



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Rosalynn Hughey  
John Ristow  
Margaret McCahan

**SUBJECT: PROPOSED FEE FOR OFF-SITE  
TREE REPLACEMENT**

**DATE:** October 26, 2018

Approved

Date

10/26/18

## RECOMMENDATION

Adopt a resolution amending the 2018-2019 Planning Schedule of Fees and Charges (Resolution No. 72737, as amended) to establish an Off-Site Tree Replacement Fee of \$755.00 relating to tree removal or entitlement permits, and additionally formalize a tree replacement process for subject permit applicants between the Planning Division and the Department of Transportation.

## OUTCOME

The proposed actions address recommendations from the City Auditor's Office to the Planning Division to formalize its tree replacement permit fee and improve tracking of off-site tree replacement fees relative to the number of trees planted. Using the Department of Transportation's (DOT) existing tree planting program and contract is an efficient, practical system to also use for off-site replacement tree requirements. The proposed Off-Site Tree Replacement program would direct the replacement tree fees to DOT, which has agreements with third parties for tree planting and maintenance. DOT would provide Planning Division staff with an accounting of the quantity of trees planted and their locations.

## BACKGROUND

During the 2016-2017 year, the City Auditor's Office conducted an audit of the informal off-site tree replacement program between the Planning Division and the Our City Forest (OCF) organization. The City Auditor's Report, dated February 2017, contained certain findings and recommendations related to this informal agreement. Specifically, Recommendation #3 in the report states that "The City Administration should review and formalize its off-site tree replacement process. If the City desires to contract for these services, it should determine whether a competitive process is required to select a provider(s), establish an agreement(s) for these services (including a cost per tree), and require documentation of the tree plantings and maintenance provisions."

At its March 21, 2017 meeting, the City Council reviewed and accepted the Auditor's report, and directed staff to create a program that identifies the total funds collected for off-site tree replacements on a half-yearly to yearly basis, and identify a tracking method to link the funds collected each year to compare to the number of trees planted.

## **ANALYSIS**

Currently, applicants for a Tree Removal Permit or a Development Permit that includes the removal of ordinance-sized trees are subject to a requirement to plant a replacement tree(s), depending on the size and type of tree(s) being removed. In instances where the replacement trees cannot be planted on site due to limited space, the applicant is required to pay OCF a replacement tree fee of \$300 per tree, and proof of off-site planting is required. There is no formal contract between the Planning Division and OCF, and the \$300 fee is not established in the Planning Division's Schedule of Fees, nor has it been adjusted for at least 10 years.

Pursuant to City Council direction in March 2017, staff have been working on an improved tree replacement program. Planning staff learned that DOT has an existing master agreement with OCF, and that the City Arborist manages the tree planting program under the agreement. Staff considered conducting a Request for Proposals (RFP) for Vendor Services that would result in a master agreement managed by the Planning Division, but staff in both Planning and DOT agreed that using DOT's existing master agreement is more efficient and practical than initiating another process. Planning and DOT staff coordinated on how to best to formalize and implement the use of tree replacement fees by DOT for the planting of permit-required replacement trees on City-owned or controlled property.

Through the proposed program, applicants subject to the off-site tree replacement fee will pay the fee prior to tree removal permit issuance or building permit issuance. For fee revenue tracking, applicants will send their payment receipt to the Planning Project Manager, who will note payment in the City's AMANDA Permit System. Fees would be deposited in the General Fund and tracked separately for this program. DOT will utilize the accrued off-site tree replacement funds within 12-18 months; tree maintenance will occur for 36 months after planting. Funds would be tracked by fiscal year as would the number of estimated replacement trees to be planted by DOT under this program.

Under DOT's existing agreement with OCF, the cost for tree planting is \$755 per tree. Therefore, staff recommends amending the Planning Division Schedule of Fees to set the fee to the tree removal applicant at this level to recover the cost. The \$755 includes the cost of the tree, labor for planting the tree, and maintaining the tree for a period of 36 months. The Master Agreement is reviewed every year by DOT and the fee can be adjusted when needed.

### **EVALUATION AND FOLLOW-UP**

No further Council action is necessary.

### **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the November 6, 2018 Council Meeting.

### **COORDINATION**

This memorandum was coordinated with the City Auditor's Office and the City Attorney's Office.

### **COMMISSION RECOMMENDATION/INPUT**

There is no City Commission input regarding these actions.

### **FISCAL POLICY/ALIGNMENT**

Establishing an Off-Site Tree Replacement fee and an Off-Site Tree Replacement program is action item #3 in the City Auditor's report regarding Tree Replacement Permit and Fees. The process described above establishes the Off-Site Tree Replacement fee and process.

### **COST SUMMARY/IMPLICATIONS**

The Off-Site Tree Replacement Fee is set at the level to recover the cost charged by the vendor to plant and maintain the replacement tree. The proposed fee of \$755 per replacement tree is the cost under the existing agreement and includes the purchasing and planting each tree, and maintenance for 36 months.

The proposed Off-Site Tree Replacement fee is a development fee and would be effective 60 days after City Council approval. Given the difficulty in projecting the activity level in 2018-2019, no budget actions are recommended in this memorandum to recognize fee revenue and appropriate the funding for tree replacement. Budget actions may be brought forward later in the fiscal year based on actual activity. The off-site tree permit data will also be used in the development of the 2019-2020 budget.

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**CEQA**

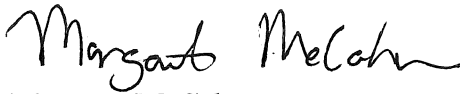
A Determination of Consistency with the Envision San José General Plan Final EIR and Supplemental Program EIR and Addenda thereto, File No. PP17-072 was prepared for the proposed fee project.

/s/

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/s/

John Ristow, Acting Director  
Department of Transportation



Margaret McCahan  
Budget Director

For questions, please contact Lea Simvoulakis, Supervising Planner, at (408) 535-7837.