



**DATE:** May 24, 2022

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT** Adopt a Resolution Adopting the Traffic Impact Fee, Setting Initial Fee Rates for FY23, and Amending the FY23 Master Fee Schedule

## **RECOMMENDATION**

That Council adopts a resolution (Attachment II) adopting the Traffic Impact Fee (TIF) at the maximum allowable amount, setting the initial FY23 TIF rates, and amending the FY23 Master Fee Schedule to include the TIF and associated administrative appeal fee.

## **SUMMARY**

On May 17, 2022, Council adopted the Multimodal Improvement Plan and TIF Nexus Study (Nexus Study) in support of the proposed TIF. Council also introduced an ordinance amending the Hayward Municipal Code to add Article 30 to Chapter 10 of the Code. The ordinance would become effective 30 days after adoption by Council. The ordinance provides the implementing provisions for administration of the TIF program. This item involves formal action by Council to adopt the TIF at the maximum allowable amounts, setting the initial FY23 TIF rates, and amending the FY23 Master Fee Schedule to include the initial TIF rates and the administrative appeal fee contained in the TIF ordinance.

## **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.

In compliance with the Mitigation Fee Act, Council has adopted a Nexus Study supporting the TIF prior to adoption of the TIF and applicable TIF rates. Pursuant to the Mitigation Fee Act, an impact fee may be adopted by resolution or ordinance of a legislative body.

## **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. As a result of the feedback received during the outreach process and the May 17, 2022 Council meeting, staff recommends that Council adopts the TIF at the maximum allowable rates identified in the Nexus Study as shown in Table 1 below, but set the initial fee rates for FY23 according to Table 2 below.

Table 1  
Maximum Allowable Traffic Impact Fees

<b>Land Use Category</b>	<b>Maximum Allowable</b>
<b>Single Family Residence / Unit</b>	<b>\$11,584</b>
<b>Townhome / Unit</b>	<b>\$7,761</b>
<b>Multi-Family Residence / Unit</b>	<b>\$7,761</b>
<b>Office / KSF*</b>	<b>\$16,449</b>
<b>Retail/ KSF*</b>	<b>\$19,460</b>
<b>General Industrial / KSF*</b>	<b>\$4,633</b>
<b>Distribution or e-commerce / KSF*</b>	<b>\$8,224</b>

\*ksf is one thousand square feet

Table 2  
FY23 Traffic Impact Fees

<b>Land Use Category</b>	<b>FY23 Fees</b>
<b>Single Family Residence / Unit</b>	<b>\$3,475</b>
<b>Townhome / Unit</b>	<b>\$3,475</b>
<b>Multi-Family Residence / Unit</b>	<b>\$0</b>
<b>Retail/ KSF*</b>	<b>\$0</b>
<b>Office / KSF*</b>	<b>\$0</b>
<b>General Industrial / KSF*</b>	<b>\$3,243</b>
<b>Distribution or e-commerce / KSF*</b>	<b>\$5,757</b>

\*ksf is one thousand square feet

The provisions of the TIF ordinance include an automatic annual construction inflation index adjustment, which will be referenced in the Master Fee Schedule. The cost of construction materials normally increases annually due to inflation – an issue that contractors faced even prior to the pandemic. Building material 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.

Additionally, the Master Fee Schedule will be amended to include a \$400 administrative appeal fee as specified in the TIF ordinance. The level of the appeal fee is consistent with other previously adopted administrative appeal fees by the City.

Staff will return to Council after three years to revisit the TIF program and evaluate whether the fee amounts set below the maximum allowable levels 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. In the event the Council decides to increase the TIF above the maximum adopted amounts, a new nexus study must be prepared, and the increased fee must be adopted pursuant to the noticing and public hearing requirements of the Mitigation Fee Act.

**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.

**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. 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 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.

### 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.

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.

### City Council Public Hearing

On May 17, 2022, two weeks after the Council Work Session, staff presented the TIF recommendations at a Council Public Hearing to recommend adoption of the Nexus Study in support of the TIF and to introduce an ordinance adding Article 30 to Chapter 10 of the Hayward Municipal Code regarding Traffic Impact Fees for Developers. Council had some clarifying remarks to verify that similar fees for single-family and townhome residential land uses are proposed to best reflect the traffic patterns experienced in Hayward. Additionally, Council praised staff for the extensive public outreach and the time and effort dedicated to preparing easily accessible resources for the development community to eliminate uncertainty in the development process. The following is summary of the meetings 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 3, 2022: Chamber of Commerce's Government Relations Council
4. March 31, 2022: Stakeholder Meeting #2 to solicit feedback from the business/broker/development communities.
5. April 14, 2022: Planning Commission
6. May 3, 2022: City Council Work Session

7. May 17, 2022: City Council Public Hearing
8. May 24, 2022: City Council Second Reading/Establishment of Maximum Fees

**NEXT STEPS**

If Council adopts the attached resolution, pursuant to the Mitigation Fee Act the TIF will become effective sixty (60) days after adoption.

*Prepared by:* Charmine Solla, Senior Transportation Engineer

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

Approved by:



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Kelly McAdoo, City Manager