OVERHEAD ((C+G) x 0.1%)	TOTAL COSTS (DIRECT COSTS + LABOR LOAD + OVERHEAD + FRINGE LOAD)
Senior Planner - 1872	\$ 36.45	1.80	\$ 65.61	\$ 24.18	\$ 43.52	\$ 109.13	\$ 13.78	\$ 100.82	\$ 100.82	\$ 9.14	\$ 100.82	\$ 9.14	\$ 13.78	\$ 100.82	\$ 9.14	\$ 100.82	\$ 13.78	\$ 9.14	\$ 9.14	\$ 9.14	\$ 9.14	\$ 232.87
																						\$ 232.87

Notes:

FY11 actual personnel expenditures for this service were roughly \$31,544 with CPC's FY11 load and overhead rates. This tab reflects the revised fee calculation per service. This fee update is based on staff hours from the last 2.75 years of actual time spent on these tasks by Historical Resources staff. The initial fees were based on an estimate of hours that would be required and appear to have been higher than the actual number of hours spent on these tasks. Additionally, we anticipated hours for staff positions that ultimately did not participate in the task, those hours have been removed from the new estimate. The revised Mills Act Monitoring Fee is \$253.09 per service proposed for FY13 as calculated using FY12 average salary and fringe rates provided by FM, and DSD FY11 load and overhead rates. The "Projected Annual Revenue" is based on FY11 activity at the revised fee rate.

Exhibit B
Fiscal Year 2013 Proposed User Fee Adjustments
Department Summary

FY 2013 User Fee Analysis - Proposed Fee Adjustments

Department	Fee Title	Unit of Measurement	Current Fee	Current Cost Recovery %	Proposed Fee	Proposed Cost Recovery %
Development Services - City Planning						
	General Plan Maintenance Fee	Per Item	\$ 108.00	22%	\$ 275.00	56%
	Mills Act Application Fee	Per Item	\$ 590.00	129%	\$ 456.00	100%
	Mills Act Enforcement Fee	Per Item	\$ 949.00	126%	\$ 750.00	100%
	Mills Act Monitoring Fee	Per Item	\$ 492.00	211%	\$ 232.00	100%

Development Services - City Planning - Estimated Revenue Variation of Proposed Fee Adjustments: \$ 942,478