

APPENDIX B. DEVELOPMENT OF THE IN-LIEU FEE OPTION

INTRODUCTION AND BACKGROUND

Chapter 16.30 of the Floodplain and Erosion Hazard Management Ordinance No. 2010-FC5 (Ordinance) stipulates that an applicant (private property owner, government agency, land developer, or builder) can mitigate for unavoidable impacts to regulated riparian habitat (RRH) through onsite mitigation. If onsite mitigation is investigated and deemed not feasible for the applicant, then offsite mitigation may be proposed, per Section 16.30.050.D:

“Mitigation Banking, or other alternative mitigation measures as approved by the Board. At the request of the property owner, and with Board approval, the mitigation plan requirement under this chapter may be waived by contributing funds to an account established and administered by the District for the purpose of offsetting damage to riparian habitat.”

Previously, the offsite mitigation option was applied without guidance that specified how each proposal should be implemented. The goal of the Offsite Mitigation Guidelines (Guidelines) is to inform the regulated community on available offsite mitigation options, in-lieu fee (ILF) program administration, and expenditure of funds obtained through the ILF program. The following key topics were identified and addressed through the revision process:

- Understand the true cost of mitigation and long-term management of riparian habitat;
- Formulate a method for the valuation of RRH;
- ILF fee determination method should be easily understandable and costs defensible;
- Determine a process for obtaining sufficient ILFs;
- Process needs to be easy to use, implement, and manage;
- Establish an administrative process for expending ILF funds received;
- Develop site selection criteria for new mitigation or receiving areas; and
- Consider tools and opportunities for partnering and leveraging funds.

The Guidelines will provide an avenue for development interests, property owners, and public projects to allow offsite compensatory mitigation for impacts to RRH when preservation or other onsite mitigation is not feasible. ILFs obtained by the District will be used toward the purchase of property with high value riparian habitat, or towards District projects that may include restoration, enhancement, and/or preservation of RRH, with the overall objective of improving or establishing riparian habitat in one area to compensate for negative impacts to RRH that occur elsewhere in Pima County (the County). The ILF option is anticipated to provide a higher degree of permitting certainty and design flexibility while a development or public project is still in the planning stage.

This document describes steps taken to develop the ILF program.

PROCESS FOR DETERMINING MITIGATION IN-LIEU FEES

The District is proposing to revise the ILF portion of the offsite mitigation option allowed by the Ordinance. Revising the ILF program would allow the District to collect appropriate fees from projects impacting RRH and use these fees to purchase, enhance, restore, establish, and/or maintain riparian habitat elsewhere in the County. Under current guidelines, ILFs are assessed by estimating the cost of onsite mitigation for the project. The current ILF program has fallen short of expectations in the amount of fees collected and has not been effective in achieving the District's goal of offsetting impacts to RRH occurring from development, therefore, the District explored various methods for assessing ILFs to determine if an alternative method would better achieve the District's goals.

In order to address issues with the District's current ILF structure, an attempt was made to better understand actual mitigation costs (Appendix B – *SWCA Report: Options for Assessing In-Lieu Fees*). Cost data for completed riparian projects was compiled from a variety of sources, including County projects, online searches, and descriptions of existing projects. Data requests were also solicited from a number of entities including landscape architect and consulting firms, Southern Arizona municipalities, the Bureau of Land Management, and the U.S. Army Corps of Engineers. Requests were mailed to 24 entities, with a total of seven responses received. A literature search of 19 projects was conducted and data compiled from the literature was used to explore calculation methods for assessing the ILF. Specific data gathered for each project included total project costs, acreage of the project, annual operations and maintenance (O&M) costs, and annual water costs. Annual costs were extrapolated to a period of five years, based on the current maintenance period requirement adopted by the Board.

SUMMARY OF OPTIONS EXAMINED FOR ASSESSING IN-LIEU FEE COSTS

During development of the Guidelines, a number of alternative methods were considered to determine an appropriate method for calculating the ILF, but were soon discarded due to various reasons. Some of those reasons included 1) because they were too complex to be usable; 2) they would not apply equitably to both large and small developments; 3) they were not scientifically or fiscally defensible; and/or 4) a number of other minor reasons. In general, most were simply not practical. Some of the alternative methods considered and the reasons for not considering them further are described below.

1. **Traditional Mitigation Bank:** A method discussed in prior years was the use of a traditional mitigation bank (in contrast to an ILF). The mitigation bank would be comprised of protected riparian areas located in each watershed of the County in which developers and property owners would purchase banking credits to mitigate for impacts during the development review process. The purchase of banking credits would only be allowed once riparian habitat was avoided and disturbance minimized. However, the creation of a mitigation bank was deemed not feasible due to the initial cost outlay that would be required by the District. Additionally, it was determined that the District could not ensure that impacts and compensatory mitigation would coincide in a timely manner or fall within the same watershed and/or RRH type. Lastly, it would be impossible for the District to predict the classes of riparian habitat that would be impacted by development

and, consequently, provide available mitigation banking credits within each classification.

2. **Simple, Across the Board ILF:** Another method considered was to simply charge the developer or property owner a certain set amount of money per square foot of riparian habitat impacts. While attractive for its simplicity, this method does not differentiate between various types of riparian habitat and thus does not discourage impacts toward higher-value riparian areas. It also fails to account for the natural resource value of a site (hydrology, priority vulnerable species, diversity of habitat (flora and fauna), etc.).
3. **Biological Value Adjusted ILF:** One considered method started with a set fee per square foot of impacts based on RRH type, then adjusted for onsite ecological functions and values. This system allowed mitigation ratio adjustments for such factors as: streams (intermittent vs. perennial), flow regimes of washes (>2,000 cubic feet per second [cfs] vs. >10,000 cfs), the relative value of a particular watershed, land use intensity (i.e., high-intensity urban vs. medium-intensity rural), Harris Riparian Area designations, diversity of flora and fauna, diversity of adjacent habitat types, contributing area of the watershed, and SDCP zoning (i.e., biological core habitat, slated growth areas). It was quickly determined that 1) one could adjust for infinite factors; 2) a massive effort would need to be undertaken to understand the complexities and interactions of the various factors; 3) such a system would be far too complex; and 4) the Conservation Land System (CLS) already takes core factors into account in a scientific manner. Similarly, the use of the CLS mapping data and mitigation ratios was discussed but ultimately discarded given the method would inflate mitigation costs to such a degree to be seen as fiscally indefensible. Furthermore, the biological value of the RRH is already accounted for in the RRH classification types.
4. **Real Estate Value-Based ILF:** There was also discussion of including the appraised value of impacted land in the ILF. However, it was decided that appraised value of one piece of land would not correlate well with land elsewhere in the County that could potentially be used for mitigation. Additionally, the value of riparian land could be interpreted anywhere between low-cost grazing land and high-cost land for development. Equity could not be achieved using this parameter; therefore, this option was discarded.

DEVELOPMENT OF THE OFFSITE MITIGATION IN-LIEU FEE OPTION

The District's goal in revising the method for determining ILFs was to create a simple, predictable, and structured process that would allow for collection of fees commensurate with the District's actual costs to offset damage to RRH. After examining several methods for calculating ILFs, four stood out as viable options from which the final ILF is based. Per the Ordinance, the mitigation ratios would remain the same as before; a mitigation ratio of 1:1 for Xeroriparian impacts and a ratio of 1:1.5 for Hydroriparian/Mesoriparian (Class H), or Important Riparian Areas (IRA) classifications. The options for ILF calculation methods examined are as follows:

1. **Property value method:** This method bases the ILF on the Full Cash Value (FCV) of subject, or nearby properties' FCVs if the subject property has no or nominal

FCV assigned. The applicant would divide the applicable FCV by the parcel size to get an FCV per square foot. Then the FCV would be multiplied by a 1.25 factor, targeted at 80 percent of market, to adjust the FCV to full market price per square foot. Lastly, the price per square foot would be multiplied by the size of the disturbed RRH area to get the price of the underlying land affected and the total to assign the ILF.

2. *Riparian Classification method:* This method bases the ILF solely on the assigned cost per square foot per RRH type (based on collected actual project data) as defined in Section 2.0 of Appendix A. The applicant would calculate the proposed square foot of impact to each RRH type, multiply each by the assigned cost per square foot, and then calculate the total to assign the ILF.
3. *Combination of the Property Value and Riparian classification methods:* This method is a combination of the first two proposed methods. The applicant would calculate costs based on both the first and second methods and then reduce by 50 percent to assign the ILF.
4. *Modified version of the current method, based on an estimated cost to mitigate onsite:* The revised method would standardize costs, provide disincentives for disturbing higher value riparian habitat (Important Riparian Areas and Class H habitat), and increase cost to mitigate as the percentage of RRH impacts increased by providing a sliding scale fee based on percentage of impacts to habitat.

Ultimately, method number 4 was selected as the preferred ILF option. This option was selected because it most closely met the goals outlined at the beginning of the revision process, i.e., that the ILF be simple, financially defensible, and provide adequate funds to mitigate for impacts to RRH. Further discussion of this option is provided in Section 2.0 of the Guidelines. For a complete review of the data and revision process please see Appendix B, *SWCA Report: Options for Assessing In-Lieu Fees*.