



**DATE:** May 17, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Traffic Impact Fees: Adoption of a Resolution Adopting a Nexus Study and Introduction of an Ordinance Adding Article 30 to Chapter 10 of the Hayward Municipal Code Regarding Traffic Impact Fees for Developers

## **RECOMMENDATION**

That the Council takes the following actions:

- Adopt a resolution (Attachment II) adopting the Nexus Study (Attachment IV) in support of the proposed Traffic Impact Fee; and
- Introduce an ordinance (Attachment III) adding Article 30 to Chapter 10 of the Hayward Municipal Code regarding Traffic Impact Fees for Developers.

## **SUMMARY**

A traffic impact fee (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.

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 requirements imposed by the California Environmental Quality Act (CEQA). 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, in some cases, a Local Transportation Analysis (LTA) may still be necessary.

Traffic consultants TJKM prepared The Multimodal Improvement Plan and TIF Nexus Study (Attachment IV) that identifies locations of future traffic deficiencies as a result of future development, develops mitigations to these deficiencies, 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.

To ensure that the City's proposed TIF rates are reasonable and will not impact the City's competitiveness and the desirable development in the City, the City requested economic consultants Community Attributes, Inc., (CAI) to review the Nexus Study and assisted the City in developing recommendations for adopting appropriate fees. The goals were for the

proposed fees to be below the maximum allowable, based on current economic conditions and development feasibility and to maintain competitive overall development fees when compared to surrounding jurisdictions.

#### *Council Infrastructure Committee Review and Recommendation*

At a Special Council Infrastructure Committee (CIC) held on February 23, 2022, the CIC received a report on TIF. At the meeting an AC Transit representative asked for inclusion of more transit-oriented projects in the Nexus Study (As discussed later in this report, this was later accomplished to the satisfaction of AC Transit). Kim Huggett, Chamber of Commerce President requested additional meetings. CIC members asked about projects that have been submitted already and are in the pipeline, and suggested that they should be exempt from TIF. After some discussions the CSC members commented that the proposed TIF had taken a "very fair and balanced approach". The CIC unanimously recommended TIF's approval to Council.

#### *Planning Commission Review*

On April 14, 2022, staff presented the TIF recommendations to the Planning Commission for review and feedback. The Commission expressed support for staff's recommendation and asked questions about the proposed reduction of single-family residential TIF and whether it should be increased. Additionally, Planning Commission expressed interest in whether the TIF ordinance includes provisions regarding credits to developers for grandfathered changes or for developers who opt to pay to build improvements rather than paying the TIF.

#### *City Council Work Session*

On May 3, 2022, staff presented the TIF recommendations to Council in a Work Session for review and feedback. The Council expressed support for staff's recommendation, discussed the single-family residential TIF, and the type of modifications to the TIF program that can be made after the initial three-year period. Council also inquired about the intended use of the TIF revenues and discussed the potential of subjecting large retail to TIF. Council appreciated the comprehensive multimodal project list, the thorough financial feasibility comparisons to other local jurisdictions, and the extensive outreach to the development community.

As a result of the feedback received during the outreach processes, staff recommends that the Council adopts the TIF at the maximum allowable rates identified in the Nexus Study, but levy the fees according to the following:

1. Reduce the single family maximum allowable fee by 70%, reduce the townhome maximum allowable fee by 55% (newly added fee category), and non-residential general industrial and distribution/e-commerce fee 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. Add a specific fee category for Townhome developments in Hayward with a reduction of 55% from the multi-family maximum allowable fee to make clear that new townhome developments are subject to the fee. Townhome units generally include units which are comparable in size to the single-family detached homes, have comparable number of bedrooms, and are similar in financial feasibility to single family detached units and therefore, can support a fee consistent with the single-family fee.

3. Reduce the fee for multi-family residential (excluding townhomes), retail, and office developments by 100%.
  - 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 reduce TIFs for these land uses by 100% to allow more time for these types of development to recover from the pandemic. The reduction of these development types will be revisited after a three (3) year monitoring period.
4. 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 California Construction Cost Index for the San Francisco Bay Area published by the Engineering News Record.
5. Revisit TIF reductions in the Master Fee Schedule after three (3) years.
  - Three years seems like the appropriate amount of time to revisit the TIF program as to whether the reductions should be extended or modified. The reductions may be adjusted 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 traffic impact fee (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.

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 requirements imposed by the California Environmental Quality Act (CEQA). 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, in some cases, a Local Transportation Analysis (LTA) may still be necessary.

Traffic consultants TJKM prepared The Multimodal Improvement Plan and TIF Nexus Study (Attachment IV) that identifies locations of future traffic deficiencies as a result of future development, develops mitigations to these deficiencies, 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.

To ensure that the City's proposed TIF rates are reasonable and will not impact the City's competitiveness and the desirable development in the City, the City requested economic consultants Community Attributes, Inc., (CAI) review the Nexus Study and assist the City in developing recommendations for adopting appropriate fees. The goals were for the proposed

fees to be below the maximum allowable, based on current economic conditions and development feasibility and to maintain competitive overall development fees when compared to surrounding jurisdictions.

#### *Council Infrastructure Committee Review and Recommendation*

At a Special Council Infrastructure Committee (CIC) held on February 23, 2022, the CIC received a report on TIF. At the meeting, an AC Transit representative asked for inclusion of more transit-oriented projects in the Nexus Study (as discussed later in this report, this was later accomplished to the satisfaction of AC Transit). Kim Huggett, Chamber of Commerce President requested additional meetings. CIC members asked about projects that have been submitted already and are in the pipeline, and suggested that they should be exempt from TIF. After some discussions, the CIC members commented that the proposed TIF had taken a "very fair and balanced approach". The CIC unanimously recommended TIF's approval to Council.

#### *Planning Commission Review*

On April 14, 2022, staff presented the TIF recommendations to the Planning Commission for review and feedback. The Commission expressed support for staff's recommendation and asked questions about the proposed reduction of single-family residential TIF and whether it should be increased. Additionally, Planning Commission expressed interest in whether the TIF ordinance includes provisions regarding credits to developers for grandfathered changes or for developers who opt to pay to build improvements rather than paying the TIF.

#### *City Council Work Session*

On May 3, 2022, staff presented the TIF recommendations to Council in a Work Session for review and feedback. The Council expressed support for staff's recommendation, discussed the single-family residential TIF, and the type of modifications to the TIF program that can be made after the initial three-year period. Council also inquired about the intended use of the TIF revenues and discussed the potential of subjecting large retail to TIF. Council appreciated the comprehensive multimodal project list, the thorough financial feasibility comparisons to other local jurisdictions, and the extensive outreach to the development community.

As a result of the feedback received during the outreach processes, staff recommends that the Council adopts the TIF at the maximum allowable rates identified in the Nexus Study, but levy the fees according to the following:

1. Reduce the single family maximum allowable fee by 70%, reduce the townhome maximum allowable fee by 55% (newly added fee category), and non-residential general industrial and distribution/e-commerce fee 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. Add a specific fee category for Townhome developments in Hayward with a reduction of 55% from the multi-family maximum allowable fee to make clear that new townhome developments are subject to the fee. Townhome units generally include units which are comparable in size to the single-family detached homes, have comparable number of bedrooms, and are similar in financial feasibility to single family detached units and therefore, can support a fee consistent with the single-family fee.

3. Reduce the fee for multi-family residential (excluding townhomes), retail, and office developments by 100%.
  - 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 reduce TIFs for these land uses by 100% to allow more time for these types of development to recover from the pandemic. The reduction of these development types will be revisited after a three (3) year monitoring period.
4. 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 California Construction Cost Index for the San Francisco Bay Area published by the Engineering News Record.
5. Revisit TIF reductions in the Master Fee Schedule after three (3) years.
  - Three years seems like the appropriate amount of time to revisit the TIF program as to whether the reductions should be extended or modified. The reductions may be adjusted 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 staff recommendations is presented in the table below.

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	100% reduction?
<b>Single Family Residence/Unit</b>	<b>\$11,584</b>	<b>70%</b>	<b>\$3,475</b>	<b>Marginal</b>	<b>No</b>
<b>Townhome/Unit</b>	<b>\$7,761</b>	<b>55%</b>	<b>\$3,492</b>	<b>Marginal</b>	<b>No</b>
Multi-Family/Unit (All Other, Excl Townhomes)	\$7,761	100%	-	Challenged	Yes, for development feasibility purposes
Office/KSF	\$16,449	100%	-	Challenged	Yes, for development feasibility purposes
Retail/KSF*	\$19,460	100%	-	Challenged	Yes, for development feasibility purposes
Office/KSF	\$16,449	100%	-	Challenged	Yes, for development feasibility purposes
<b>General Industrial/KSF</b>	<b>\$4,633</b>	<b>30%</b>	<b>\$3,243</b>	<b>Promising</b>	<b>No</b>
<b>Distribution or e-commerce /</b>	<b>\$8,224</b>	<b>30%</b>	<b>\$5,757</b>	<b>Promising</b>	<b>No</b>

## BACKGROUND

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. As importantly, a TIF will bring much-needed certainty to the City's development process at the onset of the application process.

Unlike most Bay Area cities, the City does not have a TIF, or other private funding mechanism dedicated solely to transportation improvements. 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, meaning that Hayward is left with the responsibility of mitigating future traffic impacts generated by developments.

TIFs imposed on new developments 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 requirements imposed by the California Environmental Quality Act (CEQA) and 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, in some cases, a Local Transportation Analysis (LTA) may still be necessary.

The Mitigation Fee Act requires a local agency to adopt a nexus study prior to adoption of new impact fees or increasing previously adopted impact fees. 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 Multimodal Improvement Plan and TIF Nexus Study (Attachment IV) that identifies locations of future traffic deficiencies because of future development, develops mitigations to these deficiencies, 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.

A TIF should not be viewed as a deterrent to development activities. On October 20, 2020, four development experts presented a work session item to Council on *Covid-19 Trends and Impacts on the Real Estate Market*. Jason Ovadia, Industrial Development expert, states that TIFs are funding mechanisms cities can use to offset the transportation and infrastructure degradation from the significant increase in traffic generated by new industrial developments and provide for greater upfront 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 needed developments in the City, after the completion of the Nexus Study in Summer 2021, the City executed a professional services agreement with Economic consultants Community Attributes,

Inc., (CAI) on October 7, 2021. CAI reviewed the Nexus Study and assisted the City in developing recommendations for adopting appropriate fee levels based on current development feasibility and on maintaining competitive overall development fees compared to surrounding jurisdictions.

AB 602 recently amended the Mitigation Fee Act to require any nexus study adopted after July 1, 2022 to calculate impact fees on residential projects based on square footage rather than on a per unit basis. If the Nexus Study is not adopted by July 1, 2022, it will have to be updated to reflect the AB 602 fee methodology. After July 1, 2022, the Council will be required to make specific findings in order to justify adopting a nexus study that does not calculate impact fees on residential projects based on square footage.

## DISCUSSION

The TIF Nexus Study prepared by Traffic consultants TJKM identifies locations of future traffic deficiencies generated by future development, develops mitigations to these deficiencies, 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. The Nexus Study identifies maximum allowable traffic fees for eighteen different land use categories. CAI researched traffic and overall development impact fees from neighboring jurisdictions and provided staff with valuable information for determining the most appropriate recommended fee amount for the TIF. The number and type of land use categories for the TIF vary widely across jurisdictions. Based on review of neighboring jurisdictions, staff narrowed down the eighteen land use categories identified in the Nexus Study to the proposed recommended six land use categories: single-family residential, multi-family residential, retail, office, general industrial, and distribution/e-commerce. Since the May 3<sup>rd</sup> Council Work Session, staff added a new seventh fee category for townhome development to be clearer that new townhome units are subject to the TIF.

After determining Hayward's TIF land use categories, CAI studied the feasibility of these six development types. The findings and results of this feasibility study are summarized in Table 1. CAI has confirmed that their analysis assumed new townhome development in its financial feasibility analysis for single family detached housing since these two product types are comparable from a market and financial feasibility standpoint.

**Table 1.** Development Feasibility Study

Land Use Category	Feasibility Findings	Result	100% reduction?
Single-Family Residential	Strong sales prices suggest that deals are possible despite challenges created by high development and land costs. Strong regional demand for housing creates opportunities for Hayward	Marginal	No

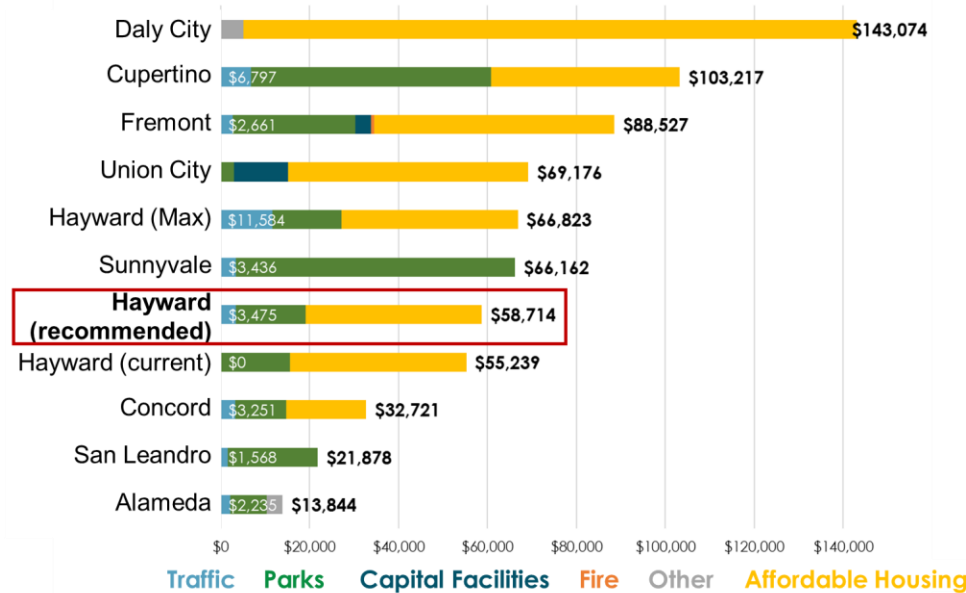
Townhomes	Hayward has a strong market for townhome residential development. Additionally, townhomes are typically a for-sale product, with market characteristics more in line with single family detached residential development. For sale products have continued to see strong and increasing sales prices throughout the pandemic, in comparison to price stagnation experienced by for rent multifamily product types. Despite strong sales prices, high development and land costs are challenges to development feasibility. Additionally, strong regional demand for housing continues to create opportunities for townhome development in Hayward.	Marginal	No
Multi-Family Residential (All Other, excluding Townhomes)	Some multi-family development has occurred in recent years, though this product is challenged by lease rates that decreased during the pandemic and 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 compared TIFs and total cumulative impact fees with selected neighboring cities that are similar in size and location. The following figures show the TIF and cumulative impact fee comparisons with the local cities of Alameda, Concord, Cupertino, Daly City, Fremont, San Leandro, Sunnyvale, and Union City, to Hayward's cumulative impact fee using the maximum allowable TIF, Hayward's cumulative impact fee using the recommended fee, and Hayward's current cumulative impact fee with no TIF.



*Single Family Residential Uses.* The cumulative impact fee comparison for single-family residential development for each jurisdiction is shown in Figure 1 and ranks fees from highest to lowest. For single-family residential development, three different fee scenarios are used: Hayward’s cumulative impact fee using the maximum allowable TIF; Hayward’s cumulative impact fee using the recommended fee with 70% reduction; and Hayward’s current cumulative impact fee with no TIF. As noted in Figure 1, the Hayward recommended rate seems appropriate given the “marginal” feasibility of this land use, based on the CAI feasibility analysis.

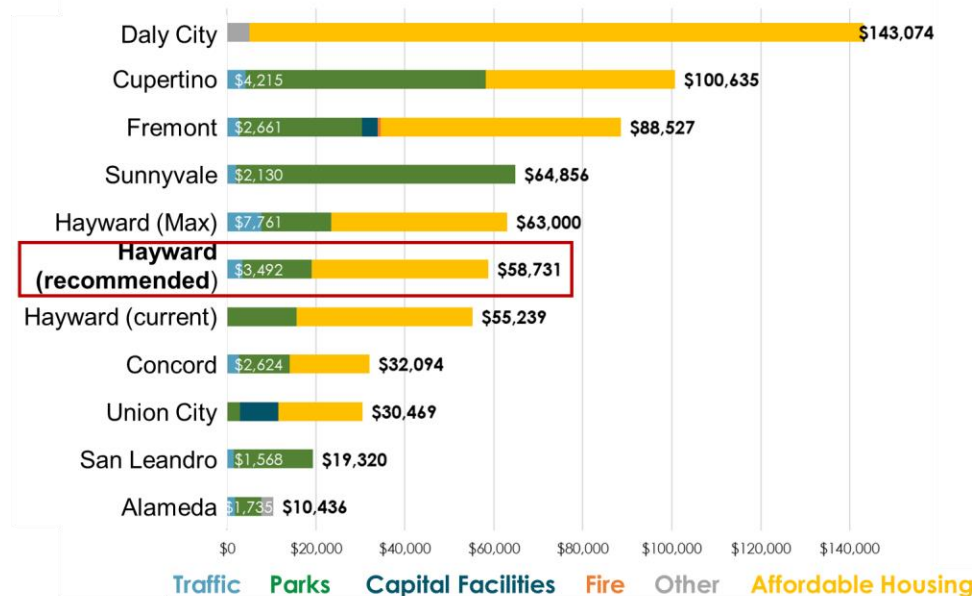
**Figure 1. Single-Family Residential Impact Fee Comparison (3-bedroom 2,000 sq. ft. detached unit)**



*Townhome Uses.*

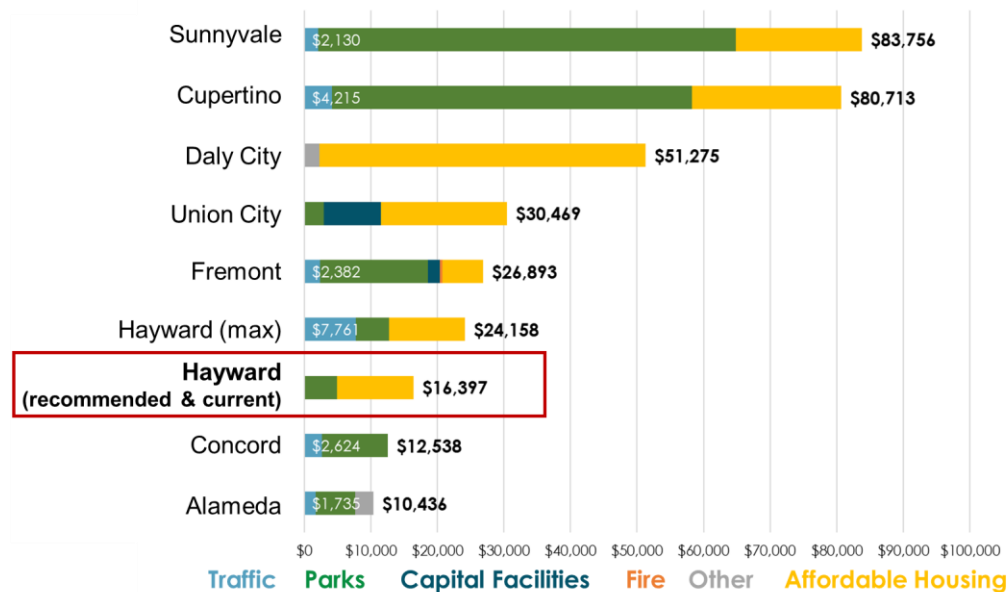
The cumulative impact fee comparison for townhome residential development for each jurisdiction is shown in Figure 2 and ranks fees from highest to lowest. For townhome residential development, three different fee scenarios are used: Hayward’s cumulative impact fee using the maximum allowable TIF; Hayward’s cumulative impact fee using the recommended fee with 55% reduction; and Hayward’s current cumulative impact fee with no TIF. As noted in Figure 2, the Hayward recommended rate seems appropriate given the “marginal” feasibility of this land use, based on the CAI feasibility analysis.

**Figure 2. Townhome Residential Impact Fee Comparison (3-bedroom 2,000 sq. ft attached unit)**



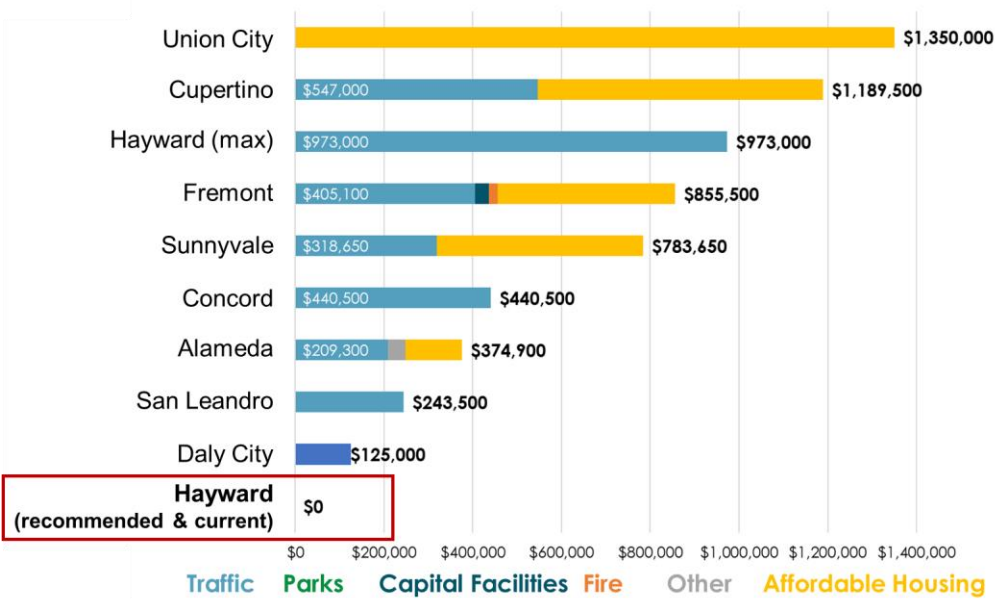
*Multi-Family Residential Uses (excluding Townhomes).* For all other multi-family residential uses (excluding townhomes), staff recommends waiving the impact fees at this time, given the challenges facing this development type due to the economic impacts of the pandemic. Considering California’s housing 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.

**Figure 3. Multi-Family Residential Impact Fee Comparison (one-bedroom 700 sq. ft. unit in a 150-unit complex)**



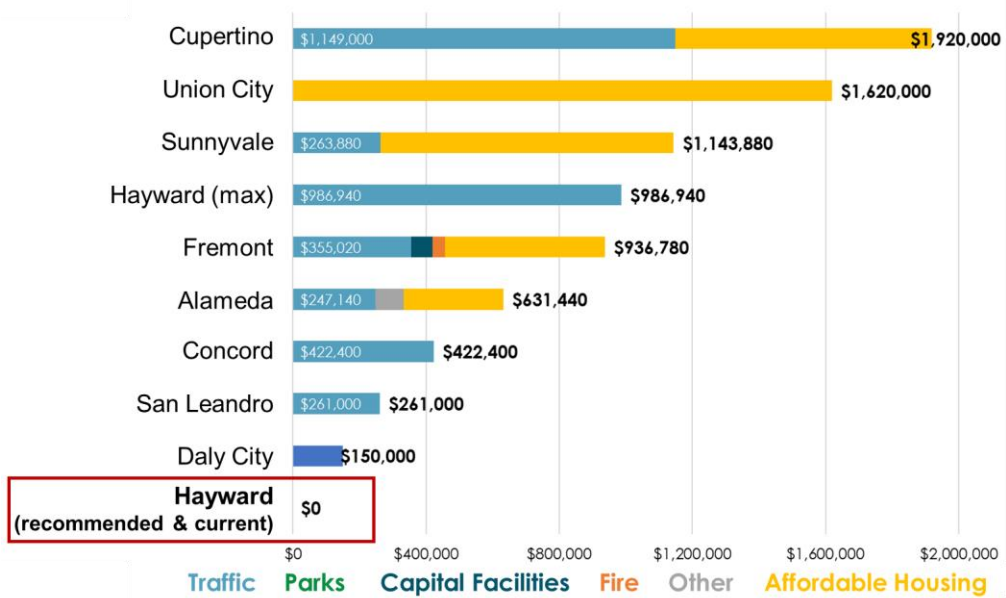
Retail Uses. Retail has been one of the businesses hit hardest by pandemic restrictions. Reduced economic activity results in less demand for new commercial retail space, and ambiguity about future recovery further dampens investment. To allow more time for retail businesses to recover from the impacts of the pandemic, staff recommends waiving the TIF for retail development for three years until the TIF reductions are revisited. 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 4.

**Figure 4. Retail Impact Fee Comparison**



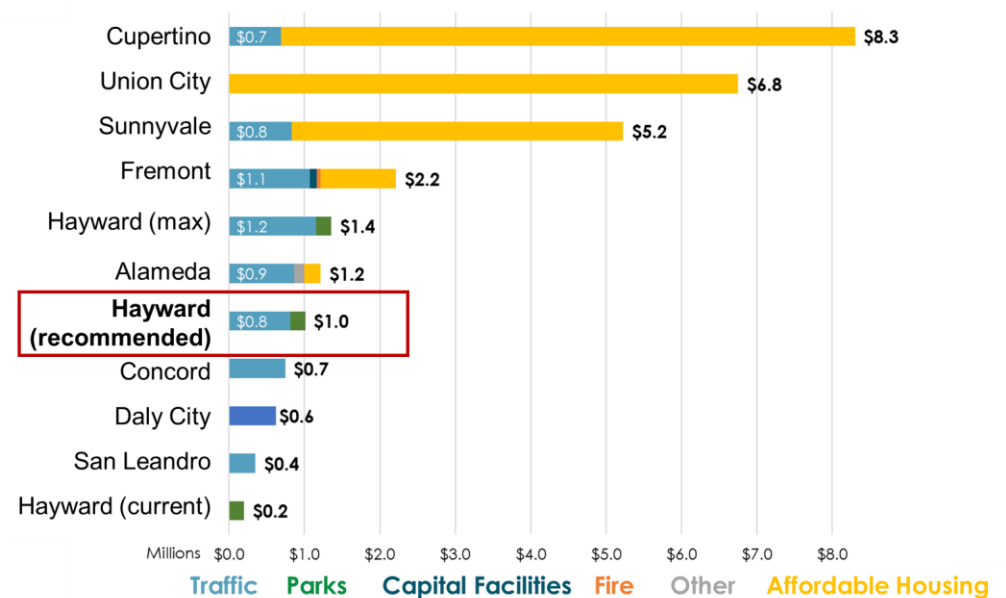
Office Uses. Like retail development, office development has been substantially impacted by the pandemic. For the first 16 months of the pandemic, non-essential employees were ordered to telecommute, resulting in a decrease in demand for office space. As restrictions were lifted, many employers continued 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 5.

Figure 5. Office Impact Fee Comparison



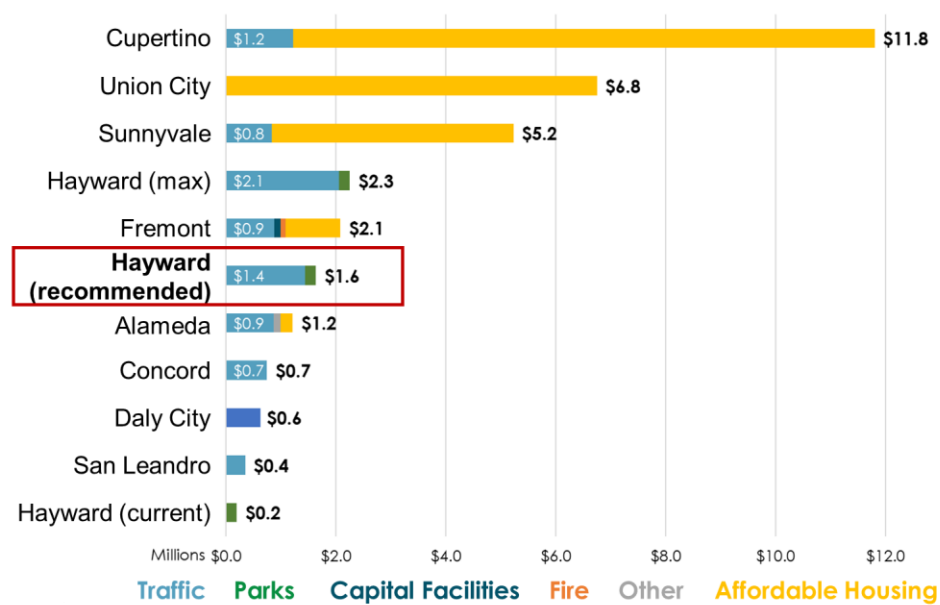
General Industrial Uses. Unlike residential, retail, and office development, the industrial sector has not experienced a decrease in demand. Extremely strong regional demand and the City’s central location further support industrial development feasibility as modeling shows positive residual land value. For general industrial development, Hayward’s cumulative impact fee using the maximum allowable TIF, Hayward’s recommended TIF 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.

Figure 6. General Industrial Impact Fee Comparison



Distribution and E-Commerce Uses. Like 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 at 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 7 below.

**Figure 7. Distribution/E-commerce Impact Fee**



Conclusions. As detailed above, staff is recommending the TIF be adopted at the maximum allowable rates identified in the Nexus Study, but levy the fees for the following land uses as follows:

1. Reduce the single family maximum allowable fee by 70%, reduce the townhome maximum allowable fee by 55% (newly added fee category), and non-residential general industrial and distribution/e-commerce fee 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. Add a specific fee category for Townhome developments in Hayward with a reduction of 55% from the multi-family maximum allowable fee to make clear that new townhome developments are subject to the fee.
  - Townhome units generally include units which are comparable in size to the single-family detached homes, have comparable number of bedrooms, and are similar in financial feasibility to single family detached units and therefore, can support a fee consistent with the single-family detached fee.

3. Reduce the fee for multi-family residential (excluding townhomes), retail, and office developments by 100%.
  - 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 traffic impact fee at this time may disincentivize development of these land uses in the City. As a result, it is recommended to reduce traffic impact fees for these land uses by 100% to allow more time for these types of development to recover from the pandemic. The reduction of these development types will be revisited after a three (3) year monitoring period.
4. 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 California Construction Cost Index for the San Francisco Bay Area published by the Engineering News Record.
5. Revisit TIF reductions in the Master Fee Schedule after three (3) years.
  - Three years seems like the appropriate amount of time to revisit the TIF program as to whether the reductions should be extended or modified. The reductions may be adjusted 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 staff recommendations is presented in Table 2.

**Table 2.** Staff Recommendations

Land Use Category	Maximum Allowable	Reduction from Maximum Allowable	Recommended Fee	Feasibility	100% reduction?
<b>Single Family Residence/Unit</b>	<b>\$11,584</b>	<b>70%</b>	<b>\$3,475</b>	<b>Marginal</b>	<b>No</b>
<b>Townhome/Unit</b>	<b>\$7,761</b>	<b>55%</b>	<b>\$3,492<sup>1</sup></b>	<b>Marginal</b>	<b>No</b>
Multi-Family Unit (All Other, Excl Townhomes) /Unit	\$7,761	100%	-	Marginal	Yes, for development feasibility purposes
Retail/ KSF*	\$19,460	100%	-	Challenged	Yes, for development feasibility purposes
Office / KSF	\$16,449	100%	-	Challenged	Yes, for development feasibility purposes
<b>General Industrial / KSF</b>	<b>\$4,633</b>	<b>30%</b>	<b>\$3,243</b>	<b>Promising</b>	<b>No</b>
<b>Distribution or e-commerce / KSF</b>	<b>\$8,224</b>	<b>30%</b>	<b>\$5,757</b>	<b>Promising</b>	<b>No</b>

\*ksf is one thousand square feet

<sup>1</sup> For ease of administration, staff recommends slightly reducing this fee to \$3,475, which is the fee for single-family residence.

### TIF Ordinance

The attached ordinance would amend the Hayward Municipal Code to add Article 30 to Chapter 10 of the Code. The ordinance provides the implementing provisions for administration of the TIF program. The ordinance would become effective 30 days after adoption by the Council. Any development application that has been deemed complete by the Planning Division prior to the effective date of the ordinance will not be subject to the TIF.

It is important to note that pursuant to the Mitigation Fee Act, impact fees do not become effective until 60 days after adoption of the fee. Staff will prepare a resolution for the City Council's consideration in conjunction with adoption of the ordinance whereby the TIF rates would be adopted and added to the Master Fee Schedule.

### **FISCAL IMPACT**

A total budget of \$700,000 from the Transportation System Improvement Fund (Fund 460) has been allocated for the traffic consultant TJKM for the nexus study of the City's first TIF. The project breakdown is as follows:

<u>Project No.</u>	<u>Project Name</u>	<u>Project Total</u>
05705	Citywide Multi Modal Improvement Study	\$400,000
05711	Multi Modal Level of Service Study	\$100,000
05274	Traffic Impact Fee Study	\$200,000

Approximately \$27,500 is remaining of the \$700,000 contract.

A total budget of \$36,000 has been allocated for economic consultant CAI for TIF policy recommendations that align with current economic and development activities within Hayward.

TIFs are another source of funds for needed improvements and are commonly viewed in terms of their revenue potential. TIFs are used to offset transportation infrastructure degradation from the significant increase in traffic generated by new developments. TIFs are used to help mitigate the cumulative transportation impacts of development growth, help maintain the City's transportation infrastructure, and not create a long-term liability for the City.

### **ECONOMIC IMPACT**

A TIF will be valuable to the City in ensuring that future developers pay their fair share of needed mitigation measures to minimize future traffic impacts, such as addition of bicycle and pedestrian facilities, installation of traffic signals, efficient re-timing of signals, and the increase of traffic capacity.

Evaluations and studies have consistently shown that this type of funding mechanism increases job growth and revenues in the City. Impact fees have evolved as an element of a broader growth management strategy for cities experiencing strong development pressure. The objective is to encourage development to occur in areas within the City where public facilities have adequate capacity to serve the development. While some may view impact fees as a penalty for development in areas where there is insufficient capacity, the fee acts as an investment in the community, by spurring economic growth through the timely provision of

sustainable infrastructure and the expansion of buildable land. Developments bring more jobs, sales tax revenue, and/or property tax revenue.

Without a TIF, developers must hire a traffic engineering consultant to prepare a study which includes predicting future traffic impacts, developing mitigations, and estimating costs of constructing the mitigations. The City reviews, comments, and uses the study to determine which mitigation projects will be conditions of approval for the development. TIFs streamline the development process by saving time and effort for both developers and City staff.

As cities continue to grapple with the problems of traffic congestion and limited public resources, cities will continue to view impact fees as another source of funds for needed improvements and are commonly viewed in terms of their revenue potential. Because several of the mitigation projects identified in the Multimodal Improvement Plan and Traffic Impact Fee Nexus Study are additions or enhancements of bicycle and pedestrian facilities, the City will become a more pedestrian- and bicycle-friendly community, thus creating positive economic benefits.

## **STRATEGIC ROADMAP**

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

Project 3. Develop and Submit a Traffic Impact Fee

## **SUSTAINABILITY FEATURES**

The Nexus Study will enhance operations and safety for all modes of transportation. The TIF will align improvements consistent with the City's 2040 General Plan, Complete Streets Strategic Initiative, Pedestrian and Bicycle Master Plan, Neighborhood Traffic Calming Program, and major regional improvements.

## **PUBLIC CONTACT**

Stakeholder Meeting #1. On February 9, 2022, Staff held Stakeholder Meeting #1 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 how to attend the event was sent to a distribution list of 420 recipients who are involved in some way to Hayward's development process.

The Stakeholder Meeting included less than 10 participants. Feedback received from attendee Zachariah Oquenda could be summarized as general support for the proposed TIF. Mr. Oquenda stated his appreciation for the reasonable fees and the presentation of the jurisdictional comparisons to understand how the implementation of a TIF will affect Hayward's standing with other local cities. Additionally, Mr. Oquenda asked questions about the reduction of single-family residential fee and whether it should be increased.



An attendee who did not provide a name, provided a comment through the chat box suggesting that the funds collected from the new TIF should be used mostly for improvements to alternative modes of transportation, such as biking, walking, and transit. Staff responded stating that a majority of the TIF fund is dedicated to promoting mode shifting from single occupancy vehicles to alternate modes, such as biking, walking, and taking transit and the remaining TIF funds are dedicated to vehicular/transit improvements and traffic signal equipment upgrades and improvements that improve traffic operations and benefit all modes.

#### Council Infrastructure Committee

On February 23, 2022, staff presented the TIF recommendations to the 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 TIFs.

#### Stakeholder Meeting #2

On March 31, 2022, Staff held Stakeholder Meeting #2 to discuss the proposed recommended TIF and solicit feedback from the public. Feedback received from the Bay Area Building Industry Association (BIA) Director of Governmental Affairs – East Bay Lisa Vorderbrueggen asked questions about whether the new fee will be imposed on the development applications currently in process and about grandfather provisions.

#### Planning Commission Review

On April 14, 2022, staff presented the TIF recommendations to the Planning Commission for review and feedback. The Commission expressed support for staff's recommendation and asked questions about the proposed reduction of single-family residential TIF and whether it should be increased. Additionally, Planning Commission expressed interest in whether the TIF ordinance includes provisions regarding credits to developers for grandfathered changes or for developers who opt to pay to build improvements rather than paying the TIF.

#### City Council Work Session

On May 3, 2022, staff presented the TIF recommendations to Council in a Work Session for review and feedback. The Council expressed support for staff's recommendation, discussed the single-family residential TIF, and the type of modifications to the TIF program that can be made after the initial three-year period. Council also inquired about the intended use of the TIF revenues and discussed the potential of subjecting large retail to TIF. Council appreciated the comprehensive multimodal project list, the thorough financial feasibility comparisons to other local jurisdictions, and the extensive outreach to the development community.

Council members made several comments and asked questions. Specific comments, and staff responses, include the following:

Comment No. 1: Reduce single-family fee more, perhaps by 80%, and add a fee for retail and office.

Staff Response: The 70% reduction, to bring the recommended fee to \$3,475 per unit, has been arrived at based on both financial feasibility analysis and jurisdictional comparisons. Staff believes that the fee is set at an appropriate level at this time. Three years from now this and other fees will be removed and adjusted down or up, based on data obtained during the initial three years.

Regarding the fee for retail and office, the feasibility analysis recommended no fees at this time. However, when application for retail or office are submitted, staff will continue to review their potential impacts and require them to mitigate any local circulation impacts they may have.

Comment No. 2: Explain the difference between maximum allowable fee and recommended fee.

Staff Response: the maximum allowable fee is the maximum amount a fee can be set in order to not exceed the level permitted under the law. The recommended fee is based on considerations of financial feasibility for the development category and comparison to similar fees in neighboring jurisdictions.

Comment No. 3: Should there be a TIF for major retail?

Staff Response: Please see response to Comment No. 1.

Comment No. 4: What about a fee for cannabis sites?

Staff Response: Currently only one of several approved cannabis sites is open and operational. Staff does not recommend imposing a fee at this time; staff will monitor these businesses, collect data, and recommend a course of action when the TIF is revised in three years.

Comment No. 5: Would opt-in option be available to developments?

Staff Response: While the option can be made available, staff does not expect many, if any, developments to apply to opt in.

Comment No. 6: What are the fees used for?

Staff Response: Fees will be used to implement pedestrian, bicycle, transit, and vehicular movement improvements as contemplated in the Nexus Study.

Comment No. 7: Will there be credits for developments that offer to build some of the improvements?

Staff Response: As long as those improvements are listed in the Nexus Study, a credit can be arranged.

Comment No. 8: Should there be a relationship between the size of the development and the fee?

*Staff Response: Based on data related to traffic generation from single family homes, the current regulations do not call for setting the fee based on the home size. For other development types, such as industrial and commercial, the fees would be based on the development's square footage.*

Comment No. 9: Look at the data for impacts from retail and office.

*Staff Response: Staff will do so. Please note that not recommending a fee for retail or office at this time is based on the conclusions and recommendations of the financial feasibility analysis which found these developments currently "challenged" in Hayward. Staff will collect and present the data in three years when Council reviews the TIF for potential revisions.*

Comment No. 10: Some developments may have bigger impacts than mitigated by the fee they will be required to pay.

*Staff Response: Some large projects will have additional local impacts that must be mitigated in addition to payment of the TIF. For those projects, preparation and implementation of a local transportation analysis would be required.*

Although the presence of a development TIF is not uncommon for local jurisdictions, staff is prioritizing a seamless integration into the existing traffic requirements process for entitlement applications. With the goal of minimizing uncertainty, staff prepared a flow chart for determining which traffic analyses will be required, responses to Frequently Asked Questions (FAQs), and resources to traffic analysis guidelines to be posted on the transportation webpage for the public to access at any time. Developers seek to identify all expenses early as they develop a business pro forma for the development. Identifying TIFs and analysis requirements at the time of permit application will provide a baseline expectation and reduce administrative effort for both the City and developer, and establish a best practice where developers know what to expect up front rather than waiting after the entitlement process.

The following is summary of the meetings held or to be held related to the TIF:

1. February 9, 2022: Stakeholder Meeting #1 to introduce the proposed TIF and solicit feedback from the business/broker/development communities.
2. February 23, 2022: Council Infrastructure Committee review and comment.
3. March 31, 2022: Stakeholder Meeting #2 to solicit feedback from the business/broker/development communities.
4. April 14, 2022: Planning Commission
5. May 3, 2022: City Council Work Session
6. May 17, 2022: City Council Public Hearing
7. May 24, 2022: City Council Second Reading/Establishment of Maximum Fees

## **NEXT STEPS**

If Council adopts the Nexus Study and introduces the amendments to Chapter 10, Article 30 of the Hayward Municipal Code, staff will return with an action item to: (1) adopt the ordinance and, (2) adopt a resolution establishing the maximum allowable TIF amount, setting the initial TIF rates, and amending the Master Fee Schedule to include the TIF and associated administrative fees

related to the TIF program. Pursuant to the Mitigation Fee Act, the TIF program will become effective 30 days after adoption by the Council at the second reading, while the actual fees become effective 60 days after the approval of the resolution establishing the fees, both of which are anticipated to occur at the next Council meeting.

*Prepared by:* Charmine Solla, Senior Transportation Engineer

*Recommended by:* Alex Ameri, Director of Public Works

*Approved by:*

A handwritten signature in black ink, appearing to read 'K. McAdoo', is positioned above a horizontal line.

---

Kelly McAdoo, City Manager