

RESOLUTION NO. 2023-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA RECONFIRMING THE AUTOMATIC ANNUAL FEE ADJUSTMENT IN THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN LOCAL DEVELOPMENT MITIGATION FEE APPLICABLE TO ALL DEVELOPMENTS IN THE PLAN AREA PURSUANT TO TEMECULA MUNICIPAL CODE SECTION 15.10.050.D AND MAKING CEQA FINDINGS (LR23-0221)

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES RESOLVE AS FOLLOWS:

Section 1. Recitals.

(a) The City of Temecula (“City”) is a member agency of the Western Riverside County Regional Conservation Authority (“RCA”), a joint powers agency comprised of the County of Riverside and the eighteen cities located in western Riverside County.

(b) The member agencies of RCA recognized that a habitat conservation plan is necessary to provide special protections for vegetation communities and natural areas containing habitat values to prevent future endangerment of the plant and animal species impacted by new development in western Riverside County.

(c) In order to address these issues, the member agencies formulated a plan called the Western Riverside County Multiple Species Habitat Conservation Plan (the “MSHCP”) whereby a mitigation fee would be assessed on new development and would be used to fund the implementation of the MSHCP.

(d) In furtherance of the MSHCP, the City adopted Resolution 2021-18 approving and adopting the updated “Western Riverside County Multiple Species Habitat Conservation Plan Nexus Fee Study Update,” dated October 2020.

(e) Chapter 15.10 of the Temecula Municipal Code, the "Western Riverside County Multiple Species Habitat Conservation Plan Mitigation Fee Ordinance," was adopted pursuant to California Government Code Sections 66000 et seq. and authorizes the City Council to impose the Local Development Mitigation Fee upon new development.

(f) Section 15.10.050.A. of the Temecula Municipal Code authorizes the City to adopt an applicable Local Development Mitigation Fee schedule by resolution.

(g) Resolution No. 2021-18 adopted the MSHCP Local Development Mitigation Fee.

(h) Section 15.10.050.D of the Temecula Municipal Code provides for an Automatic Annual Fee Adjustment in accordance with the RCA's MSHCP Implementing Agreement:

“D. Automatic annual fee adjustment. In addition to the periodic fee adjustment mentioned above, the RCA shall provide the city with an automatic annual fee adjustment for the local development mitigation fee established by this chapter as set forth in the MSHCP Mitigation Fee Implementation Manual.”

(i) Additionally, Section 8 of Resolution No. 2021-18 provides for an Automatic Annual Fee Adjustment in accordance with the RCA's MSHCP Implementing Agreement:

“Section 8. In addition to the Periodic Fee Adjustment mentioned above, the RCA shall provide the City with an automatic annual fee adjustment for the Local Development Mitigation Fee established by this Resolution as set forth in the MSHCP Mitigation Fee Implementation Manual adopted pursuant to the Local Development Mitigation Fee Ordinance.”

(j) Pursuant to Section 15.10.050 of the Temecula Municipal Code, Section 8 of Resolution No. 2021-18, RCA's MSHCP Mitigation Fee Implementation Manual and past practice, the MSHCP Local Development Mitigation Fee adjusts annually by the change in the Consumer Price Index (CPI). RCA has determined that based on the CPI increase for Riverside – San Bernardino – Ontario, CA, that the MSHCP fees will increase 7.33% effective July 1, 2023. RCA has provided the City with revised MSHCP fees as provided in Section 3.

(k) The fees collected pursuant to this Resolution shall be used to finance the public facilities described or identified in the 2020 Nexus Study. The MSHCP fees the City collects are pass-through payments. The City collects the payment at time of Building permit issuance and then passes through those payments to RCA, on or before the 30th day of the month following the date the fee payment was received.

Section 2. California Environmental Quality Act Findings. The City Council of the City of Temecula does hereby make the following environmental findings and determinations in connection with the adoption of the Local Development Mitigation Fee:

(a) The Local Development Mitigation Fee adopted by this Resolution is not subject to the requirements of CEQA and the City's CEQA Guidelines pursuant to Section 21080(b)(8) of the California Public Resources Code and Section 15273 of the CEQA Guidelines because CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of (a) meeting operating expenses, including employee wage rates and fringe benefits or (b) obtaining funds for capital projects necessary to maintain service within existing service areas.

(b) Further, on a separate and independent basis, the Local Development Mitigation Fee adopted by this Resolution is not subject to the requirements of CEQA and the City's CEQA Guidelines pursuant to Section 15378(b)(4) of the State CEQA Guidelines because

the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment, is not a “project” for purposes of CEQA.

(c) Further, on a separate and independent basis, the Local Development Mitigation Fee adopted by this Resolution is not subject to the requirements of CEQA and the City’s CEQA Guidelines because it implements the Fee as adopted by Resolution No. 2021-18.

Section 3. Adoption of Adjusted Local Development Mitigation Fee. Based on the foregoing, the City Council of the City of Temecula does hereby amend Section 5 of Resolution No. 2021-18 to read as follows:

“A. For the period of July 1, 2023 to June 30, 2024, the Local Development Mitigation Fee shall be as follows:

**WESTERN RIVERSIDE COUNTY
MULTIPLE SPECIES HABITAT CONSERVATION PLAN**

**LOCAL DEVELOPMENT MITIGATION FEE SCHEDULE FOR FISCAL YEAR 2023
(EFFECTIVE JULY 1, 2023, TO JUNE 30, 2024)**

<u>Fee Category</u>	<u>Fee</u>
Residential, density between 8.0 and 14.0 dwelling units per acre (fee per dwelling unit)	\$1,766
Residential, density less than 8.0 dwelling units per acre (fee per dwelling unit)	\$4,236
Residential density greater than 14.0 dwelling units per acre (fee per dwelling unit)	\$781
Commercial (fee per acre)	\$19,066
Industrial (fee per acre)	\$19,066

“B. In the event this Resolution and Resolution No. 2021-18 are not further amended by July 1, 2024, the Local Development Mitigation Fee shall be the fee set forth in Section 5 of Resolution No. 2021-18.”

Section 4. Effective Date of the Adjusted Local Development Mitigation Fee. The adjusted Local Development Mitigation Fee established by Section 3 of this Resolution shall be effective on July 1, 2023.

Section 5. Effect on Resolution No. 2021-18. Except as provided in Section 3 of this Resolution, all other terms and provisions of Resolution No. 2021-18 shall remain in full force and effect.

Section 6. Severability. This Resolution and the various parts, sections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this Resolution, or its application to any person entity is adjudged unconstitutional or invalid, such unconstitutionality or invalidity shall affect only such part, sentence, paragraph, section, or clause of this Resolution, or person or entity; and shall not affect or impair any of the remaining provision, parts, sentences, paragraphs, sections, or clauses of this Resolution, or its application to other persons or entities. The City Council hereby declares that this Resolution would have been adopted had such unconstitutional or invalid part, sentence, paragraph, section, or clause of this Resolution not been included herein; or had such person or entity been expressly exempted from the application of this Resolution. If the fees collected for the conservation of the land, including the monitoring and management thereof, are later adjudged by a final unappealable judgment of a court of competent jurisdiction to be unconstitutional or invalid, the prior Local Development Mitigation Fee adopted pursuant to Resolution No. 2021-18 shall each be revived and shall continue for the life of the MSHCP until modified by resolution of the City Council.

Section 7. Certification. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 11th day of July, 2023.

Zak Schwank, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 2023- was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 11th day of July, 2023, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk