



# REPORT TO COUNCIL

## City of Sacramento

915 I Street, Sacramento, CA 95814-2604  
[www. CityofSacramento.org](http://www.CityofSacramento.org)

CONSENT  
 February 17, 2009

Honorable Mayor and  
 Members of the City Council

**Subject:** Natomas Basin Habitat Conservation Fee

**Location/Council District:** North and South Natomas, Council District 1

**Recommendation:** For Information Only – Review & File.

**Contact:** Scot Mende, New Growth Manager, 808-4756; and Carol Shearly, Director of Planning, 808-5393

**Presenter:** N/A

**Department:** Planning

**Division:** New Growth

**Organization No:** 22001211

### Description/Analysis

**Issue:** The annual re-evaluation of the Natomas Basin Habitat Conservation Plan (NBHCP) has not resulted in the need for a fee adjustment. On December 3, 2008, the Natomas Basin Conservancy (TNBC) Board of Directors recommended that the fee be left at its current 2008 level.

**Policy Considerations:** The 2003 NBHCP was approved by Council on May 13, 2003; the federal Incidental Take Permit (ITP) was issued by U.S. Fish and Wildlife Service on June 27, 2003, and the amended state ITP was issued by California Department of Fish and Game on July 10, 2003. On an annual basis, the City considers a fee adjustment in order to ensure accuracy of the funding to implement the 2003 HCP and comply with the ITP and the related Implementation Agreement. No fee adjustment is needed for the 2009 construction season.

Periodic fee adjustment is consistent with the City's Strategic Plan Three-Year Goal to "Achieve sustainability and livability." The fee increase also helps achieve



the City’s Smart Growth Principle #6 - Preserve open space, farmland, natural beauty, and critical environmental areas.

**Committee/Commission Action:** No action was taken by the Planning Commission on this item.

**Environmental Considerations:** No action is requested, and is therefore not a project for the purpose of the California Environmental Quality Act. Previous environmental review has been conducted related to the North Natomas Community Plan, the 2003 Natomas Basin HCP, and the Comprehensive Drainage Plan, among others.

**Sustainability Considerations:** Periodic review & adjustment of the HCP fee is consistent with the Sustainability Master Plan – Section 7 – Parks, Open Space & Habitat Conservation, Goal 4: “Preserve prime farmland and critical habitat resources”.

**Rationale for Recommendation:** The HCP fees are adjusted annually, prior to the commencement of the grading season (May 1<sup>st</sup>). The Natomas Basin Conservancy recommends no adjustment to the current fee.

**Financial Considerations:** Developers of land in North and South Natomas currently pay a HCP fee of \$38,133 per gross acre. The Natomas Basin Conservancy’s economic consultant - Economic & Planning Systems - completed an update of the HCP Finance Model based on estimated costs (including land acquisition) that indicates an ability to decrease fees in order to successfully implement the HCP. Under the terms of the 2003 NBHCP agreement between the City and the State and Federal wildlife agencies, the City agreed to have its NBHCP “Plan Operator (TNBC) update the HCP Finance Model each February for the life of the HCP. The HCP Fee revenue pays for the land acquisition, restoration and enhancement, administration and operations and maintenance, Operations & Maintenance endowment, and supplemental endowment funds associated with implementing the HCP and mitigating impacts of urban development on the species covered under the NBHCP. Based on the Finance Model update and the judgment of the Natomas Basin Conservancy Board, the Council is not being requested to approve an adjustment in the current fee. There is no obligation of the General Fund associated with this requested fee adjustment.

	2008 Fee	2009 Fee
Full Fee (no land dedication)	\$38,133	\$38,133
Fee w/ Land Dedication	\$20,633	\$20,633

**Emerging Small Business Development (ESBD):** Not applicable to this report.

Respectfully submitted by: Scot Mende  
Scot Mende, New Growth Manager

Approved by: Carol Shearly  
Carol Shearly  
Director of Planning

Recommendation Approved:

Ray Kerridge  
RAY KERRIDGE  
City Manager

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**ATTACHMENT 1**

**BACKGROUND – HABITAT CONSERVATION PLAN FEE:**

History of the HCP Fee

On August 7, 1997, the City Council added Chapter 84.10 to Title 84 (currently Chapter 18.40 of Title 18) of the City Code which created and established the authority for the Habitat Conservation Fee, which is used to fund the costs of implementing the Natomas Basin HCP (Ord. No. 97-046). Chapter 18.40 directs the City Council, by resolution, to set the amount of the fee. Also, the chapter contemplates the periodic revision of the fee by resolution of the Council. On September 2, 1997, the City Council established the specific amount of the HCP Fee as \$2,656 per gross acre (Reso. No. 97-508). The history of the HCP fee is shown in the table below:

**TABLE 1  
History of HCP Fees**

<b>Date</b>	<b>HCP Fee / Gross Acre</b>	<b>Resolution No.</b>
October 31, 1995	\$2,240 [Interim Fee]	95-060
September 2, 1997	\$2,656	97-508
August 17, 1999	\$3,292	99-473
September 12, 2000	\$3,942	2000-538
June 12, 2001	\$10,021* (incl. \$4,028 premium)	2001-391
May 21, 2002	\$11,962* (incl. \$4,028 premium)	2002-300
June 24, 2003	\$12,270	2003-460
April 20, 2004	\$16,124 (\$8,624 w/ land dedication)	2004-285
April 5, 2005	\$24,897 (\$12,397 w/ land dedication)	2005-223
May 4, 2006	\$41,182 (\$18,682 w/ land dedication)	2006-301
February 13, 2007	\$38,445 (\$18,445 w/ land dedication)	2007-092
February 19, 2008	\$38,133 (\$20,633 w/ land dedication)	2008-097
February 17, 2009	\$38,133 (\$20,633 w/ land dedication)	proposed

\* - In 2001, the Council increased the fee to \$10,021 per gross acre to implement the 1997 HCP and the Settlement Agreement. The fee included a base fee of \$5,993 per gross acre and a premium fee of \$4,028 per gross acre to acquire reserve lands in prioritized areas of the Basin in order to comply with the agreement. In 2002, the Council increased the fee to \$11,962 per gross acre – a base fee of \$7,934 and a premium fee of \$4,028 for the agreement.

The Natomas Basin Conservancy (TNBC) is the plan operator of the Natomas Basin HCP. TNBC acquires mitigation land and implements management and enhancement measures necessary to meet the mitigation requirements of the HCP. With best available information regarding current and projected costs associated with implementation of the 2003 Natomas Basin HCP, TNBC staff worked with its economic consultant - Economic and Planning Systems (EPS) - to update the HCP Finance Model. No adjustments are needed to the HCP fee based on no significant change in land or operating costs.

### Justification for the HCP Fee Adjustment

In order to implement the HCP, TNBC recommends that the Council leave the HCP fee at its current 2008 level. The current fee is \$38,133 per gross acre of development (\$20,633 per acre with land dedication); the fee would be retained at this level until otherwise adjusted by Council action.

The HCP Fee is made up of five major parts: 1) Land Acquisition, 2) Restoration and Enhancement, 3) Administration and Operation and Maintenance (O+M), 4) O+M Endowment, and 5) Supplemental Endowment. The fifth component was added in June 2001 to provide assurances that the last acre of required mitigation land will be purchased after all the fee revenue has been collected. Unlike the Supplemental Endowment part of the fee, the O+M Endowment Fund is used to maintain the preserve lands in perpetuity after build-out of the plan area and all development fee revenue has been collected. A small sixth fund is allocated to the City for fee collection (2% of the fee).

A copy of the full fee study (dated November 30, 2008) is available for review at the City Planning Office, New City Hall, 915 I Street, 3<sup>rd</sup> Floor, Sacramento, CA 95814 and is also available as an attachment to this report.

### Land Dedication Requirement

In the past couple of years, all large mitigation efforts have been accomplished through land dedication by the developers to TNBC, as opposed to payment of the Land Acquisition portion of the HCP fee. In April 2005, the City Council voted to require developers of 50-100+ acres to dedicate land in lieu of fee payment; on May 4, 2006 the City Council extended this provision to May 1, 2007. On February 13, 2007, the City Council extended the land dedication in-lieu requirement without a sunset date. No change in this requirement is proposed in this report.

### Minimal Development in Natomas Until Levees Fixed

The Natomas Basin is impacted by the Federal Emergency Management Agency's remapping of Natomas into an AE Flood Zone which effectively precludes new development until such time that the levees meet 100-year flood protection standards – which is expected to take several years.

**ATTACHMENT 2**

**RESOLUTION NO. 08.12.03**

**ADOPTED BY THE BOARD OF DIRECTORS OF  
THE NATOMAS BASIN CONSERVANCY  
A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION,  
ON DECEMBER 3, 2008**

**A RESOLUTION RECOMMENDING NO ADJUSTMENT IN THE NATOMAS BASIN  
HABITAT CONSERVATION PLAN FEE TO THE CITY OF SACRAMENTO**

WHEREAS, the Conservancy is charged with implementing the Natomas Basin Habitat Conservancy Plan (NBHCP), and

WHEREAS, in order to accomplish its mission the Conservancy receives fees paid to it which are normally collected by the City of Sacramento, and these fees are in turn conveyed to the Conservancy, and

WHEREAS, the 2008 fee was established at \$38,133.00 per developed acre and \$20,633.00 with land dedication, and

WHEREAS, as required by the 2003 NBHCP, each year the Conservancy evaluates the costs associated with its implementation of the NBHCP and determines if the fees are adequate, and

WHEREAS, the Conservancy has re-run the NBHCP Finance Model that has been used to evaluate the adequacy of funds necessary to implement the NBHCP, and

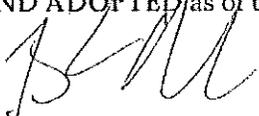
WHEREAS, when the fee is deemed in need of adjustment to permit continued successful implementation of the NBHCP, the Conservancy has requested that the City of Sacramento approve a fee level that is adequate, and

WHEREAS, in order to adequately finance the NBHCP's implementation given current levels of income and expense, the Conservancy believes that the current fee is justifiable and adequate, and has determined that no change in the established fee be made.

**NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF  
THE NATOMAS BASIN CONSERVANCY THAT,**

1. The Conservancy believes an NBHCP fee of \$38,133.00 per developed acre ("base fee") is necessary and requests the City of Sacramento leave the fee as is without adjustment.
2. The Conservancy believes a fee of \$20,633.00 per developed acre is necessary with satisfactory land dedication in lieu of paying the Land Acquisition Fund portion of the NBHCP fee, and requests the City leave this portion of the fee be unadjusted as well.
3. The Conservancy requests that the City of Sacramento confirm this level of the NBHCP fee at its earliest convenience.

**PASSED AND ADOPTED** as of this 3rd day of December 2008.

Signed:  \_\_\_\_\_

