



## Santa Clara Valley Habitat Agency

# Early Payment of Mitigation Fees Policy

### 1. PURPOSE

The Santa Clara Valley Habitat Agency (Habitat Agency) may adopt guidelines to assist in the implementation and administration of all aspects of the Habitat Agency's Mitigation Fee Ordinance (No. 2013-01) not previously considered. The early payment of mitigation fees policy allows public and private applicants to pay mitigation fees prior to issuance of a building permit, grading permit or other discretionary action required by a Joint Powers Agreement Partner.

### 2. SCOPE

This policy applies to all public and private applicants subject to the fee provisions of the Santa Clara Valley Habitat Plan.

### 3. POLICY

The Habitat Agency's Mitigation Fee Ordinance (No. 2013-01) does not preclude early payment of fees. The Habitat Agency will allow early payment of mitigation fees by a public or private applicant prior to a Joint Powers Agreement Partner issuance of a building permit, grading permit or other discretionary action.

In order to qualify for early fee payment, the Habitat Plan Application must have been submitted and the fees and conditions to be imposed verified by the Joint Powers Agreement Partner (or Habitat Agency) staff.

The public or private applicant, upon early payment of mitigation fees, will not be subject to any future Habitat Agency mitigation fee increases, except that subsequent changes to a project which necessitate additional fees will be subject to the fee rate at the time of modification or revision.

Pre-paid fees by a private applicant are considered locked in when received by the Joint Powers Agreement Partner and may remain locked in for the duration of the permit issued or a maximum of one year, whichever is shorter. Pre-paid fees by a public agency applicant are considered locked in when received by the Habitat Agency or when a payment agreement is reached. Permits should normally be issued within 6 months of receipt of a completed application. Pre-paid fees remitted to the Joint Powers Agreement Partner should be promptly transferred to the Habitat Agency.

No refunds will be issued by the Habitat Agency to an applicant who pays mitigation fees early.

#### 4. DEFINITIONS

**Term:** Joint Powers Agreement Partner/Permittee

**Definition:** The County of Santa Clara, the City of San José, the City of Gilroy, and the City of Morgan Hill, who developed the habitat conservation plan and natural communities conservation plan entitled the Santa Clara Valley Habitat Plan (Habitat Plan), are collectively referred to in the Joint Powers Agreement, which created the Santa Clara Valley Habitat Agency, as the Joint Powers Agreement Partners or Permittees.

**Term:** Mitigation fees

**Definition:** Mitigation fees or fees means any fee that applies to a covered activity as adopted by the Governing Board in accordance with Chapter 9 and Table 96 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 the Mitigation Fee Ordinance include both the Endowment Fee Component and the Plan Preparation Cost Recovery Fee Component, as described in Section 941 of Chapter 9 of the Habitat Plan. Mitigation fees consist of all of the following types of fees:

- 1) Land Cover Fee;
- 2) Serpentine Fee;
- 3) Nitrogen Deposition Fee;
- 4) Western Burrowing Owl Fee;
- 5) Wetlands Fees; and
- 6) Temporary Impact Fees.

#### 5. REFERENCE

Executive Officer Directive No. 1 – October 20, 2014