



MSHCP Mitigation Fee Implementation Manual

December 2020



RCA's MSHCP MITIGATION FEE IMPLEMENTATION MANUAL

The Western Riverside County Regional Conservation Authority ("RCA") was formed in 2004 to achieve one of America's most ambitious environmental efforts, the Western Riverside County Multiple Species Habitat Conservation Plan ("MSHCP" or the "Plan"). As the nation's largest habitat conservation plan of its kind, the MSHCP strengthens the sustainability and quality of life in western Riverside County by nurturing economic development opportunities, alleviating traffic congestion, protecting natural resources, and improving air quality.

This MSHCP Mitigation Fee Implementation Manual ("Manual") provides direction to Local Jurisdictions under the MSHCP concerning their obligations under the MSHCP and Permits regarding the imposition, collection, accounting, remittance and calculation of the Local Development Mitigation Fee. The Local Development Mitigation Fee Program is administered by the RCA. The instructions in this Manual are intended to be consistent with and based on the MSHCP, the Implementing Agreement (IA), and the 2020 Nexus Study. The Manual is also intended to provide direction to Member Agencies concerning their Fee Ordinances and any related Resolutions. For questions and clarifications, please contact the RCA.

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I. Introduction



CHAPTER I. INTRODUCTION

A. Background on MSHCP and Implementation Agreements

The MSHCP, originally adopted in 2004, is a comprehensive, multi-jurisdictional Habitat Conservation Plan 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 while addressing the requirements of the State and federal Endangered Species Acts. 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 under the NCCP Act of 2001. The MSHCP streamlines these environmental permitting processes by allowing the participating jurisdictions to authorize “take” of plant and wildlife species identified within the Plan Area and has saved taxpayers more than \$500 million by expediting the construction of more than 30 major freeway and road improvements in Riverside County valued at more than \$5 billion. At the same time, Plan implementation provides a coordinated MSHCP Conservation Area and implementation program to preserve biological diversity and maintain the region’s quality of life.

The MSHCP and the associated Implementing Agreement (“IA”) and Incidental Take Permit collectively determine a set of conservation actions that must be taken to meet the terms of the Incidental Take Permit and benefit from the regulatory streamlining and other benefits of the MSHCP. This includes the identification of the responsible parties, including the responsibilities of the Local Permittees.¹ One of the key requirements of the MSHCP, IA, and Incidental Take Permit (consistent with the requirements of the federal Endangered Species Act) is the provision of adequate funding by Local Permittees to the Implementing Entity (the Western Riverside County Regional Conservation Authority²) (“RCA”) to conduct their portion of the conservation actions identified in the MSHCP.

B. Purpose of MSHCP and Local Development Mitigation Fee

The purpose of the Local Development Mitigation Fee (“LDMF”) is to contribute to the funding required to implement the MSHCP and, as a result, help maintain the Incidental Take Permit for new private and public development in western Riverside County under the federal and State Endangered Species Acts. Maintaining the Incidental Take Permit is necessary to allow for future development, and without the development community paying for the cost of the MSHCP, individual applicants would need to apply

¹Local Permittees include the western Riverside Cities, the County of Riverside, County Flood Control and Water Conservation District, County Regional Park and Open-Space District, County Department of Waste Resources, and Riverside County Transportation Commission.

²The Western Riverside County Regional Conservation Authority is a joint powers authority established in 2004 to implement the MSHCP.

independently for development approval under federal and State law if the project impacts a threatened or endangered species. The Federal Endangered Species Act specifically requires that the applicant for Incidental Take Permit “ensure that adequate funding for the [MSHCP] will be provided.”³ In addition, the LDMF helps provide the regional benefit of streamlined economic development in western Riverside County as well as the provision of contiguous open spaces that will serve as a community amenity to residents, workers, and visitors.

New development in the MSHCP Area will directly, indirectly, or cumulatively affect species and habitat in western Riverside County. Because of this, the County of Riverside along with several other agencies prepared and adopted the MSHCP to provide a regional, streamlined approach to benefit future development of all types in western Riverside County, including the development and improvements envisioned under the numerous General Plans and the Regional Transportation Improvement Program. The requirements of the MSHCP (habitat acquisition, management and monitoring, and program administration) are a direct result of the regional approach to mitigation that is engendered by all new development in the Plan Area under the pertinent environmental regulations. Consequently, the LDMF applies to all new development in western Riverside County whether or not the development is within a Criteria Cell.

The overall permit period was set at 75 years, ending in 2079. To cover ongoing management and monitoring costs beyond the duration when mitigation fees will be collected, the establishment of a non-depleting endowment is required. In other words, the endowment must be sufficient such that expected average interest revenues (after inflation and transaction costs) can cover the ongoing costs associated with management and monitoring in perpetuity. The endowment must be fully established by the end of the land acquisition period as it is assumed that no more mitigation fees will be collected after that time.

Finally, the LDMF is required by the MSHCP and the IA (IA §13.2(A); MSHCP § 8.5.1).

C. Public Projects

A number of Public Projects also pay fees related to the MSHCP in order to mitigate the impact of public projects in accordance with the terms of the IA. These different types of Public Projects and the fees related to them are discussed more in the later chapters of this Manual.

D. RCA Administration of Fee Program

Section 2 of the Member Agencies’ Fee Ordinance provides that the RCA is appointed as the Administrator of the Fee Ordinance. The RCA is authorized to receive all fees generated from the LDMF within the Cities or County, and to invest, account for, and expend such fees in accordance with the provisions of the Plan, IA, and Fee Ordinances.

³See Section 1539(a)(2)(B)(iii) of the federal Endangered Species Act.

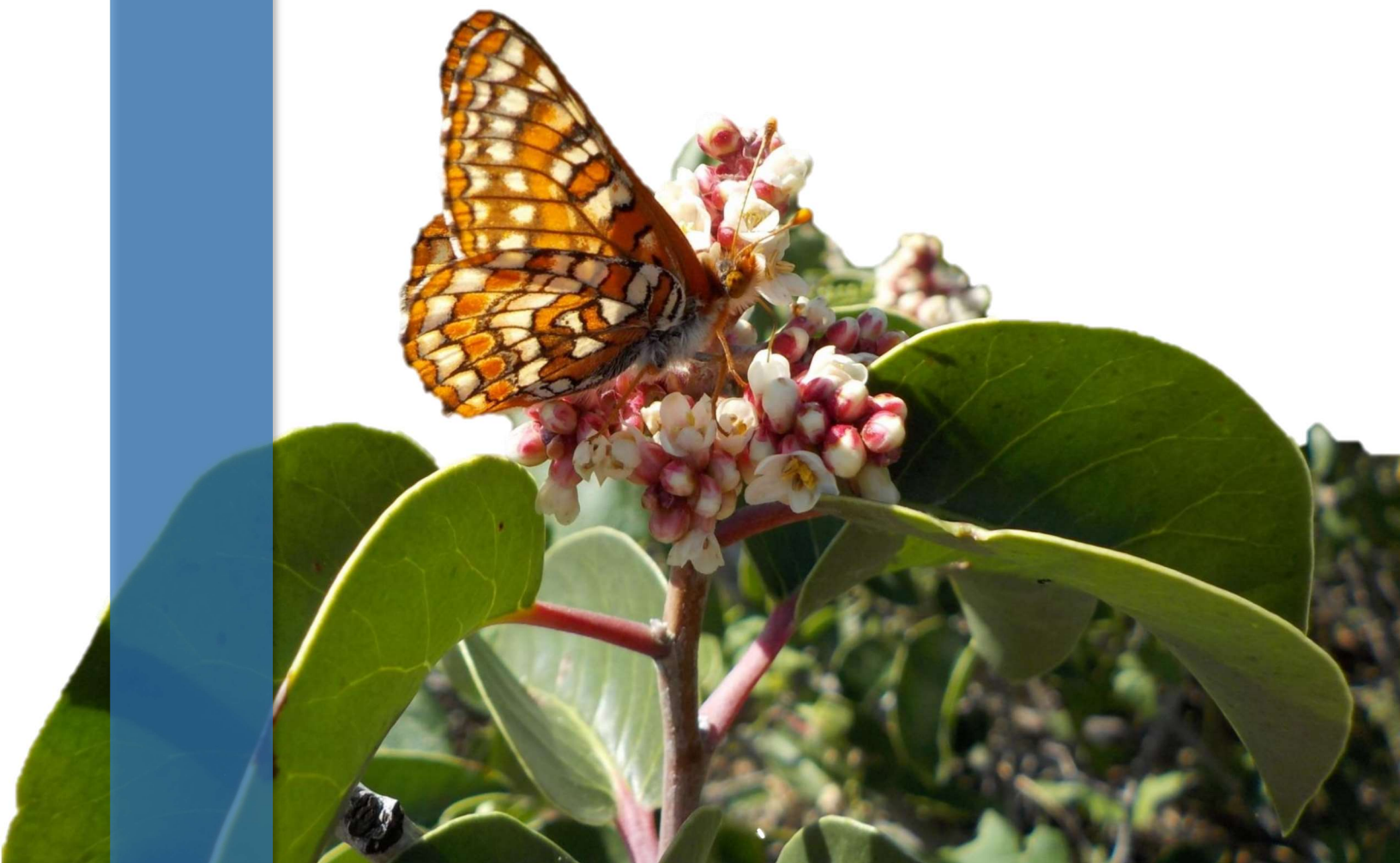
The RCA's Executive Director or his/her designee is authorized to act on behalf of the RCA as the Administrator of the LDMF Program. Furthermore, the RCA shall have the final determination regarding collection of the fee, the appropriate methodology to calculate the fee based on the information provided, and the interpretation of this Manual.

E. Purpose of Implementation Manual

The purpose of this Manual is to provide those jurisdictions and agencies that are participants in the MSHCP and IA with direction and policies for implementation of the LDMF Ordinance and Resolution adopted by each of the member jurisdictions. The Manual specifies implementation and responsibilities for the LDMF Ordinance and Resolution. The instructions in this Manual shall control the administration of the Local Development Mitigation Fee except where directly in conflict with the adopting Ordinance. Capitalized terms in this Manual shall have the same meaning as in the adopting Ordinance.

The RCA may, from time to time, amend this Manual as necessary to add additional direction, clarification, or guidance regarding implementation of the LDMF Ordinance.

II. Local Jurisdiction Instructions



CHAPTER II. LOCAL JURISDICTION INSTRUCTIONS

A. Legal Authority

Any capitalized terms used within this Manual which are not defined herein are the same as those defined in the LDMF Ordinances.

The MSHCP notes that “new development affects the environment directly through construction activity and cumulatively through population bases that result from Development.” As a result, the Member Agencies are required to implement a LDMF that was expected to represent one of the primary sources of funding for the implementation of the MSHCP. The LDMF has been developed in accordance with California Government Code Section 66000 et seq. (the “Mitigation Fee Act”) that “allows cities and counties to charge new development for the costs of mitigating the impacts of new development.” Fees charged to Public Projects have been imposed pursuant to the MSHCP IA.

B. Member Agency Obligations under MSHCP and Implementation Agreements.

As set forth in Section 11.1 of the MSHCP Implementing Agreement, the Member Agencies and the RCA have selected legal mechanisms to ensure implementation of the terms of the MSHCP and the IA.

1. **Enactment of Fee Ordinance and Resolution.** Pursuant to Sections 11.1.1 and 11.1.2 of the MSHCP IA, the Member Agencies shall adopt an Ordinance imposing the LDMF in substantially the form proposed by the RCA and the related Resolution within 90 days’ notice from the RCA. The Member Agencies shall also adopt any updated Fee Ordinance or Resolution within 90 days’ notice from the RCA.
2. **Imposition of Fee.**
 - a. The LDMF will be paid no later than at the issuance of a building permit. Notwithstanding any other provision of the Municipal or County Ordinance, as relevant, no building permit shall be issued for any Development Project unless the LDMF applicable to such Development Project has been paid. The amount of the Fee shall be calculated in accordance with this Manual.
 - b. In lieu of the payment of the LDMF as provided above, the Fee for a Development may be paid through a Community Facilities District, provided that such arrangement is approved by the RCA in writing.

3. Remittance of Fees to the RCA

- a. Timing. The Member Agencies shall remit all LDMFs which are collected or should have been collected for any Development, as defined in the MSHCP, and contributions for Public Projects to the RCA on a monthly basis to be expended to fulfill the terms of the MSHCP. Payment to the RCA shall be made no later than 90 days after the LDMFs were collected. Payment to the RCA shall be made no later than 90 days after the construction contract for the Public Project is approved by the Member Agency.
- b. Documentation and Records Requirements. The Member Agencies shall maintain complete and accurate records with respect to all LDMF revenues collected under their LDMF Ordinances and the calculation of contributions for all Public Projects. All such records shall be clearly identifiable.
- c. Annual audits. The Member Agencies shall allow a representative of the RCA during normal business hours to examine, audit, and make transcripts or copies of such records.

4. Imposition of CPI increases and other Fee Adjustments

- a. Automatic Annual Fee Adjustment. The RCA will provide the Member Agencies with an automatic annual fee adjustment for the fee established by Resolution based on the average percentage change over the previous calendar year set forth in the Consumer Price Index for the Riverside-San Bernardino-Ontario metropolitan area or a replacement CPI index issued by the federal government. The Member Agencies shall adopt a resolution implementing the fee adjustment no later than 60 days after receiving notice from the RCA.
- b. Periodic Fee Adjustment. The fee schedule may be periodically reviewed, and the amounts adjusted by the RCA Board of Directors. By amendment to the fee Resolution referenced in the Fee Ordinance, the fees may be increased or decreased to reflect the changes in actual and estimated costs of the MSHCP including, but not limited to, management and monitoring, endowment, and acquisition costs. The adjustment of the fees may also reflect changes in the facilities required to be acquired, in estimated revenues received pursuant to the Fee Ordinances, as well as the availability or lack thereof of other funds with which to

implement the MSHCP. The Member Agencies shall adopt a resolution implementing the fee adjustment no later than 60 days after receiving notice from the RCA.

C. Fee Credits and Fee Credit Agreements

1. Fee Credits

When a Member Agency determines that a request for a fee credit ("Fee Credit") is appropriate for on-site conservation which meets the standards in Section II below, the Member Agency shall notify the RCA's Executive Director ("Executive Director") in writing as part of the Joint Project Review ("JPR") Application. This notification shall include all relevant documentation related to the project, including project description, map, criteria cells, and designation of land proposed for conservation.

Fee Credits shall be applied only to the Project they are associated with in the JPR. Fee Credits shall only be provided to the underlying property owner or development company at the time the LDMF applies and are not transferrable to other entities, individuals, or development projects. Fee Credits shall not be applied retroactively. Fee Credits shall not be granted for on-site conservation that would not be considered developable land in the absence of the MSHCP. Some examples of such undevelopable land include that which could not be developed under the California Environmental Quality Act, land with topography consisting of 50% or greater slopes, land that is in a flood way, or land that could not be developed due to other local ordinance restrictions. In cases where both developable and undevelopable land are included in on-site conservation, only that land that is developable in the absence of the MSHCP shall be considered for Fee Credit.

2. STANDARDS. Fee credits shall meet the following standards:

- a. Proposed conservation land must be within Criteria Cells and contribute to Reserve Assembly;
- b. Conservation land must be of a size, configuration, and location such that it can be managed as part of the MSHCP Conservation Area;
- c. In addition to the exclusions identified in Section I above, fuel modification/hazardous vegetation areas, manufactured slopes, storm drain or detention basin outfalls, constructed slope protection, utility easement areas, and Best Management Practices such as bioswales, infiltration trenches, and basins will be excluded from Fee Credits and will not be accepted for management by the RCA.

3. APPRAISAL

- a. The RCA or Member Agency will obtain an appraisal for the property being offered in exchange for the Fee Credit. The cost of the appraisal will be borne by the entity that commissions the appraisal.
- b. The appraisal shall be prepared by a licensed appraiser and meet the standards in Section 6.1.1 of the MSHCP. The property owner may select the appraiser from an approved list of appraisers used by the RCA.

4. DECISION.

- a. Member Agency – Approval Authority up to \$200,000 A Member Agency may approve Fee Credits up to \$200,000. The RCA will assist Member Agency in making a determination on the Fee Credits if requested. Notwithstanding the above, the RCA is authorized to review and audit a Member Agency's approval of Fee Credits hereunder. In the event of a disagreement between RCA and a Member Agency regarding Fee Credits provided under this Section IV.A, the matter shall be referred to the RCA Board of Directors for consideration and further action.
- b. Board of Directors – Approval Authority Over \$200,000 All Fee Credits over \$200,000 require approval of the RCA Board of Directors. The Executive Director shall place the Fee Credit request on the agenda for the next regularly scheduled meeting of the RCA Board of Directors for which an agenda has not been posted.

5. REPORTING. The Member Agency will provide the RCA with a copy of all Fee Credit agreements within 30 days of execution. The Executive Director shall provide monthly reports to the RCA Board of Directors of all notifications concerning Fee Credits.

6. CONVEYANCE OF CONSERVATION LAND. Conservation land associated with approved Fee Credits shall be conveyed in fee title to the RCA or another entity or organization lawfully authorized to acquire and hold conservation easements pursuant to Civil Code Section 815.3. The conservation land shall be free of encumbrances that could adversely impact the ability to manage the conservation land in accordance with the MSHCP. Conveyance of the conserved land must occur prior to the point in time when MSHCP Fee payment is due for the Project, and the Member Agency shall not issue occupancy permits for the Project until such time as the conservation

land has been conveyed and any Fee balance has been paid to the RCA. If a non-member agency holds title to the land, the entity must enter into a Management MOU with the RCA agreeing to manage the land in accordance with the MSHCP prior to issuance of a grading permit for the Project.

D. Fee Exemptions.

The following types of construction shall be exempt from the provisions of this Ordinance:

1. Reconstruction or improvements that were damaged or destroyed by fire or other natural causes, provided that the reconstruction or improvements do not result in additional usable square footage.
2. Rehabilitation or remodeling to an existing Development Project, provided that the rehabilitation or remodeling does not result in additional usable square footage.
3. Accessory Dwelling Units, but only to the extent such fee is exempted under state law.
4. Junior Accessory Dwelling Units, but only to the extent such fee is exempted under state law.
5. Existing structures where the use is changed from an existing permitted use to a different permitted use, provided that no additional improvements are constructed and does not result in additional usable square footage.
6. Certain Agricultural Operations as allowed by the MSHCP, as amended.
7. Vesting Tentative Tract Maps entered into pursuant to Government Code section 66452 et seq. (also, Government Code section 66498.1 et seq.) and Development Projects which are the subject of a development agreement entered into pursuant to Government Code section 65864 et seq., prior to the effective date of a Member Agency's original LMDF Ordinance, wherein the imposition of new fees are expressly prohibited, provided that if the term of such a vesting map or development agreement is extended by amendment or by any other manner after the effective date of the Member Agency's original LMDF Ordinance, the Fee shall be imposed.

Except as exempted above, all projects are required to make a mitigation payment/contribution and where no mitigation payment process is specified, the project will pay the updated per acre mitigation fee.

E. Project Area.

As defined in the Fee Ordinance, the "Project Area" means the area, measured in acres, within the Development Project including, without limitation, any areas to be developed as a condition of the Development Project. The Project Area shall be calculated in accordance with the following guidelines:

1. The Project Area shall be determined by the Member Agency staff based on the subdivision map, plot plan, and other information submitted to or required by the Member Agency.
2. An applicant may elect, at his or her own expense, to have a Project Area dimensioned, calculated, and certified by a registered civil engineer or licensed land surveyor. The engineer or land surveyor shall prepare a wet-stamped letter of certification of the Project Area dimensions and a plot plan exhibit thereto that clearly delineates the Project Area. Upon receipt of the letter of certification and plot plan exhibit, the Member Agency shall calculate the LDMF required to be paid based on the certified Project Area.
3. Where construction or other improvements on Project Area are prohibited due to legal restrictions on the Project Area, such as Federal Emergency Management Agency designated floodways or areas legally required to remain in their natural state, that portion of the Project Area so restricted shall be excluded for the purpose of calculating the LDMF.

F. Developer Refunds and Appeals

Under certain circumstances, such as double payment, expiration of a building permit, or fee miscalculation due to clerical error, an applicant may be entitled to a refund. Refunds will be reimbursed by the end of the fiscal year on a first come, first served basis, depending upon the net revenue stream. Refunds will only be considered reimbursable if requested within three (3) years of the original LDMF payment. In all cases, the applicant must promptly submit a refund request with proof of LDMF payment to the RCA if the RCA collected the LDMF, or if collected by a local jurisdiction, the refund request shall be submitted to that local jurisdiction, which will subsequently forward the request to the RCA for verification, review, and possible action.

1. **Expiration of Building Permits** If a building permit should expire, be revoked, or is voluntarily surrendered and is, therefore voided and no construction or improvement of land has commenced, then the applicant may be entitled to a refund of the LDMF collected which was paid as a condition of approval, less administration costs. Any refund must be requested within three (3) years of the original payment. The applicant shall pay the current LDMF in effect at the time in full if s/he reapplies for the permit.

2. **Double Payments** On occasion due to a clerical error, a developer has paid all or a portion of the required LDMF for project twice. In such cases, a refund of the double payment may be required if the request is made within three (3) years of the original payment.
3. **Balance Due** When LDMF is incorrectly calculated due to a Member Agency's clerical error, it is the Member Agency's responsibility to remit the balance due to the RCA. The error must be discovered within three (3) years of the original payment for the Member Agency to be held accountable. The amount due can be remitted through alternate methods agreed to by the RCA Executive Committee. If first approved through RCA staff in writing, the calculation is not subject to additional review.

G. Options for Administrative Add-On Costs to Fees

In the Fee Resolution mentioned in the Fee Ordinance, the Member Agencies are permitted to add an additional cost to the LDMF schedule to cover the Member Agency's costs of imposing, administering, collecting, and remitting the fees.

H. Public Project Fees

1. **City/County Roadways** The Member Agencies shall contribute 5% of the facility construction costs for city/County roads for impacts related to City/County roadways to the RCA as set forth herein.
 - a. The 5% contribution shall apply to the construction of new roads, the widening of existing roads, or other improvements which increase roadway throughput.
 - b. Maintenance projects, as defined herein, are exempt from the 5% contribution.
 - c. The 5% does not apply to:
 - i. Projects, or portions thereof, paid for by the existing Measure A (contribution already paid directly by RCTC); and
 - ii. Projects, or portions thereof, paid for by TUMF (contribution already paid directly by WRCOG).
 - d. The Member Agency will include the payment of MSHCP fees within its grant applications to the Federal Highway Administration.
 - e. Only contributions for the Caltrans-funded portion of a Caltrans highway project shall be exempted from the Public

Project fee. Caltrans contributions are covered pursuant to MSHCP section 8.4.4 (pages 8-11 & 8-12).

2. **City/County Civic Projects** The Member Agency will contribute a per acre mitigation fee based upon the current commercial/industrial fee for these types of facilities.
3. **Riverside County Flood Control District Projects.** Riverside County Flood Control District will contribute mitigation through payment of 3% of total capital costs for a Covered Activity. Such payment may be offset through acquisition of replacement habitat or creation of new habitat for the benefit of Covered Species, as appropriate. Such mitigation shall be implemented prior to impacts to Covered Species and their habitats.

I. Monthly Payment.

Pursuant to Section 8.5 of the MSHCP, Sections 12.2.1 and 12.2.2 of the IA, and Sections 19.A and 19.B of the Joint Powers Agreement (JPA), the Member Agencies shall remit all LDMFs which are collected or should have been collected for any Development, as defined in the MSHCP, and contributions for Public Projects to the RCA on a monthly basis to be expended to fulfill the terms of the MSHCP.

1. Payment to the RCA shall be made no later than 90 days after the LDMFs were collected.
2. Payment to the RCA shall be made no later than 90 days after the construction contract for the Public Project is approved by the County or the City/County.

J. No Withholding.

The Member Agencies may not recover the costs of administering the provisions of their LDMF Ordinance using the LDMF revenues generated by them through said Ordinance.

K. Audit.

Pursuant to the JPA, the Member Agencies shall maintain complete and accurate records with respect to all LDMFs collected under their LDMF Ordinance and the calculation of contributions for all Public Projects. All such records shall be clearly identifiable. The Member Agencies shall allow a representative of the RCA during normal business hours to examine, audit, and make transcripts or copies of such records.

L. Late Payments.

Starting January 1, 2008, if a Member Agency fails to remit the monthly payment within 90 days as required in Section 2.0 above, any delinquent amounts will be assessed interest at the rate of the RCA's prevailing rate for invested funds. Notwithstanding the

prior sentence, no interest shall be assessed on delinquent fees remitted prior to January 1, 2008.

M. No Effect on Withdrawal.

The obligations imposed under this Article on the Member Agencies shall not affect any more strict obligation imposed on each of them under Section 22.1 of the I A pertaining to withdrawal from the MSHCP.

N. Periodic Fee Adjustment.

The fee schedule may be periodically reviewed, and the amounts adjusted by the RCA Board of Directors; the LDMF may be increased or decreased to reflect the changes in actual and estimated costs of the MSHCP including, but not limited to, debt service, lease payments, and acquisition costs. The adjustment of the fees may also reflect changes in the facilities required to be acquired, in estimated revenues received pursuant to this Ordinance, as well as the availability or lack thereof of other funds with which to implement the MSHCP.

O. Automatic Annual Fee Adjustment.

In addition to the Periodic Fee Adjustment mentioned above, the RCA will provide the Member Agencies with an automatic annual fee adjustment for the fee established by this Ordinance based on the average percentage change over the previous calendar year set forth in the Construction Price Index for the Riverside-San Bernardino-Ontario metropolitan area.

P. Authority.

The RCA shall have final determination regarding the appropriate methodology to calculate the fee based on the information provided.

III. Mitigation Payment Requirements



CHAPTER III. MITIGATION PAYMENT REQUIREMENTS

New private, public, and other development activity in western Riverside County must comply with the MSHCP, IA, Ordinances, and Resolutions to obtain permits and make the appropriate mitigation payment. This Chapter describes the mitigation payment mechanisms and formulae that apply to different types of projects. It first defines three broad project categories and then provides more detail on the different mitigation payment calculations that apply to different types of projects under these broad categories. The subsequent **Chapter IV** provides illustrative fee calculations for Private and Public Project examples to clarify the appropriate calculation of mitigation payments.⁴ RCA staff is available to answer questions if there are questions about mitigation payment requirements for a specific project.

A. General Project Categories

All projects fall into one of three (3) general categories as described below. Local Permittees should first determine which general category any project falls under.

1. Private Projects

Private Projects include projects where the primary project purpose is for use by households, businesses, or other private entities (i.e. not accessible to the public except where allowed by private owner/ renter). These projects include homes, apartments, offices, industrial buildings, and retail stores, among others. This category also includes Private Projects that receive public support (e.g., support through direct public investments in infrastructure, ground leases of publicly owned land, or direct investment of public dollars in projects such as affordable housing).

Private Projects often require the development of public infrastructure, improvements, and amenities (e.g., streets, parks, and community buildings) by the project developer. In these cases, the Private Project developer will be responsible for making payments for the private and public components of the project. As discussed in more detail in subsequent sections, the mitigation fee payment calculation for privately developed public infrastructure, improvements, and amenities depends on the type of project (residential versus non-residential) and the nature and role of the improvements (whether they solely serve project residents or serve a broader community).

2. Public Projects

Public Projects include projects whose primary goal is to provide publicly accessible/ useable infrastructure, improvements, or other amenities. Public Projects include a broad range of project types, including transportation, flood control, water, wastewater, stormwater, parks, community centers and other public buildings, among others.

⁴All projects are required to make mitigation payments, except where specifically exempted in the Fee Ordinance.

Some Public Projects will involve the private sector. Private sector involvement could be through design, construction, operation, and/or funding. For mitigation purposes, these projects are considered Public Projects and are treated the same from a mitigation perspective.⁵

3. Participating Special Entities (PSE) Projects

Some types of projects can obtain the MSHCP benefits of permit streamlining by participating as Participating Special Entities (“PSE’s”). This is a third category of project and its mitigation payment requirements are described separately, though in many ways PSE projects are treated similarly to Public Projects.

B. Private Projects

This section categorizes the different types of Private Projects and the associated mitigation payment requirements. Private project mitigation payments are determined by the MSHCP LDMF for the current fiscal year and project characteristics. Chapter IV provides illustrative examples of different types of Private Projects to further clarify and support the calculation of the appropriate mitigation payment.

1. Private Project Types

Private Projects are further distinguished into three (3) types (along with some sub-types). In all cases, mitigation occurs through mitigation fee payment, though as described further below the mitigation fee type and calculation varies for these different types.

a. Non-Residential

The non-residential category of Private Projects encompasses the full and broad range of Private Projects that do not incorporate residential development. Uses include all commercial, industrial, and any other private non-residential projects.

b. Residential

The residential category of Private Projects covers the full range of residential development projects, including, but not limited to, residential subdivisions, apartment complexes, infill residential projects, affordable housing projects, single homesite developments, and Accessory Dwelling Units (“ADUs”). Mixed-use Private Projects (projects that combine residential and commercial/ industrial uses) are addressed distinctly, as described below.

⁵As described above under Private Projects and explained in more detail below, when public infrastructure/ improvements/ amenities are part of a Private Project, the mitigation for the public part of the Private Project is incorporated into the Private Project mitigation requirement.

Because of the variation in the type and extent of public infrastructure, improvements, and amenities developed as part of private residential projects, distinctions between different types of residential projects are required. Distinctions are also required as State law limits and specifies the application of mitigation fees to ADUs.

- **Type I. Residential Development with Resident-Serving Public Improvements Only.** Residential projects whose public infrastructure, improvements, and amenities only serve project residents (e.g., in-tract roads, resident clubhouses, pocket parks, and parking for project resident/ guest use) and do not provide broader community access or benefits.
- **Type II. Residential Development with Community-Serving Public Improvements.** Residential projects that include the development of public infrastructure, improvements, and amenities that serve more than project residents alone; e.g., backbone infrastructure such as roads that serve beyond the project residents or parks and amenities that serve more than just the new residential units.
- **Type III. Accessory Dwelling Units.** State law restricts the imposition of mitigation fees on ADUs of less than 750 square feet and provides a formula for ADUs above this size.

c. Mixed-Use Projects

The mixed-use category of Private Projects encompasses projects that include private residential and private non-residential uses. The mixed-use project category is divided into two types because of the two distinct mixed-use project forms – horizontally mixed-use and vertically mixed-use.

- **Type I. Horizontally Mixed-Use Projects.** Mixed-use projects where a distinct portion of the project land area is developed as residential and a distinct portion as non-residential. For example, a project that includes a residential subdivision and neighborhood shopping center.
- **Type II. Vertically Mixed-Use Projects.** Mixed-use projects where one or more land use is developed vertically above another. For example, a project where apartment units are developed above ground floor retail.

2. Private Project Mitigation Fee Schedule

The updated 2020 Nexus Study developed a consistent per gross acre mitigation fee. For residential projects, this per gross acre fee was then translated into per residential unit fees for three different residential development density categories (to allow for a continuation of the existing fee structure). The mitigation fee schedule is shown in Table 3-1 and includes the mitigation fees provided under the updated 2020 Nexus Study (actual fee levels will vary with fee phase-in and annual adjustments).

Table 3-1: Updated Fee Levels (effective January 1, 2022)

Development Type		Fee
Residential Development		
Low Density	(fewer less than or equal to 8.0 units per Gross Residential Project Acre)	\$3,635 per Unit
Medium Density	(between 8.0 and 14.0 units per Gross Residential Project Acre)	\$1,515 per Unit
High Density	(more than 14.0 units per Gross Residential Project Acre)	\$670 per Unit
Non-Residential Development		
Commercial/ Industrial/ Non-Residential Mitigation Fee ¹		\$16,358 per Gross Project Acre
[1] The per gross acre also applies to the public components to private projects and to certain types of public and PSE Projects.		

Private Project Mitigation Fee Calculations by Project Type

The table below shows the mitigation payment approach for residential projects.

Table 3-2: Mitigation Payment Approach for Residential Projects

MITIGATION PAYMENT FORMULA FOR DIFFERENT TYPES OF RESIDENTIAL PROJECTS *

Residential Developments - Type I

Residential Development with Resident-Serving Public Improvements Only

Fee Calculation:

Fee Payment = Number of Residential Units x Per Unit Mitigation Fee for Appropriate Density Category

Notes:

1. Density Category = Total Number of Residential Units / Gross Residential Project Acres
2. Type I Residential Development cannot include any public improvements that serve beyond the project residents (i.e. only resident-serving public improvements; not "community-serving" public improvements)

Residential Developments - Type II

Residential Development with Community-Serving Public Improvements

Fee Calculation:

Fee Payment = Number of Residential Units x Per Unit Mitigation Fee for Appropriate Density Category
plus Gross Acres of community-serving Public Improvements x Per Gross Acre Fee

Notes:

1. Density Category = Total Number of Residential Units / Gross Residential Project Acres
2. Type II Residential Development includes "Community-serving" Public Improvements that serve beyond the project residents and are not covered by the per residential unit mitigation fee
3. Gross Project Acres = Gross Residential Project Acres + Gross Community-Serving Public Improvement Acres

Residential Developments - Type III

Development of an Accessory Dwelling Unit (ADU)

Fee Calculation:

Fee Payment for ADUs of less than 750 square feet
= \$0

Fee Payment for ADUs of more than 750 square feet
= Per Unit Mitigation Fee for Low Density Category x (ADU square feet / Primary Residence square feet)

Notes:

1. State Law does not allow charging of mitigation fees to ADUs of less than 750 square feet
2. State law provides the formula for calculating fee payments by larger ADUs

* The term "Public Improvements" is used as a collective term for all Public Infrastructure, Improvement, and Amenities.

The table below shows the approach for non-residential projects and mixed-use projects.

Table 3-3: Mitigation Payment Approach for Non-Residential and Mixed-Use Projects

MITIGATION PAYMENT FORMULA FOR NON-RESIDENTIAL AND MIXED USE PROJECTS *

Non Residential Projects

All Non-Residential Projects

Fee Calculation:

Fee Payment = Gross Project Acres x Per Gross Acre Fee

Notes:

1. Gross Project Acres include all project acres including non-residential development areas and all associated project acreage (i.e. including all parking, landscaping, public improvements etc.)

Mixed-Use Project - Type I

Horizontally mixed-use project with residential and non-residential private development

Fee Calculation:

Fee Payment = Number of Residential Units x Per Unit Mitigation Fee for Appropriate Density Category
plus Gross Acres of Community-serving Public Improvements x Per Gross Acre Fee
plus Gross Acres of Non-Residential Development x Per Gross Acre Fee

Notes:

1. Density Category = Total Number of Residential Units / Gross Residential Project Acres
2. All gross project acres outside of the Gross Residential Project Acres contribute through the per gross acre fee

Mixed-Use Project - Type II

Vertically mixed-use project with residential and non-residential private development

Fee Payment is the higher of two (2) calculations:

Calculation 1: Fee Payment = Gross Project Acres x Per Gross Acre Fee

Calculation 2:

Fee Payment = Number of Residential Units x Per Unit Mitigation Fee for Appropriate Density Category
plus Gross Acres of Community-serving Public Improvements x Per Gross Acre Fee

Notes:

1. Density Category = Total Number of Residential Units / Gross Project Residential Acres
(Gross Residential Acres = Gross Project Acres minus Community-serving Public Improvements Acres)

* The term "Public Improvements" is used as a collective term for all Public Infrastructure, Improvement, and Amenities.

Key definitions associated with the above mitigation formula table include:

- **Gross Project Area/ Acres.** This is the total or gross areas of the project. This overall acreage can only be reduced under unique circumstances.⁶
- **Gross Residential Area/ Acres.** This is the total area of the project dedicated to residential land uses and includes residential buildings as well as “Project Resident-Serving” Infrastructure/ Improvements/ Amenities.
- **Project Resident-Serving Infrastructure/ Improvements/ Amenities.** Infrastructure/ improvements, and amenities that only serve project residents and include, but are not limited to, roads, parks, and non-residential buildings that only serve project residents.
- **Gross “Community-Serving” Area/ Acres.** This is the area of residential projects that provide infrastructure, improvements, and amenities that go beyond only serving project residents and hence are “community-serving”. This includes, but is not limited to, roads that serve multiple projects, parks that serve more than one residential project, parking that serves other uses/ developments etc. The acreage associated with these improvements/ amenities are part of the gross project acreage but distinct from project resident-serving improvements/ amenities and the gross residential area.

For further clarification, mitigation fee payment calculations for illustrative Private Projects are provided in **Chapter IV**.

C. Public Projects

This section categorizes the different types of Public Projects and the associated mitigation payment requirements. The MSHCP, Implementing Agreement, and other documents established the mitigation system for Public Projects that includes a mix of approaches typically tied to a percent of capital cost or the adopted per gross acre mitigation fee for non-residential uses. The mitigation payments for road projects are more complex as certain funding sources (Measure A and TUMF) provide direct mitigation payments for the portions of transportation projects they fund. **Chapter IV** provides illustrative examples of selected Public Projects to further clarify and support the calculation of the appropriate mitigation payment.

1. Public Project Types

Public Projects include the full range of projects that provide public infrastructure, improvements, or amenities. This includes, but is not limited to, public roads, parks, libraries, administrative facilities, jails, courts, and flood control projects among others. As

⁶Specifically, the MSHCP exempts flood control areas that cannot be developed from mitigation fee calculations.

described in the following section, certain public/ quasi-public improvements are covered as Participating Special Entity projects (the third major project category type). These include public (and private) utility districts/ companies, School Districts, Special Districts, and other quasi-public entities.

Per the MSHCP, Implementing Agreement, and other documents, the mitigation payment requirement/ obligation varies between the following Public Project types.

- **City/ County Road Projects.** Includes all City and County road projects.
- **City/County Civic Projects.** Includes all non-road City and County projects, including City/ County administrative facilities, jails, courts, juvenile facilities, parks, libraries, and all other facilities that serve the public.
- **Riverside County Flood Control District Projects.** Includes all Riverside County Flood Control District projects.

As noted in the MSHCP and the Implementing Agreement, mitigation contributions for Caltrans Projects are intended to be covered through a combination of Measure A funds, 3,000 acres of land dedication, and support for the endowment and ongoing positions. Mitigation for federal projects (e.g., development of a federal building) occurs through the Section 7 consultation process of the Federal Endangered Species Act; in some cases, these projects might be required to provide mitigation similar to those of other Public Projects under the MSHCP.

2. Mitigation Requirements and Transportation Funding Sources

For transportation projects, the mitigation payment calculations are more complicated due to the distinct mitigation payments/ contributions directly incorporated into certain types of transportation funding, as described below:

- **TUMF Funding.** The TUMF includes a small component tied to the mitigation of the portions of projects funded by TUMF revenues. This portion of the TUMF is passed directly from WRCOG to the RCA. As a result, the proportion of transportation projects that are funded by TUMF revenues are netted out from transportation project mitigation payments (described in more detail below).
- **Measure A Funding.** A portion of the Measure A sales tax revenues was collected and provided to the RCA to support MSHCP implementation. This contribution represented the mitigation payment for the portions of projects funded with Measure A dollars. As a result, the proportion of transportation projects that are funded by Measure A funds are netted out from transportation project mitigation payments (described in more detail below).
- **Federal Funding.** Unlike TUMF and Measure A funding, direct mitigation funding has not been provided for the portions of transportation projects that are federally funded. As a result, federal funding is not excluded from the mitigation payment

calculation. It is recommended that Local Permittees incorporate the mitigation payment associated with federally funded portions of their transportation projects into any grant applications for federal transportation funding.

3. Public Project Mitigation Payment Approaches

There are two primary approaches that underlie the calculation of Public Project mitigation payments, including:

- **Per Gross Acre Fee Payments.** For some Public Projects, the required mitigation payment is based on the application of the per gross acre fee to the gross project acres. The per gross acre fee is the same fee that applies to Private Projects. The fee will vary each year/ periodically and is calculated at \$16,358 per Gross Project Acre in the updated 2020 Nexus Study.
- **Percent of Construction Costs.** For some Public Projects, the mitigation payment requirement is three (3) percent or five (5) percent of total construction costs (described in more detail below).

4. Public Project Mitigation Fee Calculations by Project Type

The table below shows fee calculations for different Public Projects types.

Table 3-4: Mitigation Payment Approach for Public Projects

MITIGATION PAYMENT FORMULA FOR DIFFERENT TYPES OF PUBLIC PROJECTS

City/ County Road Projects

All City and County Road Projects

Fee Calculation:

Fee Payment = 5% x Total Construction Costs

Notes:

1. Applies to all new road projects, all road widening projects, and other road investments that are not maintenance efforts.
2. The proportion of total project costs covered by TUMF funding and Measure A funding is discounted from the total construction costs (where applicable) prior to fee payment calculation.
3. Total construction costs are a portion of total project costs. Total construction costs include all direct/ hard costs, including contingencies and change orders. ROW acquisition costs and soft costs are not included in total construction costs.

City/ County Civic Projects

All City and County (non-road) public projects, including City/ County administrative facilities, jails, courts, juvenile facilities, parks, libraries, or other facilities that serve the public.

Fee Calculation:

Fee Payment = Gross Project Acres x Per Gross Acre Fee

Notes:

1. No exceptions unless specifically noted in the Ordinance.
2. School District, Special District, and certain other public projects are covered as PSE's.

Riverside County Flood Control District Projects

All Riverside County Flood Control District projects

Fee Calculation

Fee Payment = 3% x Total Construction Costs

Notes

1. Total construction costs are a portion of total project costs. Total construction costs include all direct/ hard costs, including contingencies and change orders. ROW acquisition costs and soft costs are not included in total construction costs.
-

D. Participating Special Entity Projects

Participating Special Entities (“PSE’s”) are entities that are not formally covered under the MSHCP but are allowed to obtain the same MSHCP streamlined permitting by making the appropriate mitigation payments. This section categorizes the different types of PSE projects and the associated mitigation payment requirements. The mitigation payment system for PSE projects is similar to the one for public projects and includes a mix of approaches typically tied to percent of construction costs or the adopted per gross acre mitigation fee for non-residential uses.

1. PSE Project Types

Participating Special Entities includes entities/ agencies such as public and private utility districts/ companies, School Districts, Special Districts, and Quasi-Public entities, among others. Public water districts, private water companies, telecommunication companies, Investor Owned Utilities (IOU’s), Schools, Colleges, and Universities would all fall in this project category.

The mitigation payment requirement/ obligation varies between the following Public Project types.

- **Non-Linear Projects.** Includes all projects that are non-linear in form.
- **Linear Projects.** Includes all linear projects with differentiation in payment amount between permanent and temporary projects.

2. PSE Mitigation Payment Approaches

There are two primary approaches that underlie the calculation of Public Project mitigation payments, including:

- **Per Gross Acre Fee Payments.** For non-linear Public Projects, the required mitigation payment is based on the application of the per gross acre fee to the gross project acres. The per gross acre fee is the same fee that applies to Private Projects. The fee will vary each year/ periodically and is calculated at \$16,358 per Gross Project Acre in the updated 2020 Nexus Study.
- **Percent of Construction Costs.** For linear projects, the mitigation payment requirement is 5 percent of total construction costs for permanent impacts and three (3) percent of total construction costs for temporary impacts.

3. PSE Project Mitigation Fee Calculations by Project Type

The table below shows fee calculations for different PSE project types.

Table 3-5: Mitigation Payment Approach for PSE Projects

MITIGATION PAYMENT FORMULA FOR DIFFERENT TYPES OF PSE PROJECTS

Non-Linear Projects

All PSE projects that are not linear in form

Fee Calculation:

Fee Payment = Gross Project Acres x Per Gross Acre Fee

Linear Projects - Permanent Impacts

All PSE projects that are linear in form and permanent

Fee Calculation

Fee Payment = 5% x Total Construction Costs

Linear Projects - Temporary Impacts

All PSE projects that are linear in form and temporary

Fee Calculation

Fee Payment = 3% x Total Construction Costs

Notes

1. Total construction costs are a portion of total project costs. Total construction costs include all direct/ hard costs, including contingencies and change orders. ROW acquisition costs and soft costs are not included in total construction costs.

IV. Mitigation Payment Examples



CHAPTER IV. MITIGATION PAYMENT EXAMPLES

This chapter provides illustrative fee calculations for examples of Private and Public Projects. Building off the comprehensive description of mitigation requirements and formulae by project type in **Chapter III**, this chapter provides fee calculations for an illustrative set of projects. Illustrative examples were developed for a range of circumstances and are designed to help Local Permittees identify the appropriate approach for estimating mitigation payments. The examples included in this chapter are for illustration purposes only. In the event of a conflict between these examples and the Fee Ordinance of the applicable City/County, the Fee Ordinance shall control the administration of the Local Development Mitigation Fee. Please contact RCA staff if you are unclear on how to conduct the mitigation payment calculation for a particular project.

A. Private Projects: Residential/Mixed Use Examples

This section contains six (6) examples of private development projects, including four (4) residential projects and two (2) mixed-use projects. More specifically, they include:

- Example 1: All Residential – Low Density
- Example 2: All Residential – Low Density – including Backbone Road Construction
- Example 3: All Residential – High Density - including Backbone Road Construction
- Example 4: All Residential – Combination of Densities
- Example 5: Horizontal Mixed Use – Residential/ Commercial – including Backbone Road Construction
- Example 6: Vertical Mixed Use – Residential/ Commercial

These examples are not intended to be all inclusive but rather give permittees guidance on calculating the mitigation fee payment given different project types and characteristics. Included in each example is a narrative of the example project, a figure representation of the project layout, the development program description, and the mitigation fee calculation. No stand-alone commercial project examples are included as the application of the per gross acre mitigation fee to the gross project acres is universal for all non-residential Private Projects.

Example 1 - All Residential – Low Density

Residential project to be developed on a total of ten acres (area inside red boundary). The project will include residential units, a community building/ area for the residents of the development (project residents only), and streets within the development (in-tract streets). All roads leading to the development have already been built and do not require investments by the developer. A total of 50 residential units are planned within the ten gross acres, resulting in an average residential density of five units per acre. This represents a low-density residential project for the purpose of the fee program. Please

see the visual representation of the project layout (Figure 1-1), the development program data (Table 1-1), and mitigation payment calculation (Table 1-2) below.

Figure 1-1: Illustrative Project Layout

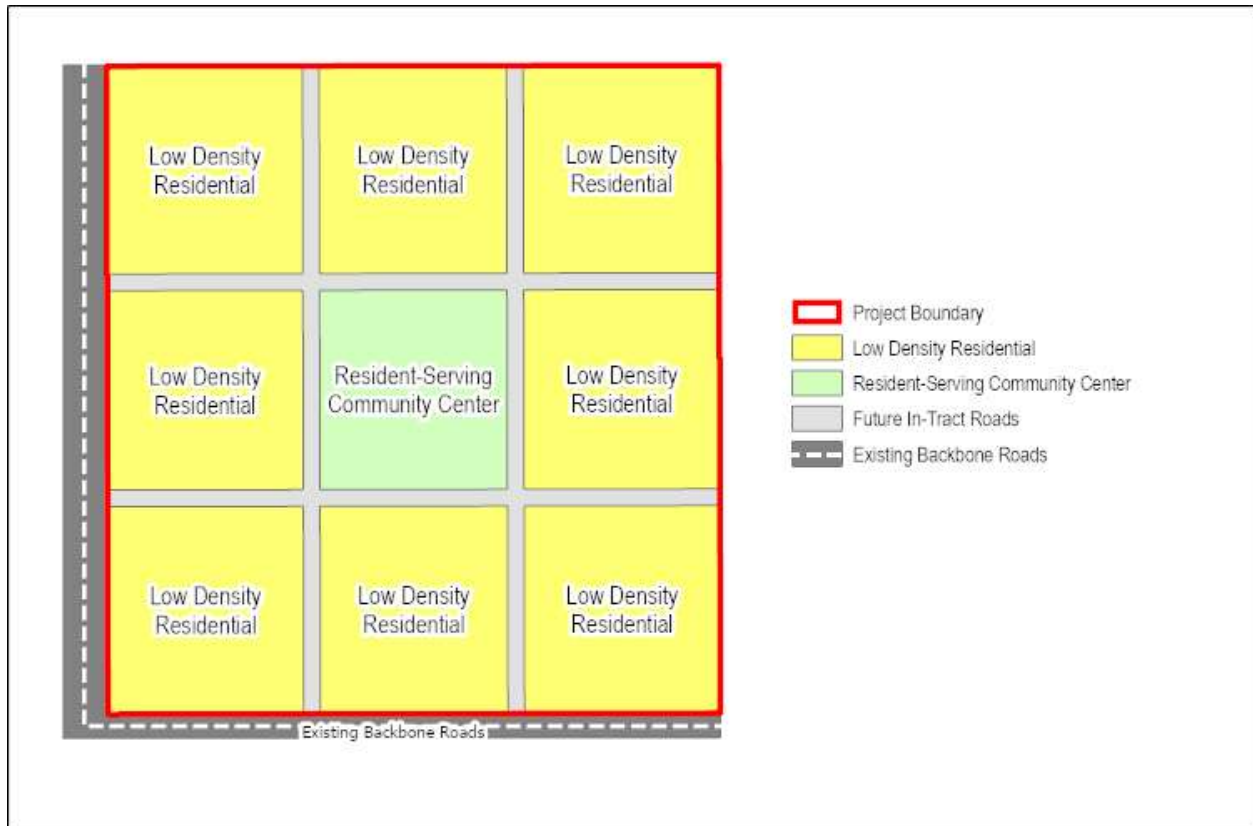


Table 1-1: Illustrative Development Program

Item	Amount
Gross Project Area	10 acres
<u>Residential Development Area</u>	
Residential Development Area	8.25
In-Tract/ Project Resident Serving (Residential)	<u>1.75</u>
Total/ Gross Residential Acres	10.00
<u>All Other Development</u>	
Non-Residential Development Area	0
Backbone/ Area-Serving	<u>0</u>
Total Non-Residential Development	0
Residential Development	
Low Density (1)	50
Medium Density (1)	0
High Density (1)	<u>0</u>
Total Units	50 units
Residential Project Density	
Residential Project Density	5 units/ acre
Residential Fee Density Category (1)	LOW

(1) Residential density categories as follows:

- Low Density - less than or equal to 8 residential units/ gross residential acre.
- Medium Density - greater than 8 and less than 16 residential units/ gross residential acre.
- High Density - greater than 16 residential units/ gross residential acre.

Table 1-2: Mitigation Fee Payment Calculation

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	50 units	\$3,635 (low density)	\$181,750
Non-Residential Development (3)	0 acres	\$16,358	\$0
Backbone/ Community-Serving (4)	0 acres	\$16,358	\$0
Total Mitigation Fee Payment (5)			\$181,750

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average)	\$3,635	per unit
Medium Density (on average)	\$1,515	per unit
High Density (on average)	\$670	per unit
<u>All Other Development</u>	\$16,358	per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

Example 2 – All Residential – Low Density – Including Backbone Road Construction

Residential project to be developed on a total of 12.5 acres (inside red boundary). The project will include residential units, a community building/ area for the residents of the development (project residents only), streets within the development (in-tract streets), and new streets leading to the project (backbone/ community-serving streets). The member agency has required the builder to construct backbone roads as a condition of the permit. The backbone roads will be built on an additional 2.5 acres of land distinct from the 10 acres that will incorporate the residential development and project resident-serving improvements/ amenities. A total of 50 residential units are planned within the 10 gross acres (gross residential acres) that exclude the backbone/community-serving infrastructure. This results in an average residential density of five units per acre and represents a low-density residential project for the purpose of the fee program. Please see the visual representation of the project layout (Figure 2-1), the development program data (Table 2-1), and the mitigation payment calculation (Table 2-2) below.

Figure 2-1: Illustrative Project Layout

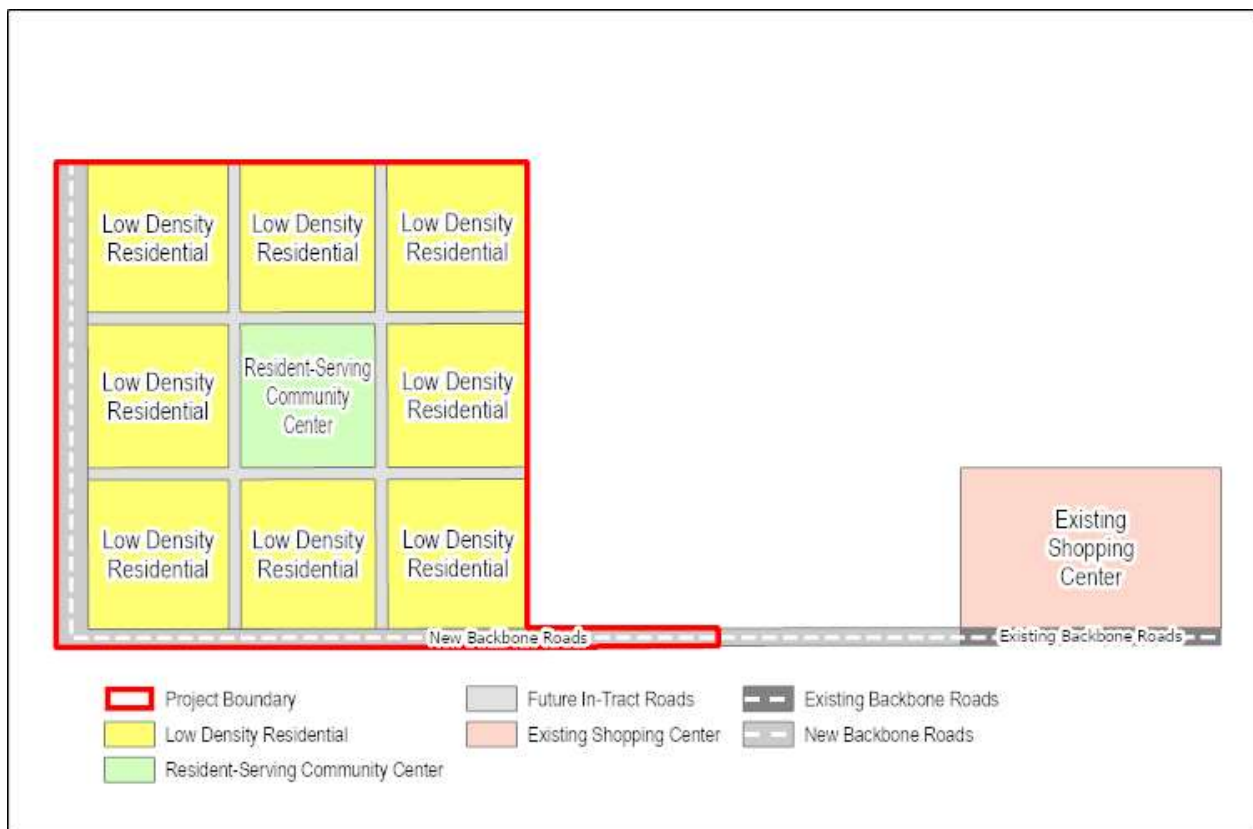


Table 2-1: Illustrative Development Program

Item	Amount
Gross Project Area	12.5 acres
<u>Residential Development Area</u>	
Residential Development Area	8.25
In-Tract/ Project Resident Serving (Residential)	<u>1.75</u>
Total/ Gross Residential Acres	10.00
<u>All Other Development</u>	
Non-Residential Development Area	0
Backbone/ Area-Serving	<u>2.5</u>
Total Non-Residential Development	2.5
Residential Development	
Low Density (1)	50
Medium Density (1)	0
High Density (1)	<u>0</u>
Total Units	50 units
Residential Project Density	
Residential Project Density	5 units/ acre
Residential Fee Density Category (1)	LOW

(1) Residential density categories as follows:

- Low Density - less than or equal to 8 residential units/ gross residential acre.
- Medium Density - greater than 8 and less than 16 residential units/ gross residential acre.
- High Density - greater than 16 residential units/ gross residential acre.

Table 2-2: Mitigation Payment Calculation

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	50 units	\$3,635 (low density)	\$181,750
Non-Residential Development (3)	0 acres	\$16,358	\$0
Backbone/ Community-Serving (4)	2.5 acres	\$16,358	\$40,895
Total Mitigation Fee Payment (5)			\$222,645

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average)	\$3,635	per unit
Medium Density (on average)	\$1,515	per unit
High Density (on average)	\$670	per unit
<u>All Other Development</u>	\$16,358	per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

Example 3 – All Residential – High Density – Including Backbone Road Construction

Residential project to be developed on a total of 12.5 acres (inside red boundary). The project will include residential units, a community building/area for the residents of the development (project residents only), streets within the development (in-tract streets), and new streets leading to the project (backbone/ community-serving streets). The member agency has required the builder to construct backbone roads as a condition of the permit. The backbone roads will be built on an additional 2.5 acres of land distinct from the 10 acres that will incorporate the residential development and project resident-serving improvements/ amenities. A total of 200 residential units are planned within the 10 gross acres that exclude the backbone/ community-serving infrastructure. This results in an average residential density of 20 units per acre and represents a high-density residential project for the purpose of the fee program. Please see the visual representation of the project layout (Figure 3-1), the illustrative development program data (Table 3-1), and the mitigation payment calculation (Table 3-2) below.

Figure 3-1: Project Layout



Table 3-1: Illustrative Development Program

Item	Amount
Gross Project Area	12.5 acres
<u>Residential Development Area</u>	
Residential Development Area	8.00
In-Tract/ Project Resident Serving (Residential)	<u>2.00</u>
Total/ Gross Residential Acres	10.00
<u>All Other Development</u>	
Non-Residential Development Area	0
Backbone/ Area-Serving	<u>2.5</u>
Total Non-Residential Development	2.5
Residential Development	
Low Density (1)	0
Medium Density (1)	0
High Density (1)	<u>200</u>
Total Units	200 units
Residential Project Density	
Residential Project Density	20 units/ acre
Residential Fee Density Category (1)	HIGH

(1) Residential density categories as follows:

- Low Density - less than or equal to 8 residential units/ gross residential acre.
- Medium Density - greater than 8 and less than 16 residential units/ gross residential acre.
- High Density - greater than 16 residential units/ gross residential acre.

Table 3-2: Mitigation Payment Calculation

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	200 units	\$670 (high density)	\$134,000
Non-Residential Development (3)	0 acres	\$16,358	\$0
Backbone/ Community-Serving (4)	2.5 acres	\$16,358	\$40,895
Total Mitigation Fee Payment (5)			\$174,895

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average) \$3,635 per unit

Medium Density (on average) \$1,515 per unit

High Density (on average) \$670 per unit

All Other Development \$16,358 per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

Example 4 – All Residential – Combination of Densities

Residential project to be developed on a total of 7.25 acres (area inside red boundary). The project will include residential units, a community building/area for the residents of the development (project residents only), and streets within the development (in-tract streets). All roads leading to the development have already been built and do not require investments by the developer. A total of 50 residential units are planned within the 7.25 gross acres, including a mix of low- and high-density development. The 50 residential units planned on 7.5 gross acres result in an average residential density of 6.9 units per acre. This represents a low-density residential project for the purpose of the fee program. Please see the visual representation of the project layout (Figure 4-1), the illustrative development program data (Table 4-1), and the mitigation payment calculation (Table 4-2) below.

Figure 4-1: Illustrative Project Layout

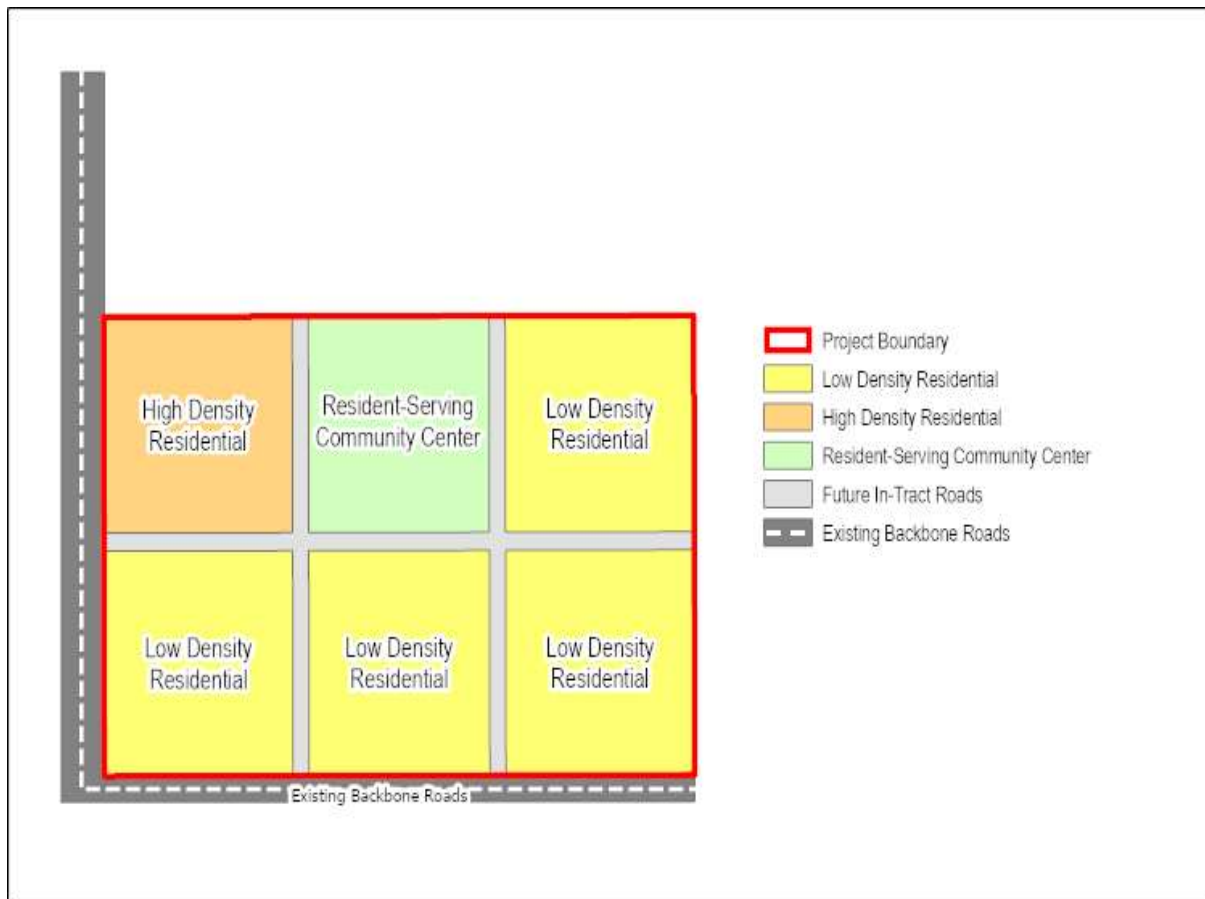


Table 4-1: Illustrative Development Program

Item	Amount
Gross Project Area	7.25 acres
<u>Residential Development Area</u>	
Residential Development Area	5.75
In-Tract/ Project Resident Serving (Residential)	<u>1.50</u>
Total/ Gross Residential Acres	7.25
<u>All Other Development</u>	
Non-Residential Development Area	0
Backbone/ Area-Serving	<u>0</u>
Total Non-Residential Development	0
Residential Development	
Low Density (1)	25
Medium Density (1)	0
High Density (1)	<u>25</u>
Total Units	50 units
Residential Project Density	
Residential Project Density	6.9 units/ acre
Residential Fee Density Category (1)	LOW

(1) Residential density categories as follows:

- Low Density - less than or equal to 8 residential units/ gross residential acre.
- Medium Density - greater than 8 and less than 16 residential units/ gross residential acre.
- High Density - greater than 16 residential units/ gross residential acre.

Table 4-2: Mitigation Payment Calculation

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	50 units	\$3,635 (low density)	\$181,750
Non-Residential Development (3)	0 acres	\$16,358	\$0
Backbone/ Community-Serving (4)	0 acres	\$16,358	\$0
Total Mitigation Fee Payment (5)			\$181,750

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average)	\$3,635	per unit
Medium Density (on average)	\$1,515	per unit
High Density (on average)	\$670	per unit
<u>All Other Development</u>	\$16,358	per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

Example 5 – Horizontal Mixed Use – Residential and Commercial – Including Backbone Road Construction

Mixed use project to be developed on a total of 22.5 acres (inside red boundary). Residential project to be developed on ten acres. The project will include three components: (1) residential units, a community building/area for the residents of the development (project residents only), and streets within the residential development (in-tract streets); (2) a commercial development (e.g. shopping center) and project -serving improvements (e.g. parking, landscaping, and any other component that is not restricted to use by the residents only); and, (3) backbone/community serving roads on 2.5 acres of land that the member agency has required the builder to construct as a condition of the permit. A total of 50 residential units are planned within the 10 gross residential acres that exclude the backbone/community-serving infrastructure and the commercial development. This results in an average residential density of five units per acre, meaning that the residential component of the project is low density for the purpose of the fee program. Please see the visual representation of the project layout (Figure 5-1), the

illustrative development program data (Table 5-1), and the mitigation payment calculation (Table 5-2) below.

Figure 5-1: Illustrative Project Layout

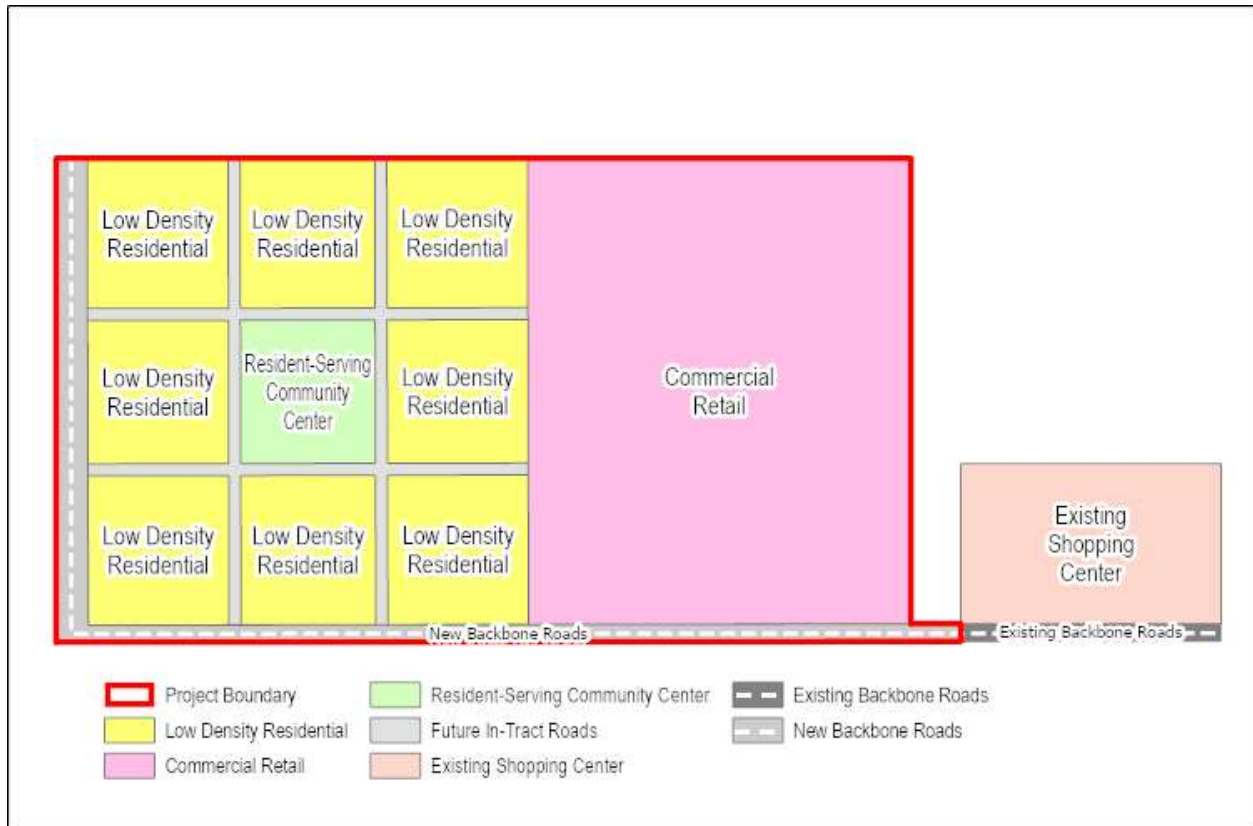


Table 5-1: Illustrative Development Program

Item	Amount
Gross Project Area	22.5 acres
<u>Residential Development Area</u>	
Residential Development Area	8.25
In-Tract/ Project Resident Serving (Residential)	<u>1.75</u>
Total/ Gross Residential Acres	10.00
<u>All Other Development</u>	
Non-Residential Development Area	10.0
Backbone/ Area-Serving	<u>2.5</u>
Total Non-Residential Development	12.5
Residential Development	
Low Density (1)	50
Medium Density (1)	0
High Density (1)	<u>0</u>
Total Units	50 units
Residential Project Density	
Residential Project Density	5.0 units/ acre
Residential Fee Density Category (1)	LOW

(1) Residential density categories as follows:

- Low Density - less than or equal to 8 residential units/ gross residential acre.
- Medium Density - greater than 8 and less than 16 residential units/ gross residential acre.
- High Density - greater than 16 residential units/ gross residential acre.

Table 5-2: Mitigation Fee Payment Calculation

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	50 units	\$3,635 (low density)	\$181,750
Non-Residential Development (3)	10 acres	\$16,358	\$163,580
Backbone/ Community-Serving (4)	2.5 acres	\$16,358	\$40,895
Total Mitigation Fee Payment (5)			\$386,225

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average)	\$3,635	per unit
Medium Density (on average)	\$1,515	per unit
High Density (on average)	\$670	per unit
<u>All Other Development</u>	\$16,358	per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

Example 6 – Vertical Mixed Use – Residential and Commercial

Mixed use project to be developed on a total of 3 acres (inside red boundary). The project will include a podium at street level that will include commercial/ retail as well as parking, residential units in the stories above the podium, as well as streets within the project area (in-tract streets). A total of 90 residential units are planned within the 3-acre project area. This results in an average residential density of 30 units per acre, meaning that the residential component of the project is high density for the purpose of the fee program. Please see the visual representations of the project layout (Figures 6-1 and 6-2), the illustrative development program data (Table 6-1), and the mitigation payment calculations (Tables 6-2 and 6-3) below. Two calculations must be conducted for mixed-use vertical projects and the higher of the two calculations must be used. One calculation treats the project like a residential project and the other calculation treats it like a commercial project. In the example below, the mitigation payment is \$60,300 under the first method and \$49,300 under the second method, so \$60,300 payment applies.

Figure 6-1: Illustrative Project Layout – Residential and Commercial Vertical View



Figure 6-2: Illustrative Project Layout – Residential and Commercial Horizontal View

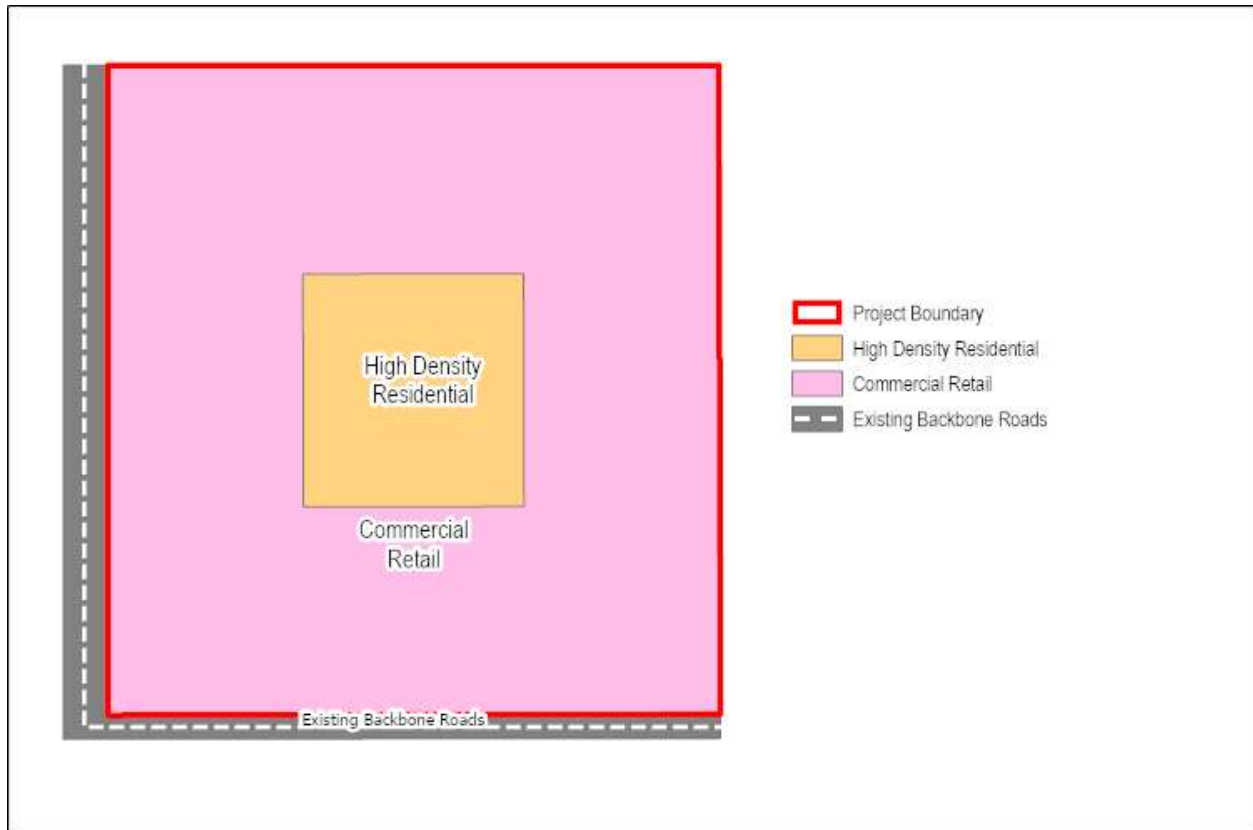


Table 6-1: Illustrative Development Program

Item	Amount
Gross Project Area	3 acres
<u>Residential Development Area</u>	
Residential Development Area	2.75
In-Tract/ Project Resident Serving (Residential)	<u>0.25</u>
Total/ Gross Residential Acres	3.00
<u>All Other Development</u>	
Non-Residential Development Area	0.0
Backbone/ Area-Serving	<u>0</u>
Total Non-Residential Development	0
Residential Development	
Low Density (1)	0
Medium Density (1)	0
High Density (1)	<u>90</u>
Total Units	90 units
Residential Project Density	
Residential Project Density	30.0 units/ acre
Residential Fee Density Category (1)	HIGH

(1) Residential density categories as follows:

- Low Density - less than or equal to 8 residential units/ gross residential acre.
- Medium Density - greater than 8 and less than 16 residential units/ gross residential acre.
- High Density - greater than 16 residential units/ gross residential acre.

Table 6-2: Mitigation Fee Payment Calculation – Method 1 (Residential Focus)

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	90 units	\$670 (high density)	\$60,300
Non-Residential Development (3)	0 acres	\$16,358	\$0
Backbone/ Community-Serving (4)	0 acres	\$16,358	\$0
Total Mitigation Fee Payment (5)			\$60,300

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average)	\$3,635	per unit
Medium Density (on average)	\$1,515	per unit
High Density (on average)	\$670	per unit
<u>All Other Development</u>	\$16,358	per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

Table 6-3: Mitigation Fee Payment Calculation – Method 2 (Commercial/ Project Area Focus)

Item	Units/ Acres	Per Unit/ Per Acre Mitigation Fee (1)	Mitigation Fee Payment
Residential Development (2)	0 units	\$670 (high density)	\$0
Non-Residential Development (3)	3 acres	\$16,358	\$49,074
Backbone/ Community-Serving (4)	0 acres	\$16,358	\$0
Total Mitigation Fee Payment (5)			\$49,074

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Residential Development

Low Density (on average) \$3,635 per unit

Medium Density (on average) \$1,515 per unit

High Density (on average) \$670 per unit

All Other Development \$16,358 per gross acre

(2) Residential mitigation fee payment covers residential units and associated in-tract infrastructure/ improvements and project resident-serving amenities. All infrastructure, improvements, and amenities that serve beyond the project residents is covered in separate component of the fee calculation.

(3) Includes land area associated with non-residential development, such as commercial/ industrial buildings, parking, and landscaping, among other components.

(4) All infrastructure/ improvements/ amenities that serve beyond the project/ project residents and that are not included in the non-residential development fee payment calculation included here.

(5) Mitigation fee payment calculation does not include any additional member jurisdiction administrative charges.

B. Public Project Examples

This section contains four (4) examples of public development projects, including one (1) Member Agency Civic Project and three (3) transportation/ road projects. These examples are not intended to be all inclusive but rather give permittees guidance on calculating the mitigation fee payment given different project types, characteristics, and, in the case of road/ transportation projects, different sources of funding. The Member Agency Civic project example provides a brief narrative, a representation of the project layout, the development program description, and the mitigation payment calculation. The road/ transportation examples provide a brief narrative of the project, cost estimates, key funding source information, and the mitigation payment calculation. Graphic layouts for the public road projects are not provided as the mitigation payment calculation is tied to costs and funding sources (not the specific layout of the project.)

As described in Chapter III and illustrated in the private project examples provided above in this chapter, mitigation payments for road and Member Agency Civic Projects that are developed by a private developer as part of a Private Project are calculated and made as part of the Private Project development mitigation payment.

Example 7 – Member Agency Civic Project

Member Agency Civic Projects includes the development of a library and park with adjacent parking lot. The parking lot will also serve as a park and ride location. The total acreage of the project is 6 acres (area inside red boundary). Please see the visual representation of the project layout (Figure 7-1), the development program data (Table 7-1), and mitigation payment calculations (Table 7-2) below.

Figure 7-1: Project Layout

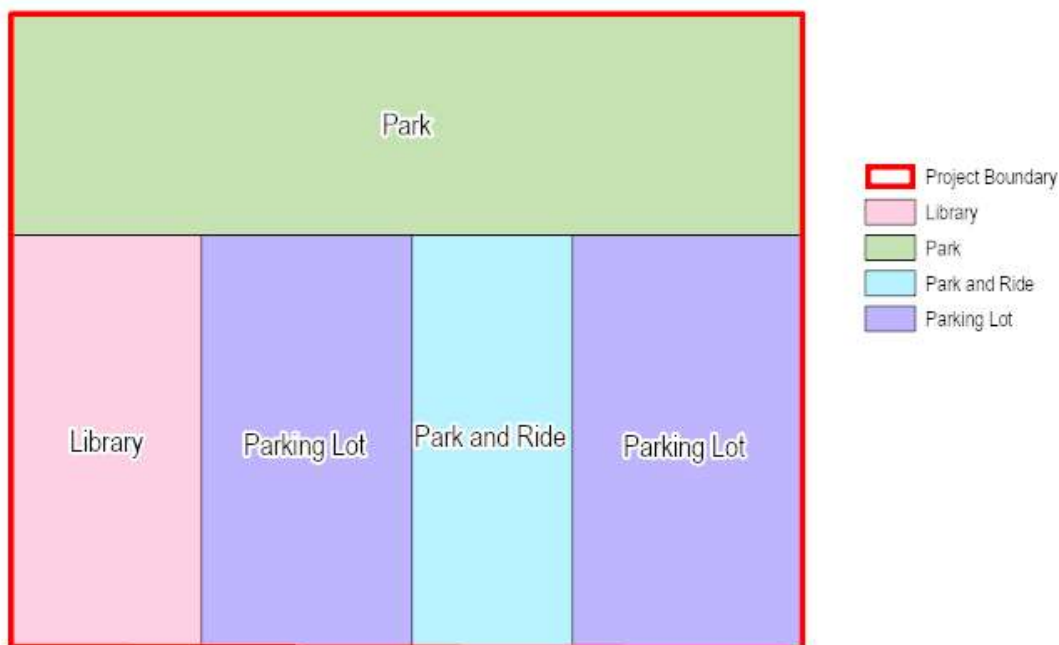


Table 7-1: Illustrative Development Program

Item	Amount
Library Area	1.0 acres
Park	2.0 acres
<u>Parking Area</u>	
Park and Ride Area	1.0 acres
General Parking Lot	<u>2.0</u> acres
Subtotal - Parking	3.0 acres
Gross Project Area	6.0 acres

Table 7-2: Mitigation Payment Calculation

Item	Amount
Gross Project Acres	6.0 acres
Mitigation Fee per Gross Acre (2)	\$16,358
Total Mitigation Payment	\$98,148

(1) Fee schedule will be updated periodically. Fee schedule used for Example Calculations as follows:

Commerical/ Industrial* \$16,358 per gross acre

* Per gross acre fee for Local Public Capital Projects is the same as for commerical/ industrial development.

Example 8 – Road Widening with No Measure A or TUMF Funding

Road widening project with no Measure A or TUMF funding. Whole project is required to mitigate as project falls into the “new road, road widening, and other non-maintenance road projects” category that are required to mitigate (only maintenance projects costs such as road rehabilitation, restriping, and resealing are not required to mitigate). Total project cost is estimated at \$5.5 million, including total direct construction costs of \$4.4 million (including the construction cost contingency), \$1.1 million in soft costs, and no land/ ROW acquisition costs. Please see the example road project cost estimates data

(Table 8-1), the funding source information (Table 8-2), and the mitigation payment calculations (Table 8-3) below.

Table 8-1: Illustrative Project Costs

Cost Item	Cost
NEW ROAD, ROAD WIDENING, OR OTHER NON-MAINTENANCE PROJECTS (1)	
Construction Costs	
Base Construction Costs	\$4,000,000
Changes Orders/ Contingency	\$400,000 (3)
Total Construction Costs	\$4,400,000
Soft Costs	\$1,100,000 (4)
Land Acquisition/ ROW Costs	\$0
Total Capacity-Increasing Cost	\$5,500,000
MAINTENANCE PROJECTS (2)	
Total Construction Costs	\$0
Total Soft Costs	\$0
Total Non-Capacity-Increasing Cost	\$0
TOTAL PROJECT COSTS/ USES	\$5,500,000

(1) Total Construction costs for new roads, road widening, and other non-maintenance projects are included in the mitigation fee payment calculation (see Table 8-3).

(2) Examples of maintenance projects include road rehabilitation, re-striping, and resealing. See Ordinance for full list of maintenance projects that are not required to mitigate.

(3) Initial fee payment calculations made on construction cost and construction contingency cost estimates. Additional fee payments also due on any change orders that add net costs above-and-beyond the initial construction cost contingency estimates

(3) For illustrative purposes shown as 10% of base construction cost. Contingency (and future Change Orders) will vary by project.

(4) For illustrative purposes shown as 25% of total construction costs.

Table 8-2: Illustrative Funding Sources

Cost Item	Amount	% of Total
TUMF/ Measure A Funding		
TUMF Fee Revenues	\$0	0%
Measure A Funding	<u>\$0</u>	<u>0%</u>
Subtotal	\$0	0%
Other Funding	\$5,500,000	100%
TOTAL PROJECT FUNDING/ SOURCES	\$5,500,000	100%

Table 8-3: Mitigation Payment Calculation

Cost Item	Amount	Source/ Calculation	
TOTAL PROJECT COSTS	\$5,500,000	a	See Table 8-1
TOTAL NON-MAINTENANCE CONSTRUCTION COSTS	\$4,400,000	b	See Table 8-1
% of FUNDING FROM OTHER FUNDING SOURCES (1)	100%	c	See Table 8-2
ELIGIBLE COST BASIS FOR MITIGATION PAYMENT CALCULATION	\$4,400,000	d = b * c	Calculation
MITIGATION FEE PAYMENT DUE FROM LOCAL JURISDICTION (2)	\$220,000	e = d * 5%	Calculation

(1) Other funding sources includes all costs not funded by TUMF or Measure A revenues as calculated in Table 8-2.

(2) Mitigation fee payment by permitting agency is 5% of eligible construction cost.

Example 9 – Road Widening Project with 20% Measure A/ TUMF Funding

Road widening project with 20% of funding from Measure A and TUMF funding. Whole project is required to mitigate as project - new road, road widening, and other non-maintenance road projects are required to mitigate (only maintenance costs are not required to mitigate). However, 20 percent of the project will be mitigated separately through TUMF or Measure A funding. Total projects cost is estimated at \$5.5 million, including total direct construction costs of \$4.4 million (including the construction cost contingency), \$1.1 million in soft costs, and no land/ ROW acquisition costs. Please see the example road project cost estimates data (Table 9-1), the funding source information (Table 9-2), and the mitigation payment calculations (Table 9-3) below.

Table 9-1: Illustrative Project Costs

Cost Item	Cost
NEW ROAD, ROAD WIDENING, OR OTHER NON-MAINTENANCE PROJECTS (1)	
Construction Costs (2)	
Base Construction Costs	\$4,000,000
<u>Changes Orders/ Contingency</u>	\$400,000 (3)
Total Construction Costs	\$4,400,000
Soft Costs	\$1,100,000 (4)
Land Acquisition/ ROW Costs	\$0
Total Capacity-Increasing Cost	\$5,500,000
MAINTENANCE PROJECTS (2)	
Total Construction Costs	\$0
Total Soft Costs	\$0
Total Non-Capacity-Increasing Cost	\$0
TOTAL PROJECT COSTS/ USES	\$5,500,000

(1) Total Construction costs for new roads, road widening, and other non-maintenance projects are included in the mitigation fee payment calculation (see Table 8-3).

(2) Examples of maintenance projects include road rehabilitation, re-striping, and resealing. See Ordinance for full list of maintenance projects that are not required to mitigate.

(3) Initial fee payment calculations made on construction cost and construction contingency cost estimates. Additional fee payments also due on any change orders that add net costs above-and-beyond the initial construction cost contingency estimates

(4) For illustrative purposes shown as 10% of base construction cost. Contingency (and future Change Orders) will vary by project.

(5) For illustrative purposes shown as 25% of total construction costs.

Table 9-2: Funding Sources

Cost Item	Amount	% of Total
TUMF/ Measure A Funding		
TUMF Fee Revenues	\$800,000	15%
Measure A Funding	<u>\$300,000</u>	<u>5%</u>
Subtotal	\$1,100,000	20%
Other Funding	\$4,400,000	80%
TOTAL PROJECT FUNDING/ SOURCES	\$5,500,000	100%

Table 9-3: Mitigation Fee Payment Calculation

Cost Item	Amount	Source/ Calculation
TOTAL PROJECT COSTS	\$5,500,000	a See Table 1
TOTAL NON-MAINTENANCE CONSTRUCTION COSTS	\$4,400,000	b See Table 1
% of FUNDING FROM OTHER FUNDING SOURCES (1)	80%	c See Table 2
ELIGIBLE COST BASIS FOR MITIGATION PAYMENT CALCULATION	\$3,520,000	d = b * c Calculation
MITIGATION FEE PAYMENT DUE FROM LOCAL JURISDICTION (2)	\$176,000	e = d * 5% Calculation

- (1) Other funding sources includes all costs not funded by TUMF or Measure A revenues as calculated in Table 9-2. In cases where Measure A/ TUMF funding is allocated for specific project cost categories, additional calculations and allocations may be appropriate. In these cases, please contact RCA staff and provide documentation of funding restrictions for support on the appropriate mitigation fee payment calculation.
- (2) Mitigation fee payment by permitting agency is 5% of eligible construction cost.

Example 10 - Combined New Road/ Road Rehabilitation Project with 50% Measure A / TUMF Funding

Road project that includes the development of a new segment of road along with rehabilitation of a segment of existing roadway. Road project is 50% funded through Measure A or TUMF funds. Total project costs are \$8 million. About \$6 million is associated with the new road, including \$4.4 million in direct construction costs (including the construction cost contingency), \$1.1 million in soft costs, and \$500,000 in land acquisition costs. About \$2 million (25% of overall project cost) is associated with rehabilitation of the existing roadway, including \$1.6 million in direct construction costs (including the construction cost contingency) and \$400,000 in soft costs. Please see the

example road project cost estimates data (Table 10-1), the funding source information (Table 10-2), and the mitigation payment calculations (Table 10-3) below.

Table 10-1: Cost Estimates

Cost Item	Cost
NEW ROAD, ROAD WIDENING, OR OTHER NON-MAINTENANCE PROJECTS (1)	
Construction Costs (2)	
Base Construction Costs	\$4,000,000
<u>Changes Orders/ Contingency</u>	\$400,000 (3)
Total Construction Costs	\$4,400,000
Soft Costs	\$1,100,000 (4)
Land Acquisition/ ROW Costs	\$500,000
Total Capacity-Increasing Cost	\$6,000,000
MAINTENANCE PROJECTS (2)	
Total Construction Costs	\$1,600,000
Total Soft Costs	\$400,000 (4)
Total Non-Capacity-Increasing Cost	\$2,000,000
TOTAL PROJECT COSTS/ USES	\$8,000,000

(1) Total Construction costs for new roads, road widening, and other non-maintenance projects are included in the mitigation fee payment calculation (see Table 8-3).

(2) Examples of maintenance projects include road rehabilitation, re-striping, and resealing. See Ordinance for full list of maintenance projects that are not required to mitigate.

(3) Initial fee payment calculations made on construction cost and construction contingency cost estimates. Additional fee payments also due on any change orders that add net costs above-and-beyond the initial construction cost contingency estimates

(4) For illustrative purposes shown as 10% of base construction cost. Contingency (and future Change Orders) will vary by project.

(5) For illustrative purposes shown as 25% of total construction costs.

Table 10-2: Funding Sources

Cost Item	Amount	% of Total
TUMF/ Measue A Funding		
TUMF Fee Revenues	\$2,000,000	25%
Measure A Funding	<u>\$2,000,000</u>	<u>25%</u>
Subtotal	\$4,000,000	50%
Other Funding	\$4,000,000	50%
TOTAL PROJECT FUNDING/ SOURCES	\$8,000,000	100%

Table 10-3: Mitigation Payment Calculation

Cost Item	Amount	Source/ Calculation
TOTAL PROJECT COSTS	\$8,000,000	a See Table 1
TOTAL NON-MAINTENANCE CONSTRUCTION COSTS	\$4,400,000	b See Table 1
% of FUNDING FROM OTHER FUNDING SOURCES (1)	50%	c See Table 2
ELIGIBLE COST BASIS FOR MITIGATION PAYMENT CALCULATION	\$2,200,000	d = b *c Calculation
MITIGATION FEE PAYMENT DUE FROM LOCAL JURISDICTION (2)	\$110,000	e = d * 5% Calculation

(1) Other funding sources includes all costs not funded by TUMF or Measue A revenues as calculated in Table 10-2. In cases where Measue A/ TUMF funding is allocated for specific project cost categories, additional calculations and allocations may be appropriate. In these cases, please contact RCA staff and provide documentation of funding restrictions for support on the appropriate mitigation fee payment calculation.

(2) Mitigation fee payment by permitting agency is 5% of eligible construction cost.

V. Definitions



CHAPTER V. DEFINITIONS

DEFINITIONS

(Including Definitions defined in the Fee Ordinances):

“Accessory Dwelling Unit” means an accessory dwelling unit as defined by California Government Code section 65852.2(j)(1), or as defined in any successor statute.

“City/County Civic Projects” means all non-road City and County projects, including City/ County administrative facilities, jails, courts, juvenile facilities, parks, libraries, and all other facilities that serve the public.

“City/ County Road Projects” means all City and County road projects.

“Construction Cost” means and includes the cost of the entire construction of the roadway project, including all supervision, materials, supplies, labor, tools, equipment, transportation and/or other facilities furnished, used or consumed, without deduction on account of penalties, liquidated damages or other amounts withheld from payment to the contractor or contractors, but such cost shall not include the Consulting Engineer/Architect’s fee, or other payments to the Consulting Engineer/Architect and shall not include cost of land or Rights-of-Way and Easement acquisition.

“Credit” means a credit allowed pursuant to Section 10 of this Ordinance, which may be applied against the development impact fee paid.

“Development” means a human-created change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filing, grading, paving, excavating, and drilling.

“Development Project” or **“Project”** means any project undertaken for the purpose of development pursuant to the issuance of a building permit by the City/County pursuant to all applicable ordinances, regulations, and rules of the City/County and state law.

“Fuel modification area” means an area established adjacent to structures or roads in which highly combustible native plants, invasive introduced, or ornamental plants are modified and/or totally replaced with fire resistant or drought resistant alternatives; or areas subject to hazardous abatement orders.

“Gross “Community-Serving” Area/ Acres” means the area of residential projects that provide infrastructure, improvements, and amenities that go beyond only serving project residents and hence are “community-serving”. This includes, but is not limited to, roads that serve multiple projects, parks that serve more than one residential project, parking that serves other uses/ developments etc. The acreage associated with these improvements/ amenities are part of the gross project acreage but distinct from project resident-serving improvements/ amenities and the gross residential area.

“Gross Project Area/ Acres” means is the total or gross areas of the project. This overall acreage can only be reduced under unique circumstances.

“Gross Residential Area/ Acres” means the total area of the project dedicated to residential land uses and includes residential buildings as well as “Project Resident-Serving” Infrastructure/ Improvements/ Amenities.

“Hazardous vegetation” means vegetation that is flammable and endangers the public safety by creating a fire hazard, including, but not limited to, seasonal and recurrent weeds, stubble, brush, dry leaves, and tumbleweeds.

“Junior Accessory Dwelling Unit” means a junior accessory dwelling unit as defined by California Government Code section 65852.22(h)(1), or as defined in any successor statute.

“Linear Projects” means all linear PSE projects with differentiation in payment amount between permanent and temporary projects.

“Local Development Mitigation Fee” or **“Fee”** means the development impact fee imposed pursuant to the provisions of this Ordinance.

“Maintenance Projects” means projects that include, but are not limited to, pavement repairs, tree trimming, bridge maintenance, and pavement restriping and roadway reconstruction which do not add new lanes.

“Manufactured slope” means a slope created by natural landform alteration (grading), by cutting or filling a natural slope, or importing fill material to create a slope.

“Member Agency” or **“Member Agencies”** means those Cities and Counties that are signatories to the RCA Joint Powers Agreement.

“Multiple Species Habitat Conservation Plan” or **“MSHCP”** means the Western Riverside County Multiple Species Habitat Conservation Plan

“MSHCP Conservation Area” has the same meaning and intent as such term is defined and utilized in the MSHCP.

“Non-Linear Projects” means all PSE projects that are non-linear in form.

“Ordinance” means the Fee Ordinance adopted by the Cities and the County to implement the MSHCP Local Development Mitigation Fee.

“Private Projects” means those projects where the primary project purpose is for use by households, business, or other private entities (i.e. not accessible to the public except where allowed by private owner/ renter). This category also includes Private Projects that receive public support (e.g., support through direct public investments in infrastructure, ground leases of publicly owned land, or direct investment of public dollars in projects such as affordable housing).

“Project Area” means the area, measured in acres, within the Development Project including, without limitation, any areas to be developed as a condition of the Development Project. Except as otherwise provided herein, the Project Area is the area upon which the project will be assessed the Local Development Mitigation Fee. See the RCA Mitigation Fee Implementation Handbook Manual for additional guidance for calculating the Project Area.

“Project Resident-Serving Infrastructure/ Improvements/ Amenities” means Infrastructure/ improvements, and amenities that only serve project residents and include, but are not limited to, roads, parks, and non-residential buildings that only serve project residents.

“Public Projects” means all City/County Civic Projects and all City/County Road Projects. These Public Projects include infrastructure projects, civic projects and Riverside County Flood Control District projects.

“Revenue” or **“Revenues”** means any funds received by the City/County pursuant to the provisions of this Ordinance for the purpose of defraying all or a portion of the cost of acquiring and preserving vegetation communities and natural areas within the City/County and the region which are known to support threatened, endangered, or key sensitive populations of plant and wildlife species.

“Riverside County Flood Control District Projects” means all Riverside County Flood Control District projects.

“Western Riverside County Regional Conservation Authority” or **“RCA”** means the governing body established pursuant to the MSHCP that is delegated the authority to oversee and implement the provisions of the MSHCP.

Any capitalized term not otherwise defined herein shall carry the same meaning and definition as that term is used and defined in the MSHCP.