City of Brisbane

City Council Meeting Agenda

Thursday, September 17, 2026 at 6:30 PM ● Hybrid Meeting ● 50 Park Place, Brisbane, CA

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To Address the Council

In Person:

Location: Community Meeting Room 50 Park Place, Brisbane, CA 94005

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Webinar ID: 991 9362 8666
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Call to Order – Pledge of Allegiance

Roll Call

A. Remote Attendance Under the Just Cause Provisions of the Brown Act

Adoption of Agenda

Awards and Presentations

B. SMC Mosquito Abatement & Vector Control Presentation

Oral Communications No. 1

Consent Calendar

C. Proclaim September 2026 as Suicide Prevention Month

D. Proclaim October 2026 as Domestic Violence Awareness Month

E. Approve Minutes of City Council Meeting of September 3, 2026

F. Approve Minutes of City Council Special Meeting of September 3, 2026

G. Approve 2025 AB 481 Annual Military Equipment Report and Renew Ordinance

H. Authorize Approval of San Mateo County Smart Corridor Ownership, Operation, and Maintenance Agreement

Public Hearing

I. Introduction of the First Reading of an ordinance amending Municipal Code Chapter 16.24 and adding Municipal Code Chapter 15.90 to establish and update procedures for implementing development impact fees; and approve a resolution adopting and establishing the development impact fees and supporting nexus studies and capital improvement plans to support the development impact fees to fund: (1) Public Facilities for Library, Fire Department, Police Department, and General Government Facilities, (2) Park Land, Park Improvements, Recreation Facilities, Open Space and Trails, and (3) Transportation Facilities.

Old Business

J. Silverspot One Year Check in

K. Consider Approval of an Amendment to a Reimbursement Agreement with Parties who Constructed San Francisco Avenue Extension

New Business

L. Data Centers– Update from Planning Issues Subcommittee and Discussion of Next Steps

M. Receive Annual Report on Short Term Rentals

N. Consider Introduction of an Ordinance Amending Brisbane Municipal Code Section 2.02.010 Related to City Councilmember Compensation

Staff Reports

O. City Manager's Report- City Updates and Upcoming Activities

Mayor and Council Matters

P. Future Agenda Items

Q. Countywide Assignments and Subcommittee Reports
i. Parkside 2 Ad Hoc Subcommittee Update
ii. Report Out on Subcommittee Meeting
iii. Upcoming Subcommittee Meetings

R. Written Communications

Oral Communications No. 2

Adjournment

City of Brisbane
PROCLAMATION

PROCLAIMING SEPTEMBER 2026 AS SUICIDE PREVENTION MONTH

WHEREAS, the City of Brisbane will join the country and state in honoring Suicide Prevention Month, National Suicide Prevention Week, and World Suicide Prevention Day (September 17) to spread the message that suicide can be prevented; and

WHEREAS, the 2026 theme, "The Weight We Carry," recognizes that many people—particularly men and boys—carry hidden burdens such as emotional pain, stress, grief, and isolation; and, consistent with the 2024 San Mateo County Board of Supervisors Resolution declaring loneliness a public health crisis, calls on our community to reduce stigma, strengthen social connection and belonging, and ensure that no one has to carry these burdens alone; and

WHEREAS, the San Mateo County Public Health, Policy & Planning, Behavioral Health & Recovery Services, Suicide Prevention Committee and partners collectively organize opportunities our community can participate in throughout Suicide Prevention Month; and

WHEREAS, beyond September, you can join the San Mateo County Suicide Prevention Committee in their efforts in advancing their mission to prevent suicide by implementing strategies from the Suicide Prevention Roadmap 2021-2026. Strategies span across the continuum of care, including providing stable housing and education around risk-appropriate treatment.

NOW, THEREFORE, BE IT PROCLAIMED that the City Council of the City of Brisbane, hereby designates September 2026 as Suicide Prevention Month and calls upon everyone in the community to find their role in suicide prevention.

DATED this 17th day of September 2026.

Coleen Mackin, Mayor

City of Brisbane
PROCLAMATION

PROCLAIMING OCTOBER 2026 AS DOMESTIC VIOLENCE AWARENESS MONTH

WHEREAS, more than one in three women, one in four men, and one in two transgender individuals experience some form of physical or sexual violence and/or stalking by their intimate partner in their lifetime; and

WHEREAS, CORA provided 18,380 services across its programs, connecting survivors and their families to safety, advocacy, and healing; and

WHEREAS, CORA's safe house and hotel programs provided 5,193 nights of emergency shelter, with 103 adults and children entering shelter during the year; and

WHEREAS, CORA provided more than $1.34 million in rental assistance and security deposits for 174 adults and children, helping survivors and their families move toward safe, stable housing; and

WHEREAS, CORA served 624 adults and children through its mental health programs, provided 3,043 counseling and therapy sessions, and

WHEREAS, CORA provided legal services to 925 survivors, and responded to 1,928 requests for legal assistance; and

WHEREAS, the City of Brisbane recognizes that an effective response to domestic violence requires a countywide continuum of prevention, crisis intervention, shelter, housing, legal advocacy, and mental health support; and

WHEREAS, intimate partner violence continues to be among the most under-reported crimes, and this community is committed to eliminating all forms of intimate partner abuse.

NOW, THEREFORE, BE IT PROCLAIMED that the City of Brisbane, hereby designates the month of October 2026 as Domestic Violence Awareness Month, to raise awareness about and encourage all residents to do their part to help rid our community of intimate partner violence.

DATED this 17th day of September 2026.

Coleen Mackin, Mayor

BRISBANE CITY COUNCIL

ACTION MINUTES

CITY COUNCIL MEETING AGENDA
THURSDAY, SEPTEMBER 3, 2026

HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005

6:30 P.M. Call To Order – Pledge of Allegiance

Mayor Mackin called the meeting to order at 6:35 P.M. and led the Pledge of Allegiance.

Roll Call

A. Remote Attendance Under the Just Cause Provisions of the Brown Act

No Councilmembers attended the meeting remotely.

Councilmembers Present: Councilmembers Davis, Kern, Lentz, O'Connell and Mayor Mackin
Councilmembers Absent: None

Staff Present: City Manager Dennis, City Clerk Padilla, City Attorney Zutler, Assistant City Manager Fernandez, Counsel Phillips, Public Works Director Bozorginia, Community Development Director Ayres, Assistant to the City Manager Cheung, Admin Management Analyst Ibarra and Police Commander Garcia

Report Out of Closed Session

City Attorney Zutler reported that Council at the Closed Session Meetings of September 3, 2026, denied the liability claim.

Adoption of Agenda

Staff made a request for New Business Item L regarding the Reimbursement Agreement with parties who constructed San Francisco Avenue Extension to be moved to the next meeting for discussion. Councilmember Davis made a motion, seconded by Councilmember O'Connell, to approve the agenda as amended. The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Kern, Lentz, O'Connell and Mayor Mackin
Noes: None
Absent: None
Abstain: None

Oral Communications No. 1

Mayor Mackin announced that public comment will be 4 minutes per speaker.

Tom Heinz thanked the Councilmembers and Parks and Recreation Staff for supporting his Tribal Totems Art Exhibit at City Hall.

Consent Calendar

B. Proclamation Emergency Preparedness Month
C. Proclamation Latine Heritage Month
D. Approve Minutes of City Council Meeting of July 16, 2026
E. Approve Minutes of City Council Special Meeting of July 27, 2026
F. Accept Investment Report as of June 2026
G. Accept Investment Report as of July 2026
H. Adopt Resolutions Appointing New Committee Members

On Consent Calendar Item E, Councilmember O'Connell requested to correct the vote for Karen Cunningham's appointment to the Public Art Advisory Committee noting that Councilmember Lentz and Mayor Mackin voted no. With that amendment, Councilmember O'Connell made a motion, seconded by Councilmember Davis, to approve Consent Calendar Items B-H, including her amendment to minutes City Council Special Meeting of July 27, 2026. The motion was carried unanimously by all present.

Awards and Presentations
I. **Swearing in Ceremony for Newly Appointed Committee Members**

City Clerk Padilla administered the Oath or Affirmation of Allegiance for Public Officers and Employees to newly appointed Public Art Committee Members Karen Cunningham and Paul Mangiamele (for terms through January 2028), and newly appointed Complete Streets Safety Committee Member Debra Mansanet (for a term through January 2030).

Old Business
J. Consider Halloween Road Closure Recommendations from the Complete Streets Safety Committee

Assistant to the City Manager Cheung reported that staff is recommending the Complete Streets Safety Committee's expanded closure option. This option includes the additional closure of San Bruno Avenue between 5-points and Alvarado. Closing all three perimeter streets would prevent Alvarado from becoming congested with drivers trying to get around the closure of San Bruno. Motorists would be able to use Visitacion, which would remain open, allowing them to navigate around the closure by way of the open portion of Alvarado before turning right on San Bruno, should they need to exit during the closure.

After Council questions with staff, Sarah and Raya Mills and Paul Mangiamele and Girls voiced their support of the new expanded street closure option. Jessica Aloft commented that she is in support of the larger footprint and she will be more than happy to coordinate the volunteers again this year.

Councilmember Kern discussed releasing a press release to inform the larger community about the street closure. Councilmember Davis discussed expanding the time to 3 hours from 5pm to 8pm. Councilmember Kern made a motion, seconded by Councilmember Davis to approve the expanded footprint as recommended by Complete Streets Safety Committee and the expanded hours from 5pm to 8pm. The motion was carried unanimously by all present.

Ayes: Councilmembers Davis, Kern, Lentz, O'Connell and Mayor Mackin
Noes: None
Absent: None
Abstain: None

New Business
K. Discuss topics and schedule for future public hearings on the Baylands Specific Plan and EIR. (Note: this is not a public hearing. Public hearings will be separately noticed)

Community Development Ayres reported that staff is recommending the following proposal for future public hearings on the Baylands Specific Plan and EIR:

• **Monday, Sept 14**
o Overview of Measure JJ / General Plan Requirements
o Specific Plan and EIR Topics
  ▪ Energy Use and Sustainability Framework Consistency (Measure JJ Topic 3.G)
  ▪ Air Quality and GHG Impacts and Mitigation Measures

• **Tuesday, Sept. 29**
o Land Use Plan
  ▪ Distribution and intensity of land uses (Measure JJ Topics 1 and 2)
  ▪ Location of open spaces and amenities (Measure JJ Topic 3.H)
  ▪ Interface with sea level rise (Measure JJ Topic 3.J)
o Design Topics
  ▪ Objective Standards and Design Guidelines
  ▪ Roundhouse (Measure JJ Topic 3.I)
o Mobility Plan
  ▪ Transportation and Transit Topics (Measure JJ Topic 3.D)
  ▪ Street sections
  ▪ Interface with regional transportation network
  ▪ Geneva Avenue Extension

• **Tuesday, Oct. 6**
o Phasing and Remediation (Measure JJ Topic 3.A, 3.C, 3.D, 3.F, 3.K)
o Water Infrastructure (Measure JJ Topic 3.B)

• **Thursday Oct. 15**
o Financing and Revenue-Positive Development (Measure JJ Topics 3.D and 3.E)
o Development Agreement and Public Financing Mechanisms

• **Tuesday Oct. 20**
o Presentation of responses to any questions posed during the public hearings per

Council's direction

After Council questions, the following members of the public made public comment:
Denise requested council to carve out time to discuss energy use, greenhouse impacts, land use plan, sea level rise and toxic land mitigation.

Cynthia Gong from Local 2 submitted over 400 postcards to City Clerk Padilla advocating not to approve the Baylands development plan.

Celeste Sagun from Local 2 commented that the Baylands Development will drive up housing costs.

Maria Flores from Local 2 also commented that the Baylands Development will drive up housing costs.

Paul Bouscal was concerned about the phrase "mitigation will be done when it's feasible."

Dana Dillworth commented that Measure JJ is unlawful.

Michele Salmon commented that she did not like the fact that the City is being forced to develop housing on polluted and toxic land.

Councilmembers directed staff to move forward with the proposed meeting dates and topics. Council directed staff to schedule all the hearings to commence at 5:30 p.m.

L. Consider Approval of an Amendment to a Reimbursement Agreement with Parties who Constructed San Francisco Avenue Extension

This item was removed from the agenda and will be discussed at the next City Council Meeting.

Staff Reports

M. City Manager's Report- City Updates and Upcoming Activities

City Manager Dennis reported on upcoming City events.

Mayor and Council Matters

N. Future Agenda Items

Councilmember O'Connell asked the Council to work on drone regulations to get ahead of the issue such as drone deliveries and air traffic and the possibility of creating a coalition in the region. Councilmember Kern expressed interest in joining Councilmember O'Connell to create an ad hoc subcommittee on the topic.

Councilmember Davis asked staff to follow up on Jason Nunan's written correspondence on construction hours for commercial versus residential projects.

O. Countywide Assignments and Subcommittee Reports
i. Parkside 2 Ad Hoc Subcommittee Update

ii. Report Out on Subcommittee Meetings
iii. Upcoming Subcommittee Meetings

Councilmembers reported on out their Subcommittee Meetings and County Assignment Meetings. City Manager Dennis reported out on the County moving forward soon with fire protection work at the Ridge through the County's Conservation Grazing Pilot on San Bruno Mountain.

P. Written Communications

Written correspondences were received by Councilmembers from the following members of the public:

- Amy Cheng, 09/03/2026, *Re: September 3,2026 city council meeting*
- Sarah Mills, 09/02/2026, *Public Comment: Support for CCSC's Recommended Halloween Street Closures – Attachment 2*
- Jason Nunan, 08/31/2026, *Seven Day Work Week in Brisbane note to Council*
- Amy Cheng, 08/31/2026, *September 3,2026 city council meeting*
- Steve Rodriguez, 08/26/2026, *RE: New stop sign request*
- Emmett Cunningham, 08/26/2026, *Planning Issue Subcommittee (Data Centers)*
- Freedom Forever LLC, 08/17/2026, *Notice of Conversion*
- Clara A. Johnson, 08/15/2026, *Request to delay consideration of Baylands Specific Plan to your second meeting in September*
- Peggy Hsieh, Asian Culture and Food Expo, 08/11/2026, *Invitation to 2026 USA Asian Culture and Food Expo*
- Nelmarie Villaro Caro, Peninsula Conflict Resolution Center, 07/30/2026, *PCRC | City Council Collaboration*
- Michele Salmon, 08/04/2026, *Proposed Street closures for Halloween*
- Jiaoyue Yuan, 07/27/2026, *Baylands Specific Plan: comments on Scale, Phasing, and Affordability*
- Simon Gorer, 07/22/2026, *Say No to the Baylands Project!*
- Meena Motwani, 07/21/2026, *Comments for 7/21 meeting*

Oral Communications No. 2

Michele Salmon made comments about Callippe Hill, construction times in Brisbane and appreciations for the 4-minute public comment limit.

Adjournment

Mayor Mackin adjourned the meeting at 8:17 P.M.

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Ingrid Padilla
City Clerk

BRISBANE CITY COUNCIL

ACTION MINUTES

CITY COUNCIL SPECIAL MEETING AGENDA
THURSDAY, SEPTEMBER 3, 2026

HYBRID MEETING, 50 PARK PLACE, CITY HALL CONFERENCE ROOM,
BRISBANE, CA 94005

6:00 P.M. Call to Order

Mayor Mackin called the meeting to order at 6:01 p.m.

ROLL CALL

A. **Consider any request of a City Councilmember to attend the meeting remotely under the "Emergency Circumstances" of AB 2449**

No Councilmembers attended the meeting remotely.

Councilmembers Present: Councilmembers Davis, Kern, Lentz, O'Connell and Mayor Mackin

Councilmembers Absent: None

Staff: City Manager Dennis, City Attorney Zutler, Assistant City Manager Fernandez and Management Analyst Brown

ADOPTION OF AGENDA

Councilmember Davis made a motion, seconded by Councilmember O'Connell, to approve the agenda as it stands. The motion was carried unanimously by all present.
Ayes: Councilmembers Davis, Kern, Lentz, O'Connell and Mayor Mackin
Noes: None
Absent: None
Abstain: None

PUBLIC COMMENT

No members of the public wished to make public comment.

WORKSHOP

B. **Volunteer of the Year 2026 Discussion**

After discussion and no public comment, Councilmembers selected a Volunteer of the Year and a Youth Volunteer of the Year for 2026. The awardees will be revealed on Day in the Park on October 3, 2026.

ADJOURNMENT

The meeting was adjourned at 6:20 P.M.

Ingrid Padilla, City Clerk

City Council Staff Report

Meeting Date: September 17, 2026

From: Mario Garcia, Commander

Subject: Approve 2025 AB 481 Annual Military Equipment Report and Renew Ordinance

Recommendation

Staff recommends that the City Council adopt a resolution accepting the 2025 Military Equipment Annual Report, including the Brisbane Police Department's use of the Daly City Police Department's Drone as a First Responder (DFR) program through mutual aid, and renewing the City's Military Equipment Ordinance pursuant to Government Code section 7071.

Background

On September 30, 2021, Assembly Bill 481 (AB-481) was codified in Government Code Sections 7070–7075, requiring the governing body of a law enforcement agency to adopt a "Military Equipment Use" policy. The Brisbane Police Department presented and received City Council approval of its Military Equipment Use Policy via ordinance on March 3, 2022. The CIty is required to renew that ordinance each year.

AB-481 also requires agencies to prepare an annual Military Equipment Report containing information from the preceding year, including a description of the purpose and use of covered equipment, any complaints received, audit results, and inventory costs, along with any plans to acquire new equipment in the upcoming year.

The Military Equipment Annual Report for 2025 (Attachment 1) has been prepared in compliance with these requirements.

Discussion

To meet AB-481 requirements, the Police Department reviewed its current inventory and policy compliance.

The Department does not possess any tactical equipment obtained from the military, nor does it possess any equipment originally designed exclusively for military use.

During the 2025 calendar year:

- No complaints related to military equipment were received.
- An internal audit found no violations of the Military Equipment Use Policy.

Fiscal Impact

No fiscal impact for 2025

Attachments

1. 2025 AB481 attachment 1
2. Resolution_2026-XX_AB481_2025_Annual_Report
3. Military_Equipment Policy 709

City Manager Approval

Jeremy Dennis, City Manager 09/11/2026

Attachment 1

MILITARY EQUIPMENT INVENTORY 2025

Qualifying Equipment / Owned by the Brisbane Police Department:

Equipment Name: 40mm Defense Technology Less Lethal Launcher – CA Gov't Code 7070 (c) (14)	
Quantity owned /Sought: 3 owned	**Lifespan**: 10 years
Equipment Capabilities: The Defense Technology 40mm Less Lethal Launcher is a shoulder-fired device designed to deploy less-lethal munitions such as foam baton rounds, chemical agents, and marking rounds. It allows officers to engage subjects from a greater distance, enhancing safety and accuracy during high-risk encounters.	
Manufacturer Product Description: The Defense Technology 40mm LMT Tactical Single Launcher is a shoulder-fired launcher designed for less-lethal munitions. It has a 14-inch rifled barrel, a double-action trigger, and an ambidextrous breach release. The launcher includes an adjustable stock, a front grip with a light rail, and accessory rails for mounting optics. It can fire standard 40mm rounds up to 4.8 inches in length and has sling mounts for easy carrying.	
Purpose/Authorized Use: The 40mm Def Tech Launcher is intended for use in a less-lethal use-of-force option.	
Fiscal Impacts: The Initial cost of this equipment was approximately $1300. The ongoing costs for munitions will vary per year, but the estimated cost is approximately $700.	
Legal/Procedural Rules Governing the Use: All applicable State, Federal, and Local laws governing police use of force. Various Brisbane Police Department policies on Use of Force and Crowd Control.	
Training Required: Officer must complete a department-certified less lethal course as well as regular training and qualifications as required by law and policy.	
Other Notes: None	

Qualifying Equipment known to be owned and/or utilized by law enforcement units with which the Brisbane Police Department collaborates and/or participates for law enforcement purposes

Equipment Name: Wheeled vehicles that have a breaching apparatus attached - CA Gov't Code §7070(c)(3)	
Quantity Owned/Sought: None (outside owned)	**Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, and other points of entry.	
Manufacturer Product Description: Unavailable.	
Purpose/Authorized Uses: Breaching doors, gates, and other points of entry.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: Breaching vehicles can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to drive breaching vehicles.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

Equipment Name: Battering rams, slugs, and breaching apparatus that are explosive in nature - CA Gov't Code §7070(c)(7)	
Quantity Owned/Sought: None (outside owned)	**Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, windows, and other points of entry.	
Manufacturer Product Description: Unavailable.	
Purpose/Authorized Uses: Breaching doors, gates, windows, and other points of entry.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use explosive breaching apparatus.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

Equipment Name: Flashbang grenades, explosive breaching tools, tear gas and pepper balls - CA Gov't Code §7070(c)(12)	
Quantity Owned/Sought: None (outside owned)	**Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemical.	
Manufacturer Product Description: Unavailable.	
Purpose/Authorized Uses: breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemicals.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances. Tear gas and pepper balls can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

Equipment Name: Long Range Acoustic Device (LRAD) - CA Gov't Code §7070(c)(13)	
Quantity Owned/Sought: None (outside owned).	**Lifespan:** Unknown.
Equipment Capabilities: LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.	
Manufacturer Product Description: LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.	
Purpose/Authorized Uses: Can be used to disperse unlawful crowds and/or to disrupt the activities of person(s) who represent an immediate threat to others.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: LRADs can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

RESOLUTION NO. 2026-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE APPROVING THE 2025 MILITARY EQUIPMENT ANNUAL REPORT, MAKING THE FINDINGS REQUIRED BY CALIFORNIA GOVERNMENT CODE SECTION 7071, AND RENEWING THE CITY'S MILITARY EQUIPMENT USE ORDINANCE

WHEREAS, on September 30, 2021, Assembly Bill 481 (AB 481) was signed into law and codified at California Government Code sections 7070 through 7075, establishing requirements governing the funding, acquisition, and use of military equipment by law enforcement agencies; and

WHEREAS, on March 3, 2022, the City Council adopted an uncodified ordinance approving and adopting the Brisbane Police Department Military Equipment Use Policy in accordance with AB 481; and

WHEREAS, Government Code section 7072 requires the Brisbane Police Department to prepare an annual military equipment report containing specified information concerning the use, complaints, audits, costs, inventory, and anticipated acquisition of military equipment for the immediately preceding calendar year; and

WHEREAS, the Brisbane Police Department prepared its 2025 Military Equipment Annual Report and submitted the report to the City Council for review; and

WHEREAS, the 2025 Military Equipment Annual Report reflects that no complaints concerning military equipment were received during calendar year 2025 and that an internal audit found no violations of the Department's Military Equipment Use Policy; and

WHEREAS, Government Code section 7071(e) requires the City Council to annually review the ordinance approving the Military Equipment Use Policy, determine whether each type of military equipment identified in the annual report has complied with the standards for approval set forth in Government Code section 7071(d), and vote on whether to renew the ordinance; and

WHEREAS, after reviewing the 2025 Military Equipment Annual Report and the Department's Military Equipment Use Policy, the City Council finds that the continued use of each type of military equipment identified in the report complies with the standards set forth in Government Code section 7071(d), including that the equipment is necessary because there are no reasonable alternatives that can achieve the same objectives of officer and civilian safety, the Military Equipment Use Policy safeguards the public's welfare, safety, civil rights, and civil liberties, and the equipment is reasonably cost effective compared with available alternatives that can achieve the same objectives; and

WHEREAS, the City Council further finds that the Brisbane Police Department has complied with the Military Equipment Use Policy during the reporting period and that renewal of the City's military equipment use ordinance is appropriate.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE RESOLVES AS FOLLOWS:

Section 1. The foregoing recitals are true and correct and are incorporated into this Resolution by this reference.

Section 2. The City Council receives and approves the Brisbane Police Department 2025 Military Equipment Annual Report.

Section 3. Pursuant to Government Code section 7071(e), the City Council determines that each type of military equipment identified in the 2025 Military Equipment Annual Report has complied with the standards for approval set forth in Government Code section 7071(d) and with the Brisbane Police Department Military Equipment Use Policy.

Section 4. The City Council renews and continues in effect the City of Brisbane ordinance adopted on March 3, 2022, approving the Brisbane Police Department Military Equipment Use Policy, subject to any future amendments or actions required by law.

Section 5. The Brisbane Police Department is authorized to continue to possess and use the military equipment identified in the 2025 Military Equipment Annual Report in accordance with the approved Military Equipment Use Policy, applicable law, and any conditions imposed by the City Council.

Section 6. This Resolution shall take effect immediately upon its adoption.

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Coleen Mackin, Mayor

* * * *

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Brisbane held on the seventeenth day of September 2026, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

____

Ingrid Padilla, City Clerk

Military Equipment

709.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

709.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices (LRADs), acoustic hailing devices, and sound cannons.
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

709.2 POLICY

It is the policy of the Brisbane Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

709.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

(a) Acting as liaison to the governing body for matters related to the requirements of this policy.

(b) Identifying department equipment that qualifies as military equipment in the current possession of the department, or the equipment the department intends to acquire that requires approval by the governing body.

(c) Conducting an inventory of all military equipment at least annually.

(d) Collaborating with any allied agency that may use military equipment within the jurisdiction of the Brisbane Police Department (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.

(f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).

(g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the department will respond in a timely manner.

709.4 MILITARY EQUIPMENT INVENTORY

Qualifying Equipment / Owned by the Brisbane Police Department:

Equipment Name: 40mm Defense Technology Less Lethal Launcher – CA Gov't Code 7070 (c) (14)

Quantity owned /Sought: 3 owned **Lifespan**: 10 years

Equipment Capabilities: The Defense Technology 40mm Less Lethal Launcher is a shoulder-fired device designed to deploy less-lethal munitions such as foam baton rounds, chemical agents, and marking rounds. It allows officers to engage subjects from a greater distance, enhancing safety and accuracy during high-risk encounters.

Manufacturer Product Description: The Defense Technology 40mm LMT Tactical Single Launcher is a shoulder-fired launcher designed for less-lethal munitions. It has a 14-inch rifled barrel, a double-action trigger, and an ambidextrous breach release. The launcher includes an adjustable stock, a front grip with a light rail, and accessory rails for mounting optics. It can fire standard 40mm rounds up to 4.8 inches in length and has sling mounts for easy carrying.

Purpose/Authorized Use: The 40mm Def Tech Launcher is intended for use in a less-lethal use-of-force option.

Fiscal Impacts: The Initial cost of this equipment was approximately $1300. The ongoing costs for munitions will vary per year, but the estimated cost is approximately $700.

Legal/Procedural Rules Governing the Use: All applicable State, Federal, and Local laws governing police use of force. Various Brisbane Police Department policies on Use of Force and Crowd Control.

Training Required: Officer must complete a department-certified less lethal course as well as regular training and qualifications as required by law and policy.

Other Notes: None

Qualifying Equipment known to be owned and/or utilized by law enforcement units with which the Brisbane Police Department collaborates and/or participates for law enforcement purpose

Equipment Name: Flashbang grenades, explosive breaching tools, tear gas and pepper balls - CA Gov't Code §7070(c)(12)	
Quantity Owned/Sought: None (outside owned)	**Lifespan:** Unknown.
Equipment Capabilities: Capable of breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemical.	
Manufacturer Product Description: Unavailable.	
Purpose/Authorized Uses: breaching doors, gates, windows, and other points of entry, creating explosive distractions, and/or deploying tear gas or pepper chemicals.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: Breaching apparatus that are explosive in nature can be deployed any time tactical operators determine that it is necessary to complete a lawful breaching, and non-explosive breaching methods are not tactically practicable. For a breaching to be lawful, it will generally need to be supported by a search or arrest warrant, or exigent circumstances. Tear gas and pepper balls can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

Equipment Name: Long Range Acoustic Device (LRAD) - CA Gov't Code §7070(c)(13)	
Quantity Owned/Sought: None (outside owned).	**Lifespan:** Unknown.
Equipment Capabilities: LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.	
Manufacturer Product Description: LRAD systems are a type of Acoustic Hailing Device (AHD) used to send messages over long distances. LRAD systems produce much higher sound levels (volume) than normal loudspeakers or megaphones. Over shorter distances, LRAD signals are loud enough to cause pain in the ears of people in their path.	
Purpose/Authorized Uses: Can be used to disperse unlawful crowds and/or to disrupt the activities of person(s) who represent an immediate threat to others.	
Fiscal Impacts: None. Equipment owned, maintained, and operated by another agency.	
Legal/Procedural Rules Governing Use: LRADs can only be deployed in accordance with all applicable State, Federal and Local laws governing police use of force, crowd control, etc.	
Training Required: The North County Regional SWAT Team provides internal training for staff members prior to allowing them to use any of these items.	
Other Notes: The Brisbane Police Department participates in the North County Regional SWAT Team (NCR SWAT). This equipment is owned and operated by NCR SWAT through the San Mateo Police Department. While the Brisbane Police Department does not own or operate this equipment, it could be used in Brisbane by NCR SWAT if they are deployed to an incident within city limits.	

709.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

(a) Requesting military equipment made available pursuant to 10 USC § 2576a.

(b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.

(g) Acquiring military equipment through any means not provided above.

709.6 USE IN EXIGENT CIRCUMSTANCES

In exigent circumstances and with the approval of the Chief of Police or his/her designee, the Police Department may acquire, borrow and/or use Military Equipment that is not included in the Military Equipment Use Policy.

If the Police Department acquires, borrows, and/or uses Military Equipment in exigent circumstances, in accordance with this section, it must take all of the following actions:

- Provide written notice of that acquisition or use to the City Council within 30 days following the commencement of such Exigent Circumstance, unless such information is confidential or privileged under local, state or federal law.
- If it is anticipated that the use will continue beyond the Exigent Circumstance, submit a proposed amended Military Equipment Use Policy to the City Council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the City Council.
- Include the Military Equipment in the Police Department's next annual Military Equipment Report.

709.7 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

709.8 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

709.9 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

City Council Staff Report

Meeting Date: September 17, 2026

From: Maz Bozorginia, Public Works Director

Subject: Authorize Approval of San Mateo County Smart Corridor Ownership, Operation, and Maintenance Agreement

Recommendation

Staff recommends the City Council authorize the City Manager to execute an Ownership, Operation, and Maintenance Agreement with the City/County Association of Governments of San Mateo County (C/CAG) for the San Mateo County Smart Corridor Project.

Background

The San Mateo County Smart Corridor Project is a regional Intelligent Transportation System (ITS) project sponsored by C/CAG to improve traffic management along major arterial routes in San Mateo County. The project includes interconnected traffic signals, closed-circuit television cameras, dynamic message signs, vehicle detection systems, and communications infrastructure that allow participating agencies and Caltrans to better manage recurring congestion and traffic diverted from US 101 and I-280 during major incidents.

On February 15, 2024, the City Council authorized the City Manager to execute a Construction Funding Agreement with C/CAG for the construction phase of the Smart Corridor Project in Brisbane. As described in the February 15, 2024 staff report, the City had previously entered into agreements with C/CAG for the design and construction phases of the project, with C/CAG providing funding for the improvements and the City administering construction within Brisbane.

Construction has taken longer than originally anticipated due primarily to supply delays and design discrepancies encountered during implementation. Construction is currently scheduled to be fully completed in Spring 2027.

Discussion

As the Smart Corridor Project moves toward completion, C/CAG and the participating jurisdictions are establishing agreements defining the long-term ownership, operation, and maintenance responsibilities for Smart Corridor equipment located within each jurisdiction. The proposed Ownership, Operation, and Maintenance (OOM) Agreement establishes these responsibilities for equipment located within the City of Brisbane.

Under the proposed Agreement, the City will continue to own and maintain its existing traffic signal equipment that was upgraded as part of the Smart Corridor Project and will accept ownership of new Smart Corridor equipment located within City right-of-way. The City will continue to operate its upgraded equipment during normal daily operations and will be responsible for associated electrical costs.

C/CAG will be responsible for maintenance of new Smart Corridor equipment, including directional signs, CCTV cameras, vehicle detection systems, and arterial dynamic message signs, to the extent funding is available. C/CAG will also administer or oversee the specialized maintenance services associated with this equipment.

The Agreement also establishes operational responsibilities during major traffic incidents. During such incidents, the City will relinquish control of signals, cameras, and directional signs to Caltrans for regional traffic management purposes. If Caltrans is unable to assume control for technical reasons, control will remain with the City. A separate operations agreement between the City and Caltrans will establish the more detailed procedures governing Caltrans' operation of Smart Corridor equipment within Brisbane. City staff is currently reviewing that agreement and working with Caltrans on its specific provisions. The Caltrans agreement will be presented to the City Council separately at a future meeting, with the date to be determined.

Public Works staff and the City Attorney's Office have reviewed the proposed C/CAG OOM Agreement and have no further comments or edits. The proposed OOM Agreement will remain in effect through 2060, unless terminated or extended by mutual written consent of the parties. C/CAG staff is also scheduled to present the Agreement to the C/CAG Board on October 8, 2026 for its consideration. Approval of the OOM Agreement formalizes the respective responsibilities of the City and C/CAG as the Smart Corridor Project moves toward completion. The separate Caltrans operations agreement will return to Council once those operational details have been finalized.

Fiscal Impact

The City will continue to be responsible for the operation and maintenance of existing City-owned traffic signal equipment upgraded through the project, as well as electrical costs associated with Smart Corridor equipment within City right-of-way. C/CAG will be responsible for maintenance of the new Smart Corridor equipment identified in the Agreement, to the extent funding is available.

Attachments

1. Draft CCAG Smart Corridor OOM Agreement

City Manager Approval

Jeremy Dennis, City Manager	09/11/2026

OWNERSHIP, OPERATION, and MAINTENANCE AGREEMENT
between
THE CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY (C/CAG)
and
THE CITY OF BRISBANE
for the
SAN MATEO COUNTY SMART CORRIDOR PROJECT

This Agreement by and between the City/County Association of Governments of San Mateo County, hereinafter referred to as "C/CAG," and the City of Brisbane, hereinafter referred to as "City," is for the purpose of outlining and defining the roles, responsibilities, terms, and conditions for the ownership, operation, and maintenance of equipment and components that are incorporated and integrated into the San Mateo County Smart Corridor Project, hereinafter referred to as "Smart Corridor," "Smart Corridor Project," or "the Project." City and C/CAG are sometimes individually referred to as a "Party" and collectively referred to as "Parties."

RECITALS

A. C/CAG is sponsoring the San Mateo County Smart Corridor Project, which is an Intelligent Transportation System (ITS) project that extends along El Camino Real and major local streets in San Mateo County connecting to US-101 and I-280.

B. The Project enables cities and the California Department of Transportation ("Caltrans") to proactively manage daily traffic and non-recurring traffic congestion caused by diverted traffic due to major incidents on the freeway.

C. Pursuant to the C/CAG-City Construction Funding Agreement, the City will advertise, award, and administer the construction contract for the Smart Corridor Project located within the project limits in the City of Brisbane.

D. This Agreement is intended to identify the overall commitment and responsibilities regarding ownership, operation, and maintenance of the Smart Corridor equipment located within the City right-of-way during daily operations and during major traffic incidents.

E. The Project is located along predefined designated arterial routes, parallel and perpendicular to US-101 and I-280.

F. The Project enables the Project stakeholders to implement traffic management strategies through the deployment of ITS elements along state routes and major local streets.

   In addition to the City, other Project stakeholders with access to selective Smart Corridor equipment currently include the Town of Atherton, City of Belmont, City of Burlingame, Town of Colma, City of Daly City, City of East Palo Alto, City of Menlo Park, City of

Millbrae, City of Redwood City, City of San Bruno, City of San Carlos, and City of San Mateo. These stakeholders, who are not signatories to this Agreement, have entered into separate agreements with C/CAG for the maintenance and operation of Smart Corridor-specific equipment located within their respective jurisdictional boundaries.

G. Caltrans District 4, who will have full access to Smart Corridor equipment throughout the Project limits, and who is not a signatory to this Agreement, has entered into a separate agreement with C/CAG for the maintenance and operation of the Smart Corridor.

H. Caltrans will enter into a separate agreement with City regarding the detailed operations of the Smart Corridor within City limits.

AGREEMENT

The Parties hereto agree as follows:

I. Smart Corridor Definitions

A. The new ITS elements to be installed in either City or Caltrans rights-of-way for the Smart Corridor Project, as detailed in Exhibit A attached hereto and incorporated herein, referred to as "New Equipment," include the following equipment and components:

- Directional signs (trailblazers and other)
- Fixed or pan-tilt-zoom (PTZ) closed-circuit television cameras (CCTV)
- Communications Facilities (conduit, fiber, copper, wireless, software, and associated equipment)
- Arterial changeable message signs (Arterial Dynamic Message Signs – ADMS)
- Vehicle detection systems
- Center-to-center communications between San Mateo County Hub (SMCHub) and District 4 Traffic Management Center (D4TMC)
- Power supply line and equipment

B. The following elements, located within City right-of-way, are considered existing City owned equipment that is being upgraded to meet the operational needs of the Smart Corridor, referred to as "Upgraded Equipment:"

- Traffic signal controllers, cabinets, signal interconnect equipment, and signal operating software systems

C. The New and Upgraded Equipment are sometimes collectively referred to as "Smart Corridor Equipment" in this Agreement.

D. Exhibit A includes a summary of the Smart Corridor equipment and devices and general agreement as to ownership, maintenance, and operations responsibilities.

II. Ownership

A. City shall continue to own the Upgraded Equipment located within City right-of-way, which were "Upgraded" by the Smart Corridor Project.

B. City shall own and accept from C/CAG, ownership and all of C/CAG's interest in the "New" Smart Corridor Equipment located within City right-of-way.

III. Operations

A. City shall continue to operate the Smart Corridor Upgraded Equipment located within City right-of-way at City's expense during daily operations.

B. City shall have access to view full system CCTV camera images, during both daily operations and during major traffic incidents. During daily operations, cities and Caltrans may control PTZ(s) with priority given to the owning jurisdiction. A framework to establish priority, rules, and defaults will be developed in a separate agreement with Caltrans.

C. City shall have access to view full system vehicle detection data, during both daily operations and during incidents. Control of the vehicle detection system will remain with Caltrans.

D. City shall have the opportunity for shared control of the directional signs during daily operations under a separate agreement with Caltrans.

E. City shall relinquish all control of signals, PTZ cameras, and directional signs to Caltrans during major traffic incidents. If Caltrans is unable to assume control of these systems due to technical reasons, control will remain with the City.

F. Additional agreements between the City and Caltrans and possibly other cities may be developed as needed for operating Smart Corridor Equipment located in the City limits during major traffic incidents. Both Parties agree to pursue such agreements as necessary.

IV. Maintenance

A. City shall maintain the Upgraded Equipment located within City's right-of-way at City's expense.

B. City shall assume the associated electrical costs of the Smart Corridor Equipment located within City right-of-way.

C. Except for Communication Facilities, C/CAG shall maintain the New Equipment, including directional signs, CCTV cameras, and vehicle detection system and the ADMS signs, located within City's right-of-way to the extent that funding is available. Except for Communication Facilities, City will not be responsible for maintenance of the New Equipment. C/CAG will schedule maintenance service for the New Equipment, except for Communication Facilities, at least on an annual basis.

D. C/CAG agrees to seek to secure the necessary funding required for maintaining the New Equipment (except for Communication Facilities) located within City's right-of-way. In the event C/CAG is unable to secure adequate funding for maintenance, the Parties agree to engage in collaborative best efforts to identify adequate funding to maintain the New Equipment.

E. C/CAG will not pay for graffiti removal on Smart Corridor Equipment. City shall be responsible for graffiti removal on facilities and equipment located within City's right-of-way.

F. C/CAG agrees to obtain a maintenance contractor that specializes in ITS equipment. C/CAG or its maintenance contractor will obtain an encroachment permit from the City for work within the City's right-of-way.

G. C/CAG, or its assignee, shall serve as lead agency to administer the maintenance service contract or to oversee administration of the maintenance service contract for its Smart Corridor maintenance responsibility.

H. If City is aware of Smart Corridor equipment damage caused by a third party, City will notify and assist C/CAG in pursuing a claim against the offending party.

I. Maintenance activities shall include but are not limited to the following tasks: adopt a performance-based approach, establish a proactive annual maintenance program, perform regular maintenance, repairs, and replacements; ensure equipment is functioning properly.

J. Maintenance programs established for the Smart Corridor Equipment shall in no way be a standard of maintenance higher than required by law.

K. Preventative maintenance service shall be scheduled on an annual basis.

L. For fiber conduits that do not interconnect signals, the City is responsible for protecting the communication lines by marking the location of these lines on construction plans and by marking the locations in the field during construction. The City will be responsible for repairing any damage to the communication lines caused by City staff, contractors working for the City, any third party working under an encroachment permit issued by the City, or any damage caused by construction activities not under permit. The City will provide notice to C/CAG of any damage to communication lines as soon as reasonably possible, but in no event more than two business days after City becomes aware of the damage. The City will include the following language in any encroachment permits granted to any third party working in the City's right of way.

> *"Fiber optic communication lines are present in the City right of way. It is the responsibility of the contractor to protect the integrity of those communication lines during construction. The contractor will be liable for all damages to the communication lines. Through the application and granting of the encroachment permit, the City/ County Association of Governments of San Mateo County (C/CAG) is specifically authorized to pursue any claims against the contractor for the cost to repair any damage caused to the fiber optic communication lines."*

M. For all fiber conduits not covered by Section IV.K above, the City is responsible for protecting the communications lines by marking the location of these lines on construction plans and by marking the locations in the field. The City will be responsible for repairing any damage to the communication lines caused by City staff, contractors working for the City, any third party working under an encroachment permit issued by the City, or any damage caused by construction activities not under permit.

N. The City will maintain this facility in a similar manner to that of other City owned utilities. C/CAG will be responsible for repair and maintenance of any malfunction of the communication lines not related to construction and maintenance activities.

V. Insurance

During the term of this Agreement, both Parties shall ensure any Party or such Party's contractors engaged in work on the Smart Corridor facility, at their respective sole cost and expense, furnish the other with certificates of insurance evidencing that they each have obtained and maintain insurance in the following amounts:

A. Workers' Compensation that satisfies the minimum statutory limits.

B. Commercial General Liability and Property Damage Insurance in an amount not less than ONE MILLION DOLLARS ($1,000,000) combined single limit per occurrence, TWO MILLION DOLLARS ($2,000,000) annual aggregate, for bodily injury, property damage, completed operations and contractual liability coverage.

C. Comprehensive automobile insurance in an amount not less than ONE MILLION DOLLARS ($1,000,000) per occurrence for bodily injury and property damage including coverage for owned and non-owned vehicles.

VI. Effective Date and Term

This agreement shall be effective as of XX, 2026 and continue until 2060, unless sooner terminated, or otherwise extended, by written mutual consent of the Parties. This Agreement may be modified only in writing and by mutual consent of the Parties.

VII. Hold Harmless/ Indemnity

A. Each Party shall defend, hold harmless, and indemnify the other Party and its officials, officers, employees, agents, volunteers and representatives from any and all claims, suits, or actions of every name, kind, and description brought by a third party which arise out of the terms and conditions of this Agreement (collectively, "Claims"); provided that such Claims result from the acts or omissions of the Indemnifying Party and/or its officials, officers, employees, agents, or representatives in connection with this Agreement.

This indemnification provision will survive termination or expiration of this Agreement.

VIII. Notice

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

City of Brisbane:	
C/CAG:	City/County Associations of Governments of San Mateo County 555 County Center Fifth Floor Redwood City, CA 94063 Attn: Executive Director

Either Party may change the designated recipient of notices by so notifying the other Party in writing.

IX. Miscellaneous

A. Nothing in this Agreement is intended to create any rights in any third parties.

B. If any provision of this Agreement is determined by a proper court to be invalid, illegal or unenforceable, such invalidity, illegality, or unenforceable shall not affect the other provisions of this Agreement and this Agreement shall remain in full force an effect without such invalid, illegal, or unenforceable provision.

C. Nothing contained in this Agreement is intended to create or shall in any event or under any circumstance be construed as creating a partnership or a joint venture between the Parties.

D. This Agreement shall benefit and bind the Parties and their respective permitted successors and assigns. This Agreement may be executed by electronic means and in counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.

(Signatures on the following page)

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth above.

AGREED AND EXECUTED BY:

CITY OF BRISBANE		**CITY/COUNTY ASSOCIATION OF GOVERNMENTS OF SAN MATEO COUNTY**	
By:	______________________ Jeremy Dennis, City Manager	By:	______________________ Kaki Cheung, Executive Director
Date:	______________________	Date:	______________________
By:	______________________ Samantha Zutler, City Attorney	By:	______________________ Melissa Andrikopoulos, Counsel
Date:	______________________	Date:	______________________

EXHIBIT A

Smart Corridor equipment and devices and general agreement as to ownership, maintenance and operations responsibilities

City Council Staff Report

Meeting Date: September 17, 2026

From: Jeremy Dennis, City Manager, Christina Fernandez, Assistant City Manager, Julia Ayres, Community Development Director, Samantha Zutler, City Attorney

Subject: Introduction of the First Reading of an ordinance amending Municipal Code Chapter 16.24 and adding Municipal Code Chapter 15.90 to establish and update procedures for implementing development impact fees; and approve a resolution adopting and establishing the development impact fees and supporting nexus studies and capital improvement plans to support the development impact fees to fund: (1) Public Facilities for Library, Fire Department, Police Department, and General Government Facilities, (2) Park Land, Park Improvements, Recreation Facilities, Open Space and Trails, and (3) Transportation Facilities.

Recommendation

Staff recommend the City Council approve the first reading of an ordinance amending Municipal Code Chapter 16.24 and adding Municipal Code Chapter 15.90 to establish and update procedures for implementing development impact fees; and approve a resolution adopting and establishing the development impact fees and supporting nexus studies and capital improvement plans to support the development impact fees to fund: (1) Public Facilities for Library, Fire Department, Police Department, and General Government Facilities, (2) Park Land, Park Improvements, Recreation Facilities, Open Space and Trails, and (3) Transportation Facilities.

Background

In September and October 2023, staff provided Council with information on the City's legal authority to impose impact fees. The report specified the requirements of identifying and establishing the need, benefit, and proportionality to impose impact fees. Council agreed that new development should contribute to capital improvements caused by new developments. Council directed staff to prepare several nexus studies to establish the need, benefit, and proportionality of the proposed impact fees. The studies included:

- Development Impact Fee for Parks and Recreation
- Development Impact Fee for Affordable Housing imposed on new commercial development
- Development Impact Fee for Transportation

- Development Impact Fee for Public Facilities

Council directed staff to complete the four nexus studies concurrently and to move forward with a feasibility study to ensure that the City remains competitive when compared to similar municipalities. In 2024, a commercial linkage feasibility analysis was completed to accompany the commercial linkage fee nexus analysis completed in September 2023.

In late 2025, staff engaged Matrix Consulting Group (Matrix) to provide a comparative, or benchmarking, survey to help guide the City in setting the fees at an appropriate level. The survey shows what fees nearby and comparable cities are charging developers. Brisbane's maximum justifiable fees were compared with cities including San Bruno, Millbrae, South San Francisco, Emeryville, Burlingame, and Daly City. Five of the six cities are in San Mateo County and have similar growth patterns and urban forms.

On January 15, 2026, staff brought forward the comparative study done by Matrix. Included in the discussion were nexus studies related to housing, parks & recreation facilities, transportation, and public facilities. These nexus studies provided the maximum justifiable fee for each of the proposed fees from which the benchmarking survey was derived. Staff provided Council with an overview of the fees and how they compared to the other cities studied. Council continued the discussion to a future meeting.

On February 19, 2026, Council continued their discussion on impact fees with the purpose of providing staff with additional feedback and direction on the setting of the fees. Staff also provided responses to follow-up questions from January's Council meeting.

On March 5, 2026, staff brought impact fees back to Council with the purpose of receiving feedback on setting of fees and working towards scheduling a public hearing. Staff underscored the importance of fee setting as rates may impact the amount of development in the City and fee setting is inherently a policy decision for a governing body. An updated matrix worksheet was provided to the Council to guide the fee setting discussion on whether to set fees below, at, or above the averages provided by the comparative survey. Council provided staff with feedback on fee setting, which staff have applied in setting fees at appropriate levels.

Shortly thereafter, staff learned of updates to State law known as the Mitigation Fee Act, which regulates how cities calculate and impose fees on new development to offset the costs of providing public facilities, as well as a recent decision of the United States Supreme Court that focuses on the need to justify fee amounts based on the essential nexus and rough proportionality between impacts of the projects and benefits from the public facilities. To ensure compliance, staff and legal counsel worked with nexus study consultants to accordingly update the nexus studies. Some of those changes included creation of a Development Impact Fee Capital Improvement Plan (CIP). The City Manager's office in coordination with the City Attorney's office, Department of Public Works, and the Parks and Recreation Department worked to provide an impact fee capital improvement plan that meets the needs of the City due to future development. While this development impact fee CIP serves a different legal purpose than the CIP a city would approve as a part of its budget process, staff aligned the development impact CIP with the CIP incorporated in the budget.

Revisions of the Parks and Recreation Nexus Study, Public Facilities Nexus Study, and Transportation Impact Fee Nexus Study are included as attachments. The fourth nexus study, known as the Commercial Linkage Fee Nexus Study and Analysis, or Affordable Housing Nexus Study, prepared in 2023 by ECONorthwest, will be updated in 2027.

Staff determined that the Commercial Linkage Study is outdated and in need of comprehensive update given evolving State law and judicial precedents noted earlier. Staff are currently under contract with consultants Strategic Economics and CP3, to undertake a comprehensive new study, taking advantage of an ongoing countywide effort to do the same at significant cost savings. Once complete, staff will return to Council with the study's findings for consideration of a commercial linkage fee.

Discussion

Given impacts of recent legislation and the ever-changing development landscape, staff felt it prudent to bring forward the nexus studies complete with a recommended fee schedule for Parks and Recreation, Public Facilities, and Transportation.

Parks and Recreation Impact Fee Study (Parks and Recreation Nexus Study)
The City of Brisbane's Parks and Recreation Impact Fee Study, prepared by NBS Government Finance Group, analyzes the impacts of new development on parks, recreation facilities, open space, and trails, and calculates legally compliant impact fees to fund capital improvements needed to maintain service levels as the city grows. Using a methodology that considers both residential and non-residential development, the study establishes tiered fees based on unit size and service population, ensuring proportionality and compliance with the California Mitigation Fee Act and recent legislation. The fees are intended to cover only capital costs (not operations or maintenance) and are structured to reflect the actual burden imposed by different types of development. The study calculates impact fees based on that analysis and divides the analysis into various chapters including (1) Impact Fees for Park Land and Park Improvements, (2) Impact Fees for Recreation Facilities, and (3) Impact Fees for Open Space and Trails. A copy of the Parks and Recreation Impact Fee Study is attached for reference.

Public Facilities Impact Fee Study (Public Facilities Nexus Study)
A comprehensive Public Facilities Impact Fee Study, prepared by NBS Government Finance Group, analyzes the effects of new development on city capital facilities including libraries, general government, police, and fire departments and calculates proportional impact fees in compliance with federal and California legal requirements. The study uses both existing inventory and planned facilities methods to determine fees, with residential fees structured by tiered unit-size categories to ensure compliance with recent legislation. The resulting fees are

designed to recover only the share of costs attributable to new development, supporting facility expansion without funding existing deficiencies, and are intended to maintain service levels as the city grows. A copy of the Public Facilities Impact Fee Study is attached for reference.

Transportation Impact Fee (TIF) Nexus Study

The Transportation Impact Fee (TIF) Nexus Study prepared by Fehr & Peers addresses the infrastructure needs arising from anticipated population and employment growth. The study identifies capital improvement projects and calculates proportional fees for new development across three districts (1) Baylands, (2) Sierra Point, and (3) West Brisbane to ensure compliance with California's Mitigation Fee Act. Fees are based on trip generation rates for various land uses, with costs allocated according to each district's share of projected trips. The TIF program funds multimodal transportation improvements, such as roadway upgrades, roundabouts, bike and pedestrian paths, and mobility plans, while excluding costs for existing deficiencies and project-specific obligations. The study details the methodology for fee calculation and outlines fee rates for each land use and district. The Transportation Impact Fee Nexus Study is attached for reference.

In compliance with the Mitigation Fee Act (AB 1600), the completed nexus studies establish a clear connection between new development and the need for development impact fees related to parks, parks and recreation facilities, transportation, and public facilities. They demonstrate the maximum justifiable fee for each of the proposed impact fees. The maximum justifiable fee is data driven by quantifying infrastructure needs created by growth, estimated capital costs, allocating those costs by land uses, and translating these costs into per unit or per square footage.

Fee Schedule

As discussed at depth in the background section of this report, based on comparative/benchmarking survey data, staff received Council feedback on fees in January, February, and March of 2026. Based on that past direction from Council and the technical analysis in the nexus studies, staff have prepared the table of recommended development impact fees identified below that comply with the requirements of the Mitigation Fee Act. The recommended fees represent a reasonable estimate of the proportionate cost of providing public facilities needed to serve new development at a level of service equivalent to what the City provides to existing residents and businesses.

It should be noted that the City follows the requirements of State law regarding any charge of an impact fee on an accessory dwelling unit ("ADU"). In general, an impact fee is not imposed on any ADU that is less than 750 square feet. However, for an ADU that is 750 square feet or more, the City is generally authorized to impose an impact fee that is charged proportionately to the square footage of the primary dwelling.

The following fees are recommended for adoption:

Parks and Recreation Development Impact Fees

Development Type	Unit of Measurement	Fee	Comparative Average**
Residential			
<800 sq. ft. unit	Per unit	$7,944	Average–Low
800–1,200 sq. ft. unit	Per unit	$10,259	Average-Low
1,200–2,100 sq. ft. unit	Per unit	$15,688	Average-Low
>2,100 sq. ft. unit	Per unit	$15,688	Average-Low
Non-Residential			
Commercial	Per KSF*	$8,103	Average
Office	Per KSF	$8,182	Above Average
Life Science/R&D	Per KSF	$7,229	Above Average
Industrial	Per KSF	$5,084	Average
Warehouse	Per KSF	$2,542	Average
Hotel			
Hotel	Per room	$932.27	Average

** KSF = thousand square feet.*
*** "Comparative Average" characterizes the fee amount recommended for Brisbane compared to a similar fee in the comparable jurisdictions reviewed in the benchmarking/survey data.*

The Parks and Recreation Development Impact Fees are set below average for residential development types. The fees were set at the average for the commercial, industrial, warehouse, and hotel development types. The Parks and Recreation Development Impact Fees were set above average for Life Science/R&D and Office development types. Based on feedback received in previous City Council meetings, and the technical analysis in the nexus studies, staff have prepared the table of recommended development impact fees identified below that comply with the requirements of the Mitigation Fee Act.

Public Facilities Impact Fees

Development Type	Unit of Measurement	Fee	Comparative Average**
Residential			
<800 sq. ft. unit	Per unit	$7,819	Average-Low
800–1,200 sq. ft. unit	Per unit	$13,052	Average-Low
1,200–2,100 sq. ft. unit	Per unit	$14,279	Average-Low
>2,100 sq. ft. unit	Per unit	$14,279	Average-Low
Non-Residential			
Commercial	Per KSF*	$11,409	Average
Office	Per KSF	$5,602	Above Average

Life Science/R&D	Per KSF	$6,223	Above Average
Industrial	Per KSF	$5,011	Average
Warehouse	Per KSF	$2,840	Average
Hotel			
Hotel	Per room	$807.07	Average

** KSF = thousand square feet.*
*** "Comparative Average" characterizes the fee amount recommended for Brisbane compared to a similar fee in the comparable jurisdictions reviewed in the benchmarking/survey data.*

The Public Facilities Impact Fees are set below average for residential uses above 800 square feet per unit and are set at the average for units under 800 square feet. The Public Facilities Impact Fees are set at the average for commercial, industrial, warehouse, and hotel development types. Office and Life Science/R&D development types are set above average. Based on feedback received in previous City Council meetings, and the technical analysis in the nexus studies, staff have prepared the table of recommended development impact fees identified below that comply with the requirements of the Mitigation Fee Act.

Transportation Impact Fee

District / Area	Land Use Category	Fee / Unit	Comparative Average***
Baylands			
	Residential	$2,399.14/ DU**	Average-Low
	Office	$4.39/SF*	Average–Above Average
	Retail	$12.66/SF	Average-Low
	Hotel	$2,487.37/ room	Average
Sierra Point			
	Office	$9.89/SF	Average–Above Average
	Hotel	$2,487.37/ room	Average
	Life Science/R&D	$9.89/SF	Average–Above Average
West Brisbane			
	Residential	$4,046/DU	Average-Low
	Warehouse/ Quarry	$2.75/SF	Average

** SF = square foot.*
*** DU = dwelling unit.*
**** "Comparative Average" characterizes the fee amount recommended for Brisbane compared to a similar fee in the comparable jurisdictions reviewed in the benchmarking/survey*

data.

Transportation Impact Fees are divided by transportation land use district. The three main areas are Baylands, Sierra Point, and West Brisbane. In the Baylands District, TIFs for residential and retail development types are set below average. Fees for hotel development types are set at the average and at slightly higher than average for office developments.

In the Sierra Point transportation district, hotel development types are set at the average, and office and life science/R&D are set at above average. In the West Brisbane District, TIFs for residential development types are set at slightly below average. Transportation Impact Fees are set at the average for warehouse/quarry development types.

According to previous Council feedback, the majority of the fees are set at average or slightly below average for all development types with the exception of office and life science. The preference for both of those development types was above average. As indicated in the chart, there are some fees that are set at the maximum per the nexus study but remain below the average of the comparative survey. Parameters for fee setting include ensuring that the fees were legally justifiable per the nexus studies and aligned with policy preferences.

Administration
If approved, an ordinance is effective 60 days after adoption. Generally, the City may collect impact fees from non-residential projects at the time of issuance of a building permit. However, for residential projects, the Mitigation Fee Act generally limits cities collecting impact fees prior to the issuance of the first certificate of occupancy, unless the City makes findings for earlier collection at the time of approving the project. It is also important to keep in mind that state law exempts from payment of impact fees any development of an accessory dwelling unit (“ADU”) of less than 750 square feet.

The Mitigation Fee Act also mandates that fees be deposited into separate capital facilities accounts to avoid commingling of the fees and other revenues and funds. Any interest earned on fee revenues must also be placed in the capital account and used for the same purpose.

In addition, the Mitigation Fee Act requires that the City make available to the public an annual report which includes information about the type of fee, any money expended and the amount of expenditures on each improvement including the percentage funded by fees, descriptions of any inter-fund transfers and loans, and any refunds. The annual report must be made available within 180 days of the close of the fiscal year.

The Mitigation Fee Act (see California Government Code§66016.5, amended by AB 602 (2021)) requires cities, counties, and special districts to update all impact fee nexus studies at least every eight years.

Next Steps
To move impact fees forward, the City must adopt by resolution the impact fee program, and

its corresponding nexus studies and capital improvement plans. This includes adoption and establishment of the development impact fees in amounts for each development type per the fee schedule.

If approved, the resolution becomes effective 60 days from the date of adoption. The City would work to publish the final impact fee schedule, final nexus studies, and the impact fee capital improvement plans in compliance with the Mitigation Fee Act. Staff would set up required financial systems, including creating separate capital facility accounts, ensuring that all interest stays in the same fee fund, and staff would set up fee collection timing rules to ensure compliance with the Mitigation Fee Act. Staff would also work on internal alignment to ensure training regarding fee applicability, collection timing, credits/reimbursements, and the new municipal code. Staff would also update application checklists and fee disclosure requirements and ensure applications and tentative maps are reviewed for fee applicability.

Staff recommend the City Council adopt a resolution approving the adoption of development impact fees to fund (1) Public Facilities for Library, Fire Department, Police Department, and General Government Facilities, (2) Park Land, Park Improvements, Recreation Facilities, Open Space and Trails, and (3) Transportation Facilities; and adopting nexus studies and capital improvement plans to support the development impact fees.

Fiscal Impact

If approved, impact fee revenue is dependent on the type and number of development projects approved by the City.

Attachments

1. Impact Fee Ordinance
2. Impact Fee Ordinance - Ordinance Exhibit A
3. Impact Fee Ordinance - Ordinance Exhibit B
4. Impact Fee Resolution
5. Impact Fee Schedule Resolution - Exhibit A
6. Impact Fee Resolution - Exhibit B (Parks and Recreation Impact Fee Nexus Study)
7. Impact Fee Resolution - Exhibit B (Public Facilities Impact Fee Nexus Study)
8. Impact Fee Resolution - Exhibit B (Transportation Impact Fee Nexus Study)
9. Impact Fee Resolution - Exhibit C
10. Impact Fees - Previous Staff Reports

City Manager Approval

Jeremy Dennis, City Manager	09/11/2026

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA, AMENDING BRISBANE MUNICIPAL CODE CHAPTER 16.24 AND ADDING A NEW CHAPTER 15.90 TO UPDATE AND ESTABLISH PROCEDURES AND INITIATING PROCEEDINGS FOR ADOPTING AND IMPLEMENTING DEVELOPMENT IMPACT FEES FOR PARK AND RECREATIONAL FACILITIES, TRANSPORTATION FACILITIES, AFFORDABLE HOUSING PROJECTS, AND OTHER PUBLIC FACILITIES INCLUDING LIBRARY, GENERAL GOVERNMENT, POLICE DEPARTMENT, AND FIRE DEPARTMENT FACILITIES

The City Council of the City of Brisbane hereby ordains as follows:

SECTION 1: The City Council finds and determines that:

A. The City is authorized to establish development impact fees to offset the proportionate cost of providing public facilities to serve development projects, and to impose those fees on the owners of those development projects, in accordance the City's authority under California Constitution Article XI, Section 7, and in accordance with the requirements of the "Mitigation Fee Act" (California Government Code Sections 66000 - 66025); and

B. The City is authorized to require the dedication of land or the payment of fees in lieu of dedication, or a combination of both, for park or recreational purposes as a condition of approval of a tentative map or parcel map for a development project, in accordance with the City's authority under California Constitution Article XI, Section 7, and in accordance with the requirements of the "Quimby Act" (California Government Code Section 66477); and

C. The City previously implemented the Quimby Act through Brisbane Municipal Code Chapter 16.24 to establish requirements for both dedication of land or payment of fees; and the City now intends by this ordinance to amend Chapter 16.24 to rely on the Quimby Act solely for the purpose of requiring the dedication of land, and the City will rely on the Mitigation Fee Act when establishing and imposing fees on subdividers or owners who do not dedicate land under the Quimby Act; and

D. The provisions of this ordinance are intended to establish the procedural framework for the City's establishment and imposition of development impact fees, and land dedication for park or recreational purposes under the Quimby Act; however, the actual calculation of development impact fees are analyzed in accordance with nexus studies prepared as required by the Mitigation Fee Act (Government Code Section 66016.5); and

E. The City engaged consultants to prepare the required nexus studies under the Mitigation Fee Act to analyze the proportionate impacts from development projects on the City's public facilities, as well as the proportionate benefits received by development projects from the City's public facilities, and those nexus studies included: (1) Transportation Impact Fee Nexus Study dated February 14, 2025, prepared by Fehr & Peers; (2) Public Facilities Impact Fee Study dated October 10, 2025, prepared by NBS Government Finance Group; (3) Parks and Recreation Impact Fee Study dated October 10, 2025, prepared by NBS Government Finance Group; (4) Commercial Linkage Fee Nexus Study Analysis and Maximum Fee Calculations dated September 1, 2023, prepared by ECONorthwest; and (5) on or about October 2, 2025, the City entered into a Memorandum of Understanding with the County of San Mateo and cities in the County to prepare a Multi-Jurisdictional Inclusionary Housing and Non-Residential Linkage Fee Study with a scope of services for preparation of a nexus study by Strategic Economics; and

F. The City hereby initiates proceedings in accordance with Government Code Section 66474.2 to establish the ordinance, policies, and standards by which the City will require the payment of development impact fees in accordance with the Mitigation Fee Act for the public facilities described in Section 1(E) of this ordinance.

SECTION 2: Chapter 15.90, with Sections 15.90.010 through 15.90.070, of the Brisbane Municipal Code is hereby added to read as set forth on Exhibit "A," attached hereto and incorporated herein by reference.

SECTION 3: Chapter 16.24, with Sections 16.24.010 through 16.24.060, of the Brisbane Municipal Code (related park in-lieu fees) is hereby amended to read as set forth on Exhibit "B," attached hereto and incorporated herein by reference. The City does not intend to amend Brisbane Municipal Code Section 16.24.070 (Bay access).

SECTION 4: If any chapter, subsection, subdivision, sentence, clause, phrase, or portion of this ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each chapter, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional

SECTION 5: The City Council hereby finds that the adoption of this Ordinance is not subject to CEQA review pursuant to CEQA Guideline 15378(b)(4), which provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project are not projects subject to CEQA review.

SECTION 6: This ordinance shall take effect thirty (30) days after its passage by the City Council.

SECTION 7: The City Clerk is authorized and directed to cause this Ordinance to be published within fifteen (15) days after its passage in a newspaper of general circulation and circulated within the City in accordance with Government Code Chapter 36933(a) or, to cause this Ordinance to be published in the manner required by law using the alternative summary and pasting procedure authorized under Government Code Chapter 39633(c).

* * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _________day of ___________, 2026, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

____
Mayor Coleen Mackin

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT “A” TO ORDINANCE NO. ____

Chapter 15.90 Development Impact Fee Program

15.90.010 Authority

This chapter is enacted under the authority of California Constitution Article XI, Section 7 of the and the Mitigation Fee Act (California Government Code Title 7, Division 1, Chapters 5 through 9, Sections 66000 through 66025).

15.90.020 Purpose and intent

A. The purpose of this chapter is to establish the procedures by which the City will: (1) calculate and adopt development impact fees to be imposed on and collected from Owners of development projects, (2) spend revenue from development impact fees to fund public facilities that offset impacts from and provide benefits to development projects, and (3) account for and report development impact fee revenue and expenditures in accordance with the Mitigation Fee Act.

B. The intent of this chapter is to require Owners of development projects that create impacts on public facilities and receive corresponding benefits from public facilities to pay the City development impact fees established pursuant to this chapter to cover or offset the proportionate share of the cost of those public facilities needed to serve those development projects.

C. Except as specifically provided herein, the development impact fees established under this chapter are in addition to (and do not replace) any: (1) separate obligations imposed as exactions or mitigation measures required to address site-specific impacts of a development project; (2) other regulatory, development and processing fees; (3) fees imposed by separate governmental agencies (such as school impact fees); (4) utility capacity charges or connection fees; (5) charges required pursuant to a development agreement; (6) charges imposed pursuant to a separate agreement for amounts that may separately benefit the Development Project; or any other required taxes, assessments, or generally applicable fees.

15.90.030 Definitions

“Development Impact Fee” means a monetary exaction that is calculated and imposed on an Owner in accordance with this chapter in connection with approval of a development project for the purpose of defraying all or a portion of the proportionate cost of the public facilities that serve the development project. A “Development Impact Fee” shall only include City charges on Owners that are within the definition of “fee” under Government Code Section 66000(a).

“Development Project” means any project undertaken for the purpose of developing or improving real property that increases demands or impacts on any public facilities, including a project involving the issuance of a permit for new construction or reconstruction of an existing structure that increases demands or impacts on public facilities.

"Mitigation Fee Act" means California Government Code Title 7, Division 1, Chapters 5 through 9, including Sections 66000 through 66025.

"Owner" means the legal owner(s) of real property upon which a development project is proposed. An owner may provide to the City a written delegation of authority for an authorized representative(s) to act on the Owner's behalf in accordance with the requirements of this chapter. To the extent an Owner delegates authority to a "representative" or "developer" or "applicant" or "subdivider" to pay fees on behalf of the Owner, the Owner shall be jointly and severally liable for payment of required fees.

"Public Facilities" means any public improvement, public services, or community amenities (as defined by Government Code Section 66000(d)) to the extent those facilities are funded by development impact fees in accordance with this chapter. Public Facilities shall specifically include any "Capital Improvement" identified in a capital improvement plan adopted in accordance with Government Code Section 66016.5, and the costs of Public Facilities funded in all or in part by development impact fees shall include acquisition of land, design, construction management, construction, equipping and installing, and related costs such as administration, financing, and legal services.

15.90.040 Establishment of Development Impact Fees

Any development impact fee under this chapter shall be effective only after approved by resolution of the City Council to identify the public facilities to be funded with the fee revenue, the amount of the fee imposed on each Owner (categorized by type of development project), and addressing the requirements of the Mitigation Fee Act and this chapter. In particular, consistent with the requirements of Government Code Sections 66001 and 66016.5, the resolution shall include the adoption of a capital improvement plan and a nexus study to describe the purpose of the fee, the use to which the fee is to be put, the reasonable relationship between the fee's use to fund public facilities and the benefits received by development projects, the reasonable relationship between the impacts from development projects and the public facilities to be funded by development impact fees, and an explanation of the appropriateness of the levels of service for the funded public facilities.

15.90.050 Payment of Development Impact Fees

A. Amount. The amount of development impact fees to be paid for each development project shall be the amount of the fee in effect at the time that payment is made to the City, unless otherwise required by State law, including limitations imposed by Government Code Section 66007.

B. Timing. The fee for each parcel or unit within a development project shall be paid in-full prior to issuance of a building permit, unless otherwise required by State law, including limitations imposed by Government Code Section 66007. If the development impact fees for a development project are not paid in full prior to the issuance of a building permit for any portion of the project, the City may require the Owner to: (1) execute a contract to pay the development impact fees as a condition of issuance of the building permit, and (2) record the contract against the development project property. Any such contract shall require the development impact fees to be paid no later than the final inspection, or the date the certificate of occupancy is issued, whichever occurs first, and the contract may include payment on a pro rata or lump-sum basis, in accordance with Government Code Section 66007. The City Manager or their designee is authorized execute any such contracts. For any Owner that owes a development impact fee for a development project, if the fee is not paid prior to the final inspection, or the date the certificate of occupancy is issued, whichever occurs first, the Owner shall pay the required fee no later than thirty days after written demand from the City.

C. Exceptions. The following types of development projects (for reconstruction, rehabilitation, or remodeling of an existing structure) are not subject to development impact fees (in whole or in part) to the extent that the Owner establishes to the satisfaction of the City that: (i) the development project does not increase the demand or impacts on public facilities, as compared to the demand or impacts from the pre-existing structure on the property (as it existed prior to being damaged, destroyed, rehabilitated, or remodeled); and (ii) either: (x) a development impact fee for the relevant public facility was paid for the pre-existing structure, or (y) the pre-existing structure was in existence at the time the City last updated a nexus study for the relevant public facilities:

1. Reconstruction of a structure damaged or destroyed by fire or other natural causes.

2. Rehabilitation or remodeling of an existing structure.

D. Fee Protest. If an Owner desires to protest the imposition of development impact fees on the development project, the Owner shall file the written protest with the City Clerk, in compliance with the procedure provided in Government Code Section 66020.

E. Refund. To the extent an Owner pays a development impact fee for a development project prior to issuance of a building permit, and if the building permit expires without commencement of construction of the permitted building, the Owner may submit a written request for a refund in accordance with this paragraph. Any Owner who submits a timely written request for refund in accordance with this paragraph shall be entitled to a refund, without interest, of the development impact fees paid, if any, for the development project, except that the City may charge an administrative fee, in an amount established by resolution of the City Council, to offset the City's costs of processing the requested refund. The Owner must submit a written request for a refund to the City Manager within 30 calendar days of the expiration of the building permit. Failure to timely submit the required application for refund shall constitute a waiver of any right to the refund.

15.90.060 Accounting and Use of Development Impact Fees

The City shall establish separate accounts for each category of development impact fee established by the City Council and deposit development impact fees collected into the appropriate account. The money deposited into these accounts, and any interest earnings thereon, shall be used solely for the public facilities for which the development impact fees were imposed; provided, however, the City Council may authorize by resolution an interfund loan (consistent with Government Code Section 66006(b)(1)(G)). Development impact fees may be used to pay the principal, interest and other costs of bonds, notes and other obligations issued or undertaken by or on behalf of the City to finance such public facilities. The City shall annually report the revenue from development impact fees and actual and planned expenditure of that revenue in accordance with the Mitigation Fee Act.

15.90.070 Credits and Reimbursements

A. Credits. An Owner who provides public facilities may receive a credit against the corresponding development impact fee otherwise owed for the development project only if the Owner submits a timely written request and obtains approval from the City through a credit agreement. The Owner shall submit a written request for any such credit no later than concurrently with submitting improvement plans for the public facilities. The Owner and the City must enter into a credit agreement prior to the issuance of a building permit for the development project for the Owner to receive a credit against the applicable development impact fees. Failure to enter into a credit agreement prior to the issuance of a building permit shall be deemed a waiver of any request or claim for credit. The credit agreement shall include a clause by which the agreement shall be cancelled, and the Owner shall pay the development impact fees, in the event that the Owner does not provide the public facilities to the satisfaction of the City by a specified date.

B. Reimbursements. An Owner who provides public facilities may receive a reimbursement for the costs of the public facilities that exceed any credit amount approved in accordance with Section 15.90.070 only if the Owner submits a timely written request and obtains approval from the City through a reimbursement agreement. The terms of a reimbursement agreement may be combined into a credit agreement. The Owner shall submit a written request for any such reimbursement no later than concurrently with submitting improvement plans for the public facilities. The Owner and the City must enter into a reimbursement agreement prior to the issuance of a building permit for the development project for the Owner to receive a reimbursement. Failure to enter into a reimbursement agreement prior to the issuance of a building permit shall be deemed a waiver of any request or claim for reimbursement. Reimbursement will be made only after the City has accepted the public facilities as complete. The City shall not reimburse an Owner out of the City's General Fund or any other City funds other than the subject Development Impact Fee fund.

C. Maximum Credit and Reimbursement. Any agreement for credit or reimbursement under this section must estimate the cost of constructing the public facilities, the schedule for the completion of the public facilities, a requirement that the public facilities be constructed to City standards, and such other terms and conditions as deemed necessary by the City. Any credit agreement or reimbursement agreement that implements this section shall document the maximum amount of credit and/or reimbursement available to the Owner which shall not exceed the City's reasonable estimate of the City's cost of providing the public facilities.

D. Credit and Reimbursement Policy. The City Council may, from time to time, adopt by resolution a development impact fee credit and reimbursement policy implementing the provisions of this section.

E. Execution of Agreements. The City Manager may approve and sign any agreements authorized by paragraphs A through C of this section, provided the agreement is consistent with this section any policy adopted by the City Council pursuant to paragraph D of this section.

EXHIBIT “B” TO ORDINANCE NO. ____

Chapter 16.24 Park Improvements – Bay Access

16.24.010 - Dedication of land for park and recreational purposes.

A. The subdivider shall provide for adequate and appropriate park and recreational facilities for the subdivision by the dedication of land in the subdivision, in accordance with the conditions and requirements of this section; provided, however, that the requirements of this section may be satisfied by either: (a) a development agreement between the subdivider and city approved by ordinance of the city council identifying alternative methods for the subdivider to satisfy park and recreational facilities obligations, or (b) the City Manager or designee determines that a particular subdivision is not physically suited to support the dedication of land for public recreational facilities in accordance with relevant policies of the general plan or applicable specific plan. Any dedication of land under this chapter shall be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.

B. To the extent the subdivider dedicates land or enters into a development agreement in accordance with Paragraph A of this section, the subdivider shall be entitled to a credit against the obligation to pay a development impact fee for park and recreational facilities, in accordance with chapter 15.90 of this code

16.24.020 - Amounts of area to be dedicated.

Where there are more than fifty (50) lots to be established in the subdivision or when a condominium project, stock cooperative, or community apartment project exceeds fifty (50) dwelling units even though the number of parcels may be less than fifty (50), and where the City Manager or designee determines that land therein can be properly located for public recreational facilities in accordance with the policies and standards for parks and recreation facilities contained in the general plan or applicable specific plan, the subdivider shall dedicate an area for such purposes on the basis of three (3) acres dedicated for each one thousand (1,000) population within the subdivision to be developed.

16.24.030 – Smaller projects not subject to this chapter.

Where there are fifty (50) lots or less in the subdivision or fifty (50) units or less in a residential condominium project, stock cooperative, or community apartment project, the subdivider shall not be subject to the land dedication requirements of this chapter. A residential condominium project, stock cooperative, or community apartment project with more than fifty (50) units may be required to dedicate land, even though the number of lots may be less than fifty (50).

16.24.040 - Dedication credits for park and recreational improvements and for private open space.

A. A subdivider that constructs parks and recreational improvements may receive a credit against the obligation to dedicate land under this chapter only if the subdivider submits a timely written request prior to approval of a tentative map and obtains approval from the City through a credit agreement.

B. If a condominium project or other common interest development provides private open space within the development which is usable for active recreational uses, the subdivider shall be entitled to a credit against the obligation to pay a development impact fee for park and recreational facilities, in accordance with chapter 15.90 of this code.

16.24.050 - Dedication timing of determination.

A. At the time of application for a tentative map, the subdivider shall identify how it intends to address any requirement to dedicate land in accordance with this chapter. At the time of approval of the tentative map, the approving agency shall determine pursuant to this chapter any land to be dedicated by the subdivider. At the time of filing of the final map or final parcel map, the subdivider shall dedicate the land as previously determined, except as provided below.

B. Open space covenants for private park or recreational facilities shall be submitted to the City upon the filing of the final subdivision or parcel map and shall be recorded contemporaneously with such map.

C. For land dedicated to the City in accordance with this chapter, at the time of approval of the final map, the approving agency shall specify when development of park and recreational facilities on that land shall be commenced.

D. Any waiver of a tentative and final subdivision map or parcel map pursuant to Section 16.12.025 or Section 16.12.050 shall nevertheless be subject to dedication of land, and/or recordation of open space covenants as required by this chapter.

16.24.060 - Exemptions.

The provisions of Sections 16.24.010 through 16.24.050 shall not apply to the development projects set forth in this section 16.24.060, below; provided that, to the extent any development project does not dedicate land in accordance with Sections 16.24.010 through 16.24.050, a condition of approval of a tentative parcel map, building permit, or other development entitlement may require the payment of fees as required by chapter 15.90 of this code:

A. Subdivisions containing less than five (5) parcels and not used for residential purposes;

B. Condominium projects or stock cooperatives that consist of the subdivision of airspace in an existing apartment building that is more than five (5) years old when no dwelling units are added;

C. Commercial or industrial subdivisions;

D. Condominium projects restricted so as to be affordable to households with very-low or low-incomes, subject to restrictions approved by the City and recorded with the County of San Mateo, for which outdoor areas are provided in compliance with Section 17.30.030;

E. Condominium projects designed and restricted to use by households with one or more members who are sixty-two (62) years of age or older, subject to restrictions approved by the City and recorded with the County of San Mateo.

RESOLUTION NO. 2026-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA, ADOPTING DEVELOPMENT IMPACT FEES TO FUND (1) PUBLIC FACILITIES FOR LIBRARY, FIRE DEPARTMENT, POLICE DEPARTMENT, AND GENERAL GOVERNMENT FACILITIES, (2) PARK LAND AND PARK IMPROVEMENTS, RECREATION FACILITIES, OPEN SPACE AND TRAILS PUBLIC FACILITIES, AND (3) TRANSPORTATION FACILITIES; AND ADOPTING NEXUS STUDIES AND CAPITAL IMPROVEMENT PLANS TO SUPPORT THE DEVELOPMENT IMPACT FEES

WHEREAS, the City is authorized to establish development impact fees to offset the proportionate cost of providing public facilities to serve development projects, and to impose those fees on the owners of those development projects, in accordance the City's authority under California Constitution Article XI, Section 7, and in accordance with the requirements of the "Mitigation Fee Act" (California Government Code Sections 66000 - 66025); and

WHEREAS, the City engaged consultants to prepare the required nexus studies under the Mitigation Fee Act to analyze the proportionate impacts from development projects on the City's public facilities, as well as the proportionate benefits received by development projects from the City's public facilities, and those nexus studies included: (1) Public Facilities Impact Fee Study dated August 5, 2026, prepared by NBS Government Finance Group; (2) Parks and Recreation Impact Fee Study dated August 5, 2026, prepared by NBS Government Finance Group; and (3) Transportation Impact Fee Nexus Study dated September 2, 2026, prepared by Fehr & Peers (hereinafter referred to together as "Nexus Studies," attached hereto as Exhibit "B" and incorporated herein by reference); and

WHEREAS, the Nexus Studies identify the bases upon which the City has calculated development impact fees as identified on the 2026 Impact Fee Schedule attached hereto as Exhibit "A," labeled as Public Facilities Impact Fee, Parks and Recreation Impact Fees, and Transportation Impact Fee Impact Fees (collectively "Development Impact Fees" or "DIF"), in compliance with the Mitigation Fee Act, particularly Government Code Section 66016.5; and

WHEREAS, concurrently with the preparation of the Nexus Studies, the City prepared the "Capital Improvement Plan" as required by Government Code Sections 66002 and 66016.5(a)(6) which includes: (a) for the Transportation Impact Fees, the Capital Improvement Plan is incorporated into the corresponding Nexus Study (see Table 5 and Attachment A); and (b) for the Public Facilities Impact Fees and the Parks and Recreation Impact Fees, the Capital Improvement Plan is attached hereto as Exhibit "C" and incorporated herein by reference. The Capital Improvement Plan for each impact fee established by this resolution identifies the approximate location, size, time of availability, and estimated costs for the public facilities to be financed with Development Impact Fees; and.

WHEREAS, the Nexus Studies document the findings, incorporated herein by reference, by which the City has determined that imposing fees on residential development projects based on square footage is not required since the alternative identified basis bears a reasonable relationship between the fee charged and the burden imposed by the project, and the fee structure established by this resolution supports smaller development projects; and these findings are set forth in: (a) the Public Facilities Impact Fee Nexus Study identifies the rationale for imposing Public Facility Impact Fees per a tier of unit sizes (less than 800 square feet, 800 - 1,200 square feet, 1,200 - 2,100 square feet, and greater than 2,100 square feet) at Nexus Study Chapter 2; (b) the Parks and Recreation Impact Fee Nexus Study identifies the rationale for imposing Parks and Recreation Impact Fees per a tier of unit sizes (less than 800 square feet, 800 - 1,200 square feet, 1,200 - 2,100 square feet, and greater than 2,100 square feet) at Nexus Study Chapter 2; and (c) the Transportation Impact Fee Nexus Study identifies the rationale for imposing Traffic Impact Fees per unit of residential development in the Section labeled “Summary of Required Program Elements” “Additional Elements”; and

WHEREAS, concurrently with the preparation of the Nexus Studies, the City undertook a review of the underlying procedures for implementing development impact fees, and on September 17, 2026, the City Council also adopted an ordinance to be codified at Brisbane Municipal Code Chapter 15.90 to establish City policies and procedures for establishing and implementing development impact fees in accordance with the Mitigation Fee Act, and the requirements of that Chapter apply to the Development Impact Fees adopted by this Resolution; and

WHEREAS, the findings set forth in the Nexus Studies for each of the Development Impact Fees identify the bases for concluding that the proposed Development Impact Fees satisfy the requirements of the Mitigation Fee Act; those findings are incorporated herein by reference; and, for each Development Impact Fee, those findings: (1) identify the purpose of the fee; (2) identify the use of the fee; (3) determine that there is a reasonable relationship between: (a) the use of the fee and the development type on which it is imposed, (b) the need for the public facility and the type of development on which the fee is imposed, and (c) the amount of the fee and the public facility cost attributable to the development type; and (4) identify and explain any differences between existing levels of services provided by public facilities compared to new levels of service supported by Development Impact Fees (in compliance with Government Code Sections 66001(a) and 66016.5; and

WHEREAS, the City has provided required notices of the public hearing at which this Resolution will be considered for adoption by the City Council, in accordance with Government Code Sections 6062a, 66004, 66015, 66016.5(a)(7), and 66018

NOW, THEREFORE, the City Council of the City of Brisbane does hereby resolve as follows:

Section 1. The above recitals are true and correct, are material to the adoption of this Resolution, and are incorporated herein by reference.

Section 2. The City Council hereby adopts: (a) the Nexus Studies, as set forth on Exhibit “A,” and (b) the Capital Improvement Plan (as defined in the recitals to include the Traffic Improvement Fee Nexus Study and Exhibit “C,” attached hereto and incorporated herein by reference).

Section 3. The City Council hereby adopts and establishes the Development Impact Fees in the amounts for each Development Type as set forth on Exhibit “A” attached hereto and incorporated herein by reference. The City Council hereby finds that the Development Impact Fees comply with the requirements of the Mitigation Fee Act, as documented in this resolution and the supporting documents, including the Nexus Studies. The attached Development Impact Fees include:

(a) Public Facilities Impact Fee (1) Library; (2) General Government Facilities; (3) Police Department Facilities; and (4) Fire Department Facilities;

(b) Parks and Recreation Impact Fee (1) Park Land; (2) Park Improvement; (3) Recreation Facilities; (4) Open Space; and (5) Trails;

(c) Transportation Impact Fee;

Section 4. The City Council hereby authorizes the City Manager, or authorized designee, to make adjustments to the amount of Development Impact Fees to account for inflationary impacts, provided that: (a) the amount of the adjustment shall be in accordance with the criteria set forth in the Engineering News Record (“ENR”) building cost index (“BCI”) and construction cost index (“CCI”), San Francisco area; (b) there shall be no more than one adjustment per fiscal year, beginning September 17, 2027; (c) there shall be no such adjustment after September 15, 2034, without obtaining Council approval in accordance with Government Code Section 66016.5(a)(8); (d) each such adjustment shall be approved in writing with an identification and calculation of the particular dollar amounts of each updated fee, and an identification of the effective date of the adjustment; and (e) the updated fees shall be posted on the City’s website.

Section 5. The City Council finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Public Resources Code Section 21080(b)(8), and CEQA Guidelines Section 15273(a) since this is an establishment of Development Impact Fees as a charge on new development to obtain funds for public facilities which are capital projects necessary to maintain public services within the City’s existing service area encompassing the new development.

Section 6. This Resolution shall be effective immediately upon adoption. The Development Impact Fees shall be effective on November 16, 2026, in accordance with Government Code Section 66017.

____
Coleen Mackin, Mayor

I hereby certify that the foregoing Resolution No. 2026-xx was duly and regularly adopted at a regular meeting of the Brisbane City Council on September 17, 2026, 2026 by the following vote:

AYES:

NOES:

ABSENT:

____

Ingrid Padilla, City Clerk

EXHIBIT A – 2026 IMPACT FEE SCHEDULE
EXHIBIT B – Public Facilities Nexus Study; Parks & Recreation Nexus Study; and Transportation Impact Fee Study
EXHIBIT C – Mitigation Fee Act Capital Improvement Plan (CIP)

City of
BRISBANE
CALIFORNIA

Parks and Recreation Development Impact Fees

Development Type	Unit of Measurement	Fee
Residential		
<800 sq. ft. unit	Per unit	$7,944
800–1,200 sq. ft. unit	Per unit	$10,259
1,200–2,100 sq. ft. unit	Per unit	$15,688
>2,100 sq. ft. unit	Per unit	$15,688
Non-Residential		
Commercial	Per KSF*	$8,103
Office	Per KSF	$8,182
Life Science/R&D	Per KSF	$7,229
Industrial	Per KSF	$5,084
Warehouse	Per KSF	$2,542
Hotel		
Hotel	Per room	$932.27

** KSF = thousand square feet.*

Public Facilities Impact Fees

Development Type	Unit of Measurement	Fee
Residential		
<800 sq. ft. unit	Per unit	$7,819
800–1,200 sq. ft. unit	Per unit	$13,052
1,200–2,100 sq. ft. unit	Per unit	$14,279
>2,100 sq. ft. unit	Per unit	$14,279
Non-Residential		
Commercial	Per KSF*	$11,409
Office	Per KSF	$5,602

Development Type	Unit of Measurement	Fee
Life Science/R&D	Per KSF	$6,223
Industrial	Per KSF	$5,011
Warehouse	Per KSF	$2,840
Hotel		
Hotel	Per room	$807.07

** KSF = thousand square feet.*

Transportation Impact Fee

District / Area	Land Use Category	Fee / Unit
Baylands		
	Residential	$2,399.14/ DU
	Office	$4.39/SF
	Retail	$12.66/SF
	Hotel	$2,487.37/ room
Sierra Point		
	Office	$9.89/SF
	Hotel	$2,487.37/ room
	Life Science/R&D	$9.89/SF
West Brisbane		
	Residential	$4,046/DU
	Warehouse/ Quarry	$2.75/SF

DU = dwelling unit. SF = square foot.

CITY OF BRISBANE

Revised Final Report

Parks and Recreation Impact Fee Study

August 5, 2026

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Table of Contents

Executive Summary

The City of Brisbane has retained NBS Government Finance Group to prepare this study to analyze the impacts of new development on the City's parks, recreation facilities, open space and trails and to calculate impact fees based on that analysis. The methods used in this study are intended to satisfy all legal requirements of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000 *et seq*.).

Organization of the Report

Chapter 1 of this report provides an overview of the legal requirements for establishing and imposing such fees, and methods that can be used to calculate impact fees.

Chapter 2 contains data on existing and future development that is used in this report.

Chapters 3 through 5 analyze the impacts of development on specific types of facilities and calculate impact fees for those facilities. The facilities addressed in this report are listed by chapter below:

Chapter 3. Park Land and Park Improvements

Chapter 4. Recreation Facilities

Chapter 5. Open Space and Trails

Chapter 6 contains recommendations for adopting and implementing impact fees, including a discussion of findings required by the Mitigation Fee Act.

Development Data

Chapter 2 of this report presents estimates of existing development in Brisbane and projections of future development in the City out to 2040. Brisbane is largely built-out except for an area known as the Baylands, a 700-acre former landfill and industrial site which is being planned for development as a mixed-use neighborhood with the potential to more than double the City's population and employment.

Table 2.1 in Chapter 2 shows the population per unit for residential development and employees per unit for various types of non-residential development, as well as service population per unit for all types of development defined in this study. Table 2.4 shows estimates of existing development in terms of units, population and employees. Table 2.5 shows a forecast of future development to buildout, and Table 2.6 shows a forecast of total development at buildout. The data in those tables is used to calculate impact fees and to project potential revenue for impact fees calculated in this report.

To comply with recent amendments to the Mitigation Fee Act, residential impact fees are calculated in this study for unit size ranges in square feet, rather than by unit type (e.g., single-family or multi-family) which was common practice in the past.

Impact Fee Analysis

The impact fee analysis for each type of facility addressed in this report is presented in a separate chapter of this report. In each case, the relationship between development and the need for a particular type of facility is defined in a way that allows the impact of additional development on facility needs to be quantified. The impact fees are based on the cost of facilities and other capital assets needed to mitigate the impacts of additional development.

All of the fees calculated in this report are based on capital costs and may be spent only for land and capital improvements of the types identified in this report. The following paragraphs briefly discuss the approach used to calculate impact fees for each type of facility addressed in this study.

Chapter 3 - Impact Fees for Park Land and Park Improvements. Chapter 3 of this report calculates impact fees for both park land acquisition and park improvements.

The City has an existing Quimby Act ordinance that requires dedication of park land or payment of fees in lieu of dedication by residential subdivisions. Based on direction from City staff, this report assumes that the park land acquisition impact fees calculated in Chapter 3 will be applied to residential subdivisions as well as to new residential development that does not involve a subdivision or parcel map and to all new non-residential (e.g., commercial and industrial) development in Brisbane.

The impact fees for park improvements calculated in Chapter 3 are intended to apply to all new residential and non-residential development in the City, including residential subdivisions.

Impact fees for park land and park improvements calculated in this report are based on the existing level of service. For park land and park improvements, that level of service is defined in terms of acres of existing parks per capita of existing service population. For purposes of the impact fee calculations, that level of service is converted into per-capita costs for park land and park improvements using estimates of per-acre costs for park land acquisition and park improvements.

Service population is used in impact fee calculations in this study to represent the impact of development on the need for parks, recreation facilities, open space and trails. Service population is a weighted composite of resident population and employees working in Brisbane. Residents are included to represent the demand created by residential development and employees are included to represent the demand created by non-residential development. See Chapter 2 for a detailed discussion of service population.

See Chapter 3 for detailed analysis and calculation of impact fees for park land and park improvements. Table S.1, later in this Executive Summary shows the amounts of the impact fees calculated in this report.

Chapter 4 – Impact Fees for Recreation Facilities. Chapter 4 calculates impact fees for Brisbane's recreation facilities. Impact fees for recreation facilities calculated in this report are based on the existing level of service. For recreation facilities, that level of service is defined in terms of the replacement cost of existing facilities per capita of existing service population. See Chapter 2 for a detailed discussion of service population.

See Chapter 4 for more detail on the calculation of impact fees for recreation facilities. Table S.1, later in this Executive Summary shows the amounts of the impact fees calculated in this report.

Chapter 5 - Impact Fees for Open Space and Trails. Chapter 5 of this report calculates impact fees for both open space land acquisition and trail improvements. Impact fees for open space and trails calculated in this report are based on the existing level of service. For open space land acquisition and trail improvements, that level of service is defined in terms of the replacement cost of existing facilities per capita of existing service population.

As discussed in previous sections, service population is a weighted composite of resident population and employees working in Brisbane. Residents are included to represent the demand created by residential development and employees are included to represent the demand created by non-residential development. See Chapter 2 for a detailed discussion of service population.

See Chapter 5 for detailed analysis and calculation of impact fees for open space and trails. Table S.1, later in this Executive Summary shows the amounts of the impact fees calculated in this report.

Impact Fee Summary

Impact fees per unit calculated in this report are summarized in Table S.1 on the following page.

Table S.1: Summary of Proposed Citywide Impact Fees

Development Type	Units [1]	Park Land	Park Imprvmts	Recreation Facilities	Open Sp/ Trails	**Total**
Residential <800 Sq. Ft. Unit	DU	$ 5,110	$ 840	$ 1,479	$ 515	**$ 7,944**
Residential 800-1,200 Sq. Ft. Unit	DU	$ 9,965	$ 1,637	$ 2,884	$ 1,004	**$ 15,490**
Residential 1,200-2,100 Sq. Ft. Unit	DU	$ 15,075	$ 2,477	$ 4,364	$ 1,519	**$ 23,434**
Residential >2,100 Sq. Ft. Unit	DU	$ 20,185	$ 3,316	$ 5,843	$ 2,034	**$ 31,377**
Commercial	KSF	$ 5,212	$ 856	$ 1,509	$ 525	**$ 8,103**
Hotel/Motel	Room	$ 3,015	$ 495	$ 873	$ 304	**$ 4,687**
Office	KSF	$ 5,263	$ 865	$ 1,524	$ 530	**$ 8,182**
Life Science/R&D	KSF	$ 4,650	$ 764	$ 1,346	$ 469	**$ 7,229**
Industrial	KSF	$ 3,270	$ 537	$ 947	$ 330	**$ 5,084**
Warehouse	KSF	$ 1,635	$ 269	$ 473	$ 165	**$ 2,542**

[1] DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

The impact fees calculated in this report are intended to represent the maximum amounts justified by the data and analysis presented in this report. The City Council may choose to adopt no fees, or any fees up to the amounts shown in the table above.

Findings

As discussed in Chapter 1 of this report, the Mitigation Fee Act (Govt. Code Section 66001) requires that in any action establishing, increasing, or imposing a fee as a condition of development approval, the local agency must do all of the following:

1. Identify the purpose of the fee.
2. Identify the use to which the fee is to be put (a capital improvement plan is now required for that purpose).
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.
4. Determine how there is a reasonable relationship between the need for the public facility and the type of development on which the fee is imposed.
5. When the fee is imposed as a condition of approval on a development project, 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 attributable to the development on which the fee is imposed.

In addition, as discussed in Chapter 2, we recommend that the City Council adopt the following findings pursuant to Government Code Section 66016.5(a)(5)(B) to justify the use of tiered square footage ranges for residential development in this study rather than a fixed fee-per-square-foot approach:

1. A fixed fee-per-square-foot approach would not reflect the actual impact of different-sized residential units on the facilities addressed in this study and would not meet the rough proportionality standard set forth in *Dolan v. Tigard*.

2. The use of tiered square footage ranges rather than a fixed fee per square foot approach better reflects the relationship between the fees charged and the actual burden imposed by various types of development.
3. Calculating impact fees for tiered square footage ranges rather than a fixed fee per square foot still ensures that smaller developments are not charged disproportionate fees because that approach allows the impact fees to be tailored to the actual impacts created by smaller developments, while protecting larger units from excessive fees.

Chapter 1. Introduction

Purpose

The purpose of this study is to analyze the impacts of development on the need for parks and recreation facilities provided by the City of Brisbane and to calculate impact fees based on that analysis. This report documents the approach, data and methodology used in this study to calculate impact fees.

The impact fees calculated in this report are intended to satisfy all legal requirements governing such fees, including provisions of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000-66025).

Legal Framework for Impact Fees

This brief summary of the legal framework for development fees is intended as a general overview. It was not prepared by an attorney and should not be treated as legal advice.

U. S. Constitution. Like all land use regulations, development exactions, including impact fees, are subject to the 5th Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against "regulatory takings." A regulatory taking occurs when regulations unreasonably deprive landowners of property rights protected by the Constitution.

In two cases dealing with exactions, the U. S. Supreme Court has held that when a government agency requires the dedication of land or an interest in land as a condition of development approval or imposes exactions as a condition of approval on a development project, the agency must demonstrate an "essential nexus" between such exactions and the interest being protected (See *Nollan v. California Coastal Commission,* 1987) and make an "individualized determination" that the exaction imposed is "roughly proportional" to the burden created by development (See *Dolan v. City of Tigard,* 1994). In April 2024, the U. S. Supreme Court ruled that Impact fees, even legislatively adopted impact fees, are subject to *Nollan* and *Dolan*.

Defining "Nexus." The nexus required to justify exactions and impact fees can be thought of as having the three elements discussed below. We think proportionality is logically included as one element of that nexus, even though it was discussed separately in *Dolan v. Tigard.* The elements of the nexus discussed below mirror the three "reasonable relationship" findings required by the Mitigation Fee Act for establishment and imposition of impact fees.

<u>1. Need or Impact</u>**.** An agency imposing impact fees must demonstrate that a development project subject to those fees will create a need for the facilities to be funded by the impact fees. All new development in a community creates additional demands on

some or all public facilities provided by local government. If the capacity of facilities is not increased to satisfy the additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is related to the development project subject to the fees.

The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate impacts created by the development projects upon which they are imposed. In this study, the impact of development on facility needs is analyzed in terms of quantifiable relationships between various types of development and the demand for public facilities based on applicable level-of-service standards. This report contains all of the information needed to demonstrate compliance with this element of the nexus.

<u>2. Benefit.</u> An agency imposing impact fees must demonstrate that a development project subject to those fees will benefit from the facilities funded by the impact fees. With respect to the benefit relationship, the most basic requirement is that facilities funded by impact fees be available to serve the development paying the fees. A sufficient benefit relationship also requires that impact fee revenues be segregated from other funds and expended in a timely manner on the facilities for which the fees were charged. Nothing in the U.S. Constitution or California law requires that facilities paid for with impact fee revenues be available <u>exclusively</u> to development projects paying the fees.

Procedures for earmarking and expenditure of fee revenues are mandated by the Mitigation Fee Act, as are procedures to ensure that the fees are either expended in a timely manner or refunded. Those requirements are intended to ensure that developments benefit from the impact fees they are required to pay. Thus, over time, procedural issues as well as substantive issues can come into play with respect to the benefit element of the nexus.

<u>3. Proportionality.</u> An agency imposing impact fees must demonstrate that the amount of those fees is proportional to the impact created by development projects subject to the fees. Proportionality in impact fees depends on properly identifying development-related facility costs and calculating the fees in such a way that those costs are allocated in proportion to the facility needs created by different types and amounts of development. The section on impact fee methodology, below, describes methods used to allocate facility costs and calculate impact fees that meet the proportionality standard.

California Constitution. The California Constitution grants broad police power to local governments, including the authority to regulate land use and development. That police power is the source of authority for local governments in California to impose impact fees on development. Some impact fees have been challenged on grounds that they are special taxes imposed without voter approval in violation of Article XIIIA. Impact fees calculated in this report do not exceed the cost of providing facilities needed to serve new development and, thus, are not special taxes requiring voter approval pursuant to Article XIIIA.

Articles XIIIC and XIIID, added to the California Constitution by Proposition 218 in 1996, require voter approval for some “property-related fees,” but exempt “the imposition of fees or charges, as a condition of property development.” Thus, impact fees are exempt from those requirements.

The Mitigation Fee Act. California’s impact fee statute originated in Assembly Bill 1600 during the 1987 session of the Legislature and took effect in January 1989. AB 1600 added several sections to the Government Code, beginning with Section 66000. Since that time, the impact fee statute has been amended from time to time, and in 1997 was officially titled the “Mitigation Fee Act.” Unless otherwise noted, code sections referenced in this report are from the Government Code.

The Mitigation Fee Act does not limit the types of capital improvements for which impact fees may be charged. It defines public facilities very broadly to include "public improvements, public services and community amenities." Although the issue is not specifically addressed in the Mitigation Fee Act, both case law and statute (see Government Code Section 65913.8) clarify that impact fees may not be used to pay for ongoing maintenance or operating costs. Consequently, the fees calculated in this report are based on the cost of capital assets only.

The Mitigation Fee Act does not use the term “mitigation fee” except in its official title. Nor does it use the common term “impact fee.” The Act simply uses the word “fee,” which is defined as “a monetary exaction, other than a tax or special assessment…that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project ….”

To avoid confusion with other types of fees, this report uses the widely accepted term “impact fee” which should be understood to mean “fee” as defined in the Mitigation Fee Act.

The Mitigation Fee Act contains requirements for establishing, increasing and imposing impact fees. They are summarized below. It also contains provisions that govern the collection and expenditure of fees and requires annual reports and periodic re-evaluation of impact fee programs. Those administrative requirements are discussed in the implementation chapter of this report.

<u>Required Findings</u>**.** Section 66001 (a) requires that an agency establishing, increasing or imposing impact fees, must make findings to:

1. Identify the purpose of the fee
2. Identify the use of the fee; and
3. Determine that there is a reasonable relationship between the use of the fee and the development type on which it is imposed
4. Determine that there is a reasonable relationship between the need for the facility and the type of development on which the fee is imposed

In addition, Section 66001 (b) requires that in any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall 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 attributable to the development on which the fee is imposed.

The requirements outlined above are discussed in more detail below.

Identifying the Purpose of the Fees. The broad purpose of impact fees is to protect public health, safety and general welfare by providing for adequate public facilities. The specific purpose of the fees calculated in this study is to fund acquisition or construction of certain capital assets that will be needed to mitigate the impacts of planned new development on District facilities, and to maintain an acceptable level of public services as the District grows.

This report recommends that findings regarding the purpose of an impact fee should define the purpose broadly, as providing for the funding of adequate public facilities to serve additional development.

Identifying the Use of the Fees. According to Section 66001(a)(2), if a fee is used to finance public facilities, those facilities must be identified. A capital improvement plan may be used for that purpose but is not mandatory if the facilities are identified in a General Plan, a Specific Plan, or in other public documents. Section 66002 (b) requires that if a capital improvement plan is used to identify the facilities, it must be updated annually.

However, a new provision in Section 66016.5(a)(6), which was added by AB 602 in 2021, requires that large jurisdictions adopt a capital improvement plan as part of an impact fee study. That requirement applies to impact fee nexus studies adopted after January 1, 2022. “Large jurisdiction” means a county of 250,000 or more or any city within that county. Section 66002 (a) states that the capital improvement plan shall indicate the approximate location, size, time of availability and estimates of cost for all facilities or improvements to be financed with the fees. That amendments contained in AB 602 appears to override the original language of Section 66001(a)(2), so that a capital improvement plan (CIP) is no longer optional. A CIP is now required for all new impact fee nexus studies adopted by large jurisdictions. The annual update requirement for the CIP appears to remain in effect.

Reasonable Relationship Requirement. As discussed above, Section 66001 requires that, for fees subject to its provisions, a "reasonable relationship" must be demonstrated between:

1. the use of the fee and the type of development on which it is imposed;
2. the need for a public facility and the type of development on which a fee is imposed; and,

3. the amount of the fee and the facility cost attributable to the development on which the fee is imposed.

Development Agreements and Reimbursement Agreements. The requirements of the Mitigation Fee Act do not apply to fees collected under development agreements (see Govt. Code Section 66000) or reimbursement agreements (see Govt. Code Section 66003). The same is true of fees in lieu of park land dedication imposed under the Quimby Act (see Govt. Code Section 66477).

Existing Deficiencies. In 2006, Section 66001(g) was added to the Mitigation Fee Act (by AB 2751) to clarify that impact fees "shall not include costs attributable to existing deficiencies in public facilities…" The legislature's intent in adopting this amendment, as stated in the bill, was to codify the holdings of *Bixel v. City of Los Angeles* (1989), *Rohn v. City of Visalia* (1989), and *Shapell Industries Inc. v. Governing Board* (1991).

Section 66001(g) also states that impact fees "may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to *(1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.*" (Emphasis added.)

Impact Fees for Existing Facilities. Impact fees may be used to recover costs for existing facilities to the extent that those facilities are needed to serve additional development and have the capacity to do so. In other words, it must be possible to show that fees used to pay for existing facilities meet the need and benefit elements of the nexus. As a practical matter, such fees are difficult to implement unless the fees are needed to repay outstanding debt related to the facilities in question.

Recent Legislation

Several new laws enacted by the State of California since 2019 to facilitate development of affordable housing bear on the implementation of impact fees calculated in this study. Below are brief overviews of some key bills passed since 2019.

SB 330 – The Housing Crisis Act of 2019. SB 330 (amended and clarified in 2021 by SB 8) contained a variety of amendments designed to promote affordable housing. Among them was a provision in Government Code Section 65589.5 that prohibits the imposition of new approval requirements on a housing development project once a preliminary application has been submitted. That provision applies to increases in impact fees except when the resolution or ordinance establishing the fee authorizes automatic, inflationary adjustments to the fee or exaction. These provisions will remain in effect until January 1, 2030.

AB 1483 – Housing Data: Collection and Reporting (2019). AB 1483 added Section 65490.1 to the Government Code, and requires that a city, county or special district must post on its website a current schedule of its fees and exactions, as well as associated nexus studies and annual reports. Updates must be posted within 30 days.

SB 13 – Accessory Dwelling Units (2019). SB 13 amended Government Code Section 65852.2 to prohibit the imposition of impact fees on accessory dwelling units (ADUs) smaller than 750 square feet and to require that impact fees for ADUs of 750 square feet or more must be proportional to the square footage of the primary dwelling unit. The proportionality requirement means that impact fees for ADUs of 750 square feet or more must be calculated on a case-by-case basis during the approval process.

Existing law requires a water or sewer connection fee or capacity charge for an accessory dwelling unit requiring a new or separate utility connection to be based on either the accessory dwelling unit's size or the number of its plumbing fixtures. SB 13 revises the basis for calculating the connection fee or capacity charge to either the accessory dwelling unit's square feet or the number of its drainage fixture units.

AB 602 – Amendments to the Planning and Land Use Law and the Mitigation Fee Act (2021). AB 602 adds Section 65940.1 to the Planning and Land Use Law requiring cities, counties and special districts that have internet websites to post schedules of fees, exactions and affordability requirements, annual fee reports, and an archive of nexus studies on that website, and to update that information within 30 days after any changes.

AB 602 also adds Section 66016.5 to the Mitigation Fee Act imposing several new requirements for impact fees that went into effect in 2022, including:

- A nexus study must identify the existing level of service for each facility, identify the proposed new level of service (if any), and explain why the new level of service is appropriate.
- If a nexus study supports an increase in an existing fee the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of the fees collected under the original fee.
- Large jurisdictions (counties over 250,000 and cities within those counties) must adopt a capital improvement plan as part of the nexus study.
- All impact fee nexus studies shall be adopted at a public hearing with at least 30 days' notice, and the local agency shall notify any member of the public that requests notice of intent to begin and impact fee nexus study of the date of the hearing.
- Nexus studies shall be updated at least every eight years, from the period beginning on January 1, 2022.
- A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units in the development. A nexus study is not required to comply with this requirement if the local agency makes certain findings specified in the law. A local agency that imposes a fee proportionately to the square footage of units in the development shall be deemed to have used a valid method to establish a

reasonable relationship between the fee charged and the burden posed by the development.

- Authorizes any member of the public, including an applicant for a development project, to submit evidence that impact fees proposed by an agency fail to comply with the Mitigation Fee Act, and requires the legislative body of the agency to consider such evidence and adjust the proposed fee if deemed necessary.

AB 516 – Amendments to the Mitigation Fee Act (2023). AB 516, which took effect on January 1, 2024, amends Government Code Section 66006 to add certain requirements to the annual reports mandated by that section. Specifically, Section 66006 now requires that:

- Annual reports indicate whether construction on public improvements identified in previous annual reports began on the approximate date shown in the previous annual report; and,
- If a project failed to start construction on schedule, the annual report must explain the reason for the delay and provide a revised approximate date when construction will begin.

AB 516 also amends Section 66023 to provide that when a person requests an audit of a fee or charge levied by a local agency, that audit may address when revenue generated by that fee or charge is scheduled to be expended, and when the public improvement to be funded by that fee or charge is scheduled to be completed. Prior to this amendment, the only stated purpose of such an audit was to determine whether such a fee or charge exceeds the amount reasonably necessary to cover the cost of any product, public facility or service provided by the local agency.

Impact Fee Calculation Methodology

The methods used to calculate impact fees in this study are designed to comply with all of the legal requirements discussed earlier in this chapter. Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics of, and planning requirements for, the type of facility being addressed. To some extent those methods are interchangeable, because they all allocate facility costs in proportion to the needs created by development.

Allocating facility costs to various types and amounts of development is central to all methods of impact fee calculation. Costs are allocated by means of formulas that quantify the relationship between development and the need for facilities. In a cost allocation formula, the impact of development is represented by some attribute of development such as added population or added vehicle trips that represent the impacts created by different types and amounts of development.

Although it is not mandatory, this study adopts the nomenclature used in the Impact Fee Nexus Study Templates prepared by the Terner Center for Housing Innovation at UC Berkeley to describe impact fee calculation methods. Those templates were prepared for

The California Department of Housing and Community Development pursuant to Section 50466.5 of the Health and Safety Code and are cited in AB 602.

Planned Facility Method. With this method, impact fees are calculated so that new development will pay for the planned expansion of facilities at the future standard attributable to new development. To calculate the cost per unit of demand, the cost of planned facilities is divided by the amount of demand that will be created by new development. The impact fees depend on the cost of planned future facilities and a plan for future development, so the fees should be recalculated if facility plans or development plans change.

Existing Inventory Method. With this method, impact fees are calculated so that new development will fund expansion of facilities at the same standard currently used to serve existing development. To calculate the cost per unit of demand, the value of existing facilities is divided by the amount of demand associated with existing development. This method allows impact fees to be calculated without a list of planned facilities, but such a list is required by AB 602 as part of a Capital Improvement Plan that must be adopted with any new impact fee nexus study. This approach can be used to calculate impact fees for many types of public facilities but is usually not appropriate for facilities such as transportation improvements or water, wastewater or drainage systems where improvement needs must be determined by engineering analysis.

System Plan Method. With this method, impact fees are calculated so that new development pays for its share of the cost of an integrated system of facilities serving both existing and new development. To calculate the cost per unit of demand, the value of existing facilities plus the cost of planned facilities is divided by the combined demand associated with both existing development and planned development. This approach is especially appropriate for impact fees for fire protection and EMS facilities because new facilities must be planned to integrate geographically with existing facilities.

Impact Fees for Accessory Dwelling Units (ADUs)

SB 477, enacted in 2024, relocated and consolidated California's ADU laws into a new Government Code Chapter (Chapter 13, Division 1, Title 7). Recent amendments to ADU law provide that impact fees may not be imposed on ADUs smaller than 750 square feet and establish the following requirement for impact fees imposed on ADUs of 750 square feet or more:

> "Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit."

The proportionality requirement depends on the square footage of both the primary unit and the ADU, which necessitates that impact fees for ADUs be calculated on a case-by-case basis. Consequently, this report does not calculate a schedule of impact fees for ADUs. The formula for calculating proportional ADU impact fees is:

Primary unit impact fee X (ADU square feet / Primary unit square feet)

Facilities Addressed in this Study

Impact/in-lieu fees for the following types of facilities are addressed in this report:

- Park Land and Park Improvements
- Recreation Facilities
- Open Space and Trails

Each of those facilities is addressed in a separate chapter of this report, beginning with Chapter 3. Chapter 2 contains data on existing and future development used in the impact fee analysis.

Chapter 2. Development Data

This chapter presents data on existing and future development that will be used to calculate impact fees in subsequent chapters of this report. The information in this chapter may be used to establish levels of service, analyze facility needs, and/or allocate the cost of capital facilities between existing and future development and among various types of new development.

Study Area

The study area for the City of Brisbane (City) in this study is the planning area defined in the City's current General Plan which was adopted in 1994. That area encompasses both the existing City and the small Sphere of Influence consisting primarily of open space.

Time Frame

Planned future development in this study is forecasted to buildout of the remaining developable land in the City. The methods used to calculate impact fees in this study do not depend on the timing of future development.

Development Types

The development types for which impact fees are calculated in this report are discussed below. Impact fees calculated in this report are intended to be applied based on actual land uses rather than zoning or general plan land use designations. For mixed use development projects, impact fees should be applied to each type of development within the project, consistent with the number of units of development of each type within the project.

Residential Development. Traditionally, impact fees for residential development are based on the type of unit, e.g., single-family, multi-family or mobile home. However, Government Code Section 66016.5(a)(5)(A) which was added to the Mitigation Fee Act by AB 602 in 2021 contains the following requirement:

> "A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units of the development. A local agency that imposes a fee proportionately to the square footage of the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development"

But that requirement is not absolute. Section 66016.5(a)(5)(B) provides that a nexus study is not required to comply with Section 66016.5(a)(5)(A) if the local agency makes a finding that includes all of the following:

1. An explanation as to why square footage is not the appropriate metric to calculate fees imposed on a housing development project.

2. An explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden imposed by the development.
3. That other policies in the fee structure support smaller developments or otherwise ensure that smaller developments are not charged disproportionate fees

The proportionality requirement in Section 66016.5(a)(5)(A) is often interpreted to mean that impact fees must have a linear relationship to unit square footage. That means the fees must increase by the same amount for every added square foot of unit size. Such a fee structure results in impact fees that are necessarily five times as high for a 3,000 square-foot single-family unit as for a 600 square apartment. That type of fee structure is justified only if the actual impact of a 3,000 square-foot unit is five times greater than the impact of a 600 square-foot unit.

Otherwise, the impact fees could violate the "rough proportionality" requirement set forth in the U. S. Supreme Court in *Dolan v. Tigard* [512 U. S. 374 (1994)]. The recent U. S. Supreme Court decision in *Sheetz v. County of El Dorado* [601 U. S. __ (2024)] made clear that *Dolan* applies to all impact fees, whether they are applied ad hoc or legislatively adopted.

This study uses several attributes of development, including added population and added employees to represent the impact of new development on City parks, recreation facilities, open space and trails. We use those attributes to represent the demand created by various types of development for the capital facilities addressed in this study.

What we see in analyzing patterns of service demand is that the relationship between unit size and service demand doesn't necessarily conform to a linear model. While the potential for added population may be five times as great for the largest residential units compared with the smallest units, that increase is not linear. In the real world, population per unit does not increase in a tiny increment for each added square foot. It increases in a stairstep fashion, jumping from one person to two persons to three persons per unit and so on.

This study breaks down residential development into tiered square-feet-per-unit ranges and calculates an impact fee for each range or category. That approach allows impact fees to be graduated by unit size while avoiding the distortions that result from a rigid, fixed fee per square foot approach, and while respecting the need for rough proportionality between the fees and the impact of development as set forth in *Dolan v. Tigard*.

Based on the foregoing discussion, we propose that the City of Brisbane City Council adopt the following findings pursuant to Government Code Section 66016.5(a)(5)(B) to justify the use of tiered square footage ranges for residential development in this study rather than a fixed fee-per-square-foot approach:

4. A fixed fee-per-square-foot approach would not reflect the actual impact of different-sized residential units on the facilities addressed in this study and would not meet the rough proportionality standard set forth in *Dolan v. Tigard*.
5. The use of tiered square footage ranges rather than a fixed fee per square foot approach better reflects the relationship between the fees charged and the actual burden imposed by various types of development.
6. Calculating impact fees for tiered square footage ranges rather than a fixed fee per square foot still ensures that smaller developments are not charged disproportionate fees because that approach allows the impact fees to be tailored to the actual impacts created by smaller developments, while protecting larger units from excessive fees.

As discussed above, residential development categories are defined in this study by ranges of unit sizes rather than by unit types (e.g., single-family or multi-family) as is the case for the City's existing impact fees. Unit-size ranges used to define residential development in this study are listed below.

- Residential <800 Square Feet per Unit
- Residential >800-1,200 Square Feet per Unit
- Residential <1,200-2,100 Square Feet per Unit
- Residential >2,100 Square Feet per Unit

Each of these unit-size ranges is typical of units with a certain number of bedrooms, ranging from studio and one-bedroom apartments up to single-family units with four or more bedrooms.

Non-Residential Development. Non-residential development types used in this study are:

- Commercial
- Hotel/Motel
- Office
- Life Science/R&D
- Industrial
- Warehouse

The impact fees calculated in this report are intended to be applied to development projects, or portions of projects, based on the actual type of development being constructed. Except for the Hotel/Motel category, which is measured in terms of guest rooms, the non-residential development types listed above are measured in terms of gross leasable floor area in thousands of square feet (KSF).

Public Facilities, Public Schools and Parks. In addition to the development types listed above, the development tables presented later in this chapter include public (government) facilities, not including public schools or parks. Public schools are not included on the assumption that public school students are already accounted for as residents of the City. Parks are not included because parks themselves do not create a need for parks, recreation facilities, open space or trails.

The City does not impose impact fees on public facilities, either because of legal constraints or because it would be imposing the fees on itself, which serves no purpose. However, like other employees in the City, employees associated with public facilities uses may create a demand for parks, recreation facilities, open space and trails.

Other types of Development. The development types for which impact fees are calculated in this study will encompass most new development in the City, but there may be some non-residential development projects that are not compatible with any of the established fee categories. In such cases, it is possible for City staff to calculate a project-specific impact fee at the time a project is approved.

To calculate customized impact fee for parks recreation facilities and trails, it would be necessary to estimate the number of additional employees associated with the project. Then, that number would be multiplied by the appropriate normalized service population weight from Table 2.2, later in this chapter and then by the cost per capita for the relevant facility type.

Demand Variables

To calculate impact fees, the relationship between facility needs and development must be quantified in cost allocation formulas. Certain measurable attributes of development (for example, added population) are used as "demand variables" in those formulas to represent the impact of different types of development on various types of facilities.

Demand variables are selected either because they directly measure the service demand created by various types of development, or because they are reasonably correlated with that demand.

Demand variables have specific values for each type of development defined in this study. Those values may be referred to as "demand factors*.*" So, if the demand variable used to calculate impact fees for a particular type of facility is added service population, the demand factor for a specific category of residential development would be the service population per unit for that category.

The demand variable used in this study is discussed below. Specific demand factors can be found in Table 2.3.

Service Population*.* Service population is used in this study as the demand variable for parks, recreation facilities and trails. Service population is intended to approximate the number of people using those facilities on an average day. It is difficult to estimate that number precisely for several reasons. Some residents work in the City, some residents commute to work outside the City, and some residents don't work at paid jobs. In addition, non-residents may be present in the City for work, shopping, recreation, or any number of other reasons.

Service population includes both resident population and employees of businesses in the City. Residents and employees are weighted differently in the service population. Each added resident is given a weight of 1.0, while the weight of an added employee varies for different types of businesses. Employee weights are all less than 1.0, as shown in Table 2.2, below.

Population per Unit. Table 2.1 shows the estimated average population per unit for each residential unit-size category. The unit-size categories shown in Table 2.1 are based on the number of bedrooms per unit as shown in American Community Survey (ACS) Table B25041, which also shows the number of units in each category. Average population per unit is assumed to increase with unit size. The estimated population per unit factors are adjusted using the overall average population per unit and total population as controls. The results are cross-checked against ACS Table B25001 which shows the mix of household sizes in the City.

Table 2.1. Population per Unit by Unit Size

Unit Size in Sq Ft [1]	No. of Bedrms	No. of Units [2]	% of Units	Pop at 2.25 per Unit [3]	Est Pop per Unit [4]	Adjusted Pop [5]
<800	0 or 1	557	26.3%	1,253	1.00	557
800-1,200	2	646	30.5%	1,454	1.95	1,260
>1,200-2,100	3	634	30.0%	1,427	2.95	1,870
>2,100	4+	279	13.2%	628	3.95	1,102
Total/Average		2,116	100.0%	4,761	2.26	4,789

[1] Estimated square-feet-per-unit ranges based on number of bedrooms

[2] Distribution of units by number of bedrooms from American Community Survey (ACS) Table B25041, 2022 1-Year estimates

[3] Population for all units in each square-footage range if all units were occupied by the overall average of 2.25 persons per unit

[4] Estimated population per unit by NBS

[5] Adjusted population = number of units X estimated population per unit

Service Population Weighting. In this study, residents are assigned a base weight that reflects the average number of hours per week that residents spend in the City. The base weight is established by an analysis of Census Bureau data on how many residents are employed, how many work in the city and how many commute to work outside the City. In addition, we assume the average resident spends eight hours a week outside the City for activities like shopping and recreation.

Census Bureau American Community Survey (ACS) data for 2022 show that about 60% of Brisbane residents aged 16 and over are employed, and that about 78% of employed residents work outside the City.

Assuming that out-commuters spend 47.5 hours a week (9.5 hours per day) outside the City for work and commuting, and that all residents spend an average of eight hours a week outside the City for shopping and recreation leads us to the conclusion that out-commuters spend an average of 112.5 (168 - 47.5 - 8 = 112.5) hours per week in the City.

Assuming other residents spend 160 (168 - 8 = 160) hours per week in the City, the weighted average for all residents is 141.5 hours per week in the City. Dividing that number by 168 hours per week gives us a weight of 0.842 for all residents (population) of the City.

Service population weights for employees associated with different types of development are based on estimates of the number of hours per week businesses of a certain type are in operation. This study assumes that retail and service commercial businesses operate 12 hours a day, 7 days a week (84 hours). For professional offices, industrial uses and public facilities, that number is estimated to be 45 hours (9 hours a day, 5 days a week). The weights assigned to employees of businesses associated with various types of non-residential development are based on the hours per week of operation divided by 168 total hours per week. The hours per week for each development as well as the weighting factor for each type of development are shown in Table 2.2, below.

Finally, for simplicity, all of the service population base weights are normalized by dividing them by residential base weight of 0.842 so that the normalized weight for residential population equals 1.0 and the weight for each of the non-residential components is increased proportionately. The resulting service population weights are shown in Table 2.2. Service-population-per-unit factors based on the normalized service population weights are shown in Table 2.3.

Table 2.2: Service Population Weights

Development Type	Avg Hrs per Wk [1]	Total Hrs per Week	Base Svc Pop Weight [2]	Normalized Svc Pop Wt [3]
Residential	141.5	168.0	0.842	1.000
Commercial/Retail	84.0	168.0	0.500	0.594
Hotel/Motel	84.0	168.0	0.500	0.594
Office	45.0	168.0	0.268	0.318
Life Science/R&D	45.0	168.0	0.268	0.318
Industrial	45.0	168.0	0.268	0.318
Warehouse	45.0	168.0	0.268	0.318
Public Facilities	45.0	168.0	0.268	0.318

[1] Expected average hours per week of business operation

[2] Base service population weight = average hours per week / total hrs per week

[3] Service population weight normalized to residential service population weight = base population weight / residential base service population weight

Demand Factors

Table 2.3 shows the service-population-per-unit factors used in this study for each type of development.

Table 2.3: Demand Factors

Development Type	Dev Units [1]	Pop per Unit [2]	Employees per Unit [3]	Svc Pop per Unit [4]
Residential <800 Sq. Ft. Unit	DU	1.00		1.00
Residential 800-1,200 Sq. Ft. Unit	DU	1.95		1.95
Residential 1,200-2,100 Sq. Ft. Unit	DU	2.95		2.95
Residential >2,100 Sq. Ft. Unit	DU	3.95		3.95
Commercial	KSF		1.72	1.02
Hotel/Motel	Room		1.00	0.59
Office	KSF		3.23	1.03
Life Science/R&D	KSF		2.86	0.91
Industrial	KSF		2.00	0.64
Warehouse	KSF		1.00	0.32
Public Facilities	KSF		3.00	0.95

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

[2] See Table 2.1

[3] Employees per unit provided by the City of Brisbane Community Development Dept.

[4] Service population per unit based on population per unit and employees per unit X the normalized service population weights from Table 2.2

Existing and Future Development

Tables 2.4 through 2.6, beginning on the next page, present summaries of existing and future development by development type in Brisbane. Table 2.4 shows estimated existing development as of January 1, 2024.

Table 2.4: Existing Development as of January 2024

Development Types	Dev Units [1]	Existing Units [2]	Existing Pop [2]	Existing Empl [3]	Existing Svc Pop [4]
All Residential	DU	2,076	4,645		4,645
Commercial	KSF	125.1		216	128
Hotel/Motel	Room	387		387	230
Office	KSF	695.4		2,243	713
Life Science/R&D	KSF	561.0		1,603	510
Industrial	KSF	756.6		1,513	481
Warehouse	KSF	4,356.4		4,356	1,385
Public Facilities	KSF	85.3		256	81
Total			**4,645**	**10,574**	**8,174**

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite;

[2] Existing residential units and population from the California Department of Finance (DOF) 2024 E-5 report; existing hotel/motel rooms provided by the City of Brisbane Finance Dept.; existing non-residential units provided by the City of Brisbane Community Development Department

[3] Existing employees = existing units X employees per unit from Table 2.3

[4] Existing service population = existing units X service population per unit from Table 2.3

Table 2.5 on the next page shows projected future development in Brisbane to buildout.

Table 2.5: Forecasted Future Development to Buildout

Development Types	Dev Units [1]	Added Units [2]	Added Pop [3]	Added Empl [4]	Added Svc Pop [5]
All Residential	DU	3,003	6,607		6,607
Commercial	KSF	140.0		241	143
Hotel/Motel	Room	1,408.0		1,408	836
Office	KSF	2,770.6		8,937	2,842
Life Science/R&D	KSF	5,366.5		15,333	4,876
Industrial	KSF	(69.4)		(139)	(44)
Warehouse	KSF	1,156.0		1,156	368
Public Facilities	KSF	121.2		364	116
Total			**6,607**	**27,300**	**15,743**

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite;

[2] Added units estimated by the Brisbane Community Development Department; estimates include buildout of the Baylands Specific Plan Area; future units for Public Facilities, Public Schools and Parks assumed to increase at the same rate as population

[3] Added population assumes average 2.2 occupants per added residential unit

[4] Added employees = added non-residential units X employees per unit from Table 2.3

[5] Added residential service population = added population; added non-residential service population = added non-residential units X service pop per unit from Table 2.3

Table 2.6 shows projected total development in Brisbane at buildout.

Table 2.6: Buildout Development

Development Types	Dev Units [1]	Buildout Units [2]	Buildout Pop [2]	Buildout Empl [2]	Buildout Svc Pop [2]
All Residential	DU	5,079	11,252		11,252
Commercial	KSF	265.1		457	271
Hotel/Motel	Room	1,795.0		1,795	1,066
Office	KSF	3,466.0		11,181	3,556
Life Science/R&D	KSF	5,927.5		16,936	5,386
Industrial	KSF	687.2		1,374	437
Warehouse	KSF	5,512.4		5,512	1,753
Public Facilities	KSF	206.5		620	197
Total			**11,252**	**37,875**	**23,918**

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite;

[2] Figures in this table = the sum of the corresponding figures from the Tables 2.4 and 2.5

Growth Potential

The numbers presented in Tables 2.4 through 2.6 indicate that projected growth in the City between 2024 and buildout will represent large percentage increases of 142% in population and 258% in employment, mostly as a result of development in the Baylands Specific Plan Area. The impact fees calculated in this report are intended to pay for capital facilities and other capital assets needed by the City to serve that additional development.

Chapter 3. Park Land and Park Improvements

This chapter calculates impact fees for both park land acquisition and park improvements. Chapter 16.24 of the Brisbane Municipal Code requires that residential subdivisions dedicate land for parks or pay fees in lieu of dedication pursuant to the Quimby Act (Govt. Code Section 66477) which is part of the Subdivision Map Act. Based on direction from City staff, this report assumes that the park land impact fees calculated in this chapter will be applied to residential subdivisions that do not dedicate park land, rather than in-lieu fees calculated pursuant to Chapter 16.24. City staff has proposed an amendment to Chapter 16.24 to reflect this revised approach.

This chapter calculates separate impact fees for park land and park improvements. Impact fees for park land and park improvements, as well as for other facilities addressed in this report are governed by the Mitigation Fee Act.

To be clear, the park improvement impact fees calculated in this chapter are intended to be charged in addition to any dedication of park land or payment of park land impact fees by a development project. Park improvement impact fees, if enacted by the City, would apply to all new development in Brisbane, separately from contributions toward acquisition of park land.

Service Area

Impact fees calculated in this chapter are intended to apply to all new development in the City.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain the existing level of service as the City grows.

Demand Variable

A "demand variable" is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate park impact fees in this chapter is service population. See chapter 2 for a detailed discussion of service population.

Existing Level of Service

In 2021, AB 602 added Section 66016.5 to the Mitigation Fee Act. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service. The impact fees calculated in this chapter are based on the existing level of service as shown in Table 3.2 on the next page. Those impact fees will generate revenue needed for facilities to serve new development to appropriately maintain the same level of service as for the existing service population.

Table 3.1 lists the City's existing parks and shows City-owned park acreage and acres of parks improved by the City.

Table 3.1: Existing Parks

Park Name	Location	City-Owned Park Acres [1]	Improved Park Acres
Community Center Park	250 Visitacion Avenue	0.12	0.12
Community Park	5 Old County Road	2.82	2.82
Brisbane Dog Park	50 Park Place	0.54	0.54
Firth Park and Canyon	201 Glen Park Way	0.27	0.27
Fisherman's Park	@ Brisbane Lagoon	0.25	0.25
Mission Blue Complex	475 Mission Blue Drive	4.95	3.85
Quarry Road Park	399 San Francisco Ave	0.20	0.20
Tot Lot Playground/Park	4 Solano Street	0.25	0.25
Marina Park	Sierra Point Parkway	3.00	3.00
Skatepark	Old County Rd & Park Ln	0.12	0.12
Basketball Courts (2)	Old County Rd & Park Ln	0.16	0.16
Tennis Courts (2)	1 Solano St	School Land	0.34
Total		**12.67**	**11.91**

Source: City of Brisbane Parks and Recreation Department; acreage shown for the Mission Blue Complex excludes the site of the Mission Blue Center

[1] "School land" means that a facility was constructed by the City on land owned by a school district

Table 3.2 calculates the existing level of service in terms of acres per capita of service population for improved park land in the City. The level of service used in this chapter is based on improved park acres because a 2019 decision by the California Court of Appeal in *Boatworks, LLC v. City of Alameda* found that parks not yet open to the public could not be used as the basis for establishing the existing level of service used to calculate park impact fees.

Table 3.2: Existing Level of Service - Parks

Total Improved Park Acres [1]	Existing Service Population [2]	Existing Acres per Capita [3]	Existing Acres per 1,000 [4]
11.91	8,174	0.00146	1.46

[1] See Table 3.1

[2] See Table 2.4

[3] Existing acres per capita of service population = existing improved park acres /existing service population

[4] Existing acres per 1,000 service population = existing acres per capita X 1,000

Cost Per Capita

Table 3.3 calculates the cost per capita of service population for park land acquisition and park improvements based on the existing acres per capita from Table 3.2 and the estimated cost per acre for park land and park improvements.

Table 3.3: Cost per Capita - Park Land and Park Improvements

Fee Type	Acres per Capita [1]	Cost per Acre[2]	Cost per Capita[3]
Park Land Acquisition	0.00146	$ 3,500,000	$ 5,110.00
Park Improvements	0.00146	$ 575,000	$ 839.50

[1] See Table 3.2

[2] Park land acquisition cost per acre based on recent land purchase by the City; park improvement cost per acre estimated by the City

[3] Cost per capita = acres per capita X cost per acre

In the next section, the per-capita costs from Table 3.3 are used to calculate impact fees per unit of development.

Impact Fees per Unit

Park Land Acquisition. Table 3.4 on the next page shows the calculation of park land impact fees per unit of development, by development type. Those fees are calculated using per-capita costs for park land acquisition from Table 3.3 and service population per unit from Table 2.3 in Chapter 2.

Table 3.4: Impact Fees per Unit - Park Land Acquisition

Development Type	Units [1]	Cost per Capita [2]	Service Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$5,110.00	1.000	$ 5,110.00
Residential 800-1,200 Sq. Ft. Unit	DU	$5,110.00	1.950	$ 9,964.50
Residential 1,200-2,100 Sq. Ft. Unit	DU	$5,110.00	2.950	$ 15,074.50
Residential >2,100 Sq. Ft. Unit	DU	$5,110.00	3.950	$ 20,184.50
Commercial	KSF	$5,110.00	1.020	$ 5,212.20
Hotel/Motel	Room	$5,110.00	0.590	$ 3,014.90
Office	KSF	$5,110.00	1.030	$ 5,263.30
Life Science/R&D	KSF	$5,110.00	0.910	$ 4,650.10
Industrial	KSF	$5,110.00	0.640	$ 3,270.40
Warehouse	KSF	$5,110.00	0.320	$ 1,635.20

[1] Units of development: DU = dwelling unit; KSF = 1,000 square gross square feet of building area; Room = guest room or suite

[2] See Table 3.3

[3] See Table 2.3

[4] Impact fee per unit = cost per capita X service population per unit

Park Improvements. Table 3.5 shows the calculation of park improvement impact fees per unit of development, by development type. Those fees are calculated using per-capita costs for park improvements from Table 3.3 and service population per unit from Table 2.3 in Chapter 2.

Table 3.5: Impact Fees per Unit - Park Improvements

Development Type	Units [1]	Cost per Capita [2]	Service Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$839.50	1.000	$ 839.50
Residential 800-1,200 Sq. Ft. Unit	DU	$839.50	1.950	$ 1,637.03
Residential 1,200-2,100 Sq. Ft. Unit	DU	$839.50	2.950	$ 2,476.53
Residential >2,100 Sq. Ft. Unit	DU	$839.50	3.950	$ 3,316.03
Commercial	KSF	$839.50	1.020	$ 856.29
Hotel/Motel	Room	$839.50	0.590	$ 495.31
Office	KSF	$839.50	1.030	$ 864.69
Life Science/R&D	KSF	$839.50	0.910	$ 763.95
Industrial	KSF	$839.50	0.640	$ 537.28
Warehouse	KSF	$839.50	0.320	$ 268.64

[1] Units of development: DU = dwelling unit; KSF = 1,000 square gross square feet of building area; Room = guest room or suite

[2] See Table 3.3

[3] See Table 2.3

[4] Impact fee per unit = cost per capita X service population per unit

Projected Revenue

Potential revenue from park land impact fees is projected in Table 3.6. Because we are unable to forecast the number of new units that will be constructed in each residential unit size category, potential revenue is projected in Table 3.6 on the basis of added service population and the cost per capita of service population. Note that the negative revenue number for industrial development in Table 3.6 reflects credits that would be applied to impact fees for new development that replaces existing industrial development.

Table 3.6: Projected Revenue - Park Land Impact Fees

Development Type	Added Service Pop [1]	Cost per Capita [2]	Projected Revenue [3]
All Residential	6,607	$5,110.00	$ 33,761,770
Commercial	143	$5,110.00	$ 730,730
Hotel/Motel	836	$5,110.00	$ 4,269,916
Office	2,842	$5,110.00	$ 14,520,576
Life Science/R&D	4,876	$5,110.00	$ 24,916,360
Industrial	(44)	$5,110.00	$ (224,840)
Warehouse	368	$5,110.00	$ 1,880,480
Total	**15,627**		**$ 79,854,992**

[1] See Table 2.5

[2] See Table 3.3

[3] Projected revenue = added service population X cost per capita

Potential revenue from park improvement impact fees is projected in Table 3.7. Because we are unable to forecast the number of new units that will be constructed in each residential unit size category, potential revenue is projected in Table 3.7 on the basis of added service population and the cost per capita of service population. Note that the negative revenue number for industrial development in Table 3.7 reflects credits that would be applied to impact fees for new development that replaces existing industrial development.

Table 3.7: Projected Revenue - Park Improvement Impact Fees

Development Type	Added Service Pop [1]	Cost per Capita [2]	Projected Revenue [3]
All Residential	6,607	$839.50	$ 5,546,577
Commercial	143	$839.50	$ 120,049
Hotel/Motel	836	$839.50	$ 701,486
Office	2,842	$839.50	$ 2,385,523
Life Science/R&D	4,876	$839.50	$ 4,093,402
Industrial	(44)	$839.50	$ (36,938)
Warehouse	368	$839.50	$ 308,936
Total	**15,627**		**$ 13,119,034**

[1] See Table 2.5

[2] See Table 3.3

[3] Projected revenue = added service population X cost per capita

Planned Improvements

Details regarding planned expenditure of park land and park improvement impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Updating the Fees

The impact fees calculated in this chapter are based the current estimated cost of park land and improvements. We recommend that the fees be reviewed annually and adjusted as needed using local cost data or an index such as the *Engineering News Record* Construction Cost Index (CCI). See the Implementation Chapter for more on indexing of fees.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;
b. The need for the facility and the type of development on which the fee is imposed; and
c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the “rational nexus” and “rough proportionality” standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see “Legal Framework for Impact Fees” in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to mitigate the impact of new development on the need for parks in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to provide additional parks described in the City’s Capital Improvement Plan to mitigate the impacts of new development in the City. As provided by the Mitigation Fee Act, revenue from impact fees may also be used for temporary loans from one impact fee fund or account to another.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to provide additional parks to serve the needs of added service population associated with new development in Brisbane.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. New development will increase the need for parks to maintain the existing level of service, as described earlier in this chapter. Without additional parks, the increase in service population associated with new development in the City would result in a reduction in the level of service provided to the entire City.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the park impact fees charged to a development project will depend on the increase in service population associated with that project. The fees per unit of development calculated in this chapter for each type of development are based on the estimated average service population per unit for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for parks in the City.

Chapter 4. Recreation Facilities

This chapter calculates impact fees for recreation facilities needed to maintain the existing level of service in Brisbane as the City grows.

Service Area

Impact fees calculated in this chapter are intended to apply to all new development in the City.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain the existing level of service as the City grows.

Demand Variable

A "demand variable" is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for recreation facilities in this chapter is service population. See chapter 2 for a detailed discussion of service population.

Existing Level of Service

In 2021, AB 602 added Section 66016.5 to the Mitigation Fee Act. That section requires that, after January 1, 2022, the level of service used in an impact fee study must be compared with the existing level of service. The impact fees calculated in this chapter are based on the existing level of service as shown in Table 4.2 below. Those impact fees will generate revenue needed for facilities to serve new development to appropriately maintain the same level of service as for the existing service population.

Table 4.1 on the next page lists the City's existing recreation facilities with their replacement cost, including land. Replacement cost is used here as an indicator of the cost of constructing additional facilities to serve new development.

Table 4.1: Existing Recreation Facilities

Park Name	Location	Site Acres [1]	Land Value [2]	Building Sq Feet [3]	Facility Repl Cost [4]	Impact Fee Cost Basis [5]
Brisbane Community Pool	2 Solano St	0.62	$ 2,169,421	3,066	$ 2,085,698	$ 4,255,119
Childcare Modular	500 San Bruno Av	School Land	$ 0	1,920	$ 400,000	$ 400,000
Community Center/Library	250 Visitacion Av	0.11	$ 385,675	5,449	$ 2,077,660	$ 2,463,335
Mission Blue Center	475 Mission Blue Dr	0.65	$ 2,275,000	7,200	$ 1,981,290	$ 4,256,290
Silverspot Cooperative	4 Solano St	0.06	$ 216,942	2,700	$ 498,582	$ 715,524
Total		**1.44**	**$ 5,047,039**	**17,269**	**$ 7,043,230**	**$ 12,090,269**

[1] Site acres provided by the City of Brisbane Parks and Recreation Department; "In Park" means the facility is located in a park on acreage already covered by the park land impact fees; "School Land" means the facility was constructed by the City on land owned by a school district

[2] Site value = site acres X park land acquisition cost per acre from Table 3.3 in Chapter 3

[3] Building square feet from the City's insured property schedule or the Parks and Recreation Department

[4] Facility replacement cost includes both the fixed asset value and furniture, fixtures and equipment from the City's insured property schedule, where applicable

[5] Impact fee cost basis is the sum of the land value and the facility replacement cost

Existing Level of Service - Cost Per Capita

Table 4.2 calculates the existing level of service in terms of a cost per capita of service population for the City's existing recreation facilities.

Table 4.2: Existing Level of Service - Recreation Facilities

Impact Fee Cost Basis [1]	Existing Service Population [2]	Cost per Capita [3]
$12,090,269	8,174	$1,479.17

[1] See Table 4.1

[2] See Table 2.4

[3] Cost per capita = impact fee cost basis / existing service population

In the next section, the per-capita costs from Table 4.2 are used to calculate impact fees per unit of development.

Impact Fees per Unit

Table 4.3 shows the calculation of recreation facilities impact fees per unit of development, by development type. Those fees are calculated using per-capita costs from Table 4.2 and service population per unit from Table 2.3 in Chapter 2.

Table 4.3: Impact Fees per Unit - Recreation Facilities

Development Type	Units [1]	Cost per Capita [2]	Service Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$1,479.17	1.000	$ 1,479.17
Residential 800-1,200 Sq. Ft. Unit	DU	$1,479.17	1.950	$ 2,884.38
Residential 1,200-2,100 Sq. Ft. Unit	DU	$1,479.17	2.950	$ 4,363.55
Residential >2,100 Sq. Ft. Unit	DU	$1,479.17	3.950	$ 5,842.72
Commercial	KSF	$1,479.17	1.020	$ 1,508.75
Hotel/Motel	Room	$1,479.17	0.590	$ 872.71
Office	KSF	$1,479.17	1.030	$ 1,523.55
Life Science/R&D	KSF	$1,479.17	0.910	$ 1,346.04
Industrial	KSF	$1,479.17	0.640	$ 946.67
Warehouse	KSF	$1,479.17	0.320	$ 473.33

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

[2] See Table 4.2

[3] See Table 2.3

[4] Impact fee per unit = cost per capita X service population per unit

Projected Revenue

Table 4.4. projects potential revenue from the recreation facilities impact fees based on the cost per capita of service population and service population per unit.

Table 4.4: Projected Revenue - Recreation Facilities Impact Fees

Development Type	Added Service Pop [1]	Cost per Capita [2]	Projected Revenue [3]
All Residential	6,607	$1,479.17	$ 9,772,876
Commercial	143	$1,479.17	$ 211,521
Hotel/Motel	836	$1,479.17	$ 1,235,994
Office	2,842	$1,479.17	$ 4,203,209
Life Science/R&D	4,876	$1,479.17	$ 7,212,433
Industrial	(44)	$1,479.17	$ (65,083)
Warehouse	368	$1,479.17	$ 544,335
Total	**15,627**		**$ 23,115,285**

[1] See Table 2.5

[2] See Table 4.3

[3] Projected revenue = added service population X cost per capita

Planned Improvements

Details regarding planned expenditure of the recreation facilities impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Updating the Fees

The impact fees calculated in this chapter are based the current estimated cost of recreation facilities. We recommend that the fees be reviewed annually and adjusted as needed using local cost data or an index such as the *Engineering News Record* Building Cost Index (BCI). See the Implementation Chapter for more on indexing of fees.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;
b. The need for the facility and the type of development on which the fee is imposed; and
c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the "rational nexus" and "rough proportionality" standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see "Legal Framework for Impact Fees" in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to mitigate the impact of new development on the need for recreation facilities in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to provide additional recreation facilities described in the City's Capital Improvement Plan to mitigate the impacts of new development in the City. As provided by the Mitigation Fee Act, revenue from impact fees may also be used for temporary loans from one impact fee fund or account to another.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to provide additional recreation facilities to serve the needs of added service population associated with new development in Brisbane.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. New development will increase the need for recreation facilities to maintain the existing level of service, as described earlier in this chapter. Without additional recreation facilities, the increase in service population associated with new development in the City would result in a reduction in the level of service provided to the entire City.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the recreation facilities impact fees charged to a development project will depend on the increase in service population associated with that project. The fees per unit of development calculated in this chapter for each type of development are based on the estimated average service population per unit for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for recreation facilities in the City.

Chapter 5. Open Space and Trails

This chapter calculates impact fees for open space land acquisition and trail improvements needed to maintain the existing level of service in Brisbane as the City grows.

Service Area

Impact fees calculated in this chapter are intended to apply to all new development in the City.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain the existing level of service as the City grows.

Demand Variable

A “demand variable” is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for recreation facilities in this chapter is service population. See chapter 2 for a detailed discussion of service population.

Existing Level of Service

In 2021, AB 602 added Section 66016.5 to the Mitigation Fee Act. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service. The impact fees calculated in this chapter are based on the existing level of service as shown in Table 5.2 below. Those impact fees will generate revenue needed for facilities to serve new development to appropriately maintain the same level of service as for the existing service population.

Table 5.1 lists the acreage and estimated value of the City’s existing open space parcels and the estimated replacement cost of trail improvements. Replacement cost is used here as an indicator of the cost of constructing additional facilities to serve new development.

Table 5.1: Existing Open Space and Trails

Park Name	Open Space Acres [1]	Open Space Land Value [2]	Trail Length (LF) [3]	Trail Width (Ft) [4]	Trail Square Feet [5]	Trail Impr Cost [6]
Costaños Canyon	1.01	$ 80,800	416	10.0	4,160	$ 83,200
Crocker Trail	5.45	$ 436,364	11,880	12.0	142,560	$2,851,200
Firth Canyon	1.68	$ 134,400				$ 0
Quarry Road Trail	1.19	$ 95,200	2,640	10.0	26,400	$ 528,000
Total	**9.33**	**$ 746,764**				**$3,462,400**

[1] Open space acres provided by the City of Brisbane Parks and Recreation Department

[2] Open space land based on $80,000 per acre

[3] Trail length in linear feet

[4] Trail width in feet

[5] Trail improvements in square feet provided by the Brisbane Parks and Recreation Department

[6] Trail improvement cost = square feet of trail improvements X $20.00 per square foot

Existing Level of Service - Cost Per Capita

Table 5.2 calculates the existing level of service in terms of a cost per capita of service population for the City's existing open space land and improved trails.

Table 5.2: Existing Level of Service - Open Space and Trails

Cost Component	Impact Fee Cost Basis [1]	Existing Service Population [2]	Cost per Capita [3]
Open Space Land	$ 746,764	8,174	$ 91.36
Trail Improvements	$ 3,462,400	8,174	$ 423.60

[1] See Table 5.1; impact fee cost basis = existing land value for open space land and trail improvement cost for trails

[2] See Table 2.4

[3] Cost per capita = impact fee cost basis / existing service population

In the next section, the per-capita costs from Table 5.2 are used to calculate impact fees per unit of development.

Impact Fees per Unit

Impact Fees per Unit – Open Space Land Acquisition. Table 5.3 shows the calculation of open space land acquisition impact fees per unit of development, by development type. Those fees are calculated using per-capita costs from Table 5.2 and service population per unit from Table 2.3 in Chapter 2.

Table 5.3: Impact Fees per Unit - Open Space Land Acquisition

Development Type	Units [1]	Cost per Capita [2]	Service Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$91.36	1.000	$ 91.36
Residential 800-1,200 Sq. Ft. Unit	DU	$91.36	1.950	$ 178.15
Residential 1,200-2,100 Sq. Ft. Unit	DU	$91.36	2.950	$ 269.51
Residential >2,100 Sq. Ft. Unit	DU	$91.36	3.950	$ 360.87
Commercial	KSF	$91.36	1.020	$ 93.19
Hotel/Motel	Room	$91.36	0.590	$ 53.90
Office	KSF	$91.36	1.030	$ 94.10
Life Science/R&D	KSF	$91.36	0.910	$ 83.14
Industrial	KSF	$91.36	0.640	$ 58.47
Warehouse	KSF	$91.36	0.320	$ 29.24

[1] Units of development: DU = dwelling unit; KSF = 1,000 square gross square feet of building area; Room = guest room or suite

[2] See Table 5.2

[3] See Table 2.3

[4] Impact fee per unit = cost per capita X service population per unit

Impact Fees per Unit – Trail Improvements. Table 5.4 shows the calculation of trail improvement impact fees per unit of development, by development type. Those fees are calculated using per-capita costs from Table 5.2 and service population per unit from Table 2.3.

Table 5.4: Impact Fees per Unit - Trail Improvements

Development Type	Units [1]	Cost per Capita [2]	Service Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$423.60	1.000	$ 423.60
Residential 800-1,200 Sq. Ft. Unit	DU	$423.60	1.950	$ 826.02
Residential 1,200-2,100 Sq. Ft. Unit	DU	$423.60	2.950	$ 1,249.62
Residential >2,100 Sq. Ft. Unit	DU	$423.60	3.950	$ 1,673.22
Commercial	KSF	$423.60	1.020	$ 432.07
Hotel/Motel	Room	$423.60	0.590	$ 249.92
Office	KSF	$423.60	1.030	$ 436.31
Life Science/R&D	KSF	$423.60	0.910	$ 385.48
Industrial	KSF	$423.60	0.640	$ 271.10
Warehouse	KSF	$423.60	0.320	$ 135.55

[1] Units of development: DU = dwelling unit; KSF = 1,000 square gross square feet of building area; Room = guest room or suite

[2] See Table 5.2

[3] See Table 2.3

[4] Impact fee per unit = cost per capita X service population per unit

Projected Revenue

Projected Revenue – Open Space Land Acquisition Impact Fees. Table 5.5. projects potential revenue from the open space land acquisition impact fees based on the cost per capita of service population and service population per unit.

Table 5.5: Projected Revenue - Open Space Land Impact Fees

Development Type	Added Service Pop [1]	Cost per Capita [2]	Projected Revenue [3]
All Residential	6,607	$91.36	$ 603,616
Commercial	143	$91.36	$ 13,064
Hotel/Motel	836	$91.36	$ 76,340
Office	2,842	$91.36	$ 259,609
Life Science/R&D	4,876	$91.36	$ 445,471
Industrial	0	$91.36	$ 0
Warehouse	368	$91.36	$ 33,620
Total	**15,671**		**$ 1,431,721**

[1] See Table 2.5

[2] See Table 5.2

[3] Projected revenue = added service population X cost per capita

Projected Revenue – Trail Improvement Impact Fees. Table 5.6. projects potential revenue from the open space land acquisition impact fees based on the cost per capita of service population and service population per unit.

Table 5.6: Projected Revenue - Trail Improvement Impact Fees

Development Type	Added Service Pop [1]	Cost per Capita [2]	Projected Revenue [3]
All Residential	6,607	$423.60	$ 2,798,725
Commercial	143	$423.60	$ 60,575
Hotel/Motel	836	$423.60	$ 353,960
Office	2,842	$423.60	$ 1,203,702
Life Science/R&D	4,876	$423.60	$ 2,065,474
Industrial	(44)	$423.60	$ (18,638)
Warehouse	368	$423.60	$ 155,885
Total	**15,627**		**$ 6,619,682**

[1] See Table 2.5

[2] See Table 5.2

[3] Projected revenue = added service population X cost per capita

Planned Improvements

Details regarding planned expenditure of the open space and trails impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Updating the Fees

The impact fees calculated in this chapter are based on the current estimated value of the City's existing open space parcels and the current estimated replacement cost for trail improvements. We recommend that the fees be reviewed annually and adjusted as needed using local cost data or an index such as the *Engineering News Record* Construction Cost Index (CCI). See the Implementation Chapter for more on indexing of fees.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;
b. The need for the facility and the type of development on which the fee is imposed; and
c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the "rational nexus" and "rough proportionality" standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see "Legal Framework for Impact Fees" in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to mitigate the impact of new development on the need for open space and trails in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to provide additional open space and trails described in the City's Capital Improvement Plan to mitigate the impacts of new development in the City.

As provided by the Mitigation Fee Act, revenue from impact fees may also be used for temporary loans from one impact fee fund or account to another.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to provide additional open space and trails to serve the needs of added service population associated with new development in Brisbane.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. New development will increase the need for open space and trails to maintain the existing level of service, as described earlier in this chapter. Without additional open space and trails, the increase in service population associated with new development in the City would result in a reduction in the level of service provided to the entire City.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the open space and trails impact fees charged to a development project will depend on the increase in service population associated with that project. The fees per unit of development calculated in this chapter for each type of development are based on the estimated average service population per unit for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for open space and trails in the City.

Chapter 6. Implementation

This chapter of the report summarizes requirements for adoption and administration of impact fees, calculated in this study. It was not prepared by an attorney and is not intended as legal advice.

Statutory requirements for the adoption and administration of fees imposed as a condition of development approval (impact fees) are found in the Mitigation Fee Act (Government Code Sections 66000 *et seq.*).

Adoption

The form in which development impact fees are enacted should be determined by the City Attorney. Procedures for adoption of fees subject to the Mitigation Fee Act including notice and public-hearing requirements are specified in Government Code Sections 66016 and 66018. It should be noted that Section 66018 refers to Government Code Section 6062a, which requires that the public hearing notice be published at least twice during the 10-day notice period. However, Section 66016.5 added by AB 602 in 2021 requires that impact fee nexus studies be adopted at a public hearing with at least a 30-day notice.

Government Code Section 66017 provides that fees subject to the Mitigation Fee Act do not become effective until 60 days after final action by the governing body.

Actions establishing or increasing fees subject to the Mitigation Act require certain findings, as set forth in Government Code Section 66001 and discussed in Chapter 1 of this report.

Administration

The California Mitigation Fee Act (Government Code Sections 66000 et seq.) mandates procedures for administration of impact fee programs, including collection and accounting, reporting, and refunds. References to code sections in the following paragraphs pertain to the California Government Code.

Notices and Statute of Limitations. Section 66006 (f) provides that a local agency, at the time it imposes a fee for public improvements on a specific development project, "... shall identify the public improvement that the fee will be used to finance." The required notification could refer to the capital improvement plan that must now be adopted with each new impact fee nexus study.

Section 66020 (d) (1) requires that the agency, at the time it imposes an impact fee, provide a written statement of the amount of the fee and written notice of a 90-day period during which the imposition of the fee can be protested. Failure to protest imposition of the fee during that period may deprive the fee payer of the right to subsequent legal challenge.

Section 66022 (a) provides a separate procedure for challenging the establishment of an impact fee. Such challenges must be filed within 120 days of enactment.

Collection of Fees. Section 66007, as amended by SB 937 in 2024, provides that, with some exceptions, a local agency shall not require payment of impact fees by developers of residential development projects prior to the issuance of the first certificate of occupancy, or first temporary certificate of occupancy, whichever occurs first. That provision does not apply if construction of the residential development does not begin within five years of the date upon which the building permit is issued.

An exception that allows utility service fees to be collected when an application for service is received, is now limited to the cost of "connection activities."

Local agencies may require payment of fees prior to issuance of a certificate of occupancy under certain conditions, including if the fees are to reimburse the agency for expenditures previously made, unless the project reserves at least 49% of residential units for occupancy by lower income households. For such projects, the local agency may require posting of a performance bond or letter of credit from a federally insured depository institution to guarantee payment when the fees are eligible for collection.

In cases where the fees are not collected upon issuance of building permits, Sections 66007 (d) (1) and (2) provide that the City may require the property owner to execute a contract to pay the fee, and to record that contract as a lien against the property until the fees are paid. The local agency may not charge interest or other fees on any amounts deferred pursuant to Section 66007.

If a residential development contains more than one dwelling, the local agency may determine whether the fees or charges described shall be paid on a pro rata basis for each dwelling when it receives its certificate of occupancy, on a pro rata basis when a certain percentage of the dwellings have received their certificate of occupancy, or on a lump-sum basis when all the dwellings in the development receive their certificate of occupancy.

Statutory restrictions on the time at which fees may be collected do not apply to non-residential development.

Earmarking and Expenditure of Fee Revenue. Section 66006 (a) mandates that fees be deposited "with other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected." Section 66006 (a) also requires that interest earned on the fee revenues be placed in the capital account and used for the same purpose.

The language of the law is not clear as to whether depositing fees "with other fees for the improvement" refers to a specific capital improvement or a class of improvements (e.g., street improvements). Common practice is to maintain separate funds or accounts for impact fee revenues by facility category (i.e., streets, park improvements), but not for individual projects.

Impact Fee Exemptions, Reductions, and Waivers. In the event that a development project is found to have no impact on facilities for which impact fees are charged, such project must be exempted from the fees.

If a project has characteristics that will make its impacts on a particular public facility or infrastructure system significantly and permanently smaller than the average impact used to calculate impact fees in this study, the fees should be reduced accordingly to meet the requirement that there must be a reasonable relationship between the amount of the fee and the cost of the public facility attributable to the development on which the fee is imposed. The fee reduction is required if the fee is not proportional to the impact of the development on relevant public facilities.

In some cases, an agency may desire to voluntarily waive or reduce impact fees that would otherwise apply to a project as a way of promoting goals such as affordable housing or economic development. Such a waiver or reduction is within the discretion of the governing body but may not result in increased costs to other development projects. So, the effect of such policies is that the lost revenue must be made up from sources other than impact fees.

Credit for Improvements Provided by Developers. If the City requires a developer, as a condition of project approval, to dedicate land or construct facilities or improvements for which impact fees are charged, the City should ensure that the impact fees are adjusted so that the overall contribution by the developer does not exceed the impact created by the development. As provided in the Mitigation Fee Act (Gov't Code Section 66000), any contribution by a developer toward the cost of public facilities pursuant to a development agreement is exemptfrom the requirements of the Act

In the event that a developer voluntarily offers to dedicate land, or construct facilities or improvements in lieu of paying impact fees, the City may accept or reject such offers and may negotiate the terms under which such an offer would be accepted. Excess contributions by a developer may be offset by reimbursement agreements.

Credit for Existing Development. If a project involves replacement, redevelopment or intensification of previously existing development, impact fees should be applied only to the portion of the project that represents a net increase in demand for relevant City facilities, applying the measure of demand used in this study to calculate that impact fee.

Annual Report. Section 66006 (b) (1) requires that once each year, within 180 days of the close of the fiscal year, the local agency must make available to the public the following information for each separate account established to receive impact fee revenues:

1. A brief description of the type of fee in the account or fund;
2. The amount of the fee;
3. The beginning and ending balance of the account or fund;
4. The amount of the fees collected and interest earned;

5. Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the percentage of the cost of the public improvement that was funded with fees;
6. Identification of the approximate date by which the construction of a public improvement will commence, if the City determines sufficient funds have been collected to complete financing of an incomplete public improvement;
7. A description of each inter-fund transfer or loan made from the account or fund, including interest rates, repayment dates, and a description of the improvement on which the transfer or loan will be expended;
8. The amount of any refunds or allocations made pursuant to Section 66001, paragraphs (e) and (f).

The annual report must be reviewed by the City Council at its next regularly scheduled public meeting, but not less than 15 days after the statements are made public, per Section 66006 (b) (2).

Five-Year Findings and Refunds under the Mitigation Fee Act. Prior to 1996, The Mitigation Fee Act required that a local agency collecting impact fees was required to expend or commit impact fee revenue within five years or make findings to justify a continued need for the money. Otherwise, those funds had to be refunded. SB 1693, adopted in 1996 as an amendment to the Mitigation Fee Act, changed that requirement in material ways.

Now, Section 66001 (d) requires that, for the fifth fiscal year following the first deposit of any impact fee revenue into an account or fund as required by Section 66006 (b), and every five years thereafter, the local agency shall make all of the following findings for any fee revenue that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee will be put;
2. Demonstrate the reasonable relationship between the fee and the purpose for which it is charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements for which impact fees are to be used;
4. Designate the approximate dates on which the funding necessary to complete financing of those improvements will be deposited into the appropriate account or fund.

Those findings are to be made in conjunction with the annual reports discussed above. If such findings are not made as required by Section 66001, the local agency could be required to refund the moneys in the account or fund, per Section 66001 (d).

Once the agency determines that sufficient funds have been collected to complete financing on incomplete improvements for which impact fee revenue is to be used, it must, within 180 days of that determination, identify an approximate date by which construction of the public improvement will be commenced (Section 66001 (e)). If the agency fails to comply with that requirement, it must refund impact fee revenue in the account according to procedures specified in Section 66001 (d).

For a useful discussion of the foregoing requirements, see “The Mitigation Fee Act’s Five-Year Findings Requirement: Beware Costly Pitfalls” by Glen Hansen, Senior Counsel, Abbott and Kindermann, and Rick Jarvis, Managing Partner, Jarvis, Fay and Gibson, presented at the 2022 League of California Cities City Attorneys Spring Conference.

Audit Requests. Section 66023 provides that any person may request an audit to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency. The legislative body of the local agency may retain an independent auditor to conduct the audit but is not required to conduct an audit if an audit has been performed for the same fee within the previous 12 months.

The agency shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the local agency the amount of the local agency’s reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the local agency shall reimburse unused sums, if any, or the requesting person shall pay the local agency the excess of the actual cost of the audit over the amount that was deposited.

However, if the local agency fails to comply with the annual report requirement of Section 66006 following the establishment, increase or imposition of a fee, but requires payment of that fee in connection with the approval of a development project for three consecutive years, the agency shall not require a deposit for the independent audit and shall pay the cost of the audit.

Indexing of Impact Fees. Impact fees calculated in this report are based on current costs and should be adjusted periodically to account for changes in the cost of facilities or other capital assets that will be funded by those fees. That adjustment is intended to account for escalation in costs for land, construction, vehicles and other relevant capital assets. The California Construction Cost Index published by the Department of General Services and the *Engineering News Record* Building Cost Index (BCI) are useful for indexing construction costs. Where land costs are covered by an impact fee or in-lieu fee, land costs should be adjusted based on changes in local land prices. Estimated costs for vehicles and equipment can be based on vendor quotes.

Requirements Imposed by AB 602

This section repeats information about AB 602 which is also included in Chapter 1. In 2021, the California Legislature passed AB 602 and the Governor signed it into law. AB 602 creates some new requirements for impact fees that went into effect in 2022. The new law amends Government Code Section 65940.1 and adds Section 66016.5 to impose the following requirements:

1) A city, county or special district that has an internet website shall post on its website:

   a) A current written schedule of fees, exactions and affordability requirements applicable to a proposed housing development project, and shall present that information in a manner that identifies the fees, exactions and affordability requirements that apply to each parcel and the fees that apply to each new water and sewer utility connection

   b) All zoning ordinances and development standards and specifying the zoning, design and development standards that apply to each parcel

   c) A list of the information that will be required from any applicant for a development project, as specified in Government Code Section 69540

   d) The current and five previous annual fee reports required by Government Code Section 66006 and Subsection 66013 (d).

   e) An archive of impact fee nexus studies, cost of service studies or equivalent conducted on or after January 1, 2018.

2) The above information shall be updated within 30 days of any changes

3) A City or County shall request from a development proponent, upon issuance of a certificate of occupancy or final inspection, the total amount of fees and exactions associated with the project for which the certificate is issued. That information must be posted on the website and updated at least twice a year.

4) Before adoption of an impact fee, an impact fee nexus study shall be adopted.

5) When applicable, the nexus study shall identify the existing level of service for each public facility, identify the proposed new level of service and explain why the new level of service is appropriate

6) If a nexus study supports the increase of an existing fee, the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of the fees collected under the original fee.

7) A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of the proposed units of the development. A local agency that imposes a fee proportionately to the square footage if the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development. A nexus study is not required to comply with this requirement if the agency makes certain findings outlined in the statute.

8) Large jurisdictions as defined in Section 53559.1 (d) of the Health and Safety Code (counties of 250,000 or more and cities in those counties) shall adopt a capital improvement plan as part of a nexus study.

9) All studies shall be adopted at a public hearing with at least 30-day's notice, and the local agency shall notify any member of the public that requests notice of intent to begin an impact fee nexus study of the date of the hearing.

10) Studies shall be updated at least every eight years, beginning on January 1, 2022.

Training and Public Information

Effective administration of an impact fee program requires considerable preparation and training. It is important that those responsible for collecting the fees, and for explaining them to the public, understand both the details of the fee program and its supporting rationale.

It is also useful to pay close attention to handouts that provide information to the public regarding impact fees. Impact fees should be clearly distinguished from other fees, such as user fees for application processing, and the purpose and use of particular impact fees should be made clear.

Finally, anyone responsible for accounting, capital budgeting, or project management for projects involving impact fees must be fully aware of the restrictions placed on the expenditure of impact fee revenues. Fees must be expended for the purposes identified in the impact fee nexus study in which they were calculated, and the City must be able to show that funds have been properly expended.

CITY OF BRISBANE

Public Facilities Impact Fee Study
Revised Final Report

August 5, 2026

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Executive Summary

The City of Brisbane retained NBS Government Finance Group to prepare this study to analyze the impacts of new development on several types of City capital facilities and to calculate impact fees based on that analysis. The methods used in this study satisfy all legal requirements of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000 *et seq*.).

Organization of the Report

Chapter 1 of this report provides an overview of the legal requirements for establishing and imposing such fees, and methods that can be used to calculate impact fees.

Chapter 2 contains data on existing and future development used in this report.

Chapters 3 through 6 analyze the impacts of development on specific types of facilities and calculate impact fees for those facilities. The facilities addressed in this report are listed by chapter below:

Chapter 3. Library

Chapter 4. General Government Facilities

Chapter 5. Police Department Facilities and Vehicles

Chapter 6. Fire Department Facilities, Apparatus and Vehicles

Chapter 7 contains recommendations for adopting and implementing impact fees.

Development Data

Chapter 2 of this report presents estimates of existing development in Brisbane and a forecast of future development through buildout. Chapter 2 also establishes values for factors such as population per unit, service population per unit, and police and fire calls per unit that are used in the impact fee calculations.

It is important to note that because of some provisions of AB 602 that were incorporated into the Mitigation Fee Act, effective in 2022, impact fee categories for residential development in this study are defined in terms of unit-size categories, broken down by square footage ranges. Prior to the adoption of AB 602 it was common practice to base residential impact fees on unit type categories (e.g., single-family or multi-family units).

Impact Fee Analysis

The impact fee analysis for each type of facility addressed in this report is presented in a separate chapter. In each case, the relationship, or nexus, between development and the need for a particular type of facility is defined in a way that allows the impact of additional development on facility needs to be quantified.

The impact fees are based on capital costs for facilities and other capital assets needed to mitigate the impacts of additional development. Impact fees may not be used for maintenance or operating costs. Impact fees calculated in this study are intended to recover only new development's proportionate share of the cost of facilities. Costs for correcting existing deficiencies in City facilities must be funded by non-impact fee funds.

The following paragraphs briefly discuss the methods used to calculate impact fees for each of the facility types addressed in this study.

Library. Impact fees for library facilities in Chapter 3 are calculated using the existing inventory method discussed in Chapter 1, which means that the library impact fees are based on the existing level of service for those facilities in Brisbane. The existing level of service is defined as the replacement value of existing library facilities per capita of existing service population.

To calculate that cost per capita, the estimated replacement cost for the existing library is divided by the existing service population. That cost per capita is then multiplied by the estimated service population per unit for each type of development defined in this study to get an impact fee per unit for each type of development.

General Government. Impact fees general government facilities in Chapter 4 are calculated using the existing inventory method discussed in Chapter 1, which means that impact fees for general government facilities are based on the existing level of service for those facilities in Brisbane. The impact of development on the need for those facilities is represented by the added service population associated with new development in the City. The existing level of service is defined as the replacement cost of existing facilities per capita of existing service population.

To calculate that cost per capita, the estimated replacement cost for existing general government facilities is divided by the existing service population. That cost per capita is then multiplied by the estimated service population per unit for each type of development defined in this study to get an impact fee per unit for each type of development.

Police Facilities and Vehicles. The police impact fees in Chapter 5 are calculated using the existing inventory method discussed in Chapter 1, which means that impact fees for police facilities and vehicles are based on the existing level of service for those assets in Brisbane. The existing level of service is based on the replacement cost of the Police Department's existing capital assets. The impact of development on the need for those assets is represented by the added calls for service per year associated with various types of new development in the City. The replacement cost of existing Police Department capital assets is divided by the existing calls for service per year to get a cost per call for service per year.

As part of this study, NBS analyzed the distribution of Police Department calls for service for a full year to determine the average number of calls per unit per year generated by different types of development. The impact fees are calculated as the cost per call for service multiplied by the calls per unit per year associated with each type of development defined in this study.

Fire Department Facilities Apparatus and Vehicles. Unlike the other impact fees calculated in this study, which use the existing inventory method, the fire impact fees in Chapter 6 are calculated using the planned facilities method. That method bases the impact fees on a forecast of future development to buildout along with the estimated cost of additional facilities, apparatus and vehicles needed to serve that future development.

The impact of new development on Fire Department facilities, apparatus and vehicles is represented in this study by the number of Fire Department calls for service per year generated by development in the City. As part of this study, NBS analyzed the distribution of fire calls for service for a full year to determine the average number of calls per unit per year generated by different types of development.

A cost per call for service per year is calculated by dividing the estimated cost of planned new Fire Department facilities, apparatus and vehicles by the projected number of calls for service per year generated by new development in the City to buildout. Then, an impact fee per unit is calculated by multiplying that cost per call by the number of calls for service per unit per year generated by each category of development defined in this study.

The reason that the fire impact fees are calculated using the panned facilities method is that the projected revenue from those fees is exactly equal to the cost of the new assets. In this case, impact fees calculated by either the existing inventory method or the system plan method would result in projected impact fee revenue that would exceed the cost of the new assets needed to serve future development.

Impact Fee Summary

Table S.1 shows the impact fees calculated in this report. Blank areas in the table indicate that some impact fees are not calculated for non-residential development.

Table S.1: Summary of Proposed Impact Fees

Development Type	Units [1]	Library	General Gov't	Police	Fire	**Total**
Residential <800 Sq. Ft. Unit	DU	$ 1,105	$ 3,708	$ 395	$ 2,611	**$ 7,819**
Residential 800-1,200 Sq. Ft. Unit	DU	$ 2,154	$ 7,230	$ 621	$ 3,046	**$ 13,052**
Residential 1,200-2,100 Sq. Ft. Unit	DU	$ 3,259	$ 10,938	$ 847	$ 3,482	**$ 18,525**
Residential >2,100 Sq. Ft. Unit	DU	$ 4,363	$ 14,646	$ 1,073	$ 3,917	**$ 23,999**
Commercial	KSF	$ 1,131	$ 3,795	$ 9,657	$ 5,566	**$ 20,149**
Hotel/Motel	Room	$ 656	$ 2,201	$ 2,452	$ 2,305	**$ 7,614**
Office	KSF	$ 1,133	$ 3,804	$ 186	$ 479	**$ 5,602**
Life Science/R&D	KSF	$ 1,004	$ 3,369	$ 327	$ 1,523	**$ 6,223**
Industrial	KSF	$ 703	$ 2,358	$ 2,811	$ 392	**$ 6,264**
Warehouse	KSF	$ 351	$ 1,179	$ 570	$ 740	**$ 2,840**

[1] DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

Because Brisbane has no existing impact fees, there is no need to compare the proposed impact fees with any existing impact fees.

The impact fees calculated in this report are the maximum amounts justified based on the data and analysis contained in this report. The City Council may choose to adopt impact any of the proposed impact fees at any level up to the amounts shown in Table S.1.

Findings

As discussed in Chapter 1 of this report, the Mitigation Fee Act (Govt. Code Section 66001) requires that in any action establishing, increasing, or imposing a fee as a condition of development approval, the local agency must do all of the following:

1. Identify the purpose of the fee.
2. Identify the use to which the fee is to be put (a capital improvement plan is now required for that purpose).
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.
4. Determine how there is a reasonable relationship between the need for the public facility and the type of development on which the fee is imposed.
5. When the fee is imposed as a condition of approval on a development project, 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 attributable to the development on which the fee is imposed.

In addition, as discussed in Chapter 2, we recommend that the City Council adopt the following findings pursuant to Government Code Section 66016.5(a)(5)(B) to justify the use of tiered square footage ranges for residential development in this study rather than a fixed fee-per-square-foot approach:

1. A fixed fee-per-square-foot approach would not reflect the actual impact of different-sized residential units on the facilities addressed in this study and would not meet the rough proportionality standard set forth in *Dolan v. Tigard*.
2. The use of tiered square footage ranges rather than a fixed fee per square foot approach better reflects the relationship between the fees charged and the actual burden imposed by various types of development.
3. Calculating impact fees for tiered square footage ranges rather than a fixed fee per square foot still ensures that smaller developments are not charged disproportionate fees because that approach allows the impact fees to be tailored to the actual impacts created by smaller developments, while protecting larger units from excessive fees.

Chapter 1. Introduction

Purpose

The purpose of this study is to analyze the impacts of development on the need for certain capital facilities and other capital assets provided by the City of Brisbane and to calculate impact fees based on that analysis. This report documents the approach, data and methodology used in this study to calculate impact fees.

The impact fees calculated in this report are intended to satisfy all legal requirements governing such fees, including provisions of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000-66025).

Legal Framework for Impact Fees

This brief summary of the legal framework for development fees is intended as a general overview. It was not prepared by an attorney and should not be treated as legal advice.

U. S. Constitution. Like all land use regulations, development exactions, including impact fees, are subject to the 5th Amendment prohibition on taking of private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against "regulatory takings." A regulatory taking occurs when regulations unreasonably deprive landowners of property rights protected by the Constitution.

In two cases dealing with exactions, the U. S. Supreme Court has held that when a government agency requires the dedication of land or an interest in land as a condition of development approval or imposes exactions as a condition of approval on a development project, the agency must demonstrate an "essential nexus" between such exactions and the interest being protected (See *Nollan v. California Coastal Commission,* 1987) and make an "individualized determination" that the exaction imposed is "roughly proportional" to the burden created by development (See *Dolan v. City of Tigard,* 1994). In April 2024, the U. S. Supreme Court ruled that Impact fees, even legislatively adopted impact fees, are subject to *Nollan* and *Dolan*.

Defining "Nexus." The nexus required to justify exactions and impact fees can be thought of as having the three elements discussed below. We think proportionality is logically included as one element of that nexus, even though it was discussed separately in *Dolan v. Tigard.* The elements of the nexus discussed below mirror the three "reasonable relationship" findings required by the Mitigation Fee Act for establishment and imposition of impact fees.

1. Need or Impact**.** An agency imposing impact fees must demonstrate that a development project subject to those fees will create a need for the facilities to be funded by the impact fees. All new development in a community creates additional demands on some or all public facilities provided by local government. If the capacity of facilities is not increased to satisfy the additional demand, the quality or availability of public services for the entire community will deteriorate.

Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is related to the development project subject to the fees.

The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate impacts created by the development projects upon which they are imposed. In this study, the impact of development on facility needs is analyzed in terms of quantifiable relationships between various types of development and the demand for public facilities based on applicable level-of-service standards. This report contains all of the information needed to demonstrate compliance with this element of the nexus.

<u>2. Benefit.</u> An agency imposing impact fees must demonstrate that a development project subject to those fees will benefit from the facilities funded by the impact fees. With respect to the benefit relationship, the most basic requirement is that facilities funded by impact fees be available to serve the development paying the fees. A sufficient benefit relationship also requires that impact fee revenues be segregated from other funds and expended in a timely manner on the facilities for which the fees were charged. Nothing in the U.S. Constitution or California law requires that facilities paid for with impact fee revenues be available <u>exclusively</u> to development projects paying the fees.

Procedures for earmarking and expenditure of fee revenues are mandated by the Mitigation Fee Act, as are procedures to ensure that the fees are either expended in a timely manner or refunded. Those requirements are intended to ensure that developments benefit from the impact fees they are required to pay. Thus, over time, procedural issues as well as substantive issues can come into play with respect to the benefit element of the nexus.

<u>3. Proportionality.</u> An agency imposing impact fees must demonstrate that the amount of those fees is proportional to the impact created by development projects subject to the fees. Proportionality in impact fees depends on properly identifying development-related facility costs and calculating the fees in such a way that those costs are allocated in proportion to the facility needs created by different types and amounts of development. The section on impact fee methodology, below, describes methods used to allocate facility costs and calculate impact fees that meet the proportionality standard.

California Constitution. The California Constitution grants broad police power to local governments, including the authority to regulate land use and development. That police power is the source of authority for local governments in California to impose impact fees on development. Some impact fees have been challenged on grounds that they are special taxes imposed without voter approval in violation of Article XIIIA. Impact fees calculated in this report do not exceed the cost of providing facilities needed to serve new development and, thus, are not special taxes requiring voter approval pursuant to Article XIIIA.

Articles XIIIC and XIIID, added to the California Constitution by Proposition 218 in 1996, require voter approval for some "property-related fees," but exempt "the imposition of fees or charges, as a condition of property development." Thus, impact fees are exempt from those requirements.

The Mitigation Fee Act. California's impact fee statute originated in Assembly Bill 1600 during the 1987 session of the Legislature and took effect in January 1989. AB 1600 added several sections to the Government Code, beginning with Section 66000. Since that time, the impact fee statute has been amended from time to time, and in 1997 was officially titled the "Mitigation Fee Act." Unless otherwise noted, code sections referenced in this report are from the Government Code.

The Mitigation Fee Act does not limit the types of capital improvements for which impact fees may be charged. It defines public facilities very broadly to include "public improvements, public services and community amenities." Although the issue is not specifically addressed in the Mitigation Fee Act, both case law and statute (see Government Code Section 65913.8) clarify that impact fees may not be used to pay for ongoing maintenance or operating costs. Consequently, the fees calculated in this report are based on the cost of capital assets only.

The Mitigation Fee Act does not use the term "mitigation fee" except in its official title. Nor does it use the common term "impact fee." The Act simply uses the word "fee," which is defined as "a monetary exaction, other than a tax or special assessment…that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project …."

To avoid confusion with other types of fees, this report uses the widely accepted term "impact fee" which should be understood to mean "fee" as defined in the Mitigation Fee Act.

The Mitigation Fee Act contains requirements for establishing, increasing and imposing impact fees. They are summarized below. It also contains provisions that govern the collection and expenditure of fees and requires annual reports and periodic re-evaluation of impact fee programs. Those administrative requirements are discussed in the implementation chapter of this report.

Required Findings**.** Section 66001 (a) requires that an agency establishing, increasing or imposing impact fees, must make findings to:

1. Identify the purpose of the fee
2. Identify the use of the fee; and
3. Determine that there is a reasonable relationship between the use of the fee and the development type on which it is imposed
4. Determine that there is a reasonable relationship between the need for the facility and the type of development on which the fee is imposed

In addition, Section 66001 (b) requires that in any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall 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 attributable to the development on which the fee is imposed.

The requirements outlined above are discussed in more detail below.

Identifying the Purpose of the Fees. The broad purpose of impact fees is to protect public health, safety and general welfare by providing for adequate public facilities. The specific purpose of the fees calculated in this study is to fund acquisition or construction of certain capital assets that will be needed to mitigate the impacts of planned new development on District facilities, and to maintain an acceptable level of public services as the District grows.

This report recommends that findings regarding the purpose of an impact fee should define the purpose broadly, as providing for the funding of adequate public facilities to serve additional development.

Identifying the Use of the Fees. According to Section 66001(a)(2), if a fee is used to finance public facilities, those facilities must be identified. A capital improvement plan may be used for that purpose but is not mandatory if the facilities are identified in a General Plan, a Specific Plan, or in other public documents. Section 66002 (b) requires that if a capital improvement plan is used to identify the facilities, it must be updated annually.

However, a new provision in Section 66016.5(a)(6), which was added by AB 602 in 2021, requires that large jurisdictions adopt a capital improvement plan as part of an impact fee study. That requirement applies to impact fee nexus studies adopted after January 1, 2022. "Large jurisdiction" means a county of 250,000 or more or any city within that county. Section 66002 (a) states that the capital improvement plan shall indicate the approximate location, size, time of availability and estimates of cost for all facilities or improvements to be financed with the fees. That amendments contained in AB 602 appears to override the original language of Section 66001(a)(2), so that a capital improvement plan (CIP) is no longer optional. A CIP is now required for all new impact fee nexus studies adopted by large jurisdictions. The annual update requirement for the CIP appears to remain in effect.

Reasonable Relationship Requirement. As discussed above, Section 66001 requires that, for fees subject to its provisions, a "reasonable relationship" must be demonstrated between:

5. the use of the fee and the type of development on which it is imposed;
6. the need for a public facility and the type of development on which a fee is imposed; and,
7. the amount of the fee and the facility cost attributable to the development on which the fee is imposed.

Development Agreements and Reimbursement Agreements. The requirements of the Mitigation Fee Act do not apply to fees collected under development agreements (see Govt. Code Section 66000) or reimbursement agreements (see Govt. Code Section 66003). The same is true of fees in lieu of park land dedication imposed under the Quimby Act (see Govt. Code Section 66477).

Existing Deficiencies. In 2006, Section 66001(g) was added to the Mitigation Fee Act (by AB 2751) to clarify that impact fees "shall not include costs attributable to existing deficiencies in public facilities…" The legislature's intent in adopting this amendment, as stated in the bill, was to codify the holdings of *Bixel v. City of Los Angeles* (1989), *Rohn v. City of Visalia* (1989), and *Shapell Industries Inc. v. Governing Board* (1991).

Section 66001(g) also states that impact fees "may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to *(1)* *refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.*" (Emphasis added.)

Impact Fees for Existing Facilities. Impact fees may be used to recover costs for existing facilities to the extent that those facilities are needed to serve additional development and have the capacity to do so. In other words, it must be possible to show that fees used to pay for existing facilities meet the need and benefit elements of the nexus. As a practical matter, such fees are difficult to implement unless the fees are needed to repay outstanding debt related to the facilities in question.

Recent Legislation

Several new laws enacted by the State of California since 2019 to facilitate development of affordable housing bear on the implementation of impact fees calculated in this study. Below are brief overviews of some key bills passed since 2019.

SB 330 – The Housing Crisis Act of 2019. SB 330 (amended and clarified in 2021 by SB 8) contained a variety of amendments designed to promote affordable housing. Among them was a provision in Government Code Section 65589.5 that prohibits the imposition of new approval requirements on a housing development project once a preliminary application has been submitted. That provision applies to increases in impact fees except when the resolution or ordinance establishing the fee authorizes automatic, inflationary adjustments to the fee or exaction. These provisions will remain in effect until January 1, 2030.

AB 1483 – Housing Data: Collection and Reporting (2019). AB 1483 added Section 65490.1 to the Government Code, and requires that a city, county or special district must post on its website a current schedule of its fees and exactions, as well as associated nexus studies and annual reports. Updates must be posted within 30 days.

SB 13 – Accessory Dwelling Units (2019). SB 13 amended Government Code Section 65852.2 to prohibit the imposition of impact fees on accessory dwelling units (ADUs) smaller than 750 square feet and to require that impact fees for ADUs of 750 square feet or more must be proportional to the square footage of the primary dwelling unit. The proportionality requirement means that impact fees for ADUs of 750 square feet or more must be calculated on a case-by-case basis during the approval process.

Existing law requires a water or sewer connection fee or capacity charge for an accessory dwelling unit requiring a new or separate utility connection to be based on either the accessory dwelling unit's size or the number of its plumbing fixtures. SB 13 revises the basis for calculating the connection fee or capacity charge to either the accessory dwelling unit's square feet or the number of its drainage fixture units.

AB 602 – Amendments to the Planning and Land Use Law and the Mitigation Fee Act (2021). AB 602 adds Section 65940.1 to the Planning and Land Use Law requiring cities, counties and special districts that have internet websites to post schedules of fees, exactions and affordability requirements, annual fee reports, and an archive of nexus studies on that website, and to update that information within 30 days after any changes.

AB 602 also adds Section 66016.5 to the Mitigation Fee Act imposing several new requirements for impact fees that went into effect in 2022, including:

- A nexus study must identify the existing level of service for each facility, identify the proposed new level of service (if any), and explain why the new level of service is appropriate.
- If a nexus study supports an increase in an existing fee the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of the fees collected under the original fee.
- Large jurisdictions (counties over 250,000 and cities within those counties) must adopt a capital improvement plan as part of the nexus study.
- All impact fee nexus studies shall be adopted at a public hearing with at least 30 days' notice, and the local agency shall notify any member of the public that requests notice of intent to begin and impact fee nexus study of the date of the hearing.
- Nexus studies shall be updated at least every eight years, from the period beginning on January 1, 2022.
- A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units in the development. A nexus study is not required to comply with this requirement if the local agency makes certain findings specified in the law. A local agency that imposes a fee proportionately to the square footage of units in the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development.
- Authorizes any member of the public, including an applicant for a development project, to submit evidence that impact fees proposed by an agency fail to comply with the Mitigation Fee Act, and requires the legislative body of the agency to consider such evidence and adjust the proposed fee if deemed necessary.

AB 516 – Amendments to the Mitigation Fee Act (2023). AB 516, which took effect on January 1, 2024, amends Government Code Section 66006 to add certain requirements to the annual reports mandated by that section. Specifically, Section 66006 now requires that:

- Annual reports indicate whether construction on public improvements identified in previous annual reports began on the approximate date shown in the previous annual report; and,
- If a project failed to start construction on schedule, the annual report must explain the reason for the delay and provide a revised approximate date when construction will begin.

AB 516 also amends Section 66023 to provide that when a person requests an audit of a fee or charge levied by a local agency, that audit may address when revenue generated by that fee or charge is scheduled to be expended, and when the public improvement to be funded by that fee or charge is scheduled to be completed. Prior to this amendment, the only stated purpose of such an audit was to determine whether such a fee or charge exceeds the amount reasonably necessary to cover the cost of any product, public facility or service provided by the local agency.

Impact Fee Calculation Methodology

The methods used to calculate impact fees in this study are designed to comply with all of the legal requirements discussed earlier in this chapter. Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics of, and planning requirements for, the type of facility being addressed. To some extent those methods are interchangeable, because they all allocate facility costs in proportion to the needs created by development.

Allocating facility costs to various types and amounts of development is central to all methods of impact fee calculation. Costs are allocated by means of formulas that quantify the relationship between development and the need for facilities. In a cost allocation formula, the impact of development is represented by some attribute of development such as added population or added vehicle trips that represent the impacts created by different types and amounts of development.

Although it is not mandatory, this study adopts the nomenclature used in the Impact Fee Nexus Study Templates prepared by the Terner Center for Housing Innovation at UC Berkeley to describe impact fee calculation methods. Those templates were prepared for The California Department of Housing and Community Development pursuant to Section 50466.5 of the Health and Safety Code and are cited in AB 602.

Planned Facility Method. With this method, impact fees are calculated so that new development will pay for the planned expansion of facilities at the future standard attributable to new development. To calculate the cost per unit of demand, the cost of planned facilities is divided by the amount of demand that will be created by new development. The impact fees depend on the cost of planned future facilities and a plan for future development, so the fees should be recalculated if facility plans or development plans change.

Existing Inventory Method. With this method, impact fees are calculated so that new development will fund expansion of facilities at the same standard currently used to serve existing development. To calculate the cost per unit of demand, the value of existing facilities is divided by the amount of demand associated with existing development. This method allows impact fees to be calculated without a list of planned facilities, but such a list is required by AB 602 as part of a Capital Improvement Plan that must be adopted with any new impact fee nexus study. This approach can be used to calculate impact fees for many types of public facilities but is usually not appropriate for facilities such as transportation improvements or water, wastewater or drainage systems where improvement needs must be determined by engineering analysis.

System Plan Method. With this method, impact fees are calculated so that new development pays for its share of the cost of an integrated system of facilities serving both existing and new development. To calculate the cost per unit of demand, the value of existing facilities plus the cost of planned facilities is divided by the combined demand associated with both existing development and planned development.

Impact Fees for Accessory Dwelling Units (ADUs)

SB 477, enacted in 2024, relocated and consolidated California's ADU laws into a new Government Code Chapter (Chapter 13, Division 1, Title 7). Recent amendments to ADU law provide that impact fees may not be imposed on ADUs smaller than 750 square feet and establish the following requirement for impact fees imposed on ADUs of 750 square feet or more:

> "Any impact fees charged for an accessory dwelling unit of 750 square feet or more shall be charged proportionately in relation to the square footage of the primary dwelling unit."

The proportionality requirement depends on the square footage of both the primary unit and the ADU, which necessitates that impact fees for ADUs be calculated on a case-by-case basis. Consequently, this report does not calculate a schedule of impact fees for ADUs. The formula for calculating proportional ADU impact fees is:

Primary unit impact fee X (ADU square feet / Primary unit square feet)

Facilities Addressed in this Study

Impact/in-lieu fees for the following types of facilities are addressed in this report:

- Libraries
- General Government Facilities
- Police Facilities and Vehicles
- Fire Department Facilities, Apparatus and Vehicles

Each of those facilities is addressed in a separate chapter of this report, beginning with Chapter 3. Chapter 2 contains data on existing and future development used in the impact fee analysis.

Chapter 2. Development Data

This chapter presents data on existing and future development that will be used to calculate impact fees in subsequent chapters of this report. The information in this chapter may be used to establish levels of service, analyze facility needs, and/or allocate the cost of capital facilities between existing and future development and among various types of new development.

Study Area

The study area for the City of Brisbane (City) in this study is the planning area defined in the City's current General Plan which was adopted in 1994. That area encompasses both the existing City and the small Sphere of Influence consisting primarily of open space.

Time Frame

Planned future development in this study is forecasted to buildout of the remaining developable land in the City. The methods used to calculate impact fees in this study do not depend on the timing of future development.

Development Types

The development types for which impact fees are calculated in this report are discussed below. Impact fees calculated in this report are intended to be applied based on actual land uses rather than zoning or general plan land use designations. For mixed use development projects, impact fees should be applied to each type of development within the project, consistent with the number of units of development of each type within the project.

Residential Development. Traditionally, impact fees for residential development are based on the type of unit, e.g., single-family, multi-family or mobile home. However, Government Code Section 66016.5(a)(5)(A) which was added to the Mitigation Fee Act by AB 602 in 2021 contains the following requirement:

> "A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of proposed units of the development. A local agency that imposes a fee proportionately to the square footage of the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development"

But that requirement is not absolute. Section 66016.5(a)(5)(B) provides that a nexus study is not required to comply with Section 66016.5(a)(5)(A) if the local agency makes a finding that includes all of the following:

1. An explanation as to why square footage is not the appropriate metric to calculate fees imposed on a housing development project.
2. An explanation that an alternative basis of calculating the fee bears a reasonable relationship between the fee charged and the burden imposed by the development.
3. That other policies in the fee structure support smaller developments or otherwise ensure that smaller developments are not charged disproportionate fees.

The proportionality requirement in Section 66016.5(a)(5)(A) is often interpreted to mean that impact fees must have a linear relationship to unit square footage. That means the fees must increase by the same amount for every added square foot of unit size. Such a fee structure results in impact fees that are necessarily five times as high for a 3,000 square-foot single-family unit as for a 600 square apartment. That type of fee structure is justified only if the actual impact of a 3,000 square-foot unit is five times greater than the impact of a 600 square-foot unit.

Otherwise, the impact fees could violate the "rough proportionality" requirement set forth in the U. S. Supreme Court in *Dolan v. Tigard* [512 U. S. 374 (1994)]. The recent U. S. Supreme Court decision in *Sheetz v. County of El Dorado* [601 U. S. __ (2024)] made clear that *Dolan* applies to all impact fees, whether they are applied ad hoc or legislatively adopted.

This study uses several attributes of development, including added population, added police calls for service per year and added fire calls for service per year, to represent the impact of new development on different types of City facilities. We use those attributes to represent the demand created by various types of development for public services and the capital facilities and other capital assets needed to support those services.

What we see in analyzing patterns of service demand is that the relationship between unit size and service demand doesn't necessarily conform to a linear model. While the potential for added population may be five times as great for the largest residential units compared with the smallest units, that increase is not linear. In the real world, population per unit does not increase in a tiny increment for each added square foot. It increases in a stairstep fashion, jumping from one person to two persons to three persons per unit and so on.

It is not feasible to get specific data on police and fire calls by unit size, but in our experience, the difference in the average number of police and fire calls-per-unit-per-year generated by single-family as opposed to multi-family residential units does not justify a flat impact fee per square foot. So, a fee structure that results in large units paying five times as much as small units would appear disproportionate to the actual demand created by units of different sizes for some types of facilities.

This study breaks down residential development into tiered square-feet-per-unit ranges and calculates an impact fee for each range or category. That approach allows impact fees to be graduated by unit size while avoiding the distortions that result from a rigid, fixed fee per square foot approach, and while respecting the need for rough proportionality between the fees and the impact of development as set forth in *Dolan v. Tigard*.

Based on the foregoing discussion, we propose that the City of Brisbane City Council adopt the following findings pursuant to Government Code Section 66016.5(a)(5)(B) to justify the use of tiered square footage ranges for residential development in this study rather than a fixed fee-per-square-foot approach:

1. A fixed fee-per-square-foot approach would not reflect the actual impact of different-sized residential units on the facilities addressed in this study and would not meet the rough proportionality standard set forth in Dolan v. Tigard.

2. The use of tiered square footage ranges rather than a fixed fee per square foot approach better reflects the relationship between the fees charged and the actual burden imposed by various types of development.
3. Calculating impact fees for tiered square footage ranges rather than a fixed fee per square foot still ensures that smaller developments are not charged disproportionate fees because that approach allows the impact fees to be tailored to the actual impacts created by smaller developments, while protecting larger units from excessive fees.

As discussed above, residential development categories are defined in this study by ranges of unit sizes rather than by unit types (e.g., single-family or multi-family) as is the case for the City's existing impact fees. Unit-size ranges used to define residential development in this study are listed below.

- Residential <800 Square Feet per Unit
- Residential >800-1,200 Square Feet per Unit
- Residential <1,200-2,100 Square Feet per Unit
- Residential >2,100 Square Feet per Unit

Each of these unit-size ranges is typical of units with a certain number of bedrooms, ranging from studio and one-bedroom apartments up to single-family units with four or more bedrooms.

Non-Residential Development. Non-residential development types used in this study are:

- Commercial
- Hotel/Motel
- Office
- Life Science/R&D
- Industrial
- Warehouse

The impact fees calculated in this report are intended to be applied to development projects, or portions of projects, based on the actual type of development being constructed. Except for the Hotel/Motel category, which is measured in terms of guest rooms, the non-residential development types listed above are measured in terms of gross leasable floor area in thousands of square feet (KSF).

Public Facilities, Public Schools and Parks. In addition to the development types listed above, the development tables presented later in this chapter include public (government) facilities, public schools and parks. The City does not impose impact fees on those uses, either because of legal constraints or because it would be imposing the fees on itself, which serves no purpose. However, those uses do create measurable impacts on some services, including law enforcement and fire protection/emergency medical services, and they are included in the impact fee analysis so that the impacts associated with those exempt uses can be distinguished from demand associated with fee-paying development types. However, no impact fees are calculated for those development types.

Other types of Development. The development types for which impact fees are calculated in this study will encompass most new development in the City, but there may be some development projects that don't fit very well within any of the established fee categories. In such cases, it is possible for City staff to calculate a project-specific impact fee at the time a project is approved.

For example, to calculate a customized police impact fee, it would be necessary to estimate the number of police calls for service per year that will be generated by the project, based on the number of calls generated by similar existing uses in the City. Then, that number would be multiplied by the cost per call calculated in this study to arrive at the police impact fee for the project. Customized impact fees for other facility types could be calculated in a similar manner.

Demand Variables

To calculate impact fees, the relationship between facility needs and development must be quantified in cost allocation formulas. Certain measurable attributes of development (for example, added population) are used as "demand variables" in those formulas to represent the impact of different types of development on various types of facilities.

Demand variables are selected either because they directly measure the service demand created by various types of development, or because they are reasonably correlated with that demand.

For example, the need for parks in a community is typically defined in terms of the relationship between population and acres of parks. As population grows, more parks are needed to maintain that relationship. Logically, then, the increase in population related to new residential development is an appropriate yardstick, or demand variable, for use in measuring the impact of development on the need for additional parks.

Demand variables have specific values for each type of development defined in this study. Those values may be referred to as "demand factors*.*" So, if the demand variable used to calculate impact fees for a particular type of facility is added population, the demand factor for a specific category of residential development would be the population per dwelling unit for that category.

Demand variables used in this study are discussed below. Specific demand factors can be found in Table 2.3.

Population. Population is used in this study as a component of service population rather than as a standalone demand variable. Population per unit factors are converted into service population per unit factors for use in calculating impact fees for residential unit-size categories. The population per unit and service population per unit factors used in this study are shown in Table 2.3

Table 2.1, below, shows the estimated average population per unit for each residential unit-size category. The unit-size categories shown in Table 2.1 are based on the number of bedrooms per unit, as shown in American Community Survey (ACS) Table B25041, which also shows the number of units in each category. Average population per unit is assumed to increase with unit size. The estimated population per unit factors are adjusted using the overall average population per unit and total population as controls. The results are cross-checked against ACS Table B25001 which shows the mix of household sizes in the City.

Table 2.1. Population per Unit by Unit Size

Unit Size in Sq Ft [1]	No. of Bedrms	No. of Units [2]	% of Units	Pop at 2.25 per Unit [3]	Est Pop per Unit [4]	Adjusted Pop [5]
<800	0 or 1	557	26.3%	1,253	1.00	557
800-1,200	2	646	30.5%	1,454	1.95	1,260
>1,200-2,100	3	634	30.0%	1,427	2.95	1,870
>2,100	4+	279	13.2%	628	3.95	1,102
Total/Average		2,116	100.0%	4,761	2.26	4,789

[1] Estimated square-feet-per-unit ranges based on number of bedrooms

[2] Distribution of units by number of bedrooms from American Community Survey (ACS) Table B25041, 2022 1-Year estimates

[3] Population for all units in each square-footage range if all units were occupied by the overall average of 2.25 persons per unit

[4] Estimated population per unit by NBS

[5] Adjusted population = number of units X estimated population per unit

Service Population. Many types of City facilities are impacted by both residential and non-residential development so population alone does not represent all of the impacts of development on those facilities.

Service population is a composite variable that includes both residents of the City and employees of businesses in the City. Resident population is included to represent the impacts of residential development. Employees are included to represent the impacts of non-residential uses, such as commercial, office and industrial development.

Because the impact of one new resident is not necessarily the same as the impact of one new employee, various components of the service population are weighted to reflect their relative impacts on demand for certain types of facilities.

Service population is intended to approximate the number of people creating the demand for service on an average day. It is difficult to estimate that number precisely for several reasons. Some residents work in the City, some residents commute to work outside the City, and some residents don't work at paid jobs. In addition, non-residents may be pre- sent in the City for work, shopping, recreation, or any number of other reasons.

In this study, residents are assigned a weight of 1.0. Our estimate of the average number of hours per week that residents spend in the City is based in part on an analysis of Census Bureau data on how many residents work in the city and how many commute to work outside the City. In addition, we assume the average resident spends eight hours a week outside the City for activities like shopping and recreation. Census Bureau American Community Survey (ACS) data for 2022 show that about 60% of Brisbane residents aged 16 and over are employed, and that about 78% of employed residents work outside the City.

Assuming that out-commuters spend 47.5 hours a week (9.5 hours per day) outside the City for work and commuting, and that all residents spend an average of eight hours a week outside the City for shopping and recreation leads us to the conclusion that out- commuters spend an average of 112.5 (168 - 47.5 - 8 = 112.5) hours per week in the City. Assuming other residents spend 160 (168 - 8 = 160) hours per week in the City, the weighted average for all residents is 141.5 hours per week in the City. Dividing that number by 168 hours per week gives us a weight of 0.842 for all residents (population) of the City.

Service population weights for employees associated with different types of development are based on estimates of the number of hours per week businesses of a certain type are in operation. This study assumes that retail and service commercial businesses operate 12 hours a day, 7 days a week (84 hours). For professional offices, industrial uses and public facilities, that number is estimated to be 45 hours (9 hours a day, 5 days a week). The weights assigned to employees of businesses associated with various types of non- residential development are based on the hours per week of operation divided by 168 total hours per week. The hours per week for each development as well as the weighting factor for each type of development are shown in Table 2.2, below. It should be noted that since all students in the K-12 Schools category are assumed to be residents of the City, the non-residential service population weight for that category is zero.

The service population weights shown in Table 2.2 are intended to allow a balanced allocation of costs among non-residential development types.

Finally, for simplicity, all of the service population base weights are normalized by dividing them by residential base weight of 0.842 so that the normalized weight for population equals 1.0 and weight for each of the non-residential components is increased proportionately. The resulting service population weights are shown in Table 2.2. Service-population-per-unit factors based on the normalized service population weights are shown in Table 2.3.

Table 2.2: Service Population Weights

Development Type	Avg Hrs per Wk [1]	Total Hrs per Week	Base Svc Pop Weight [2]	Normalized Svc Pop Wt [3]
Residential	141.5	168.0	0.842	1.000
Commercial/Retail	84.0	168.0	0.500	0.594
Hotel/Motel	84.0	168.0	0.500	0.594
Office	45.0	168.0	0.268	0.318
Life Science/R&D	45.0	168.0	0.268	0.318
Industrial	45.0	168.0	0.268	0.318
Warehouse	45.0	168.0	0.268	0.318
Public Facilities	45.0	168.0	0.268	0.318

[1] Expected average hours per week of business operation

[2] Base service population weight = average hours per week / total hrs per week

[3] Service population weight normalized to residential service population weight = base population weight / residential base service population weight

Police Calls for Service. Demand for police services is impacted by both residential and non-residential development in the City. In this study, the number of police calls for service per unit per year is used to represent the demand for police services by various types of development. The calls-for-service factors used in this study are based on analysis by NBS of a random sample of all calls for service received by the City of Brisbane Police Department for a one-year period from April 1 2023 to March 31 2024.

During that period, the City of Brisbane Police Department logged about 15,500 calls. A random sample of 600 calls was classified by development type based on address or location. Calls that could not be associated with a particular type of development were excluded from the analysis. The percentage of sampled calls associated with each type of development defined in this study was applied to the one-year count of calls to get the number of calls generated by each type of development for the year. The number of calls for each type of development was divided by the number of existing units for that type of development to arrive at the average number of calls per unit per year for that category.

Because it is not possible to determine individual call rates for residential units by square footage in the analysis of police calls for service, the overall average calls per unit per year for all residential units is used as the midpoint in estimating calls-for-service factors for the residential unit size categories used in this study and the factors are scaled up and down from that midpoint relative to unit size. The overall range of call rates from the smallest to the largest units is adjusted for consistency with the extent of differences in call rates for single-family and multi-family units. Police calls per unit per year for each type of development defined in this study is shown in Table 2.3.

Fire Authority Calls for Service per Year. Fire protection, emergency medical response and other services are provided in the City by the North County Fire Authority (NCFA), which also serves Daly City and Pacifica. Demand for the services provided by NCFA is impacted by both residential and non-residential development. In this study, the number of calls for service per unit per year from Brisbane to NCFA is used to represent the demand for fire protection and emergency response services by various types of development in the City. The calls-for-service factors used in this study are based on analysis by NBS of a random sample of all 2023 calls for service from the City of Brisbane to NCFA.

In 2023, NCFA logged about 600 calls for service in Brisbane. As part of this study, NBS analyzed a random sample of 400 of those calls and classified them by development type based on address. Calls that could not be associated with a particular type of development were excluded from the analysis.

The percentage of sampled calls associated with each type of development defined in this study was applied to the total number of 2023 calls to get the full number of calls generated by that type of development for the year. Then, the number of calls per year was divided by the number of existing units for each type of development to arrive at the average number of calls per unit per year.

Because it is not possible to determine individual call rates for residential units by square footage in the analysis of fire calls for service, the overall average calls per unit per year for all residential units is used as the midpoint in estimating calls for service factors for the unit size categories used in this study. The factors are scaled up and down from that midpoint relative to unit size. The overall range of call rates from the smallest to the largest units is adjusted for consistency with the extent of differences in call rates for single-family and multi-family units. Fire calls-per-unit-per-year for each type of development defined in this study are shown in Table 2.3.

Demand Factors

Table 2.3 shows the values of demand factors used in this study for each type of development.

Table 2.3: Demand Factors

Development Type	Dev Units [1]	Pop per Unit [2]	Employees per Unit [3]	Svc Pop per Unit [4]	PD Calls per Unit [5]	Fire Calls per Unit [6]
Residential <800 Sq. Ft. Unit	DU	1.00		1.00	0.70	0.120
Residential 800-1,200 Sq. Ft. Unit	DU	1.95		1.95	1.10	0.140
Residential 1,200-2,100 Sq. Ft. Unit	DU	2.95		2.95	1.50	0.160
Residential >2,100 Sq. Ft. Unit	DU	3.95		3.95	1.90	0.180
Commercial	KSF		1.72	1.02	17.11	0.256
Hotel/Motel	Room		1.00	0.59	4.34	0.106
Office	KSF		3.23	1.03	0.33	0.022
Life Science/R&D	KSF		2.86	0.91	0.58	0.070
Industrial	KSF		2.00	0.64	4.98	0.018
Warehouse	KSF		1.00	0.32	1.01	0.034
Public Facilities	KSF		3.00	0.95	4.78	0.105
Public Schools	Students				1.36	0.006
Parks	Acres				72.17	0.333

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

[2] See Table 2.1

[3] Employees per unit provided by the City of Brisbane Community Development Department

[4] Service population per unit estimated based on residents and employees weighted by factors in Table 2.2

[5] Police Department calls for service per unit per year based on analysis of a random sample of all 2023 calls; calls for service rates for residential unit size categories based on the range of actual rates for single-family, multi-family and mobile home units

[6] Fire Department calls for service per unit per year based on analysis of a random sample of all 2023 calls; calls for service rates for residential unit size categories based on the range of actual rates for single-family, multi-family and mobile home units

Existing and Future Development

Tables 2.4 through 2.6, beginning on the next page, present summaries of existing and future development by development type in Brisbane. Table 2.4 shows estimated existing development as of January 1, 2024.

Table 2.4: Existing Development as of January 2024

Development Types	Dev Units [1]	Existing Units [2]	Existing Pop [2]	Existing Empl [3]	Existing Svc Pop [4]	Existing PD Calls [5]	Existing Fire Calls [6]
All Residential	DU	2,076	4,645		4,645	3,414	323
Commercial	KSF	125.1		216	128	2,140	32
Hotel/Motel	Room	387		387	230	1,681	41
Office	KSF	695.4		2,243	713	253	15
Life Science/R&D	KSF	561.0		1,603	510	358	39
Industrial	KSF	756.6		1,513	481	2,776	14
Warehouse	KSF	4,356.4		4,356	1,385	3,237	148
Public Facilities	KSF	85.3		256	81	408	9
Public Schools	Students	337				459	2
Parks	Acres	12.0				866	4
Total			**4,645**	**10,574**	**8,174**	**15,592**	**627**

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite;

[2] Existing residential units and population from the California Department of Finance (DOF) 2024 E-5 report; existing hotel/motel rooms provided by the City of Brisbane; existing non-residential units provided by the Brisbane Community Development Department

[3] Existing employees = existing units X employees per unit from Table 2.3

[4] Existing service population = existing units X service population per unit from Table 2.3

[5] Existing police department calls for service per year by development type based on analysis by NBS of a random sample of 2023 Brisbane Police Department calls for service

[6] Existing fire department calls for service per year by development type based on analysis by NBS of a random sample of 2023 Brisbane Police Department calls for service

Table 2.5, on the next page, shows projected future development in Brisbane to buildout.

Table 2.5: Forecasted Future Development to Buildout

Development Types	Dev Units [1]	Added Units [2]	Added Pop [3]	Added Empl [4]	Added Svc Pop [5]	Added PD Calls [6]	Added Fire Calls [7]
All Residential	DU	3,003	6,607		6,607	4,474	480
Commercial	KSF	140.0		241	143	2,395	36
Hotel/Motel	Room	1,408.0		1,408	836	6,116	149
Office	KSF	2,770.6		8,937	2,842	914	61
Life Science/R&D	KSF	5,366.5		15,333	4,876	3,113	376
Industrial	KSF	(69.4)		(139)	(44)	(346)	(1)
Warehouse	KSF	1,156.0		1,156	368	1,168	39
Public Facilities	KSF	121.2		364	116	579	13
Public Schools	Students	478.5				652	3
Parks	Acres	17.0				1,230	6
Total			**6,607**	**27,300**	**15,743**	**20,295**	**1,161**

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite;

[2] Added units estimated by the Brisbane Community Development Department; estimates include buildout of the Baylands Specific Plan Area; future units for Public Facilities, Public Schools and Parks assumed to increase at the same rate as population

[3] Added population assumes an average of 2.2 occupants per added residential unit

[4] Added employees = added non-residential units X employees per unit from Table 2.3

[5] Added residential service population = added population; added non-residential service population = added non-residential units X service pop per unit from Table 2.3

[6] Added Police Dept calls for service per year = added units X PD calls per unit from Table 2.3; added residential calls per year based on an average of 1.49 calls per unit

[7] Added Fire Department calls for service per year = added units X Fire calls per unit from Table 2.3; added residential calls per year based on an average of 0.16 calls per unit

Table 2.6 on the next page shows projected total development in Brisbane at buildout.

Table 2.6: Buildout Development

Development Types	Dev Units [1]	Buildout Units [2]	Buildout Pop [2]	Buildout Empl [2]	Buildout Svc Pop [2]	Buildout PD Calls [2]	Buildout Fire Calls [2]
All Residential	DU	5,079	11,252		11,252	7,888	803
Commercial	KSF	265.1		457	271	4,535	68
Hotel/Motel	Room	1,795.0		1,795	1,066	7,797	190
Office	KSF	3,466.0		11,181	3,556	1,167	76
Life Science/R&D	KSF	5,927.5		16,936	5,386	3,471	415
Industrial	KSF	687.2		1,374	437	2,430	12
Warehouse	KSF	5,512.4		5,512	1,753	4,405	187
Public Facilities	KSF	206.5		620	197	987	22
Public Schools	Students	815.5				1,111	5
Parks	Acres	29.0				2,096	10
Total			**11,252**	**37,875**	**23,917**	**35,887**	**1,789**

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite;

[2] Figures in this table = the sum of the corresponding figures from the Tables 2.4 and 2.5

The numbers presented in Tables 2.4 through 2.6 indicate that projected growth in the City between 2024 and buildout will represent large percentage increases of 142% in population and 258% in employment, mostly as a result of development in the Baylands Specific Plan Area. The impact fees calculated in this report are intended to pay for capital facilities and other capital assets needed by the City to serve that additional development.

Chapter 3. Library

This chapter calculates library impact fees for the City of Brisbane. The City's existing Brisbane Library is part of the San Mateo County library system. The existing library is located at 163 Visitacion Avenue. It was funded by a number of sources including the City's general fund, donations from library supporters, and a loan from the County.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain the existing level of service as the City grows.

Service Area

Brisbane's existing and future libraries will serve all residents of the City. The impact fees calculated in this chapter are intended to apply to all development in the City unless the fees for a project are limited by statute or established by a development agreement.

Demand Variable

A "demand variable" is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for the library in this chapter is service population.

As discussed in Chapter 2, service population is used to reflect demand from both residential and non-residential. The residential component of service population is the resident population of the City. The non-residential component of service population is based on the number of employees associated with various types of non-residential development, but those employee numbers are weighted as discussed in Chapter 2. The service population per unit factors are shown in Table 2.3 and are used in Table 3.3 to calculate impact fees per unit for general government facilities

Level-of-Service Standard

The level-of-service standard used in this study to calculate impact fees for libraries is the existing level of service. That level is defined as the replacement cost of the City's existing library divided by the existing service population, which results in a cost per capita of service population. To calculate an impact fee per unit, that cost per capita is multiplied by the service population per unit for type of development defined in this study.

In 2021, Section 66016.5 was added to the Mitigation Fee by Act AB 602. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service.

Because the library impact fees calculated in this chapter are based on the existing level of service, the impact fees will generate revenue needed for facilities to serve new development to appropriately maintain the same level of service as for the existing service population.

Existing Library Facility

Table 3.1 shows key data about Brisbane's existing library, including its current replacement cost which is combined with the land value of the library site to arrive at the impact fee cost basis. The current principal balance of the loan from San Mateo County is deducted from the impact fee cost basis to reflect the City's current equity in the library.

Table 3.1: Existing Library Facilities

Facility	Building Sq Feet [1]	Site Acres [2]	Facility Repl Cost [3]	Land Value [4]	Impact Fee Cost Basis [5]
Brisbane Library	7,629	0.29	$ 8,977,520	$ 1,015,000	$ 9,992,520
Outstanding Balance on Loan from San Mateo County as of April 2025					$ (963,333)
Total					$ 9,029,187

[1] Building square feet provided by the City of Brisbane
[2] Site acres provided by the City of Brisbane
[3] 2020 construction cost provided by the City of Brisbane escalated 38% to 2024 cost using the California Construction Cost Index
[4] Land value based on $3,500,000 per acre
[5] Impact fee cost basis = facility replacement cost + land value

Table 3.2 divides the City's net impact fee cost basis for the library by the City's existing service population to calculate the existing level of service in terms of a cost per capita of service population.

Table 3.2: Library Existing Level of Service

Impact Fee Cost Basis [1]	Existing Service Population [2]	Cost per Capita [3]
$9,029,187	8,174	$1,104.625

[1] See Table 3.1
[2] See Table 2.4
[3] Cost per capita of service population = impact fee cost basis / existing service population

In the next section, the cost per capita from Table 3.2 is used to calculate library impact fees per unit for each type of development defined in this study.

Impact Fees per Unit

Table 3.3 shows the calculation of library impact fees per unit of development. Those fees are calculated using the per-capita cost from Table 3.2 and service population per unit factors from Table 2.3.

Table 3.3: Impact Fees per Unit - Library

Development Type	Units [1]	Cost per Capita [2]	Svc Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$1,104.62	1.00	$ 1,104.62
Residential 800-1,200 Sq. Ft. Unit	DU	$1,104.62	1.95	$ 2,154.02
Residential 1,200-2,100 Sq. Ft. Unit	DU	$1,104.62	2.95	$ 3,258.64
Residential >2,100 Sq. Ft. Unit	DU	$1,104.62	3.95	$ 4,363.27
Commercial	KSF	$1,104.62	1.02	$ 1,130.60
Hotel/Motel	Room	$1,104.62	0.59	$ 655.75
Office	KSF	$1,104.62	1.03	$ 1,133.21
Life Science/R&D	KSF	$1,104.62	0.91	$ 1,003.70
Industrial	KSF	$1,104.62	0.64	$ 702.59
Warehouse	KSF	$1,104.62	0.32	$ 351.29

[1] Units of development: DU = dwelling unit
[2] See Table 3.2
[3] Service population per unit; see Table 2.3
[4] Impact fee per unit = cost per capita X population per unit

Projected Revenue

Table 3.4 projects potential revenue from the library impact fees. That projection is based on the cost per capita from Table 3.2 and the added service population from Table 2.5.

Table 3.4: Projected Revenue - Library Impact Fees

Development Type	Added Svc Pop [1]	Cost per Capita [2]	Projected Revenue [3]
All Development	15,628	$1,104.62	$ 17,262,631

[1] Added service population excluding public facilities; see Table 2.5
[2] See Table 3.2
[3] Projected revenue = added population X cost per capita

The projected revenue shown in Table 3.4 assumes that future development in the City will occur as forecasted in Chapter 2. It does not account for limits on impact fees set by development agreements for some future projects.

Planned Improvements

Details regarding planned expenditure of the library impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Updating the Fees

The impact fees calculated in this chapter are based on estimated current replacement costs for the for the existing library. We recommend that the fees be reviewed annually and adjusted as needed using the most current cost estimates. The City will be required to update the nexus study at least every eight years, per Government Code Section 66016.5(a)(8).

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;
b. The need for the facility and the type of development on which the fee is imposed; and
c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the "rational nexus" and "rough proportionality" standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see "Legal Framework for Impact Fees" in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to provide additional library facilities to maintain the existing level of service for libraries in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to pay for additional library facilities described in the City's Capital Improvement Plan to serve new residential development in the City.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to pay for additional library facilities needed to serve additional residential development in Brisbane at the currently existing level of service in terms of the relationship between facility cost and population.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. Added population associated with new residential development will increase the need for library facilities in Brisbane. The library impact fees will provide funding for additional library facilities needed to maintain the existing level of service for libraries in Brisbane.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the library impact fees charged to a development project will depend on the increase in population associated with that project. The fees per unit of development calculated in this chapter for each type of residential development are based on the estimated average population per unit for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for libraries in the City.

Chapter 4. General Government Facilities

This chapter calculates impact fees for general government facilities in Brisbane, including City Hall, the City Hall Annex and the corporation yard.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain the existing level of service as the City grows.

Service Area

Brisbane's general government facilities serve all development in the City. The impact fees calculated in this chapter are intended to apply to all new development except new public facilities, unless the fees for a project are limited by statute or established by a development agreement.

Demand Variable

A "demand variable" is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for the general government in this chapter is service population.

As discussed in Chapter 2, service population is used to reflect demand from both residential and non-residential development.

The residential component of service population is the resident population of the City. The non-residential component of service population is based on the number of employees associated with various types of non-residential development, but those employee numbers are weighted as discussed in Chapter 2. The service population per unit factors are shown in Table 2.3 and are used in Table 4.3 to calculate impact fees per unit for general government facilities.

Level-of-Service Standard

The level-of-service standard used in this study to calculate impact fees for general government facilities is the existing level of service. That level is defined as the replacement cost of the City's existing general government facilities divided by the existing service population, which results in a cost per capita of service population. To calculate an impact fee per unit, that cost per capita is multiplied by the service population per unit for each development type defined in this study.

In 2021, Section 66016.5 was added to the Mitigation Fee by Act AB 602. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service.

Because the general government facilities impact fees calculated in this chapter are based on the existing level of service, the impact fees will generate revenue needed for facilities to serve new development to appropriately maintain the same level of service as for the existing service population.

Existing General Government Facilities

Table 4.1 shows key data about Brisbane's existing general government facilities, including their current replacement cost which is combined with the land value of the general government facilities sites to arrive at the impact fee cost basis. Outstanding debt related to existing facilities is deducted from the impact fee cost basis so that it reflects only the City's equity in those facilities.

Table 4.1: Existing General Government Facilities

Facility	Building Sq Feet [1]	Site Acres [2]	Facility Repl Cost [3]	Land Value [4]	Impact Fee Cost Basis [5]
City Hall	18,025	1.04	$ 18,025,000	$ 3,634,750	$ 21,659,750
City Hall Annex	5,260	1.55	$ 5,500,000	$ 5,425,000	$ 10,925,000
Corp Yard Office/Shops/Storage	10,800	2.00	$ 5,158,000		$ 5,158,000
Outstanding Debt on City Hall/Police Building (City-Hall Share = 72%)					$ (2,264,400)
Outstanding Debt on City Admin Office Annex					$ (5,170,000)
Total	**34,085**	**4.59**	**$ 28,683,000**	**$ 9,059,750**	**$ 30,308,350**

[1] Building square feet provided by the City of Brisbane is the share of the combined City Hall/Police building occupied by City Hall

[2] Site acres provided by the City of Brisbane; City Hall share of site for combined City Hall/Police building estimated by NBS at 67% of the total 1.55 acre site

[3] Facility replacement cost provided by the City of Brisbane

[4] Land value based on $3,500,000 per acre

[5] Impact fee cost basis = facility replacement cost + land value; outstanding debt from City Hall/ Police Station remodeling/expansion = City Hall portion (72%) of principal balance on 2014 bonds; City Hall share of debt based on share of building square feet; outstanding debt on City Hall Annex renovation = principal balance on 2023 bonds; outstanding debt provided by the City of Brisbane Finance Department

Table 4.2, on the next page, divides the City's net impact fee cost basis for the general government facilities by the City's existing service population to calculate the existing level of service in terms of a cost per capita of service population.

Table 4.2: Existing Level of Service - General Government

Impact Fee Cost Basis [1]	Existing Service Population [2]	Cost per Capita [3]
$30,308,350	8,174	$3,707.90

[1] See Table 4.1

[2] See Table 2.4

[3] Cost per capita = impact fee cost basis / existing service population

In the next section, the cost per capita from Table 4.2 is used to calculate impact fees per unit for general government facilities for each type of development defined in this study.

Impact Fees per Unit

Table 4.3 shows the calculation of impact fees per unit for general government facilities. Those fees are calculated using the per-capita cost from Table 4.2 and service population per unit factors from Table 2.1.

Table 4.3: Impact Fees per Unit - General Government Facilities

Development Type	Units [1]	Cost per Capita [2]	Svc Pop per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$3,707.90	1.00	$ 3,707.90
Residential 800-1,200 Sq. Ft. Unit	DU	$3,707.90	1.95	$ 7,230.41
Residential 1,200-2,100 Sq. Ft. Unit	DU	$3,707.90	2.95	$ 10,938.31
Residential >2,100 Sq. Ft. Unit	DU	$3,707.90	3.95	$ 14,646.22
Commercial	KSF	$3,707.90	1.02	$ 3,795.10
Hotel/Motel	Room	$3,707.90	0.59	$ 2,201.16
Office	KSF	$3,707.90	1.03	$ 3,803.84
Life Science/R&D	KSF	$3,707.90	0.91	$ 3,369.12
Industrial	KSF	$3,707.90	0.64	$ 2,358.38
Warehouse	KSF	$3,707.90	0.32	$ 1,179.19

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

[2] See Table 4.2

[3] Service population per unit; see Table 2.3

[4] Impact fee per unit = cost per capita X service population per unit

Projected Revenue

Table 4.4 projects potential revenue from the general government impact fees. That projection is based on the cost per capita from Table 4.2 and the added service population from Table 2.5.

Table 4.4: Projected Revenue - General Gov't Impact Fees

Development Type	Added Svc Population [1]	Cost per Capita [2]	Projected Revenue [3]
All Development	15,628	$3,707.90	$ 57,945,959
Total			**$ 57,945,959**

[1] See Table 2.5; added service population in this table does not include added service population generated by public facilities

[2] See Table 4.2

[3] Projected revenue = added service population X cost per capita

The projected revenue shown in Table 4.4 assumes that future development in the City will occur as forecasted in Chapter 2. It does not account for limits on impact fees set by development agreements for some future projects.

Planned Improvements

Details regarding expenditure of the general government impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Updating the Fees

The impact fees calculated in this chapter are based on estimated current replacement costs for the City's existing general government facilities. We recommend that the fees be reviewed annually and adjusted as needed using the most current cost estimates. The California Cost Index, published by the Department of General Services and the Engineering News Record Building Cost Index (BCI) can be useful for indexing construction costs over time. The City will be required to update the nexus study at least every eight years, per Government Code Section 66016.5(a)(8).

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;
b. The need for the facility and the type of development on which the fee is imposed; and
c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the "rational nexus" and "rough proportionality" standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see "Legal Framework for Impact Fees" in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to provide additional general government facilities to maintain the existing level of service for general government facilities in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to pay for additional general government facilities described in the City's Capital Improvement Plan to serve new development in the City.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to pay for additional general government facilities needed to serve additional development in Brisbane at the currently existing level of service in terms of the relationship between facility cost and service population.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. Added service population associated with new development will increase the need for general government facilities in Brisbane. The general government facilities impact fees will provide funding for additional general government facilities needed to maintain the existing level of service in Brisbane.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the general government facilities impact fees charged to a development project will depend on the increase in service population associated with that project. The fees per unit of development calculated in this chapter for each type of development are based on the estimated average service population per unit for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for general government facilities in the City.

Chapter 5. Police Department Facilities

This chapter calculates impact fees for Police Department facilities in Brisbane. Brisbane currently has one police station which shares a building with City Hall.

Methodology

This chapter calculates impact fees using the existing inventory method discussed in Chapter 1. With that method, impact fees are based on the existing level of service so that the impact fees will provide the funding needed to maintain the existing level of service as the City grows.

Service Area

Brisbane's Police Department facilities serve all development in the City. The impact fees calculated in this chapter are intended to apply to all new development except for public facilities, unless the fees for a project are limited by statute or established by a development agreement.

Demand Variable

A "demand variable" is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for Police Department facilities in this chapter is police calls for service per year.

The police calls-per-unit-per-year factors used to calculate impact fees for police facilities are shown in Table 2.3 in Chapter 2 and are used in Table 5.4 in this chapter to calculate impact fees per unit for each type of development defined in this study.

Level-of-Service Standard

The level-of-service standard used in this study to calculate impact fees for Police Department facilities is the existing level of service. That level is defined as the replacement cost of the City's existing Police Department facilities divided by the existing number of calls per year, which results in a cost per call. To calculate impact fees per unit, by development type, that cost per call is multiplied by the number of calls per unit per year for each development type defined in this study.

In 2021, Section 66016.5 was added to the Mitigation Fee by Act AB 602. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service.

Because the impact fees for Police Department facilities calculated in this chapter are based on the existing level of service, the impact fees will generate revenue needed for facilities to serve new development to appropriately maintain the same level of service as for the existing service population.

Existing Police Department Facilities

Table 5.1 shows key data about Brisbane's existing police station, including its current replacement cost which is combined with the land value of the Police Department's share of the City Hall/police station site to arrive at the impact fee cost basis. The police station's share of outstanding debt related to existing facilities is deducted from the impact fee cost basis so that it reflects only the City's equity in the existing facility.

Table 5.1: Existing Police Department Facilities

Facility	Building Sq Feet [1]	Site Acres [2]	Facility Repl Cost [3]	Land Value [4]	Impact Fee Cost Basis [5]
Police Facility	7,056	0.51	$ 7,056,000	$ 1,790,250	$ 8,846,250
Outstanding debt on City Hall/Police Station (Police Bldg share = 28%)					$ (915,195)
					$ 7,931,055

[1] Building square feet provided by the City of Brisbane is the share of the combined City Hall/Police building occupied by the Police Department

[2] Site acres provided by the City of Brisbane; Police Dept share of site for combined City Hall/Police building estimated by NBS at 33% of the total 1.55 acre site

[3] Facility replacement cost provided by the City of Brisbane

[4] Land value based on $3,500,000 per acre

[5] Impact fee cost basis = facility replacement cost + land value; outstanding debt from City/Hall Police Station remodeling/expansion = Police Station portion (28%) of the principal balance on the 2014 bonds; Police Station share of debt based on share of building square feet; outstanding debt provided by the City of Brisbane Finance Dept.

Table 5.2 shows an inventory of the Brisbane Police Department's vehicle fleet. The replacement cost of those vehicles will be included in the cost basis for the impact fees calculated in this chapter. Leased vehicles are not considered in this analysis.

Table 5.2: Existing Police Department Vehicles and Equipment

No. of Units	Model Year	Make	Model	Assignment	Repl Cost per Unit [1]	Impact Fee Cost Basis [2]
3	2020	Chevrolet	Tahoe	Patrol	$ 84,040.00	$ 252,120.00
1	2015	Ford	Explorer	Patrol	$ 76,551.00	$ 76,551.00
2	2017	Ford	Explorer	Patrol	$ 76,551.00	$ 153,102.00
1	2023	Chevrolet	Tahoe	Patrol	$ 87,314.00	$ 87,314.00
1	2020	Ford	Explorer	Chief	$ 56,164.00	$ 56,164.00
1	2019	Ford	F150	CSO	$ 69,761.00	$ 69,761.00
2	2021	Harley	Road King	Traffic Motor	$ 39,786.00	$ 79,572.00
16	Sworn Officer Personal Safety Equipment				$ 6,041.00	$ 96,656.00
Total						**$ 871,240.00**

[1] Vehicle cost per unit includes equipment

[2] Impact fee cost basis = number of units X replacement cost per unit

Table 5.3 divides the combined impact fee cost basis for Police Department facilities and vehicles by the number of existing calls for service to calculate the existing level of service in terms of a cost per call for service per year.

Table 5.3: Existing Level of Service - Police Facilities

Impact Fee Cost Basis [1]	Existing Calls for Service [2]	Cost per Call [3]
$8,802,295	15,592	$564.54

[1] Impact fee cost basis = sum of impact fee cost basis from Table 5.1 and Table 5.2

[2] See Table 2.4

[3] Cost per call = impact fee cost basis / existing calls for service per year

In the next section, the cost per call from Table 5.3 is used to calculate impact fees per unit for Police Department facilities for each type of development defined in this study.

Impact Fees per Unit

Table 5.4 shows the calculation of impact fees per unit for Police Department facilities. Those fees are calculated using the per-capita cost from Table 5.3 and calls-per-unit-per-year factors from Table 2.3.

Table 5.4: Impact Fees per Unit - Police Facilities

Development Type	Units [1]	Cost per Call [2]	Calls per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$564.54	0.70	$ 395.18
Residential 800-1,200 Sq. Ft. Unit	DU	$564.54	1.10	$ 620.99
Residential 1,200-2,100 Sq. Ft. Unit	DU	$564.54	1.50	$ 846.81
Residential >2,100 Sq. Ft. Unit	DU	$564.54	1.90	$ 1,072.62
Commercial	KSF	$564.54	17.11	$ 9,657.19
Hotel/Motel	Room	$564.54	4.34	$ 2,452.17
Office	KSF	$564.54	0.33	$ 186.30
Life Science/R&D	KSF	$564.54	0.58	$ 327.43
Industrial	KSF	$564.54	4.98	$ 2,811.41
Warehouse	KSF	$564.54	1.01	$ 570.18

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

[2] See Table 5.3

[3] Police calls per unit; see Table 2.3

[4] Impact fee per unit = cost per call X calls per unit

Projected Revenue

Table 5.5 projects potential revenue from the police impact fees. That projection is based on the cost per call from Table 5.3 and the calls per unit per year from Table 2.5.

Table 5.5: Projected Revenue - Police Impact Fees

Development Type	Added Calls For Service [1]	Cost per Call [2]	Projected Revenue [3]
All Development	17,834	$564.54	$ 10,068,024
Total			**$ 10,068,024**

[1] See Table 2.5; added calls for service in this table do not include calls generated by public facilities, public schools or parks

[2] See Table 5.3

[3] Projected revenue = added calls for service X cost per call

The projected revenue shown in Table 5.5 assumes that future development in the City will occur as forecasted in Chapter 2. It does not account for limits on impact fees set by development agreements for some future projects.

Updating the Fees

The impact fees calculated in this chapter are based on estimated current replacement costs for the City's existing Police Department facilities. We recommend that the fees be reviewed annually and adjusted as needed using the most current cost estimates. The City will be required to update the nexus study at least every eight years, per Government Code Section 66016.5(a)(8). The California Cost Index, published by the Department of General Services and the Engineering News Record Building Cost Index (BCI) can be useful for indexing construction costs over time. The City will be required to update the nexus study at least every eight years, per Government Code Section 66016.5(a)(8).

Planned Improvements

Details regarding expenditure of the police impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;

b. The need for the facility and the type of development on which the fee is imposed; and

c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the “rational nexus” and “rough proportionality” standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see “Legal Framework for Impact Fees” in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to provide additional Police Department facilities and vehicles to maintain the existing level of service for those facilities in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to pay for additional Police Department facilities and vehicles described in the City’s Capital Improvement Plan to serve new development in the City.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to pay for additional Police Department facilities and vehicles needed to serve new development in Brisbane at the currently existing level of service in terms of the relationship between facility cost and calls for service per year.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. Added calls for service associated with new development will increase the need for Police Department facilities and vehicles in Brisbane. The police impact fees will provide funding for additional Police Department facilities and vehicles needed to maintain the existing level of service in Brisbane.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the police impact fees charged to a development project will depend on the increase in calls for service associated with that project. The fees per unit of development calculated in this chapter for each type of development are based on the estimated average calls per unit per year for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for Police Department facilities and vehicles in the City.

Chapter 6. Fire Department Facilities

This chapter calculates impact fees for Fire Department facilities, apparatus and vehicles in Brisbane. Fire protection and emergency response services in Brisbane are provided by the North County Fire Authority (NCFA). Brisbane currently has one fire station which is owned by the City and operated by NCFA. The City and NCFA are planning to construct one additional fire station to serve future development in the City.

Methodology

Unlike the other impact fees calculated in this report, the fire impact fees are calculated using the planned facilities method discussed in Chapter 1. With that method, impact fees are based on the cost of providing additional facilities, apparatus and vehicles needed to serve new development.

The reason that the fire impact fees are calculated using the planned facilities method instead of the existing inventory method used to calculate other impact fees in this study is that impact fees based on the existing inventory method would generate impact fee revenue in excess of the cost of the planned future fire station with its new apparatus and vehicles. NBS also calculated fire impact fees based on the system plan method and found the same to be true in terms of projected impact fee revenue exceeding the cost of planned improvements.

Service Area

Brisbane's Fire Department facilities serve all development in the City. The impact fees calculated in this chapter are intended to apply to all new development except for public facilities, unless the fees for a project are limited by statute or established by a development agreement.

Demand Variable

A "demand variable" is a quantifiable attribute of development that is used in impact fee calculation formulas to represent the impact of development. The demand variable used to calculate impact fees for Fire Department facilities in this chapter is fire calls for service per year.

The fire calls-per-unit-per-year factors used to calculate impact fees for Fire Department facilities in this chapter are shown in Table 2.3 in Chapter 2 and are used in Table 6.4 in to calculate impact fees per unit for each type of development defined in this study.

Level-of-Service Standard

The level-of-service standard used in this study to calculate impact fees for Fire Department facilities is the relationship between the estimated cost of the City's planned new fire station and its associated apparatus and vehicles and the number of additional calls for service per year that will be generated by future development in the City to buildout. That level of service is defined as a cost per call for service, calculated by dividing the estimated cost of the new fire station and associated assets by the projected number of calls for service per year to be generated by new development between 2025 and buildout of available land in Brisbane.

This level of service standard is consistent with the use of the planned facilities method discussed in the Methodology section above

In 2021, Section 66016.5 was added to the Mitigation Fee by Act AB 602. That section requires, after January 1, 2022, that the level of service used in an impact fee study must be compared with the existing level of service.

Although the cost per unit of new development based on the planned facilities method discussed above is less than the expenditure required to serve the existing service population in terms of cost per call for service, the level of service for new development will be equivalent with the level of service for the existing service population and appropriate since it will provide the City and NCFA with sufficient resources to respond to the new calls for service from new development in a manner equivalent with the level of service provided to the existing service population. The cost per call shown in Table 6.3 on the next page is $21,759.45, whereas the cost per call for the existing level of service based on the value of existing assets and existing calls for service would be $31,080.39.

Planned Fire Department Facilities

Table 6.1 shows key data about Brisbane's planned future fire station, including estimated cost costs for land and construction. The impact fee cost basis in Table 6.1 is the sum of the land and construction costs.

Table 6.1: Planned Future Fire Department Facilities

Facility	Building Sq Feet [1]	Site Acres [2]	Facility Constr Cost [3]	Land Cost [4]	Impact Fee Cost Basis [5]
Baylands Station	12,000	1.50	$ 14,400,000	$ 5,250,000	$ 19,650,000

[1] Building square feet provided by North County Fire Authority

[2] Site acres provided by North County Fire Authority

[3] Facility construction cost based on $1,200 per square foot

[4] Land value based on $3,500,000 per acre

[5] Impact fee cost basis = facility replacement cost + land value

Table 6.2 lists the new apparatus and vehicles that will be needed to equip the new fire station. The cost of the additional apparatus and vehicles will be included in the cost basis for the impact fees calculated in this chapter. Table 6.2 also includes the cost of firefighter personal protective equipment for additional firefighters needed to staff a second fire station.

Table 6.2: Future Fire Station Apparatus, Vehicles and Equipment

Units	Description	Replacement Cost per Unit [1]	Impact Fee Cost Basis [3]
1	Ladder Truck	$ 3,000,000	$ 3,000,000
1	Type 1 Engine	$ 1,700,000	$ 1,700,000
2	Administrative Vehicle	$ 100,000	$ 100,000
18	Personal Protective Equipt	$ 45,662	$ 821,916
Total			**$ 5,621,916**

Table 6.3 divides the combined impact fee cost from Tables 6.1 and 6.2 by the projected increase in fire calls for service per year to arrive at a cost per call for service per year.

Table 6.3: Cost per Call per Year - Planned Fire Dept. Facilities/Equipment

Cost Component	Impact Fee Cost Basis [1]	Added Calls for Service [2]	Cost per Call [3]
Planned Facilities	$ 19,650,000	1,161	$ 16,918.91
Future Station Apparatus, Vehicles, Equipt	$ 5,621,916	1,161	$ 4,840.54
Total	**$ 25,271,916**	**1,161**	**$ 21,759.45**

[1] See Tables 6.1 and 6.2

[2] See Table 2.5

[3] Cost per call = impact fee cost basis / added calls for service per year

In the next section, the cost per call from Table 6.3 is used to calculate impact fees per unit for additional Fire Department facilities and other capital assets needed to serve projected future development in Brisbane. Impact fees are calculated for each type of development defined in this study.

Impact Fees per Unit

Table 6.4 shows the calculation of impact fees per unit for planned new Fire Department facilities, apparatus and vehicles. Those fees are calculated using the cost per call from Table 6.3 and fire calls-for-service-per-unit per year factors from Table 2.1.

Table 6.4: Impact Fees per Unit - Fire Department Facilities

Development Type	Units [1]	Cost per Call [2]	Fire Calls per Unit [3]	Impact Fee per Unit [4]
Residential <800 Sq. Ft. Unit	DU	$21,759.45	0.12	$ 2,611.13
Residential 800-1,200 Sq. Ft. Unit	DU	$21,759.45	0.14	$ 3,046.32
Residential 1,200-2,100 Sq. Ft. Unit	DU	$21,759.45	0.16	$ 3,481.51
Residential >2,100 Sq. Ft. Unit	DU	$21,759.45	0.18	$ 3,916.70
Commercial	KSF	$21,759.45	0.26	$ 5,565.97
Hotel/Motel	Room	$21,759.45	0.11	$ 2,305.27
Office	KSF	$21,759.45	0.02	$ 478.71
Life Science/R&D	KSF	$21,759.45	0.07	$ 1,523.16
Industrial	KSF	$21,759.45	0.02	$ 391.67
Warehouse	KSF	$21,759.45	0.03	$ 739.82

[1] Units of development: DU = dwelling unit; KSF = 1,000 gross square feet of building area; Room = guest room or suite

[2] See Table 6.3

[3] Fire Calls per unit; see Table 2.3

[4] Impact fee per unit = cost per call X calls per unit

Projected Revenue

Table 6.5 projects potential revenue from the fire impact fees. That projection is based on the cost per call from Table 6.3 and the calls per unit per year from Table 2.5.

Table 6.5: Projected Revenue - Fire Impact Fees

Development Type	Added Calls for Service [1]	Cost per Call [2]	Projected Revenue [3]
All Development	1,140	$21,759.45	$ 24,808,440
Total			**$ 24,808,440**

[1] See Table 2.5; added calls for service in this table do not include calls generated by public facilities, public schools or parks

[2] See Table 6.3

[3] Projected revenue = added service population X cost per capita

The projected revenue shown in Table 6.5 is equal to the estimated cost of the planned new fire station and its associated apparatus and vehicles. The projected revenue calculation assumes that future development in the City will occur as forecasted in Chapter 2. It does not account for limits on impact fees set by development agreements for some future projects.

Updating the Fees

The impact fees calculated in this chapter are based on estimated costs for the City's planned future Fire Department facilities, apparatus and vehicles. We recommend that the fees be reviewed annually and adjusted as needed using the most current cost estimates. The City will be required to update the nexus study at least every eight years, per Government Code Section 66016.5(a)(8). The California Cost Index, published by the Department of General Services and the Engineering News Record Building Cost Index (BCI) can be useful for indexing construction costs over time. The City will be required to update the nexus study at least every eight years, per Government Code Section 66016.5(a)(8).

Planned Improvements

Details regarding expenditure of the fire impact fees can be found in the City's Impact Fee Capital Improvement Plan.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

a. The use of the fee and the development type on which it is imposed;
b. The need for the facility and the type of development on which the fee is imposed; and
c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the "rational nexus" and "rough proportionality" standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see "Legal Framework for Impact Fees" in Chapter 1.) The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to provide additional Fire Department facilities apparatus and vehicles needed to maintain serve future development in Brisbane.

Use of the Fee. Impact fees calculated in this chapter will be used to pay for additional Fire Department facilities, apparatus and vehicles described in the City's Capital Improvement Plan to serve new development in the City.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to pay for additional Fire Department facilities, apparatus and vehicles needed to serve new development in Brisbane.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. Geographic expansion of the City associated with new development will increase the need for a second fire station with associated apparatus and vehicles in Brisbane.

The fire impact fees will provide funding for those additional Fire Department facilities, apparatus and vehicles needed to serve planned future development in Brisbane.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the fire impact fees charged to a development project will depend on the increase in calls for service associated with that project. The fees per unit of development calculated in this chapter for each type of development are based on the estimated average calls per unit per year for that type of development in Brisbane. Thus, the fee charged to a development project reflects the impact of that project on the need for new Fire Department facilities, apparatus and vehicles in the City.

Chapter 7. Implementation

This chapter of the report summarizes requirements for adoption and administration of impact fees, calculated in this study. It was not prepared by an attorney and is not intended as legal advice.

Statutory requirements for the adoption and administration of fees imposed as a condition of development approval (impact fees) are found in the Mitigation Fee Act (Government Code Sections 66000 *et seq.*).

Adoption

The form in which development impact fees are enacted should be based on advice from the City Attorney. Procedures for adoption of fees subject to the Mitigation Fee Act including notice and public-hearing requirements are specified in Government Code Sections 66016 and 66018. It should be noted that Section 66018 refers to Government Code Section 6062a, which requires that the public hearing notice be published at least twice during the 10-day notice period. However, Section 66016.5 added by AB 602 in 2021 requires that impact fee nexus studies be adopted at a public hearing with at least a 30-day notice.

Government Code Section 66017 provides that fees subject to the Mitigation Fee Act do not become effective until 60 days after final action by the governing body.

Actions establishing or increasing fees subject to the Mitigation Act require certain findings, as set forth in Government Code Section 66001 and discussed in Chapter 1 of this report.

Administration

The California Mitigation Fee Act (Government Code Sections 66000 et seq.) mandates procedures for administration of impact fee programs, including collection and accounting, reporting, and refunds. References to code sections in the following paragraphs pertain to the California Government Code.

Notices and Statute of Limitations. Section 66006 (f) provides that a local agency, at the time it imposes a fee for public improvements on a specific development project, "... shall identify the public improvement that the fee will be used to finance." The required notification could refer to the capital improvement plan that must now be adopted with each new impact fee nexus study.

Section 66020 (d) (1) requires that the agency, at the time it imposes an impact fee, provide a written statement of the amount of the fee and written notice of a 90-day period during which the imposition of the fee can be protested. Failure to protest imposition of the fee during that period may deprive the fee payer of the right to subsequent legal challenge.

Section 66022 (a) provides a separate procedure for challenging the establishment of an impact fee. Such challenges must be filed within 120 days of enactment.

Collection of Fees. Section 66007, as amended by SB 937 in 2024, provides that, with some exceptions, a local agency shall not require payment of impact fees by developers of residential development projects prior to the issuance of the first certificate of occupancy, or first temporary certificate of occupancy, whichever occurs first. That provision does not apply if construction of the residential development does not begin within five years of the date upon which the building permit is issued.

An exception that allows utility service fees to be collected when an application for service is received, is now limited to the cost of “connection activities.”

Local agencies may require payment of fees prior to issuance of a certificate of occupancy under certain conditions, including if the fees are to reimburse the agency for expenditures previously made, unless the project reserves at least 49% of residential units for occupancy by lower income households. For such projects, the local agency may require posting of a performance bond or letter of credit from a federally insured depository institution to guarantee payment when the fees are eligible for collection.

In cases where the fees are not collected upon issuance of building permits, Sections 66007 (d) (1) and (2) provide that the City may require the property owner to execute a contract to pay the fee, and to record that contract as a lien against the property until the fees are paid. The local agency may not charge interest or other fees on any amounts deferred pursuant to Section 66007.

If a residential development contains more than one dwelling, the local agency may determine whether the fees or charges described shall be paid on a pro rata basis for each dwelling when it receives its certificate of occupancy, on a pro rata basis when a certain percentage of the dwellings have received their certificate of occupancy, or on a lump-sum basis when all the dwellings in the development receive their certificate of occupancy.

Statutory restrictions on the time at which fees may be collected do not apply to non-residential development.

Earmarking and Expenditure of Fee Revenue. Section 66006 (a) mandates that fees be deposited “with other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected.” Section 66006 (a) also requires that interest earned on the fee revenues be placed in the capital account and used for the same purpose.

The language of the law is not clear as to whether depositing fees "with other fees for the improvement" refers to a specific capital improvement or a class of improvements (e.g., street improvements). Common practice is to maintain separate funds or accounts for impact fee revenues by facility category (i.e., streets, park improvements), but not for individual projects.

Impact Fee Exemptions, Reductions, and Waivers. In the event that a development project is found to have no impact on facilities for which impact fees are charged, such project must be exempted from the fees.

If a project has characteristics that will make its impacts on a particular public facility or infrastructure system significantly and permanently smaller than the average impact used to calculate impact fees in this study, the fees should be reduced accordingly to meet the requirement that there must be a reasonable relationship between the amount of the fee and the cost of the public facility attributable to the development on which the fee is imposed. The fee reduction is required if the fee is not proportional to the impact of the development on relevant public facilities.

In some cases, an agency may desire to voluntarily waive or reduce impact fees that would otherwise apply to a project as a way of promoting goals such as affordable housing or economic development. Such a waiver or reduction is within the discretion of the governing body but may not result in increased costs to other development projects. So, the effect of such policies is that the lost revenue must be made up from sources other than impact fees.

Credit for Improvements Provided by Developers. If the City requires a developer, as a condition of project approval, to dedicate land or construct facilities or improvements for which impact fees are charged, the City should ensure that the impact fees are adjusted so that the overall contribution by the developer does not exceed the impact created by the development.

In the event that a developer voluntarily offers to dedicate land, or construct facilities or improvements in lieu of paying impact fees, the City may accept or reject such offers and may negotiate the terms under which such an offer would be accepted. Excess contributions by a developer may be offset by reimbursement agreements.

Credit for Existing Development. If a project involves replacement, redevelopment or intensification of previously existing development, impact fees should be applied only to the portion of the project that represents a net increase in demand for relevant City facilities, applying the measure of demand used in this study to calculate that impact fee.

Annual Report. Section 66006 (b) (1) requires that once each year, within 180 days of the close of the fiscal year, the local agency must make available to the public the following information for each separate account established to receive impact fee revenues:

1. A brief description of the type of fee in the account or fund;
2. The amount of the fee;
3. The beginning and ending balance of the account or fund;
4. The amount of the fees collected and interest earned;
5. Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the percentage of the cost of the public improvement that was funded with fees;
6. Identification of the approximate date by which the construction of a public improvement will commence, if the City determines sufficient funds have been collected to complete financing of an incomplete public improvement;
7. A description of each inter-fund transfer or loan made from the account or fund, including interest rates, repayment dates, and a description of the improvement on which the transfer or loan will be expended;
8. The amount of any refunds or allocations made pursuant to Section 66001, paragraphs (e) and (f).

The annual report must be reviewed by the City Council at its next regularly scheduled public meeting, but not less than 15 days after the statements are made public, per Section 66006 (b) (2).

Five-Year Findings and Refunds under the Mitigation Fee Act. Prior to 1996, The Mitigation Fee Act required that a local agency collecting impact fees was required to expend or commit impact fee revenue within five years or make findings to justify a continued need for the money. Otherwise, those funds had to be refunded. SB 1693, adopted in 1996 as an amendment to the Mitigation Fee Act, changed that requirement in material ways.

Now, Section 66001 (d) requires that, for the fifth fiscal year following the first deposit of any impact fee revenue into an account or fund as required by Section 66006 (b), and every five years thereafter, the local agency shall make all of the following findings for any fee revenue that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee will be put;
2. Demonstrate the reasonable relationship between the fee and the purpose for which it is charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements for which impact fees are to be used;
4. Designate the approximate dates on which the funding necessary to complete financing of those improvements will be deposited into the appropriate account or fund.

Those findings are to be made in conjunction with the annual reports discussed above. If such findings are not made as required by Section 66001, the local agency could be required to refund the moneys in the account or fund, per Section 66001 (d).

Once the agency determines that sufficient funds have been collected to complete financing on incomplete improvements for which impact fee revenue is to be used, it must, within 180 days of that determination, identify an approximate date by which construction of the public improvement will be commenced (Section 66001 (e)). If the agency fails to comply with that requirement, it must refund impact fee revenue in the account according to procedures specified in Section 66001 (d).

For a useful discussion of the foregoing requirements, see “The Mitigation Fee Act’s Five-Year Findings Requirement: Beware Costly Pitfalls” by Glen Hansen, Senior Counsel, Abbott and Kindermann, and Rick Jarvis, Managing Partner, Jarvis, Fay and Gibson, presented at the 2022 League of California Cities City Attorneys Spring Conference.

Audit Requests. Section 66023 provides that any person may request an audit to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency. The legislative body of the local agency may retain an independent auditor to conduct the audit but is not required to conduct an audit if an audit has been performed for the same fee within the previous 12 months.

The agency shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the local agency the amount of the local agency’s reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the local agency shall reimburse unused sums, if any, or the requesting person shall pay the local agency the excess of the actual cost of the audit over the amount that was deposited.

However, if the local agency fails to comply with the annual report requirement of Section 66006 following the establishment, increase or imposition of a fee, but requires payment of that fee in connection with the approval of a development project for three consecutive years, the agency shall not require a deposit for the independent audit and shall pay the cost of the audit.

Indexing of Impact Fees. Impact fees calculated in this report are based on current costs and should be adjusted periodically to account for changes in the cost of facilities or other capital assets that will be funded by those fees. That adjustment is intended to account for escalation in costs for land, construction, vehicles and other relevant capital assets. The California Construction Cost Index published by the Department of General Services and the *Engineering News Record* Building Cost Index (BCI) are useful for indexing construction costs. Where land costs are covered by an impact fee or in-lieu fee, land costs should be adjusted based on changes in local land prices. Estimated costs for vehicles and equipment can be based on vendor quotes.

Requirements Imposed by AB 602

This section repeats information about AB 602 which is also included in Chapter 1. In 2021, the California Legislature passed AB 602 and the Governor signed it into law. AB 602 creates some new requirements for impact fees that went into effect in 2022. The new law amends Government Code Section 65940.1 and adds Section 66016.5 to impose the following requirements:

1) A city, county or special district that has an internet website shall post on its website:
    a) A current written schedule of fees, exactions and affordability requirements applicable to a proposed housing development project, and shall present that information in a manner that identifies the fees, exactions and affordability requirements that apply to each parcel and the fees that apply to each new water and sewer utility connection
    b) All zoning ordinances and development standards and specifying the zoning, design and development standards that apply to each parcel
    c) A list of the information that will be required from any applicant for a development project, as specified in Government Code Section 69540
    d) The current and five previous annual fee reports required by Government Code Section 66006 and Subsection 66013 (d).
    e) An archive of impact fee nexus studies, cost of service studies or equivalent conducted on or after January 1, 2018.
2) The above information shall be updated within 30 days of any changes
3) A City or County shall request from a development proponent, upon issuance of a certificate of occupancy or final inspection, the total amount of fees and exactions associated with the project for which the certificate is issued. That information must be posted on the website and updated at least twice a year.
4) Before adoption of an impact fee, an impact fee nexus study shall be adopted.
5) When applicable, the nexus study shall identify the existing level of service for each public facility, identify the proposed new level of service and explain why the new level of service is appropriate

6) If a nexus study supports the increase of an existing fee, the local agency shall review the assumptions of the nexus study supporting the original fee and evaluate the amount of the fees collected under the original fee.

7) A nexus study adopted after July 1, 2022, shall calculate a fee imposed on a housing development project proportionately to the square footage of the proposed units of the development. A local agency that imposes a fee proportionately to the square footage if the proposed units of the development shall be deemed to have used a valid method to establish a reasonable relationship between the fee charged and the burden posed by the development. A nexus study is not required to comply with this requirement if the agency makes certain findings outlined in the statute.

8) Large jurisdictions as defined in Section 53559.1 (d) of the Health and Safety Code (counties of 250,000 or more and cities in those counties) shall adopt a capital improvement plan as part of a nexus study.

9) All studies shall be adopted at a public hearing with at least 30-day's notice, and the local agency shall notify any member of the public that requests notice of intent to begin an impact fee nexus study of the date of the hearing.

10) Studies shall be updated at least every eight years, beginning on January 1, 2022.

Training and Public Information

Effective administration of an impact fee program requires considerable preparation and training. It is important that those responsible for collecting the fees, and for explaining them to the public, understand both the details of the fee program and its supporting rationale.

It is also useful to pay close attention to handouts that provide information to the public regarding impact fees. Impact fees should be clearly distinguished from other fees, such as user fees for application processing, and the purpose and use of particular impact fees should be made clear.

Finally, anyone responsible for accounting, capital budgeting, or project management for projects involving impact fees must be fully aware of the restrictions placed on the expenditure of impact fee revenues. Fees must be expended for the purposes identified in the impact fee nexus study in which they were calculated, and the City must be able to show that funds have been properly expended.

Brisbane Transportation Impact Fee (TIF) Nexus Study

Prepared for:
City of Brisbane

September 2, 2026

SF24-1354

FEHR & PEERS

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Introduction

The City of Brisbane (City) expects significant population and employment growth that requires transportation capital improvements to meet the demands of new development. The City hired Fehr & Peers to create the Transportation Impact Fee (TIF) Nexus Study to study cost sharing of the needed transportation capital improvements. In collaboration with the City of Brisbane, transportation capital improvement projects necessary to accommodate anticipated growth were identified, along with their estimated costs. The study identifies fees for transportation improvements across the city for each land use type expected to be built.

Background

A fee program is required to operate pursuant to the Mitigation Fee Act, also known as California Assembly Bill 1600 (AB 1600) or California Government Code Sections 66000 et seq., which governs impact fees in California. Fees charged pursuant to this legislation are used to build capital facilities needed to serve the demands generated by new development. Fees are not used to correct existing deficiencies but rather are intended to address future needs. There must be a demonstrated relationship, or “nexus,” between the amount of the fee, the cost of the facilities, and the types of development on which the fee is imposed.

Approach

District Structure

The nexus analysis in Brisbane is structured with a district approach that groups infrastructure projects according to the specific development areas most responsible for the need. This approach contrasts with a citywide approach which would be agnostic to the locations of infrastructure and land development projects within the City. City staff preferred a district approach because new development and corresponding infrastructure improvements are concentrated in discrete areas of the City.

The TIF is structured into the following three districts:

- Baylands
- Sierra Point
- West Brisbane

Figure 1 displays the general location of these districts. Any future expansion of the Recology site that occurs within Brisbane would be included within the Baylands area. For the purposes of calculating fees, Guadalupe Quarry is included in the West Brisbane TIF District although the site is not currently within the city limits of Brisbane. Fees on development within Guadalupe Quarry would only be charged if the Quarry is incorporated within the City and the TIF in the future. In addition to its TIF obligations, the Guadalupe Quarry project would be solely responsible for constructing site access improvements as a part of the project description or mitigation measures/conditions of approval, including on Quarry Road, secondary access drive, and multi-modal improvements on South Hill Drive; as a result, it is not anticipated that additional transportation improvements would need to be added to the TIF when the Quarry area is incorporated into the City.

Brisbane City Limit
Proposed Roadways
1 TIF Infrastructure Project (Location)
2 TIF Infrastructure Project (Corridor)
Corridor Infrastructure Project
Baylands
West Brisbane
Sierra Point

Project Funding Source

Figure 1

Brisbane TIF Infrastructure Projects

Fee Categories

Based on the City's input and the types of land uses anticipated per the City's General Plan and available Specific Plan documents, the fee categories for this TIF study are:

- Office
- Life science / R&D
- Hotel
- Industrial
- Warehouse
- Residential
- Retail

Traffic generated by new residential uses is accounted for in the nexus analysis and proportional allocation of fees; however, based on direction from staff, impact fees will not be levied for residential uses outside of the Baylands TIF District. This will result in an impact fee program that is not fully funded (i.e., the total amount in collected fees will not fully pay for the improvements assumed in the impact fee program), because the proportion of costs attributable to new residential development outside of the Baylands TIF District will need to be covered through other funding sources. This study has calculated the number of trips anticipated to be generated by new residential land uses outside of the Baylands TIF District and found it to be less than 10 percent of the total future trips generated by new growth in the City.

Population and Employment Rates

We used population and employment rates from the *Brisbane Baylands Transportation Impact Assessment* ("Baylands TIA", Fehr & Peers, 2024) and *Fiscal Impact Analysis of The Baylands Specific Plan* (Economic & Planning Systems, Inc., 2022) to estimate demand allocation among the various land use categories. Future growth projections are usually presented in units of population and employment, whereas fees are typically charged based on square footage of building area, so equivalency rates were needed to convert between different units of measurement. The rates for relevant fee categories are summarized below.

- Office = 310 square feet per employee[1]
- Life Science/R&D = 350 square feet per employee[2]
- Hotel = 1 employee per room[1]

[1] Per *Fiscal Impact Analysis of The Baylands Specific Plan* (Economic & Planning Systems, Inc., 2022) and employee densities used in *Brisbane Baylands Transportation Impact Assessment*, Table C-4 in Appendix C.1

[2] This density aligns with employee densities used in the *Brisbane Baylands Transportation Impact Assessment*, Table C-4 in Appendix C.1.

- Industrial = 500 square feet per employee[3]
- Warehouse = 1,000 square feet per employee[4]
- Residential = 2.23 persons per dwelling unit[5]
- Retail = 580 square feet per employee

The Baylands TIA references the ITE Trip Generation Manual land use code 710 per employee rate for all employment uses, which has the largest dataset for employment-based uses. Therefore, ITE land use code 710 is appropriate to represent the trip generating characteristics of employees for the employment land uses presented above (note that it excludes residential and hotel land uses).

Land Use Inputs

This section summarizes the anticipated land use growth within the City of Brisbane that results in the need for the infrastructure improvements included in the TIF Nexus Study. **Table 1** presents Brisbane's General Plan household and employment projections between 2015 and 2050 used in the cumulative impact analyses for the *Baylands Specific Plan Environmental Impact Report* (Baylands EIR). The growth projections in **Table 1** exclude the Baylands Specific Plan as described further in **Table 3**. The Baylands Specific Plan was incorporated into the General Plan via an amendment through Measure JJ in 2018.

Table 1: City of Brisbane Household and Employment Projections, excluding Baylands Specific Plan

Households			Employment		
2015	2050	2015–2050	2015	2050	2015–2050
1,910	2,713	+803	10,465	14,865	+4,400

Notes:
1. Does not include development of the Baylands Specific Plan.
Source: *Baylands Specific Plan Environmental Impact Report*, Table 7-1. City of Brisbane, 2022.

Since 2015, some development projects included within the General Plan projections were approved and therefore would not be subject to paying the TIF and are not included within the TIF calculations. These approved development projects, in addition to the remaining General Plan Buildout that could be included in the TIF, are presented in **Table 2**.

[3] Industrial land uses are not presented in the Baylands studies so the employment density is cited from the *Commercial Linkage Fee Nexus Analysis* prepared for the City of San Jose (July 2020).
[4] Warehouse land uses are not presented in the Baylands studies. The employment density is 2,000 square feet per employee from the *Commercial Linkage Fee Nexus Analysis* prepared for the City of San Jose (July 2020). Based on the Guadalupe Quarry EIR, 2,000 square feet per employee is on the lower range of anticipated employees for warehouse projects, with 1,200 to 1,500 employees at the 1.3 msf facility as the upper range of employment. Therefore, 1,000 sf per employee is used to represent this upper range.
[5] *Fiscal Impact Analysis of The Baylands Specific Plan* (Economic & Planning Systems, Inc., 2022).

Table 2: Land Use Projects Approved Since 2015

Development	TIF District	Residential Uses (Units)	Commercial Uses		
			Quantity (1,000 sf)	S.F. per Employee	Employees
The Shore at Sierra Point (Biotech)	Sierra Point	0	540	350	1,543
The Shore at Sierra Point (Retail)	Sierra Point	0	15	580	26
Genesis Marina	Sierra Point	0	422	350	1,206
3750-3780 Bayshore Boulevard	West Brisbane	30	0	--	0
25 Visitacion Ave. Mixed-Use Project	West Brisbane	2	0.734	580	1
213 Visitacion Ave. Mixed-Use Project	West Brisbane	4	0.283	580	1
18 Visitacion Ave. Mixed-use Project	West Brisbane	2	0.400	580	1
Subtotal – Approved Projects	--	***38***	***978***	--	***2,778***
Brisbane General Plan Buildout (from Table 1)	--	***803***	--	--	***4,400***
Total – Remaining General Plan Buildout not yet Approved	--	**765**	--	--	**1,622**

Notes: sf = square feet; rate per residential unit is assumed to be 2.23 persons per household
Source: Metis, Fehr & Peers. From *Brisbane Baylands Transportation Impact Assessment* (June 2024), Appendix B.4 Baylands EIR Master Cumulative Project List.

Brisbane's Housing Element anticipates that all housing growth outside of the Baylands Specific Plan would occur in West Brisbane, including 246 households in the Parkside Specific Plan, 134 other units in West Brisbane, and 40 auxiliary dwelling units (ADU's). While the location of the remaining housing units to fulfill the General Plan Buildout is unknown, Fehr & Peers assumed that it would occur within the West Brisbane district as additional housing units are not allowed in the Baylands and Sierra Point TIF districts. Fehr & Peers assumed that the remaining General Plan Buildout employment shown in **Table 2** would be incorporated within planned development in Sierra Point and Guadalupe Quarry.

Table 3 presents the anticipated remaining land use growth in the City of Brisbane for each TIF district. Note that this land use growth does not include minor construction projects or tenant improvements nor projects that are already entitled.

Table 3: Brisbane Land Use Growth within TIF Districts

Development	TIF District	Residential Uses (Units)	Commercial Uses		
			Quantity (1,000 sf or rooms)[6]	S.F. per Employee or Employees per Room	Employees
Baylands Specific Plan[1]	Baylands	2,200	7,000	--	19,480
Residential	*Baylands*	*2,200*	*--*	*--*	*--*
Office	*Baylands*	*--*	*6,397.8*	*--*	*18,503*
Retail	*Baylands*	*0*	*102.2*	*580*	*177*
Hotel[6]	*Baylands*	*0*	*800*	*1*	*800*
Other Pipeline Projects					
Sierra Point Towers[2]	Sierra Point	0	853.22	--	2,373
Sierra Point Hotel and Life Sciences[3]	Sierra Point	0	1,165.62	--	2,526
Life Science / R&D	*Sierra Point*	*0*	*328.81*	*400*	*822*
Office	*Sierra Point*	*0*	*328.81*	*300*	*1,096*
Hotel	*Sierra Point*	*0*	*608*	*1*	*608*
Guadalupe Quarry[4]	West Brisbane	--	1,322	1,000	1,322
Total Pipeline Projects	**--**	**0**	**3,340.84**	**--**	**6,221**
Remaining General Plan Buildout after Other Pipeline Projects[5]	West Brisbane	765	--	--	0
Total (City of Brisbane w/ Quarry)	**--**	**2,965**	**10,341**	**--**	**25,701**
Total (City of Brisbane w/o Quarry)	**--**	**2,965**	**9,019**	**--**	**24,379**

Notes: s.f. = square feet

1. Baylands Specific Plan size and employees matches the EIR project description. The Baylands Specific Plan was not included in the **Table 2** General Plan Buildout totals and therefore is shown separately from the other Pipeline Projects.
2. Sierra Point Towers employees based on 2022 project description from the project applicant.
3. Sierra Point Hotel and Life Science employees split based on discussion with City staff in 2022.
4. Guadalupe Quarry square feet per employee represents the upper range of potential employees for a warehousing use at the project site based on information provided by the project applicant as a part of the 2025 Draft EIR. A separate application was withdrawn and a new application was filed in 2026 for advanced manufacturing uses. If the project is approved and annexed into the City with a specific development plan that results in a different number of employees than assumed in this study, the applicable TIF fee would need to be recalculated based on the approved development program.
5. The remaining General Plan Buildout includes the total residential units and employees from **Table 2** minus the pipeline projects presented in the above table. The remaining General Plan Buildout employees would be zero as the number of employees proposed as a part of the pipeline projects exceeds the number of employees anticipated in the Brisbane General Plan.
6. For Hotel uses, the values shown represent the number of rooms and the number of employees (based on the assumption of 1 employee per room). All other uses reported in 1,000 sf.

Source: Metis, Fehr & Peers. From *Brisbane Baylands Transportation Impact Assessment* (June 2024), Appendix B.4 Baylands EIR Master Cumulative Project List.

Trip Generation

Once the land use assumptions were established, the trip generation associated with those land uses was calculated. The PM peak hour trip rates for each land use category were used since this period typically represents the highest trip generation of the day. Vehicle trip rates for the Brisbane Baylands EIR, Sierra Point project EIRs, and Guadalupe Quarry EIR will be used for those projects to reflect trip making behavior within the City of Brisbane, accounting for the TDM measures required by Brisbane Municipal Code 10.52. When updating the TIF Nexus Study, Institute of Transportation Engineers (ITE) trip rates should be used for other land use categories if no locally appropriate trip rates are available.

Table 4 presents the PM Peak Hour trip generation for TIF land use categories.

Table 4: PM Peak Hour Trip Generation for TIF Land Use Categories

Land Use	Baylands			Sierra Point			West Brisbane		
	Quantity	Trip Rate	Trips	Quantity	Trip Rate	Trips	Quantity	Trip Rate	Trips
Residential	2,200 du	0.30	661	-	-	-	765	0.36	275
Office	6,397.8 ksf	0.55	3,519	1,182 ksf	0.85	1,008	-	-	-
Retail	102.2 ksf	5.39	551	-	-	-	-	-	-
Hotel	800 rooms	0.43	344	608 rooms	0.59	359	-	-	-
Life science / R&D	-	-	-	328.81 ksf	0.85	281	-	-	-
Warehouse	-	-	-	-	-	-	1,322 ksf	0.16	205
Total	-	-	**5,075**	-	-	**1,648**	-	-	**480**

Notes: du = dwelling unit; ksf = 1,000 square feet
Source: Fehr & Peers, 2025. Vehicle trip rates derived from the Brisbane Baylands EIR, Sierra Point project EIRs, and Guadalupe Quarry EIR.

Infrastructure Inputs

Consistent with AB 602, the infrastructure projects included in the Transportation Impact Fee Program have been identified based on performance objectives that reflect the City's adopted transportation goals and planned transportation network. The text of AB 602 uses the term "level of service" to refer to performance objectives that are used to define the need for capital improvements included in an impact fee program. It is important to note that, in this context, the phrase “level of service” refers to the transportation performance objectives used in the fee program and does not refer to the traffic engineering metric called LOS that measures vehicular delay at intersections.

The projects included in the TIF address transportation facilities that were largely developed under earlier roadway standards, historic development patterns, and automobile-oriented design approaches. The infrastructure improvements included within the TIF align with Brisbane's current General Plan policies emphasizing multimodal mobility, complete streets, safety, connectivity, reduced vehicle dependence, lower vehicle miles traveled (VMT), and transportation systems that accommodate planned growth through walking, bicycling, transit, and vehicle travel. The fee-funded projects therefore are essential to achieving the transportation performance objectives identified by the City for future conditions.

The transportation performance objectives used to identify projects for the TIF program come from the City's currently adopted planning documents, including the General Plan. General Plan Policy C.1 calls for a roadway system that emphasizes mobility for Brisbane residents and businesses, accommodates bicycle and pedestrian movement in addition to vehicular movement, and provides for comfortable and safe travel. General Plan Program C.1.b further calls for improvements to Bayshore Boulevard, the Geneva Avenue extension, and U.S. 101 interchanges through a combination of roadway, intersection, transit, bicycle, and pedestrian improvements while avoiding substantial increases in vehicle miles traveled. The General Plan's Complete Streets policies also direct the City to design streets to serve all users and integrate sidewalks, bikeways, transit stops, and other multimodal infrastructure into street improvements.

The Baylands Specific Plan similarly emphasizes a multimodal transportation network intended to improve pedestrian, bicycle, and transit connectivity and reduce reliance on automobile travel. The proposed transportation network includes new and improved pedestrian facilities, protected bicycle facilities, transit connections, and mobility hubs, together with a Transportation Demand Management program intended to reduce vehicle trip generation.

A list of major transportation improvement projects in the City of Brisbane evaluated as part of the TIF is included in **Table 5**. These projects were identified based on review of past studies and coordination with the City of Brisbane, and align with the performance objectives described above. **Attachment A** includes cut sheets that summarize key attributes for each transportation improvement project that would be included in the TIF, including:

- Project ID
- Project name
- Project description
- Concept plans if available
- TIF district
- Total project cost estimate
- Assumed TIF contribution (which is further described in the table footnotes and in the subsequent section of this report on Nexus Analysis and Fee Calculations)

The transportation improvement projects are generally organized by complexity and how they relate together. The most complex is the Candlestick Interchange (also known as Harney Interchange) due to the shared regional funding agreements outlined in the 2013 Bi-County Study.[6] This project is significant in scope and will require funding sources from multiple agencies. Further, the design and cost estimate for the Candlestick Interchange is over a decade old and subject to change. Therefore, the current TIF fee

[6] https://www.sfcta.org/projects/bi-county-transportation-study

calculations include the Candlestick Interchange based on the cost estimate and Brisbane cost allocation identified in the 2013 Bi-County Study. Because the interchange design and cost estimate are expected to be updated in the future, Attachment C provides supplemental fee calculations that exclude the Candlestick Interchange and that could be used as a baseline for a future update to the TIF once a revised interchange scope and cost estimate are available. The Geneva Avenue Extension and other transportation changes were also included in the 2013 Bi-County Study but are not included in this TIF as they are either part of project descriptions (e.g., the Geneva Avenue Extension is a part of the Baylands) or may no longer be required. Information supporting the assumed fee requirements of the nexus study is contained in Table 7.2 Cumulative Projects List of the Baylands Specific Plan EIR.

Table 5: Transportation Impact Fee Capital Improvement Plan

ID	Name	Description	Total Project Cost	Assumed TIF Contribution	TIF District(s)	Time of Availability	Existing Condition	Planned Condition/ Performance Objective[1]
1	Candlestick Interchange Reconfiguration	The Candlestick Interchange Reconfiguration would address deficient conditions that would arise with land use growth in both San Mateo and San Francisco counties, and thus will require significant coordination among several jurisdictions, including the cities of Brisbane, Daly City, San Francisco, and Caltrans.	$195,000,000[2]	$42,344,516	Baylands, West Brisbane, Sierra Point	2035	Existing facilities were designed under prior roadway standards and development patterns that primarily emphasized vehicle throughput and do not fully support the City's current multimodal transportation objectives .	Modernized interchange and roadway network supporting safe multimodal travel, improved connectivity, accommodation of planned growth, and implementation of contemporary transportation design practices and Complete Streets principles.
2a	Bayshore Mobility Plan	The Bayshore Mobility Plan sets forth the design plan for Bayshore Boulevard required by Program C.1.b of the City of Brisbane General Plan.[3]	$10,000,000	$5,504,265[4]	Baylands, West Brisbane, Sierra Point	2035	Existing corridor was designed primarily for regional vehicle circulation and lacks the multimodal elements defined in current City plans and policies.	Corridor improvements supporting multimodal travel, safer pedestrian and bicycle facilities, transit access, and implementation of adopted mobility and Complete Streets policies.

ID	Name	Description	Total Project Cost	Assumed TIF Contribution	TIF District(s)	Time of Availability	Existing Condition	Planned Condition/ Performance Objective[1]
2b	Bayshore Boulevard / San Bruno Avenue Signalization	The Bayshore Boulevard and San Bruno Avenue Intersection Improvement is part of the greater Bayshore Boulevard Mobility Plan (see Project 2a), to accommodate traffic and land use growth in West Brisbane.	$850,000	$850,000	West Brisbane	2035	See Project 2a.	
3a	Sierra Pt Pkwy / Lagoon Road / US 101 Southbound Ramp Roundabout	As documented in the Brisbane Baylands Transportation Impact Assessment, a roundabout is the preferred configuration for the rebuilt intersection of Sierra Point Parkway, Lagoon Road, and the U.S. 101 Southbound Ramp Terminal to reduce off-ramp queues from extending back onto the mainline with the addition of traffic generated by the Baylands Specific Plan and land use growth in Sierra Point.[5]	$1,025,000	$1,025,000	Baylands, Sierra Point	2035	Existing intersection configurations were developed under prior roadway standards and do not provide the level of multimodal safety and accessibility defined in current City policies.	Improved intersection operations, reduced conflict points, shorter crossing distances, enhanced bicycle and pedestrian safety, and support for future development.

ID	Name	Description	Total Project Cost	Assumed TIF Contribution	TIF District(s)	Time of Availability	Existing Condition	Planned Condition/ Performance Objective[1]
3b	Sierra Point Bay Trail Gap Closure	As documented in the Brisbane Baylands Transportation Impact Assessment, with the addition of the Bay Trail segment north of Lagoon Road and the change in land uses proposed by the Baylands Specific Plan and in Sierra Point would create demand for walking and bicycling travel along this segment of Sierra Point Parkway.	$1,715,000	$1,715,000	Baylands, Sierra Point	2035	Existing bicycle and pedestrian network contains gaps that limit continuous and convenient multimodal travel.	Continuous active transportation facilities connecting regional destinations and supporting walking, bicycling, recreation, and reduced vehicle trips.
4a	Sierra Pt Parkway / Marina Blvd (West) / Shoreline Court Roundabout	Operational and safety improvements to the intersection Sierra Point Parkway / Marina Boulevard (West) / Shoreline Court to support the increase in multi-modal travel associated with the increased density of Sierra Point.	$3,280,000	$3,280,000	Sierra Point	2035	See Project 3a.	

ID	Name	Description	Total Project Cost	Assumed TIF Contribution	TIF District(s)	Time of Availability	Existing Condition	Planned Condition/ Performance Objective[1]
4b	Sierra Pt Parkway / Marina Blvd (East) / Shoreline Court Roundabout	Operational and safety improvements to the intersection Sierra Point Parkway / Marina Boulevard (East) to support the increase in multi-modal travel associated with the increased density of Sierra Point.	$2,000,000	$2,000,000	Sierra Point	2035	See Project 3a.	
4c	Sierra Point Parkway Terminus Roundabout	Operational and safety improvements to the terminus of the Sierra Point Parkway at the Brisbane Marina driveways to support the increase in multi-modal travel associated with the increased density of Sierra Point and facilitate vehicle access to 9000 Marina Boulevard.	$2,000,000	$2,000,000	Sierra Point	2035	See Project 3a.	
4d	Sierra Point Internal Multi-Use Pathway	Safety improvements to connect other proposed Class 1 pathways to provide a complete internal network for multi-modal travel in support of the increased density of Sierra Point.	$4,000,000	$4,000,000	Sierra Point	2035	Existing transportation network lacks a complete multimodal circulation system connecting destinations within Sierra Point.	Complete internal active transportation network providing safe and connected pedestrian and bicycle access between employment, recreation, transit, and shoreline destinations.

ID	Name	Description	Total Project Cost	Assumed TIF Contribution	TIF District(s)	Time of Availability	Existing Condition	Planned Condition/ Performance Objective[1]
5	Parkside Precise Plan: Park Lane	Implement Park Lane street section of the Parkside Precise Plan to accommodate land use changes.	$1,200,000	$1,200,000	West Brisbane	2035	Existing roadway facilities were not designed to accommodate planned future land use patterns or current multimodal design objectives.	Transportation facilities designed to support multimodal mobility, safety, accessibility, network connectivity, and implementation of current City transportation policies.
6	Parkside Precise Plan: Old County Road	Implement Old County Road street section of the Parkside Precise Plan to accommodate land use changes.	$100,000	$100,000	West Brisbane	2035	See Project 5.	
7	Valley Drive Improvements	Implement Valley Drive bicycle and pedestrian improvements per the 2017 Bicycle and Pedestrian Master Plan and the findings from the Crocker Park Technical Assistance Panel.	$3,000,000[6]	$3,000,000	West Brisbane	2035	See Project 5.	
8	BPMP Improvements	General fund for bicycle and pedestrian improvements as identified in the BPMP. Specific locations to be identified as part of further study.	$1,132,000[6]	$1,132,000	Baylands, West Brisbane, Sierra Point	2035	See Project 5.	
Total			**$225,302,000**	**$68,150,781**				

Notes:

1. Planned transportation conditions and performance standards are based on applicable City of Brisbane General Plan transportation policies, including Policy C.1, Program C.1.b, and Complete Streets Policies C.21-C.24, as well as the multimodal transportation framework established for the Baylands Specific Plan. Time of

availability is estimated at 2035 consistent with the required network elements anticipated to support the completion of Phase 1 of the Baylands Specific Plan as presented in the Baylands EIR.

2. The values shown as the Total Project Cost and the Assumed TIF Contribution for the Candlestick Interchange Project (Project 1) come from the 2013 Bi-County Study. The cost of that project is to be shared across multiple jurisdictions per Table ES-3 of the Bi-County Study, so the value shown as Assumed TIF Contribution represents the City of Brisbane share of the project's cost. The Total Project Cost is likely to change when a new Bi-County Study is completed, in which case the Assumed TIF Contribution would also change and the TIF calculations presented in this report would need to be updated (see Appendix B for more information on this topic). Access the 2013 Bi-County Study: https://ccag.ca.gov/wp-content/uploads/2014/05/BiCounty-Final-Report_.pdf
3. The Bayshore Mobility Plan could consist of a road diet, improved local access, and road safety improvements consistent with the conceptual plans presented in the Bayshore Mobility Plan memorandum included as an appendix to the Brisbane Baylands Transportation Impact Assessment Report: https://www.brisbaneca.gov/DocumentCenter/View/553/Appendix-F1---Transportation-Impact-Assessment-PDF
4. The Assumed TIF Contribution for Project 2a were calculated using a "select link" analysis as described in the Fee Calculations and Application section of this report and presented in Attachment B. Project 2a will not be fully funded by the TIF program because regional pass-through trips account for a share of the project benefit.
5. A signal or roundabout were identified as mitigation for land use growth in Sierra Point and Baylands to reduce vehicle queues from extending onto U.S. 101. Therefore, the full cost of this improvement is included in the TIF and assigned to development in these two TIF districts.
6. Cost estimate per email direction from Randy Breault in September and October 2024.

Source: Fehr and Peers, 2026.

Nexus Analysis and Fee Calculations

Cost Estimates

Individual project costs in **Table 5** are presented in current year (2025) dollars. Once the fee program is adopted, inflation will be accounted for by escalating the individual fee rates annually per the Engineering News-Record's Construction Cost Index. This is an industry standard approach for determining fee escalation and is used for other similar impact fee programs. For projects with prior mitigation contributions, amounts previously collected for the same improvement will be accounted for as credits against the applicable project cost to avoid recovery of costs already funded through prior development obligations.

Existing Deficiencies

One of the key functions of a fee program is to charge fees to new development to fund new development's proportional share of transportation improvements that are needed to serve the demand generated by new development. The purpose of an impact fee is not to correct existing deficiencies. Accordingly, the analysis evaluated whether any existing deficiencies are associated with the transportation improvement projects included in the TIF, so that any such deficiencies could be excluded from the fee calculation.

To determine whether there exist any deficiencies within the facilities contained within the list of transportation improvement projects, available traffic operations analysis for each facility presented in **Table 5** was compared against the local performance threshold. The traffic operations analyses are contained within recent EIR documents, including the Bayshore Baylands EIR and the Sierra Point Towers EIR. Based on our review of these documents, all facilities within the list of transportation improvement projects currently operate acceptably and there are no existing deficiencies that need to be accounted for in this nexus analysis.

Beyond the question of existing deficiencies, the available planning documents indicate that auto-oriented infrastructure within the Sierra Point TIF District is anticipated to become deficient in the future as the planned land use changes will increase multi-modal travel beyond what can be supported by the existing infrastructure. Automobile travel to and from Sierra Point will be constrained by the existing ramp terminal and the two-lane segment of Sierra Point Parkway under US 101; the multi-modal improvements included within this study will provide a complete network of low-stress bicycle and walking facilities, in addition to shuttle stops, to allow for travel by multiple modes into and out of Sierra Point. For this reason, intersections along Sierra Point Parkway that were originally planned to be signalized are now being designed to have roundabouts, and the cost difference between these planned improvements is assumed in this TIF study.

Certain transportation improvements associated with individual development projects are funded separately from the TIF through development agreements, project-specific mitigation measures, conditions of approval, or other direct development obligations. These improvements are not being included in the TIF because they are the responsibility of individual development projects. For example, the Guadalupe Quarry project would be responsible for site-access improvements on Quarry Road, a secondary access drive, and multimodal improvements on South Hill Drive. This separation helps ensure that TIF revenues are used for the proportional share of improvements needed to accommodate new development rather than to fund either existing deficiencies or project-specific obligations.

Cost Attribution

There are several considerations that go into identifying the proportion of project cost attributable to new development and thus eligible for inclusion in the TIF. The first is whether there are any existing deficiencies to account for that would reduce the proportion of the project's cost included in the TIF. In this case, no existing deficiencies were identified.

The next step is to consider the data available about the usage of the TIF projects. For the Candlestick Interchange (Project 1), the data available about the usage of that project by new development in Brisbane comes from the Bi-County Study, as has been described earlier, which defines that approximately 21.7% of the responsibility for that project lies with Brisbane; thus, that proportion of the project's total cost (i.e., $42.3 million out of the total cost of $195 million) is being included in the TIF. The other major road corridor project in the TIF is the Bayshore Mobility Plan (project 2a); that type of project can be evaluated using the City of Brisbane sub-area VISUM model, where a "select link" analysis can estimate the usage of the corridor by travelers from various locations. That select link analysis presented in Attachment B indicated that approximately 45% of the usage on that corridor was from regional pass-through trips, so that proportion of the project's cost has been removed from the TIF program. For all other TIF projects, the full cost of the project is included in the TIF.

Fee Calculations and Application

The project cost estimates attributable to the TIF in **Table 5** are distributed to individual TIF districts. The following projects have costs shared across multiple TIF districts:

- Project 1, the Candlestick Interchange Reconfiguration Project, has costs allocated to all three TIF districts per the proportional cost allocation in Table ES-3 of the 2013 Bi-County Study.
- Project 2a, the Bayshore Mobility Plan, has its TIF-eligible costs allocated to all three TIF districts based on the number of trips generated by each TIF district in the 2040 Baylands Cumulative Plus Project PM submodel of the CCAG travel demand model. This information was obtained from the model using a "select link" procedure to track the usage of each facility by travelers crossing TIF district boundaries as presented in Attachment B. This project is not fully funded through the TIF because other regional pass-through trips account for a share of the future trips that benefit from this project.

- Project 3a, Sierra Point Parkway / Lagoon Road / US-101 Southbound Ramp Roundabout, has the full costs allocated between the Baylands and Sierra Point TIF districts as this project is called out as a mitigation measure in the EIR's for development in these two districts to address intersection operations and queuing impacts. The project has its fee split 50% / 50% between the Baylands and Sierra Point TIF districts. This reflects a shared benefit of the proposed improvements for Baylands residents and Sierra Point employees.
- Project 3b, the Sierra Point Bay Trail Gap Closure, has its fee split 50% / 50% between the Baylands and Sierra Point TIF districts. This reflects a shared benefit of the proposed Class I bike facility for Baylands residents and Sierra Point employees. The Baylands project will roughly double the number of residents living in Brisbane, meaning the employers in Sierra Point will draw a substantial number of their local employees from the Baylands area, and the residents, employees, and visitors of both districts will benefit from closing the gap in this regional trail.

As noted above for Project 1, the 2013 Bi-County Transportation Study developed a cost-participation framework based on projected automobile trip generation associated with future background growth and major planned development projects. The study calculated each stakeholder's share of future trip growth and used those percentages to proportionally allocate the cost of the Bi-County transportation improvement program. Table ES-3 of the Bi-County Study presents the resulting cost-participation percentages and amounts and serves as the basis for the Candlestick Interchange cost allocation used in this nexus study. The Bi-County Study characterized these allocations as a technical framework for cost-sharing rather than binding funding commitments and noted that the allocations may require revision as land use assumptions and project cost estimates change.

Fee Calculation Methodology

The calculation of the maximum TIF rates occurs in two primary steps. First, the TIF-eligible cost of each transportation improvement identified in **Table 5** is assigned to the TIF district or districts responsible for the need for the improvement. Projects serving a single TIF district are assigned entirely to that district. For projects serving multiple districts, the project cost is distributed among the applicable districts based on the allocation methodology established for that improvement, as described above.

Table 6 summarizes the allocation of TIF-eligible project costs among the three TIF districts. Projects assigned entirely to one district are shown as a 100 percent allocation to that district. For projects serving multiple districts, the table identifies the applicable allocation basis and resulting dollar amounts.

Table 6: Allocation of TIF-Eligible Project Costs by District

ID	Name	TIF-Eligible Cost	Allocation Basis	Baylands	Sierra Point	West Brisbane
1	Candlestick Interchange Reconfiguration	$42,344,516	2013 Bi-County cost-participation framework and Brisbane district allocation	$35,880,000	$5,180,049	$1,284,467
2a	Bayshore Mobility Plan	$5,504,265	Select-link vehicle trips	$2,476,433	$1,010,400	$2,017,432
2b	Bayshore Boulevard / San Bruno Avenue Signalization	$850,000	Single-district project	-	-	$850,000
3a	Sierra Point Pkwy / Lagoon Road / US 101 SB Ramp Roundabout[1]	$1,025,000	Shared benefit; 50/50 split	$512,500	$512,500	-
3b	Sierra Point Bay Trail Gap Closure[1]	$1,715,000	Shared benefit; 50/50 split	$857,500	$857,500	-
4a	Sierra Point Pkwy / Marina Blvd (West) Roundabout	$3,280,000	Single-district project	-	$3,280,000	-
4b	Sierra Point Pkwy / Marina Blvd (East) Roundabout	$2,000,000	Single-district project	-	$2,000,000	-
4c	Sierra Point Parkway Terminus Roundabout	$2,000,000	Single-district project	-	$2,000,000	-
4d	Sierra Point Internal Multi-Use Pathway	$4,000,000	Single-district project	-	$4,000,000	-
5	Parkside Precise Plan: Park Lane	$1,200,000	Single-district project	-	-	$1,200,000
6	Parkside Precise Plan: Old County Road	$100,000	Single-district project	-	-	$100,000
7	Valley Drive Improvements	$3,000,000	Single-district project	-	-	$3,000,000
8	BPMP Improvements	$1,132,000	District share of PM peak-hour trips	$797,572	$259,015	$75,413
Total		**$68,150,781**	-	**$40,524,004**	**$19,099,464**	**$8,527,313**

Notes:

1. Project 3a and 3b have its fee split 50% / 50% between the Baylands and Sierra Point TIF districts. This reflects a shared benefit of the proposed ramp terminal upgrades and Class I bike facility for Baylands residents and Sierra Point employees.

Source: Fehr & Peers, 2026.

The total TIF-eligible project costs assigned to each district in **Table 6** are allocated among the land use categories within each TIF district based on the proportion of PM peak-hour vehicle trips generated by each land use. The calculation uses the anticipated development quantities and applicable trip generation rates to determine the number of PM peak-hour trips generated by each land use category.

For each land use category, its share of district trip generation is calculated as follows:

$$Land\ Use\ Share\ of\ District\ Trips = \frac{Land\ Use\ PM\ Peak\ Hour\ Trips}{Total\ PM\ Peak\ Hour\ Trips\ in\ the\ TIF}$$

Table 7 presents the development quantities, trip generation rates, and resulting trip shares used to allocate the district costs.

Table 7: Land Use Trip Generation and District Cost Allocation Inputs

Land Use Category	Development Quantity	PM Peak-Hour Trip Rate	Land Use PM Peak-Hour Trips	District Total PM Peak-Hour Trips	Share of District Trips
Baylands					
Residential	2,200 du	0.3005/du	661.00	5,075.00	13.02%
Office	6,397.8 ksf	0.5500/ksf	3,519.00	5,075.00	69.34%
Retail	102.2 ksf	5.3914/ksf	551.00	5,075.00	10.86%
Hotel	800 rooms	0.4300/room	344.00	5,075.00	6.78%
Sierra Point					
Office	1,182.03 ksf	0.8533/ksf	1,008.58	1,648.13	61.20%
Hotel	608 rooms	0.5905/room	359.00	1,648.13	21.78%
Life Science / R&D	328.81 ksf	0.8532/ksf	280.55	1,648.13	17.02%
West Brisbane					
Residential	765 du	0.3594/du	274.95	479.86	57.30%
Warehouse / Quarry	1,322 ksf	0.1550/ksf	204.91	479.86	42.70%

Source: Fehr & Peers 2026.

The trip share calculated in **Table 7** is applied to the total TIF-eligible project cost assigned to the applicable district in **Table 6** to determine the amount of district cost attributable to each land use category:

$$Land\ Use\ Cost\ Allocation = District\ TIF\ Eligible\ Cost * Land\ Use\ Share\ of\ District\ Trips$$

The resulting cost allocation is then divided by the anticipated development quantity for that land use category to calculate the maximum fee per dwelling unit, square foot, or hotel room:

$$Maximum\ Fee = \frac{Land\ Use\ Allocation}{Development\ Quantity}$$

For land uses reported in thousands of square feet in **Table 7**, the development quantity is converted to square feet when calculating the final fee per square foot.

As described in the Fee Categories section, residential trip generation is included in the nexus analysis and proportional cost allocation for all applicable TIF districts. However, based on direction from City staff, residential uses outside of the Baylands TIF District will not be charged the TIF. As a result, the maximum residential fee calculated for West Brisbane is shown for purposes of demonstrating the nexus and proportional allocation of costs, but the City does not intend to impose that fee. The associated share of project costs would therefore need to be covered through other funding sources.

Table 8 presents the resulting cost allocation and maximum fee calculation for each land use category.

Table 8: Maximum Fee Calculation by TIF District and Land Use

Land Use Category	District TIF-Eligible Cost	Share of District Trips	Cost Allocated to Land Use	Fee Calculation Quantity	Maximum Fee
Baylands					
Residential	$40,524,004	13.02%	$5,278,102	2,200 du	$2,399.14/du
Office	$40,524,004	69.34%	$28,099,305	6,397,800 sf	$4.39/sf
Retail	$40,524,004	10.86%	$4,399,749	102,200 sf	$43.05/sf
Hotel	$40,524,004	6.78%	$2,746,849	800 rooms	$3,433.56/room
Sierra Point					
Office	$19,099,464	61.20%	$11,687,959	1,182,030 sf	$9.89/sf
Hotel	$19,099,464	21.78%	$4,160,295	608 rooms	$6,842.59/room
Life Science / R&D	$19,099,464	17.02%	$3,251,210	328,810 sf	$9.89/sf
West Brisbane					
Residential	$8,527,313	57.30%	$4,885,968	765 du	$6,386.89/du[1]
Warehouse / Quarry	$8,527,313	42.70%	$3,641,345	1,322,000 sf	$2.75/sf

Note:

1. The West Brisbane residential fee represents the maximum fee calculated through the nexus analysis. Based on direction from City staff, residential uses outside of the Baylands TIF District will not be charged the TIF.

Source: Fehr & Peers, 2026.

The calculations shown in **Tables 7** and **8** provide the quantitative connection between the project costs assigned to each TIF district in **Table 9** and the resulting maximum fee rates.

When comparing the fees across TIF districts, the fees in the Baylands TIF District are lower than those in the other districts because the Baylands TIF district contains significantly more development across which to distribute costs and has lower trip rates given the walking, biking, transit-oriented nature and internalization of trips within the project. It should be noted that the Brisbane Baylands project is also responsible for directly funding several additional infrastructure improvements beyond those included in this TIF Nexus Study, such as the Geneva Avenue Roadway Extension and the Sierra Point Roadway Improvements.

The fees described in this report reflect maximum fees the City could adopt as part of the TIF. The City may choose to adopt fee amounts that are less than the maximum fees shown in this report; this may require additional funding sources to cover the costs for the projects in this nexus study.

Summary of Required Program Elements

This report provides a detailed discussion of the elements of the City of Brisbane Transportation Impact Fee program and explains the analytical techniques used to develop this nexus study. The report addresses the following fee program elements required by the Mitigation Fee Act (Government Code Section 66000 et seq), as summarized below.

Fundamental Nexus Requirements

Section 66001 contains several fundamental requirements that an agency must document when establishing or imposing an impact fee.

1. *Identifying the purpose of the fee*

   The TIF program is established for the purpose of supporting local public infrastructure improvements and facilities needed to mitigate the traffic-related impacts of new development in the City of Brisbane.

2. *Identifying how the fee will be used and the facilities to be funded through the fee*

   The fee is used to help fund capital improvement projects that will accommodate future transportation needs throughout the City of Brisbane. **Table 5** identifies the projects eligible to be funded through the fee.

3. *Determining a reasonable relationship between the fee's use and the type of development on which the fee is imposed*

   As described in this report, different types of development generate traffic with different characteristics. The maximum fee calculations presented in Error! Reference source not found. account for these characteristics by calculating the travel-related characteristics of different land use types. These considerations account for the differential impacts on the transportation system generated by different development types.

4. *Determining a reasonable relationship between the need for the public facility and the type of development on which the fee is imposed*

   The need for the facilities listed in **Table 5** has been established through local and regional planning processes prepared by the City of Brisbane and member agencies of the Bi-County Study.

5. *Determining a reasonable relationship between the amount of the fee and the cost of the public facility (or portion of facility) attributable to new development*

   This report describes the calculations applied to determine the cost of the public facility that is attributable to new development in the City of Brisbane, accounting for the effects of existing deficiencies. Thus, a reasonable effort has been made to quantitatively establish the relationship between the fees charged in the TIF program and the costs of public improvements attributable to new development within the City of Brisbane.

Additional Elements

Due to recent changes in state legislation, Section 66016.5 now defines several additional elements beyond the fundamental nexus requirements that have historically been part of the Mitigation Fee Act. These additional elements include the following:

- *If a nexus study supports the increase of an existing fee, review the assumptions of the nexus study supporting the original fee and evaluate the amount of fees collected under the original fee.*

  This Transportation Impact Fee (TIF) Nexus Study is the first in the City of Brisbane. Future updates should review its assumptions and evaluate the fees collected under the original fee.

- *Calculate a fee imposed on a housing development project proportionately to the square footage of proposed units of the development, or explain why that would not be an appropriate metric for calculating fees.*

  The nexus study fees on housing developments use one fee level for all unit types. Trip rates used to estimate trips generated from residential developments are based on the Baylands Environmental Impact Reports and its analysis which was conducted by Fehr & Peers. The average trip rate from the Baylands EIR assumes an average of 2.23 residents per unit, as allowed by the City of Brisbane's Measure JJ (2018), which allows a maximum average population density of 2.23 residents per unit for the Baylands project.

  The Mitigation Fee Act requires that there be a demonstrated relationship between the fee being charged to a new development and the level of demand that development places on public facilities and services. As described previously, the calculations presented in Error! Reference source not found. account for these characteristics by calculating the travel-related characteristics of different land use types. These considerations account for the differential impacts on the transportation system generated by different development types in different TIF districts. There is no available reference document that directly links trip generation rates to the square footage of a housing unit. Given the lack of readily available reference data about how the size of a housing unit might be related to the demand that unit would place on the transportation system, some agencies in California have undertaken statistical analyses to attempt to better understand that relationship.

Several of these recent statistical analyses have found limited information available from which to derive conclusions. The analyses cite some sources of information that link trip generation rates to the number of people living in a housing unit, although those sources often present values that are averaged over large geographic areas and the results can differ substantially; for example, some analyses cite the 2017 National Household Travel Survey which indicates that a 4-person household in California generates 12.6 daily trips, while others cite a 2012 national report on Travel Demand Forecasting: Parameters and Techniques that indicates a 4-person household generates 16.1 daily trips. These analyses then estimate the relationship between the number of people living in a house and the square footage of the house using US Census data, and then combine those factors to estimate trip generation rates by house size.

An alternative approach has been taken in Western Riverside County, where an analysis was done based on actual trip generation rates and house size data collected from residential neighborhoods throughout that region. This locally-specific analysis found that single-family house size explained approximately one-half of the variation in trip generation rates, while the other half of the variation was related to other economic and demographic factors such as household income, number of residents with jobs, number of school-age children in the household, number of vehicles owned by the residents, and other factors. In addition, the relationship between single-family house size and trip generation rates was found to hold only for houses up to 2,500 square feet; for larger houses, the statistical relationship was much less strong. No statistically significant relationship was found for multi-family developments.

In light of the lack of consistent and available sources of data to support conclusions about how housing units of varying sizes affect the transportation system, the Brisbane Transportation Impact Fee (TIF) Nexus Study has determined that square footage is not currently an appropriate metric to use in calculating fees on residential developments in the City, nor is there substantial evidence that the current method of calculating fees is disproportionate to a residential development's effects on the transportation system.

- *In large jurisdictions, adopt a capital improvement plan as a part of the nexus study.*

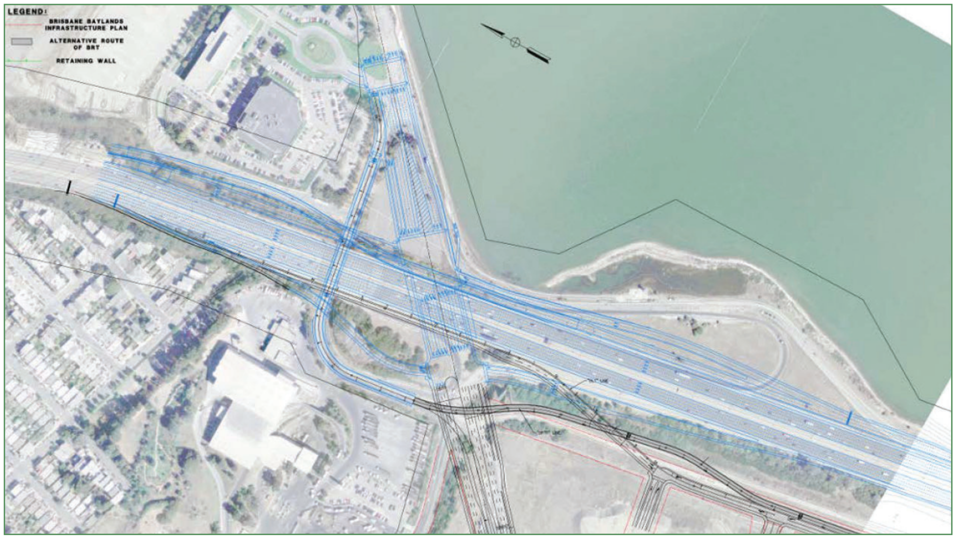
  For this purpose, a large jurisdiction is defined as a county with a population of at least 250,000 and all the cities within that county, so the City of Brisbane would meet the definition of a large jurisdiction. The City of Brisbane regularly prepares a capital improvement program (CIP) to guide the expenditure of funds on capital improvements in the City. Before a particular project receives any funds from this TIF program, that project should be included in the City's CIP and the amount of TIF funds allocated to the project should be identified. Table 5 constitutes the capital improvement plan required under the Mitigation Fee Act for the TIF program. The capital improvement plan will be adopted by the City Council prior to approval of the TIF fees and will be updated annually by the City Council.

- *Nexus studies must be updated at least every eight (8) years.* This nexus study and associated fee calculations will need to be updated by 2034.

Attachment A:
Project Cut Sheets

1 Candlestick Interchange Reconfiguration

BAYLANDS | WEST BRISBANE | SIERRA PT



Source: Geneva Ave Interchange/Extension Baylands Direct Connector Study (2015), Biggs Cardosa Associates, Inc.

PROJECT DESCRIPTION

The Candlestick Interchange Reconfiguration would address deficient conditions that would arise with land use growth in both San Mateo and San Francisco counties, and thus will require significant coordination among several jurisdictions, including the cities of Brisbane, Daly City, and San Francisco and Caltrans. The project includes a reconfiguration of the existing US-101 interchange at Candlestick Park/Harney Way to accommodate the extension of Geneva Avenue by the Baylands Specific Plan from its current terminus at Bayshore Boulevard, over Caltrain, and to a new access point from US-101 to Harney Way.

A 2013 Project Study Report (2013 PSR) by Caltrans and a 2015 Genera Avenue Interchange/Extension Baylands Direct Connector Study by Biggs Cardosa include the following components:

- Southbound ramps converge on existing intersection, off-ramp is new structure and on-ramp footprint remains the same
- Northbound ramps converge on new intersection, off-ramp uses existing footprint and on-ramp has a new structure
- BRT enters around southbound ramps
- Bridge over US-101 towards Beatty Ave (configuration not described)

The project was evaluated in the *Bi-County Transportation Study* (2013) lead by the SFCTA and in partnership with several agencies from both sides of the San Francisco-San Mateo county line, as a potential transportation improvement needed to address significant current and anticipated land use growth. The project has also been considered during the planning of the Candlestick Point-Hunters Point Shipyard and Schlage Lock (now Baylands North) master plans in San Francisco and Baylands in Brisbane. Conceptual designs of the project have been preapred as part of these studies and projects; however, given the time elapsed since prior studies, the interchange design would need to be updated to reflect the current land uses and design standards.

As further described Bi-County Transportation Study (2011), the funding strategy determined “fair-share” contributions from public and private entities involved in the study area. The project’s total estimated cost is $195,000,000, with Baylands responsible for $35,880,000, other proposed Brisbane TIF districts responsible for $21,840,000, and the remaining $137,280,000 shared across other jurisdictions, development projects, and stakeholders. Given the time elapsed since these estimates were prepared, updated cost estimates are recommended for the revised interchange design noted above.

KEY INFORMATION

TIF District
Shared - Baylands (primary), West Brisbane, Sierra Point

Location
US-101 Candlestick Park Interchange

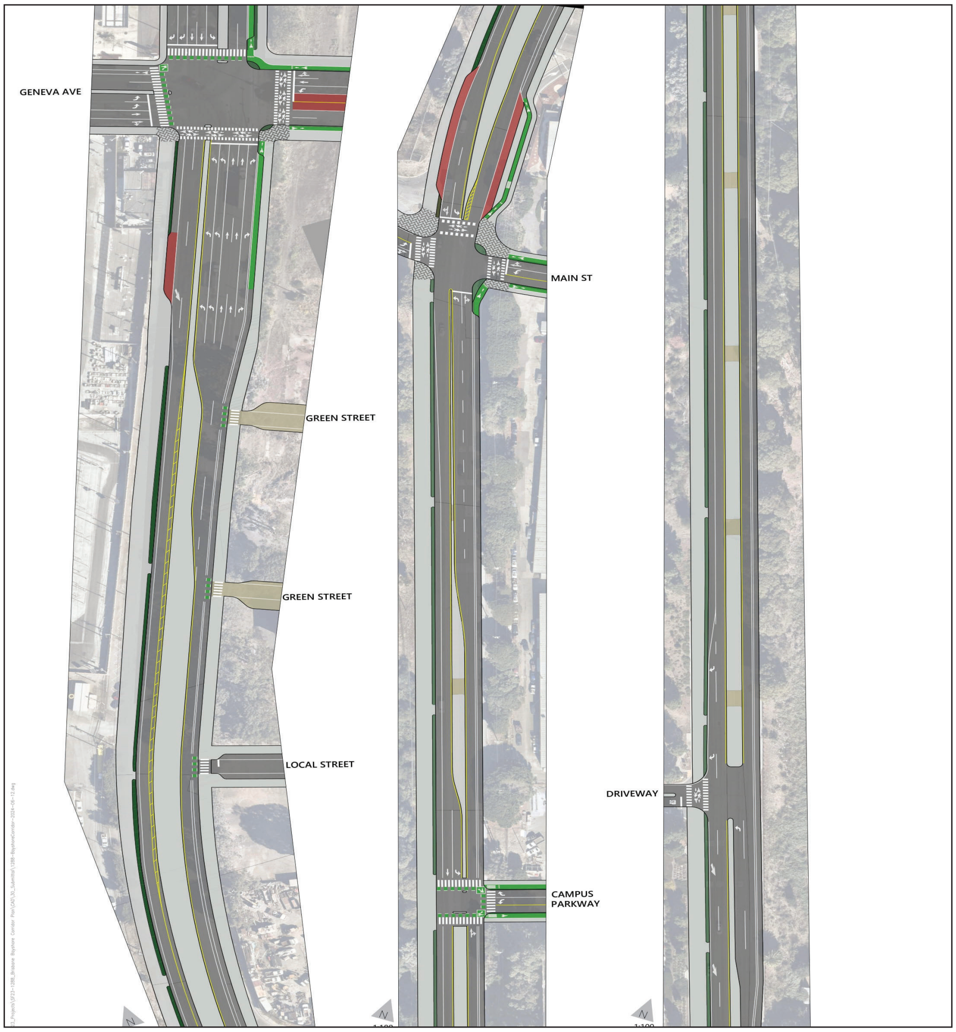
Total Project Cost Estimate
$ 195,000,000 (from 2013 Bi-County Study)

Assumed TIF Contribution (from 2013 Bi-County Study)*
$ 42,344,516
- $ 35,880,000 - Baylands
- $ 1.284,467 - West Brisbane
- $ 5,180,049 - Sierra Point

* Allocation of assumed TIF contribution is based on proportional cost responsibility per Table ES-3 “Cost-Participation Percentages and Amounts, by Automobile Trip Generation Method” in the Bi-County Transportation Study.

2a Bayshore Corridor Mobility Plan

BAYLANDS | WEST BRISBANE | SIERRA PT



Source: Bayshore Mobility Plan (2024), Fehr & Peers

KEY INFORMATION

TIF District
Shared - Baylands, West Brisbane, Sierra Point

Location
Bayshore Boulevard (Brisbane)

Total Project Cost Estimate
$ 10,000,000

Assumed TIF Contribution*
$ 5,504,265
- $ 2,476,433 - Baylands
- $ 2,017,432 - West Brisbane
- $ 1,010,400 - Sierra Point

* Allocation of assumed TIF contribution is based on proportional contribution of traffic volumes from each district.

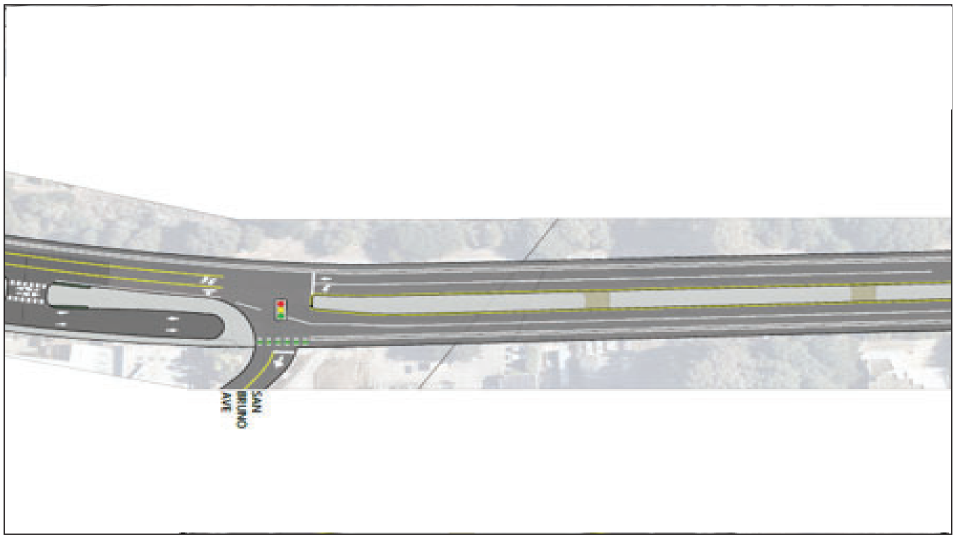
PROJECT DESCRIPTION

The Bayshore Mobility Plan sets forth the design plan for Bayshore Boulevard required by Program C.1.b of the City of Brisbane General Plan. General Plan Policy C.1 calls for the City's roadway system to be designed "to emphasize mobility for Brisbane residents and businesses, accommodate bicycle and pedestrian in addition to vehicular movement, and provide for comfortable and safe travel within the community to shopping, employment, and recreation, as well as to transit and the Highway 101 freeway." General Plan Policy C.4 further calls for planning an additional east-west corridor to redirect non-destination traffic away from Bayshore Boulevard. The Bayshore Mobility Plan could consist of a road diet, improved local access, and road safety improvements consistent with the conceptual plans presented in the Bayshore Mobility Plan memorandum included as an appendix to the Brisbane Baylands Transportation Impact Assessment Report. The Bayshore Mobility Plan would address deficient conditions that would occur due to the growth in demand for multi-modal travel resulting from the land use changes. Given the citywide role of Bayshore Boulevard for travel within Brisbane, the funding for the Bayshore Mobility Plan would be shared among the three districts based on the percent of vehicle traffic generated from each district on Bayshore Boulevard. The northern portion of this project would be implemented in tandem with the Baylands Specific Plan, which includes access changes along Bayshore Boulevard between Geneva Avenue in the north and the future Campus Drive intersection in the south. Bayshore Mobility Plan could be implemented with or without the road diet if this component of the Mobility Plan is not adopted by Brisbane City Council.

Bayshore Boulevard / San Bruno Avenue Signalization

2b

WEST BRISBANE



Source: Bayshore Mobility Plan: Concept Design Recommendations (2024), Fehr & Peers
Note: Figure shows the signal with Bayshore Mobility Plan in place.

KEY INFORMATION

TIF District
West Brisbane

Location
Bayshore Boulevard / San Bruno Avenue

Total Project Cost Estimate
$ 850,000

Assumed TIF Contribution
$ 850,000 - West Brisbane

PROJECT DESCRIPTION

The Bayshore Boulevard and San Bruno Avenue Intersection Improvement is part of the greater Bayshore Boulevard Mobility Plan (see Project 2a), to accommodate traffic and land use growth in West Brisbane. The project could be funded as part of Project 2a or could be funded separately as an interim improvement prior to implementation of the entire plan (with a credit applied to the rest of Project 2a). The mast arm at Bayshore/San Bruno was already completed as indicated in the TIF Contribution.

3a Sierra Pt Pkwy / Lagoon Road / US 101 Southbound Ramp Roundabout

BAYLANDS SIERRA PT

Source: The Baylands Specific Plan (2023), Universal Paragon Corporation

PROJECT DESCRIPTION

As documented in the Brisbane Baylands Transportation Impact Assessment, a roundabout is the preferred configuration for the rebuilt intersection of Sierra Point Parkway, Lagoon Road, and the U.S. 101 Southbound Ramp Terminal to reduce off-ramp queues from extending back onto the mainline with the addition of traffic generated by the Baylands Specific Plan and land use growth in Sierra Point. A roundabout would replace the traffic signal required as a part of TRAF-1 P3RE MMRP, with a credit for the $1,025,000 for design and construction costs already paid by the Sierra Pt LLC applicant .

A roundabout at this location will be completed in tandem with the realignment of Lagoon Road as proposed in the Baylands Specific Plan. The roundabout will require Caltrans approval and is expected to include the following features based on the Brisbane Baylands Transportation Impact Assessment:

- Two left turn lanes from westbound U.S. 101 Southbound Off-Ramp to southbound Sierra Point Parkway
- Two right turn lanes from northbound Sierra Point Parkway onto the U.S. 101 Southbound On-Ramp
- Taper down to one-lane in each direction on Sierra Point Parkway south of the roundabout
- One lane in each direction on Lagoon Road (west leg) and Sierra Point Parkway (north leg)
- Class 1 trail crossings for the Bay Trail across the north and west legs would include features that meet the design standards outlined in the *Brisbane Baylands Transportation Impact Study: Supplemental Design Guidelines*, which are based on Caltrans and Bay Trail standards.

KEY INFORMATION

TIF District
Baylands and Sierra Point

Location
US-101 Southbound Ramps, Sierra Point Parkway, and Lagoon Road

Total Project Cost Estimate
$ 1,025,000

Assumed TIF Contribution*
$ 1,025,000
$ 512,500 - Baylands
$ 512,500 - Sierra Point

* The project has its fee split 50% / 50% between the Baylands and Sierra Point TIF districts. This reflects a shared benefit of the proposed improvements for Baylands residents and Sierra Point employees.

3b Sierra Point Bay Trail Gap Closure

BAYLANDS | SIERRA PT

Source: The Baylands Specific Plan (2023), Universal Paragon Corporation

PROJECT DESCRIPTION

As documented in the Brisbane Baylands Transportation Impact Assessment, with the addition of the Bay Trail segment north of Lagoon Road and the change in land uses proposed by the Baylands Specific Plan and in Sierra Point would create demand for walking and bicycling travel along this segment of Sierra Point Parkway. With these land uses changes, this segment would represent a 1.2 mile deficient gap in the "all ages and abilities" network for people walking and bicycling, as identified by MTC's Active Transportation Network and Bay Trail Plans, between the proposed pathways in Baylands and Sierra Point. A Bay Trail compliant Class I multi-use pathway on this segment would close this network gap and would allow commuter and recreational travelers to walk or bike safely between Bay Trail pathways at Sierra Point and the rest of the City of Brisbane and other nearby communities.

This Bay Trail segment would connect in the north to the proposed Class 1 multi-use pathways included in the Baylands Specific Plan south of Lagoon Road and east of the Sierra Point Parkway extension north of Lagoon Road. This connection is identified in the San Mateo County Comprehensive Bicycle Plan's Backbone Network. In the north, the Bay Trail would cross Sierra Point Parkway and Lagoon Road on the north and west legs of the intersection, as described for Project 3a. In the south, the Bay Trail would travel under the U.S. 101 underpass on the west / south side of Sierra Point Parkway and connect to the Bay Trail and other multi-use pathways on the south and east legs of the U.S. 101 Northbound Ramp Terminal. Class 1 trail crossings would include features that meet the design standards outlined in the *Brisbane Baylands Transportation Impact Study: Supplemental Design Guidelines*, which are based on Caltrans and Bay Trail standards.

KEY INFORMATION

TIF District
Baylands and Sierra Point

Location
Sierra Point Parkway between Lagoon Road and Marina Boulevard

Total Project Cost Estimate
$ 1,715,000

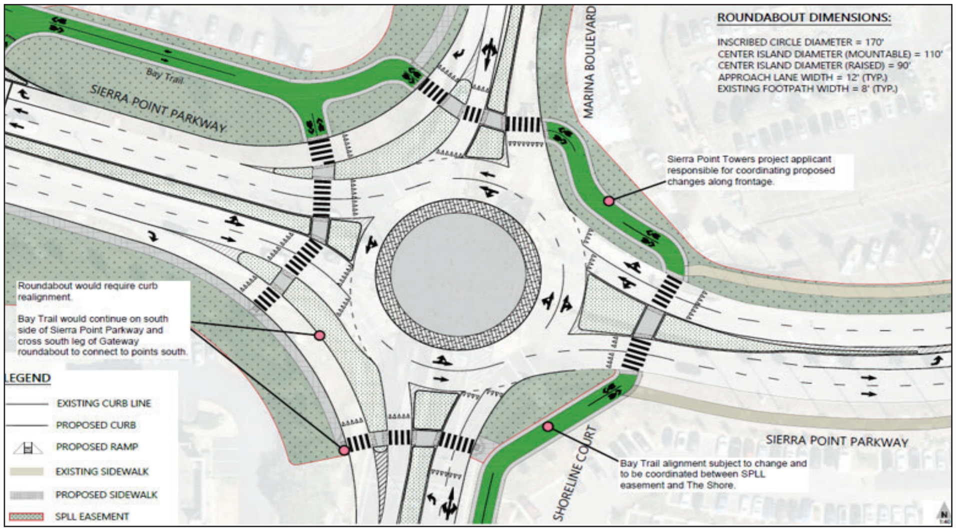
Assumed TIF Contribution*
$ 1,715,000
$ 857,500 - Baylands
$ 857,500 - Sierra Point

* The Sierra Point Bay Trail Gap Closure, has its fee split 50% / 50% between the Baylands and Sierra Point TIF districts. This reflects a shared benefit of the proposed Class I bike facility for Baylands residents and Sierra Point employees.

4a

Sierra Pt Parkway / Marina Blvd (West) / Shoreline Court Roundabout

SIERRA PT



Source: City of Brisbane

KEY INFORMATION

TIF District
Sierra Point

Location
Sierra Point Parkway and Marina Boulevard (West)

Total Project Cost Estimate
$ 3,280,000

Assumed TIF Contribution
$ 3,280,000 - Sierra Point

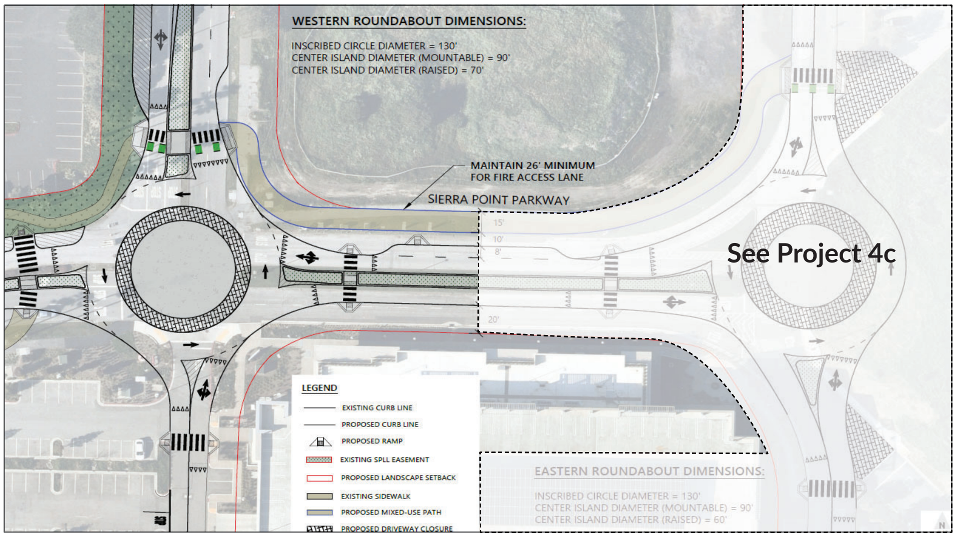
PROJECT DESCRIPTION

The Sierra Point Sub-Area includes operational and safety improvements to the intersection Sierra Point Parkway / Marina Boulevard (West) / Shoreline Court to support the increase in multi-modal travel associated with the increased density of Sierra Point. The project includes the installation of a dual-lane roundabout to address deficient future traffic operations with the build out of land uses in Sierra Point. This project replaces a previous proposal to signalize the intersection from the prior Sierra Point EIR (TRAF-3 P3RE MMRP), with a credit for the $1,540,000 for design and construction costs already paid by the Sierra Pt LLC applicant . The roundabout would improve traffic flow and multi-modal safety compared to the previously proposed signalized intersection by reducing vehicle speeds and crossing distances for people walking and bicycling. New Bay Trail connections would be provided through the roundabout to connect the existing Bay Trail segments in Sierra Point to the northwest and southeast of the intersection, Project 3b (Sierra Point Parkway Bay Trail Gap Closure), and Project 5 (Sierra Point Internal Multi-Use Pathway). Class 1 trail crossings would include features that meet the design standards outlined in the *Brisbane Baylands Transportation Impact Study: Supplemental Design Guidelines*, which are based on Caltrans and Bay Trail standards.

4b

Sierra Pt Parkway / Marina Blvd (East) / Shoreline Court Roundabout

SIERRA PT



Source: Fehr & Peers, 2024

PROJECT DESCRIPTION

The Sierra Point Sub-Area includes operational and safety improvements to the intersection Sierra Point Parkway / Marina Boulevard (East) to support the increase in multi-modal travel associated with the increased density of Sierra Point. The project includes the installation of a single-lane roundabout to replace the existing all-way stop sign with four lane approaches on Sierra Point Parkway and Marina Boulevard. The roundabout and associated reduction from four to two lanes on Sierra Point Parkway and Marina Boulevard approaching the intersection would reduce vehicle speeds and crossing distances for people walking and bicycling. These would enhance the comfort and safety for people walking and bicycling within Sierra Point and thus encourage the replacement of vehicle trips with walking and bicycling trips. New Bay Trail connections would be provided through the roundabout on the north leg to connect Project 5 (Sierra Point Internal Multi-Use Pathway) with the pathway through the 9000 Marina Boulevard property to Project 4C (Sierra Point Parkway Terminus Roundabout). Class 1 trail crossings would include features that meet the design standards outlined in the Brisbane Baylands Transportation Impact Study: Supplemental Design Guidelines, which are based on Caltrans and Bay Trail standards.

KEY INFORMATION

TIF District
Sierra Point

Location
Sierra Point Parkway and Marina Boulevard (East)

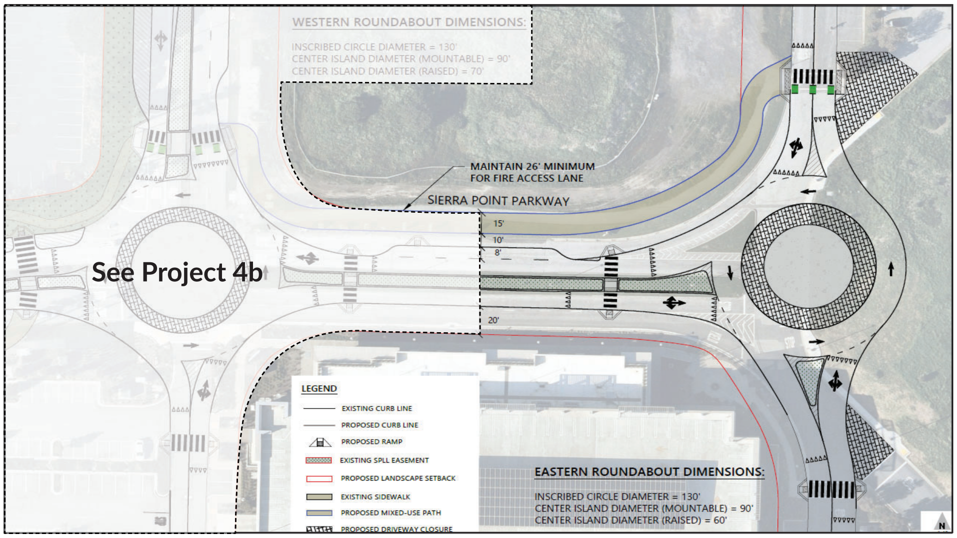
Total Project Cost Estimate
$ 2,000,000

Assumed TIF Contribution
$ 2,000,000 - Sierra Point

4c

Sierra Point Parkway Terminus Roundabout

SIERRA PT



Source: Fehr & Peers, 2024

KEY INFORMATION

TIF District
Sierra Point

Location
Sierra Point Parkway at Brisbane Marina

Total Project Cost Estimate
$ 2,000,000

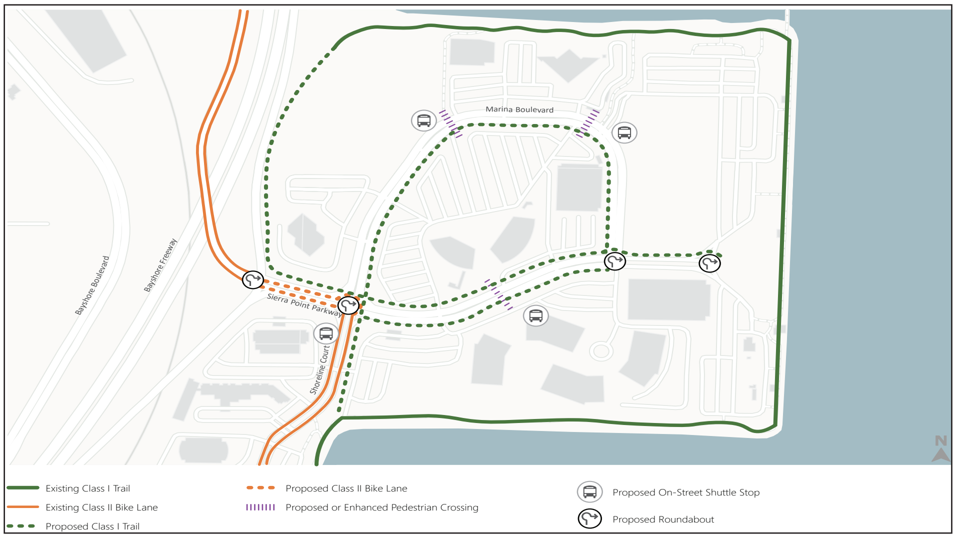
Assumed TIF Contribution
$ 2,000,000 - Sierra Point

PROJECT DESCRIPTION

The Sierra Point Sub-Area includes operational and safety improvements to the terminus of the Sierra Point Parkway at the Brisbane Marina driveways to support the increase in multi-modal travel associated with the increased density of Sierra Point and facilitate vehicle access to 9000 Marina Boulevard. The project includes the installation of a single-lane roundabout to replace the existing all-way stop sign with right-turn channelized slip lanes. The roundabout, reduction from four to two lanes on Sierra Point Parkway, and reconfiguration of driveway access into the Brisbane Marina would simplify vehicle access while allowing vehicles to use the roundabout to access the proposed driveway and loading zones for 9000 Marina Boulevard. Reduced crossing distances for people walking and bicycling and a designated Class 1 connection would provide continuous access all the way from the Sierra Point Gateway to the Brisbane Marina and Bay Trail segment. These would enhance the comfort and safety for people walking and bicycling throughout Sierra Point and thus encourage the replacement of vehicle trips with walking and bicycling trips. Class 1 trail crossings would include features that meet the design standards outlined in the *Brisbane Baylands Transportation Impact Study: Supplemental Design Guidelines,* which are based on Caltrans and Bay Trail standards.

4d Sierra Point Internal Multi-Use Pathway

SIERRA PT



KEY INFORMATION

TIF District
Sierra Point

Location
Sierra Point District

Total Project Cost Estimate
$ 4,000,000

Assumed TIF Contribution
$ 4,000,000 - Sierra Point

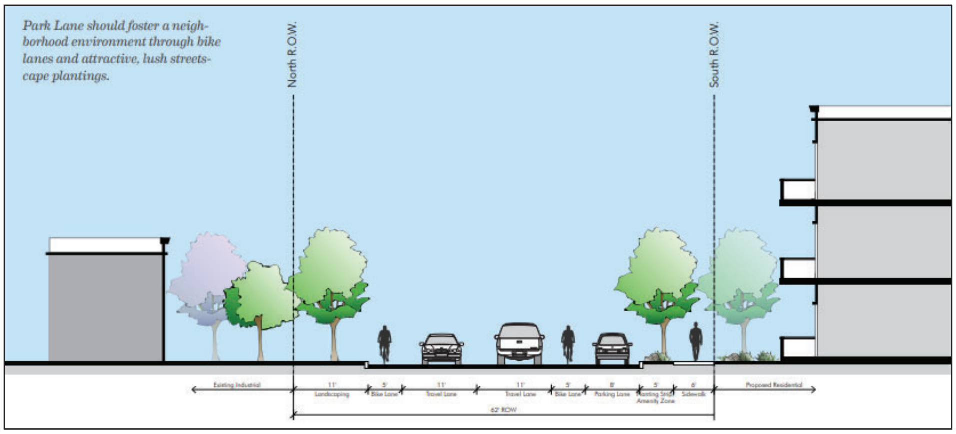
PROJECT DESCRIPTION

The Sierra Point Sub-Area includes safety improvements to connect other proposed Class 1 pathways to provide a complete internal network for multi-modal travel in support of the increased density of Sierra Point. This project includes the installation of a class 1 pathway around the central parcel of Sierra Point Parkway in coordination with the Sierra Point Towers project and high-visibility crosswalks with crossing enhancements consistent with those outlined in the *Brisbane Baylands Transportation Impact Study: Supplemental Design Guideline*s. This would enhance the comfort and safety for people walking and bicycling throughout Sierra Point and thus encourage the replacement of vehicle trips with walking and bicycling trips.

Parkside Precise Plan: Park Lane

5

WEST BRISBANE



Source: Parkside Precise Plan (2017), City of Brisbane

PROJECT DESCRIPTION

Implement Park Lane street section of the Parkside Precise Plan to accommodate land use changes:

- Maintain established street alignments.
- Within existing public rights-of-way, narrow the travel lanes and medians to allow excess width to be converted into bike lanes and/or sidewalks according to figure above
- Maintain existing curb edges and stormwater flowlines unless otherwise authorized by the City Engineer.
- Add bulb-outs along parking lanes. Landscaping bulbs in the parking lane may be considered at key locations if the adjacent parkway does not provide sufficient width for appropriate landscaping.
- Plant trees in the Brisbane Approved Street Tree List along all roadways to help articulate the street edge and open areas, provide pedestrians with a buffer from motorized traffic, and offer shade and wind protection along sidewalks and pathways
- Require a clear, unobstructed contiguous, minimum eight-foot-wide ADA accessible boarding and unboarding area at all transit shelters

KEY INFORMATION

TIF District
West Brisbane

Location
Park Lane between 145 Park Lane and Old County Road

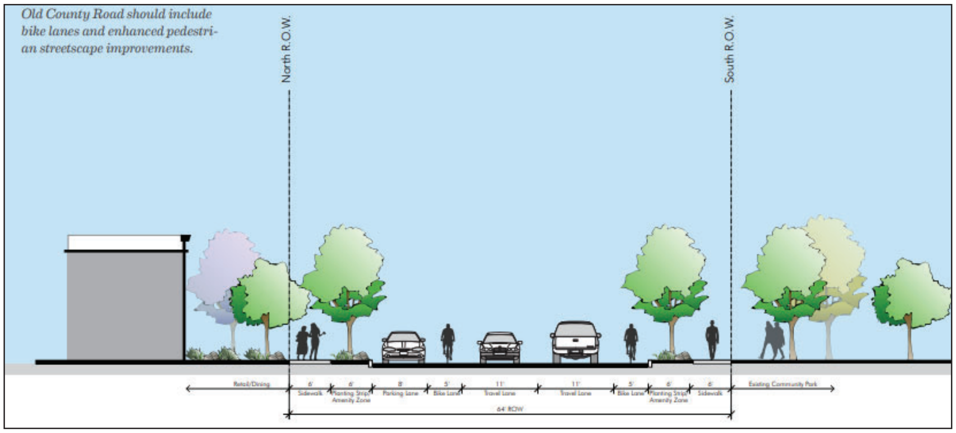
Total Project Cost Estimate
$ 1,200,000

Assumed TIF Contribution
$ 1,200,000 - West Brisbane

6

Parkside Precise Plan: Old County Road

WEST BRISBANE



Source: Parkside Precise Plan (2017), City of Brisbane

KEY INFORMATION

TIF District
West Brisbane

Location
Old County Rd between San Francisco Ave and Bayshore Blvd

Total Project Cost Estimate
$ 100,000

Assumed TIF Contribution
$ 100,000 - West Brisbane

PROJECT DESCRIPTION

Implement Old County Road street section of the Parkside Precise Plan to accommodate land use changes:

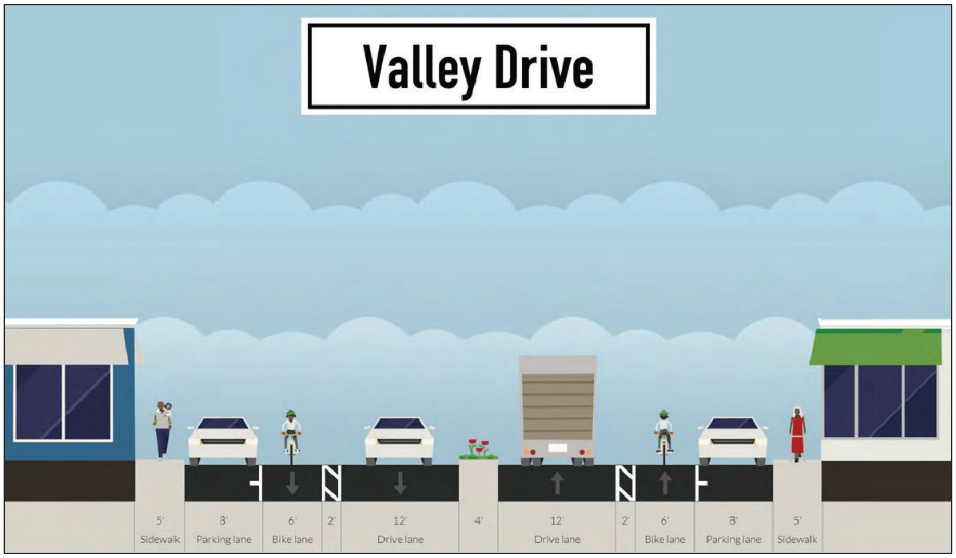
- Maintain established street alignments.
- Within existing public rights-of-way, narrow the travel lanes and medians to allow excess width to be converted into bike lanes and/or sidewalks according to figure above
- Maintain existing curb edges and stormwater flowlines unless otherwise authorized by the City Engineer.
- Add bulb-outs along parking lanes. Landscaping bulbs in the parking lane may be considered at key locations if the adjacent parkway does not provide sufficient width for appropriate landscaping.
- Plant trees in the Brisbane Approved Street Tree List along all roadways to help articulate the street edge and open areas, provide pedestrians with a buffer from motorized traffic, and offer shade and wind protection along sidewalks and pathways
- Require a clear, unobstructed contiguous, minimum eight-foot-wide ADA accessible boarding and unboarding area at all transit shelters

The Class II Bicycle Lanes are planned to be included in an upcoming repaving project, and therefore will be removed from the total cost (~$80,000).

7

Valley Drive Improvements

WEST BRISBANE



Source: Crocker Park Technical Assistance Panel (2014), City of Brisbane

PROJECT DESCRIPTION

Implement Valley Drive bicycle and pedestrian improvements per the 2017 Bicycle and Pedestrian Master Plan and the findings from the Crocker Park Technical Assistance Panel. Improvements include the following:

- Install Class II bike lanes from Bayshore Blvd to Silverspot Dr
- Extend existing median islands and pedestrian cages at Crocker Trail and City Hall
- Add median islands, pedestrian cages, and yield teeth at two existing locations

KEY INFORMATION

TIF District
West Brisbane

Location
Valley Drive from Bayshore Blvd to Silverspot Dr

Total Project Cost Estimate
$ 3,000,000

Assumed TIF Contribution
$ 3,000,000 - West Brisbane

Attachment B:
Bayshore Boulevard Cost Attribution Calculations

Table 9 presents a select link analysis prepared using the VISUM subarea travel demand model prepared for the Baylands TIA. The select link analysis presents all the PM peak hour trips traveling to and from the land uses within each land use district on the segment of Bayshore Boulevard between Valley Drive and Guadalupe Canyon Parkway, which is located the middle of the approximately two mile long corridor. The scenario analyzed is the cumulative plus Baylands project scenario including the full Bayshore Mobility Plan evaluated as a part of the Baylands TIA. This scenario includes all the anticipated development for Brisbane included in the Land Use Inputs section as well as other reasonably foreseeable regional development that is anticipated to occur by 2040. This scenario also includes other planned or reasonably foreseeable infrastructure improvements, including the US 101 Candlestick Interchange, Geneva Avenue Extension, and other infrastructure projects described in the Infrastructure Inputs section. While the Bayshore Mobility Plan analyzed in the TIF includes a road diet component, the City Council could ultimately adopt a final plan that does not include the road diet while implementing the remaining components to improve roadway safety and accessibility.

Table 9: Contributions to Bayshore Boulevard (Project 2a, PM Peak Hour)

Street Name	Total Volumes	Baylands Project		Central Brisbane		Sierra Point		Total Attributable to Brisbane	
		Volume	Share	Volume	Share	Volume	Share	Volume	Share
Northbound									
Bayshore Boulevard	1,630	370	23%	280	17%	230	14%	880	54%
Southbound									
Bayshore Boulevard	820	220	27%	190	23%	50	6%	460	56%
Average			***25%***		***20%***		***10%***		***55%***

Notes:

1. Roadway volumes were pulled from Visum Sub-Area model and rounded to the nearest 10.

Source: Fehr & Peers, 2026.

FEHR & PEERS

Attachment C: Guidance for Future Updates of the Transportation Impact Fee

Attachment C provides guidance for future updates to the Transportation Impact Fee if substantive changes occur to the transportation improvement program. The example included in this attachment illustrates the types of adjustments that may be appropriate under certain circumstances. The same general approach should be applied to other future changes, as appropriate, to maintain consistency between the development assumptions, transportation improvements, cost allocations, and resulting fee calculations used in the TIF program.

Changes to the cost, scope, funding responsibility, or district allocation of a transportation improvement included in the TIF may require the maximum fee rates to be recalculated. The Candlestick Interchange is used below as an illustrative example of how such an update could be performed. Because the Candlestick Interchange is allocated across all three TIF districts, this report also provides fee calculations that omit the current Candlestick Interchange contribution to provide a baseline for evaluating a future project update.

Error! Reference source not found. presents the maximum fee rates for each land use category and TIF district, exclusive of the Candlestick Interchange Project. These fee rates are significantly lower than those presented in **Table 8** because they exclude the Candlestick Interchange project, which represents the largest cost of the projects included in this TIF. For purposes of the illustrative update methodology below, Table 9 provides a baseline from which the effect of an updated cost for the Candlestick Interchange Project can be evaluated.

Table 10: Maximum Fee Calculations Without the Candlestick Interchange Project

Land Use Category	Baylands	Sierra Point	West Brisbane
Residential (Dwelling Unit)	$274.94	-	$5,424.83
Office (SF)	$0.50	$7.21	-
Retail (SF)	$4.93	-	-
Hotel (Room)	$393.48	$4,986.78	-
Warehouse/Quarry (SF)	-	-	$2.34
Life Science (SF)	-	$7.21	-

Source: Fehr & Peers

The following steps illustrate how the maximum fee rates could be updated if the Candlestick Interchange cost estimate or cost allocation changes. A similar approach may be applied to other transportation projects, with the specific allocation methodology depending on the nexus basis for the affected project.

To update the maximum fee values, use the values in **Table 10** to perform the following calculations:

1. **Determine each TIF District's share of Candlestick Interchange costs**: allocate the total cost (i.e., dollar value) of the Candlestick Interchange project to each Brisbane TIF district (Baylands, Sierra Point, West Brisbane).
2. **Calculate the percentage of growth**: Calculate the percentage of growth (e.g., ratio) for each TIF district that results from adding the fees for the Candlestick Interchange in Step 1 to the baseline total costs for each TIF district below. These values would replace the values presented in **Table 7**, and sum to the total cost for all projects excluding the Candlestick Interchange.

    - Baylands: $4,644,004
    - Sierra Point: $13,919,415
    - West Brisbane: $7,242,845

    Calculate the percentage growth as:

$$\frac{New\ Total\ Cost - Baseline\ Total\ Cost}{Baseline\ Total\ Cost} \times 100$$

3. **Adjust all fee categories in each TIF district**: Apply the percentage of growth for each TIF district in Step 2 to all fee categories in the TIF district. For each fee category in the table (e.g., Residential, Office), apply the percentage growth calculated in Step 2. Multiply each fee by:

$$(1 + Percentage\ Growth)$$

    Example: If the percentage growth is 10%, a $100 fee would increase to $110.

The steps above illustrate how changes to a transportation project cost or allocation can be incorporated into the TIF calculation. A similar approach may be applied to other transportation project updates, with the specific allocation methodology based on the nexus established for the affected project. As previously stated, the fees described in this report reflect maximum fees the City could adopt as part of the TIF. The City may choose to adopt fee amounts that are less than the maximum fees shown in this report; this may require additional funding sources to cover the costs of the projects included in the nexus study.

Parks and Recreation Impact Fee Capital Improvement Projects

Project Name	Description	Total Project Cost	Assumed Impact Fee Contribution	Impact Fee Category	Available
Expansion of Community Garden	Expand 0.25-acre community garden at 399 San Francisco Avenue	$150,000	$150,000	Park Improvements	FY 2031
Bocce Ball Courts Project	Install bocce ball courts at Community Park, 11 Old County Road	$75,000	$75,000	Recreation Facilities	FY 2031
New Restroom & Storage Buildings	Construct restroom and storage buildings at Lipman School Athletic Field, 132 Humboldt Road	$200,000	$200,000	Recreation Facilities	FY 2031
Lipman Tennis Court Lighting	Install new lighting at Lipman Middle School Tennis Courts, 1 Solano Street	$140,000	$140,000	Recreation Facilities	FY 2031
Mission Blue Sports Complex Amenities	Install improvements including sunshades and batting cages at 475 Mission Blue Drive	$100,000	$100,000	Recreation Facilities	FY 2031
Bankshot Basketball Court	Install new bankshot basketball courts at 22 San Bruno Avenue	$125,000	$125,000	Recreation Facilities	FY 2031

Project Name	Description	Total Project Cost	Assumed Impact Fee Contribution	Impact Fee Category	Available
Community Park & Playground Improvements	Update play structures at Community Park, 11 Old County Road	$1,000,000	$1,000,000	Recreation Facilities	FY 2031
Tot Lot Playground Upgrades	Upgrade tot lot playground at 4 Solano Street	$700,000	$700,000	Recreation Facilities	FY 2031
Quarry Road Park Improvements	Trail and landscaping improvements at Quarry Road Park, 399 San Francisco Avenue	$100,000	$100,000	Open Space/Trails	FY 2028
Mission Blue Field Lighting Upgrade	Install new field lighting at Mission Blue Field, 475 Mission Blue Drive	$50,000	$50,000	Recreation Facilities	FY 2027
Mission Blue Center Facility Improvements	Facility improvements, including a new kitchen, at 475 Mission Blue Drive	$400,000	$400,000	Recreation Facilities	FY 2030
Sierra Point Open Space/Park Development	Improvements to Sierra Point Open Space and Park Development	$2,000,000	$2,000,000	Park Improvements	FY 2031

Project Name	Description	Total Project Cost	Assumed Impact Fee Contribution	Impact Fee Category	Available
Community Pool Improvements	Improve pool infrastructure, including sunshades and electrical upgrades, at 2 Solano Street	$600,000	$600,000	Recreation Facilities	FY 2031
Silverspot Facility Improvements/Expansion	Improvements and expansion of the existing Silverspot Facility, 4 Solano Street	$100,000	$100,000	Recreation Facilities	FY 2036
Citywide Trail Development	Trail development at Quarry Road Trail, San Bruno Mountain, Firth Canyon, and Costanos Canyon Park	$1,000,000	$1,000,000	Open Space/Trails	FY 2036
Crocker Trail Master Plan Implementation	Implementation of the Crocker Trail Master Plan and related improvements	$4,000,000	$4,000,000	Open Space/Trails	FY 2031
Sierra Point Fitness Station Improvements	Improvements to the Sierra Point Fitness Station	$100,000	$100,000	Recreation Facilities	FY 2028
New Park in Central Brisbane	Acquire 0.25–1.0 acre of parkland for public recreation in Central Brisbane	$2,000,000	$2,000,000	Park Land	FY 2036

Public Facilities Impact Fee Capital Improvement Plan (CIP)

Project Name	Description	Total Project Cost	Assumed Impact Fee Contribution	Impact Fee Category	Available
City Entryway Improvements	Improvements to City entrances, including signage, landscaping, and hardscape	$500,000	$500,000	General Government	FY 2032
Stairway: Santa Clara to Tulare Avenue	Create a pedestrian walkway between Santa Clara and Tulare Street	$500,000	$500,000	General Government	FY 2030
Stairway: Santa Clara to Alvarado	Create a pedestrian walkway between Santa Clara and Alvarado	$282,500	$282,500	General Government	FY 2030
Crocker Trail Lighting Improvements	Install new lighting improvements along Crocker Trail	$600,000	$600,000	General Government	FY 2028
City Hall Emergency Services Generator Upgrade	Install a new backup generator at City Hall, 50 Park Place	$60,000	$60,000	Police	FY 2028
Bayshore/San Bruno Intersection Improvements	Intersection improvements and installation of a new traffic signal at Bayshore and San Bruno Avenue	$550,000	$550,000	General Government	FY 2035
Traffic Controller Improvements	Upgrade traffic controllers	$400,000	$400,000	General Government	FY 2035

Project Name	Description	Total Project Cost	Assumed Impact Fee Contribution	Impact Fee Category	Available
Humboldt Road to Kings Road Pedestrian Path	Create a new pedestrian path connecting Humboldt Road to Kings Road	$470,134	$470,134	General Government	FY 2035
San Francisco Avenue to Old County Road Pedestrian Path	Create a new pedestrian path from San Francisco Avenue to Old County Road at Bayshore	$400,000	$400,000	General Government	FY 2035
Marina Facilities Improvements	Facility improvements, including addition of a new bathroom at 400 Sierra Point Parkway	$500,000	$500,000	General Government	FY 2028
Parcel R Park Development	Implement Phase II of the Parcel R Park Development Project	$1,000,000	$1,000,000	General Government	FY 2032
Community Center Improvements & Expansion	Improvements and expansion of the Community Center at 250 Visitacion Avenue	$500,000	$500,000	General Government	FY 2032
Additional Fire Station – Baylands Development	Develop an additional fire station to meet the service needs associated with Baylands development	$40,000,000	$40,000,000	Fire	FY 2035
Central Brisbane Fire Station Relocation	Relocate and construct a new Central Brisbane Fire Station	$25,000,000	$25,000,000	Fire	FY 2035

Project Name	Description	Total Project Cost	Assumed Impact Fee Contribution	Impact Fee Category	Available
	response-time needs associated with new development				
Library Facility Improvements	Improve existing library facility to address impacts associated with new development	$2,000,000	$2,000,000	Library	FY 2035

CITY COUNCIL AGENDA REPORT

Meeting Date: January 15, 2025
From: Christina Fernandez, Assistant City Manager
Subject: Development Impact Fees

Recommendation

Staff recommends the City Council receive a report on proposed Development Impact Fees and provide direction and feedback on fee setting.

Background

On September 7, 2023 and October 19, 2023, staff provided updates to the City Council concerning Development Impact Fees (DIF), including an informational report discussing the legal authority of the City to impose DIF. The report laid out the need to identify and establish the need, benefit, and proportionality of such fees in order to impose DIF. Council agreed that new development should contribute to capital improvements to mitigate the impacts of new development on the community. Council expressed concern over constraints of utilizing DIF, for example, that DIF cannot be used for routine maintenance and services.

Council directed staff to prepare several nexus studies to establish the need, benefit, and proportionality of proposed Development Impact Fees. Those studies include:

1. Development Impact Fee for Parks and Recreation
2. Development Impact Fee on commercial development for Affordable Housing
3. Development Impact Fee for Transportation
4. Development Impact Fee for Public Facilities

Council directed Staff to finish all four nexus studies and to move forward with a feasibility study, if required, to assess the impact of all DIFs on development in the City, i.e, would adopting such fees, in an amount permitted under the law, render development in the City, as a practical matter, infeasible.

A feasibility study was conducted for an affordable housing DIF (see Discussion below for more detail), but the cost of conducting additional feasibility studies for the other fees is costly and time consuming. Feasibility studies are not legally required to implement DIF, and the majority of cities do not conduct feasibility studies in setting their rates but base fees by comparing rates with other cities that share similarities including size, proximity, and economic makeup.

AB 1600, known as the Mitigation Fee Act, provides procedural and substantive provisions that sets forth the requirements for establishing, increasing, and imposing development impact fees. To align with these requirements, all four nexus studies established (1) need, (2) benefit, and (3) proportionality. Regarding need, a DIF must show that the new development will create a need for the item to be funded by the DIF and without the infusion of fees from new development, the community would be negatively impacted. Concerning benefit, the study must show that new development will benefit from the item to be funded by DIF. To establish proportionality, it must show that the DIF is proportional to the impact created by a particular development. Due to these requirements, there is no "one fits all" development impact fee that may be imposed and the City undertook four separate nexus studies. Different methodologies are employed to allocate costs and calculate fees. For more detail, please see *Attachments 1-4*. The final nexus study, the Public Facilities Impact Fee study was finalized in October 2025, completing all four nexus studies.

Currently, the only fee that Brisbane imposes on development is the parkland dedication fee on residential development (Brisbane Municipal Code Section 16.24.020 and 16.24.030), the authority of which stems from State Law (the Quimby Act). If the residential development is for more than 50 lots and the land within the proposed subdivision will properly accommodate public recreational facilities, the subdivider must dedicate an area for such purposes on the basis of three acres for each 1000 population within the subdivision, assuming 2.35 persons per household. If the residential development is for 50 lots or fewer, the subdivider is to pay a fee based on the following formula: the number of proposed units times 2.35 persons per household, divided by 1000 times three acres times the fair market value of one acre of the subject property as determined by the planning director.

While not a DIF, developers of certain residential and commercial properties must also contribute to the City's Public Art Fund (Brisbane Municipal Code Section 15.85.050). For commercial projects that have building development costs between $1M and $5M the developer must contribute one percent of such costs of to the public art fund. Commercial projects that have development costs above $5M must either contribute one percent of such costs or devote a comparable amount for the acquisition and installation of publicly accessible art. Residential projects with ten to 20 units must contribute one half of one percent of the building development costs to the fund. For residential projects with more than 20 units, the developer must contribute one percent of the building development costs to the fund. Regardless of the number of units, if the development costs are above $10M, the developer must contribute one percent of the development costs or dedicate a comparable amount for the acquisition and installation of publicly available art. Low- or moderate-income housing is exempt from these provisions.

Discussion

The completed nexus studies provide a clear connection between new development and the need for development impact fees relating to housing (for commercial projects), parks, park and recreation facilities, transportation, and public facilities. They also demonstrate the maximum justifiable fee for each of the proposed impact fees. The maximum justifiable fee is data driven by quantifying infrastructure needs created by growth, estimated capital costs, allocating those costs by land uses, and translating these costs into per unit or per square footage.

The final nexus studies were finalized in late 2025, prompting City staff to engage Matrix Consulting Group (Matrix) to provide a comparative, or benchmarking, survey to help guide the City in setting the fees at the appropriate levels. While the nexus study sets the maximum justifiable fee, it does not mean that the market can absorb it. The comparison survey shows what nearby cities are charging developers and may help the City identify whether proposed fees are unusually high or low. The comparison survey assists policy makers in determining what nearby cities with similar markets are charging for their fees. Fee setting is a policy decision dependent on how competitive the City wishes to be with developers.

Comparison Surveys typically select comparable jurisdictions based on size, growth, and urban form. The following cities were selected for comparison to Brisbane:

- San Bruno
- Millbrae
- South San Francisco
- Emeryville
- Burlingame
- Daly City

Five of the six cities are located in San Mateo County, and many have similar growth patterns and urban form. For the complete comparison survey, please see Attachment 5.

For each development type, please view the Impact Fees of the six cities noted above. As the names of impact fees vary by city, Matrix identified the total impact fees charged in each city in general buckets including General Government, Housing, Library, Parks & Recreation, Childcare, Public Safety, Transportation, and Utilities. (As discussed below, the names attributable to those "buckets" do not fully correlate to names of fees proposed in Brisbane.) The nexus studies and proposed development impact fees undertaken by the City would translate into the following:

Title of Nexus Study	Title of City of Brisbane Proposed Impact Fee	Comparative Study Title
Brisbane Commercial Linkage Fee Nexus Analysis	Affordable Housing Development Impact Fee for Commercial Development	Housing

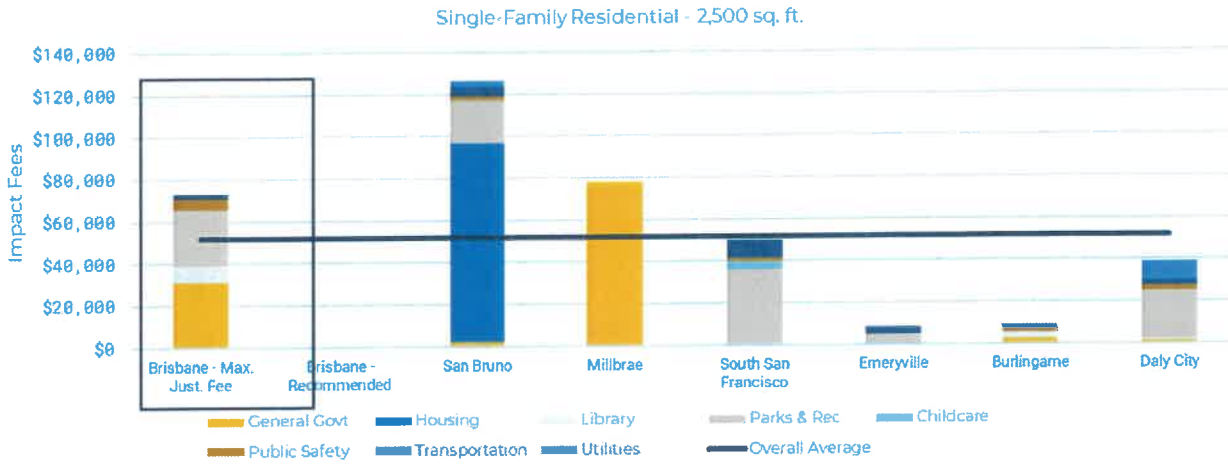
Parks and Recreation Impact Fee Study	Parks and Recreation Facilities Development Impact Fee	Parks & Recreation
Brisbane Transportation Impact Fee (TIF) Nexus Study	Transportation Development Impact Fee	Transportation
Public Facilities Impact Fee Study	Public Facilities Development Impact Fee	General Government

As noted in the Background, in 2023, the City engaged ECONorthwest to prepare an updated nexus and feasibility study for the affordable housing fee for commercial development, including hotel, retail, office, life sciences, and warehouse uses. ECONorthwest's updated feasibility analysis determined that under then-current market conditions, only warehouse development could potentially absorb an affordable housing impact fee (commercial linkage fee). The updated feasibility analysis acknowledges that development markets are cyclical and provides a toolkit for setting appropriate fee levels anticipating future market upswings.

1. Single Family Residential:

If Brisbane were to employ the same categories of fees as do other jurisdictions, i.e, General Government, Library, Parks and Recreation, Public Safety and Transportation, as proposed, the maximum DIF that the City could impose for single family residential development would be $68,138 (General Government, $31,121; Library, $7678; Parks and Recreation, $26,949; Public Safety, $4991; and Transportation, 2399. Note that staff is not recommending any affordable housing fees for single family residential development.) By comparison, Daly City's DIF for residential development is only $29,825 (General Government, $1,150, Library, $1,050, Parks and Recreation, $22,450, Public Safety, $2,675, and Transportation, $2,500).

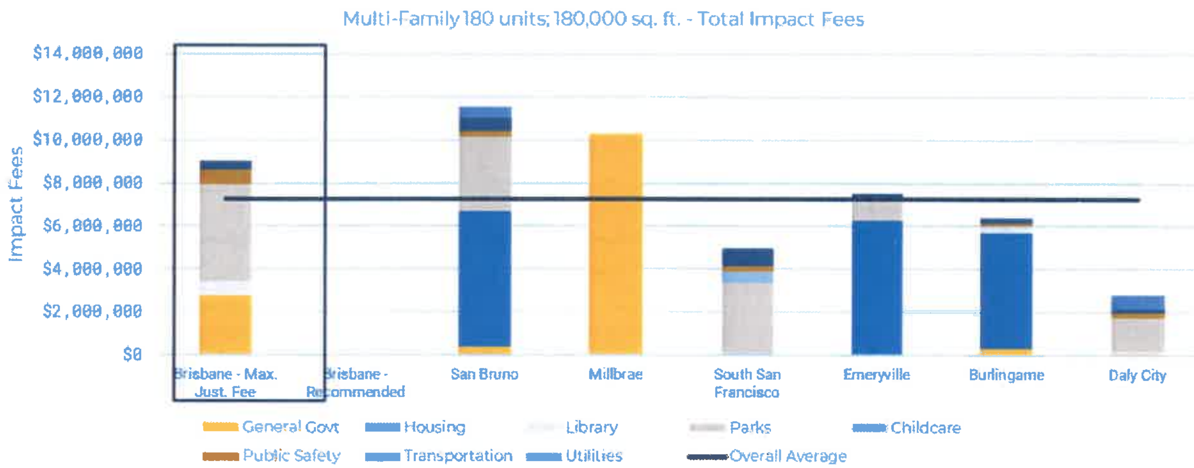
With the exception of Transportation, Daly City's fees are well below the maximums set forth in the nexus studies. The black line on the chart below indicates the overall average. Of the six cities, only San Bruno and Millbrae are above average in their DIF for single family residential developments. For single family residential developments, San Bruno's highest DIF is for Housing at $94,625 and much smaller DIFs relate to Public Safety, Utilities, Transportation, and Parks & Recreation. Millbrae's only DIF for single family residential development is for General Government.



2. Multifamily Residential:

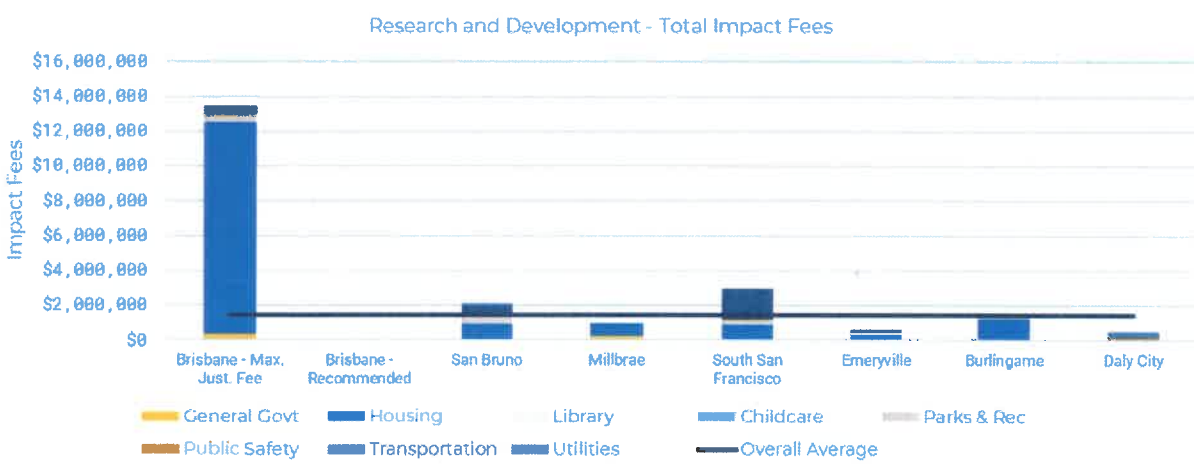
If Brisbane were to employ the same categories of fees as do other jurisdictions, i.e., General Government, Library, Parks and Recreation, Public Safety and Transportation, as proposed, the maximum DIF that the City could impose for multifamily residential development would be $9,021,005 (General Government, $2,765,340; Library, $682,380; Parks and Recreation, $4,482,000; Public Safety, $660,240; and Transportation, $431,845. Note that staff is not recommending any affordable housing fees for multifamily residential development.) By comparison, Daly City's DIF for multifamily residential development is only $2,808,000 (General Government, $82,800, Library, $75,000, Parks and Recreation, $1,616,400, Public Safety, $192,600, and Transportation, $180,000).

When compared to the surveyed cities, San Bruno and Millbrae are significantly above average whereas South San Francisco, Burlingame, and Daly City are below average. Emeryville's fees are set at average. For multifamily residential developments, San Bruno and Millbrae are again above average in the totality of their DIF. San Bruno's largest DIF is attributed to Housing at $6,309,000 followed by Parks and Recreation at $3,462,008. San Bruno's other DIFs make up much smaller portions of the total fees. Millbrae is also above average in their DIF for multifamily residential with a single DIF for General Government at $10,257,482.



3. Research & Development/Office:

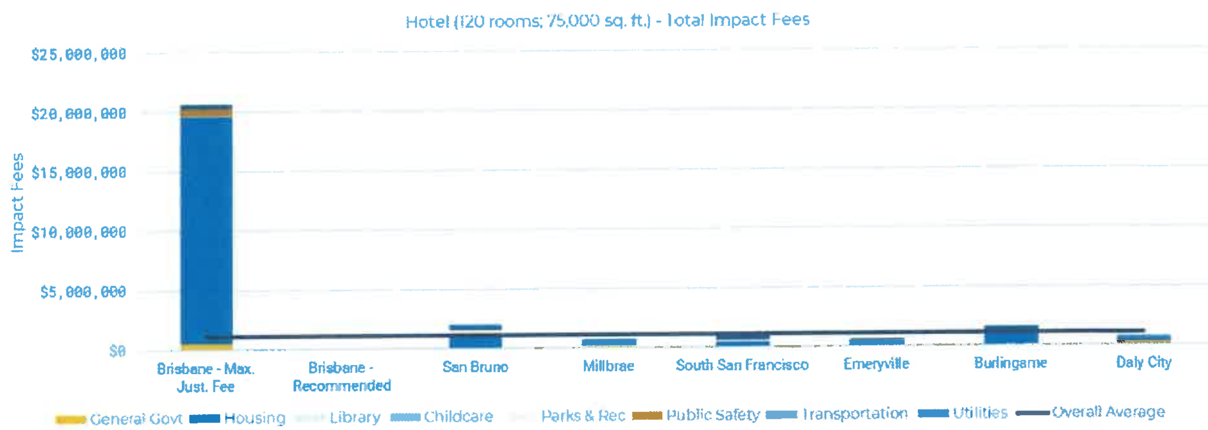
Five of the six cities combined R&D and Office into one land use type. The only city to differentiate between the two is Emeryville. Brisbane's total maximum justifiable fee is $13,456,050 (comprising of General Government, $357,950; Housing, $12,150,000; Parks and Recreation, $335,050; Public Safety, $92,550; and Transportation, $520,500). For Research & Development and Office, the majority of cities' total impact fees are at or below the average. Only South San Francisco and San Bruno's total impact fees are above average and not by a significant amount. South San Francisco's total impact fees are above average, of which the Transportation DIF takes up the majority of those costs at $1,757,500. San Bruno's total impact fee is also above average with the Housing DIF making up the majority of those fees at $876,000.



4. Hotel:

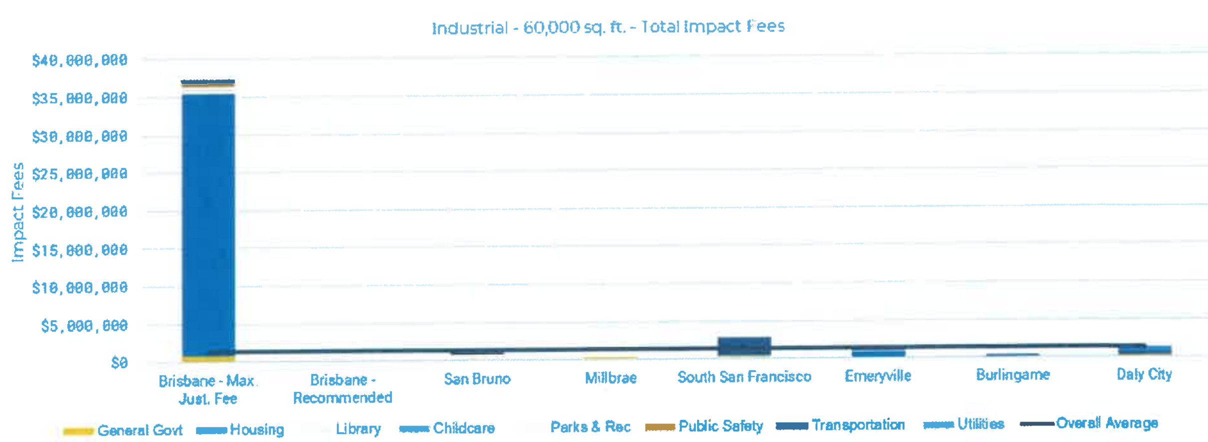
As it relates to hotel developments, the comparison was made based on an average hotel size of 75,000 square feet with 120 rooms. The City's total maximum justifiable fee is $20,688,187 (comprising of General Government, $561,240; Housing, $19,050,000; Parks and Recreation,

$93,840; Public Safety, $571,080; and Transportation, $412,027). The cities of Millbrae, Daly City, and Emeryville have total impact fees below the average whereas San Bruno and Burlingame are above average. South San Francisco fees for hotels are average. The Housing DIF makes up the largest portion of San Bruno's total impact fees at $1,314,000. Burlingame's total impact fees are also above average and the majority of this is made up of their Transportation DIF.



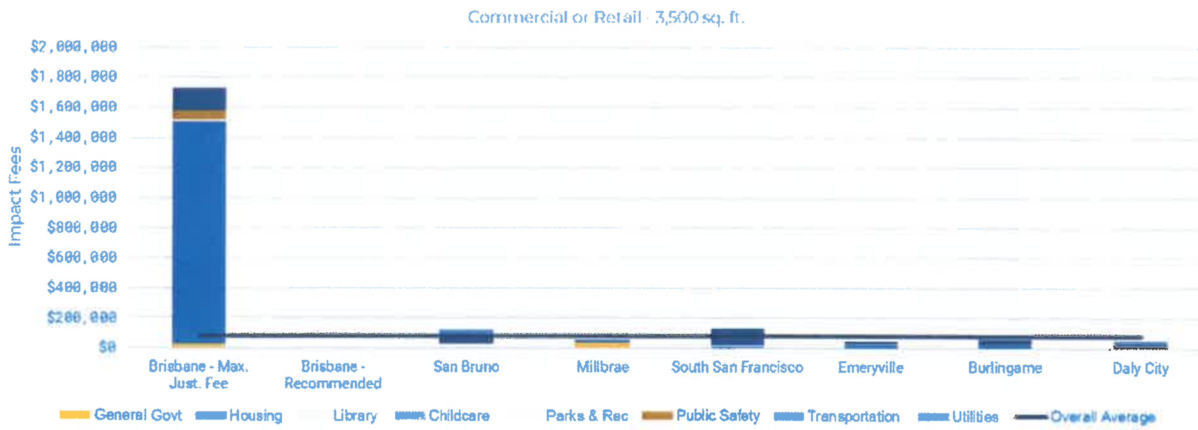
5. Industrial:

For industrial developments, the total maximum justifiable fee for the City is $37,399,200 (comprising of General Government, $751,650; Housing, $34,650; Parks and Recreation, $1,005,150; Public Safety, $480,900; and Transportation, $511,500). The total impact fees for the cities of San Bruno, Emeryville, and Daly City are average whereas Millbrae and Burlingame have lower than average fees. South San Francisco is the only city with total impact fees that are above average for industrial developments. The majority of the total impact fees for South San Francisco is attributed to the Transportation DIF at $2,373,000.



6. Commercial or Retail Development:

For commercial or retail development, the City's maximum justifiable fee is $1,728,346 (comprising of General Government, $28,224; Housing, $1,480,500; Parks and Recreation, $15,635; Public Safety, $53,312; and Transportation, $150,675). Only the cities of San Bruno and South San Francisco have above average total impact fees. The cities of Millbrae, Emeryville, Burlingame, and Daly City have lower than average fees. Of San Bruno's total impact fees, the largest DIF is for Utilities at $50,050. South San Francisco also has above average total impact fees, of which, transportation makes up the highest percentage at $108,255.



A comparison of the total impact fee averages per development type are listed below per city.

	San Bruno	Millbrae	SSF	Emeryville	Burlingame	Daly City
Single Family Residential	Above Average	Above Average	Below Average	Below Average	Below Average	Below Average
Multifamily Residential	Above Average	Above Average	Below Average	Average	Below Average	Below Average
R&D/Office	Above Average	Below Average	Above Average	Below Average	Average	Below Average
Hotel	Above Average	Below Average	Average	Below Average	Above Average	Below Average
Industrial	Average	Below Average	Above Average	Average	Below Average	Average

Commercial/Retail	Above Average	Below Average	Above Average	Below Average	Below Average	Below Average

Conclusion

The nexus study offers the legal basis for determining the highest possible fees, while the comparative study helps us understand how to set these fees and their potential impact on future development. Input from the Council is essential to determine how competitively the City wants to establish development impact fees for different land uses, ensuring that the fees align with the Council's policy objectives. Once it is determined how the Council wishes to proceed, staff will provide a recommendation on development impact fees for each of the four DIFs per the Mitigation Fee Act. The next steps are a mandatory public hearing at a future Council meeting with a public notice 10 days prior. The resolution adopting the fee must include written findings showing the purpose of the fee, use of the fee, and the reasonable relationship between the fee and the development's impacts. Any fee may not be imposed until at least 60 days after adoption. Additionally, there are annual reporting requirements, such as the AB 1600 Report which recently went to Council in December.

Fiscal Impact

The fiscal impact is unknown at this time and dependent on Council feedback.

Attachments

1. Brisbane Commercial Linkage Nexus Study and Feasibility Analysis
2. Brisbane Parks and Recreation Impact Fee Study
3. Brisbane Transportation Impact Fee Nexus Study
4. Brisbane Public Facilities Impact Fee Study
5. Brisbane Development Impact Fee Comparative Survey

Christina Fernandez, Assistant City Manager

Jeremy Dennis

Jeremy Dennis, City Manager

K

CITY COUNCIL AGENDA REPORT

Meeting Date: February 19, 2026
From: Christina Fernandez, Assistant City Manager
Subject: Impact Fees (continued)

Recommendation

Staff recommend the City Council continue the discussion on Development Impact Fees and provide staff with feedback and direction on these fees for the purpose of scheduling a public hearing at which time Council would decide whether to adopt some or all of the fees and the amount(s) thereof.

Background

City Council is considering the adoption of a comprehensive set of Development Impact Fees (DIFs) to ensure that new development pays its share of capital improvements and affordable housing needed to support growth. Adoption of these DIFs must comply with California's Mitigation Fee Act (AB 1600), which mandates a clear connection ("nexus") between new development, the need for the capital improvements or affordable housing, and the fees imposed.

Nexus Studies & Fee Categories:

Four nexus studies were completed to establish the legal and policy basis for fees to fund:

- Parks, Park and Recreation Facilities, Open Space and Trails
- Affordable Housing (Commercial Linkage Fee)
- Transportation
- Public Facilities (e.g., Library, General Government, Police, Fire)

Each study quantifies infrastructure or other needs caused by new development, allocates costs by land use, and calculates the maximum justifiable fee per unit or square foot. Nexus Studies are included in Attachment 1 following a copy of the January 15, 2026 staff report.

Key Findings:

- Legal Compliance: Fees must be based on demonstrated need, benefit, and proportionality. They cannot be used for maintenance or correcting existing deficiencies.

- Fee Structure:
  - Residential (Single Family & Multifamily): Fees are calculated for Public Facilities, Parks etc. and Transportation. Affordable housing is not included.
  - Commercial, Hotel, Office, Industrial, R&D/Life Science, Warehouse: Each has a tailored fee structure based on impact and all DIFs will apply to these uses other than affordable housing.
  - Comparative Analysis: Brisbane's maximum justifiable fees are generally higher than those in neighboring cities, but the Council may set fees at any level up to the maximum.
- Policy Flexibility: Fee setting is a policy decision. The Council should balance setting the fees with economic competitiveness and their impact on development feasibility.

Discussion

At the January 15, 2026 City Council meeting, Council determined additional time was necessary to review the nexus studies and jurisdictional fee comparison survey. Council also directed staff to provide a matrix to help guide the Council's discussion around fee setting. A matrix is attached for this purpose. (Attachment 2)

Additionally, as a part of this discussion, Council had the following follow-up questions:

- Why are some of the fee categories not 1:1 when comparing the fees in other cities?
  - Cities have various names for different development impact fees. To ensure that the city is comparing the right fees with other cities' fees, the fees have been titled generally: for example, Public Facilities include what some other cities include as General Government, Library, Public Safety, Utilities, and Childcare. The other categories, such as Parks, Affordable Housing and Transportation/Traffic generally track how those DIFs are characterized in other cities.

- May impact fees be charged for expansions?
  - Impact fees may be applied to expansions if those improvements increase demand on the various categories for which DIFs may be imposed (e.g., significant square footage expansion). Many jurisdictions set thresholds (such as minimum square footage) to capture only substantial expansions. This aligns with the principle that fees must have a "rational nexus" to the impact of development.

- Are impact fees one-time fees?

- Yes, impact fees are one-time fees collected typically at the time of issuance of a building permit, though many cities have adopted fee deferral programs and State law requires deferral of DIFs for residential developments to certificate of occupancy.

- May impact fees be deferred?
  - Yes, impact fees may be deferred, either as a matter of policy (in order to encourage development) or be law. Currently, fees associated with certain residential developments are deferred until occupancy. Millbrae, Ontario, and Placer County, have deferral programs in place aligning with SB 937, which allows for impact fee deferrals for designated residential development projects. In Millbrae, a developer can request to defer impact fee payments by entering into a formal agreement with the City. The agreement is recorded as a lien against the property, ensuring the City can collect fees even if ownership changes. The requests must be submitted at the time of the building permit application, so the agreement can be prepared before permit issuance. The City manages and tracks unpaid fees in the City's permitting system. AB 874, introduced in January and being discussed in Committee, goes even further. It would reduce the economic impact of building affordable housing by requiring non-school local agencies to allow qualified affordable rental and ownership housing projects to repay development impact fees over up to 55 years with a low rate of interest on the remaining balance.

- Rather than use impact fees, may the City impose these fees through a development agreement?
  - Yes, but few project developers request development agreements. Generally, large development projects will request a development agreement and development agreements may be used as an alternative to imposing impact fees through an ordinance. But since few development projects request or need a development agreement, the City would collect relatively few DIFs if such were limited to development agreements. One benefit of using a Development Agreement to collect funds equivalent to impact fees otherwise required by ordinance is that the use of such funds is not restricted by the Mitigation Fee Act.

- When may the City start collecting the fees?
  - If an ordinance is adopted, the ordinance goes into effect 60 days after adoption. Generally, the City may collect impact fees at the time of issuance of a building permit. However, SB 937 amended California Government Code §66007 under the Mitigation Fee Act, prohibiting local agencies from requiring payment of

Development Impact Fees (DIFs) for certain residential projects until the final inspection or issuance of a certificate of occupancy (or temporary certificate).

- May impact fees be used for operations and maintenance?
  - Impact fees cannot be used for operations, maintenance, or repairs. They are restricted to funding capital improvements and affordable housing needed to serve new development.

Fiscal Impact

The fiscal impact varies dependent on the number and type of development projects in the pipeline and how the fees are set.

Attachments

1. Impact Fee Staff Report & associated attachments – 01/15/26
2. Matrix for Council use

Christina Fernandez, Assistant City Manager

Jeremy Dennis

Jeremy Dennis, City Manager

City Council Staff Report

Meeting Date: March 5, 2026

From: Christina Fernandez, Assistant City Manager

Subject: Development Impact Fees Workshop

Recommendation

Staff recommends the City Council continue the discussion on Development Impact Fees and provide staff with feedback and direction on these fees for the purpose of scheduling a public hearing at which time Council would decide whether to adopt some or all of the fees and the amount(s) thereof.

Background

The City Council is considering the adoption of a comprehensive set of Development Impact Fees (DIFs) to ensure that new development pays its share of capital improvements and affordable housing needed to support growth. Adoption of these DIFs must comply with California's Mitigation Fee Act (AB 1600), which mandates a clear connection ("nexus") between new development, the need for capital improvements or affordable housing, and the fees imposed.

Nexus Studies & Fee Categories:

Four nexus studies were completed to establish the legal and policy basis for fees to fund:

- Parks, Park and Recreation Facilities, Open Space and Trails
- Affordable Housing (Commercial Linkage Fee)
- Transportation
- Public Facilities (e.g., Library, General Government, Police, Fire)

Each study quantifies infrastructure or other needs caused by new development, allocates costs by land use, and calculates the maximum justifiable fee per unit or square foot. Nexus Studies are included in Attachment 1 following a copy of the January 15, 2026 and February 19, 2026 staff reports.

Discussion

At the January 15, 2026 City Council meeting, Council determined additional time was necessary to review the nexus studies and jurisdictional fee comparison survey. Council also directed staff to provide a matrix to help guide the Council's discussion around fee setting. A copy of those questions and responses is included in the February 19, 2026 staff report (Attachment 1).

At the February 19, 2026 City Council meeting, Council had additional questions for staff (listed below).

- For what purpose may these funds be used? (e.g.Mission Blue kitchen, elevator, expansion,etc)
  - Impact fees may only be used to fund capital improvements needed due to new development and must have a reasonable relationship to the development. While impact fees may be used for example, to expand an existing facility, such fees may be used only when new development necessitates the need for the expansion. Impact fees may not be used for general operations or services.

- To what development projects will these fees likely impact?
  - These impact Fees will likely impact very few projects in Brisbane. Only certain projects are at the scale that would require the imposition of development impact fees. Minor home remodels or tenant improvements that do not increase square footage would not be subject to impact fees.

- May the Council rank the individual fees (parks, facilities, transit, housing?)
  - Yes,see the matrix. While the focus of staff has been the total impact fee charged per development type, the matrix provides the opportunity for Council to indicate which range a particular fee be set.

- May impact fees be imposed overtime??
  - Impact fees are one-time fees. Ongoing maintenance costs need to be funded in another way.

- How defensible are impact fees?
  - Impact fees are very defensible when backed with the appropriate nexus studies.

Fee Setting

For purposes of scheduling a public hearing at which time Council will make a final decision as to whether to adopt any or all of the DIFs and the amount(s) thereof, staff requests feedback from Council on where to set the development impact fees per development type. The matrix in the previous packet has been modified to include a ranking of various development fees per development type.

It is important to acknowledge that where rates are set will impact the amount of development in Brisbane and this is inherently a policy decision for a governing body. The collected funds will accumulate over time and the Council's ability to expend funds on capital improvements or affordable housing projects may be constrained if the accumulated funds are inadequate. It is also important to note that impact fees may serve as a baseline from which to negotiate fees in a Development Agreement.

For each development type, please indicate whether the Council's preference is for a low, an average, or an above average fee. For instance, in looking at a range of fee amounts, if Council prefers a low transportation impact fee for single family residential developments, please assign a '1' to that cell. Staff will compile this data and bring forward a recommendation based on this feedback at a subsequent City Council meeting.

City of Brisbane – Development Impact Fee Matrix						
Development Type	Transportation	Parks & Recreation	Commercial Linkage*	Public Facilities	Overall Score	Notes
Single Family Residential			X			
Multifamily Residential			X			
Hotel						
Industrial						
R&D / Office						
Commercial / Retail						
*Commercial Linkage applies to commercial development only.						

Legend:						
Rank 1- Low Impact Fee						
Rank 2 - Average Impact Fee						
Rank 3 - High Impact Fee						

Fiscal Impact

The fiscal impact varies depending on the number and type of development projects in the pipeline and the level at which the fees are set.

Attachments

1. Impact Fee Staff Reports & associated attachments – 01/15/26 and 2/19/26
2. Revised Matrix for Council Use

City Manager Approval

Jeremy Dennis, City Manager 02/27/2026

City Council Staff Report

Meeting Date: September 17, 2026

From: Noreen Leek, Parks and Recreation Director

Subject: Silverspot One Year Check in

Recommendation

Staff recommend the City Council receive an update from Silverspot Cooperative Nursery School regarding their program.

Background

Silverspot Cooperative Nursery Preschool is a nonprofit 501(c)(3) organization that was established in 2002. Silverspot is a parent-run cooperative nursery school committed to fostering a supportive community centered on learning, growth, and meaningful engagement for children and their families. Silverspot's program is designed to provide children with a safe, healthy, and nurturing environment where they can learn and develop through a play-based curriculum. The school is an active member of the California Council of Parent Participation Nursery Schools and serves children ranging in age from two years through five years and eleven months. Through its cooperative model, parents play an active role in supporting the school's operations and creating a strong sense of community among participating families. For more than 23 years, Silverspot has operated its preschool program on City-owned property located at 4 Solano Street. Over that time, the organization has become an established part of the local community and has continued to provide early childhood education and programming to Brisbane families.

Discussion

In late 2025, the City Council considered an amendment to and extension of Silverspot's lease agreement to allow the organization to continue operating its preschool program on City-owned property at 4 Solano Street. Following its consideration, the City Council approved a two-year extension of the lease agreement. As part of that action, the City Council requested that Silverspot return to the Council after one year to provide an update on the organization's operations, enrollment, financial condition, and overall program health. The purpose of the requested update is to provide the City Council with an opportunity to assess the continued viability of the program, understand any significant changes or challenges affecting the organization, and ensure that Silverspot remains well-positioned to fulfill its mission while operating on City property.

Fiscal Impact

There is no fiscal impact associated with receiving this update.

Attachments

1. Silverspot annual report 2026-27

City Manager Approval

Jeremy Dennis, City Manager   09/11/2026

Report to the City of Brisbane
Silverspot Nursery School

September 1, 2026

Dear Jeremy Dennis:

This is a report of activities at Silverspot Nursery School required by our lease with the City of Brisbane. It has the current enrollment information as of September 2026. Below is a breakdown of our current enrollment and Tuition Assistance numbers per the reporting requirements requested by the Brisbane City Council.

Enrollment

Silverspot has begun our 2025/26 school year with 8 new students. We graduated 7 students this past July. Three went on to kindergarten and four moved on to transitional kindergarten (TK). We currently have 2 part time morning spots available and will continue to have on going tours for prospective families.

Here is a breakdown of our current enrollment numbers as of September 2026:

Total enrollment:	22 Students (20 Families)
Brisbane residents:	11 Students
Employed in Brisbane:	0 Families
Non-residents:	11 Students

Non-resident families come mainly from the southern neighborhoods of San Francisco (e.g., Visitacion Valley, Portola, Mission, Bernal Heights and Potrero Hill), as well as San Bruno and South San Francisco.

Our enrollment this year consists of 14 returning students, 2 families with siblings, and 5 new Brisbane families and 1 new non-resident. We were able to continue offering extended hours as well as four different schedules and families chose to participate with full time or part time schedules. We are currently open Monday thru Friday from 8am-5pm.

Tuition Assistance

There are currently 2 families (both residents of Brisbane) on Tuition Assistance. We are subsidizing at $1100 a month. Most years, in addition to the monies we would have paid the city in rent ($1000 per month) that we set aside to fund this program, we have budgeted extra funds each month to cover the tuition assistance needs of Silverspot families. Additionally, we offer this assistance to our community all throughout the school year in case we have families that incur a sudden financial change.

Advertising to Brisbane Residents

We were kindly asked by the Brisbane School Board to join their Back to School event this year. Our board members set up a lemonade stand and made it an outreach opportunity. We will be participating in this year's "Day in the Park" in October and will also be offering a "Photo with Santa" booth at the BDW Craft Fair in December. We will continue to have a beverage table at this year's "Festival of Lights". In addition to our many community driven fundraising, we have added an outreach program at the Farmer's Market 2 times a year. We are grateful that our best form of advertising is still "word of mouth" from our alumni families and the community. Our enrollment for the following 2027-2026 school year will start in the spring and our Open House event will be in February 2027.

Conclusion

I hope this report answers any questions you may have about our enrollment, tuition assistance, and advertising activities for the upcoming school year. Should you have any questions about this report, or Silverspot Nursery School in general, please feel free to contact me at 415-657-0142 or via email at diana@silverspotcoop.org.

Thank you for your continued support of Silverspot Nursery School!

Kindest regards,

Diana Ji
Director/Teacher
Alumni Parent

City Council Staff Report

Meeting Date: September 17, 2026

From: Maz Bozorginia, Public Works Director

Subject: Consider Approval of an Amendment to a Reimbursement Agreement with Parties who Constructed San Francisco Avenue Extension

Recommendation

Staff recommend the City Council consider approving the First Amendment to the Reimbursement Agreement and authorize the City Manager to execute the document on behalf of the City.

Background

The owners of the properties at 90 Santa Clara Street and 29 San Francisco Avenue submitted plans in the early 2000s to construct new single-family dwellings. As a condition of approval, the Department of Public Works required the streets to be widened to connect with San Francisco Avenue. The required street improvements were driven by development conditions, including access and safety considerations consistent with applicable fire and roadway standards at the time.

The completed road widening also benefits the adjacent undeveloped property at 80 Santa Clara Street, which will not be required to construct similar improvements when it develops. Therefore, the owners entered into a Reimbursement Agreement with the City to establish a mechanism for recovering a proportionate share of improvement costs from future benefiting development within a 20-year term.

The original Reimbursement Agreement was recorded on June 19, 2007, and an Addendum to the Agreement was recorded on January 9, 2008. Reimbursement agreements of this type are a common mechanism used by local agencies when public improvements are constructed by one property owner but provide a benefit to other parcels. Similar agreements have been utilized in Brisbane, including examples such as Kings Road and San Diego Court. Historically, these agreements have included terms ranging from 20 to 25 years, and the duration of such agreements is ultimately at the discretion of the City Council.

The First Amendment to the Reimbursement Agreement was initially presented to the City Council on July 17, 2025. At that meeting, the City Council continued the item to a future date to allow for additional consideration of the request, including questions related to precedent, typical duration, and the City’s authority to extend the term.

The item was returned to the City Council on September 3, 2026, and was continued by the

Council to the September 17, 2026, meeting for further consideration. The term of the Reimbursement Agreement is currently set to expire on May 9, 2027.

Discussion

The reimbursement obligation established under the Agreement runs with the benefiting property and is not tied to an individual property owner. As such, any future development of the benefiting parcel at 80 Santa Clara Street would be subject to the reimbursement provisions of the Agreement.

Because the remaining benefiting property has not yet developed, the parties who funded the roadway extension have requested that the City extend the term of the Agreement for an additional ten years. The proposed extension would preserve the existing reimbursement framework and provide additional time for the benefiting property to develop and participate in the cost sharing.

The proposed First Amendment does not modify the reimbursement methodology or cost allocation. The substantive change would extend the duration of the Agreement from May 9, 2027, to May 9, 2037. The amendment also includes minor cleanup and clarification, including adding the benefiting property as an exhibit to the Agreement.

Whether to extend the term of the Reimbursement Agreement is at the discretion of the City Council. The Council may approve or deny the requested extension based on its consideration of the circumstances and information presented.

Fiscal Impact

None to the City as a result of approving this amendment.

Attachments

1. Draft First Amendment
2. Recorded Reimbursement Agreement_2007

City Manager Approval

Jeremy Dennis, City Manager   09/11/2026

Recording requested by and
After recording, return to:

City of Brisbane
50 Park Place
Brisbane, CA 94005

No fee required: Government Code,
Section 27383

FIRST AMENDMENT TO REIMBURSEMENT AGREEMENT
AND ADDENDUM TO REIMBURSEMENT AGREEMENT

This First Amendment to Reimbursement Agreement and Addendum to Reimbursement Agreement ("First Amendment") is made September __, 2026 between the City of Brisbane, a Municipal Corporation ("City") and Hamdi A. Nijem, Hana H. Nijem, Maher H. Nijem, and Rabah M. Nijem (collectively, the "Owners"). The Owners are sometimes each referred to individually by name in this First Amendment.

Recitals

A. Owners are the owners of certain real property in the City of Brisbane, County of San Mateo, California, commonly known as 29 San Francisco Avenue (APN 007-241-010), as more particularly described as "Parcel 1" in **Exhibit A** attached hereto and incorporated herein by this reference ("Parcel 1").

B. Hamdi A. Nijem and Hana H. Nijem are the owners of certain real property in the City of Brisbane, County of San Mateo, California, commonly known as 90 Santa Clara Street (APN 007-233-220), as more particularly described as "Parcel 2" in Exhibit A attached hereto and incorporated herein by this reference ("Parcel 2").

C. Parcel 1 and Parcel 2 shall be collectively referred to herein as "the Properties".

D. In 2007, Owners submitted applications to the City to develop single family residences on the Properties, and as a condition for approval of such development, the City required Owners to widen and extend certain portions of Santa Clara Street and San Francisco Avenue between the Properties (the "Street Improvements").

E. As a result of the Street Improvements, the City determined the owner of the property located at 80 Santa Clara Street (APN 007-233-230) as more particularly described in **Exhibit B** attached hereto and incorporated herein by this reference ("Benefitted Property"), would benefit from the Street Improvements because development of such Benefitted Property would otherwise be subject to a similar condition of approval requiring the owner of the Benefitted Property to widen the adjoining street but for the completion of the Street Improvements by the Owners.

F. City and Owners entered into that certain Reimbursement Agreement dated October 3, 2005, and recorded on October 26, 2005 as Instrument Number 2005-187366 in the

Official Records of San Mateo County ("Official Records"), as superseded in its entirety by that certain Reimbursement Agreement by and between the City and Owners dated May 9, 2007, and recorded on June 19, 2007 as Instrument Number 2007-093855 in the Official Records (collectively, the "Reimbursement Agreement"), for the purpose of allocating a proportionate share of the cost of the Street Improvements between the Owners and the owner of the Benefitted Property, and providing for reimbursement to the Owners of such proportionate share from the owner of the Benefitted Property should development of the Benefitted Property occur during the term of the Reimbursement Agreement.

G. Section 5 of the Reimbursement Agreement provides that the term of the Reimbursement Agreement shall expire twenty years from May 9, 2007.

H. Following the construction of the Street Improvements, the City and Owners entered into that certain Addendum to Reimbursement Agreement dated December 3, 2007, and recorded as Instrument No. 2008-002538 in the Official Records (the "Addendum"), for the purposes of (i) the City's certification of the total cost of the Street Improvements in the amount of Four Hundred Thirty-Nine Thousand Three Hundred Forty-Four and 25/100 Dollars ($439,344.25) (the "Final Improvement Cost"), and (ii) the City's determination that 66.7% of the Final Improvement Cost, equivalent to Two Hundred Ninety-Three Thousand Forty-Two and 61/100 Dollars ($293,042.61), was to be allocated to Owners and the remaining 33.3% of the Final Improvement Cost, equivalent to One Hundred Forty-Six Thousand Three Hundred One and 64/100 Dollars ($146,301.64), was to be allocated to the owner of the Benefitted Property. The Reimbursement Agreement and the Addendum shall be collectively referred to herein as the "Agreement."

I. The Benefitted Property has not been developed, and it is not certain when such development will occur.

J. Owners have requested that the term of the Agreement be extended for an additional ten (10) years so that Owners may be reimbursed pursuant to the Agreement in the event that the owner of the Benefitted Property submits an application to develop the same before May 9, 2037.

K. It is fair and equitable to Owners to extend the Agreement as requested.

NOW, THEREFORE, it is agreed as follows:

1. <u>Extension of Term</u>. The term of the Agreement is hereby extended by ten (10) years and shall continue until 11:59pm on May 8, 2037, unless otherwise extended or terminated pursuant to the provisions of the Agreement.

2. <u>Agreement in Full Force and Effect</u>. All terms, conditions, and requirements of the Agreement shall remain unmodified and in full force and effect, except as modified by this First Amendment.

[Signatures on next page]

IN WITNESS THEREOF, the parties have executed this First Amendment on the date first written above.

CITY OF BRISBANE

____

Jeremy Dennis, City Manager

OWNERS

____

Hamdi A. Nijem

____

Hana H. Nijem

____

Maher H. Nijem

____

Rabah M. Nijem

Approved as to form:

____

Samantha Zutler, City Attorney

EXHIBIT "A"

Legal Descriptions of the Properties

PARCEL 1:

Owner: MAHER H NIJEM, RABAH M NIJEM, HAMDI A NIJEM, and HANA HNIJEM

Property: 29 San Francisco Avenue; Assessor's Parcel No.007-241-010

All that certain land situated in the State of California, County of San Mateo, City of Brisbane, described as follows:

LOTS 31 AND 32, IN BLOCK 38 AS SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED MAP OF SUBDIVISION ONE, TWO AND THREE" OF THE CITY OF VISITACION, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AS PER MAP DATED OCTOBER 14, 1908, AND RECORDED IN BOOK 6 OF MAPS AT PAGE 45 RECORDS OF SAN MATEO COUNTY, STATE OF CALIFORNIA

PARCEL 2:

Owner: HAMDI A NIJEM and HANA H NIJEM
Property: 90 Santa Clara Street; Assessor's Parcel No.007-233-220

All that certain land situated in the State of California, County of San Mateo, City of Brisbane, described as follows:

LOTS 23 AND 24 IN BLOCK 38, AS SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED MAP OF SUBDIVISION ONE, TWO AND THREE" OF THE CITY OF VISITACION, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AS PER MAP DATED OCTOBER 14, 1908, AND RECORDED IN BOOK 6 OF MAPS AT PAGE 45 RECORDS OF SAN MATEO COUNTY, STATE OF CALIFORNIA.

EXHIBIT "B"

Legal Description of the Benefitted Property

Owner: THO A LY and NANCY LY TRINH

Property: 80 Santa Clara Street; Assessor's Parcel No. 007-233-230

All that certain land situated in the State of California, County of San Mateo, City of Brisbane, described as follows:

LOTS 25 AND 26 IN BLOCK 38, AS SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED MAP OF SUBDIVISION ONE, TWO AND THREE" OF THE CITY OF VISITACION, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AS PER MAP DATED OCTOBER 14, 1908, AND RECORDED IN BOOK 6 OF MAPS AT PAGE 45 RECORDS OF SAN MATEO COUNTY, STATE OF CALIFORNIA

2007-093855
04:09pm 06/19/07 AG Fee: NO FEE
Count of pages 8
Recorded in Official Records
County of San Mateo
Warren Slocum
Assessor-County Clerk-Recorder
* 2 0 0 7 0 0 9 3 8 5 5 A R *

RECORDING REQUESTED BY:
City of Brisbane
AFTER RECORDATION, MAIL TO:
City of Brisbane
50 Park Place
Brisbane, CA 94005
This instrument benefits City of Brisbane only
No Fee Required

REIMBURSEMENT AGREEMENT

THIS REIMBURSEMENT AGREEMENT (the "Agreement"), dated 5-9-07, between THE CITY OF BRISBANE, a municipal corporation ("City") and HAMDI A NIJEM, HANA H NIJEM, MAHER H NIJEM, and RABAH M NIJEM (Collectively, "Owners"), is made with reference to the following facts:

8

A. Owners are respectively the owners of certain real property in the City of Brisbane, County of San Mateo, State of California, as listed below ("the Properties") and more particularly described in Exhibit "A" attached hereto and made a part hereof:

(1) MAHER H NIJEM, RABAH M NIJEM, HAMDI A NIJEM, and HANA H NIJEM are the owners of the property located at 29 San Francisco Avenue, identified as Assessor's Parcel No. 007-241-010, and described in Exhibit "A" as Parcel 1.

(2) HAMDI A NIJEM and HANA H NIJEM are the owners of the property located at 90 Santa Clara Street, identified as Assessor's Parcel No. 007-233-220, and described in Exhibit "A" as Parcel 2.

B. Owners are constructing new single family residences on the Properties and as a condition for approval of such development City has required Owners to widen and extend Santa Clara Street and San Francisco Avenue, including a connection between these streets ("the Street Improvements"). Owners have entered into a joint development agreement designating their respective obligations as between each other with respect to the costs of completing the Street Improvements and the allocation of any funds received under this Agreement.

C. City has determined that the Street Improvements will directly benefit another property located at 80 Sanat Clara Street, identified as Assessor's Parcel No. 007-233-320the "Benefiting Property"), since a similar requirement to widen the private street would have been imposed upon the development of this property. City and Owners have entered into this Agreement for the purpose of allocating a proportionate share of the construction cost for the Street Improvements to the Benefiting Property and providing for a reimbursement to Owners of such proportionate share if development occurs on the Benefiting Property during the term of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Upon completion of the Street Improvements and acceptance of the work by the City Engineer, Owners shall furnish to City a detailed certification of all construction costs incurred by Owners for the Street Improvements, including the cost of any design, engineering, plan check, or inspection services provided by City for the Street Improvements and charged to Owner. The cost certification shall be supported by such invoices, cancelled checks, and other documentation as City may require to verify the accuracy and legitimacy of all costs claimed by Owners. Upon approval of the cost certification by the City Engineer, City and Owners shall execute and record an Addendum to this Agreement setting forth the total cost ("Final Improvement Cost") of the Street Improvements.

2. Based upon the limits of roadway widening required by City for development of 29 San Francisco Avenue and 90 Santa Clara Street, including the requirement to widen the section of roadway between these two properties, the parties agree that the Final Improvement Cost should be allocated as follows:

66.7%	Collectively to Owners
	<u>Benefiting Property:</u>
33.3%	80 Santa Clara Street; APN 007-233-230
100.00%	

3. City agrees that in the event an application is submitted during the term of this Agreement for development of the Benefiting Property, and such application involves a project for which City would have required the widening and improvement of Santa Clara Street or San Francisco Avenue (in the absence of the Street Improvements installed by Owners) based upon the ordinances and building regulations of City in effect as of the date such application is submitted, then City shall require as a condition for approval of the development that the percentage share of the Final Improvement Cost allocated to the Benefiting Property be paid to City in cash prior to the issuance of a building permit for the proposed development. Upon receipt of such payment. City shall promptly remit the same to Hamdi Nijem as the designated recipient for Owners. The designated recipient shall be solely responsible for distribution of the payment to the remaining Owners and remittance of the payment to the designated recipient shall fully discharge City from its obligation hereunder with respect to such payment. Owners may change the designated recipient by written notice to City signed by all Owners or their successors in interest.

4. Nothing herein shall require City to grant a development approval for the Benefiting Property under circumstances where such approval would otherwise be denied, nor shall this Agreement limit in any way the authority of City to impose conditions or exactions in addition to the reimbursement condition described herein. City shall be relieved of its obligation under this Agreement to collect the reimbursement amount if City is legally prohibited from doing so under any state or federal law, regulation, or court decision.

5. This Agreement shall remain in effect for a period of twenty (20) years from the date hereof.

6. This Agreement shall be binding upon and inure to the benefit of the respective heirs, executors, administrators, personal representatives, successors and assigns of the parties hereto, including any transferee of legal title to the Property.

7. This Agreeemnt shall supersede and cancel the prior Reimbursement Agrement between Owners and City dated 10/3/05, recorded on 10/26/05, as Instrument No. 2005-187366, and the same shall have no further force or effect.

IN WITNESS WHEREOF, the parties have executed this Reimbursement Agreement on the date first above written.

CITY:

THE CITY OF BRISBANE,
a municipal corporation

By: Steven W. Waldo
Steven W. Waldo, Mayor

ATTEST:

Sheri Marie Schroeder
Sheri Marie Schroeder, City Clerk

Harold C. Toppel
Harold S. Toppel, ~~City~~ Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo } ss.

On 5/30/07 before me, Sheri Marie Schroeder, Notary Public,
Date / Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Steven W. Waldo & Harold S. Toppel,
Name(s) of Signer(s)

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

SHERI MARIE SCHROEDER
Commission # 1699744
Notary Public - California
San Mateo County
My Comm. Expires Nov 17, 2010

WITNESS my hand and official seal.

Sheri Marie Schroeder
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ______

Document Date: ______ Number of Pages: ______

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer

Signer's Name: ______

☐ Individual
☐ Corporate Officer — Title(s): ______
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

OWNERS:

Maher H. Nij

MAHER H NIJEM

Rabah m nijem

RABAH M NIJEM

Hamdi A. Nijem

HAMDI A NIJEM

Hana Ni

HANA H NIJEM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo

On 5-9-07 (Date) before me, Wendy A. Franklin Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Hamdi A Nijem & Hana H Nijem (Name(s) of Signer(s))

☐ personally known to me

☒ (or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she~~/they executed the same in ~~his/her~~/their authorized capacity(ies), and that by ~~his/her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WENDY A. FRANKLIN
Commission # 1663895
Notary Public - California
San Mateo County
My Comm. Expires May 31, 2010

WITNESS my hand and official seal.

Place Notary Seal Above

Wendy A. Franklin
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Reimbursement Agreement

Document Date: 5-9-07 Number of Pages: 7

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer(s)

Signer's Name: ______
- ☐ Individual
- ☐ Corporate Officer — Title(s): ______
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: ______
- ☐ Individual
- ☐ Corporate Officer — Title(s): ______
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of SAN Mateo

On 5-9-07 (Date) before me, Wendy A. Franklin, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared Maher H Nijem and Rabah M Nijem (Name(s) of Signer(s))

☐ personally known to me

☒ (or proved to me on the basis of satisfactory evidence)

to be the person(s) whose name(s) ~~is~~/are subscribed to the within instrument and acknowledged to me that ~~he/she/~~they executed the same in ~~his/her/~~their authorized capacity(ies), and that by ~~his/her/~~their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WENDY A. FRANKLIN
Commission # 1663895
Notary Public - California
San Mateo County
My Comm. Expires May 31, 2010

Place Notary Seal Above

WITNESS my hand and official seal.

Wendy A. Franklin
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Reimbursement Agreement

Document Date: 5-9-07 Number of Pages: 7

Signer(s) Other Than Named Above: ______

Capacity(ies) Claimed by Signer(s)

Signer's Name: ______
- ☐ Individual
- ☐ Corporate Officer — Title(s): ______
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: ______
- ☐ Individual
- ☐ Corporate Officer — Title(s): ______
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ______

Signer Is Representing: ______

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

EXHIBIT "A"

Legal Descriptions

PARCEL 1:

Owner: **MAHER H NIJEM, RABAH M NIJEM, HAMDI A NIJEM, and HANA H NIJEM**

Property: **29 San Francisco Avenue; Assessor's Parcel No. 007-241-010**

All that certain land situated in the State of California, County of **San Mateo**, City of **Brisbane**, described as follows:

Lots 31 and 32, in Block 38 as shown on that certain map entitled, "AMENDED MAP OF SUBDIVISION NOS. 1, 2 & 3 OF CITY OF VISITACION, CALIFORNIA", filed in the office of the County Recorder of San Mateo County, State of California on October 14, 1908 in Book 6 of Maps at Page 45.

PARCEL 2:

Owner: **HAMDI A NIJEM and HANA H NIJEM**

Property: **90 Santa Clara Street; Assessor's Parcel No. 007-233-220**

All that certain land situated in the State of California, County of **San Mateo**, City of **Brisbane**, described as follows:

LOTS 23 AND 24 IN BLOCK 38, AS SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED MAP OF SUBDIVISION ONE, TWO AND THREE OF THE CITY OF VISITACION, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AS PER MAP DATED OCTOBER 14, 1908 AND RECORDED IN BOOK 6 OF MAPS AT PAGE 45 RECORDS OF SAN MATEO COUNTY, STATE OF CALIFORNIA.

RECORDING REQUESTED BY:

City of Brisbane

AFTER RECORDATION, MAIL TO:

City of Brisbane
50 Park Place
Brisbane, CA 94005

This instrument benefits City of Brisbane only.
No Fee Required.

,008-002528
12:18pm 01/09/08 AG Fee: NO FEE
Count of pages 6
Recorded in Official Records
County of San Mateo
Warren Slocum
Assessor-County Clerk-Recorder

* 2 0 0 8 0 0 0 2 5 2 8 A R *

THIS SPACE FOR RECORDER'S USE

ADDENDUM TO REIMBURSEMENT AGREEMENT

THIS ADDENDUM TO REIMBURSEMENT AGREEMENT, dated December 3, 2007 between THE CITY OF BRISBANE, a municipal corporation ("City") and HAMDI A NIJEM, HANA H NIJEM, MAHER H NIJEM, and RABAH M NIJEM (Collectively, "Owners"), is made with reference to the following facts:

68

A. Owners are respectively the owners of certain real property in the City of Brisbane, County of San Mateo, State of California, as listed below ("the Properties") and more particularly described in Exhibit "A" attached hereto and made a part hereof:

(1) MAHER H NIJEM, RABAH M NIJEM, HAMDI A NIJEM, and HANA H NIJEM are the owners of the property located at 29 San Francisco Avenue, identified as Assessor's Parcel No. 007-241-010, and described in Exhibit "A" as Parcel 1.

(2) HAMDI A NIJEM and HANA H NIJEM are the owners of the property located at 90 Santa Clara Street, identified as Assessor's Parcel No. 007-233-220, and described in Exhibit "A" as Parcel 2.

B. Owners and City have entered into a certain Reimbursement Agreement dated October 3, 2005 (the "Reimbursement Agreement"), recorded on October 26, 2005 as Document Number 2005-187366, Official Records of San Mateo County, California, as modified by Amendment dated May 9, 2007 recorded on June 19, 2007, as Document Number 2007-093855, under the terms of which City agreed to collect a portion of the cost expended by Owners for Street Improvements (as defined in the Reimbursement Agreement) from owners of adjacent properties who elect to develop their land during the term of the Reimbursement Agreement.

C. Owners have completed Street Improvements to the satisfaction of the City Engineer and have provided to the City Engineer a certification of all costs expended by Owners for the performance of such work.

NOW, THEREFORE, it is agreed as follows:

1. Based upon the cost certification provided by Owners, City has determined that the Final Improvement Cost, as referenced in the Reimbursement Agreement, is the sum of Four Hundred Thirty-Nine Thousand Three Hundred Forty-Four and 25/100 Dollars ($439,344.25).

2. In accordance with the terms of the Amendment to the Reimbursement Agreement, the Final Improvement Cost shall be allocated as follows:

29 San Francisco Avenue	(APN 007-241-010) &	
90 Santa Clara Street	(APN 007-233-220) 66.7%	$293,042.61
80 Santa Clara Street	(APN 007-233-230) 33.3%	$146,301.64
		$439,344.25

IN WITNESS WHEREOF, the parties have executed this Addendum To Reimbursement Agreement on the date first above written.

CITY:

THE CITY OF BRISBANE,
a municipal corporation

By: RJ Breault
Randy Breault, City Engineer

ATTEST:

Sheri Marie Schroeder
Sheri Marie Schroeder, City Clerk

Harold S. Toppel
Harold S. Toppel, City Attorney

OWNERS:

Maher H. Nij
MAHER H NIJEM

Rabah M Nijem
RABAH M NIJEM

Hamdi A. Nijem
HAMDI A NIJEM

HANA H NIJEM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Mateo

On 1/2/08 (Date) before me, Sheri Marie Schroeder Notary Public (Here Insert Name and Title of the Officer),

personally appeared Randy Breault & Harold S Toppel (Name(s) of Signer(s))

______________________________,

SHERI MARIE SCHROEDER
Commission # 1699744
Notary Public - California
San Mateo County
My Comm. Expires Nov 17, 2010

Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sheri Marie Schroeder (Signature of Notary Public)

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: ______________________

Document Date: ______________________ Number of Pages: ____________

Signer(s) Other Than Named Above: ______________________

Capacity(ies) Claimed by Signer(s)

Signer's Name: ______________________

- ☐ Individual
- ☐ Corporate Officer — Title(s): ____________
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ____________

Signer Is Representing: ____________

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: ______________________

- ☐ Individual
- ☐ Corporate Officer — Title(s): ____________
- ☐ Partner — ☐ Limited ☐ General
- ☐ Attorney in Fact
- ☐ Trustee
- ☐ Guardian or Conservator
- ☐ Other: ____________

Signer Is Representing: ____________

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

State of California
County of San Mateo

On 12/12/07 before me, Wendy A. Franklin, Notary Public
Date Name and Title of Officer (Notary)

Personally appeared MAHER H NIJEM
Name(s) of Signer(s)

personally known to me (~~proved to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Wendy A. Franklin
Signature of Notary Public

WENDY A. FRANKLIN
Commission # 1663895
Notary Public - California
San Mateo County
My Comm. Expires May 31, 2010

State of California
County of San Mateo

On 12/12/07 before me, Wendy A. Franklin, Notary Public
Date Name and Title of Officer (Notary)

Personally appeared RABAH M NIJEM
Name(~~s~~) of Signer(~~s~~)

personally known to me (~~proved to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Wendy A. Franklin
Signature of Notary Public

WENDY A. FRANKLIN
Commission # 1663895
Notary Public - California
San Mateo County
My Comm. Expires May 31, 2010

State of California
County of San Mateo

On 12/10/07 before me, Wendy A. Franklin, Notary Public
Date Name and Title of Officer (Notary)

Personally appeared HAMDI A NIJEM
Name(~~s~~) of Signer(~~s~~)
personally known to me (~~proved to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her~~/their signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Wendy A. Franklin
Signature of Notary Public

WENDY A. FRANKLIN
Commission # 1663895
Notary Public - California
San Mateo County
My Comm. Expires May 31, 2010

State of California
County of San Mateo

On 12/10/07 before me, Wendy A. Franklin, Notary Public
Date Name and Title of Officer (Notary)

Personally appeared HANA H NIJEM
Name(~~s~~) of Signer(~~s~~)
personally known to me (~~proved to me on the basis of satisfactory evidence~~) to be the person(~~s~~) whose name(~~s~~) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Wendy A. Franklin, Notary Public
Signature of Notary Public

WENDY A. FRANKLIN
Commission # 1663895
Notary Public - California
San Mateo County
My Comm. Expires May 31, 2010

EXHIBIT "A"

Legal Descriptions

PARCEL 1:

Owner: **MAHER H NIJEM, RABAH M NIJEM, HAMDI A NIJEM, and HANA H NIJEM**

Property: **29 San Francisco Avenue; Assessor's Parcel No. 007-241-010**

All that certain land situated in the State of California, County of **San Mateo**, City of **Brisbane**, described as follows:

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PARCEL 2:

Owner: **HAMDI A NIJEM and HANA H NIJEM**

Property: **90 Santa Clara Street; Assessor's Parcel No. 007-233-220**

All that certain land situated in the State of California, County of **San Mateo**, City of **Brisbane**, described as follows:

LOTS 23 AND 24 IN BLOCK 38, AS SHOWN ON THAT CERTAIN MAP ENTITLED "AMENDED MAP OF SUBDIVISION ONE, TWO AND THREE OF THE CITY OF VISITACION, COUNTY OF SAN MATEO, STATE OF CALIFORNIA, AS PER MAP DATED OCTOBER 14, 1908 AND RECORDED IN BOOK 6 OF MAPS AT PAGE 45 RECORDS OF SAN MATEO COUNTY, STATE OF CALIFORNIA.

CITY COUNCIL AGENDA REPORT

Meeting Date: September 17, 2026

From: Jeremy Dennis, City Manager
Christina Fernandez, Assistant City Manager
Julia Ayres, Community Development Director
Jake Whitney, Planner
Sam Zutler, City Attorney

Subject: Data Centers

Recommendation

Staff recommend the City Council receive an update on the Planning Issues Subcommittee data center discussions regarding data centers and provide direction to staff.

Background

On July 21, 2026, the Planning Issues Subcommittee, consisting of Mayor Mackin and Councilmember Kern, discussed data centers, prompted by growing concerns about their environmental, infrastructure, and community impacts. Currently, data centers are permitted only in specific manufacturing and commercial districts within Brisbane, but the Municipal Code's definition is outdated and does not reflect modern facilities, especially those focused on artificial intelligence and hyperscale operations. Other California cities have enacted moratoriums or bans to address issues such as water use, air pollution, noise, and land use compatibility, while some cities are developing policy frameworks to ensure community benefits and mitigate negative impacts.

Modern data centers typically require substantial amounts of energy and water, generate significant noise and air pollution, and often have large, windowless footprints that can disrupt neighborhoods. While they provide short-term construction jobs and tax revenue, their operational workforce is limited. State legislation is pending to strengthen oversight of water use and require data centers to finance infrastructure upgrades. Local governments, including Brisbane, can regulate these facilities through land use controls, impact fees, and development agreements, requiring compliance with environmental standards and community investment.

Staff informed the subcommittee of various options afforded to municipalities, including updating the Municipal Code's definition, making data centers a conditional use, and setting standards for water, energy, air quality, noise, and sustainability. The City could also adopt a temporary moratorium, which would require urgency findings and a four-fifths Council vote, to allow additional time and analysis for comprehensive policy development.

The Planning Issues Subcommittee had additional questions regarding environmental impacts, construction impacts, economic development, and land use policies. Council directed staff to return to a future subcommittee meeting with additional information. For additional details regarding this Subcommittee meeting, please see Attachment 1.

At its August 25, 2026, meeting (its second meeting on the topic this summer), the Planning Issues Subcommittee reviewed questions and concerns raised about data centers, focusing on environmental, infrastructure, and economic impacts. Topics included water and sewer usage, noise and air quality, energy demand and grid impacts, job creation, construction effects, community benefits, and land use policies. Staff provided detailed responses, noting that data centers use significant water for cooling, and require careful management of noise, emissions, and energy demand. Cities can regulate these impacts through conditional use permits, performance standards, and development agreements, ensuring that data centers fund necessary infrastructure improvements and minimize strain on local resources.

The Subcommittee also discussed economic and community impacts. While data centers generate substantial temporary construction jobs and local tax revenue, their operational workforce is limited, and they may displace local businesses or drive up rents. Construction impacts can be substantial, requiring specialized infrastructure and potentially causing traffic and noise disruptions. Environmental health concerns include air pollution from backup generators, water consumption, continuous noise, and hazardous byproducts.

Brisbane has broad authority to regulate or ban data centers through zoning amendments. Requiring data centers to obtain a conditional use permit would provide the City with discretion to approve or deny a particular application based on health, safety, and welfare findings. Performance standards can be imposed locally, as federal and state laws generally set minimum requirements but do not preempt stricter local regulations.

The Subcommittee directed staff to bring the topic of Data Centers to Council without a Subcommittee recommendation. For additional details regarding this Subcommittee meeting, please see Attachment 2.

Discussion

As a follow-up to the Planning Issues Subcommittee meeting in August, the Subcommittee directed staff to provide Council with additional information regarding the potential benefits of data centers to cities.

Infrastructure Improvements

Cities may require data centers to fund infrastructure improvements, including grid improvements needed to serve their projects. This may require cities to impose land use approval conditions requiring confirmation from PG&E or the CPUC that upgrades will be funded by the applicant. Cities may also negotiate development agreements that secure funding for local reliability projects such as solar and battery installation, home electrification, EV charging, and virtual power plant participation. Development agreements may also require data centers to procure new clean energy, install on-site battery storage in excess of the state's building code requirements, and participate in demand response programs during peak periods and extreme weather events.

Economic Benefits

As mentioned previously in Planning Issues Subcommittee staff reports, there are a number of potential economic benefits for cities who host data centers. Data centers often pay for necessary infrastructure upgrades, including electrical substations, grid improvements, water system enhancements, and transmission upgrades.

Cities may also negotiate community benefit agreements that ensure investments in local workforce programs, residential energy upgrades, clean energy procurement, and other community priorities.

Data center developments have the potential of creating hundreds, if not thousands, of temporary construction jobs depending on the facility size. This provides a short-term boost to local economies.

Data centers may also provide additional revenue streams to cities. At a previous planning issues subcommittee meeting, it was requested that staff bring forward more detail on the potential for data centers to increase city revenues. Staff is providing information below in response to that request.

Data centers may provide economic benefits, including significant local tax revenue, for cities. The City of Santa Clara reports that their 55 data centers account for approximately 13 percent of their General Fund revenue. The City has three additional data centers in the pipeline. That contribution is delivered through three primary channels: Silicon Valley Power's utility transfer tax, property taxes, and sales taxes tied to data center activity. Within that mix, the utility transfer tax has become the City's third largest revenue source and has already surpassed the hotel tax. For the 2025-26 fiscal year, total transfer tax revenue is reported at 37.3 million dollars, with data centers responsible for 24.6 million dollars of that amount, around 60 percent. City officials note that this contribution has grown by 95 percent since 2017-18. Those funds are used for parks, public safety, libraries, and infrastructure projects. It is important to note that Santa Clara owns its own power utility, Silicon Valley Power, which has lower electricity rates than PG&E. Santa Clara also has a strong fiber optic network near the Central

Expressway, where most of the data centers are located, making it easier for data to travel faster. Silicon Valley Power's growth and expansion is driven by data centers with the utility reporting a recent request for 500 MW of load.

The City of San José does not own its own utility and uses a utility users tax (UUT) and property tax to capture data center revenue. San José estimates that fully operational data centers may generate approximately $3.4 million to $6.8 million annually per facility in City utility and property taxes. San José estimates that a 99 MW facility generates $5.6 million in UUT annually.

The City of Gilroy provided an analysis of a planned data center. The initial phase would generate approximately $1.6 million in first-year revenue, additional phases would generate $3 million annually, and at full buildout would generate approximately $6 million annually. The City estimates 30% of the revenues would come from property tax and 70% from its 5% utility users tax.

The City of Pittsburg provided an independent analysis of its Perseus data center and estimated an approximately $2 billion investment. The development is projected to generate $13.4 million annually in new local tax revenue going to all local tax entities once stabilized, with about $2.6 million per year going to the City of Pittsburg. Local tax revenues would increase to approximately $13.4 million per year. The development is estimated to provide more than 1,000 construction jobs and approximately $131.5 million in ongoing annual economic output for Contra Costa County.

Policy Options

There are several policy options that are within the City's control. Those options are listed in the matrix below.

Action	Benefits	Costs	Steps Required
No Action	None	Data centers would be permitted in M-1 (Manufacturing District) and TC-2 (Southeast Bayshore Trade Commercial District)	None
Moratorium	Temporarily pauses any data center development and allows the City time to study potential development impacts, update its land use regulations and develop comprehensive policy direction; temporarily prevents any negative environmental impacts associated with data centers; avoids immediately locking in the City to any longer-term policy decision	Not a permanent solution; may lose opportunities for prospective data center developments; pauses revenue-generating potential and private investment interest; may incur administrative costs of performing additional studies and analyses prior to adopting longer term policy actions	Adopt a temporary moratorium with urgency findings (requires four-fifths Council vote); conduct analysis and return with long-term regulatory framework; may extend moratorium up to an additional 22 months and 15 days, as needed
Ban Data Centers Citywide	Prevents any future data center development; resolves land use conflict concerns; eliminates environmental, infrastructure, and community impact risks	Loss of potential revenue, jobs, and negotiated development benefits; may limit long-term economic diversification; requires full zoning amendment process	Amend zoning ordinance to remove “data centers” as a permitted use from all zoning districts; conduct required public hearings; obtain Planning Commission recommendation prior to adoption by majority vote of Council

Action	Benefits	Costs	Steps Required
Revise Zoning Code definition of "Data Center"	Update outdated Municipal Code definitions to reflect modern AI, hyperscale, and mid-size facilities; improves clarity for applicants and staff; allows tailored regulations for different facility types; ensures data center uses are not mischaracterized under land use regulations	Requires staff time ; may prompt industry interest earlier than desired	Draft revised definitions; incorporate stakeholder input ; analyze zoning districts potentially affected, if any; initiate zoning text amendment proceedings, subject to zoning amendment process above
Impose development standards, performance standards, impact fees, and other regulatory requirements on all data center projects	Establishes limits on size, footprint, water use, energy demand, noise, air quality, and other operational impacts; strengthens environmental protections; mitigates adverse development impacts; enables predictable standards for all applicants	Could reduce feasibility for developers if overly restrictive or costly; requires detailed technical studies	Prepare environmental and infrastructure analyses; develop performance standards (water, energy, noise, air quality) and development standards (height, footprint, etc.); amend zoning ordinance subject to zoning amendment process above; adopt impact fees by ordinance in accordance with state law
Amend Zoning Code to allow data centers as a conditional use in certain zones subject to the use permit process	Retains City's discretionary authority over data center development on a case-by-case basis; enables the City to impose conditions of approval to limit potential adverse impacts of data centers; garners the potential economic benefits of data centers; use permit may be revoked for noncompliance	May still result in adverse environmental, infrastructural and community impacts associated with data centers; restrictive conditions of approval may disincentivize prospective data center projects; less predictable than mandatory standards applied to all data center projects	Determine which districts to allow data centers as a conditional use; amend zoning ordinance to allow data centers as a conditional use in specified zoning districts, subject to zoning amendment process above; also consider negotiating development agreements
Amend Zoning Code to allow data centers as permitted use by	Maximizes opportunity for any potential economic benefits of data centers	Exposes City to greatest risks of adverse environmental,	Determine which new districts to allow data centers as a permitted use; amend zoning ordinance subject to the zoning amendment process above

right in specified zones		infrastructural and community impacts associated with data centers; restricts City's discretionary authority to approve or deny data center project applications	

Fiscal Impact

There is no fiscal impact to receiving this report. The financial impacts of the policy options above are unknown.

Attachments

1. Planning Issues Subcommittee Staff Report – July 21, 2026
2. Planning Issues Subcommittee Staff Report – August 25, 2026

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Jeremy Dennis, City Manager

CITY COUNCIL PLANNING ISSUES SUBCOMMITTEE AGENDA REPORT

Meeting Date: July 21, 2026

From: Jeremy Dennis, City Manager
Sam Zutler, City Attorney
Christina Fernandez, Assistant City Manager
Julia Ayres, Community Development Director

Subject: Data Centers

Recommendation

Staff recommend the Planning Issues Subcommittee receive a report on data centers and provide direction to staff regarding whether to return to the Planning Issues Subcommittee for further study of this issue or to proceed to Council with a potential ordinance regulating data centers.

Background

At the May 7, 2026 City Council meeting, Mayor Pro Tem Davis requested the topic of data centers be brought forward as a potential future City Council item. Staff determined it was appropriate that information regarding data centers first go to a Planning Issues Subcommittee.

Chapter 17.02.187 of the Brisbane Municipal Code defines data centers as "a business providing for the storage of computer systems and associated components." Per the Municipal Code, data centers as currently defined are allowed as a permitted use in the M-1 Manufacturing District and the TC-2 Southeast Bayshore Trade Commercial district. Upon adoption of the Baylands Specific Plan, the M-1 district will be eliminated. The definition of modern-day data centers is not reflected in our municipal code's definition.

No other zoning districts in Brisbane permit data centers. The Municipal Code does not apply specific development standards regarding data centers in Brisbane. There are currently no active data center business or applications for a data center development in Brisbane.

Modern-day data centers are infrastructure that keep digital services like cloud-based tools and artificial intelligence (AI) to financial systems, logistics, and government platforms running. The infrastructure runs 24 hours a day, seven days a week and must meet high reliability standards. There is a great deal of need for large amounts of energy, which generates a lot of heat necessitating large cooling systems. This may equate to a need for large amounts of water and energy.

Data centers are categorized into four segments based on their workloads. Each has distinct implications for electricity demand, cooling requirements, and siting. The table below categorizes data centers by workload.

Modern data centers with the highest energy impacts are AI training facilities and non-AI hyperscale centers. AI training facilities are large facilities that continuously process data, use the most energy, and have the highest cooling demands. Non-AI hyperscale centers are also very large and continuously operated facilities used for cloud computing, storage, and enterprise work. They require less energy than AI training facilities. Moderate impacts are seen with AI inference facilities which are smaller facilities for specific tasks. They require less power but need to be closer to users. The lowest impacts are seen with Colocation Facilities which are multi-tenant sites with variable energy and cooling needs.

Source: Bloomberg Energy Finance

Almost all data centers developed before 2020 were non-AI hyperscale and colocation facilities. The number of new AI inference and training facilities is growing rapidly with these types of data centers expected to represent over one third of total data center power demand by 2035. New data centers are AI focused and do not reflect the definition of data centers in our municipal code.

Small-scale facilities do not reflect current modern AI or hyperscale centers and require .03 to .12 acres of land and 1,000-5,000 square feet of building area. These small-scale data centers may fit into existing commercial or office footprints. Midsize data centers are facilities dedicated to cooling and critical operations and require 5-20 acres and 10,000-50,000 square feet. Large or Hyperscale centers are known as modern AI-oriented data centers. There may be a single large building that sits on 20-50 acres and a multi-phase hyperscale campus that requires 200-1,000 acres. The acreage may include a substation and switchyard, generators and cooling plants, water infrastructure, security berms and setbacks, future expansion pads, internal circulation and fire access.

California is currently home to at least 292 data centers and in 2024, data centers supported more than 665,000 jobs in California and generated $14.1 billion in state and local taxes. Meta, Microsoft, Amazon, and Alphabet are expected to spend a combined $700 billion on data centers globally by the end of 2026. In the Bay Area, cities such as San Francisco, San Jose, Santa Clara, Palo Alto, and Oakland have data centers located in their cities.

Facing public concern over energy and environmental impacts, some California cities and counties have placed temporary moratoriums on data centers, while others have passed permanent bans. Examples of some of those policies are listed below.

California Cities with Data Center Moratoriums or Bans

Monterey Park

In June 2026, voters in Monterey Park, California approved Measure NDC with over 88.35% approving a permanent ban on data centers in the city, becoming the first city in the U.S. to do so. A previously planned 247,000 square foot data center caused significant public backlash causing the City Council to unanimously vote to place the measure before the voters and to extend an existing 45-day moratorium on data centers. The developer subsequently withdrew plans for the center.

Oakley

The City of Oakley became the first city in the Bay Area to pause new data center proposals. Oakley adopted a 45-day moratorium on new data center applications in April 2026 and extended the moratorium to 2027 to allow time to review environmental, infrastructure and health impacts. This prevents the city from processing or approving new data center land use applications while the moratorium is in place.

Imperial County

Imperial County's Board of Supervisors passed a 45-day moratorium on new and pending data center permits citing concerns about water use, air pollution, environmental review, and local infrastructure. This came one day after a data center developer sued the Imperial Irrigation District for access to 260 million of gallons of Colorado River water each year. Imperial County is a heavy user of water given its agriculture industry base.

Other Southern California cities to enact temporary moratoria include Montebello, El Monte, and Baldwin Park. The City of Alhambra has a pending ballot measure that, if passed, would prohibit data centers in the city.

Data Centers Currently Under Construction

Cities planning for data centers are working towards drafting policy frameworks to ensure that community concerns over energy, water, noise, and other impacts are addressed. Cities are also working towards ensuring community benefits are captured.

The City of San Jose recently voted to direct staff to draft guidelines for data centers. San Jose is currently home to at least 20 centers, with six more data centers under construction, and five in the entitlement review process. In San Jose, a single new data center can generate up to $7 million annually in general fund revenue. In neighboring Santa Clara, approximately 60 data centers have generated an estimated $45 million in General Fund revenue during Fiscal Year 2025.

San Jose hopes that establishing a clear local framework will "address the unique challenges associated with data center growth while providing greater predictability for residents, applicants, and decision makers."

In August 2025, San Jose entered into an agreement with PG&E regarding data centers. The agreement tasks PG&E with providing power and making grid improvements for 12 projects by 2030. PG&E will also agree to fund six city staff positions to coordinate and streamline projects. San Jose staff are creating uniform guidelines to mitigate against environmental impacts, provide a process for community engagement, and support cleaner infrastructure.

Further south, a new data center project broke ground in the City of Gilroy in December 2025. The project is being constructed in two phases and comprises two data center buildings and one security building totaling 438,500 square feet. Other improvements include a substation, offsite transmission upgrades to the existing PG&E transmission and distribution system, a potential Battery Energy Storage System of up to 50 MW, and other utility connections. Phase I includes a 218,000 square foot single store data center and requires 49 MW connection to PG&E service. Phase II includes a single story, 35-foot-high data center building of 218,000 square feet.

As data center development continues to accelerate across the United States, local governments are faced with the challenges that come with large capital investments and associated demands on electricity, water resources, and land use.

Climate and Energy Impact Considerations

Energy & Water

Data Centers have high infrastructure demands that require large, immediate electricity loads. Hyperscale centers use between 20-100 MW, the equivalent of servicing between 16,000 and 82,000 households and millions of water per day. Data center cooling systems utilize a combination of air, water, or liquid refrigerants and can be a significant driver of electricity consumption water use. Cooling systems that use less water have higher energy demands.

Noise

Equipment at data centers may cause noise levels that lead to disruptions to sleep quality and have cardiovascular effects and hearing impairment. The noise generated varies by the type of cooling system and equipment used.

Air Quality

Data Centers rely on backup power to cover outages on the grid. Most data centers rely on fossil fuel generators for backup power which are usually diesel powered and emit PM2.5, NOx, and ultrafine particles. Increased particulate exposure has been linked to asthma, ER visits, cardiovascular diseases, and premature mortality.

Land Use

Data centers typically have large footprints with no street activation. Many facilities are large, windowless industrial buildings surrounded by security fencing, electrical substations, and cooling equipment.

Jobs

Data centers generate short-term construction jobs and a limited number of permanent jobs in operations.

Tax Revenue

Data centers can generate significant property, sales, and income tax revenue.

Community Investment

Through community benefits agreements and other agreements, data centers can bring additional investments for community priorities such as local jobs, energy and water infrastructure, residential energy upgrades, and schools.

State Legislation

AB 2469, authored by California State Assemblymember Diane Papan, seeks to strengthen the oversight of data center water use and safeguard local water supplies. The bill requires applicants to complete a water supply assessment and develop a water scarcity plan as a part of the permitting process. The bill also requires data centers to fully finance new infrastructure needed to support data center operation. This bill is pending in the Senate Appropriations Committee.

AB 2619, also authored by Assemblymember Papan, establishes a statewide water reporting requirement for data center operators, using the existing business license process. When applying for a business license, a company must disclose its projected water demand. Upon annual renewal of its license, the company must disclose its actual annual consumption. This bill is pending in the Senate Appropriations Committee.

Discussion

Some policy considerations for local government include questions around land use regulation, electricity rates, water use, air and noise pollution, economic development and community investment.

One of the biggest tools cities have in development is regulating land use. Cities may plan for sites that are compatible with surrounding areas and efficiently use scarce land and may adopt regulations that help reduce the environmental and community impacts by reducing noise, heat, water consumption, air pollution, and impacts on surrounding neighborhoods. Cities may also adopt regulations relating to the existing infrastructure capacity, aiming to ensure adequate water and water treatment capacity, and that data center projects minimize GHG emissions, prioritize reuse or adaptive redevelopment.

Cities do not have direct control cost over electricity rates; however, cities may require data centers to pay for new infrastructure or upgrades required to serve their development. This may include new generation, substations, feeders, and transmission upgrades so that these costs are not passed on to consumers. Cities may also require, as a condition of approval or through a development agreement, data centers to purchase or contract for new clean energy. Similarly, and depending on the particular application, cities may further require on-site battery storage and measures that reduce the strain on the grid during peak demand.

It is important to note that Brisbane's Building Efficiency Program requires all buildings over 10,000 square feet to report on their energy and water use annually. Any potential development, data center or otherwise, would be subject to this requirement.

Since Brisbane operates its own water utility, it can regulate water use and system impacts. For example, the City could require a conservation plan with the project's water application. The City's water utility may also integrate data center water use into master and asset management plans. The updates would be based on real-time monitoring and annual reporting. Lastly, the City could require the data center to pay for any upgrades or new construction of water and wastewater infrastructure required by the project.

Cities may condition project approvals to minimize impacts of noise and air pollution. Cities may mandate developers utilize the cleanest feasible backup power technologies, advanced noise controls, and design strategies. Cities should also clearly define noise limits and conditions capping pollution generated by the project that are measurable and enforceable. Cities may also impose limits on noise during nighttime hours throughout the City.

As explained above, cities may regulate data centers using their regulatory authority, by requiring data centers to comply with existing regulations or, if necessary, adopting more stringent regulations. Cities may also impose conditions and impact fees linked to the burdens a specific project creates. Cities may also negotiate additional benefits, such as funding for local infrastructure (beyond that required by the project), commitments to hire locally, community investment, or standards that exceed requirements, via development agreements with project applicants. While the City cannot require developers to enter into a development agreement for a particular project, the City could make data centers conditional (rather than permitted) use, which would significantly increase the City's negotiating power.

Next Steps

Staff recommend the Planning Issues Subcommittee receive a report on data centers and provide direction to staff regarding whether to return to the Planning Issues Subcommittee for further study of this issue or to proceed with a potential ordinance regulating data centers.

Options to consider for an ordinance regulating data centers include:

- Updating the BMC definition of "data center";
- Allowing data centers as a conditional use, rather than a use allowed by right, in limited zones;
- Requiring specific standards for water usage, energy, air quality, noise, and sustainability.

The City could also implement a temporary moratorium on data centers, while it continues to study the issue. A moratorium is an urgency ordinance, requires a four-fifths vote of the Council, and requires findings that it is necessary to address a current and immediate threat to public health, safety, or welfare. It is in place for 45 days and may be extended for a limited time.

Fiscal Impact

There is no impact to receiving this presentation.

Jeremy Dennis, City Manager

PLANNING ISSUES SUBCOMMITTEE AGENDA REPORT

Meeting Date: August 25, 2026

From: Jeremy Dennis, City Manager
Christina Fernandez, Assistant City Manager
Julia Ayres, Community Development Director
Jacob Whitney, Associate Planner
Adrienne Etherton, Sustainability Manager
Connor Kratz, Burke, Williams & Sorenson, LLP

Subject: Data Center Discussion Follow-Up

Recommendation

Staff recommend that the Planning Issues Subcommittee receive a report on data centers in response to questions raised during its July 21, 2026 meeting and provide guidance on next steps. Potential actions include returning to the Subcommittee for additional discussion, including further review of processes related to implementing a moratorium or other regulatory approaches; directing staff to prepare a moratorium or ban for City Council consideration; or forwarding the item to the City Council for review without a formal recommendation.

Background

On July 21, 2026, the Planning Issues Subcommittee, consisting of Mayor Mackin and Councilmember Kern, received a staff report from staff on the development of data centers in California and its potential impacts on cities, as well as a summary of how the City currently regulates data centers. Several questions pertaining to environmental impacts, construction impacts, economic development, and land use policies were raised at the meeting. This staff report is in response to those questions.

Discussion

Several questions were raised related to a variety of environmental, construction, and economic impacts. Staff have categorized the questions based on topic including:

- Water & Sewer
- Noise & Air Quality
- Energy Demand & Grid Impacts
- Jobs & Economic Impact
- Development and Construction Impacts
- Environmental & Health Impacts
- Community Be nefits
- Land Use, Zoning, & Legal Process

Water & Sewer

Question: What type of water may be used in a data center? Could saline or recycled water be used versus potable? Does the recycled water have to be treated?

Data centers use water for cooling the heat generated by servers, which run constantly and produce substantial thermal loads. Cooling systems remove this heat either through evaporative cooling, where water absorbs heat and then evaporates, or through closed-loop systems, where water circulates in sealed pipes to transfer heat without being consumed. In some cases, centers also use recycled or reclaimed water, treated on-site to remove minerals and contaminants. Water is used to keep equipment from overheating and maintain reliable operations.

Potable water has traditionally been used for cooling but due to growing pressures on water demand and the growth of data centers the focus has increasingly been on recycled water. Typically, municipal treatment facilities process community wastewater to non-potable standards suitable for irrigation and general industrial use. The treated water is transported via “purple pipes” to the data center where it is often processed through an on-site Reverse Osmosis (RO) loop or micro-filtration setup to remove silica, residual magnesium, and suspended solids that could foul cooling tower pads or cause scaling on internal heat exchangers. The purified recycled water is typical cycled through several times until the mineral concentration gets too high, at which point it is discharged for final municipal recycling or treatment. Examples include a Microsoft facility in Quincy, Washington and Amazon facilities in Virginia and California with expansion efforts underway in Georgia and Mississippi.

Saline water can be used for data center cooling, but it requires highly specialized infrastructure to manage severe corrosion, mineral scaling, and heavy biofouling. Data centers generally use saline water in one of two ways: either directly via once-through ocean cooling or indirectly by treating brackish water with on-site desalination. Real-world saline water cooling examples such as the Google Data Center in Hamina, Finland and Nautilus Data Technologies which has floating deployments at Port of Stockton and Port of Los Angeles, seem to primarily be once-through systems in open water.

The recycled water used needs to be treated, but not necessarily to drinking-water standards. The treatment needed depends on the water source, cooling system and local reuse regulations, mainly to prevent scaling, corrosion, and biological fouling.

Closed-loop water systems recirculate the same water through a cooling cycle rather than consuming new water with each pass, significantly reducing overall water demand compared to traditional evaporative systems. These systems can operate using treated recycled water, which is repeatedly filtered to remove minerals and contaminants that would otherwise cause scaling or corrosion, but they still require periodic discharge (“blowdown”) when mineral concentrations build up. The main advantages are dramatically lower water consumption, greater predictability of water needs, and reduced pressure on municipal supplies in water-stressed regions. However, closed-loop systems can involve higher energy use, increased treatment complexity, and chemical laden blowdown that must be managed carefully to avoid wastewater impacts. Overall, while closed-loop cooling helps mitigate the substantial water requirements of large data centers, there are trade-offs in energy demand, treatment needs, and wastewater management.

Question: How would a data center impact water costs for residents? What about sewer costs?

If recycled water is used, then resident potable water rates are unlikely to be affected. However, if potable water is used at scale, costs could be impacted if new infrastructure is required. If major pipeline upsizing, booster pumps, or storage are needed to supply peak cooling flows this could raise costs, however, under the Mitigation Fee Act (Government Code Sections 66000 *et seq*.) new developments could be required to pay for their proportional share of capital improvements.

Noise & Air Quality

Question: How would cities manage noise? What specific noise regulations are appropriate to data centers, what performance standards should apply- examples from other communities?

Many community ordinances use about 45 to 55 dBA at property line boundaries, with stricter nighttime limits near housing. A common approach is lower nighttime thresholds, such as 50 dBA at night in residential areas, because data-center noise is often 24/7. Potential ordinances may not rely only on overall dBA, but also tonality and low-frequency noise because a steady hum or tonal component can be more disturbing than decibel reading. Temporary noise from construction, test runs, and generator testing should have separate, time-limited standards.

Question: How might the City regulate noise given Brisbane's "parabolic bowl" effect- i.e., noise amplifying or carrying beyond the property plane and reflecting off the mountain to sensitive receptors (residents, schools)?

The City may consider implementing a discretionary conditional use permit process to determine compatibility with surrounding sensitive receptors, require site specific noise studies on a project-by-project basis, and facilitate opportunities for public input.

Question: How do we regulate and minimize emissions from diesel generators?

Diesel backup generators are regulated by the California Air Resources Board (CARB) and regional air quality management districts, in our case the Bay Area Air District. Any stationary diesel emergency standby engine rated at 50 brake horsepower (bhp) or larger requires a local air district permit to operate. New and replacement engines must meet strict federal and state emission tiers (such as EPA Tier 4 Final), limiting particulate matter and nitrogen oxides (NOx). Routine testing and maintenance are typically restricted to 20 to 50 hours per year, depending on the specific air district rules and engine certification tier. True emergency operations, including unexpected grid failures and Public Safety Power Shutoff (PSPS) wildfire mitigation events—have no cap on running hours. Operators must maintain logbooks tracking all run times, specifying whether hours were for routine testing, maintenance, or actual emergency use.

While state and federal rules act as a baseline, cities and counties wield significant authority over local development and land use and can use building codes, zoning ordinances, and financial incentives to restrict diesel generators and accelerate clean energy alternatives.

Energy Demand & Grid Impacts

Question: What strategies have cities used or could use to require data centers to minimize reliance on the grid?

The grid serves an important role in balancing energy generation and demand and utilizing available grid capacity during times when demand is low could actually help to reduce electricity rates. The aim should be to minimize demand on the grid during peak hours and avoid the need for new fossil fuel generation or the extension of life of existing fossil fuel power plants that would otherwise be retired. At the same time, data centers should also be encouraged to develop on-site energy generation capacity that does not require use of fossil fuel generators for extended periods of time

To that end, the City may require that a data center builds, purchases or contracts for new clean energy on the same regional grid. If possible, they should match generation and consumption hourly (24/7 carbon-free energy) rather than relying on Renewable Energy Certificates (RECs) from existing clean sources.

Data Centers may also include on-site battery storage, participate in utility demand-response programs, and incorporate flexible and interruptible load capabilities into their operations to reduce strain on the grid during peak demand, extreme weather, and other contingency events.

Question: What strategies have cities used or could use to require data centers to fund grid Improvements (and other energy-related community benefits)?

Cities can require data centers to fund grid improvements and infrastructure needed to serve their projects and to provide related community energy benefits by using different strategies, including:

- Imposing land-use approval conditions requiring confirmation from PG&E or the CPUC that required upgrades, including new substations, feeders, and transmission-level work, will be funded by the applicant, along with reviews of peak-load and reliability impacts.
- Negotiating development agreements that secure funding for local reliability projects, solar and battery installations, home electrification, EV charging, and virtual power plant participation. The development agreements may also require data centers to procure new clean energy, install on site battery storage in excess of California Building Code requirements, and participate in demand response programs to reduce grid strain during peak periods and extreme events.

Question: Is it possible to pass on 100% of costs of grid improvements to a data center applicant so that residents don't bear the brunt?

Typically, grid improvements for new developments are paid for through a combination of direct developer-paid connection fees governed by California Public Utilities Commission (CPUC) rules and broader utility ratepayer cost-recovery mechanisms. PG&E has also handled requests from large transmission-level customers on a case-by-case basis which was slow and resource intensive. While not a data center, here is a recent example of an "exceptional case" agreement for a Genentech project in South San Francisco.

In July 2025, the CPUC approved PG&E's proposal for interim Electric Rule 30 which enables faster deployment when applicants agree to pay for necessary transmission infrastructure work upfront. There is a CPUC proceeding underway (Application 24-11-007) to determine the final rules. This article discusses some of the agreements adopted or under consideration under these rules.

The City could negotiate community benefits agreements that require developers to contribute to or fully finance grid upgrades that improve local reliability and support broader electrification goals, including solar PV and battery storage, heat pumps, home retrofits, and EV charging infrastructure, and participation in virtual power plants. Alternatively, the City could condition land use approval on: written confirmation from PG&E or the CPUC that required grid upgrades will be funded by the project under cost-causation principles and will not be recovered from other ratepayers; evaluation of the project's impact on peak load, local reliability, distribution constraints; additional renewable procurement; on-site storage, flexible load and/or participation in demand response programs.

Question: Could facility run off on-site solar during day and battery at night? Is there sufficient on-site battery storage capacity to operate fully during outages?

Technically, yes, facilities may run off of on-site solar during the day and on-site battery at night. However, the energy demands and 99.999% uptime requirement of a large data center would require solar and battery storage installations at scales that may not be physically or financially feasible.

There can be sufficient on-site battery storage capacity to operate fully during outages for a limited duration. While an on-site solar-and-battery storage system can typically handle a 2 or 4-hour grid outage, it cannot reliably sustain a data center through an extended, multi-day blackout. This differs from utility scale renewable generation and battery storage projects, which have much greater capacity. A typical data center roof can only hold enough solar panels to power 5-10% of the peak server load. If a grid outage is caused by a massive winter storm, a hurricane, or prolonged wildfire smoke, solar production can drop by 80% to 90%. Because solar and batteries have a finite limit during extended emergencies, modern data centers do not rely on on-site solar energy and battery storage systems exclusively. Instead, they build hybrid microgrids that combine clean energy with traditional mechanical backups (i.e. gas or diesel generators) to achieve 100% reliability.

Question: Can on-site solar + battery fully power normal operations outside of outages?

As previously mentioned, the energy generation and storage capacity of on-site solar and battery systems is generally limited. Rather than going completely off-grid with just on-site solar and battery power, large tech companies are increasingly employing three alternative energy strategies to power data centers:

- Virtual 100% Green Model (Grid-Tied PPAs): This is the current industry standard. Hyperscalers build massive solar farms and battery storage banks tied directly into the public electrical grid via Power Purchase Agreements (PPAs). They pull stable power from the utility grid 24/7 but inject an equivalent amount of clean solar energy back into the wider grid during the day to offset their carbon footprint.
- Distributed Residential Micro-Compute: Companies like Sunrun and NVIDIA are piloting "distributed data centers". Instead of one giant building, small AI computing nodes are placed inside thousands of residential homes that already feature rooftop solar and home batteries.
- Diversified Clean Energy Microgrids: For true on-site, self-sufficient data center campuses, developers pair solar and batteries with a third, continuous clean energy source such as Small Modular Nuclear Reactors (SMRs), geothermal wells, or hydrogen fuel cells to provide 24/7 baseline power. (Note that many facilities are also doing hybrid energy microgrids with other base energy sources such as natural gas.)

Jobs & Economic Impact

Question: What data is there on job creation, both construction + operational/ongoing?

Jobs created by data centers are split into construction (temporary) and operations (permanent). Construction jobs range depends on the size of the build. The operating model also matters given the extent of the use of contractors for security, maintenance type jobs.

Data Center Building Size	Typical construction period	Peak Construction Jobs	Permanent Jobs once operating
100,000 SQ FT	18-30 months	500-1,000	50-75
150,000 SQ FT	18-30 months	750-1,500	75-100
250,000 SQ FT	24-30 months	1,250-2,500	100-150
500,000 SQ FT	24-36 months	2,500-4,000	200-300
800,000 SQ FT	24-36 months	4,000-5,000+	400-500

Question: What are some concerns of local businesses for data centers to potentially impact life, property, and financial health of citizens.

The creation of data centers may have negative impacts on local businesses as it relates to construction impacts such as traffic, road closures, noise, dust, parking impacts, utility work, and reduced visibility or access. Data centers may also consume large parcels of land and may drive up rents. This may in turn lead to higher rents and displacement of local businesses. Also, as previously discussed, data centers also provide limited permanent employment opportunities. A large facility may occupy a large parcel but employ relatively few people once operations. Relatedly, data centers generate minimal foot-traffic for purposes of stimulating commercial activity and attracting customers for neighboring businesses. The economic benefit per acre may be significantly less than mixed use commercial development.

Development and Construction Impacts

Question: What type of construction impacts are associated with data centers?

Data center construction impacts are more intense than standard commercial warehouse construction in several ways. The high energy demand can require dedicated electrical substations or high voltage transmission lines, and high-density conduits deep underground may be needed to route power and fiber to the building. The “speed-to-market" models many developers operate under can lead to 24/7 construction schedules and an influx of specialized contractors with resulting traffic impacts. The dense heavy equipment requires thick, heavily reinforced building foundations and specialized cargo deliveries with oversized equipment which can accelerate roadway degradation. The commissioning phase, where engineers must simulate peak computing heat and stress and test failure scenarios, can take months and spike air and noise pollution.

Question: If the Cow Palace is a potential data center, how could it impact Brisbane?

Any large development at the Cow Palace site regardless of its use will impact Brisbane as it relates to traffic and congestion; potential contamination; water use and infrastructure pressure; transportation network and noise, lighting, and visual impacts. Assuming a discretionary permit process, a data center in a neighboring jurisdiction would likely trigger preparation of an environmental document of some kind under the California Environmental Quality Act which would study physical impacts of a project. If an Environmental Impact Report was prepared, the City and members of the public would have the opportunity to participate in project scoping (sharing feedback on what impacts should be studied in the EIR) and in reviewing and commenting on any environmental documents.

Environmental Health Impacts

Question: What are some potential environmental health impacts associated with data centers?

Reports and independent analysis have shown that data centers can contribute to significant environmental health impacts, including air pollution from diesel backup generators that emit particulate matter linked to asthma and cardiovascular disease, substantial water consumption and wastewater discharge from cooling systems that can strain local supplies, continuous noise from mechanical equipment that can disrupt sleep and affect heart health, thermal pollution and heat island effects caused by high waste heat output, and hazardous byproducts such as e-waste, PFAS chemicals, refrigerant leaks, and chemically concentrated cooling tower blowdown all of which collectively pose risks to community wellbeing and disproportionately affect already burdened areas.

Community Benefits

Question: What are some potential benefits to cities that allow data centers in their communities?

Data centers can offer economic benefits, including significant local tax revenue for cities, as seen in places like San Jose and Santa Clara where individual facilities generate millions annually. Data centers may mean modest job creation primarily, through large temporary construction employment.   Cities may also see infrastructure investment, such as upgraded substations, grid improvements, and water or wastewater system enhancements, which may be financed directly by developers. Additionally, data centers can bring community benefits through negotiated agreements that fund local workforce programs, residential energy upgrades, and other community priorities.

Land Use, Zoning, & Legal Process

Question: Describe process to deny a Use Permit with findings required.

If the zoning ordinance were amended to allow data centers in specified districts as a conditional use subject to a Use Permit, the City would retain significant discretion to deny or approve a data center project, and to regulate any approved data center project with conditions of approval, on a project- and site-specific basis.

A Use Permit is administrative permission for uses not allowed as a matter of right in a zone, but which may be permitted subject to approval by the planning commission. Approval of a Use Permit is a discretionary action, not a right, that is considered in accordance with the procedures and review standards set forth in the municipal code. Local ordinances typically provide standards to guide and limit the exercise of discretion in issuance of Use Permits, however California courts have held that very general and subjective zoning standards (e.g., "consistent with the general health, safety, and welfare") may be sufficient for evaluating use permit approvals, except in cases involving First Amendment rights (in which case standards must be narrowly tailored), or in cases of housing developments and residential uses where discretionary review is limited by state law.

BMC Section 17.40.060 requires the Planning Commission to make the following findings before issuing a Use Permit:

(1) establishment, maintenance or operation of the use applied for will not be detrimental to the health, safety, comfort and general welfare of the persons residing or working in the neighborhood of such proposed use; and

(2) the proposed use will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the city.

The Planning Commission shall also consider and give due regard to (i) the nature and condition of all adjacent uses and structures, and (ii) consistency with the general planning and any specific plan applicable to the area in question. See BMC Section 17.40.060(A).

These broad and subjective use permit standards provide the City considerable discretion to determine whether a proposed conditional use does or does not satisfy the required findings for approval. The zoning ordinance also expressly requires the Planning Commission to consider the consistency of the proposed use with surrounding uses and the general plan and zoning for the property as further bases for approval or denial.

Question: If a City adopts performance standards, are there any State or Federal laws that would prevent us from adopting such standards? That is, is there a floor or ceiling established that we could not exceed or go below?

There are federal and state legislative proposals to impose new regulatory restrictions and reporting requirements on data centers, particularly regarding energy usage, but none of these proposals would expressly preempt local performance standards from being imposed on data centers as land use and zoning regulations. Federal and state levels generally establish a floor rather than a ceiling regarding the regulatory restrictions imposed on a project, beyond which a local jurisdiction may impose more restrictive land use requirements.

Question: Can the City prohibit all data center development? Are there legal risks associated with banning data centers?

Yes, the City could ban data centers from being developed in the city by amending the City's zoning ordinance. The legislative amendments could remove data centers as a permitted use within TC-2 and M-1 zones (the only two zones which presently allow data centers), or the City could go further by adding a new provision to establish data centers as an expressly prohibited use throughout the city. Both approaches would have the effect of no longer permitting data center use within any zoning district of the city.

Even if the City were to adopt a data center ban after receiving a project application, the legal challenge to that ban would be unlikely to prevail unless the ban deprives the property of all its economically beneficial use, or the project applicant acquires vested rights in its data center project. Generally, vested rights for development projects may be obtained in one of three ways: (1) executing a development agreement with the City; (2) submitting a complete application for a vesting tentative map; or (3) receiving final permit approvals for a data center project and incurring costs in reliance of such approvals. To date, no data centers currently exist in the City, nor have any project applicants acquired vested rights in data center development projects.

The City has expansive legal authority to change zoning and land use regulations in ways that impact future property uses throughout its jurisdiction. A data center ban in Brisbane is not likely to deprive any property of its entire economic value or implicate any vested rights in a data center project at this time, and therefore, the risk of legal challenges is relatively low.

Question: What is the City's authority to regulate land use and make land use decisions?

As discussed, cities have broad authority to regulate land use under their police powers to protect public health, safety, and welfare. For data centers, that authority can support allowing them by right, requiring discretionary approval with conditions, limiting them to specified districts, imposing performance standards, and prohibiting new facilities in some or all areas of the city. The decisions generally must be grounded in written planning findings, follow required public hearing and noticing procedures, and remain consistent with state law.

Question: Could a data center be permitted in a zoning district where data centers are not allowed if it is proposed under a different name or classification?

Data centers are not allowed in any districts other than those which expressly allow data centers as a permitted use. The zoning ordinance is permissive, meaning that if a use is not explicitly listed as permitted or conditionally permitted it is considered disallowed or prohibited (See BMC Section 17.01.080). Data centers are currently listed as allowed uses by-right in the TC-2 (Southeast Bayshore) and M-1 (Manufacturing) zoning districts. They are not permitted in any other district.

Question: What mechanisms does the City have in place to ban data centers in the City?

There are two primary methods for amending the zoning ordinance to ban data centers across the City: either by legislative action of the City Council to amend the zoning ordinance, or by the electorate's approval of a data center ban by voter initiative. Chapter 17.50 of the Brisbane Municipal Code establishes the legislative process for zoning text amendments enacted by the City Council. Under Chapter 17.50, a zoning text amendment may be initiated by resolution of the City Council or the Planning Commission, or by a petition submitted by affected property owners or their authorized agents on the City's required form and accompanied by the applicable fee. Once a petition or resolution initiating the amendment is received, the Planning Commission must schedule a public hearing within 60 days and provide public notice in accordance with Chapter 17.54 of the Municipal Code.

Following the public hearing, the Planning Commission is required to prepare findings and a recommendation regarding the proposed amendment. The Commission's report must include a summary of the evidence and testimony presented, a list of people who testified, the Commission's findings, and any supporting maps, documents, or other materials submitted in connection with the amendment. The report and recommendation must be transmitted to the City Council within 90 days after the first notice of hearing, unless an extension is agreed to by the City Council or the applicant. If the Planning Commission does not submit its report within the required period, the amendment is deemed approved by the Commission. Any recommendation of the Planning Commission must be approved by a majority vote of its voting members.

Upon receipt of the Planning Commission's recommendation, or upon expiration of its 90-day review period, the City Council must conduct its own public hearing with notice provided pursuant to Chapter 17.54. Following the hearing, the City Council may adopt the proposed zoning text amendment, or any portion of it, by ordinance within one year. If the City Council proposes modifications that were not previously considered by the Planning Commission, those changes must first be referred back to the Planning Commission for review and recommendation, although an additional Planning Commission public hearing is not required. The Planning Commission has 40 days, or a longer period established by the City Council, to report on the proposed modifications; failure to do so is deemed approval of the modifications. The City Council may then proceed with final adoption of the amendment by ordinance.

Alternatively, amendments to the zoning ordinance by voter initiative must follow the procedures set forth in Sections 9200 through 9226 of the Elections Code. A zoning amendment may be proposed through the voter initiative process in the Elections Code by filing a notice of intent and the text of the proposed ordinance with the city elections official, obtaining a ballot title and summary, and then circulating petitions to collect the required number of voter signatures. The initiative petition must be signed by a sufficient number of registered voters within the city and submitted for verification by the elections official. Once the signatures are certified as sufficient, the proposed ordinance is transmitted to the city council for consideration.

After receiving a certified initiative petition, the city council generally must either adopt the proposed ordinance without alteration or submit it to the voters at a municipal election. The council may first direct staff to prepare a report analyzing the measure's effects, but this review does not prevent the initiative from ultimately being adopted by the council or placed on the ballot. If submitted to the electorate, the proposed zoning amendment becomes law upon approval by a majority of voters. Unlike the standard zoning amendment process under Chapter 17.50, the voter initiative procedure allows a zoning ordinance to be enacted directly through the electoral process rather than through the Planning Commission recommendation and City Council hearing process ordinarily applicable to zoning amendments.

<u>Question</u>: If Brisbane bans data centers, could we change our mind in the future?

Yes. If the City wished to change its mind it would need to amend the zoning ordinance via the same process by which the ban was originally enacted. In other words, if the data center prohibition was enacted by the City Council, a legislative reversal of the ban would follow the process set forth in Chapter 17.50 of the Brisbane Municipal Code. If the data center ban was enacted by voter initiative, any repeal or amendment to the ban would require the electorate's approval again by following the same initiative process set forth in the Elections Code as outlined above.

Next Steps

Staff recommend the Planning Issues Subcommittee receive a report on data centers and provide direction to staff regarding whether to return to the Planning Issues Subcommittee for further study of this issue or to proceed to Council with no recommendation or with a potential ordinance regulating data centers.

A moratorium is an interim urgency ordinance authorized by State law which allows a city to prohibit land uses that may conflict with a contemplated general, specific plan, or zoning proposal that the City is studying within a reasonable time. Adoption of a moratorium requires four-fifths vote of the City Council and requires findings that it is necessary to address a current and immediate threat to public health, safety, or welfare. A moratorium is initially effective for 45 days from adoption; however, it may be extended up to an additional 22 months and 15 days.

Fiscal Impact

There is no fiscal impact to receiving this report.

Attachments

None

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Jeremy Dennis, City Manager

City Council Staff Report

Meeting Date: September 17, 2026

From: Angel Ibarra, Administrative Management Analyst, Christina Fernandez, Assistant City Manager, Jeremy Dennis, City Manager

Subject: Receive Annual Report on Short Term Rentals

Recommendation

Staff recommend the City Council receive an informational report regarding the City of Brisbane's short-term rental program and provide direction regarding potential program monitoring, enforcement, permitting, and policy priorities.

Background

The City Council adopted Urgency Ordinance No. 656 on June 18, 2020, establishing permitting requirements and operational standards for short-term rentals (STR). The regulations were subsequently made permanent through Ordinance No. 655, codified in Chapter 17.35 of the Brisbane Municipal Code. The City's Housing Element also identifies implementation of the City's STR ordinance as a housing-related program intended to prevent conversion of housing units to short-term residential rentals of less than 30 days.

The City currently maintains an online STR program page containing permit information, regulations, tax requirements, renewal procedures, supporting documents, and violation-reporting information.

Current Short-Term Rental Regulations

The City of Brisbane permits a limited form of short-term residential rentals (STRs) within owner-occupied single-family residences, subject to City approval and extensive operational requirements.

Under the City's regulations, a short-term rental generally consists of the rental of one or more rooms within a single-family dwelling for fewer than 30 consecutive days. The City does not permit unhosted or entire-home short-term rentals. STRs are also prohibited in apartment buildings, accessory dwelling units (ADUs), and certain properties containing qualifying ADUs.

The City's current program emphasizes:

- Owner occupancy and hosted rentals;
- A maximum of two rentable rooms;
- Neighborhood compatibility and noise controls;
- Parking and occupancy requirements;
- Fire and life-safety standards;
- Transient Occupancy Tax (TOT) collection;

- Permit and renewal requirements;
- Administrative enforcement and escalating fines; and
- Periodic inspection and compliance review.

The City has also continued to refine administration of the program. In February 2026, the City Council discussed annual fire and life-safety inspections and directed staff to ensure STR inspections are coordinated with permit renewals.

Permit Renewals and Compliance

The City's permit structure provides for an initial permit period followed by subsequent renewals.

A renewed permit generally may be issued for a two-year period, although the City may shorten the renewal period based on compliance history, notices of violation, or suspensions.

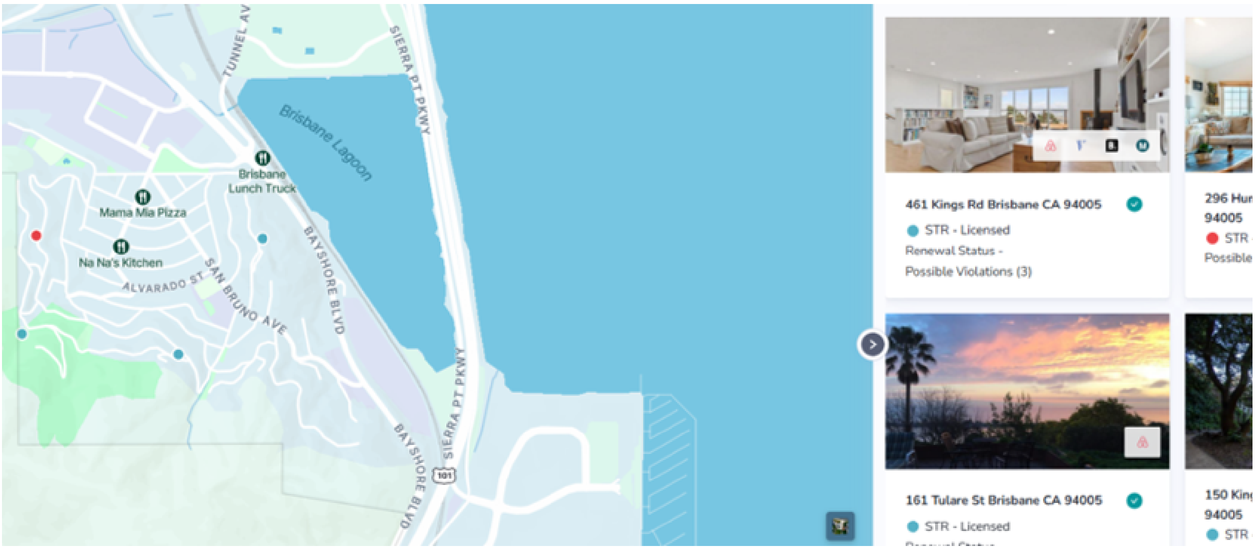
The City may also require an audit of TOT payments during renewal as well as requiring the host to provide:

- STR advertisement/listing URLs;
- Evidence of rental revenue;
- Platform screenshots or transaction history;
- Bank statements or comparable records; and
- A digital signature.

These requirements provide the City with an additional mechanism for verifying that reported rental activity and tax payments correspond with actual STR operations.

In December of 2024, the City of Brisbane signed an annual agreement with Deckard Technologies to utilize their platform RentalScape to monitor online STR listings placed on hosting platforms (e.g. AirB&B, VRBO). This gives the City the ability to screen unpermitted STRs and verify the number of days a property has rented their homes against the days self-reported by the property owner.

Currently, the City has 4 licensed and permitted STRs. There are about 8 properties who currently host long-term rentals (30-plus consecutive days).



Screen Shot of RentalScape

Discussion

Fiscal Impact

Based on the City's financial data, the City has collected $66,139.20 in Transient Occupancy Tax (TOT) and STR Business Licenses.

Fiscal	Amount
2022-2023	$4,777.78
2023-2024	$18,030.05
2024-2025	$23,094.49
2025-2026	$20,236.88
Total	**$66,139.20**

Attachments

None

City Manager Approval

Jeremy Dennis, City Manager 09/09/2026

City Council Staff Report
Meeting Date: September 17, 2026
From: Samantha Zutler, City Attorney
Subject: Consider Introduction of an Ordinance Amending Brisbane Municipal Code Section 2.02.010 Related to City Councilmember Compensation

Recommendation

Staff recommend introduction, for first reading, by title only and waiving further reading of the text, Ordinance No. XXXX amending Section 2.02.010 of the Brisbane Municipal Code.

Background

On June 29, 2023, Governor Newsom signed Senate Bill 329, which increases the maximum salary that Councilmembers may receive. SB 329, codified at Government Code § 36516, went into effect on January 1, 2024. Compensation increases cannot be effective until a new or incumbent Council Member is seated so, at the earliest, December 2026.

Discussion

SB 329 amends Government Code § 36516 to increase the authorized maximum salary for each Councilmember. The permitted increases are tied to population. For Brisbane, which has a population of approximately 4,800, SB 329 allows Councilmembers to receive up to $950 per month. Brisbane Councilmembers currently receive $400 per month. The last time the Council adjusted its salary was in 2015. The attached Ordinance would increase compensation to $950 per month for each Councilmember.

Any increases in compensation for Councilmembers must be enacted by Ordinance. Increases do not take effect until a new or incumbent Councilmember is seated. If Councilmembers have staggered terms, the change in compensation may apply to the entire Council when any Councilmember begins a new term. Two Brisbane Councilmembers are up for election in November 2026, so the increases will be effective in December 2026.

Alternatives

The City Council could decline to introduce the ordinance, or direct staff to revise the draft presented.

Fiscal Impact

The proposed Ordinance would increase Council Member compensation from $400.00 per month to $950.00 per month.

Attachments

1. 2026 Council Compensation Ordinance

City Manager Approval

Jeremy Dennis, City Manager

09/11/2026

Attachment 1

ORDINANCE NO. ______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRISBANE AMENDING SECTION 2.02.010 (SALARIES) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE BRISBANE MUNICIPAL CODE

WHEREAS, Brisbane Municipal Code Section 2.02.010 (Salaries) sets the salary for each city council member at $400 per month, exclusive of any reimbursement for expenses; and

WHEREAS, Councilmember salary was most recently adjusted by ordinance in 2015; and

WHEREAS, California Government Code Sections 36516 and 36516.5 permit Councilmembers to receive a monthly salary for their service; and

WHEREAS, the Government Code previously permitted an increase in the monthly compensation for City Councilmembers by an amount equal to five percent (5%) multiplied by the number of years since the last adjustment; and

WHEREAS, in 2023, the State Legislature passed and the Governor signed into law Senate Bill 329; and

WHEREAS, Senate Bill 329 was adopted to “reset” Councilmember compensation to reflect the importance of the work of Councilmembers, address the impacts of inflation, and encourage more community members to consider service on the City Council; and

WHEREAS, SB 329, since codified at Government Code Section 36516, sets maximum compensation for Councilmembers based on the size of the population that the Councilmembers serve. Because Brisbane has a population of under 35,000, Section 36516(a)(2)(A) sets the maximum compensation at $950 per month per Councilmember.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BRISBANE DOES ORDAIN AS FOLLOWS:

Section 1. Findings.
The above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Compliance with CEQA.
Adoption of this Ordinance is not a “project” pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq., including without limitation California Code of Regulations, Title 14, Sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment. This Ordinance revises compensation for City Councilmembers, which is an administrative activity and does not involve any commitment to any project which may result in a potentially significant physical impact on the environment.

4925-4512-2511 v1

Section 3. Amendment of Brisbane Municipal Code.

Title 2 (Administration and Personnel), Chapter 2.02 (City Council), Section 2.02.010 (Salaries) of the Brisbane Municipal Code is hereby amended as follows. Deletions are shown as ~~strikethrough~~ and additions are <u>underlined</u>.

The salary of each city council member shall be ~~four hundred dollars ($400.00)~~ <u>nine hundred and fifty dollars ($950)</u> per month. Such salary shall be exclusive of any amounts payable to each city council member as reimbursement for actual and necessary expenses incurred by each council member in the performance of official duties for the city.

Section 4. Severability.
If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby, and to this end the provisions of this Ordinance are declared to be severable.

Section 5. Codification.
This Ordinance shall be codified in the City of Brisbane Municipal Code.

Section 6. Effective Date.
This Ordinance will be effective thirty (30) days after passage by the City Council. Compensation increases will become effective for all Councilmembers when one or more Councilmembers begins a new term of office.

Section 7. Publication.
The City Clerk is directed to publish this Ordinance as required by State law.

CITY *of* BRISBANE

Council Subcommittee Update

From August 29th, 2026, to September 11th, 2026

1. Report Out on Subcommittees/Committees

A. Bayshore School District & City 2x2 Subcommittee 9/1 Davis, Lentz

The subcommittee met with Bayshore School District Board President Rudolph, Board Vice-President Kristie Leong, and Superintendent Bhavna Narula to discuss the District's anticipated school needs on the Baylands. As the City continues to work with the Baylands development team on the Specific Plan and Development Agreement, it is important for the City to understand the District's plans and priorities as the development moves forward.

Bayshore indicated that it anticipates utilizing the 5–7 acres identified in the Environmental Impact Report (EIR) for a future middle school. However, the District would prefer a school site located closer to the proposed housing and parks to facilitate student access and create opportunities for integration with surrounding community amenities. The District also expressed concern about potential wind-tunnel effects if the school were located directly across from Geneva Avenue.

The District noted that if the City is interested in incorporating joint-use facilities, such as ballfields or other recreational amenities, the 5–7-acre site identified in the EIR may not be sufficient to accommodate both the school and shared facilities. This may require the City and District to further evaluate the size and configuration of the school site and the potential for shared-use facilities as part of the Specific Plan and Development Agreement discussions.

Bayshore also anticipates that the Midway project, which is expected to include approximately 555 affordable housing units, will generate additional students who would attend schools within the Bayshore School District. District representatives indicated that accommodating students from both the Baylands development and the Midway project would not be an issue.

Next Steps 1: The Subcommittee will meet again in October.

To view the agenda online:
https://brisbaneca.portal.civicclerk.com/event/6963/files

B. Infrastructure Subcommittee 9/2 Lentz, O'Connell

In 2023, the City completed a comprehensive Water and Sewer Rate Study to evaluate the costs of providing water and sewer services and establish rates sufficient to support the ongoing financial needs of each utility. As outlined in the City's 2023 Proposition 218 Notice and related rate study materials, the City Council adopted Resolution No. 2023-17, establishing revised water and sewer rate structures and authorizing annual rate adjustments through June 15, 2027. With the current rate adjustments scheduled to conclude in 2027, staff have begun planning for the City's next comprehensive Water and Sewer Rate Study.

To initiate this process, staff have prepared a draft Request for Proposals (RFP) to solicit proposals from qualified financial consultants to conduct the next Water and Sewer Rate Study. The study will evaluate the financial requirements of both utilities, including operating and maintenance costs, capital improvement needs, reserve requirements, revenues, and projected wholesale water and wastewater costs.

An additional consideration for the study is the City's approach to the Proposition 218 rate-setting process, including whether to incorporate procedures established under AB 2257. AB 2257 provides an administrative process for considering challenges to proposed water and sewer rates before they are adopted and establishes additional noticing and procedural requirements. Although this process may require additional time and steps during rate adoption, staff are considering its use because it would provide an opportunity to address ratepayer objections through an administrative process and could potentially reduce the City's exposure to subsequent legal challenges.

Staff requested direction from the subcommittee regarding issues that should be considered before the RFP is released and specific areas the consultant should evaluate as part of the study. Among the topics discussed was the potential to place water and sewer charges on the property owner's property tax roll, as several other cities have done. This approach could provide the City with a more consistent collection mechanism by shifting the responsibility for collecting the charges to the County, while potentially reducing the City's administrative and collection costs.

The subcommittee also requested that the next rate study provide greater clarity regarding the City's current compliance status, including the extent to which the City may be out of compliance with applicable requirements and the steps, costs, and timeline necessary to return the City to compliance and restore its eligibility to issue bonds. In addition, the subcommittee discussed the differences between the Proposition 218 and AB 2257 processes and requested an evaluation of which approach would be most appropriate for the City. Finally, the subcommittee asked the consultant to identify and evaluate alternative funding options that may be available to the City if traditional bond financing is not feasible.

Next Steps 1: Staff will work on the Finances to clarify how far off the City is regarding compliance.

Next Steps 2: Staff will research other ways to fund aging infrastructure if a bond is not feasible.

Next Steps 3: The Subcommittee will meet again in October.

To view the agenda packet online:
https://brisbaneca.portal.civicclerk.com/event/6962/files/agenda/12556

2. Upcoming Subcommittees:

3. Proposed Subcommittees:

Does any councilmember wish to propose any items for a subcommittee to discuss?