



SANTA CLARA VALLEY
HABITAT AGENCY

Santa Clara Valley Habitat Agency

November 20, 2014

Voluntary Fee Payments Policy

1. PURPOSE

State and federal funds in the form of grants (e.g., Section 6) are estimated to cover 17 percent of the total Habitat Plan's preparation, implementation, and endowment costs (Habitat Plan, Table 9-5). Voluntary fee payments also may contribute to Habitat Plan funding, but are not specifically defined in the Habitat Plan. Such payments are a non-fee funding source and would therefore provide additional funding outside of the 17 percent grant funds. The purpose of voluntary fee payments is to accommodate unique development project situations, as described in Section 2 *Scope*, as well as to expand available funding sources.

Habitat Plan mitigation fees, including land cover fees, nitrogen deposition fees, and specialty fees (serpentine fee, wetland fee, and burrowing owl fee) are estimated to contribute approximately 55 percent to the Habitat Plan's costs. More specifically, 50 percent of the Habitat Plan costs related to mitigating nitrogen deposition impacts to new development in the permit area will be covered through nitrogen deposition fees. The remaining 50 percent will come from non-fee public funding sources, including local, state, and federal funding.

The Santa Clara Valley Habitat Agency (Habitat Agency) may adopt guidelines to determine how voluntary fee payments from certain development projects and activities are used upon receipt by the Habitat Agency.

2. SCOPE

This policy applies to all public and private entities which elect to provide voluntary fees to the Habitat Plan. Voluntary fees could arise in connection with the following project types:

- a. Projects located outside of the Habitat Plan permit required under CEQA environmental review to pay Habitat Plan fees to offset project impacts.
- b. Projects located outside of the Habitat Plan permit area required by litigation to pay Habitat Plan fees to offset project impacts.
- c. Projects located within the Habitat Plan permit area that obtained development permits prior to Habitat Plan adoption and that have been determined by the Habitat Agency as eligible for paying Habitat Plan fees to offset project impacts.

3. POLICY

The Habitat Agency will accept voluntary fee payments received from applicable public and private entity projects, as described in Scope section above. Each voluntary fee payment would be applied to the following areas and tracked by the Habitat Agency.

- a. Nitrogen deposition voluntary fee payments will be applied toward land acquisition, management, and monitoring for Bay checkerspot butterfly and serpentine covered plant species.
- b. Burrowing owl voluntary fee payments will be applied toward burrowing owl management agreements, burrowing owl habitat management and monitoring, as well as burrowing owl habitat restoration and land acquisition.

Other voluntary fee payments will be applied as determined by the Habitat Agency toward general conservation strategy implementation.

4. DEFINITIONS

Term: Voluntary fee payments

Definition: Fees submitted to the Habitat Agency by applicable development project entities, as described in this memo. Different development project situations could pay voluntary fees and the fees may be used in varying ways.

Term: Permit Area

Definition: The *permit area* is the area in which the Co-Permittees have taken authorization from USFWS and CDFW for activities and projects covered by the Habitat Plan. The permit area constitutes those lands within the study area and expanded study area for burrowing owl conservation on which covered activities occur. The permit area is the same as the study area except that it excludes Henry W. Coe State Park (Habitat Plan, Figure 1-2).

Term: Mitigation fees

Definition: Mitigation fees or fees means any fees that apply to a covered activity as adopted by the Governing Board in accordance with Chapter 9 and Table 9.6 of the Habitat Plan and the *Santa Clara Valley Habitat Plan Fee Nexus Study* including any applicable amendments and adjustments to such fees unless otherwise exempted from the fee requirements of the Habitat Plan by the Habitat Agency. All mitigation fees imposed by Ordinance No. 2013-01 include both the Endowment Fee Component and the Plan Preparation Cost Recovery Fee Component described in Section 9.4.1 of Chapter 9 of the Habitat Plan. Mitigation fees consist of all of the following types of fees: land cover fee; serpentine fee; nitrogen deposition fee; western burrowing owl fee; wetlands fees; and temporary impact fees.

5. REFERENCE

Executive Officer Directive No. 2