



## Law and Legislation Committee Report

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Sacramento, CA 95814

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**File ID:** 2018-00802

June 12, 2018

**Discussion Item 04**

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**Title: Ordinance Amending Section 17.604.720 of the Sacramento City Code Relating to Implementation of the Mills Act**

**Location:** Citywide

**Recommendation:** 1) Review an ordinance amending section 17.604.720 of the Sacramento City Code, relating to Mills Act contracts; 2) review a resolution setting the number of Mills Act contracts the City may enter in any calendar year to 12; and 3) pass a Motion to forward the Resolutions and Ordinance to the City Council for adoption.

**Contact:** Carson Anderson, Preservation Director, (916) 808-8259, Community Development Department

**Presenter:** Sean de Courcy, Associate Preservation Planner, (916) 808-2796, Community Development Department

**Attachments:**

1-Description/Analysis

2-Ordinance (Redline)

3-Ordinance (Clean)

4-Resolution Establishing Annual Limits for Mills Act Contracts

5-Resolution Establishing Processing Fees to Prepare Mills Act Contracts

6-Mills Act Program Fee Justification Background

## Description/Analysis

**Issue/Detail:** The Mills Act is a California state law that allows California cities and counties to enter into agreements with owners of historic properties. Property owners agree to maintain, and in some cases rehabilitate, their historic property in exchange for a tax reduction. The Mills Act statute requires tax assessors evaluate properties under a Mills Act agreement using a method that typically, but not always, results in a tax reduction for the property owner.

In Sacramento, several Mills Act contracts were initiated in the years following 2000, but today only one Mills Act contract is still active. City staff has worked with local stakeholders and held a series of public meetings at the Preservation Commission to clarify the goals of an effective Mills Act program in Sacramento. Three elements of the program update would require Council approval:

1. An Ordinance amending City Code Section 17.604.720 to comply with state law and clarify the City's application review process;
2. A Resolution capping the number of contracts per year at 12; and
3. A Resolution approving fees to cover the cost of administering the application and inspection process.

**Policy Considerations:** The 2035 General Plan section relating to Historic and Cultural Resources includes Goal HCR 2.1 states:

Identification and Preservation of Historic and Cultural Resources. Identify and preserve the city's historic and cultural resources to enrich our sense of place and our understanding of the city's prehistory and history.

The following policies are directly applicable to developing incentive programs, including the Mills Act program in support of General Plan Goal HCR 2.1:

- Policy HCR 2.1.4 encourages the adoption of an incentive and enforcement program to support this goal; and
- Policy HCR 2.1.7 supports program changes that help encourage the maintenance and upkeep of historic resources.

City Code section 17.604.720 directs the Preservation Director to make Mills Act contracts available to owners of qualified historical properties and to make recommendations to City Council.

**Economic Impacts:** The City Council has found that preservation of the city's historic resources helps to promote the economic and general welfare of the people of the city. Moreover, historic preservation is an effective tool to sustain and revitalize neighborhoods and enhance the city's economic standing, as well as identity, livability, and marketability (See City Code section 17.604.100.A). To this end, the long-term financial impacts of historic preservation are considered beneficial to the city. The Mills Act is one of the few financial incentives for property owners of qualified historic buildings. This incentive can help offset the cost of maintaining an older building and when acquired by a new owner can help encourage preservation of buildings subject to neglect.

**Environmental Considerations:** The requested Ordinance amendment and adoption of administrative fees and contract limit are being requested to effectively administer a Mills Act program in the city consistent with the General Plan and city code. The Mills Act program is intended to promote the rehabilitation and maintenance of historic properties, thereby ensuring protection of the environment. Therefore, this action is exempt from review under the California Environmental Quality Act, consistent with the Class 8 categorical exemption, which includes actions taken by regulatory agencies, including local governments, to assure the maintenance, restoration, enhancement, or protection of the environment (CEQA Guidelines Section 15308).

**Sustainability:** Reuse of existing buildings and existing infrastructure is a sustainable land use principle. Developing an active Mills Act program is expected to increase the number of nominations to the Sacramento Register, and will help encourage the preservation and reuse of existing building materials.

**Commission/Committee Action:** On November 17, 2017, and January 17, 2018 the Preservation Commission provided input on the program goals and fee structure. On February 21, 2018 the Preservation Commission passed a motion supporting the Mills Act Program, with details to be completed by staff. Staff has prepared the requisite ordinance revision and resolutions necessary to codify the recommendations from the Preservation Commission and the public.

**Rationale for Recommendation:** Implementing an effective Mills Act incentive program has been a goal of the City since the year 2000. The Mills Act program will require staff time to review applications, meet with applicants, create work plans, develop contract language, bring recommendations to City Council, review annual reports, and conduct periodic inspections. Therefore, staff has proposed an ordinance amendment to the existing city code section 17.604.720 to provide an effective legal framework for the program.

**Financial Considerations:** This program would result in a reduction in property taxes for the city; however, the overall impact to the city budget would be relatively minor. This program is

anticipated to be particularly beneficial to owners who recently purchased historic properties, since buildings recently purchased are reassessed at market rate. Likewise, property owners who have triggered reassessment through renovations or additions would also see significant tax benefits. Long-time owners who have not caused a reassessment under the terms of California Proposition 13, would likely not see a significant tax benefit.

### Property Tax Implications

For properties subject to a Mills Act agreement, the City may collect less property tax revenue; however, the City will also experience secondary fiscal benefits community-wide through improved and maintained historic properties. The following table provides estimates for property tax reduction to the city for properties under a Mills Act agreement. However, these are merely estimates and the real impacts would be subject to several factors that cannot be entirely predicted. Specifically, how long a property owner has owned their property would affect the amount of the tax reduction. In addition, it is ultimately up to the Sacramento County Assessor to assess the property under contract based on the valuation and tax assessment criteria provided within the California Revenue and Taxation Code, Article 1.9, Sections 439-439.4.

### Estimated Tax Implications

Assessed Property Value	Property Tax Paid by Owner (0949% of Assessed Value)	City's Share of Property Tax (14%)	Property Tax Paid by Property Owner under Mills Act	Reduction of City's Share of Property Taxes after Mills Act
\$300,000	\$3,000	\$420	\$930	(\$130)
\$500,000	\$4,750	\$665	\$1,425	(\$200)
\$750,000	\$7,100	\$994	\$1,775	(\$250)

Staff has estimated that if the city approved 12 Mills Act contracts per year with an average property value of \$500,000 the city would lose approximately \$2,400 of property tax per year. The overall effect of the program would be compounded based on the number of years and number of contracts the city maintains.

**Local Business Enterprise (LBE):** Not applicable to this action.

**ORDINANCE NO.**

Adopted by the Sacramento City Council  
Date Adopted

**AN ORDINANCE AMENDING SECTION 17.604.720 OF THE SACRAMENTO CITY CODE,  
RELATING TO MILLS ACT CONTRACTS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

The city council finds the following:

1. As amended by this ordinance, the Planning and Development Code complements, supports, and facilitates the implementation of the goals, policies, and other provisions of the city's general plan, specific plans, and transit village plans.
2. The amendments in this ordinance help promote the public health, safety, convenience, and welfare of the city.

**SECTION 2.**

Section 17.604.720 of the Sacramento City Code is amended to read as follows:

**17.604.720 Mills Act Contracts**

A. This section implements the Mills Act (California Government Code sections 50280 et seq.), related to historical property contracts. The Mills Act authorizes local governments to enter into contracts with owners of private historical property who will preserve and, when necessary, restore and rehabilitate the property. As consideration for the preservation, restoration, and rehabilitation of the property, a Mills Act contract will qualify the property for an assessment of valuation in accordance with California Revenue and Taxation Code sections 439 et seq., which may result in tax savings for the property owner.

AB. An owner of any of the following properties that are not exempt from taxation may apply to enter into a Mills Act contract with the city: a Mills Act contracts granting property tax relief shall be made available by the city only to owners of propertyies listed in the Sacramento register (either as a landmarks or as contributing resources within a historic districts); a, as well as propertyies located within the city that areis listed in: the National Register of Historic Places-Resources (either as an individual listings or as a contributing propertiesy within a national register historic

districts); or a property within the city that is listed in the California Register of Historical Places. Properties that have been previously listed ~~on~~in one or more of the above-mentioned registers, but that have been removed from the register and are no longer listed, ~~shall~~are not ~~be~~-eligible for a Mills Act contract with the city.

C. The city council, by resolution, may limit the number of Mills Act contracts the city enters in any calendar year.

~~B.~~D. When considering whether an applicant is suitable for a Mills Act contract, the city, in its sole discretion, may give priority to applicants that demonstrate any of the following:

1. The property is particularly significant due to its historic value, location, or other attribute.

2. The applicant has the ability to preserve and, when necessary, restore and rehabilitate the property.

3. The preservation and, when necessary, restoration and rehabilitation of the property will enhance the city's inventory of historic and cultural resources.

~~E. Mills Act contracts shall be made available pursuant to California law.~~The preservation director shall make available ~~appropriate~~ Mills Act application materials.

~~CF.~~ A property owner who wishes to enter into a Mills Act contract with the city must submit an application to the ~~Mills Act contract applications shall be made to the~~ preservation director and pay a processing and administrative fee in an amount established by resolution of the city council. ~~The preservation director, who shall,~~ within 60 days of receipt of a completed application, shall determine the applicant's suitability for a Mills Act contract based on subsections B and D above. ~~If the preservation director determines the applicant is suitable for a Mills Act contract, the preservation director shall~~ prepare and make recommendations on the contents of the contract for consideration by the city council. ~~A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by city council resolution, may be charged.~~

~~DG.~~ The city council may, in its sole discretion, shall, in public hearing, resolve ~~to~~ approve, approve with conditions, or deny the proposed contract. Should the city council fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

EH. A Mills Act contract application that has ~~failed to be approved~~been denied by the city council cannot be resubmitted for one year from the date of city council action, or where the council fails to take action, within one year from the date that the application is deemed denied pursuant to subsection ~~D-G~~ of this section.

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Adopted by the Sacramento City Council  
Date Adopted

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B. An owner of any of the following properties that are not exempt from taxation may apply to enter into a Mills Act contract with the city: a property listed in the Sacramento register (either as a landmark or a contributing resource within a historic district); a property within the city that is listed in the National Register of Historic Resources (either as an individual listing or as a contributing property within a national register historic district); or a property within the city that is listed in the California Register of Historical Places. Properties that have been previously listed in one

or more of the above-mentioned registers, but that have been removed from the register and are no longer listed, are not eligible for a Mills Act contract with the city.

C. The city council, by resolution, may limit the number of Mills Act contracts the city enters in any calendar year.

D. When considering whether an applicant is suitable for a Mills Act contract, the city, in its sole discretion, may give priority to applicants that demonstrate any of the following:

1. The property is particularly significant due to its historic value, location, or other attribute.

2. The applicant has the ability to preserve and, when necessary, restore and rehabilitate the property.

3. The preservation and, when necessary, restoration and rehabilitation of the property will enhance the city's inventory of historic and cultural resources.

E. The preservation director shall make available Mills Act application materials.

F. A property owner who wishes to enter into a Mills Act contract with the city must submit an application to the preservation director and pay a processing and administrative fee in an amount established by resolution of the city council. The preservation director, within 60 days of receipt of a complete application, shall determine the applicant's suitability for a Mills Act contract based on subsections B and D above. If the preservation director determines the applicant is suitable for a Mills Act contract, the preservation director shall prepare and make recommendations on the contents of the contract for consideration by the city council.

G. The city council may, in its sole discretion, approve, approve with conditions, or deny the proposed contract. Should the city council fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

H. A Mills Act contract application that has been denied by the city council cannot be resubmitted for one year from the date of city council action, or where the council fails to take action, within one year from the date that the application is deemed denied pursuant to subsection G of this section.

**RESOLUTION NO. 2016-**

Adopted by the Sacramento City Council  
XXXX XX, 2018

**ESTABLISHING ANNUAL LIMIT FOR MILLS ACT  
CONTRACTS PURSUANT TO SECTION 17.604.720, OF  
THE SACRAMENTO CITY CODE**

**BACKGROUND**

- A. On \_\_\_\_\_, 2018, the city council enacted Ordinance 2018-\_\_\_\_\_, which amended section 17.604.720 of the Sacramento City Code, relating to Mills Act contracts. The ordinance, in recognition of the significant administrative resources required to implement Mills Act contracts, allows the city council to limit the number of contracts the city enters in any calendar year.
- B. The purpose of this resolution is to limit the number of Mills Act contracts the city enters in any calendar year.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS  
FOLLOWS:**

- Section 1. The number of Mills Act contracts the city enters in any calendar year is limited to 12.

**RESOLUTION NO. 2016-**

Adopted by the Sacramento City Council  
XXXX XX, 2018

**ESTABLISHING ADMINISTRATIVE PROCESSING FEES TO  
PREPARE MILLS ACT CONTRACTS PURSUANT TO  
SECTION 17.604.720, OF THE SACRAMENTO CITY CODE**

**BACKGROUND**

- A. On \_\_\_\_\_, 2018, the city council enacted Ordinance 2018-\_\_\_\_\_, which amended chapter 17.604.720 of the Sacramento City Code, related to Mills Act Contracts allowing staff to develop administrative procedures for administering a Mills Act program in the city.
- B. Administration of the Mills Act program will require staff time to review applications, prepare contracts for consideration by City Council, and conduct periodic inspections.
- C. The purpose of this resolution is to establish the administrative and inspection fees to carry out the Mills Act program. The amount of the proposed fees is no more than necessary to cover the City's reasonable costs to accept, process, and review applications for Mills Act agreements, review annual progress reports, and conduct periodic inspections in accordance with chapter 17.604.720.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. The City of Sacramento Fee and Charge Report, Community Development Department, is hereby amended as set forth in Exhibit A, to establish the amount of the fees authorized by section 17.604.720 of the Sacramento City Code.

**Table of Contents**

- Exhibit A – Application fee to review and process Mills Act contract applications.
- Exhibit B – Contract processing fee for applicants of single family and large multi-family (five units or less) to prepare contract for city council consideration.
- Exhibit C – Contract processing fee for applicants of commercial buildings or large multi-family dwellings (with five or more dwelling units) to prepare contract for city council consideration.
- Exhibit D – Annual program administration fee charged to all property owners with active contracts each calendar year.

**Exhibit A**

**Fee Name:** Application fee to review and process Mills Act contract applications.

**Current Fee:** None

**Proposed Fee:** \$152

Task	Estimated Fees
Accept, process, and review applications for the Mills Act contract program, verify the application is complete, and perform administrative and accounting tasks associated with the application, and make a determination weather or not to recommend approval of a contract.	\$135
<b>TOTAL FEES</b>	<b>\$135</b>

**Justification:** Fees recover the estimated costs to accept, process, and review applications for the Mills Act program, and perform administrative and accounting tasks, and make a determination weather or not to recommend approval of a contract, all at the Planner hourly rate of \$135.

**Proposition 26:** These fees are not “taxes” under section 1, subdivision (e), in article XIII C of the California Constitution, as they are within the exception set out in subdivision (e)(3) of that section. The fees recoup not more than 100% of the Department’s actual cost of processing the application. No fee waivers are provided, and the Department’s costs are allocated equally to the persons who apply for a Mills Act agreement.

**Exhibit B**

**Fee Name:** Contract processing fee for applicants of single family and small multi-family (four units or less) to prepare contract for city council consideration.

**Current Fee:** None

**Proposed Fee:** \$912

Task	Estimated Fees
Prepare Mills Act agreement between the City and property owner, negotiate annual work plan with property owner, and prepare staff report and resolution for city council consideration.	\$912
<b>TOTAL FEES</b>	<b>\$912</b>

**Justification:** Fees recover the estimated costs to prepare Mills Act agreement between the City and property owner, negotiate annual work plan with property owner, prepare staff report and resolution for city council consideration, and perform administrative and accounting tasks to ensure that Mills Act agreements are presented to city council for their consideration pursuant to Article 17.604.720 of the City Code for 6-hours times the Associate Planner hourly rate of \$113 and 2-hours times the Senior Planner’s hourly rate of \$117.

**Proposition 26:** These fees are not “taxes” under section 1, subdivision (e), in article XIII C of the California Constitution, as they are within the exception set out in subdivision (e)(3) of that section. The fees recoup not more than 100% of the Department’s actual cost of processing the application. No fee waivers are provided, and the Department’s costs are allocated equally to the persons who apply for a Mills Act agreement.

**Exhibit C**

**Fee Name:** Contract processing fee for applicants of commercial buildings or large multi-family dwellings (with five or more dwelling units) to prepare contract for city council consideration.

**Current Fee:** None

**Proposed Fee:** \$1481

Task	Estimated Fees
Prepare Mills Act agreement between the City and property owner, negotiate annual work plan with property owner, and prepare staff report and resolution for city council consideration.	\$1481
<b>TOTAL FEES</b>	<b>\$1481</b>

**Justification:** Fees recover the estimated costs to prepare Mills Act agreement between the City and property owner, negotiate annual work plan with property owner, prepare staff report and resolution for city council consideration, and perform administrative and accounting tasks to ensure that Mills Act agreements are presented to city council for their consideration pursuant to Article 17.604.720 of the City Code 10-hours times the Associate Planner hourly rate of \$113 and 3-hours times the Senior Planner’s hourly rate of \$117.

**Proposition 26:** These fees are not “taxes” under section 1, subdivision (e), in article XIII C of the California Constitution, as they are within the exception set out in subdivision (e)(3) of that section. The fees recoup not more than 100% of the Department’s actual cost of processing the application. No fee waivers are provided, and the Department’s costs are allocated equally to the persons who apply for a Mills Act agreement.

**Exhibit D**

**Fee Name:** Annual program administration fee charged to all property owners with active contracts each calendar year

**Current Fee:** None

**Proposed Fee:** \$135

Task	Estimated Fees
Review annual reports and conduct periodic inspections for the Mills Act contract program, and perform administrative and accounting tasks associated with the contract.	\$202.50
<b>TOTAL FEES</b>	<b>\$202.50</b>

**Justification:** Fees recover the estimated costs to review annual reports and conduct periodic inspections for the Mills Act contract program, perform administrative and accounting tasks associated with the contract, and if necessary undertake corrective action, at 1.5 times the Planner hourly rate of \$135.

**Proposition 26:** These fees are not “taxes” under section 1, subdivision (e), in article XIII C of the California Constitution, as they are within the exception set out in subdivision (e)(3) of that section. The fees recoup not more than 100% of the Department’s actual cost of processing the application. No fee waivers are provided, and the Department’s costs are allocated equally to the persons who apply for a Mills Act agreement.

## Attachment 4

### City of Sacramento Mills Act Program Fee Justification Background (City Code Section 17.604.720)

*The Mills Act effectively prohibits a valuation of a property under a Mills Act Contract from tax valuation based on tax data and instead requires the property under contract be valued by a prescribed income capitalization rate, which usually, but not always, results in a tax reduction for the property owner.*

### Mills Act Fees

Fees are needed to help offset the cost required for staff time to process applications, prepare contracts for consideration, and conduct necessary inspections. The Fee Resolution (Exhibit 3) is not intended to offset the property tax reduction described above but would reduce the department's costs for administering the program. These fees are summarized below and included in the attached Fee Resolution, as Exhibit 3:

Fees Summary Table

Fee Amount	Description	Purpose
\$135.00	Non-refundable application fee charged when application is submitted.	Staff time (\$135 x 1 hour) to review and process application.
\$912.00	Non-refundable processing fee charged to applicants of single family units or multi-family of four units or less if application is recommended for approval by City Council.	Associate Planner time (\$113 x 6 hours) and Senior Planner time (\$117 x 2 hours) to prepare contract and staff report for consideration.
\$1481.00	Non-refundable processing fee charged to applicants of commercial properties or multi-family greater than four units if application is recommended for approval by City Council.	Associate Planner time (\$113 x 10 hours) and Senior Planner time (\$117 x 3 hours) to prepare contract and staff report for consideration.
\$202.50	Annual program administration fee charged to all property owners with active contracts.	Staff time (\$135 x 1.5 hour per year) for staff to administer the program.

### Contract Application Fee

One-time fee for submitting a Mills Act application	1-hour x \$135 = \$135
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Fee charged to each applicant to accept, process, and review applications for the Mills Act program. Fee includes administrative and accounting tasks associated with processing the application. Fee is calculated based on one hour at the Planner hourly rate of \$135. It is anticipated the minimum amount of time to review an application is one hour. However, this fee would be non-refundable, and those applications not recommended for a contract would still be required to pay the fee. It is unlikely

the city will recover all costs associated with the Mills Act application process, but this fee is expected to significantly reduce the cost associated with reviewing contract applications.

#### Single-family and Small Multi-Family Contract Fee

One-time fee for contract preparation Single-family and small multi-family	6-hours x Associate Planner Rate \$113 = \$678 2-hours x Senior Planner Rate \$117 = \$234
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If an application is recommended for a Mills Act contract, staff would be required to prepare a Mills Act agreement between the City and property owner, negotiate annual work plan with property owner, and prepare a staff report, resolution, and contract for city council consideration. This fee applies to owners of single family and small multi-family (four units or less) because it is anticipated less staff time would be required for these relatively small properties, when compared to larger buildings. Fee includes six hours at the Associate Planner’s hourly rate of \$113, and two hours of review time at the Senior Planner’s hourly rate of \$117. It is anticipated the average amount of time to prepare a Mills Act agreement for a single-family or small multi-unit (four units or less) is six hours with two hours of review time. However, this fee would be refundable, should the City Council elect not to accept staff recommendation to enter into a Mills Act agreement with the applicant. This fee would recover approximately all department costs associated with preparing Mills Act agreements for ratification by City Council, unless the city decides not to ratify an agreement.

#### Commercial and Large Multi-Family Contract Fee

One-time fee for contract preparation for commercial and large multi-family	10-hours x Associate Planner Rate \$113 = \$1130 3-hours x Senior Planner Rate \$117 = \$351
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If an application is recommended for a Mills Act agreement, staff would be required to prepare a Mills Act agreement between the City and property owner, negotiate the annual work plan with a property owner, and prepare a staff report, resolution, and contract for city council consideration. This fee applies to owners of commercial buildings and large multi-family (more than four units) because it is anticipated additional staff time would be required when compared to smaller buildings. Fee includes ten hours at the Associate Planner hourly rate of \$113, and three hours at the Senior Planner hourly rate of \$117. It is anticipated the average amount of time to prepare a Mills Act agreement for a commercial building or multi-family with more than four units is ten hours at the Associate Planner-level, with three hours of Senior Planner Review time. It is likely at least one inspection will be required to prepare the required annual work plan for larger more complex buildings. Therefore, a total of four hours has been included for larger more complex contracts when compared to smaller buildings along with additional Senior Planner time to review the more complex work plan. However, this fee would be refundable, should the city elect not to accept staff recommendation to enter into a Mills Act agreement with the applicant. This fee would recover approximately all department costs associated with preparing Mills Act agreements for ratification by City Council, unless the city should decide not to ratify an agreement.

#### Reporting and Inspection Fee

Annual fee for annual reports and inspections on properties under a Mills Act agreement	1.5-hours x \$135 = \$202.50
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Annual fee to review annual reports and conduct periodic inspections for active Mills Act contracts. Perform administrative and accounting tasks associated with the contract. Fee includes 1.5-hours at the Planner's hourly rate of \$135. It is anticipated the minimum amount of time to review an annual report and conduct periodic inspections is approximately one hour per year. However, some contracts will take more time annually to administer. Therefore, it is unlikely the city will recover all costs associated with the Mills Act reporting and inspection process, but this fee is expected to significantly reduce the cost associated with administering this reporting and inspection requirement for Mills Act contracts.

The fees described above are not "taxes" under section 1, subdivision (e), in article XIIC of the California Constitution, as they are within the exception set out in subdivision (e)(3) of that section. The fees recoup not more than 100% of the Department's actual cost of reviewing applications, drafting contracts, and reviewing annual reports or conducting inspections. No fee waivers are provided, and the Department's costs are allocated equally to the persons who apply for and receive contracts.