



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Debra Figone
City Manager

**SUBJECT: 2009-2010 ADOPTED FEES AND
CHARGES REPORT**

DATE: September 3, 2009

The 2009-2010 Adopted Fees and Charges Report documents the majority of the fees and charges accruing to the City's General Fund and selected fees within other funds. This report does not, however, include a number of fees assessed by the City's enterprise operations (e.g., Airport, Downtown Parking, and Convention Center Facilities), as they are brought to the City Council for consideration in a different form.

The fees approved in this document are assumed in the revenue estimates contained in the 2009-2010 Adopted Operating Budget. Cumulative departmental fees and charges for 2009-2010 are projected to generate revenue of approximately \$70.3 million, of which \$61.8 million would accrue to the General Fund. This overall collection level is approximately \$32.6 million below the 2008-2009 adopted estimate of \$102.8 million. The majority of this large decline from 2008-2009 was the result of the elimination of the Emergency Communication System Support (ECSS) Fee, which was expected to generate \$24.0 million in 2008-2009. As a result of Measure J, approved by the voters in November 2008, the ECSS Fee was replaced with a

Telephone Line Tax. The 2009-2010 projected revenues for the development fee programs (Building, Planning, Public Works, and Fire) are also well below the 2008-2009 Adopted Budget levels to reflect the significant decline in development activity levels. For instance, the revenue estimate for the Planning, Building and Code Enforcement Department is almost \$10 million below the 2008-2009 Adopted Budget level.

For all Council-directed cost recovery fee programs (excluding penalties, fines, and non-cost recovery activities), 2009-2010 adopted fees and charges are projected to recover 96.7% of fee program costs which is slightly above the 2008-2009 budgeted cost recovery level of 96.2%.

The body of this report contains details, by responsible department, of adopted fees and estimated costs for the services for which the fees are assessed. In developing the 2009-2010 fee structure, staff was guided primarily by the City Council's policy direction to strive for 100% cost recovery for most fee-related programs. During the budget

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development process, all fee programs were reviewed to ensure that the amounts being assessed would remain competitive in the market, would not be too prohibitive, and would remain as close as possible to current levels of cost recovery.

Additional City Council direction was also followed, so that where appropriate, fees take into consideration approved exceptions to the City Council's full cost recovery policy, as well as applicable State laws. The departments with an overall cost recovery level below 100% typically administer fee programs that the City Council has previously directed remain at less than cost recovery, generally in order to assure public access to services. Examples include fees for public records and youth recreation programs.

Highlights of the 2009-2010 Adopted Fees and Charges Report include the following:

DEVELOPMENT FEE PROGRAMS

Development activity, including planning permit applications, building permits, plan reviews, and inspection activity, has been deeply impacted by the recession currently gripping the global economy. Evidence of the downturn first appeared in residential construction with a 50% decline in 2007-2008. In 2008-2009, construction valuation declined nearly 25% from the already low levels experienced in 2007-2008. The drop in activity was experienced in each land use category (residential, commercial, and industrial) and construction type (new

construction, alterations). Within this fiscal year, activity was notably lopsided, with three-quarters of total valuations in the first half of the year (July – December 2008). Activity during the January – June 2009 period was at an all-time low. Permit valuation is expected to remain at low levels for the foreseeable future.

The steep decline in 2008-2009 necessitated three of the four development services partners to return to City Council in January and February to right-size their budgets, addressing projected shortfalls in the Building (\$5.6 million), Planning (\$1.9 million), and Fire (\$1.0 million) Fee Programs. In the Public Works Fee Program, a downward adjustment of approximately \$1.3 million to the 2008-2009 revenue estimate was brought forward to City Council in June 2009.

Development activity is expected to remain extremely weak through 2009-2010. Resource adjustments were approved to address this lower activity level. With the exception of the Public Works Development Fee Program, fee increases were not included in the development fee areas.

In preparing resource and fee proposals for 2009-2010, Development Services staff met with the San José Silicon Valley Chamber of Commerce's Development Committee, which has served as an advisory panel to the City's Development Services partners. In addition, staff has provided information and sought feedback from a number of other industry groups representing home builders, office park developers, architects, and the remodel industry.

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DEVELOPMENT FEE PROGRAMS (CONT'D.)

Development Services also received feedback from individual customers and through the third annual scientific Customer Satisfaction Survey.

Planning, Building and Code Enforcement Department (Development Fees) – The Planning, Building and Code Enforcement Department administers a variety of fees and charges related to processing development permit applications and ensuring that construction in San José is safe and conforms to applicable building codes and regulations.

It is estimated that the 2009-2010 adopted Planning, Building and Code Enforcement Department development-related fees and charges program will raise revenues of \$21.0 million, reflecting a cost recovery rate of 100%. This cost recovery level will exceed the 2008-2009 adopted level of approximately 95%. In 2008-2009, a portion of the Building Development Fee Program Reserve was used to balance this fee program, which brought the cost recovery rate from fees below the 100% level. This reserve use strategy was not considered for 2009-2010.

The individual adopted Planning and Building Fee Program actions are described in the following sections of this document and summarized below:

Building Fee Program – The 2009-2010 adopted \$17.0 million Building Fee Program budget package closed the revenue-to-cost gap entirely with expenditure reductions

totaling approximately \$5.0 million to provide a 100% cost recovery program. These reductions included the elimination of 30 positions, a mandatory 10% reduced workweek/furlough for inspection services staff, a reduction to overtime, and process improvements. Partially offsetting these reductions was the provision of one-time funding for the next phase of the development system's database upgrade. In addition, the reinstatement of the Alternate Materials and Methods of Construction Processing Fee was approved.

Planning Fee Program – Although activity in the Planning Program has declined considerably, the budget actions taken by the City Council in January 2009 were sufficient to maintain the \$4.0 million Planning Fee Program at 100% cost recovery for 2009-2010. There are some funding reallocations of existing staff from the General Fund to the Planning Fee Program that were approved in the 2009-2010 Adopted Operating Budget, as well as one-time funding for the next phase of the development system's database upgrade. In addition, a new fee, the Geotechnical Testing Environmental Review Fee, was approved to recover staff costs associated with reviewing geotechnical testing results.

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DEVELOPMENT FEE PROGRAMS (CONT'D.)

Fire Department (Development Fees) – The Fire Department administers fees for the following: fire safety permits and inspections; fire safety plan reviews and inspections for construction projects submitted to the Building Division; fire system permits (sprinklers, fixed extinguishing systems, and fire alarm systems); hazardous materials permits; and charges for fire reports, documents, and photographs.

For 2009-2010, a combination of actions were approved to bring the \$4.9 million Fire Development Fee Program to full cost recovery. These actions included elimination of two positions to align resources with anticipated activity levels and use of the Fire Development Fee Program Reserve (\$729,000), a portion of which will fund one-time technology projects.

Public Works Department – The Public Works Department has two fee programs, the Development Fee Program and Utility Fee Program. The Development Fee Program is responsible for the collection of various fees for private development-related activities, such as planning application review, plan review and inspection of public improvements, review of subdivision maps, grading permits, and revocable encroachment permits. Both these programs are operated on a 100% cost recovery basis.

For 2009-2010, base revenue for the Development Fee Program was projected to be \$3.4 million based on the

extremely low activity level the program is currently experiencing. A base cost of \$5.5 million left the Development Fee Program with a base shortfall of \$2.1 million. To close this gap, a combination of expenditure reductions and fee increases were approved. Adopted fee adjustments will generate a 12.6% increase in revenue, bringing estimated collections to \$3.8 million. In addition, the deletion of 9.47 positions, an overtime reduction of \$12,000, and a \$36,000 non-personal/equipment reduction were approved. These reductions will generate savings of \$1.62 million and close the gap when combined with the adopted revenue increase of \$428,000. This resized program is still expected to meet the current 85% target for achieving cycle time goals.

The Utility Fee Program issues utility excavation permits and encroachment permits to utility companies and other agencies. The Utility Fee Program is anticipated to remain flat at \$1.6 million for 2009-2010. The revenue from steady permitting and maintenance-related construction activities being performed by utility companies and the reduction of 0.16 positions in this program will allow a \$25,000 overtime budget to be established in order to increase flexibility in meeting customer demand. No fee changes were adopted in this program for 2009-2010.

In addition to the two major fee programs, the Public Works Department also collects fees for utility undergrounding, Inter-Agency Encroachment Permits, and Geographic Information Systems (GIS) data extraction services.

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DEVELOPMENT FEE PROGRAMS (CONT'D.)

Transportation Department (Development Fees) – The Transportation Department is responsible for the collection of fees for various development-related activities, such as: General Plan Amendment Model Analysis; Sale of Street Name Signs; Signal Design/Review; and New Subdivision Traffic Control Signs and Pavement Markings. It is in these categories that fee adjustments were approved to maintain full cost recovery in 2009-2010, as discussed in the detail section that follows.

OTHER FEE PROGRAMS

City Clerk – One of the City Clerk’s responsibilities is to make all official City Council records and documents accessible to the public. The Office of the City Clerk also performs special research and notary services, and provides duplications of taped materials on a fee basis. No fee changes were approved for 2009-2010.

Office of Economic Development – The Office of Economic Development (OED) is responsible for the collection of fees related to Office of Cultural Affairs (OCA) activities, including various event and use permit fees. OED is also responsible for administering the City’s Foreign Trade Zone and Subzones including processing applications, boundary modification, and contract negotiations and extensions. In 2009-2010, changes were approved to the Paseo/Plaza Use Permit fees and the Private Property Event Permit fees as a result of a reevaluation of costs to administer these permits. In

addition, the Maximum Gate fee language has been clarified. Two new Paseo/Plaza Use Permit fees were added to replace the existing Paseo/Plaza Use Permit Fee. The new fees include the Short-Term Permit Fee of \$275, that will be assessed for any events not to exceed 28 days including setup and teardown activities, and the Extended Permit Fee of an additional \$275 per each 28 day period (or portion thereof) after the first 28 day period.

Environmental Services Department – The Environmental Services Department (ESD) administers two fee programs as part of the Integrated Waste Management Program: Source Reduction and Recycling Fees (AB939); and Franchise Application Fees. The Landfill AB939 Fee (Source Reduction and Recycling), currently administered by the County, will increase from \$3.55 to \$4.10 per ton of disposed waste. This \$0.55 per ton increase will change the County portion of the fee, and the San José portion of this fee (\$1.50) would remain the same. There are no fee changes for the Commercial Solid Waste Franchise Fees. Two new fees were added for the Silicon Valley Energy Watch Tool Lending Library Program to recover the cost of damaged or lost power-meters rented out to the public through libraries.

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OTHER FEE PROGRAMS (CONT'D.)

Finance Department – The Finance Department is currently responsible for collecting, accounting, and monitoring the license and permit fees for Christmas tree and pumpkin patch lots, circuses, carnivals, and parades, and other miscellaneous fees, along with Integrated Waste Management-related late charges.

One new fee, a collection fee for delinquent accounts, was added for 2009-2010 as well as slight increases to existing fees to maintain roughly 100% cost recovery levels. The new collection fee will be assessed to recover administrative costs associated with accounts 60 to 90 days past due. The new fee will relieve the General Fund of this cost obligation.

Fire Department (Non-Development Fees) – The Fire Department Development fees are included in the Development Fee Programs section as noted above. The Fire Department Non-Development fee category consists of annual fees such as Annual Renewable Permits and Hazardous Materials Installation, Removal, or Alteration Permits. This adopted \$3.7 million program is balanced at 100% cost recovery with no fee increases. Three fees were revised to clarify the base hours to complete inspections included with each fee and establish additional hourly charges when inspections exceed the base hours. To align performance with adopted service level targets, additional resources were approved, funded by a base revenue surplus and additional revenue anticipated from State reimbursements and additional permits and inspections.

General Services Department – The General Services Department is responsible for the collection of various fees for events at City Hall. Event spaces rented for which a fee is charged include the Rotunda, the Plaza, the Council Chambers, and the Committee Meeting Rooms. Also, beginning in April 2008, the General Services Department assumed responsibility for the administration of event services at Mexican Heritage Plaza, which includes accounting for the revenue received for fee-related events and activities at this facility. In addition, the Department collects fees related to animal permit and licenses, animal adoption, and other animal shelter services fees.

There were several approved fee additions for City Hall that include: application fees, cancellation charges, catering fees, a per event package fee for the Rotunda (for both non-profit and government users, and other users), chair and table rental late order fees, a committee room reconfiguration fee, a public address (PA) system late order fee, a podium rental late order fee, a stage rental late order fee, an outdoor catering area fee, a Plaza Saturday event fee, and a per hour charge for Saturday use of the Rotunda (for both non-profit and government users, and other users) fee. An increase to the cleaning/damage deposit fee in the Rotunda and Rotunda Mezzanine was also approved.

There were no fee revisions for Mexican Heritage Plaza for 2009-2010. It is important to note that these fees did not appear in the 2008-2009 Adopted Fees and Charges Report due to the expected temporary nature of the City's operation of this facility. However, due to delays in the community-based business planning process, fees related to

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OTHER FEE PROGRAMS (CONT'D.)

Mexican Heritage Plaza now appear in the General Services Department's fees and charges schedule.

In the area of Animal Care and Services, increases to animal licensing, spay/neuter clinic, permits, and owner surrender fees were approved. In addition, a new fee for inspection services was also included.

Housing Department – The Housing Department administers the Rental Rights and Referrals Program. Inclusionary Fees are also included in this Department and support the production of affordable housing units. These in-lieu fees are paid by developers should they decide to not build inclusionary (affordable) units. In 2008-2009, the Department conducted research pertaining to fees charged by other housing agencies and learned that homebuyer subordination fees and multi-family project ownership fees are charged by other jurisdictions providing comparable services. As a result, two new fees were approved to be added in 2009-2010: the Homebuyer Subordination Fee and Multi-Family Project Owner Transfer Fee.

Library Department – The Library Department levies fines for overdue, lost, and damaged materials, and collects fees for various services such as community room rentals and providing materials through other library systems. Fines for overdue materials were increased by 100% in 2009-2010. Previously, these fees were \$0.25 per day with a maximum of \$10.00 per item, however, an increase to the

fine to \$.50 per day with a maximum of \$20.00 per item was approved. It is anticipated this fee increase will result in an additional \$600,000 in revenue, which is included in the 2009-2010 Adopted Budget. Additional fee changes approved in the Library Department in 2009-2010 include: Damaged Materials, Lost Materials, Pay-for-Print, Replacement Cards, Community Room Rental, Commercial Photography on City Premises, and San José Way Half-Day Consultation (in San José). New fees approved in 2009-2010 for the San José Way Program include a Full-Day Consultation Fee (at client's site) for \$4,000 plus travel expenses and Full-Day Consultation Fee (in San José) for \$2,500. Previously, the Department had only one fee for a full day consultation, regardless of the location. The following fees were eliminated: Miscellaneous Revenue (commissions from microfilm reader/printers and restroom dispensers) as this fee is no longer collected; the San José Way 1.5 Hour Mini-Module Fee, as the Library Department no longer offers this service; and the Wedding/Portrait Photography Fee at branch libraries, as this fee can be collected under the Commercial Photography Fee.

Parks, Recreation and Neighborhood Services Department – The Parks, Recreation and Neighborhood Services Department (PRNS) collects a variety of fees and charges related to sports, sports fields and facilities, recreational lessons and facilities, and admission charges for Happy Hollow Park and Zoo.

OTHER FEE PROGRAMS (CONT'D.)

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The 2009-2010 PRNS Fees and Charges Program represents the first phase of a revamped pricing and revenue strategy for the Department's Fee Program. In the Mayor's March Budget Message for 2009-2010, direction was given to PRNS to find a more financially sustainable revenue model that would enable the Department to continue to provide its wide variety of recreational services. On April 21, 2009, the City Council reviewed and discussed a new Pricing and Revenue Policy. The City Council authorized the City Manager or Designee to establish fees and charges in a manner consistent with the Pricing Policy, which granted authority to set these fees reasonably and in response to market trends and community needs, and directed City Staff to return to the City Council annually for approval of the cost recovery goals as part of the Fees and Charges document. The fee schedule in this Report, therefore, was revised to no longer include a detailed listing of what level each fee will be set at in 2009-2010; instead this information will be provided on the PRNS internet website (<http://www.csj.gov/prns>).

The City Council Policy related to the cost recovery goals of PRNS' fee program was brought forward in Manager's Budget Addendum #12 during the 2009-2010 Adopted Budget process for final City Council approval.

There were a few fee revisions that were approved for the PRNS Department. They include: a fee of \$7 per day for Level 2 after-school programs at elementary school sites; an increase in fees for "high use" sports field rentals; an

increase in fees for parks special use permits (such as community garden sites) and reservation fees for regional parks (such as Guadalupe River Park Arena Green and Lake Cunningham); and increases in fees associated with the aquatics programs (such as lap swim fees, swim lesson rates, recreation swim and pass programs across aquatics programs). Finally, with the approved delay in re-opening the Happy Hollow Park and Zoo and the planned outsourcing of food, beverage and retail services, it is anticipated that revenues collected for this facility will be temporarily down by approximately \$175,000. However, with the improved and increased amenities planned for this Park combined with the new service delivery model for food, beverage and retail services, it is anticipated that this facility will be 100% cost recovery beginning in 2009-2010.

Planning, Building and Code Enforcement Department (Non-Development Fees) – The Code Enforcement Division of the Planning, Building and Code Enforcement Department collects fees for multiple housing permits, solid waste enforcement, neglected/vacant building registration, landfill closure and post closures, auto body repair shop permits, auto dismantler permits, and the abandoned shopping cart program. For 2009-2010, a 4.1% increase for the Solid Waste Enforcement Fee and a 4.2% fee increase for the Multiple Housing Occupancy fee were approved along with several other small fee adjustments. These adjustments will bring the program to 100% cost recovery.

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OTHER FEE PROGRAMS (CONT'D.)

Police Department – In this Department’s Fee Program, fees are collected from the public and from other police agencies for services such as fingerprinting, search and copying of public records, and vehicle impound release. Certain businesses and activities are subject to regulation, and fees are charged to offset the costs for processing permits and licenses that accompany the regulatory process and to partially offset costs for related investigative work.

The majority of Department fees are in the 100% cost recovery category; however, some of the Department’s fees are not at full cost recovery including the Taxicab permit fees; the Towing permit fees; and the fee for Duplicating Public Records. The Police Department reevaluated the amount of time spent on these permits and found that the actual costs of administering these programs are slightly higher than previously estimated. In order to bring these programs to full cost recovery, fee increases would be needed. These fee increases will be phased in over several years. For the Taxicab permit fees and the Towing permit fees, 20% fee increases were approved for 2009-2010.

The Emergency Communication System Support (ECSS) fee was established to recover a majority of the total costs of the City’s emergency dispatch services after adjusting for certain exempt groups such as Lifeline Service customers, pay phones, and certain educational and governmental entities. On November 4, 2008, voters in San José approved Measure J, a tax measure that

eliminated the ECSS fee and replaced it with a new Telephone Line Tax. The ECSS fee was approved to be deleted from the Police Department’s schedule of fees and charges to reflect its elimination and replacement by the Telephone Line Tax.

Several other fees in the Department’s fee program were approved to be adjusted in 2009-2010. Cardroom table fees were approved to be increased to achieve full cost recovery which includes covering the increased costs associated with the team that regulates cardroom. The fee to publish the Police Manual was approved for elimination this year since the book is considered outdated and is no longer published. Also, fees associated with Flower Vendors were approved for deletion, as Flower Vendors will now be subject to the Peddler fees, as approved by the City Council on April 28, 2009. Finally, two new fees were approved, including a new Police Recruit Academy fee and a new Special Events Traffic Enforcement Unit fee. The Police Recruit Academy Fee will be classified as Category II (a fee which may be more than or less than cost recovery), and will recover incremental costs associated with Police Recruits from other local law enforcement agencies that participate in San José Police Department Police Recruit Academies. The approved new Special Events Traffic Enforcement Unit fee will be charged to special event organizers and will recover the cost of sworn personnel in Traffic Enforcement Unit teams used to work large events on regular time that would normally be spent patrolling high traffic areas in other areas of the City.

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OTHER FEE PROGRAMS (CONT'D.)

Transportation Department (Non-Development Fees) –

Adopted fee adjustments were included in this report for several of the Transportation Department non-development-related fees to keep pace with cost increases and/or maintain full cost recovery. Revisions were included to the Banner Installations, Side Sewer Installation, and Taxi Stand Rental categories. A new fee structure for the Sidewalk Repair Program, which consists of four new fees, was approved for 2009-2010. The new fee structure will charge property owners a sidewalk permit fee for sidewalk remove-and-replace repairs to recover a portion of the administrative and inspection costs. In addition, a nominal fee for a sidewalk grind permit will be charged to property owners when the work is completed by a City contractor. As a result of this new fee structure, the existing Sidewalk Repair – Inspection and Contract Administration fee was deleted.

OTHER FEE REVISIONS

As mentioned earlier, a number of revisions to fees in various City programs are included as part of the 2009-2010 Adopted Budget, but are not included in this document. Those fees are brought forward to the City Council in a separate form or in a parallel process. Included in this category, for example, are changes to Airport fees, fees for activity at the Convention Center, changes to charges in City Parking Lots, and revisions to City utility fees (Recycle Plus, Sewer Service and Use Charge, Storm Sewer Use Charge, Recycled Water charges,

and Municipal Water System charges). As described in the Adopted Operating Budget, increases were approved for these major City utility categories. Included are increases for the Recycle Plus Program (2% for single family, 4% for multi-family), Sewer Service and Use Charge (15%), the Storm Sewer Use Charge (30%), and basic water usage rate for Municipal Water Program users (11.5%).

SUMMARY

Approved fees and fee structure revisions are presented in the following summaries and detailed in the departmental sections that form the body of this Report. The revenues that will result from the approved fee adjustments are reflected in the 2009-2010 Adopted Operating Budget.

Notification to the public and interested parties of the proposed fee program changes was provided through various means, including meetings with interested stakeholders, and through distribution of this document to the City Clerk’s Office and to Library branches. Specific notification efforts are described in each of the Departmental Impact Analysis Reports contained in this document.

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The Proposed Fees and Charges Report was released on May 1, 2009, allowing for a minimum of 10 days for public review. Public input on fee proposals was heard by the City Council at public hearings held on Tuesday, May 12, 2009 at 7:00 p.m. and Monday, June 15, 2009 at 7:00 p.m. in the Council Chambers.



Debra Figone
City Manager