

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Luke Watson, Director of Community Development

DATE: April 13, 2021

SUBJECT: Approve Proposed Ordinance to Update the Local Development Mitigation Fee for Funding the Preservation of Natural Ecosystems in Accordance with the Western Riverside County Multiple Species Habitat Conservation Plan (“MSHCP”) and Local Development Mitigation Fee Resolution (Long Range Project No. LR21-0392)

PREPARED BY: Theresa Harris, Senior Management Analyst

RECOMMENDATION: That the City Council:

1. Introduce and read by title only an ordinance entitled:

ORDINANCE NO. 2021-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING CHAPTER 15.10, MULTIPLE SPECIES HABITAT CONSERVATION MITIGATION FEE, OF THE TEMECULA MUNICIPAL CODE PERTAINING TO THE LOCAL DEVELOPMENT MITIGATION FEE FOR FUNDING THE PRESERVATION OF NATURAL ECOSYSTEMS IN ACCORDANCE WITH THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN

2. Adopt a resolution entitled:

RESOLUTION NO. 2021-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMECULA ESTABLISHING THE WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN LOCAL DEVELOPMENT MITIGATION FEE PURSUANT TO CHAPTER 15.10 OF THE TEMECULA MUNICIPAL CODE

SUMMARY OF ORDINANCE: The proposed Ordinance will amend Chapter 15.08, Multiple Species Habitat Conservation Mitigation Fee, to update its provisions to incorporate the findings of the 2020 Nexus Study pertaining to Multiple Species Habitat Conservation Plan Fee. The proposed Ordinance will govern the application, establishment, and implementation of the Fee in order to implement the provisions of the Western Riverside County Multiple Species Habitat Conservation Plan.

BACKGROUND: The City of Temecula is a member jurisdiction of the Western Riverside County Regional Conservation Authority (RCA), a joint powers agency comprised of the County of Riverside and the eighteen (18) cities located in Western Riverside County. The RCA was formed to acquire, administer, operate, and maintain land and facilities to establish habitat reserves for the conservation and protection of species covered by the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP or Plan).

The Western Riverside County MSHCP, originally adopted in 2004, is a comprehensive, multi-jurisdictional Habitat Conservation Plan (HCP) focusing on the permanent conservation of 500,000 acres and the protection of 146 species, including 33 that are currently listed as threatened or endangered. The MSHCP was developed in response to the need for future growth opportunities in western Riverside County, from housing developments to transportation and infrastructure, while addressing the requirements of the State and Federal Endangered Species Acts (ESA). The MSHCP serves as an HCP pursuant to Section 10(a)(1)(B) of the Federal Endangered Species Act of 1973 as well as a Natural Communities Conservation Plan (NCCP) under California's NCCP Act of 2001. The MSHCP streamlines environmental permitting processes by allowing the participating jurisdictions such as City of Temecula to authorize "take" of plant and wildlife species identified within the Plan Area. Without the MSHCP, each development and transportation project would need to conduct an individual assessment and mitigation for impacts to endangered species, an approach that would be less efficient and effective, and more costly.

The City of Temecula's receipt of local Measure A sales tax funds for local streets and roads is conditioned upon the City of Temecula's participation in the MSHCP. This condition of funding is memorialized in the voter-adopted ordinance that authorizes Measure A. In the previous fiscal year City of Temecula received \$3,374,987 in Measure A funding for local transportation projects.

The MSHCP required a Nexus Study under the Mitigation Fee Act (Gov. Code §§ 66000 *et seq.*) to establish a Local Development Mitigation Fee (LDMF) that would then be adopted by each jurisdiction participating in the MSHCP. The LDMF pays for acquisition of Additional Reserve Lands (ARL) to meet the target conservation acreage that local governments are responsible to acquire per the Plan. The original Nexus Study was completed in 2003 coinciding with the adoption of the MSHCP, Implementing Agreement, and signing of the Permits. Section 8.5.1 of the MSHCP allows the fee to be reevaluated and revised should it be found to insufficiently cover mitigation of new development. Based on the 2003 Nexus Study, the City of Temecula adopted and implemented an ordinance authorizing the imposition of the LDMF.

Pursuant to the Mitigation Fee Act, RCA prepared a new nexus study (“2020 Nexus Study”) to update the fees for the first time since original adoption. On December 7, 2020, the RCA Board of Directors adopted the 2020 Nexus Study. On December 31, 2020 RCA transmitted a model ordinance and model resolution to City of Temecula. The RCA Board of Directors also approved the use of the MSHCP Mitigation Fee Implementation Manual to assist Member Agencies with LDMF collection questions.

An updated Nexus Study was needed to ensure adequate funding to complete reserve acquisition to fulfill local governments’ responsibilities under the MSHCP. Over the last 16 years, many of the assumptions underlying the original Nexus Study were not borne out by reality. Forces contributing to the unmet expectation include the Great Recession, less acreage dedicated to RCA by private landowners, and less state and federal funding than expected. The 2020 Nexus Study calculated the expected costs to complete ARL acquisition, manage the conservation lands in perpetuity via an endowment, and administration of the MSHCP. The Nexus Study extended the reserve acquisition period by an additional fifteen years. Currently, the acquisition period ends in 2029. By extending the acquisition period, the LDMF increase is lower because it covers more development over a longer period. The RCA Board also adopted a phased increase of the new fee, with 50 percent of the fee increase taking effect on July 1, 2021 and the remainder of the increase taking effect on January 1, 2022. Public deliberation over the 2020 Nexus Study stretched over a year in multiple public meetings.

In addition to the Local Development Mitigation Fee schedule the recommended Council action includes adoption of an Administrative Fee to reimburse the City for the costs of collecting and remitting the fees from project proponents. The Administrative Fee shall be fifteen dollars and forty-five cents (\$15.45) for each payment of the Local Development Mitigation Fee. The Administrative Fee shall be increased annually for inflation on July 1st of each year, beginning July 1, 2022, by the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U): Riverside-San Bernardino-Ontario. The Administrative Fee is based on the estimated time City Staff will spend collecting, processing and remitting the payment of LDMF and is not greater than the reasonable costs to the City of collecting, processing, and remitting the fees from project proponents.

FISCAL IMPACT: The \$15.45 administrative fee is estimated to result in revenue to the General Fund of approximately \$4,800 per year.

ATTACHMENTS:

1. Ordinance
2. Resolution
3. MSHCP Final Report Nexus Fee Study Update
4. MSHCP Mitigation Fee Implementation Manual
5. RCA’s MSHCP LMDF FAQs
6. RCA’s MSHCP Nexus Study Background Factsheet
7. Notice of Public Hearing