



SUBJECT

Proposed Traffic Impact Fee and Nexus Study

RECOMMENDATION

That the Planning Commission review and provide feedback on the proposed Traffic Impact Fee (TIF) recommendations for certain land use types in the City of Hayward.

SUMMARY

In July 2015, the City hired TJKM to prepare a Multimodal Improvement Plan and Nexus Study (Nexus Study) (Attachment II) that identifies locations of future traffic deficiencies as a result of future development, develop mitigations to address these deficiencies, calculate the total cost of capital improvements required to implement the mitigations, and provide a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types.

In October 2021, the City hired Community Attributes, Inc., (CAI) to review the Nexus Study and assist with developing recommendations for the appropriate fee amounts, based on current economic conditions and development feasibility to maintain a competitive fees structure when compared to surrounding jurisdictions and to avoid disincentivizing new development. Consistent with the findings and analysis from CAI on certain land use types, staff recommends the following, which is detailed in the Discussion section below:

1. Reduce the impact fees for single-family residential developments by 70% and general industrial and distribution/e-commerce by 30% below the maximum allowable TIF;
2. Waive the TIF for multi-family, retail, and office developments;
3. Include an automatic annual construction inflation index adjustment; and
4. Reevaluate the TIF program after three years to assess market conditions.

Staff is requesting feedback from the Planning Commission on the TIF proposed for certain land uses and will forward that feedback to City Council for their consideration at a future meeting.

BACKGROUND

A TIF is a one-time fee imposed on new development projects to help mitigate the cumulative transportation impacts of development growth. As importantly, a TIF will bring much-needed certainty to Hayward's development process at the onset of the application process. In general, TIFs imposed on new development are linked to the concept that traffic generated by the proposed development will cause a nearby traffic deficiency, such as an intersection exceeding

a specific level of service or capacity. A TIF does not replace any transportation analysis required to analyze possible impacts as part of California Environmental Quality Act (CEQA) assessments. Also, while a TIF addresses cumulative impacts of all future development projects, it does not address specific or direct impacts from a proposed development. As a result, a Local Transportation Analysis (LTA) may still be necessary in some cases. A TIF will replace the traffic analysis currently required to address the cumulative impacts of all future development projects, or the Citywide system improvements required to serve growth.

Per State law, the Mitigation Fee Act authorizes a local agency to establish, increase, or impose various fees as a condition of approval of a development project, if specified requirements are met. A TIF is a one-time fee imposed on new development projects to help mitigate the cumulative transportation impacts of development growth.

Unlike most Bay Area cities, the City does not currently assess a TIF and does not have any other funding mechanism dedicated solely to transportation improvements. To date, Hayward is the only city in Alameda County, besides Albany (population of less than 20,000 people) and Piedmont (population of less than 11,500 people) with no TIF and as such, the City assumes the financial responsibility of mitigating the cumulative traffic impacts generated by private development throughout the City.

On July 21, 2015, the City executed a professional services agreement with Traffic Consultants TJKM to conduct the Multimodal Improvement Plan and TIF Nexus Study. TJKM prepared the Nexus Study (Attachment II), which identified locations of future traffic deficiencies as a result of future development and developed mitigations to these deficiencies. The Nexus Study calculates total cost of capital improvements required to implement the mitigations and provides a calculated maximum allowable traffic fee that would be legally defensible based on projected cumulative traffic impact from different development types; however, a TIF should not be viewed as a deterrent to development activities.

On October 20, 2020¹, four development experts presented a work session item to Council on *Covid-19 Trends and Impacts on the Real Estate Market*. As was highlighted during the presentation, Traffic Impact Fees are funding mechanisms that cities can use to offset the transportation and infrastructure degradation from the significant increase in traffic generated by new industrial developments and helps provide greater certainty for developers in the development review process. A key factor that affects the feasibility of impact fees is the presence of a strong local economy and the financial feasibility of specific land uses. The supply and demand for developable land must be sufficient to absorb the added expense of impact fees.

To ensure that the City's fees are reasonable and would not adversely impact development, the City hired CAI to review the Nexus Study and assist with developing recommendations for adopting appropriate fee levels based on development feasibility and comparable fee analysis from surrounding jurisdictions.

In September 2021, the State adopted new legislation (AB 602) that updates the process for cities wanting to adopt new impact fees. AB 602 requires that jurisdictions calculate impact

¹ COVID-19 Trends and Impacts on Real Estate Market:
<https://hayward.legistar.com/LegislationDetail.aspx?ID=4669902&GUID=CCBBD3D8-B2D7-4CB5-BD4B-CF5F6B0BD4CA>

fees based on square footage, instead of per unit, for residential developments if the fee is not adopted by July 1, 2022. For programs adopted after July 1, 2022, jurisdictions will need to fully comply with this legislation or make specific findings to justify why they are not assessing residential impact fees on a per square foot basis, as required by State law.

Public Outreach. On February 9, 2022, staff held a Stakeholder Meeting to introduce the proposed recommended TIF and solicit feedback from the public. An article publicizing the event was published in The Stack and distributed to its subscribers. Additionally, a targeted email with information on the meeting was sent to 420 recipients. Less than ten participants attended the first Stakeholder Meeting, with many speaking in favor of the proposed fee structure. One attendee recommended that funds collected from the TIF should be used mostly for improvements to alternative modes of transportation, such as biking, walking, and transit. Staff notes that a majority of the TIF funding received is to be dedicated towards infrastructure improvements that promote a shift from single-occupancy vehicles to alternate modes. Funding will also be dedicated to vehicular/transit improvements, traffic signal upgrades, and improvements to overall traffic operations that will benefit all modes.

On March 31, 2022, a second Stakeholder Meeting was held and attracted two participants, who asked specific questions about the implementation and applicability of certain fees tied to certain land uses and both participants expressed support for providing additional certainty to developers, including streamlining of transportation review and analysis.

In addition to the two Stakeholder Meetings, staff has been working to create a seamless process for integration and administration of the TIF for all entitlement applications, with the goal of minimizing uncertainty. Staff prepared a flow chart to help applicants better understand when traffic analysis will be required and developed a FAQ memo to address questions about applicability of the program for the public. This information, with the proposed guidelines, has been posted on the City's webpage and remains publicly accessible. Staff anticipates this information will help clarify the amount and level of transportation analysis required when a new application is received, increase transparency, and reduce the administrative effort for both the City and developer.

Council Infrastructure Committee. On February 23, 2022, staff presented the traffic impact fee recommendations to the Council Infrastructure Committee (CIC) for review and feedback. The CIC expressed support for staff's recommendation but suggested additional public outreach and coordination with transit agency partners. In response to CIC guidance, staff scheduled two outreach meetings with the Chamber of Commerce and conducted one additional stakeholder meeting, which was held on March 31, 2022. Staff also met with representatives from AC Transit to discuss the inclusion of transit projects to the list that could be funded by the TIF. Many of the projects identified by AC Transit and City staff have been included in the approved project list, which resulted in a nominal increase in the amount of the traffic impact fees.

DISCUSSION

As previously noted, the Nexus Study identified locations of future traffic deficiencies generated by future development and proposed capital improvement projects to mitigate those deficiencies. The Nexus Study also calculated the total cost of those capital improvement projects and established a maximum fee that could be assessed, based on

projected cumulative traffic impact from different land use types. The Nexus Study originally analyzed eighteen land use categories and following a review of neighboring jurisdictions, staff narrowed that list down to the six categories: single-family residential, multi-family residential, retail, office, general industrial, and distribution/e-commerce. After reducing the number of land use types, CAI studied the feasibility of those development types with the findings summarized in Table 1.

Table 1. Development Feasibility Study

Land Use Category	Feasibility Findings	Result	Recommend waiver?
Single-Family Residential	Despite strong sales prices, high development and land costs are challenges; Hayward is seeing townhouse development, suggesting that deals are possible. Strong regional demand for housing creates opportunities for Hayward.	Marginal	No
Multi-Family Residential	Some multi-family development has occurred in recent years, though this product is challenged by lease rates that decreased during the pandemic, higher rates of vacancy, and credit loss due in part to ongoing eviction moratoria. Given strong regional demand for housing and the prospect that lease rates rebound to pre-pandemic levels, the longer-term prospects for multi-family development are positive.	Marginal	Yes
Retail	Brick and mortar retail faces an uncertain future coming out of the pandemic and achievable lease rates in Hayward generally do not support new construction. Some retail anchors, such as CVS, have adapted in ways that make them more feasible. This trend also affects restaurants, though housing growth will support incremental additions to the retail and restaurant inventory.	Challenged	Yes
Office	The market for office in Hayward is weak and lease rates generally do not support new construction; to that extent that any demand for commercial office exists in Hayward, it is likely to be for medical office in or around the BART stations.	Challenged	Yes
General Industrial	Extremely strong regional demand and Hayward's central location support project feasibility and modeling shows positive residual land value.	Promising	No
Distribution/E-commerce	Extremely strong regional demand and Hayward's central location support project feasibility and modeling shows positive residual land value.	Promising	No

CAI also compared the traffic impact fees combined with the total cumulative impact fees from neighboring cities of similar size and location, including Alameda, Concord, Cupertino, Daly City, Fremont, San Leandro, Sunnyvale, and Union City, shown in the Figures below. For Hayward, there are three different scenarios: The "Current" scenario reflects the cumulative amount of impact fees currently assessed without the TIF rate applied; the "Max" scenario reflects the maximum amount of traffic impact fee that could be charged based on the findings from the Nexus Study; and the "Recommended" scenario (shown with red box) reflects staff's recommended TIF when combined with all other impact fees added. For some land uses, no impact fee currently exists, which are reflected in the Figures for each use.

Single Family Residential Uses. The cumulative impact fee comparison for single-family residential development for each jurisdiction is shown in Figure 1 below and ranks fees from highest to lowest. For single-family residential development, staff is recommending a 70% reduction of the traffic impact fee rate. As noted below, the Hayward recommended rate

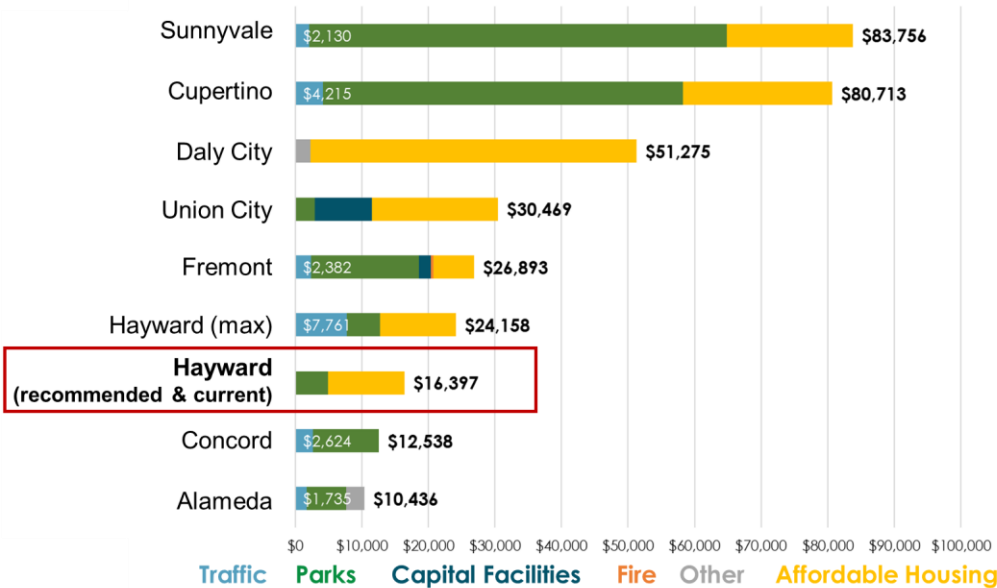
seems appropriate given the “marginal” feasibility of this land use, based on the CAI feasibility analysis.

Figure 1. Single-Family Residential Impact Fee Comparison



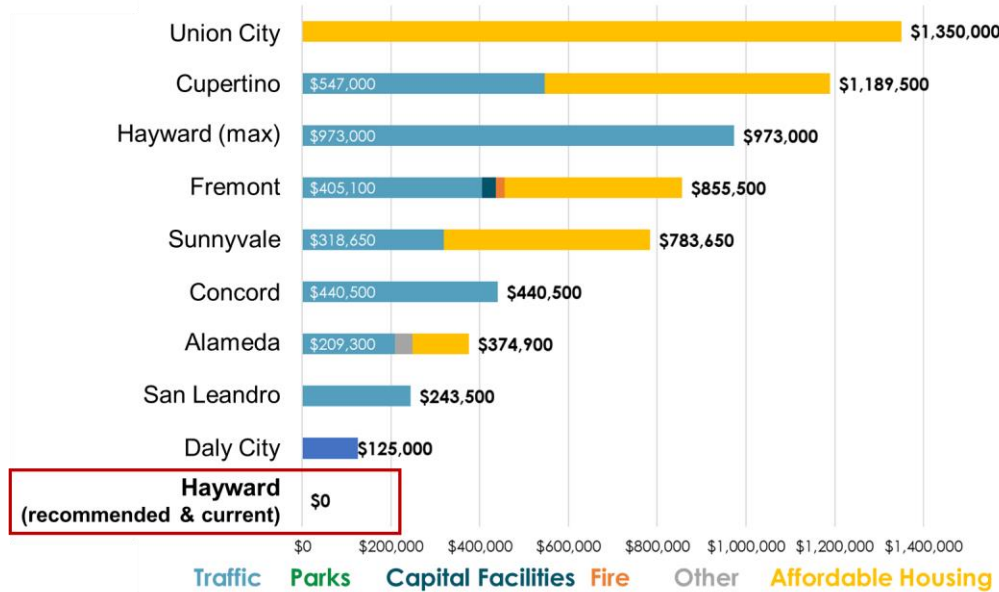
Multi-Family Residential Uses. For multi-family residential uses, staff recommends waiving the impact fees at this time, given the challenges facing this development type due to the economic impacts of the pandemic. Considering California’s housing crisis, it would also be in the City’s best interest to avoid disincentivizing high-density development and affordable housing at this time. For multi-family residential development, two different fee scenarios are used: Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s current and recommended cumulative impact fee with no TIF. These two scenarios rank sixth and seventh highest, respectively, out of nine comparison jurisdictions in Figure 2 below.

Figure 2. Multi-Family Residential Impact Fee Comparison



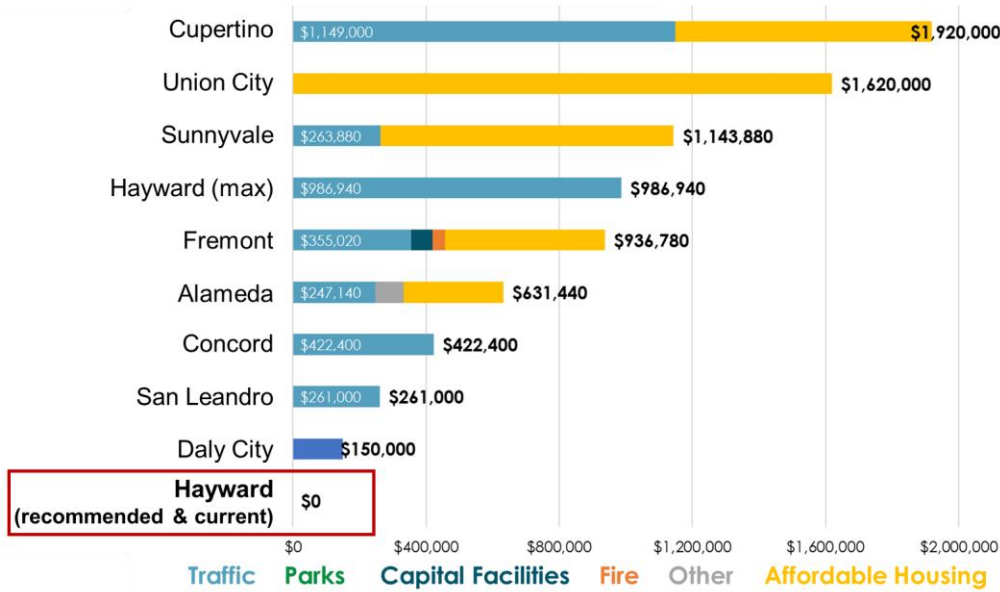
Retail Uses. Retail has been one of the businesses hit hardest by pandemic restrictions. Reduced economic activity results in less demand for new commercial retail space, and ambiguity about future recovery further dampens investment. To allow more time for retail businesses to recover from the impacts of the pandemic, staff recommends waiving the TIF for retail development for three years until the TIF is reevaluated. For retail development, Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s recommended and current cumulative impact fee, with no TIF, rank third and last respectively when compared to the other jurisdictions as shown in Figure 3 below.

Figure 3. Retail Impact Fee Comparison



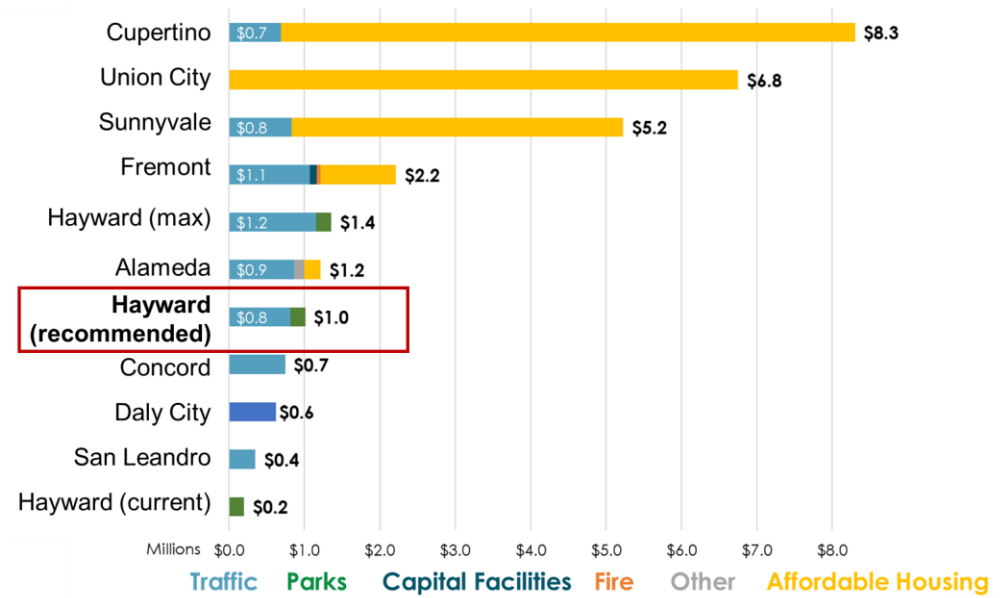
Office Uses. Like retail development, office development has been substantially impacted by the pandemic. For the first 16 months of the pandemic, non-essential employees were ordered to telecommute, resulting in a decrease in demand for office space. As restrictions were lifted, many employers continued to allow employees to telecommute either part-time or full-time. While office development may increase over the long-term, the short-term outlook remains weak. For these reasons, staff recommends waiving a TIF for three years to allow more time for the commercial office market to stabilize. For office development, Hayward’s cumulative impact fee using the maximum allowable TIF and Hayward’s recommended and current cumulative impact fee with no TIF rank fourth and last respectively when compared to the other jurisdictions as shown in Figure 4 below.

Figure 4. Office Impact Fee Comparison



General Industrial Uses. Unlike residential, retail, and office development, the industrial sector has not experienced a decrease in demand. Extremely strong regional demand and the City’s central location further support industrial development feasibility as modeling shows positive residual land value. For general industrial development, Hayward’s cumulative impact fee using the maximum allowable TIF, Hayward’s recommended traffic impact fee at a 30% reduction, and Hayward’s current cumulative impact fee with no TIF rank fifth, seventh, and last respectively when compared to the other jurisdictions, as shown in Figure 5 below.

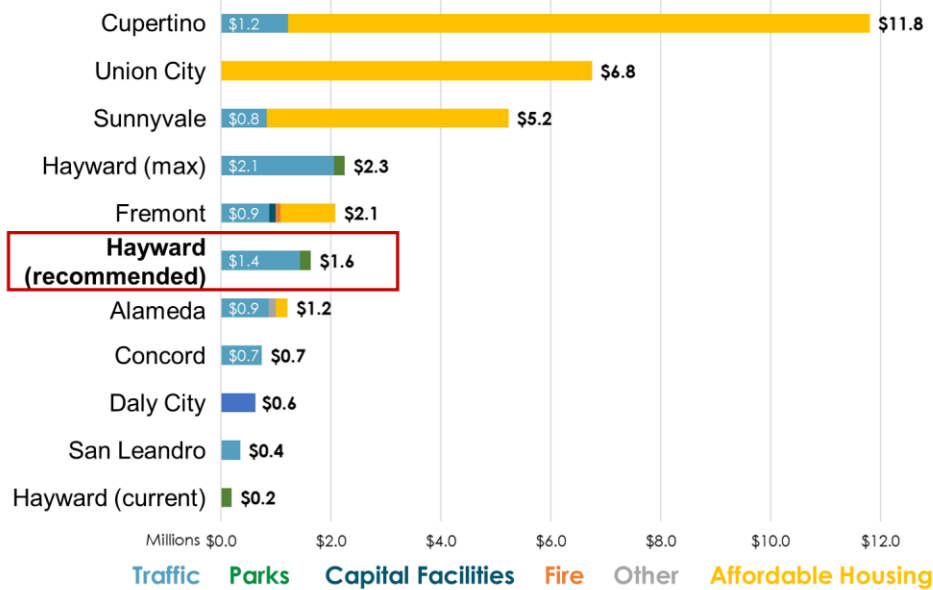
Figure 5. General Industrial Impact Fee Comparison



Distribution and E-Commerce Uses. Similar to general industrial development, the distribution and e-commerce economy has experienced a dramatic increase in demand. Extremely strong regional demand and the City’s central location support industrial development feasibility and the modeling shows positive residual land value. For

distribution/e-commerce development, Hayward's cumulative impact fee using the maximum allowable TIF, Hayward's recommended impact fee reflecting a 30% reduction, and Hayward's current cumulative impact fee with no TIF rank fourth, sixth, and last respectively when compared to other jurisdictions as shown in Figure 6 below.

Figure 6. Distribution/E-commerce Impact Fee Comparison



Conclusions. As detailed above, staff is recommending the TIF be adopted for the following land uses:

1. Reduce the impact fees for single-family residential developments by 70% and general industrial and distribution/e-commerce, by 30% below the maximum allowable TIF.
 - It was determined that these reductions ensure that the City maintains development feasibility while offering competitive rates with surrounding cities.
2. Waive the impact fee for multi-family, retail, and office developments.
 - These land uses were hit the hardest from the pandemic and are still recovering; additionally, CAI prepared a financial feasibility analysis that demonstrated that a TIF at this time may disincentivize development of these land uses in the City. As a result, it is recommended to waive the TIF for these land uses to allow more time for these types of development to recover from the pandemic. The waiver of these development types will be reevaluated with the TIF update in three (3) years.
3. Include an automatic annual construction inflation index adjustment.
 - The cost of construction materials normally increases annually due to inflation – an issue that contractors faced even prior to the pandemic. Building materials supply chains have been interrupted and labor has become scarce increasing the magnitude of construction inflation costs due to the pandemic. It is typical practice for local jurisdictions to adjust fees annually based on the Construction Cost Index published by the Engineering News Record.

4. Reevaluate TIF program after three years.

- Three years seems like the appropriate amount of time to reevaluate the TIF program as to whether the waiver of the three land uses – multi-family, retail, and office – should be extended. The maximum allowable TIF may also require adjusting due to changes in proposed improvements and traffic patterns that are expected to change in the upcoming years from employers allowing employees to telecommute.

A summary of the fee recommendations is shown in Table 2 below.

Table 2. Land Use Fee Recommendations

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	Waived?
Single Family Residence / Unit	\$11,584	70%	\$3,475	Marginal	No
Multi-Family Residence / Unit	\$7,761	-	-	Marginal	Yes, for development feasibility purposes
Retail/ KSF*	\$19,460	-	-	Challenged	Yes, for development feasibility purposes
Office / KSF	\$16,449	-	-	Challenged	Yes, for development feasibility purposes
General Industrial / KSF	\$4,633	30%	\$3,243	Promising	No
Distribution or e-commerce / KSF	\$8,224	30%	\$5,757	Promising	No

*ksf is one thousand square feet

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan. Adoption of a Traffic Impact Fee program, which is supported by the Multimodal Improvement Plan and Traffic Impact Fee Nexus Study will support several goals, policies and objectives of the *Hayward 2040 General Plan* that provide a balanced, multi-modal transportation network including the following:

- *LU-1.10 Infrastructure Capabilities.* The City shall ensure that adequate infrastructure capacities are available to accommodate planned growth throughout the city.
- Goal M-1: Provide a comprehensive, integrated, and connected network of transportation facilities and services for all modes of travel.
- *M-1.4 Multimodal System Extensions.* The City shall require all new development that proposes or is required to construct or extend streets to develop a transportation network that complements and contributes to the city's multimodal system, maximizes connections, and minimizes barriers to connectivity.
- *M-12.3. Local Funding Mechanisms.* The City shall continue to use local financing mechanisms, such as Measure B, gas tax and the Vehicle Registration Fee, to help fund transportation projects.
- *M-12.4. Funding for Alternative Modes.* The City shall identify and pursue all available funding for alternative modes of transportation.

The proposed CIP associated with the Nexus Study will provide a comprehensive plan for future improvements that will guide, prioritize, and implement a network of quality transportation facilities to improve mobility, connectivity, public health, physical activity, and recreational opportunities. The plan will increase transportation options, reduce environmental impacts of the transportation system, and enhance the overall quality of life for residents. The goal of the project is to develop convenient transportation alternatives to motor vehicles for residents, resulting in a reduction of single occupancy vehicle trips, reduce vehicle miles traveled, and greenhouse gas emissions.

Strategic Roadmap. This agenda item supports the Strategic Priority to Improve Infrastructure. Specifically, this item relates to the implementation of the following project(s):

Project 3. Develop and Submit a Traffic Impact Fee

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act of 1970, Public Resources Code §21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, “CEQA”), the proposed Amendments do not constitute a “project” within the meaning of Public Resources Code Section 21065, and CEQA Guidelines Sections 15061(b)(3) and 15378 because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and because it has no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment.

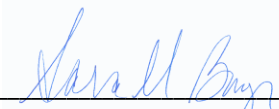
NEXT STEPS

Following this work session with the Planning Commission, staff will forward that feedback and finalize the Nexus Study and TIF recommendations for Council consideration at a public hearing tentatively scheduled for Tuesday, May 17, 2021.

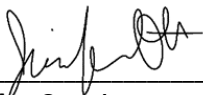
Prepared by: Charmine Solla, Senior Transportation Engineer

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Jennifer Ott, Assistant City Manager/Development Services Director