



## RESOLUTION NO. 065-2021

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

### RESOLUTION SETTING BASS LAKE HILLS SPECIFIC PLAN PUBLIC FACILITY FINANCING PLAN FEES

**WHEREAS**, the Bass Lake Hills Specific Plan (BLHSP), originally containing 88 individual parcels and covering approximately 1,414 acres in western El Dorado County, was approved by the El Dorado County Board of Supervisors on November 7, 1995; and

**WHEREAS**, Section 9.4 of the Bass Lake Hills Specific Plan required the development of a Public Facilities Financing Plan to set forth a strategy to finance the backbone infrastructure and other public facilities to serve the proposed land use of the plan; and

**WHEREAS**, the Bass Lake Hills Specific Plan Public Facility Financing Plan (BLHSP PFFP) was prepared by Economic and Planning Systems (EPS) and adopted on June 8, 2004; and

**WHEREAS**, included in the BLHSP PFFP as Appendix C was the Bass Lake Hills Public Facilities Fee Nexus Study (Nexus Study), which was prepared to establish the BLHSP fee program in accordance with the requirements in the Mitigation Fee Act, which is codified in part at California Government Section 66000 *et seq*; and

**WHEREAS**, in April 2016 the Planning Commission approved Tentative Map and Planned Development revisions (Hawk View, APN: 103-060-01), (Bell Ranch, APN: 119-020-52), and (Bell Woods, APN: 108-010-07) supported by corresponding 10-year Development Agreements to replace the expired original Bass Lake Hills Specific Plan Development Agreement that was approved in 1996; and

**WHEREAS**, the approved revised Tentative Maps and Planned Developments primarily involved revisions to the conditions for the timing and phasing of the infrastructure improvements and required submittal of an updated PFFP reflecting the updated improvement requirements; and

**WHEREAS**, the approved revised Tentative Maps and Planned Developments (Hawk View, Bell Ranch, and Bell Woods) are supported by certification of an Addendum to an Environmental Impact Report (EIR) (State Clearinghouse Numbers SCH No. 2005012107 (Hawk View), 20050320044 (Bell Woods), 2005022144 (Bell Ranch)); and

**WHEREAS**, the updated 2020 Bass Lake Hills Specific Plan PFFP has been prepared as conditioned by the approved Tentative Map and Planned Development revisions (Hawk View, Bell Ranch, and Bell Woods) and in compliance with the certified Addendum to the EIR; and

**WHEREAS**, a draft update of the Nexus Study was included in the information provided to the Board as part of the item approving Resolution 218-2021 on February 23, 2021; and

**WHEREAS** the facts and evidence presented in the draft updated Nexus Study have been further reviewed and determined to establish there is a reasonable relationship between the fee's use and the type of development for which the fee is charged; and

**WHEREAS**, after a full public hearing during which the fee structure was studied and reviewed, the Board made the following findings pursuant to Government Code Section 66001:

**Government Code Section 66001(a)(1); Identify the purpose of the fee.**

Findings for Government Code Section 66001(a)(1): The purpose of the Plan Area Fee is to fund transportation, sewer and water improvements to meet the needs of new residential development within the Specific Plan.

**Government Code Section 66001(a)(2): Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirement, or may be made in other public documents that identify the public facilities for which the fee is charged.**

Findings for Government Code Section 66001(a)(2): A Plan Area Fee will be used to fund the cost of transportation, sewer and water public improvements required to meet the increased demand of vehicular, pedestrian and bike traffic, sewer conveyance and water transmission. In addition to the public improvements the Plan Area Fee will fund administrative costs of fee collection, accounting and updates.

**Government Code Section 66001(a)(3): Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.**

Findings for Government Code Section 66001(a)(3): A Plan Area Fee will be used to fund the public improvements described in Section III of the Nexus Study. The Plan Area Fee will be used to expand the transportation, sewer and water improvements required to meet the demands created by new residential development. As such, a reasonable relationship exists between the use of the Plan Area Fee and residential development on which the fee will be imposed.

**Government Code Section 66001(a)(4): Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed:**

Findings for Government Code Section 66001(a)(4): The residents of the new residential development in the Specific Plan will generate additional trips, increase sewer discharge and consume more water. The transportation, sewer and water demands were based on engineering studies developed to meet the required buildout of the Specific Plan. Since the public improvements are required to service buildout of the Specific Plan a reasonable relationship exists between the need for the Plan Area Fee and the new residential development.

**Government Code Section 66001(b): Determine how there is a reasonable relationship between the Amount of the Fee and the Cost of the Public Facility or Portion of the public Facility Attributed to the Development on which the Fee is imposed (Proportionality).**

Findings for Government Code Section 66001(b): The cost of the transportation, sewer and water public improvements are allocated to the residential land uses according to the proportional impact or demand generated from each residential land use. The demand for the transportation, sewer and water public improvements are measured by factors representing the impact created by the residential land use relative to a single family detached unit or dwelling unit equivalent. A reasonable relationship exists between the amount of the Plan Area Fee and the cost of the transportation, sewer and water public improvements associated with the residential land uses within the Specific Plan since the costs are allocated based on the demand created by new trips, sewer discharge and water consumption associated by the residential land uses;

**NOW THEREFORE, BE IT RESOLVED:**

- A. The Board of Supervisors hereby adopts the Bass Lake Hills Plan Area Fee Program Nexus Study. The Nexus Study is attached to this resolution as Exhibit B and incorporated by reference herein.
- B. The Board of Supervisors hereby adopts the Bass Lake Hills Specific Plan Public Facilities Financing Plan (BLHSP PFFP) fee program.

- C. Effective sixty days (60) days after the adoption of this resolution, an applicant for new development within the BLHSP PFFP Plan Area shall pay the fees set out in Exhibit A, which establishes one fee schedule for new development located within the Western Sewer Shed and another for new development located within the Eastern Sewer Shed, in full before the issuance of any building permit or other discretionary permit.

*New development* means all of the following:

- a. The original construction of residential buildings,
- b. The original construction of commercial, industrial or other nonresidential buildings.
- c. The expansion, alteration, enlargement, conversion, or replacement of existing buildings or the construction of new accessory buildings.

*New development* does not include the construction of an accessory dwelling unit, as that term is defined in Government Code Section 65852.2.

- D. The fees collected will be deposited into the Bass Lake Hills Specific Plan PFFP Fund Trust to be used solely for the purposes of constructing the improvements authorized in the BLHSP PFFP, and necessary administrative costs for fee collection, accounting, and updates. The County shall collect, expend, and report on the fees in compliance with the Nexus Study and the Mitigation Fee Act with the reporting and refunding requirements in the Mitigation Fee Act, including, but not limited to, Government Code Section 66001 and 66006, as it now read or may be amended from time to time.

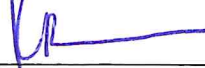
- E. Reduction and Appeals.

- a. The Director of Transportation may grant a reduction or appeal of a fee charged under this fee program if the Director finds either, or both, of the following conditions are met:
  - i. The requirements of this resolution have been incorrectly applied to a development project.
  - ii. The application of this resolution to a development project is unlawful under and/or conflict with federal, State, or local law and/or regulation including constituting an unlawful taking of property without just compensation.
- b. An applicant must apply for a reduction and/or appeals of the fee paid under this resolution no later than the date of application for the building permit for the development project on a form provided by the County. The applicant shall include in that application payment in full of fees as established in Exhibit A. The burden of establishing by satisfactory factual proof the applicability and elements of this section shall be on the applicant. The applicant must submit full information in support of their submittal as requested by the Director. Failure to raise each and every issue that is contested in the application and provide appropriate support evidence will be grounds to deny the application and will also preclude the applicant from raising such issues in court. Failure to timely submit such an application shall constitute a failure to exhaust administrative remedies that shall preclude such person from challenging the PFFP fees in court. The Director may require at the expense of the applicant, review of the submitted materials by a third party.
- c. The County shall mail the applicant a final, written determination on the application for a reduction and/or appeal. The applicant may appeal the Director's decision to the Hearing Officer. The Hearing Officer's decision is final and not administratively appealable. *Hearing Officer* for these purposes has the same meaning as used in El Dorado County Code Section 12.28.020.

- F. If an applicant fails to comply with any provisions of this resolution including failure to timely pay the fee, the County may take any of the following actions:
- a. Withhold issuance of the building-related permits.
  - b. Record a special assessment or other lien or liens against the real property which is the subject of the development project for the amount of the fee.
  - c. Revoke or suspend the temporary certificate of occupancy and/or certificate of occupancy for the development project.
  - d. Take any other action necessary and appropriate to secure payment, with interest accruing from the date of nonpayment.
  - e. Assess civil penalties against an applicant and/or associated parcel owner who fails to comply with this chapter, including failure to pay the fee.
- G. The County will review the fee program and establish an updated fee annually either based on actual cost changes or by indexing them by the use of a construction cost index. If indexing is used, the County will adjust the Plan Area Fee by the annual change in the ENR Construction Cost Index for San Francisco on March 1<sup>st</sup> of each calendar year as reported in the ENR for the 12 month period ending December 31.
- H. The County will review the fee program every five years, or more often as necessary, to determine if any adjustments to the fees are warranted. This review will include:
- Changes in estimated or actual construction and associated project costs of the required facilities listed in the Nexus Study;
  - Changes to the required facilities listed in the Nexus Study;
  - Changes in cost because of inflation;
  - Changes in assumed land uses;
  - Changes in other funding sources; and
  - Changes in the cost to update and/or administer the fee program.
- I. The County is authorized to prepare, enter into, and administer credit and reimbursement agreements. Eligibility criteria for determining items and costs and guidelines for preparing the agreements are contained within the BLHSP PFFP Nexus Study. All costs and expenses for the BLHSP PFFP program shall be covered by the fee program, the County shall not be liable for any costs or expenses incurred by developers beyond the fee program.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 22nd day of June, 2021, by the following vote of said Board:

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By:   
\_\_\_\_\_  
Deputy Clerk

Ayes: Hidahl, Turnboo, Thomas, Parlin, Novasel  
Noes: None  
Absent: None

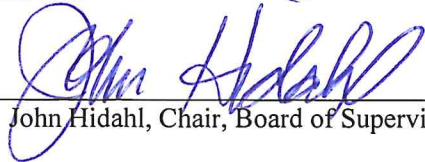
  
\_\_\_\_\_  
John Hidahl, Chair, Board of Supervisors

Exhibit A

### Bass Lake Hills Specific Plan Fee

Bass Lake Hills Plan Area Fee per Unit*	Western Shed	Eastern Shed	
	Single Family Residential	Single Family Residential	Church
Roadways	\$ 12,323	\$ 12,323	\$ 12,323
Sewer	\$ 2,806		
Water	\$ 655	\$ 655	\$ 655
Admin (4.0%)	\$ 631	\$ 519	\$ 519
<b>Subtotal Plan Area</b>	<b>\$ 16,415</b>	<b>\$ 13,497</b>	<b>\$ 13,497</b>

*\*As established in the Bass Lake Hills Specific Plan Public Facilities Finance Plan  
Prepared December 2020, Approved February 2021  
Appendix C - Plan Area Fee Nexus Study, Table 7 - Plan Area Fee*

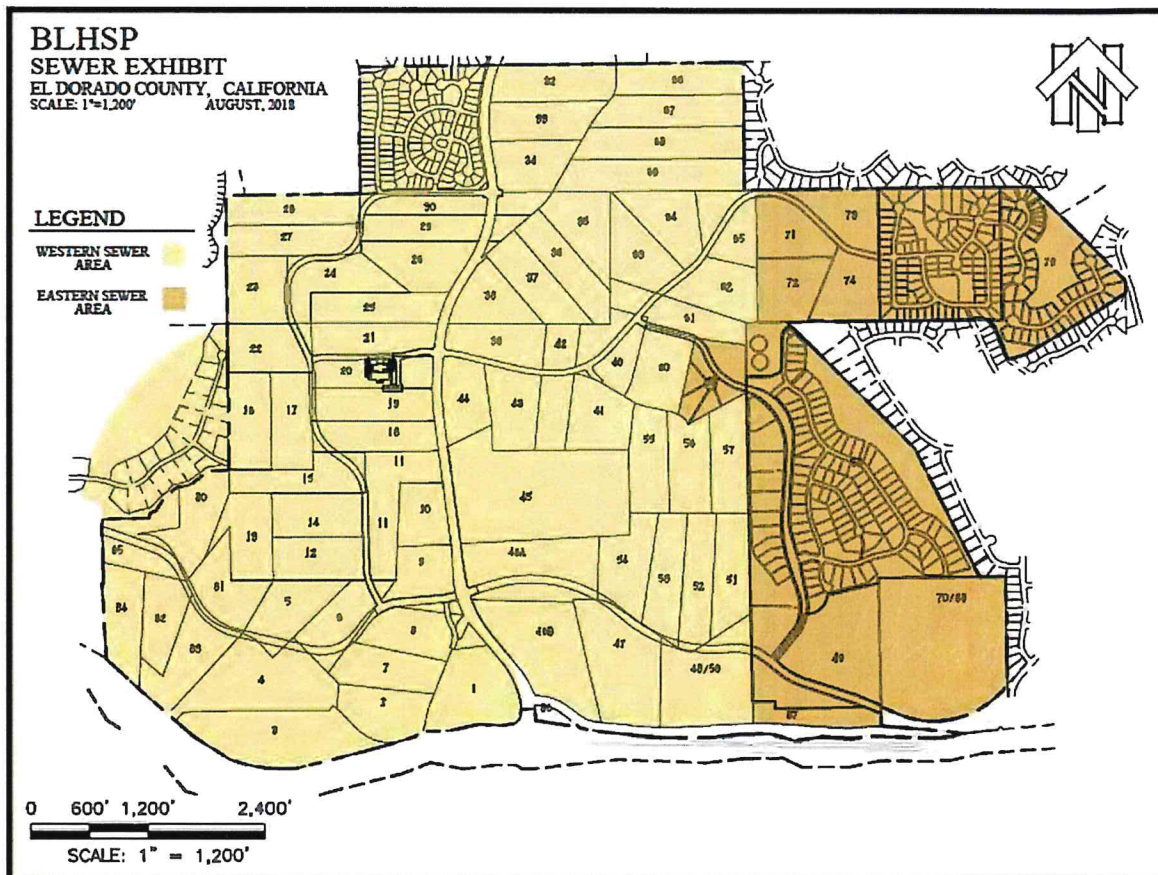


Exhibit B

**Appendix C**

**Bass Lake Hills Plan Area Fee Program**

**Nexus Study**

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## I. EXECUTIVE SUMMARY

### **Introduction**

As development occurs within the Bass Lake Hills Specific Plan (“Specific Plan”) of the County of El Dorado (“County”), new public improvements are required to meet the increased demand generated from new development. Public improvements will be funded as part of the Base Lake Hills Public Facilities Finance Plan and associated fee program (“Plan Area Fee”) in order to deliver transportation, sewer and water improvements in a timely fashion. The County previously approved a Bass Lake Hills Public Facilities Finance Plan on June 8, 2004. This updated Plan Area Fee will apply to all future development within the Specific Plan upon the adoption of the appropriate ordinances and resolutions.

The Plan Area Fee adheres to the Mitigation Fee Act, also known as AB 1600, as found in Government Code Section 66000 and is established by the County through adoption of this plan area fee nexus study (“Nexus Study”). The imposition of impact fees requires the Nexus Study to demonstrate that a reasonable relationship or “nexus” exists between the need for additional public improvements and new development within the Specific Plan. In particular, a local jurisdiction imposing a fee must determine the following:

- Identify the purpose of the fee.
- Identify how the fee is to be used.
- Determine how a reasonable relationship exists between the fee’s use for the public facility and the type of development project on which the fee is imposed.
- Determine how a reasonable relationship exists between the need for the public facility and the type of development project on which the fee is imposed.
- Demonstrate a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

The Plan Area Fee anticipated being collected on the land uses within the Specific Plan is based on each land use’s proportional share of the public improvements. The remaining residential land uses in the Specific Plan are anticipated to be single family detached units and are assigned a dwelling unit equivalent factor of 1.0 for transportation, sewer and water improvements. See Section IV below for additional details related to cost allocations.

### **Summary of Findings**

The Plan Area Fee consists of a public infrastructure fee with the following components: (i) transportation, (ii) sewer, (iii) water and (iv) administration. The administration component will fund the County’s cost of fee collection, accounting and updates. The following Table 1 summarizes the findings presented in the Nexus Study.



**Table 1  
Plan Area Fee Summary**

<b>Bass Lake Hills Specific Plan</b>				
<b>Bass Lake Hills Plan Area Fee/Unit</b>	<b>Western Shed</b>		<b>Eastern Shed</b>	
	<b>Single Family Residential</b>		<b>Single Family Residential</b>	<b>Church</b>
<b>Transportation</b>	\$	12,323	\$	12,323
<b>Sewer</b>	\$	2,806		
<b>Water</b>	\$	655	\$	655
<b>Admin (4.0%)</b>	\$	631	\$	519
<b>Subtotal Plan Area</b>	\$	<b>16,415</b>	\$	<b>13,497</b>

New development within the Specific Plan creates increased demand on the public improvements and consequently impacts the level of service of public improvements provided to both residents and employees. When service levels are inadequate new or expanded public improvements are required. Table 2 below summarizes the type and cost of public improvements required to meet this increased demand.

**Table 2  
Public Improvement Summary**

<b>Item</b>	<b>Cost (i)</b>
Transportation	
Roadways	\$ 11,736,470
Bass Lake Road Enhancements	\$ 3,266,397
Ancillary Facilities	\$ 1,743,549
	\$ 16,746,416
Sewer	\$ 2,927,117
Water	\$ 889,935
	\$ 20,563,468

(i) Does not include administrative costs at \$822,538 or 4%.

## II. DEVELOPMENT ASSUMPTIONS

### **Land Use**

The Specific Plan comprises approximately 1,414 acres and is anticipated for development of 1,458 housing units, 24 acres of parks, and 9 acres of schools with 151 acres of open space throughout the Specific Plan area. A portion of the Specific Plan was previously developed, leaving an anticipated 1,359 residential units for development. Table 3 below summarizes the Specific Plan land uses.

**Table 3  
Land Use Summary**

<b>Specific Plan</b>						
<b>Land Use Category</b>	<b>Land Use</b>	<b>Original Specific Plan</b>			<b>Developed</b>	<b>Remaining</b>
		<b>Acres</b>	<b>Density</b>	<b>Units</b>	<b>Units</b>	<b>Units</b>
<b>Residential</b>						
Low Density	L.2 PD	171	0.2	33	-	33
Low Density	L.7 PD	361	0.6	225	-	225
Medium Density	MPD	403	1.5	601	99	502
High Density	H3PD	149	2.4	364	-	364
High Density	H4PD	49	3.7	181	-	181
	<b>Subtotal</b>	<b>1,133</b>		<b>1,404</b>	<b>99</b>	<b>1,305</b>
Church		34	1.6	54		54
	<b>Subtotal Residential</b>	<b>1,167</b>		<b>1,458</b>	<b>99</b>	<b>1,359</b>
<b>Other</b>						
Parks		24				
Open Space		151				
Schools		9				
Fire Station		2				
Park & Ride		2				
	<b>Subtotal Public Other</b>	<b>188</b>				
<b>Roads/Right of Way</b>		<b>60</b>				
<b>Total</b>		<b>1,414</b>		<b>1,458</b>	<b>99</b>	<b>1,359</b>
<b>Nexus Study Land Uses</b>						
<b>Land Use Category</b>		<b>DUE Factor</b>	<b>Remaining Units</b>	<b>Remaining DUE</b>		
Single Family Residential		1.00	1,305	1305		
Church		1.00	54	54		
			<b>1,359</b>	<b>1,359</b>		

**Demand Factors**

Public improvement costs are allocated among the Specific Plan’s residential land uses. The allocation of public improvements is based on engineering standards and demand factors as determined by the Specific Plan’s engineering data.

Additionally, the public improvements have been allocated based on specific dwelling unit equivalent (“DUE”) factors. These DUE based allocations are the foundation for determining the equitable allocation of public improvements within the Specific Plan. Table 4 below references the public improvement categories and the dwelling unit equivalents allocated to each category.

**Table 4**  
**Dwelling Unit Equivalent**

Category	DUE
Transportation (i)	1,359
Sewer (Western Shed)	1,043
Water	1,359

(i) Includes: Roadway, Bass Lake Road Enhancements,  
& Ancillary Facilities

### III. FEE PROGRAM COST ESTIMATES

The Specific Plan will require transportation, sewer and water improvements to achieve buildout. Cost estimates for the public improvements have been prepared by CTA Engineering & Surveying (“CTA”). Table 2 above summarizes the \$19.1 million of public improvements to be financed by the Plan Area Fee. Refer to **Appendix A of the Bass Lake Hills Public Facility Finance Plan for the detailed cost estimates**. A general description of the public improvements to be financed by the Plan Area Fee is as follows:

#### **Transportation**

The transportation improvements include roadways, Bass Lake Road enhancements (bikeways, sidewalks, medians) and ancillary facilities (Park and Ride lot) located at the southwest corner of the intersection of Old Bass Lake Road and Country Club Drive. The transportation improvements include softs costs, such as right of way acquisition, engineering and permitting agency fees and charges. Certain storm drain facilities are required because of the transportation improvements and will be constructed with the roadways. Therefore, storm drain costs are included in the transportation improvement cost estimates. Transportation Plan Area Fee costs are estimated at \$15.5 million.

#### **Sewer**

The Specific Plan area is bifurcated into western and eastern sewer sheds. The western sewer shed flows into the South Upland Sewer Line which flows to the El Dorado Hills Wastewater Treatment Plant. The western shed comprises about three-quarters of the Specific Plan and will directly benefit from the utility easement extending west of the Specific Plan area and main sewer line extending west through Serrano Village C-2 that will connect this portion of the Specific Plan area to the South Uplands Sewer Line. Sewer infrastructure for the western sewer shed will provide sewer services to this portion of the Specific Plan area and includes providing an eight to 12-inch sewer line. The eastern sewer shed area will connect to the existing sewer system located in the Southeast portion of the Specific Plan adjacent to the Cameron Park area that runs to the Deer Creek Wastewater Treatment Plant. The eastern sewer shed will be exempt from paying the sewer component of the Plan Area Fee because it will not be connecting to the sewer line that will run west of the Specific Plan area. Sewer Plan Area Fee costs are estimated at \$2.8 million.

#### **Water**

One major water infrastructure improvement is included in the Plan Area Fee. This facility includes eight (8) to twenty four (24) inch pipes connecting water to the Bass Lake Hills school site from the

existing water distribution network located at Hollow Oak Road and Bass Lake Road. Water Plan Area Fee costs are estimated at \$890 thousand.

#### IV. COST ALLOCATION & FEE CALCULATION

The following section outlines the cost allocation methodology and identifies the proposed Plan Area Fee in order to fund the required public improvements necessary to support buildout of the Specific Plan.

##### **Cost Allocation**

The purpose of allocating the public improvements among the various residential land uses is to provide an equitable method of funding required facilities. The critical elements to apportioning the public improvements to the residential land uses is the assumption that demands placed on facilities are related to the specific type of land use and these demands can be stated in relative terms. This relative demand by land use type creates a reasonable relationship or nexus in which costs can be fairly and equitably apportioned.

A dwelling unit equivalent is a common demand factor which allows the allocation of public improvement costs among the residential land uses. A dwelling unit equivalent is defined as the amount of facility use for each land use type relative to a single family detached unit; therefore the DUE for a single family detached unit is 1.0. The remaining residential land uses in the Specific Plan are anticipated to be single family detached units and are assigned a DUE factor of 1.0 for transportation, sewer and water improvements.

The DUEs are calculated for the residential land uses and each residential land use is assigned a percentage share of the total DUEs. The percentage share of the DUEs is multiplied by the total facility costs to determine the residential land uses allocated fair share of the public improvements. The DUE allocation table is shown in Table 5 below.

**Table 5  
DUE Allocation Factors**

<b>Transportation</b>	<b>Unit</b>	<b>DUE Factor</b>	<b>DUE</b>	<b>%</b>
Single Family Residential	1,305.00	1.00	1,305.00	96.0%
Church	54.00	1.00	54.00	4.0%
	<u>1,359.00</u>		<u>1,359.00</u>	<u>100.0%</u>
<b>Sewer (Western)</b>	<b>Unit</b>	<b>DUE Factor</b>	<b>DUE</b>	<b>%</b>
Single Family Residential	1,043.00		1,043.00	100.0%
<b>Water</b>	<b>Unit</b>	<b>DUE Factor</b>	<b>DUE</b>	<b>%</b>
Single Family Residential	1,305.00	1.00	1,305.00	96.0%
Church	54.00	1.00	54.00	4.0%
	<u>1,359.00</u>		<u>1,359.00</u>	<u>100.0%</u>

**Fee Calculation**

The Plan Area Fee presented in this Nexus Study is based on the best available cost and land use information. Changes to these assumptions or the identification of additional funding sources should trigger a reevaluation of the Plan Area Fee. Periodic review of these assumptions by County staff is recommended to determine the need for any updates. The public improvement cost allocation is summarized in the following Table 6.

**Table 6  
Cost Allocation**

Specific Plan				
Public Improvements	Transportation	Sewer (Western Shed)	Water	Total Public Improvements
<b>Land Use</b>				
Single Family Res.	\$ 16,080,996	\$ 2,927,117	\$ 854,573	\$ 19,862,686
Church	\$ 665,421		\$ 35,362	\$ 700,782
<b>Public Improvements</b>	<b>\$ 16,746,416</b>	<b>\$ 2,927,117</b>	<b>\$ 889,935</b>	<b>\$ 20,563,468</b>
<b>DUE</b>	<b>1,359</b>	<b>1,043</b>	<b>1,359</b>	
<b>Public Improvement / DUE</b>	<b>\$ 12,323</b>	<b>\$ 2,806</b>	<b>\$ 655</b>	

In addition to the cost of public improvements the Plan Area Fee will include an administrative component of four percent (4.0%). The administration component will fund the cost of fee collection, accounting and updates. Table 7 below provides a summary of the Plan Area Fee.

**Table 7  
Plan Area Fee**

Specific Plan - Western Shed					
	Fee Program Components				Total Infrastructure Fee
	Roadways	Sewer (Western Shed)	Water	Admin 4%	
<b>Land Use</b>					
Single Family Residential	\$ 12,323	\$ 2,806	\$ 655	\$ 631	\$ 16,415
<b>Specific Plan - Eastern Shed</b>					
	Fee Program Components				Total Infrastructure Fee
	Roadways	Water	Admin 4%		
<b>Land Use</b>					
Single Family Residential	\$ 12,323	\$ 655	\$ 519		\$ 13,497
Church	\$ 12,323	\$ 655	\$ 519		\$ 13,497

## V. NEXUS FINDINGS

The following section outlines the legislative requirements to demonstrate a legal justification for the Plan Area Fee. The justification of the Plan Area Fee on new residential development shall provide information consistent with Government Code Section 66000. The legislative requirements are as follows.

### **Purpose of the Fee**

The purpose of the Plan Area Fee is to fund transportation, sewer and water improvements to meet the needs of new residential development within the Specific Plan.

### **Use of the Fee**

A Plan Area Fee will be used to fund the cost of transportation, sewer and water public improvements required to meet the increased demand of vehicular, pedestrian and bike traffic, sewer conveyance and water transmission. In addition to the public improvements the Plan Area Fee will fund administrative costs of fee collection, accounting and updates.

### **Reasonable Relationship between the Use of the Fee and Type of Development on which the Fee is Imposed (Benefit)**

A Plan Area Fee will be used to fund the public improvements described in Section III of this study. The Plan Area Fee will be used to expand the transportation, sewer and water improvements required to meet the demands created by new residential development. As such, a reasonable relationship exists between the use of the Plan Area Fee and residential development on which the fee will be imposed.

### **Reasonable Relationship between the Need for the Public Facility and Type of Development Project on which the Fee is Imposed (Burden)**

The residents of the new residential development in the Specific Plan will generate additional trips, increase sewer discharge and consume more water. The transportation, sewer and water demands were based on engineering studies developed to meet the required buildout of the Specific Plan. Since the public improvements are required to service buildout of the Specific Plan a reasonable relationship exists between the need for the Plan Area Fee and the new residential development.

### **Reasonable Relationship between the Amount of the Fee and the Cost of the Public Facility or Portion of the public Facility Attributed to the Development on which the Fee is Imposed (Proportionality)**

The cost of the transportation, sewer and water public improvements are allocated to the residential land uses according to the proportional impact or demand generated from each residential land use. The demand for the transportation, sewer and water public improvements are measured by factors representing the impact created by the residential land use relative to a single family detached unit or dwelling unit equivalent. A reasonable relationship exists between the amount of the Plan Area Fee and the cost of the transportation, sewer and water public improvements associated with the residential land uses within the Specific Plan since the costs are allocated based on the demand created by new trips, sewer discharge and water consumption associated by the residential land uses.

## VI. NEXUS ADOPTION & ADMINISTRATION

### **Adoption**

This section contains a general outline and recommendations for the adoption and administration of a Plan Area Fee. The specific statutory requirements for adoption and administration of the Plan Area Fee are found in the California Government Code Section 660000. The Plan Area Fee should be adopted by the County Board of Supervisors through an ordinance authorizing collection of the fee and through a resolution establishing the fee. The Plan Area Fee would be effective 60 days following the County Board of Supervisors final action on the adoption of the Nexus Study, the ordinance authorizing collection of the fee and the resolution establishing the fee.

### **Administration**

The proceeds from the Plan Area Fee should be deposited into a separate fund or account to eliminate any commingling of fees with other revenue. The Plan Area Fee should be expended solely for the purpose for which they were collected. Any interest earned by such fund or account should be deposited in that fund or account and expended solely for the purpose for which originally collected.

The following data must be made available to the public within 180 days after the end of each fiscal year:

- A brief description of the type of fee in the account
- The amount of the fee
- The beginning and ending balance of the account
- The fees collected that year and the interest earned
- An identification of each public improvement for which the fees were expended and the amount of the expenditures for each improvement
- An identification of an approximate date by which the construction of the improvement will commence if the local agency determines that sufficient funds have been collected to complete financing of an incomplete public improvement
- A description of each inter-fund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, the date on which any loan will be repaid, and the rate of interest to be returned to the account, and
- The amount of money refunded under Government Code Section 66001.

The fifth fiscal year following the receipt of any Plan Area Fee and every five (5) years thereafter, the County shall make the following findings with respect to that portion of the account or fund remaining unexpended:

- Identify the purpose to which the fee is to be put
- Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
- Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements, and
- Designate the approximate dates on which the funding is expected to be deposited into the appropriate account of fund.

The Nexus Study recommends that the costs of the public improvements and associated Plan Area Fee be updated and/or indexed annually based on actual cost changes or the use of a construction cost

index. If an index is used, the County will adjust the Plan Area Fee by the annual change in the ENR Construction Cost Index for San Francisco on March 1st of each calendar year as reported in the ENR for the 12 month period ending December 31.

### **Credit and Reimbursement**

A developer who funds the construction of public improvements included with the Plan Area Fee will be eligible for credit or reimbursement. The criteria for credit and reimbursement eligibility will be established by a credit and reimbursement agreement between the developer and County. The eligibility criteria within the credit and reimbursement agreement will include, but not be limited to, the following:

1. **Construction of public improvements:** Developer shall cause the construction of the public improvements in accordance with the plans for the public improvements approved by the County, and in accordance with County improvement standards. Developer shall be responsible for obtaining all necessary permits and prior to commencement of work the developer shall comply with the following: (1) obtain pre-approval from County of construction documents; (2) cause its contractor to obtain an encroachment permit from County prior to commencement of construction activities in County's right of way (and adjacent thereto), if needed; (3) cause its contractor to provide insurance and related documentation to County and (4) post, or cause its contractor to post, performance and payment bonds for the public improvements in favor of the County in an amount and form acceptable to the County. In addition, prior to County acceptance of the completed public improvements, developer shall post, or cause its contractor to post, a warranty bond in the amount of ten percent (10%) of the amount of the performance and payment bonds accepted by the County for the public improvements. Prevailing wages will be required for the public improvements.
2. **Eligible public improvement costs:** The costs of the public improvements eligible for credit and reimbursement shall include actual construction costs, onsite and offsite right-of-way and utility easement acquisition costs, design, engineering, environmental review and mitigation, permits, surveys and inspection, bond premiums, construction management and other costs funded by the Plan Area Fee advanced or incurred by developer to acquire and complete the construction of the public improvements. Upon completion of the public improvements a final determination of eligible costs shall be determined by the County pursuant to documentation provided by developer.
3. **Fee Credit and Reimbursement:** Developer shall receive fee credits for eligible costs up to the Plan Area Fee independent of the infrastructure component (transportation, sewer and/or water) built. However, fee credits shall not apply to the administrative portion of the Plan Area Fee. Fee credits in excess of the fee obligation may, at developers sole discretion, either (i) be applied as credits for other projects within the Specific Plan (ii) assigned to other developers to be applied as credits or (iii) reimbursed to developer. Reimbursement shall be paid by the County (i) within thirty (30) days after acceptance of the public improvements and determination by County of eligible costs thereto, subject to availability of funds at the time such payment is due, and (ii) thereafter, if the then-available funds are not adequate to fully fund such payment, then the County's obligation shall continue quarterly thereafter as funds are available, for an additional twenty (20) years after such initial payment date, with annual adjustments continuing thereon until final payment is received in full.



4. Annual Adjustments: The amount of credits and reimbursement shall be adjusted, up or down, consistent with any updating or indexing of the Plan Area Fee and related public improvement costs by the annual percentage change in the Engineering News Record Construction Cost Index or comparable index (the "CCI") for San Francisco for each calendar year ending December 31, provided any such downward adjustment shall not go below the actual cost of the public improvements generating such credits, as approved by the County. The annual adjustment shall occur annually on March 1.