

## ITEM 5.1

### CITY MANAGER'S REPORT OCTOBER 10, 2022 CITY COUNCIL REGULAR MEETING

**ITEM:** PUBLIC HEARING (PUBLISHED NOTICE) TO CONSIDER THE 2023 SJMSCP DEVELOPMENT FEE ANNUAL ADJUSTMENT

**RECOMMENDATION:** Council to Consider the Following:

1. Hold a Public Hearing; and
2. Adopt a Resolution Approving an Annual Adjustment to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) Development Fee for 2023

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#### SUMMARY:

On August 25, 2022, the San Joaquin Council of Governments (SJCOG) Board approved the annual adjustment to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) development fees, and is now requesting each participating jurisdiction to adopt the annual adjustment to become effective on January 1, 2023.

The final calculation of the 2023 SJMSCP development fees shows an approximate overall decrease of 1.6% in the most commonly impacted categories of Agricultural and Natural habitat classifications compared to 2022. The decrease is due primarily to a reduction in the land acquisition component (Category A) for agricultural land price values of comparable sales even though there was a rise in the reported Consumer Price Index (CPI) for Categories B (Assessment and Enhancement) and C (Land Management and Administration). The total of these 3 categories equates to the final amount of the development fee.

The following table shows the habitat categories, the current 2022 fees, and proposed 2023 fee adjustments (per acre).

YEAR	2019	2020	2021	2022	2023 (Proposed)
Multi-purpose	\$6,700	\$6,412	\$8,682	\$9,781	\$9,629
Agriculture/Natural	\$13,399	\$12,822	\$17,363	\$19,561	\$19,255
Vernal Pool (grasslands)	\$54,576	\$52,833	\$71,544	\$80,453	\$75,320
Vernal Pool (wetted)	\$101,033	\$100,788	\$161,286	\$174,040	\$176,878

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Staff recommends adoption of the attached resolution approving an annual adjustment to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) development fees for 2023.

**BACKGROUND:**

On November 6, 2001, the City Council adopted Ordinance No. 01-194, establishing the SJMSCP. The plan established a procedure to mitigate the impacts of new development on undeveloped land within the Cities of Lathrop, Escalon, Tracy, Ripon, Manteca, Lodi, Stockton, and San Joaquin County. Each City and the County adopted the SJMSCP and the recommended fee schedule at that time. A Habitat Conservation Map (Attachment 2) identifies those areas within the City of Lathrop that are subject to a specific habitat fee category. Since its adoption, the developer paid SJMSCP fees have been adjusted annually to be effective on January 1<sup>st</sup> of each year.

The development fees were calculated using a formula which is adjusted annually [Fee = Category A (acquisition) + Category B (assessment & enhancement) + Category C (land management & administration)]. Each component of the formula is adjusted using a specific mechanism which relates to the individual component in the fees.

Projects which participate under the SJMSCP benefit from a pre-determined streamlined processing of the project rather than navigating a very long and cumbersome regulatory process through the state and federal permitting agencies. By participating, the project can choose a number of ways to provide mitigation for the impacts of the project:

1. Pay a fee;
2. Redesign the project to avoid/minimize impacts;
3. Provide land in lieu of the SJMSCP fee which the project will negotiate the easement/fee title costs; or
4. Any combination of the above options.

Alternatively, the project proponent may choose to not participate in the SJMSCP and fulfill mitigation requirements on their own with state and federal permitting agencies.

It's important to note that development projects in Lathrop such as River Islands, Central Lathrop, South Lathrop and Gateway have taken advantage of the benefit this program.

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**RECOMMENDATION:**

Staff recommends that the City Council consider all information provided and submitted, take and consider all public testimony and, if determined to be appropriate, adopt a resolution approving the annual adjustment to the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2023.

**FISCAL IMPACT:**


The fee adoption has no fiscal impact to the City. Developers may participate in the SJMSCP plan or opt out and fulfill mitigation requirements with state and federal permitting agencies.

**ATTACHMENT:**

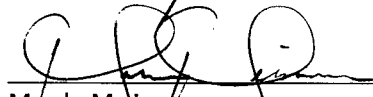
1. Resolution to approve the 2023 San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) development fee.
2. SJMSCP Habitat Conservation Map
3. 2023 Habitat Fee Table

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2023 SJMSCP DEVELOPMENT FEES**

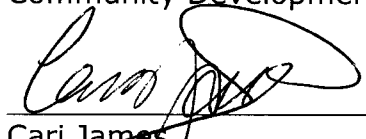
**APPROVALS:**

  
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Rick Caguiat  
Assistant Community Development Director

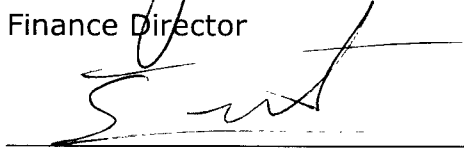
9-28-22  
Date

  
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Mark Meissner  
Community Development Director

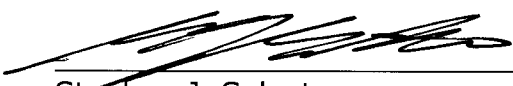
9/28/2022  
Date

  
\_\_\_\_\_  
Cari James  
Finance Director

9/30/2022  
Date

  
\_\_\_\_\_  
Salvador Navarrete  
City Attorney

9-29-2022  
Date

  
\_\_\_\_\_  
Stephen J. Salvatore  
City Manager

9-30-22  
Date

**RESOLUTION NO. 22 -**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LATHROP APPROVING THE ANNUAL ADJUSTMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP) DEVELOPMENT FEE FOR 2023**

**WHEREAS**, the City Council of the City of Lathrop adopted Ordinance No. 01-194 establishing the authority for collection of a Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) for all new development pursuant to the SJMSCP within the City of Lathrop; and

**WHEREAS**, a "Fee Study" dated July 1, 2001 was prepared which analyzed and identifies the costs, funding, and cost-benefit of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan; and

**WHEREAS**, the purpose of the SJMSCP development fee is to finance the goals and objectives of the SJMSCP that include, but are not limited to preserve land acquisition, preserve enhancement, land management, and administration that compensate for such lands lost as a result of future development in the City of Lathrop and in San Joaquin County; and

**WHEREAS**, after considering the fee study and the testimony received at the public hearing, the Lathrop City Council approved said report; and further found that the future development in the City of Lathrop will need to compensate cumulative impacts to threatened, endangered, rare and unlisted SJMSCP covered species and other wildlife and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial open space uses; and

**WHEREAS**, an "Updated Fee Study" was prepared in 2006, 2011, 2016 and 2020 which analyzed and identified the costs and funding of the SJMSCP; and

**WHEREAS**, the SJMSCP development fees are divided into three categories: Category A - Acquisition; Category B - Enhancement; and Category C - Land Management/Administration; and

**WHEREAS**, the SJMSCP development fees for the different habitat types is shown on Attachment 3 of the staff report; and

**WHEREAS**, to ensure that the SJMSCP development fees keep pace with inflation, annual adjustments are made to the fees based on the method previously adopted by the Lathrop City Council; and

**WHEREAS**, the method of annual adjustments was modified in 2011, 2016, and 2020; and

**WHEREAS**, the 2020 adjustment resulted in a minor change to category "A" with an adjustment to the easement to fee title percentage used in the fee model and category "C" with pivoting to a more robust diversified endowment investment for higher return on investment.

**NOW, THEREFORE, IT IS HEREBY RESOLVED**, by the City Council of the City of Lathrop, as follows:

1. The City Council finds and declares that the purposes and uses of the development fee, and the determination of the reasonable relationship between the fees' uses and the type of development project on which the fees are imposed, are all established in Ordinance No. 01-194, and remain valid, and the City Council therefore adopts such determinations.
2. The 2023 development fee for the three habitat types – natural land and agricultural lands, vernal pool habitat, and multi-purpose open space conversion, shall be as set forth in Attachment 3 of the staff report, incorporated by reference herein.
3. The fee provided in this resolution shall be effective on January 1, 2023 – December 31, 2023.

The foregoing resolution was passed and adopted this 10<sup>th</sup> day of October 2022, by the following vote of the City Council, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Sonny Dhaliwal, Mayor

ATTEST:

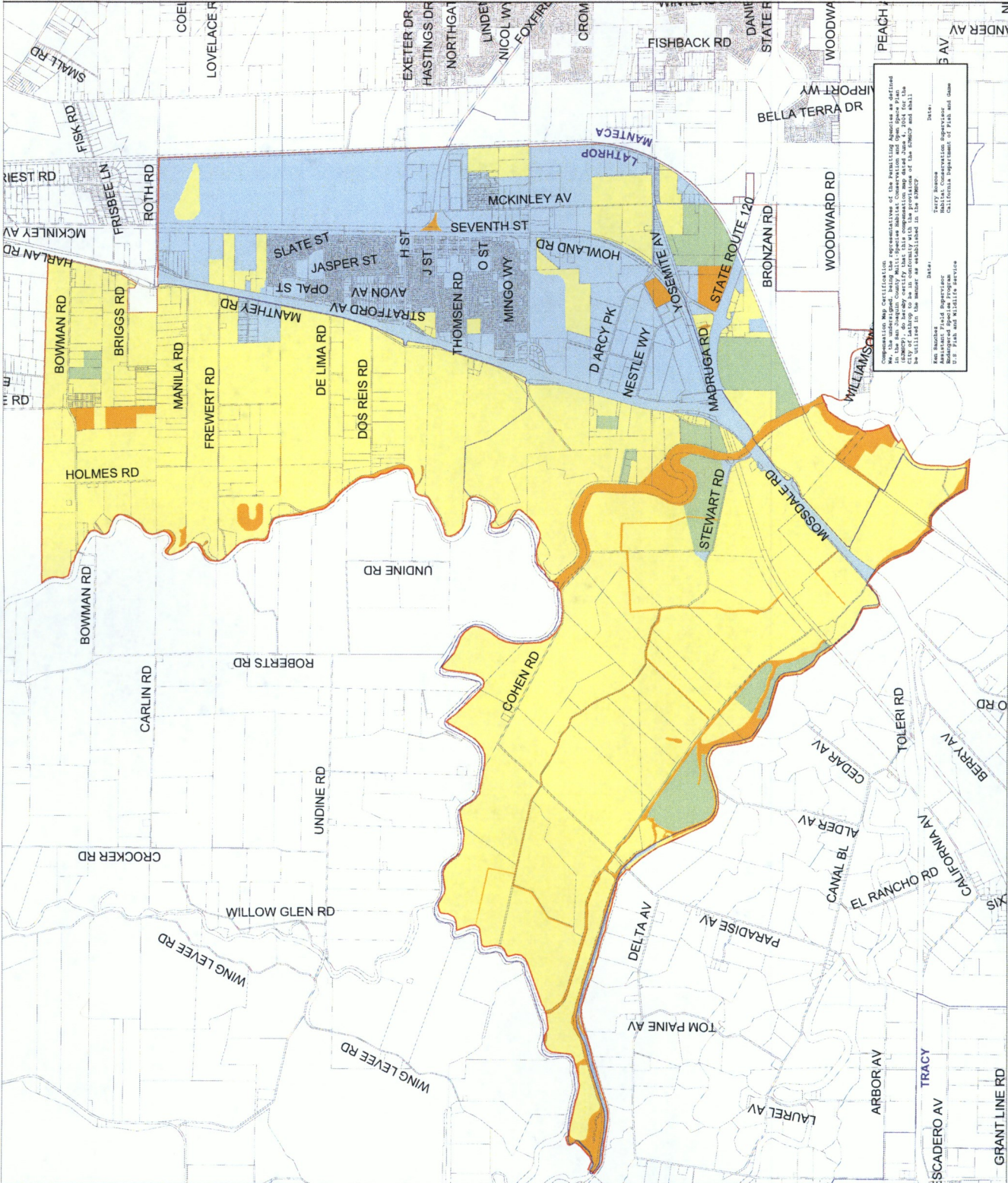
APPROVED AS TO FORM:

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Teresa Vargas, City Clerk

  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

# San Joaquin County Multi-Species Habitat Conservation and Open Space Plan

- LAND CATEGORY / PAY ZONES**
- CATEGORY A
  - EXEMPT
  - NO PAY ZONE
  - CATEGORY B
  - OTHER OPEN SPACES
  - PAY ZONE A
  - CATEGORY C
  - AG. HABITAT OPEN SPACES
  - PAY ZONE B (Agricultural)
  - CATEGORY D
  - NATURAL LANDS HABITAT
  - PAY ZONE B (Natural)
  - CATEGORY E
  - VERNAL POOLS
  - PAY ZONE C
  - CATEGORY F
  - PRIOR AGREEMENT
  - PLANNING AREA BOUNDARY
  - URBAN EXPANSION AREA
  - CITY LIMITS
  - PARCEL LINE



COMPASSIONATE MAP CERTIFICATION  
 I, the undersigned, being the representative of the certifying agency as defined in the above act, do hereby certify that this map was prepared and that the information contained herein is true and correct to the best of my knowledge and belief. I further certify that this map was prepared in accordance with the provisions of the above act and that it is intended to be used in the manner as established in the above act.  
 Date: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Authority: \_\_\_\_\_  
 State: \_\_\_\_\_  
 Department: \_\_\_\_\_  
 Division: \_\_\_\_\_  
 Office: \_\_\_\_\_

## CITY OF LATHROP

San Joaquin Council of Governments  
 2000 Bank View Way  
 Sacramento, CA 95822







SJCOG, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

*San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)*

*Robert Rickman*  
CHAIR

*David Bellinger*  
VICE CHAIR

*Diane Nguyen*  
EXECUTIVE DIRECTOR

*Member Agencies*  
CITIES OF  
ESCALON,  
LATHROP,  
LODI,  
MANTECA,  
RIPON,  
STOCKTON,  
TRACY,  
AND  
THE COUNTY OF  
SAN JOAQUIN

**2023 Updated Habitat Fees\***

Habitat Type	Fee Per Acre
Multi-Purpose Open Space	\$9,629
Natural	\$19,255
Agriculture	\$19,255
Vernal Pool - uplands	\$75,320
Vernal Pool - wetted	\$176,878

\* Effective January 1, 2023 – December 31, 2023

**2023 Endowment Fees with In-lieu Land\*\***

Type of Preserve	Enhancement Cost/acre	Land Management Cost/acre	TOTAL PER ACRE ENDOWMENT
Agricultural Habitat Lands	\$5,769.00	\$769.97	\$6,539
Natural Lands	\$5,769.00	\$769.97	\$6,539
<b>Vernal Pool Habitat</b>			
<i>Vernal Pool Grasslands</i>	\$14,491.00	\$1,901.76	\$16,393
<i>Vernal Pool Wetted</i>	\$117,102.00	\$1,864.45	\$118,966

\*\* Effective January 1, 2023 – December 31, 2023 in lieu of fees to be used as the endowment for the dedicated land preserves (Category B + C) based on impacted acres.

**VELB Mitigation**

A special fee category shall apply when removal of the Valley Elderberry Long-horned Beetle (VELB) habitat of elderberry shrubs occurs. The fee shall be paid to SJCOG, Inc. or a VELB mitigation bank approved by the Permitting Agencies. The current fee, as established in the VELB Conservation Fund Account managed by the Center for Natural Lands Management, and approved by the USFWS, is \$1,800 per VELB Unit (one unit= one stem over 1" in diameter at ground level which is removed). Fees shall be established by the JPA during preconstruction surveys (i.e., counts of stems to be removed with and without exit holes shall be completed during preconstruction surveys) and shall be paid to the JPA prior to ground disturbance or stem removal, whichever comes first.

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