



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Rosalynn Hughey
Margaret McCahan

SUBJECT: CITYWIDE PLANNING FEE
AND STAFFING EXPANSION

DATE: May 22, 2018

Approved

Date

5/25/18

RECOMMENDATION

1. Approve amendments to the 2018-2019 Proposed Fees & Charges Report to:
 - a. Increase the General Plan Update Fee (renamed as "Citywide Planning Fee") from current rates of 1.25% and 5.0%, applied to applicable building and planning fees, to 11.97% with a phased approach of implementing 8.0% for Fiscal Year 2018-2019 and 11.97% for Fiscal Year 2019-2020;
 - b. Expand the use of the Citywide Planning Fee for citywide planning; and
 - c. Expand the application of the Citywide Planning Fee to include Building plan check fee categories (Building, Electrical, Mechanical, and Plumbing Plan Check).

2. Approve the following amendments to the 2018-2019 Proposed Operating Budget:
 - a. In the General Fund:
 - i. Increase the Planning, Building and Code Enforcement Department's Personal Services appropriation by \$890,106;
 - ii. Increase the Planning, Building and Code Enforcement Department's Non-Personal/Equipment appropriation by \$386,560;
 - iii. Increase the Essential Services Reserve by \$320,000;
 - iv. Increase the General Plan Update Reserve by \$95,895;
 - v. Increase the Revenue Estimate for Miscellaneous Fees, Rates, and Charges by \$1,692,561.

 - b. Addition of the following positions in the Planning, Building and Code Enforcement Department:

<u>Job Classification</u>	<u>FTE</u>
Planner IV	2.0
Planner III	5.0

BACKGROUND

With the scale of growth anticipated in the City of San José and the significance of transition taking place as plans for major transit investment move forward, increased staffing levels will be required to adequately undertake the critical planning policy work in the Department of Planning, Building and Code Enforcement (PBCE). Stakeholders have expressed that, unless changes were made to the structure, support, and staffing of PBCE, the City would not make sufficient process implementing the General Plan.

On February 13, 2018, the City Council approved the reestablishment of a Deputy Director to oversee the Citywide Planning program and a new Assistant to the Director position to support the Citywide Planning program and department management efforts in PBCE. At the City Council hearing, the exploration of the General Plan Update Fee was discussed as the next step to stabilize and grow the Citywide Planning function. An increase in the fee would add new positions that would be responsible for the broad range of planning policy work, including:

- General Plan (e.g., review, update, monitoring, integration)
- Area Plans and Area Development Policies (e.g. North San Jose, Diridon Station Area, Urban Village Plans)
- Policy/Ordinance Updates (e.g., Council policy priorities, such as housing and sign related ordinance revisions)
- Urban Design (e.g., updating citywide design guidelines)
- Historic Preservation
- GIS/Data Analytic Information
- Development Finance Policy (e.g., comprehensive fee/tax analysis)

This spring, City staff engaged Management Partners to analyze proposed changes to the City's current General Plan Update Fee. Management Partners ("the Consultant") was also the lead consultant on the *Development Services Cost Recovery Analysis, Process Improvements, Calculation of Unearned Revenues, and Refund Processing Report* conducted in 2016. However, that Report did not include an analysis of the General Plan Update Fee since it was focused on fees associated with permit processing, development review and inspections (and not Citywide planning policy work).

The Consultant's analysis of the General Plan Update Fee is included in the *Citywide Planning Fee Report* dated April 30, 2018, attached to this memorandum. It includes:

- A comparison of other California cities to document the level and use of General Plan Update Fees and related policies
- An analysis of the history, trend and use of the current General Plan Update Fee
- Documentation of policy setting/requirements for a General Plan Update Fee as found in State law (GC 66014, AB 2936, Prop 26, and others)
- An analysis of how developers, property owners, and fee payers derive a benefit from a maintained and updated Citywide Planning program

- An analysis of the proposed “Citywide Planning Fee” including documenting the nexus findings around the recommended fee, the maximum cost recovery achievable from the Citywide Planning Fee, and the percentage necessary for full cost recovery of staff needed to conduct Citywide planning policy work.

ANALYSIS

General Plan Update Fee Background

In 2004-2005, the City adopted a General Plan Update fee of 1.25% on planning entitlement permits, except environmental review, and a 1.25% fee on certain building permits. The initial 1.25% fee was intended to recover consultant costs associated with General Plan updates and to the extent possible, staff costs associated with these efforts paid for by the General Fund. In 2014-2015, the 1.25% fee was increased to 5% for General Plan amendments, zoning applications, tentative maps, development agreements, and for building permits with more than 10 residential units. There have been no increases in the fee since 2014-2015, and since this time, the City’s backlog of important Citywide policy work has grown very substantial.

Peer Comparison Analysis

The Consultant researched the fees used to support citywide planning programs and General Plan updates in eleven cities in California. Of the eleven cities selected, the Consultant was able to collect data from ten cities (all but San Francisco). An overview of each city’s fee structure is provided in Attachment A to the Report. San José is the only City in the peer review that has two different percentages, depending on the permit or application type (1.25% and 5.0%). San José structures its current General Plan Update Fee as a percent of planning and building application permit fees. Five peer cities researched use a similar fee structure, and San José’s percentage is the lowest; the Cities of Fremont, Morgan Hill and Santa Clara percentage is 15%; the City of Milpitas percentage is 5%; and Los Angeles’ percentage is 7% for any planning permit, plan check, license or application fee. The other five cities structure their fee as a percentage of building valuation.

The Nexus: Citywide Planning Work Program

State law (California Government Code 65300) requires all local jurisdictions in California to have a General Plan. A General Plan must be “... an integrated, internally consistent and compatible statement of policies for the adopting agencies” (GC 65300.5). State law provides specific guidelines about what must be addressed for many of these elements. If a court determines that a jurisdiction does not have an adequate General Plan, the court may choose to suspend the ability of that jurisdiction to issue building permits (GC 65755). Since building permits are required for new development as well as for remodels of existing homes and even replacing a water heater, having an adequate General Plan is a fundamental requirement for any jurisdiction.

Not only must jurisdictions have an adequate General Plan, they must annually report to the Governor's Office of Planning and Research progress toward implementing the General Plan. In the past few years, the requirements related to reporting on and meeting housing needs (as required by the Housing Element) have significantly increased, and failure to make progress on implementing the policies in the Housing Element can lead to significant penalties in addition to loss of land use authority.

The Consultant's review of other California cities that have imposed General Plan or citywide planning fees indicate they have relied primarily on California Government Code Section 66014, which states that a local agency may charge for planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 as long as they do not exceed the reasonable costs to the local government of providing the service for which the fee is charged. California Government Code Section 66014 (b) states:

The fees charged pursuant to subdivision (a) may include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations.

California Government Code Section 65103 states:

Each Planning agency shall perform all of the following functions:

- (a) Prepare, periodically review, and revise, as necessary, the General Plan.*
- (b) Implement the General Plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.*

In reviewing the work program for Citywide Planning, the Consultant distinguished between two general categories of benefit resulting from the maintenance of a comprehensive and sustainable General Plan:

1. *Existing community* – The existing residential and commercial communities accrue general benefit from an ongoing, sustainable long-range planning program in San José. The citywide planning program provides economic opportunity for the entire community and ensures a sustainable and livable environment for all who live and work in San José.
2. *New development and construction* – The City's citywide planning program creates the foundational policy framework and structure upon which new development and construction can occur. By maintaining an updated General Plan, zoning ordinance and other critical citywide planning plans and policies, the City is ensuring that development and new construction can proceed in accordance with City policy and community goals.

Given these two categories, the costs of providing an ongoing, sustainable citywide planning program should be borne by the existing community *and* those who want to develop or construct in the community. The existing community's contribution to the citywide planning program would typically be provided through the City's General Fund and alternative revenue sources outside the regulatory process. A Citywide Planning fee on new construction is proposed to be

levied to capture the *proportional costs* of providing this benefit or service to those who wish to develop or construct in the community.

Because the vast majority of the costs of preparing, updating, and maintaining the General Plan, modifying the Zoning Ordinance, and implementing and applying associated policies are about accommodating new development, the Consultant estimated that a high percentage of proportionate benefit accrues to those who wish to develop and construct in the community. For purposes of apportioning that benefit, the Consultant affirms that the City's 2004 assessment, which assigned 70% of benefit to new development and 30% to the existing community, remains appropriate.

Citywide Planning Fee

The Citywide Planning Fee was calculated by dividing total costs for the Citywide Planning Program *that can be attributed to new development* for the next ten years by total revenue to be collected from development review fees *deemed appropriate* over the next ten years. The basic formula is provided below.

$$\frac{\text{Total costs that can be attributed to new development for the next ten years}}{\text{Total revenue to be collected from appropriate development review fees over the next ten years}}$$

Total costs were identified by 1) calculating the Citywide Planning costs eligible for cost recovery and 2) identifying the costs that can be attributed to development. The assumptions are detailed in the Consultant's Report and cover costs for personnel (staff and management), non-personnel, contract, and Citywide overhead. The table below from the Report summarizes average annual cost by major cost category over a 10-year period.

Cost Category	Costs Eligible for Cost Recovery		Other Costs (Not Eligible for Cost Recovery)
	Can be attributed to new development (70%)	Must be attributed to other sources (30%)	
	Recoverable through Fee	Not recoverable	Not recoverable
Personnel	\$1,886,431	\$808,470	\$626,812
Division management	\$339,687	\$145,580	\$113,130
Contracts	\$638,977	\$273,847	\$152,694
Citywide overhead	\$423,360	\$181,441	\$140,997
Non-personnel	\$16,257	\$6,967	\$5,188
TOTALS	\$3,304,712	\$1,416,305	\$1,038,821

Based on the cost analysis, the proposed Citywide Planning Fee is designed to recover a total of \$33.0 million over the next 10 years.

Total revenues for the model were estimated to be collected from *appropriate* development review fees over the next 10 years. This was accomplished by 1) selecting appropriate development review fee categories, and 2) estimating planning and building revenue for those same development review fees. The objective was to capture those current planning entitlements and building permits that would not be possible without sustaining a citywide planning program. This meant continuing the current practice of applying the proposed fee to almost all planning fees with the exception of environmental review, reasonable accommodations, and appeals/protests. In the case of Building fees, the eight categories selected cover the inspection and plan check fees, while excluding extra plan check and inspection fees, record retention, addressing and permit issuance. The table below outlines both the Planning and Building fee categories to which the current General Plan Update Fee is assessed (Current column) and the categories to which the Citywide Planning Fee is proposed to be assessed (Proposed column). The impact of the current General Plan Update Fee on the total cost of a given development project is currently a quarter to a half of one percent. With the Citywide Planning Fee set at 8%, that changes to half a percent to three quarters of a percent. At 11.97%, the impact on the total cost ranges from three quarters to one and a quarter percent.

Fee Categories		
Fee Category	Current	Proposed
Planning Fees		
General Plan Amendments	Yes	Yes
Zonings	Yes	Yes
Subdivision Map Act Related Applications	Yes	Yes
New Development/Construction	Yes	Yes
Other Permits and Actions	Yes	Yes
Single-Family House Permits	Yes	Yes
Permit Center	Yes	Yes
Building Fees		
Building Inspection	Yes	Yes
Electrical Inspection	Yes	Yes
Mechanical Inspection	Yes	Yes
Plumbing Inspection	Yes	Yes
Building Plan Check	No	Yes
Electrical Plan Check	No	Yes
Mechanical Plan Check	No	Yes
Plumbing Plan Check	No	Yes

The forecasted average annual revenue for the selected Planning and Building fees is shown in the table below. A proposed Citywide Planning Fee percentage of 11.97% applied to the forecasted revenue is projected to generate the \$3.3 million dollars needed annually to pay for the costs attributable to the model.

Division	Forecasted Average Annual Revenue for all Selected Fees	Proposed Citywide Planning Fee	Estimated Annual Revenue from Citywide Planning Fee
Planning	\$4,068,816	11.97%	\$487,042
Building	\$23,539,203	11.97%	\$2,817,670
		TOTAL	\$3,304,712

Proposed Staffing Strategy

The Citywide Planning team is currently comprised of 12.0 planner positions: 9.0 permanent (1.0 Deputy Director, 1.0 Division Manager, 1.0 Principal Planner, 3.0 Planner IVs and 3.0 Planner IIIs) and 3.0 limit-dated (1.0 Principal Planner-Historic Preservation Officer, 1.0 Planner IV-Urban Designer, 1.0 Planner III-Urban Village). Two additional planner positions (1.0 Planner IV and 1.0 Planner III) for housing in priority areas are recommended in the 2018-2019 Proposed Budget. This staffing level is considered insufficient to address the backlog of policy work as identified in Attachment B. To begin to chip away at the backlog and create a more cohesive team to meet the needs of Council, stakeholder organizations, and development community, it will be necessary to increase the Citywide Planning team to more appropriate levels. This strategy includes funding a combination of 7.0 new permanent planner positions and continue permanent funding of the 3.0 limit-dated for a total of 10.0 positions and required non-personal costs via the Citywide Planning Fee increase.

Ideally, the Citywide Planning Fee will fully fund the additional 10.0 positions as well as 2.3 existing positions that are currently funded by the General Fund. To achieve the desired staffing level, a two-year phased approach is recommended to ensure appropriate fees are being collected through the Citywide Planning Fee to fund 100% of the projected personal and non-personal costs. The table below outlines the proposed phased approach:

Fiscal Year	FTE Requested	Total FTE	Projected Cost	Proposed Fee %	Projected Revenue
2018-2019	6.5	6.5	\$ 1,932,561	8.00%	\$ 1,932,561*
2019-2020	5.8	12.3	\$ 3,304,712	11.97%	\$ 3,304,712

**Proposed fee increase would be effective mid-August of FY 2018-19. Ongoing revenue is projected in FY 2019-20*

For 2018-2019, 6.5 positions have been identified as the most critical to be the first group to be funded by the increase in the Citywide Planning Fee, effective August 2018. Of these positions, 6.0 are new positions recommended to be added to the 2018-2019 Operating Budget, including 1.0 Planner IV-Citywide/Housing and 5.0 Planner III positions (1.0 Area-North & West San Jose, 1.0 Data Analytics/GIS, 2.0 Policy and Ordinance, and 1.0 Sustainability). The remaining 0.5 position is a portion of the existing Deputy Director-Citywide Planning currently budgeted in the General Fund. When this position was approved on February 13, 2018, it was expected that on an ongoing basis the position would be funded by the new Citywide Planning Fee that was being explored at the time. In 2019-2020, the shift of the remaining 0.5 of this position to the Citywide Planning Fee is recommended.

FY 2018-19 Proposed Staffing and Non-Personal Changes

Personal Services				
Type	Classification	Working Title	Proposed FTE	18-19 Costs
Existing	Deputy Director U	Deputy Director-Citywide Planning	0.5	\$ 120,000*
New	Planner IV	Citywide/Housing Planner	1.0	\$ 168,236
New	Planner III	Area Planner - North & West San Jose	1.0	\$ 144,374
New	Planner III	Data Analytics/GIS Planner	1.0	\$ 144,374
New	Planner III	Policy and Ordinance Planner	2.0	\$ 288,748
New	Planner III	Sustainability	1.0	\$ 144,374
Personal Services Subtotal			6.5	\$1,010,106
Non-Personal				
Program	Description		18-19 Costs	
Citywide Planning	Supplies & Materials, Technology, Training		\$ 16,560	
City-Initiated GP Amend	Professional & Consultant Services		\$ 20,000	
General Plan Policy/Maintenance	Professional & Consultant Services		\$ 150,000	
Historic Preservation	Professional & Consultant Services		\$ 100,000	
Other Citywide Policy	Professional & Consultant Services		\$ 20,000	
Urban Design	Professional & Consultant Services		\$ 20,000	
Zoning Ordinance	Professional & Consultant Services		\$ 60,000	
Non-Personal Subtotal			\$ 386,560	
Overhead			\$ 200,000	
General Plan Update Reserve			\$ 335,895**	
			TOTAL:	\$ 1,932,561

*Position is included in the 2018-2019 Proposed Budget, and is not part of the recommended budget actions in this memorandum to implement the Citywide Planning Fee.

**Amount collected varies annually and will fund the next General Plan Update, anticipated to begin in 2023-2024. Funds are retained in General Plan Update Reserve – Appropriation 8427

The addition 1.0 Planner IV-Station Area is also recommended to be made permanent effective July 1, 2018. Funding for a Planner IV position was approved by City Council on February 13, 2018, to support planning and development in the Diridon Station Area. The Diridon Station Area Development Planning appropriation was created for \$415,000, of which \$165,000 was allocated to PBCE to fund a Planner IV position. A temporary overstrength position was created through June 30, 2018.

A permanent position, effective July 1, 2018, will be fully funded in 2018-2019 by the Diridon Station Area Development Planning appropriation, including a \$140,000 contribution from Google. Beginning FY 2019-20, this position will be funded through the Citywide Planning Fee and is anticipated to work also on other planning and land use issues related to other BART stations.

Type	Classification	Working Title	Proposed FTE	TOTAL PLANNING FEES* 2018-2019
New	Planner IV	Station Area Planner	1.0	\$ 0

*Position cost of \$168,236 is grant funded in 2018-2019.

In phase two of the model, 1.8 existing positions currently funded by the General Fund (remaining 0.5 Deputy Director-Citywide Planning, 0.3 Planner IV-General Plan/Data Analytics and 1.0 Planner II-General Plan) and 1.0 position funded by the Diridon Station Area Development Planning appropriation (1.0 Planner IV-Station Area) will shift to the Citywide Planning Fee in 2019-2020. In addition, 3.0 limit-dated positions (1.0 Principal Planner-Historic Preservation Officer, 1.0 Planner IV-Urban Design, and 1.0 Planner III-Urban Village) will be made permanent effective 2019-2020 as they are grant funded in 2018-2019. By 2019-2020, with the fees collected through the Citywide Planning Fee, the desired Citywide Planning team expansion will be achieved. The table below outlines the proposed positions to be funded in 2019-2020. Attachment C identifies the proposed organizational structure chart.

2019-2020 Proposed Staffing and Non-Personal Changes

Personal Services				
Type	Classification	Working Title	Proposed FTE	19-20 Costs
Existing	Deputy Director U	Deputy Director-Citywide Planning	0.5	\$ 124,159
Existing	Planner IV	Station Area Planner (grant funded in 2018-2019)	1.0	\$ 172,773
Existing	Planner IV	General Plan/Data Analytics Supervising Planner	0.3	\$ 79,082
Existing	Planner II	General Plan/Data Analytics Planner	1.0	\$ 98,713
Continue	Principal Planner*	Historic Preservation Officer	1.0	\$ 190,433
Continue	Planner IV*	Urban Design/Supervising Planner	1.0	\$ 131,060
Continue	Planner III*	Urban Village Planner	1.0	\$ 148,041
Continuation of Personal Services Costs added in 2018-2019			6.5	\$ 1,011,397
Personal Services Subtotal			12.3	\$ 1,955,658
Non-Personal				
Program	Description		19-20 Costs	
Citywide Planning	Supplies & Materials, Technology, Training		\$ 7,308	
Continuation of Non-Personal Costs added in 2018-2019			\$ 378,526	
Non-Personal Subtotal			\$ 385,834	
Overhead			\$ 427,649	
General Plan Update Reserve**			\$ 535,571**	
TOTAL:			\$ 3,304,712	

*These positions are currently limit-dated. With the revenue generated through the Citywide Planning Fee, these positions will be proposed to be made permanent through the 2019-2020 annual budget process.

**Amount collected varies annually and will fund the next General Plan Update, anticipated to begin in 2023-2024. Funds are retained in General Plan Update Reserve – Appropriation 8427.

CONCLUSION

The Consultant's Report concludes that a Citywide Planning Fee of 11.97% is attributable to new development. Staff is recommending a two-phase approach for implementation of the increased fee: 1) Citywide Planning Fee starting at 8% for 2018-2019, and 2) an additional increase to 11.97% in 2019-2020.

The 2018-2019 Proposed Budget includes \$240,000 in anticipated revenue from the existing General Plan Update Fee that is set aside in the General Plan Update Reserve. The recommended fee adjustments will increase the 2018-2019 revenue estimate by \$1,692,561, bringing the revenue estimate to \$1,932,561. The additional revenue of \$1,692,561 is recommended to fund staffing (\$1,010,106), non-personal/equipment (\$386,560), overhead (\$200,000), and the General Plan Update Reserve (\$95,895). Because the 0.5 Deputy Director position, funded by the proposed fee, is included in the 2018-2019 Proposed Budget, the General Fund resources already allocated to this position are recommended to be placed in the Essential Services Reserve (\$120,000). The amount associated with overhead (\$200,000) is also recommended to be placed in the Essential Services Reserve, bringing the amount allocated to the Essential Services Reserve to \$320,000. The funding allocated to the General Plan Update Reserve in 2018-2019 will total \$335,895, including \$240,000 in the 2018-2019 Proposed Budget and an additional \$95,895 recommended in this memorandum.

The recommended budget actions include the addition of 7.0 positions. This includes 6.0 positions funded by the Citywide Planning Fee in 2018-2019 and 1.0 position that will be funded by the Diridon Station project in 2018-2019 and funded by the Citywide Planning Fee in 2019-2020. As discussed above, the existing 0.5 Deputy Director position is also recommended to be funded by the Citywide Planning Fee. The revenue and expense adjustments included in Phase 2 of the implementation will be brought forward as part of the 2019-2020 annual budget process.

The expansion of the Citywide Planning function is an important step in bolstering the Planning Division, given the scale of growth underway in the City and the significance of the transition now taking place. The ultimate goal is to build the kind of stable, professional planning capacity found in peer large cities across the nation, where staff can proactively plan for the future, attract desired development, and support the development community.

Under the leadership of an experienced executive staff-level Planner (Deputy Director – Citywide Planning), the team will focus on accomplishing the following citywide planning priorities:

- **Substantial progress and/or completion on Council Policy/Ordinance Priorities (Council Prioritization Process)**-Citywide Planning staff are responsible for two-thirds of the items on the current Council Priority list, including electronic billboards, North San José Policy Review, Safe Parking Program, and efforts to align zoning with the General Plan.

- **Housing Crisis Action Plan**-Development of a workplan and substantial progress addressing the “15 Point” Housing Crisis Action Plan, which includes 30 specific action items, two-thirds of which require a Citywide Planning staff lead.
- **Current Policy Completion Priorities**-All of the current policy priorities to be completed require significant Land Use Planner expertise: LOS-to VMT shift, North San José Plan Modifications, Downtown EIR, Urban Village Amenities Financing Plan (including Cost of Development Study Session).
- **Department-Led City Planning Efforts**-Implementation of the General Plan, including participation and tracking of other Departmental efforts, such as Environmental Services’ Climate Smart San Jose, Parks, Recreation, and Neighborhood Services’ GreenPrint strategy, and Public Works’ Green Infrastructure Plan.
- **Urban Village Planning**-Completion of three urban village plans currently in progress; and initiation of urban village plans in Horizon I and/or located near transit.

The table below summarizes the plan for the new positions that will be funded by the change in the Citywide Planning Fee.

Citywide Planning Fee Proposed Staffing Plan

Fiscal Year	Proposed FTE	Proposed Classification	Type
2018-2019	6.5		
	0.5	Deputy Director-Citywide Planning	Existing
	1.0	Planner IV-Citywide/Housing	New
	1.0	Planner III-Data Analytics/General Plan	New
	1.0	Planner III-Area Planner (North & West San Jose)	New
	2.0	Planner III-Policy and Ordinance	New
	1.0	Planner III-Sustainability	New
2019-2020	5.8		
	0.5	Deputy Director-Citywide Planning	Existing
	1.0	Planner IV-Station Area	*Existing
	0.3	Planner IV-General Plan	Existing
	1.0	Planner II-General Plan/Data Analytics	Existing
	1.0	Principal Planner-Historic Preservation Officer	**Continue
	1.0	Planner IV-Urban Design	**Continue
	1.0	Planner III-Urban Village	**Continue
GRAND TOTAL	12.3		

**This position is grant funded in 2018-2019.*

***These positions are currently limit-dated. With the revenue generated through the Citywide Planning Fee, these positions will be proposed to be made permanent through the 2019-2020 annual budget process.*

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COORDINATION

This memorandum has been coordinated with the City Attorney's Office.



Margaret McCahan
Budget Director

/s/
Rosalynn Hughey
Director
Planning, Building and Code Enforcement

For questions, please contact Rosalynn Hughey at (408) 535-7911.

Attachments:

- A: Citywide Planning Fee Report
- B: Backlog of City Planning Policy Work
- C: Proposed Organizational Structure

Management Partners



To: Ms. Rosalynn Hughey, Director
Mr. Steven McHarris, Planning Official
Department of Planning, Building and Code Enforcement
City of San José

From: Lynn Dantzker, Partner
Brittany Gabel, Senior Management Advisor

Subject: Proposed Citywide Planning Fee

Date: April 30, 2018

Executive Summary

The City of San José (City) conducted a comprehensive development service fee study in 2016 which resulted in changes and updates to its current planning and building permit fees and charges. The goal of the 2016 comprehensive fee study was to update the City's development regulatory fee structure and seek cost recovery to the extent possible for the services provided by the City's planning and building staff. The 2016 fee study, however, focused exclusively on fees associated with permit processing, development review, and inspections. It did not include a review of the City's General Plan Update fee, currently structured to recover costs for the maintenance and update of the City's General Plan. This report explores how the City might alter the structure of its current General Plan Update fee to recover the costs associated with citywide planning work.

In May of 2004, the City adopted a General Plan Update fee of 1.25% on planning entitlement permits, except environmental review, and a 1.25% fee on certain building permits. Beginning in FY 2014-15, the 1.25% fee was increased to 5% for General Plan amendments, zoning applications, tentative maps, development agreements, and for building permits with more than 10 residential units. The initial 1.25% fee was intended to recover consultant costs associated with General Plan updates and to the extent possible, staff costs associated with these efforts paid for by the General Fund. The current planning and building fee schedules list the following applicable fees:

Planning. A 1.25% or 5% fee is applied on various planning application permit fees (68 individual fee items) marked with GP (General Plan).

Building. A 1.25% fee is applied on certain building application permit fees such as fees paid to perform building, mechanical, plumbing and electrical inspections, and a 5% fee on new residential projects with more than 10 units.

As a result of intense, active development activity over the last five years, planning and building staff, as well as the development applicants and the community, have well understood the importance of maintaining an updated General Plan, associated elements, plans and policies. The City's Planning, Building and Code Enforcement Department's citywide planning program is challenged with accomplishing the work required to maintain an updated General Plan, zoning code, and other citywide plans and policies to allow development and new construction to occur consistent with the City's development policy and community objectives. Finding the financial resources to sustain staffing levels necessary to support the work has been a significant challenge.

Management Partners was asked to review the current annual revenue (General Fund, General Plan Update fee, and other funding sources) to determine whether it is sufficient to provide the annual funding necessary to meet the City's citywide planning program (contract and staff costs). We were also asked to further advise City staff about the appropriate annual costs attributable to new development and any adjustment to the current General Plan Update fee that would be required to recover new development's share of the annual citywide planning costs.

In consultation with planning and building staff, and the city attorney's office, Management Partners developed a cost and revenue model (described below) that concluded the City would need to apply a 11.97% fee on designated planning entitlements and building permits to recover citywide planning costs attributable to new development. This memorandum describes the assumptions and fee methodology underlying the results of our analysis and the data and information in support of the 11.97% fee on designated planning entitlements and building permits.

Peer Information

Management Partners researched the fees used to support citywide planning programs and General Plan updates in eleven cities in California. Some cities were selected due to their large size and others for their geographic proximity to San José. Of the eleven cities selected, we were able to collect fee information from ten (all but San Francisco). An overview of each city's fee structure is provided in Table 1. A more detailed overview of each fee is provided in Attachment A.



Table 1. Fee Structure Overview for Peers Researched

Peers	County	Population	Fee Structure Overview
San José	Santa Clara	1,046,079	<ul style="list-style-type: none"> • Planning Fee - Percent of application permit fee • Building Permit Fee - Percent of application permit fee
Los Angeles	Los Angeles	4,014,707	<ul style="list-style-type: none"> • Any City Planning Permit, Plan Check, License or Application Fee - Percent of fee
San Diego	San Diego	1,406,318	<ul style="list-style-type: none"> • Flat fee per building permit
San Francisco	San Francisco	874,228	Information not available
Sacramento	Sacramento	493,025	<ul style="list-style-type: none"> • Building Permit - Percent of valuation
Oakland	Alameda	426,074	<ul style="list-style-type: none"> • Building Permit - Percent of construction valuation • Private Plan/Public Improvement Permit – Percent of valuation • Public/Private Improvement Permits - Percent of plan review
Fremont	Alameda	231,664	<ul style="list-style-type: none"> • Building Permit - Percent of building permit fee
Sunnyvale	Santa Clara	149,831	<ul style="list-style-type: none"> • Building Permit - Percent of total valuation
Santa Clara	Santa Clara	123,983	<ul style="list-style-type: none"> • Planning and Building Application - Percent of application fee
Mountain View	Santa Clara	79,278	<ul style="list-style-type: none"> • Building Permit - Percent of building valuation
Milpitas	Santa Clara	75,410	<ul style="list-style-type: none"> • Building Permit - Percent of total permit fee
Morgan Hill	Santa Clara	44,145	<ul style="list-style-type: none"> • Planning, Building and Public Works Permit Fee - Percent of fee

Source: City staff and publicly available fee schedules (when available and complete).

The peer fee comparison helps provide context for San José’s current fee structure. San José is the only City in the peer review that has two different percentages, depending on the permit or application type (1.25% and 5.0%). San José structures its current General Plan Update fee as a percent of planning and building application permit fees. A total of five peer cities researched use a similar fee structure, while the other half structures their fee as a percent of building valuation.

Table 2 shows the five peers that structure their long-range planning fee as a percent of application or permit fees. Fremont, Santa Clara and Morgan Hill have set their fee at 15% of building, planning, engineering or public works permit fees, or a combination. The table also lists the variety of names used to describe this fee when it is structured as a percent of application or permit fees.



Table 2. Peer Comparison for General Plan Fees Structured as Percent of Application/Permit Fee

Peers	Fee Name	Development Review Permit upon which the Fee Is Charged	Fee
San José	General Plan Update Fee	Planning and Building Application Permit Fee	1.25% or 5%, depending on application/permit type
Los Angeles	General Plan Maintenance Surcharge	Any City Planning Permit, Plan Check, License or Application Fee	7% of the fee or \$1, except that any other surcharge shall be excluded from the computation of this surcharge
Fremont	Community Planning Fee	Building Permit	15%
Santa Clara	General Plan/Advance Planning Surcharge	Planning and Building Application Fees	15%
Milpitas	Community Planning Fee	Building Permit Fee	5%
Morgan Hill	Long-Range Planning Fee	Building, Public Works, Engineering and Planning Permit	15%

Source: City staff and publicly available fee schedules (when available and complete).

The Nexus: Citywide Planning Work Program

State law (Government Code 65300) requires all local jurisdictions in California to have a General Plan. A General Plan must be "... an integrated, internally consistent and compatible statement of policies for the adopting agencies" (GC 65300.5). A General Plan typically must include, at a minimum, seven required elements: land use, circulation, housing, open space, safety, noise, and conservation although charter cities such as San José have some flexibility with the required elements.

State law provides specific guidelines about what must be addressed for many of these elements. If a court determines that a jurisdiction does not have an adequate General Plan, the court may choose to suspend the ability of that jurisdiction to issue building permits (GC 65755). Since building permits are required for new development as well as for remodels of existing homes and even replacing a water heater, having an adequate General Plan is a fundamental requirement for any jurisdiction.

Not only must jurisdictions have an adequate General Plan, they must annually report to the Governor’s Office of Planning and Research progress toward implementing the General Plan. In the past few years, the requirements related to reporting on and meeting housing needs (as required by the Housing Element) have significantly increased, and failure to make progress on implementing the policies in the Housing Element can lead to significant penalties in addition to loss of land use authority.

A jurisdiction’s zoning ordinance is the regulatory tool that implements the General Plan. All new development must generally be in conformance with the adopted zoning ordinance.



Development cannot be effectively regulated, or the General Plan implemented, without the controls provided by the zoning ordinance. Additionally, cities also use a range of area-wide or specific plan policies as regulatory documents to guide new development or construction.

The City of San José completed a comprehensive update to its General Plan in 2011, and adopted its Housing Element in 2015, subsequently certified by the California Department of Housing and Community Development as meeting the requirements of state law. The City's zoning ordinance was last comprehensively updated in 2000 and has been periodically amended since that time. However, many of the City's development and area-wide policies, for example those regulating late night uses and urban design, are old and need to be updated.

Legal Authority

Our review of other California cities that have imposed General Plan or citywide planning fees indicate they have relied primarily on California Government Code Section 66014, which states that a local agency may charge for planning services under the authority of Chapter 3 (commencing with Section 65100) of Division 1 of Title 7 as long as they do not exceed the reasonable costs to the local government of providing the service for which the fee is charged. California Government Code Section 66014 (b) states

The fees charged pursuant to subdivision (a) may include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and determinations.

California Government Code Section 65103 states

Each Planning agency shall perform all of the following functions:

- (a) Prepare, periodically review, and revise, as necessary, the General Plan.*
- (b) Implement the General Plan through actions including, but not limited to, the administration of specific plans and zoning and subdivision ordinances.*

The City must ultimately rely on its City Attorney's Office for advice and legal counsel regarding the imposition of fees on development and compliance with state law. This includes the California Government Code, case law and Proposition 26, which further defined a tax based on the purpose of the revenue-generating device. Proposition 26 added a definition of tax to the California Constitution defining it to mean any levy, charge or exaction of any kind except for seven exceptions. Included in the exceptions are charges imposed for specific government service, charges imposed for the reasonable regulatory costs to a local government, and charges imposed as a condition of property development.

Citywide Planning Program

The City has developed a citywide planning program to update and implement the General Plan and Zoning Ordinance. As will be discussed in more detail below, having an updated General Plan and a program to implement the General Plan clearly provides benefits to those who wish to do any type of construction in the city because an adequate and updated General Plan is fundamental to a jurisdiction's ability to appropriately guide new development. The



General Plan also provides benefits to residents of the community because it addresses new development and how the community will address such issues as infrastructure development and maintenance, transportation improvements, parks and recreation, and sustainability strategies (e.g., water and air quality, and reduction of greenhouse gases).

The General Plan and related plans and policies are largely prepared by the Citywide Planning section of the Planning Division within the City's Planning, Building and Code Enforcement Department. In reviewing the work program for Citywide Planning, Management Partners distinguished between two general categories of benefit resulting from the maintenance of a comprehensive and sustainable General Plan:

1. *Existing community* – The existing residential and commercial communities accrue general benefit from an ongoing, sustainable long-range planning program in San José. The citywide planning program provides economic opportunity for the entire community and ensures a sustainable and livable environment for all who live and work in San José.
2. *New development and construction* – The City's citywide planning program creates the foundational policy framework and structure upon which new development and construction can occur. By maintaining an updated General Plan, zoning ordinance and other critical citywide planning plans and policies, the City is ensuring that development and new construction can proceed in accordance with City policy and community goals.


Given these two categories, the costs of providing an ongoing, sustainable citywide planning program should be borne by the existing community *and* those who want to develop or construct in the community. The existing community's contribution to the citywide planning program would typically be provided through the City's General Fund and alternative revenue sources outside the regulatory process, e.g., grants. A Citywide planning fee on new construction is proposed to be levied to capture the *proportional costs* of providing this benefit or service to those who wish to develop or construct in the community. (Citywide planning work that only benefits a specific project applicant, e.g., a request for General Plan amendment related to a specific development site, is not included as part of the work program proposed to be supported by the proposed citywide planning fee. This work would be captured through the current service fee for the General Plan amendment application.) The specific cost allocations are discussed in the cost model section of this memorandum.

Citywide Planning Program Apportionment

The City provided Management Partners with a listing of 11 major elements that effectively comprise the Citywide Planning program. Each program is generally described below, along with an explanation about whether its costs are included in the proposed Citywide Planning fee.

1. *Comprehensive General Plan Update*. The City completed a comprehensive update to its General Plan in 2011. Generally, General Plans are updated roughly every 10 years to maintain consistency and relevance. The City completed the first Four-Year Major



- Review in 2016. Costs associated with updating the General Plan, including consultant and staff costs, are included in the fee.
2. *Citywide Housing Element.* In the current context of rapidly escalating housing costs, there is increased scrutiny by the state of jurisdictions' efforts to address housing needs and implement the policies and strategies in the Housing Element of the General Plan. The City is also required to update the Housing Element every eight years, regardless of the schedule for comprehensive updates of the General Plan. Therefore, to ensure an adequate General Plan, work associated with implementing and updating the Housing Element is continuous and included in the fee.
 3. *General Plan Policies/Maintenance.* The City is required to report annually on its progress toward implementing the General Plan. The City must also ensure that its General Plan is consistent with applicable changes in state law, changes in environmental regulations, court decisions, etc. Therefore, to ensure having an adequate General Plan, work toward maintaining the General Plan is continuous and included in the fee.
 4. *Other Citywide Plans/Policy.* About half of the work in "Other Citywide Policy" addresses planning for a more sustainable community, a key Major Strategy of the General Plan. Implementing the General Plan's sustainability goals and policies requires new actions to reduce greenhouse gas emissions, improve energy efficiency, provide transportation options, reduce waste to landfills, and other strategies. The sustainability work improves the quality of life, making San José a more desirable place for development, and implements a key General Plan Major Strategy. A component of this work effort is included in the fee. The other half of work in "Other Citywide Policy" is oriented around areas or specific plans and area development policies, which guide the development of specific areas of the city and are prepared in alignment with the overall development strategy documented in the General Plan. A component of this work is included in the fee.
 5. *City-Initiated General Plan Amendments.* The City may initiate General Plan amendments for a variety of reasons. They include addressing a new issue that has arisen in the community; responding to a new opportunity (e.g., a change in transportation infrastructure) or change in state or federal law (e.g., flood zone modifications); or simply addressing changing priorities. Whatever the change, it involves maintaining an up-to-date, legally sufficient and relevant General Plan for development within the City and therefore is included in the fee.
 6. *Zoning Ordinance.* Maintaining the Zoning Ordinance is an ongoing effort in virtually every city. The zoning ordinance must not only be modified to address changes in policies in the General Plan, but changes in state law when applicable to the City or that the City desires to implement for policy reasons (e.g., accessory dwelling unit regulations), or other changes in policy. Having an adequate Zoning Ordinance, consistent with both the General Plan and state law, is essential for guiding, controlling and regulating new development and to protect the general welfare of the community. It is therefore included in the fee.
 7. *Entitlement Project Review.* Some Citywide Planning staff members are involved in evaluating the conformance of private projects with the General Plan and processing
- 

General Plan amendments. This work benefits a specific developer and is covered in the cost of the entitlement application and is not included in the fee.

8. *Data Analytics/GIS*. Part of this group's work involves maintaining the GIS system and gathering and tracking data, such as land use and demographic information that will inform future General Plan policy development. This work is included in the fee. Another part of the work involves maintaining systems to track development, provide data and prepare maps for inter-departmental staff working on private projects, etc. This work is not included in the fee.
9. *Urban Village Plans*. The General Plan focuses significant future jobs and housing growth in "Urban Villages." The Urban Village Major Strategy is fundamental to the city, accommodating its share of regional housing needs assigned to it by state law. Failure to implement this strategy could lead to severe consequences, including a determination that the City's Housing Element is inadequate. The City expects to prepare about 64 urban village plans over the coming years. Each plan will provide the framework for new residential and commercial development. By having clear policies and regulations and a plan for how each urban village will develop, the path for development will be made much more clear, predictable, and shorter. While each plan addresses only a specific area in the city, the goal of the overall program is to meet almost all of the housing needs in specific infill locations that will minimize the impacts on existing residential neighborhoods, providing benefits to the whole community. The work on the urban village plans is therefore considered an essential and fundamental part of effectively implementing the General Plan, and the work associated with it is included in the fee.
10. *Historic Planning Preservation*. Maintaining a jurisdiction's historic fabric provides clear benefits to the community, including preserving the community's cultural and physical heritage. Knowing which properties are historic and which are not provides significant benefits to those interested in developing in the community. Because detrimental impacts on an historic building can be considered a significant impact under the California Environmental Quality Act (CEQA), and because any building over 40 years old is considered potentially historic, surveying the city to identify those that are worthy of being considered historic resources is very helpful to those who want to build in San José. Absent a survey, those interested in modifying or demolishing a structure older than 40 years must conduct individual assessments, which is a time-consuming and expensive process. A survey would allow those who wish to develop in the city to avoid historic properties or recognize up-front the obligations that go with owning an historic property. Because there is joint benefit to the community and to those developing in the city, this work is included in the fee.
11. *Citywide Urban Design*. There are two elements to the work done on urban design. One is the development of urban design policies that ultimately provide guidance to the development community and allow them a more predictable and smoother process. Urban design policy also benefits the community by generally leading to higher quality design of projects that better integrates into the community. This policy work is included



in the fee. Other work done as part of the overall work program involves evaluating and improving the design of individual projects which is not include the fee.

Apportioning Benefit

Maintaining the General Plan and the programs, regulations and policy development associated with it benefits those building in the community as well as the community as a whole. The question then becomes how the benefit should be apportioned between new development and construction and other sources of program support, such as the General Fund, which effectively represents the community. The earlier analysis concluded that certain elements of the overall Citywide Planning Work Program provide general benefits to the community and to those who wish to build or construct in the community, while some elements do not. Those that do not are not part of this discussion.

In considering how to apportion the costs of the General Plan (and its implementation), perhaps one way to look at this question is to ask hypothetically would a General Plan be necessary if there was no development or construction in the community? As noted earlier, General Plans consider both where development should go and how change (generally caused by people building in the community) should be managed, and also address issues such as improving the sustainability of the community, maintaining infrastructure, improving public transit, and maintaining and improving public services. While there is some benefit to the overall community from preparing, updating and maintaining a General Plan, as noted in state law, the fundamental purpose of the General Plan is to have "...a comprehensive, long-term general plan for the physical development of the county or city..." (GC 65300, emphasis added).

It is unlikely that a General Plan would be needed if a jurisdiction were to say, "No more." Cities change and grow over time and planning is needed to guide that growth to ensure it reflects the community's policy makers' goals and objectives. The vast majority of the work done in preparing and implementing a new General Plan (and zoning ordinance and policies) is to prepare for and guide development. Preparation of an Environmental Impact Report would not be necessary were it not for the need to identify the environmental impacts of growth and development. Conservation and open space elements are needed primarily to conserve resources and valuable open space in relation to new development. The housing element is almost entirely about how to accommodate and remove unnecessary barriers to new residential development. The circulation element is mostly about how to accommodate the growing demands on the transportation infrastructure from new development. And, of course, the land use element is almost entirely about guiding expected new development based on growth projections. As noted in the City's General Plan:

The issue of growth is one which is central to any general plan. Growth has social, environmental, economic and social dimensions. There are costs associated with growth, as well as with the absence of growth. The vehicle for planning the future, for making choices between conservation and development, and for defining the desirable balance between social, environmental, and economic costs in San José is the General Plan.



A general plan is an adopted statement of policy for the physical development of a community. As such, it represents the official policy regarding the future character and quality of development. The General Plan represents the City's assessment of the amount, type, and phasing of development needed to achieve its social, economic, and environmental goals. (Envision San José 2040, page 3)

The state implicitly recognizes that the General Plan is about new development by explicitly indicating that the most severe penalty from a court determining that a jurisdiction lacks an adequate General Plan is to remove its ability to issue building permits. Because the vast majority of the costs of preparing, updating, and maintaining the General Plan, modifying the Zoning Ordinance, and implementing and applying associated policies are about accommodating new development, we estimate that a high percentage of proportionate benefit accrues to those who wish to develop and construct in the community. For purposes of apportioning that benefit, Management Partners believes the City's 2004 assessment which assigned 70% of benefit to new development and 30% to the existing community remains appropriate.

Citywide Planning Fee

The Citywide Planning fee was calculated by dividing total costs for the Citywide Planning Program *that can be attributed to development* for the next ten years by total revenue to be collected from development review fees *deemed appropriate* over the next ten years. The basic formula is provided below.

$$\frac{\text{Total costs that can be attributed to new development for the next ten years}}{\text{Total revenue to be collected from appropriate development review fees over the next ten years}}$$

The analytical steps and general assumptions used to calculate total costs and total revenue are described in the following sections.

Calculating Total Costs

Management Partners calculated total costs that can be attributed to new development using two major steps.

Step 1. Calculate Long-Range Planning Costs Eligible for Cost Recovery

To enable the San José Planning, Building and Code Enforcement (PBCE) Department to implement the comprehensive citywide planning program described in the previous section over the next 10 years, City staff estimated that 21 full-time positions would be required. This level of staffing is what would be required to implement the entire Long-Range Planning Program.

This model incorporates costs associated with a *portion* (81%) of this fully-staffed team. Costs are included for only those positions that are expected to work on the long-range planning program with a direct nexus to new development. Costs associated with the remaining 19% of long-range planning positions (including personnel, overhead, contract and non-personnel costs) are not



included in the model because they represent work that would be done regardless of its benefit to the existing community or new development. For example, the model excludes costs associated with *all positions* supporting entitlement project review and *some positions* supporting urban design, data analytics/GIS and other citywide policy. A breakdown of which program costs are included in this fee model is articulated in the section titled “Citywide Planning Program Apportionment” in this memorandum.

The model builds in costs across six categories. The assumptions for each cost category are documented in Table 3.

Table 3. Cost Assumptions by Cost Category

Cost Category	Major Assumptions
General assumptions	a. All costs (personnel, division management, contract, citywide and departmental overhead, and non-personnel) increase annually by 2% (to keep pace with inflation). b. The model does not account for costs offset by grant funding, as those vary from year to year and are difficult to predict over a 10-year period.
Personnel costs	c. Average total compensation for planning staff (\$150,644) assumes: <ul style="list-style-type: none"> • Employees are paid at the top-step (<i>Source: February 2018 City salary schedule</i>) • Benefits = 97% of salary for Retirement Tier 1 employees • Benefits = 28% of salary for Retirement Tier 2B employees d. All new positions will be onboarded as Retirement Tier 2B employees. e. The Long-Range Planning Division will have 21 positions, including the division manager and a new deputy director, beginning in FY 2018-19. The model assumes the following about long-range planning programs: <ul style="list-style-type: none"> • General Plan update will begin in 2023-24 and require 4.0 FTE on an annual basis for four years. • The urban village plans will transition from requiring 4 FTE to 3 FTE in FY 2023-24. f. The model includes all staffing costs associated with 81% of the long-range planning positions. Staffing costs from the following functions are excluded (due to lack of nexus): <ul style="list-style-type: none"> • All costs associated with entitlement project review. • Some costs associated with data analytics/GIS, citywide urban design, and other non-General Plan related citywide policy.
Division management costs	g. In relation to management positions, the model incorporates all of the same compensation assumptions that are described above in “Personnel costs.” h. Division manager position is assumed to be a Retirement Tier 1 employee. i. Deputy director position is assumed to be a Retirement Tier 2 employee. j. Model includes only 81% of total costs associated with division management (the remaining costs have no nexus to the fee).
Contract costs	k. All contract cost estimates were provided by City staff. Estimates were based on previous expenditures and anticipated program demands. l. The model includes all contract costs associated with long-range planning, with a few exceptions: <ul style="list-style-type: none"> • 75% of contract costs related to other citywide policy are excluded.



Cost Category	Major Assumptions
	<ul style="list-style-type: none"> 40% of contract costs related to urban design are excluded.
Citywide overhead	<p>m. The cost estimate for citywide overhead came from the Citywide Cost Allocation Plan for FY 2017-18.</p> <p>n. The model includes only 81% (or \$552,344) of total costs associated with long-range planning’s share of citywide overhead (the remaining costs have no nexus to the fee).</p>
Non-personnel costs	<p>o. New employees carry a \$2,557 non-personnel cost during their first year of employment.</p> <p>p. Ongoing non-personnel costs per existing planner are \$1,218 each year (in current dollars).</p> <p>q. Cost estimates were provided by City staff and incorporate costs associated with office supplies, electronic equipment and software purchases, ergonomic adjustments and employee training.</p>

Step 2. Identify Costs that Can be Attributed to Development

For purposes of apportioning benefit, Management Partners believes that the City’s 2004 assessment, which attributed 70% of the benefit to development and 30% to the existing community, remains appropriate. Given this determination, the cost model assumes that 70% of the costs deemed *eligible* for cost recovery can be recovered through the Citywide Planning fee. The remaining 30% of those costs must be supported using alternative funding sources. Table 4 presents a breakdown of average annual costs by cost category.

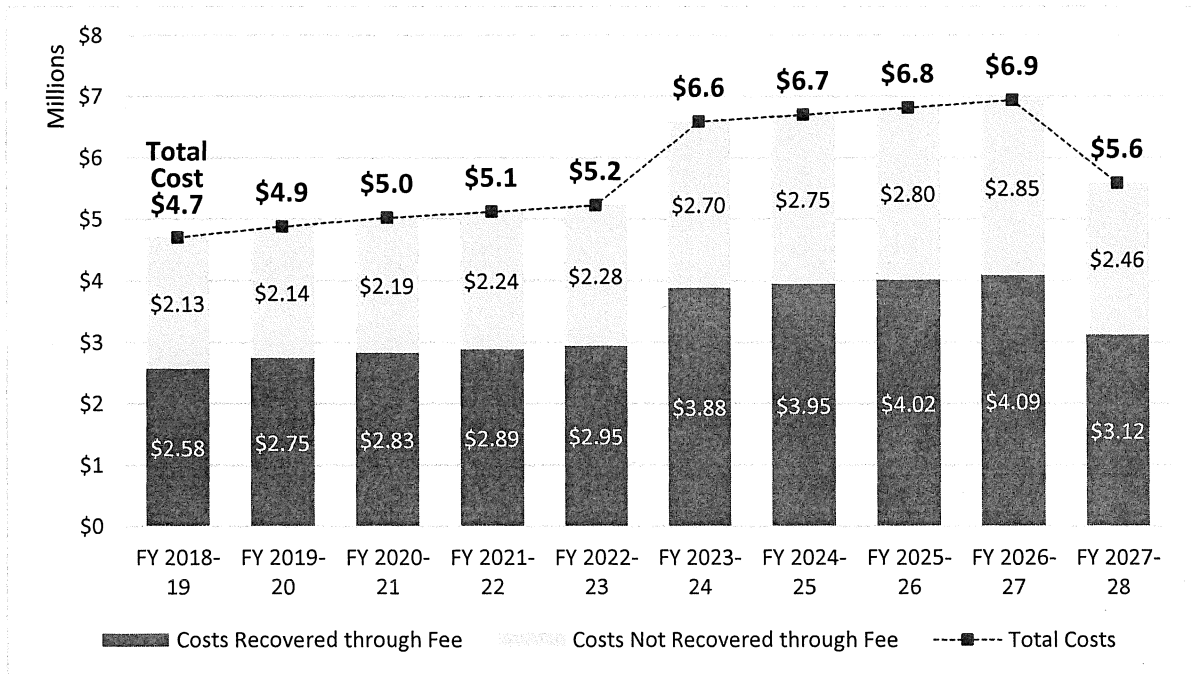
Table 4. Average Annual Costs by Major Cost Category (over a 10-year period)

Cost Category	Costs Eligible for Cost Recovery		Other Costs (Not Eligible for Cost Recovery)
	Can be attributed to new development (70%)	Must be attributed to other sources (30%)	
	Recoverable through Fee	Not recoverable	Not recoverable
Personnel	\$1,886,431	\$808,470	\$626,812
Division management	\$339,687	\$145,580	\$113,130
Contracts	\$638,977	\$273,847	\$152,694
Citywide overhead	\$423,361	\$181,440	\$140,997
Non-personnel	\$16,257	\$6,967	\$5,188
TOTALS	\$3,304,712	\$1,416,305	\$1,038,821

As Figure 1 shows, a fully-staffed long-range planning operation would cost the City approximately \$4.7 million in FY 2018-19. Given the assumptions built into this cost model, 55% or \$2.58 million of those costs could be recovered through the citywide planning fee, but the remaining \$2.13 million would need to be funded using alternative resources. The fee is designed to recover a total of \$33.0 million over the next 10 years (an average of \$3.3 million per year).



Figure 1. Total Projected Costs for a Fully-Staffed Long-Range Planning Program



Calculating Total Revenue

The citywide planning fee calculation required that Management Partners estimate total revenue to be collected from *appropriate* development review fees over the next 10 years. The process of developing this estimate is described in the two steps below.

Step 1. Select appropriate development review fee categories

In collaboration with PBCE staff, 24 fee categories on the 2017 planning fee schedule and eight building fee categories were identified. The selected fee categories for planning include nearly all fees, with the exception of fees for environmental review, reasonable accommodations, and appeals and protests. This is consistent with the current planning entitlement fee categories upon which the fee is collected. Obtaining a planning entitlement does not always result in securing a building permit, for various reasons, and the City wished to ensure that those who engage in this development activity also contribute their proportionate share to the citywide planning program. There is significant economic and other value in receiving entitlements as well as considerable service and benefit provided by the citywide planning team to allow each project to apply for and receive entitlements as described above. The eight building fee categories selected constitute the majority of building permit fee activity. Fee categories excluded from the fee model include *extra* plan check fees, *extra* inspection time fees, copies/records retention fees, address assignment, etc. The objective was to capture those current planning entitlements and building permits that would not be possible without sustaining a citywide planning program.



The selected fee categories for building include plan check and inspection fees. A comprehensive list of all fee categories selected to carry the citywide planning fee is provided in Attachment B.

Step 2. Estimate planning and building revenue for selected fees

Projecting revenue for planning and building fees is challenging for two reasons. First, the fee schedules were changed in August 2017. The planning fee schedule updated fee amounts to try and achieve full cost recovery and also made considerable changes to how fees are structured. The building fee schedule updated the fully burdened hourly rates on which fee calculations depend. These changes make it challenging to forecast revenue over the next five to 10 years.

The second reason it is challenging to estimate future planning and building revenue is that development activity depends on a wide variety of factors that are difficult to predict, especially in the Bay Area. Deciphering reliable trends from highly variable data is not always possible. For this reason, Management Partners developed deliberately conservative estimates for revenue, anticipating that there is likely to be an economic slowdown that hampers development activity at some point in the next 10 years. Table 5 presents the assumptions used to estimate revenue alongside the anticipated average annual revenue for all selected fees for both planning and building.

Table 5. Assumptions Used to Estimate Planning and Building Revenue

Assumptions	Forecasted Average Annual Revenue for all Selected Fees
<p>Planning</p> <ul style="list-style-type: none"> Assumes forecasted annual revenue = average annual revenue over the last five years. <i>Exception:</i> When YTD FY 2017-18 is < 50% of average annual revenue over the last five years, then forecasted annual revenue = 1.25 x YTD FY 2017-18. 	\$4,068,816
<p>Building</p> <ul style="list-style-type: none"> Assumes forecasted annual revenue = average annual revenue over the last five years. 	\$23,539,203

Note: YTD FY 2017-18 revenue was not available for building fees.

Management Partners recommends that the City review the planning and building revenue projections annually as part of the budget process. A more thorough, in-depth review of the fee model’s cost and revenue assumptions should occur every 4-5 years.

Proposed Fee

Given the fee calculation methodology and assumptions described above, Management Partners estimates that the Citywide Planning fee would need to be set at **11.97%** to bring in approximately \$3.3 million annually on average over the next 10 years. The fee would only be applied to the categories listed in Attachment B based on the nexus described herein. Table 6 shows that most revenue (90%) would come from building permits.



Table 6. Estimated Annual Revenue from Citywide Planning Fee by Division

Division	Forecasted Average Annual Revenue for all Selected Fees	Proposed Citywide Planning Fee	Estimated Annual Revenue from Citywide Planning Fee
Planning	\$4,068,816	11.97%	\$487,042
Building	\$23,539,203	11.97%	\$2,817,670
TOTAL			\$3,304,712

This model is based on the assumption that the citywide planning team will augment its existing staffing resources in FY 2018-19 to reach 21 FTEs. The total cost of delivering this fully-staffed, comprehensive citywide planning program is estimated to be \$5.8 million annually. Thus, the citywide planning fee as proposed in this memorandum only covers 57% of the total costs necessary to support the citywide planning program. The remaining cost would have to be covered through grants, the General Fund, or other sources.

Management Partners believes the cost model, which apportions 70% of the annual citywide planning costs to new development or construction and the proposed 11.97% citywide planning fee represents a reasonable allocation based on the benefit accrued and services received as described above for new development and construction. Further, as discussed previously, new development or construction cannot happen without an updated General Plan, Zoning Ordinance and related policies that are required to meet ever changing and evolving community and policy objectives. The fee imposed is a reasonable cost to implement the General Plan including updating and maintaining all existing citywide planning documents, adopting new citywide planning documents, issuing licenses, permits, and approvals, performing investigations, inspections and audits, and administrative enforcement.

Conclusion

The full citywide planning fee of 11.97% attributable to new development is not an outlier compared to peers; however, Management Partners recognizes that it represents a significant increase over the current fee of 1.25% and 5.0%. City leaders will need to consider whether they wish to phase the fee over several years and if so, what impact this will have on the work of the Long-Range Planning Program and new development. If the decision is made to phase in the fee, the positions and work program to be added will need to be prioritized over the next ten years. Management Partners is providing the adjustable fee model to the City so staff can make these adjustments and ultimately make a recommendation to City Council.

Attachments

- A. Peer Comparison of Long-Range Planning Fees
- B. San José Planning and Building Fees upon which Citywide Planning Fee will be Charged



Attachment A. Peer Comparison of Long-Range Planning Fees

Table 7. Peer Research on General Plan Update, Implementation, or Maintenance Fees

Peers	County	Population	Department or Division	Fee Title	Fee Structure, Details
San José	Santa Clara	1,046,079	Planning Division	General Plan Update Fee Effective August 14, 2017 <i>Source: Planning Fee Schedule</i>	Planning Fee - Percent included in application fee Various application fees include either a 1.25% or 5% General Plan Update Fee. General Plan Amendments, Zoning, Tentative Maps, Vesting Maps, and Development Agreements include a 5% General Plan Update Fee; all others include a 1.25% fee.
			Building Division	General Plan Update Fee Effective August 14, 2017 <i>Source: Building and Structure Permits Fee Schedule</i>	Building Permit Fee - Percent of application permit fee 1.25% of application permit fee or 5% of the application permit fee for new residential projects with greater than 10 units.
Los Angeles	Los Angeles	4,014,707	Department of City Planning	General Plan Maintenance Surcharge Last amended September 17, 2017 <i>Source: Los Angeles Municipal Code Chapter 1, Article 9, Section 19.16.</i>	Any City Planning Permit, Plan Check, License or Application Fee - Percent of fee (Provided in Chapter 1 of Los Angeles Municipal Code: GENERAL PROVISIONS AND ZONING) 7% of the fee or \$1, except that any other surcharge shall be excluded from the computation of this surcharge.
San Diego	San Diego	1,406,318	Planning Department (Collected by Development Services Department)	General Plan Maintenance Fee Effective July 2017 <i>Source: Fee Schedule for Construction Permits (Structures, Grading and Public Right of Way)</i>	Flat Fee per building permit \$275 Applicable for construction permits except those that do not require plan review. (i.e., Building permit, combo building permit, grading and ROW permit, ROW permit, ROW construction plan, sign permit and substantial conformance review.)



Peers	County	Population	Department or Division	Fee Title	Fee Structure, Details
San Francisco	San Francisco	874,228	Not Available	Not Available	Not Available
Sacramento	Sacramento	493,025	Building Division	General Plan Maintenance Fee (Building) Fee ID 3155 Last updated April 2008 <i>Source: City of Sacramento Fee Database Search</i>	Building Permit – Percent of valuation 0.2% (\$2.00 per \$1,000) of valuation not to exceed \$20,000.
Oakland	Alameda	426,074	Planning & Building Department	General Plan Surcharge Effective FY 2016-17 <i>Source: City of Oakland Master Fee Schedule (FY 2016-17)</i>	Building Permit – Percent of construction valuation 0.43% of construction valuation for building permits. Private Plan/Public Improvement Permit – Percent of valuation 0.43% of construction valuation for building permits.
			Public Works Department	General Plan Surcharge Effective FY 2016-17 <i>Source: City of Oakland Master Fee Schedule (FY 2016-17)</i>	Public/Private Improvement Permits - Percent of plan review 0.17% of plan review.
Fremont	Alameda	231,664	Community Development Department	Community Planning Fee Effective January 1, 2018 <i>Source: Fee Schedule, Master Fee Resolution No. 8672</i>	Building Permit - Percent of building permit fee 15% of building permit fees, which includes all fees required by the master fee schedule except building code application fee, general fees, and miscellaneous building inspection fees.



Peers	County	Population	Department or Division	Fee Title	Fee Structure, Details
Sunnyvale	Santa Clara	149,831	Community Development Department	<p>General Plan Maintenance Fee Effective August 19, 2017 <i>Source: Building Permit Fees – FY 2017-18; Current Maser Fee Schedule</i></p>	<p>Building Permit - Percent of total valuation 0.15% of the total valuation, charged for all projects other than residential remodels.</p>
Santa Clara	Santa Clara	123,983	Community Development Department	<p>General Plan/Advance Planning Surcharge Effective April 18, 2017 <i>Source: City of Santa Clara Municipal Fee Schedule</i></p>	<p>Planning and Building Application - Percent of application fee 15% of application fee applied to all building and planning fees except those fees specifically designated as single family.</p>
Mountain View	Santa Clara	79,278	Community Development Department	<p>Land Use Documents (Fee) Effective July 1, 2016, the Land Use Document Fee includes the cost of the North Bayshore Precise Plan (see Proposed Fee Modifications memo included in Fiscal Year 2016-17 Proposed Budget). In addition, the fee is structured to recover the cost (over a 20-year period) of the General Plan, El Camino Real Precise Plan, San Antonio Precise Plan, Zoning Ordinance, East Whisman Precise Plan, and Housing Element (updated three times over a 20-year cycle). Effective July 1, 2016 <i>Source: Fiscal Year 2017-18 City of Mountain View Master Fee Schedule</i></p>	<p>Building Permit - Percent of building valuation 0.26% of the valuation associated with the issuance of a building permit.</p>



Peers	County	Population	Department or Division	Fee Title	Fee Structure, Details
Milpitas	Santa Clara	75,410	Building & Safety Department	Community Planning Fee Effective July 17, 2016 <i>Source: City of Milpitas Building and Safety Department Fee Schedule</i>	Building Permits - Percent of total permit fee 5% of building permit fee.
Morgan Hill	Santa Clara	44,145	Community Development Department	Long-Range Planning Fee Effective January 1, 2018 <i>Source: City of Morgan Hill Development Fee Schedule</i>	Planning, Building and Public Works Permit Fee - Percent of fee A surcharge of 15% of the permit fee added to each building, public works engineering and planning permit.



Attachment B. San José Planning and Building Fees upon which the Citywide Planning Fee will be Charged

Planning Fees

General Plan Amendments

1. General Plan Diagram/Text Amendment
2. USA Expansion
3. UGB Modification

Zonings

4. Conventional Zonings
5. Planned Development Rezoning, Non-Residential
6. Planned Development Rezoning, Residential

Subdivision Map Act Related Applications

7. Lot Line Adjustments & Corrections
8. Tentative Map or Extension
9. Street Renaming

New Development/Construction

10. Development Exception or Variance
11. Site or Planned Development Permit or Amendment, Non-Residential
12. Site or Planned Development Permit or Amendment, Residential
13. Conditional Use Permits
14. Special Use Permits
15. Additional Policy Review

Other Permits and Actions

16. Development Agreements
17. Tree Removals
18. Sidewalk Cafes

Single-Family House Permits

19. Historic, Administrative
20. Non-Historic, Administrative
21. Historic or Non-Historic, Public Hearing

Permit Center - Planning

22. Adjustments
23. Letters
24. Conformance Review

Building Fees

1. Building plan check
2. Building inspection
3. Electrical plan check
4. Electrical inspection
5. Mechanical plan check
6. Mechanical inspection
7. Plumbing plan check
8. Plumbing inspection



Attachment B

Backlog of Citywide Planning Work

This is an illustrative, not exhaustive, list of the current backlog of City planning work that requires the involvement of the City land use planning policy staff.

Current Policy Completion Priorities

All of the current policy priorities driving toward completion require significant Land Use Planner expertise.

- Downtown EIR Update
- Urban Village Amenities Financing Plan, including Cost of Development Study Session
- North San Jose Area Development Policy Modification
- West San Jose Urban Villages/Transportation Planning/Environmental Analysis

Council Policy/Ordinance Priorities (Council Prioritization Process)

Of the 27 policy projects prioritized by City Council, two-thirds of them require PBCE City Planning staff leadership or involvement, including:

- Mobile Home Parks GP Overlay
- Electronic Billboards and Downtown Sign Intensification
- Accessory Dwelling Units
- Medical Marijuana Code Changes
- Update Urban Design Guidelines
- Riparian Corridors and Bird Safe Design
- Legal Non-Conforming Uses
- Soft Story Retrofit Program
- Personal Care Business Compliance
- Private Property Graffiti Abatement
- Smoke-free Housing

Housing Crisis Action Plan

The 15 Point Housing Crisis Action Plan includes 30 specific action items, 2/3 of which require a PBCE Citywide Planning staff lead, including:

- Modify Zoning Code
- Expand Downtown Definition
- SJSU Student Housing
- Defer Impact Fees to Occupancy
- Explore Further Use of CFD's
- Better Identify Housing Sites
- Reimagine Underutilized Business Corridors
- Identify Opportunity Sites/Locally Undesirable Land Use Sites
- Allow for Additional Realignment of Urban Village Horizons
- Moved Fixed Rail or BRT Urban Village's to Horizon 1
- Allow Infill Housing on Isolated Employment Lands
- Accessory Dwelling Unit Ordinance

Department-Led City Planning Efforts

Departments are leading major strategic planning efforts that require City Planning land use expertise and alignment with the General Plan.

- VMT Transportation Analysis Policy, led by DOT
- “GreenPrint” parks plan, led by PRNS
- “Climate Smart” carbon-reduction plan, led by ESD
- “Green Infrastructure”, led by PW

Major Transportation/Development Efforts

There are no land use planners available to participate meaningfully and consistently in major transportation and development initiatives that will transform the city.

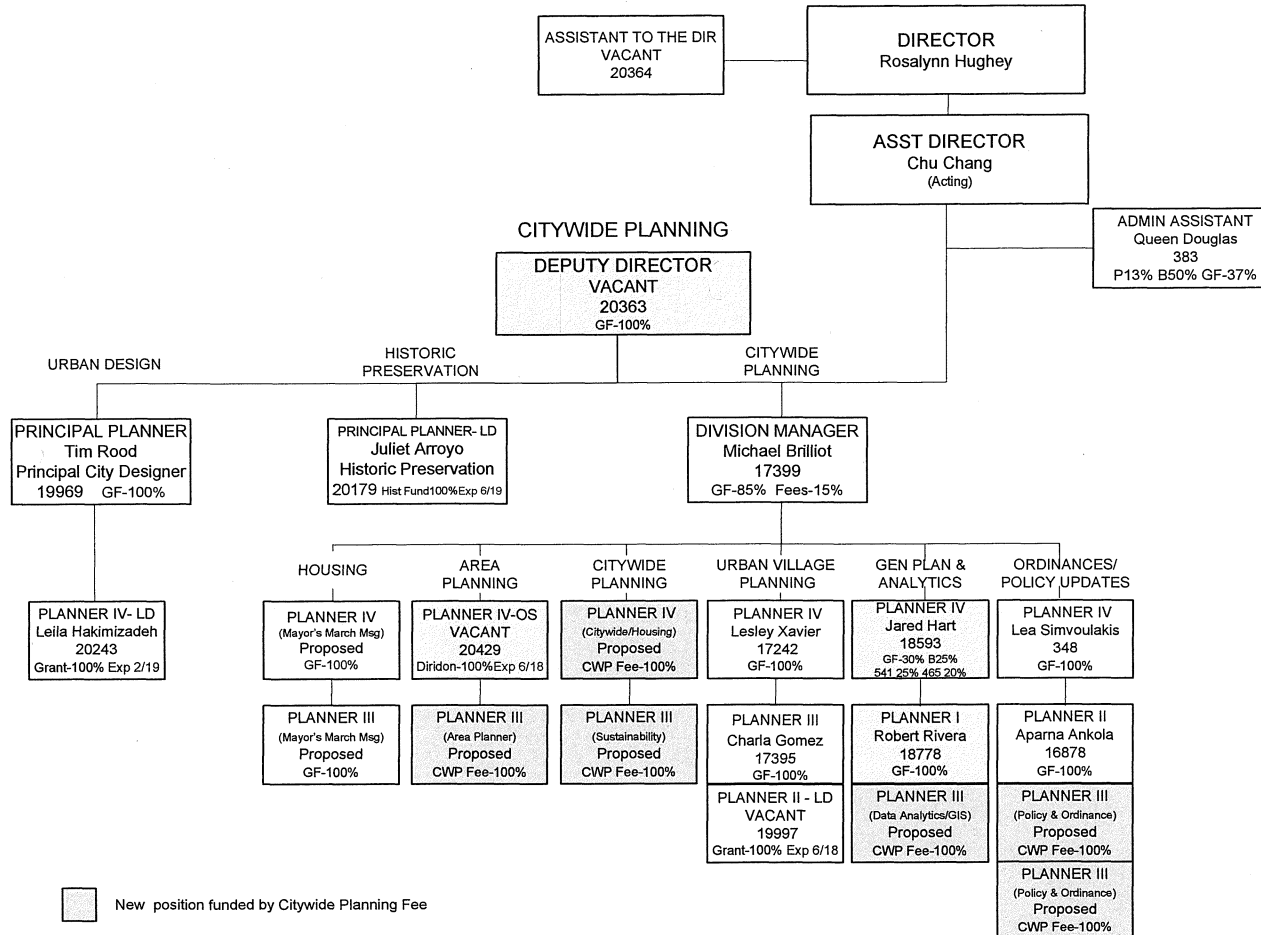
- Diridon Station Area Development, including new Intermodal Station and potential Google development
- High Speed Rail Planning
- BART Phase II Planning/Station Area Planning—28th Street, Downtown Station

Urban Village Planning

Three urban village plans are in progress; the remaining three will begin as other projects complete and staff become available.

- West San Carlos Urban Village Plan
- South Bascom Urban Village Plan
- East Santa Clara Urban Village Plan
- Berryessa BART Urban Village Plan
- North First Street Urban Village Plan
- Eastside Alum Rock Urban Village Plan

**PBCE- Planning Division
Proposed Citywide Planning Team Expansion**



- New position funded by Citywide Planning Fee
- Existing position funded by Citywide Planning Fee
- Limit-dated position → permanent funded by Citywide Planning Fee
- Mayor's March Message position adds