



Office of the City Manager

ACTION CALENDAR

July 11, 2006

To: Honorable Mayor and  
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Claudette Ford, Interim Director, Public Works

Subject: Transportation Services Fee (CF 69-01)

RECOMMENDATION

Conduct a public hearing and upon conclusion: 1) adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Chapter 22.20, Mitigation and Fees--Conditions For Approval of Development Projects, to enact a Transportation Services Fee; 2) adopt a Resolution establishing the fee level, applicability, and procedures for assessing the Transportation Services Fee; and 3) direct the Planning Commission to remove all references to the previous Transportation Services Fee in the City's Zoning Ordinance and make any other necessary changes to the Zoning Ordinance.

SUMMARY

In accordance with the City's General Plan, General Plan EIR, and California Government Code §66000, Transportation Division staff in conjunction with Nelson\Nygaard Consulting Associates has prepared a Transportation Services Fee (TSF) Nexus Study (Attachment 3) that determines the impacts that new development will have on the City's transportation infrastructure over the next 20 years, the cost of mitigating those impacts through various transportation projects and programs, and the resulting fee that the City can legally assess development projects. The TSF will pay for projects and programs throughout the City of Berkeley, such as those detailed in the Nexus Study expenditure plan, which will facilitate and encourage the use of alternative transportation modes.

Staff proposes a variable fee level based on the costs associated with mitigating the citywide impacts of new motor vehicle trips at all times. Certain uses are exempt from the fee, such as 100% affordable housing projects, and the fee ranges from a low of \$451 per trip for land uses that are prioritized in City policies and plans, to \$1,381 per trip for some types of change-of-use projects, to a maximum amount of \$2,543 per trip for new development. Although actual fee revenues will depend on the rate and type of development within the City, staff estimates that the fee would generate approximately \$100,000 to \$300,000 annually based on an analysis of recent development activity and regional growth projections.

To allow land prices to adjust, staff recommends that the City phase in the TSF over a period of 30 months. Once the City begins assessing the fee, the fee will apply to projects whose

development permit applications are deemed complete on or after the date of fee implementation. The fee will be collected at the time a building permit is issued. Once the TSF is paid, notice of the fee's payment would be recorded for the parcel and the fee would not need to be paid again unless further intensification occurred, resulting in the generation of more private motor vehicle trips.

In order to comply with the required mitigation in the General Plan EIR (TRN-2b, "The City will pursue adoption of a Transportation Impact Fee (Policy T-6) after Draft General Plan adoption."), the City should adopt a Transportation Impact Fee to benefit alternatives to private automobile use. However, City Council may elect to assess a smaller or more limited fee for this purpose.

The City may also provide funding for the transportation expenditures outlined in the TSF Nexus Study by other means, such as General Fund monies. The City Council may also place a new transportation improvement tax before Berkeley voters which could generate such funds.

#### FISCAL IMPACTS OF RECOMMENDATION

The staff proposal for the City of Berkeley's Transportation Services Fee (TSF) would assess development projects a fee to mitigate the citywide impacts of new motor vehicle trips generated by the project. A standard professional measure of traffic impacts is the projection of new motor vehicle trips during the weekday PM peak hour. Staff proposes a variable fee level based on the costs associated with mitigating the citywide impacts of new motor vehicle trips at all times. The fee is assessed against the "representative" trips which can be determined using standard, industry-accepted methodology: calculating the new motor vehicle trips generated during a typical weekday PM peak hour. These trips provide a measure of the citywide daily impacts caused by increasing motor vehicle trips. Certain uses are exempt from the fee, such as 100% affordable housing projects, and the fee ranges from a low of \$451 per trip for land uses that are prioritized in City policies and plans, to \$1,381 per trip for some types of change-of-use projects, to a maximum amount of \$2,543 per trip for new development.

The amount of revenue generated by the fee will depend on the final fee adopted by Council and the amount of development that occurs. Based on an analysis of recent development activity and regional growth projections, staff estimates that the fee would generate approximately \$100,000 to \$300,000 annually to support programs and projects to reduce motor vehicle trips and thus mitigate the impacts of development. The City will seek additional funds in the form of grants and other City funding mechanisms to fully support the trip-reducing projects and programs outlined in the Nexus Study expenditure plan (Attachment 3).

#### CURRENT SITUATION AND ITS EFFECTS

##### **Increasing Traffic Congestion and Lack of Transportation Alternatives Is a Problem**

Berkeley is facing increased motor vehicle trips in the future, with the potential for resultant traffic congestion, parking problems, environmental impacts, and diminished public safety. According to the Metropolitan Transportation Commission, between 2005 and 2025, new development in Berkeley is expected to generate 2,153 new PM peak hour motor vehicle trips

per typical weekday within the City. This represents approximately a 6% increase in the current number of PM peak hour motor vehicle trips per weekday.

Worsening transportation is a significant concern to Bay Area citizens. In February 2006, the Bay Area Council's 14th annual poll found that 35% of Bay Area residents surveyed ranked transportation, including traffic congestion, public transit and road conditions, as the most important problem facing the San Francisco Bay Area. Transportation has led the list of regional worries in eight of the previous 13 years that the group has conducted the poll, including last year, and has always ranked among the top three concerns along with the economy, crime and housing.

Berkeley citizens have repeatedly chosen to support the development of alternative transportation options. A September 2003 survey of City of Berkeley voters (David Binder Research) found that 44% of residents surveyed feel that alternative transportation is an extremely important issue to them, and 34% felt it was moderately important. However, respondents were split on how well the City was doing in promoting alternative transportation services: 50% rated the City "Excellent" or "Good", while 34% rated the City as "Not so Good" or "Poor" in this area.

### **Implementing a TSF to Address Transportation Problems**

Direction to develop a TSF comes from the City's General Plan, General Plan Environmental Impact Report (EIR) and the City Council. General Plan Policy T-6 Transportation Services Fee states, "Ensure that new development does not impact existing transportation services and facilities." Furthermore, the Final Environmental Impact Report (EIR) for the General Plan specifically mentions adoption of a Transportation Services Fee as a mitigation measure. Impact TRN-2 reads "The *Draft General Plan* growth, along with transportation policies relating to transit service accessibility and use (*Policies T-1 through T-9 and T-19*), and the land use policies supporting transit (*Policies LU-17 through LU-21, LU-26, LU-31 through LU-39*) could increase transit demand above the capacity currently being planned by transit agencies." Mitigation Measure TRN-2b states "The City will pursue adoption of a Transportation Impact Fee (Policy T-6) after Draft General Plan adoption." During the City Council's project priority setting initiative in the Spring of 2005, this project received a high priority rating with four votes from Council members.

### **BACKGROUND**

#### **Why an Impact Fee? What Is an Impact Fee?**

Many California cities have enacted impact fees to mitigate the impacts of new development on city infrastructure and services. Prior to the widespread use of impact fees, property tax increases on all property owners were used to finance the additional infrastructure and programs required to service new development and offset its impacts on the community. Impact fees shift the costs for providing new infrastructure and services from all property owners within a community to those that specifically generate the need for new infrastructure and services. Staff is proposing a development impact fee, the Transportation Services Fee, to specifically fund projects and

programs that will mitigate future development's impact on the City's transportation facilities and services.

### **Existing and Previous Impact Fees in the City of Berkeley**

Currently, the City assesses only two other impact fees – one to fund affordable housing and a second to fund affordable childcare. Both of these fees only apply to large commercial projects over 7,500 square feet of gross floor area.<sup>1</sup> The City also charges a number of planning and permit fees for development projects, the level of which are generally based on staff time and materials costs or project valuation.

Previously, the City collected a Transportation Services Fee (TSF) from approximately 1985 until 1997 under the City's Zoning Ordinance Section 23E.28.100.A. This fee was only imposed on commercial uses in certain zoning districts and only provided benefits to employees and clients in the City's commercial districts. The ordinance strictly limited those benefits to the purchase of transit or paratransit passes, coupons and tickets to be made available at a discount to employees and customers and to promote and support incentives for ridesharing. In 1997, the City Attorney concluded that the TSF could not be legally collected pending completion and adoption of a nexus study and the establishment of proper fiscal controls, pursuant to the California Mitigation Fee Act. Consequently, the TSF has not been assessed on any new development in Berkeley since 1997.

### **Development of Current Staff Proposal for the Transportation Services Fee**

The Transportation Commission and the Planning Commission discussed the TSF Nexus Study and the Supplementary Report at their meetings in the Fall of 2005. On December 6, 2005, City Council reviewed the Transportation Services Fee Nexus Study along with reports from the City Manager and the Transportation Commission, as well as a report of the Planning Commission's concerns. The Council set a Public Hearing date of April 25, 2006 and referred the issue to the Planning Commission and the Office of Economic Development for further review of the TSF's potential land use and economic development impacts.

Due to ongoing discussion of several critical issues, staff provided Council with an information report and update on the status of the TSF on April 25, 2006, and requested that the date of the public hearing be rescheduled to July 11, 2006. Subsequent to the December 6, 2005 Council meeting, the Transportation Commission discussed the TSF at its March 16<sup>th</sup> meeting, and the Planning Commission discussed the TSF at its January 11<sup>th</sup>, January 25<sup>th</sup>, February 8<sup>th</sup>, March 22<sup>nd</sup> and May 24<sup>th</sup> meetings. The Planning Commission also held a public hearing on the TSF on June 14, 2006. Staff has also attended meetings by invitation with the Berkeley Chamber of Commerce and with Livable Berkeley.

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<sup>1</sup> For affordable housing, Applicants have the option of creating additional residential units on-site or paying an in-lieu fee. The fee is \$4.00 per square foot of gross floor area devoted to office and/or retail use and \$2.00 for gross floor area devoted to industrial use. For affordable childcare, the fee is \$1.00 per square foot of gross floor area devoted to office/retail space and \$0.50 for gross floor area devoted to industrial space.

Transportation, Planning, and Economic Development staffs have had numerous meetings to address the Planning Commission's questions and to discuss how the City might implement the fee. In order to address the Planning Commission's concerns regarding potential impacts of the TSF on land use and economic development, staff amended the initial TSF proposal in response to detailed plan analysis and other data. Staff analyzed the TSF proposal's relationship to policies within the City's adopted plans, including: General Plan, Downtown Plan, South Shattuck Strategic Plan, University Avenue Strategic Plan, West Berkeley Plan, Draft Southside Plan, South Berkeley Plan, North Shattuck Urban Design and Circulation Report, and the Mayor's Task Force on Permitting and Development. Staff also compiled data comparing the City of Berkeley's existing fees with those of other neighboring Cities (Attachment 5). And, staff calculated proposed fee rates for existing and hypothetical projects (Attachment 4). The result of this analysis is the current staff proposal, which balances competing General Plan policies and objectives. The proposed TSF program would generate revenue for alternative transportation projects and programs and concurrently support the City's land use and economic development goals.

On December 6, 2005, the Transportation Commission made the following specific recommendations with respect to the TSF:

- The Transportation Services Fee (TSF) should be levied on a per-trip basis based on average weekday PM peak hour motor vehicle trips.
- The full TSF Expenditure Plan as presented in the Nexus Study Report should be approved.
- The fee per average weekday PM peak hour motor vehicle trip should be at least \$5,811, which would result in 25% of the expenditure plan being funded through the TSF if the TSF were applied to all new development.
- Second housing units should be exempted from paying the fee.
- The fee should be reduced to \$2,034 per trip for affordable housing and for childcare facilities. Other land uses should pay the fee of at least \$5,811.

On April 25, 2006, the Transportation Commission recommended that Council tie the threshold for fee application to a discretionary permit and 1,000 square feet of new floor area, that a five-year definition of vacancy be used, and that the full fee be assessed six months after adoption.

The Planning Commission supports the goals of reducing personal vehicle trips in Berkeley through funding the kinds of projects and programs outlined in the TSF Nexus Study. However, after much deliberation, their concern about current market conditions and the potential for the addition of a development fee to hinder physical and economic development led the Planning Commission to recommend that the City Council not adopt the TSF at this time. They recommended that the Council direct staff and the appropriate commissions to develop alternative funding mechanisms that generate revenue from a broader base than new development.

### RATIONALE FOR RECOMMENDATION

Following is a brief summary of the rationale for the fee and a description of its structure. The Transportation Services Fee Final Draft Nexus Study (Attachment 3) and the Resolution (Attachment 1) and Ordinance (Attachment 2) provide further details. Staff has also summarized the differences between the fee as originally proposed to Council on December 6, 2005 and that proposed today.

#### **Transportation Impacts**

Intensification of development will create more traffic throughout the City every day, which can be measured by the increase in PM peak hour motor vehicle trips. Between 2005 and 2025, development in Berkeley is expected to generate an average of 2,153 new PM peak hour motor vehicle trips per weekday within the City. This figure excludes motor vehicle trip ends on the UC Berkeley campus (which, as a State institution, is exempt from the fee). This increase in motor vehicle trips will negatively impact transit service, pedestrians and cyclists, will worsen traffic congestion, will increase parking demand, and will increase the costs of enforcing traffic safety laws. It will also negatively impact environmental conditions by contributing to air, water and noise pollution, visual degradation, increased energy consumption, and climate change. According to the U.S. Environmental Protection Agency, the Transportation sector accounted for approximately 33% of total carbon dioxide emissions from fossil fuel combustion, the largest share of any end-use economic sector. Furthermore, combustion of motor gasoline in passenger cars and light-duty trucks accounted for 58% of the emissions from the Transportation sector in 2004.<sup>2</sup>

#### **Mitigation Measures**

Traditionally, measures to mitigate the impacts of motor vehicle trips have focused on roadway widenings and intersection enhancements. The City of Berkeley, however, seeks to mitigate these impacts through an alternative strategy: reducing the number of motor vehicle trips through provision of effective alternatives. Reducing automobile reliance and vehicle miles traveled are General Plan Transportation Element Objectives, as are maintaining and improving public transportation and creating a model bicycle- and pedestrian-friendly city. Consequently, the TSF will pay for projects and programs throughout the City of Berkeley, such as those detailed in the Nexus Study expenditure plan, which will facilitate and encourage the use of alternative transportation modes. These projects and programs will mitigate the overall increase in trips in two ways: (1) by reducing the number of new trips that would otherwise have resulted from new development; and (2) by “making room” for some of those new trips by reducing the number of existing trips.<sup>3</sup> Thus, the TSF as proposed is an alternative to roadway widenings that might

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<sup>2</sup> Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2004 (April 2006), USEPA #430-R-06-002, pp. 3-6,7.

<http://yosemite.epa.gov/oar/globalwarming.nsf/content/ResourceCenterPublicationsGHGEmissionsUSEmissionsInventory2006.html>

<sup>3</sup> It is important to note that the TSF is designed to mitigate the citywide impacts of increased motor vehicle trips caused by development, not local, site-specific impacts. These localized impacts will continue to be mitigated through site-specific exactions tied to project-based traffic studies.

otherwise be used to accommodate increases in vehicle traffic. Such roadway widenings likely would cost significantly more than the projects and programs included in the TSF expenditure plan, require the acquisition of private property through the use of eminent domain, and conflict with a number of adopted City policies.

More specifically, the TSF will fund:

- Citywide Transportation Demand Management (TDM) marketing and incentives programs that will encourage those who travel within, to, or from Berkeley to use alternative transportation modes. Example projects and programs include carsharing marketing and outreach and membership promotion, carsharing parking location expenses, direct incentives to Berkeley residents to reduce vehicle use (similar to the “One-Less-Car” and “TravelSmart” programs), and funding for Safe Routes to Schools programs.
- Transit service and signage improvements, new shuttle service, expansion of the successful EcoPass program, and improvements to the Downtown Berkeley Bike Station that will provide additional transit service and improved access to transit, making it a better alternative to the private automobile.
- Pedestrian and bicycle facilities improvements that are designed to increase the number of people using these modes. This includes implementing projects from the City’s Bicycle Plan and the Pedestrian Plan currently being developed.

The proposed Transportation Services Fee is not considered a “project” under the California Environmental Quality Act (CEQA) because it does not involve commitments to any specific projects that may result in a potentially significant physical impact on the environment, but rather is a funding measure. It is therefore exempt from CEQA requirements (CEQA Guidelines §15378(b)(4)). For the purposes of calculating the maximum fee amount that the City can legally assess, the Nexus Study includes an expenditure plan that lists projects and programs designed to mitigate the projected increase in motor vehicle trips from development. However, each of these listed improvements is only a potential project at this time and is used primarily for fee calculation. Because the TSF will fund only a small portion of the total cost of the expenditure plan, the City will need to develop a more refined and specific list of projects and programs that the TSF will support on an annual basis based on revenues received. Once the City determines specific projects for funding, it will perform any required environmental review and analysis to satisfy CEQA requirements.

### **Fee Assessment**

The City will assess the fee based on the number of net new weekday PM peak hour trips generated by a development project. For land uses that do not generate new weekday PM peak hour trips (such as a restaurant that is only open for breakfast and lunch), the fee will be based on the number of average weekday trips, multiplied by the diurnal factor, or the percent of weekday trips that typically occur during the weekday PM peak hour. For those development projects that require preparation of a Traffic Impact Study (TIS), which is typically prepared by the project developer and subject to review and approval by the supervising Traffic Engineer, the TIS will determine the number of PM peak hour trips. For development projects that do not require

preparation of a TIS, Traffic Engineering staff will determine the number of weekday PM peak hour trips according to the methodology developed by the City’s Transportation Division . This methodology modifies the trip generation rates from the Institute of Transportation Engineers (ITE) Trip Generation Manual to reflect local transportation conditions in Berkeley.

Additionally, developers will have the option of implementing a number of different trip reduction or Transportation Demand Management (TDM) programs that will allow them to reduce the trip generation rates for their development projects and thus reduce their total fee. For projects that implement the full range of trip reduction programs, trip generation may be reduced by up to 25% for residential projects and 30% for certain types of commercial projects. The types of TDM programs that developers could implement are detailed in the Resolution (Attachment 1). Once the TSF becomes effective, applicants and developers will be able to use worksheets and/or guidance documents available through City offices and the City’s web site to view the trip rates used in Berkeley for a variety of uses and the adjustments that will be applied for TDM measures in order to calculate the TSF for themselves.

For the purposes of the TSF, a parcel will be considered vacant and will not receive any credit for trips generated by previous uses if there has been no trip-generating activity at the site for five or more years from the date the development permit application is deemed complete. This would apply to both new development and changes of use that are subject to the TSF. Staff will develop criteria for property owners to provide evidence of past tenancy.

**Proposed Fee Level**

Table 1 outlines the revised TSF fee program as currently proposed by staff. As originally proposed by staff in December 2005, the TSF fee level was \$4,867 per trip for all types of development with no exemptions or reductions. The fee level will automatically increase on an annual basis in accordance with the San Francisco Bay Area Consumer Price Index. The TSF Nexus Study (Attachment 3) provides details on how the maximum fee amount is calculated.

**Table 1. Revised Fee Level Proposal**

Fee Level	Land Uses Subject to the TSF
\$451 per trip	Changes of use to, or new development of the following “priority uses”: <ul style="list-style-type: none"> <li>▪ All household goods and services;</li> <li>▪ All food service establishments;</li> <li>▪ Theatres (including motion pictures and stage performance);</li> <li>▪ Dance, exercise, martial arts, and music studios;</li> <li>▪ Food product stores, specialized and general;</li> <li>▪ Retail sales;<sup>a</sup></li> <li>▪ Entertainment establishments;</li> <li>▪ Art/craft studios;</li> <li>▪ Community centers;</li> <li>▪ Childcare facilities;</li> <li>▪ Nursing homes; and</li> <li>▪ Libraries.</li> </ul>

Fee Level	Land Uses Subject to the TSF
\$1,381 per trip	Changes of use <sup>b</sup> to: <ul style="list-style-type: none"> <li>▪ Market-rate housing and inclusionary affordable housing units in market-rate housing projects;</li> <li>▪ Accessory dwelling units;</li> <li>▪ Warehouse uses;</li> <li>▪ Manufacturing and wholesale trade uses;</li> <li>▪ Industrial uses;</li> <li>▪ Hotels and lodging;</li> <li>▪ Automobile and other vehicle-oriented uses; and</li> <li>▪ Any other land uses not listed as “priority uses”.</li> </ul>
\$2,543 per trip	New development of: <ul style="list-style-type: none"> <li>▪ Market-rate housing and inclusionary affordable housing units in market-rate housing projects;</li> <li>▪ Accessory dwelling units;</li> <li>▪ Office uses;</li> <li>▪ Warehouse uses;</li> <li>▪ Manufacturing and wholesale trade uses;</li> <li>▪ Industrial uses;</li> <li>▪ Hotels and lodging;</li> <li>▪ Automobile and other vehicle-oriented uses; and</li> <li>▪ Any other land uses not listed as “priority uses”.</li> </ul>
Exempt	<ul style="list-style-type: none"> <li>▪ Affordable housing projects in which all units (100%) are affordable;</li> <li>▪ The first 1,000 square feet of floor area of any change-of-use project (when no new floor area is being added);</li> <li>▪ The addition of new floor area of 1,000 square feet or less to an existing structure; and</li> <li>▪ Changes of use between retail, household goods and services, and office uses with gross floor area less than 3,000 square feet.</li> </ul>

Notes: a) Retail establishments that are 7,500 square feet and larger are subject to a childcare and affordable housing fee, both of which may be reduced or waived (with the approval of City Council). For retail establishments of this size, the proposed fee would be \$242 per trip for projects that pay the entire childcare and affordable housing fees, and \$451 per trip for those projects whose affordable childcare and housing fees are reduced or waived. The TSF will not be subject to waiver.

b) The TSF will be assessed only for changes of use that result in a net increase in motor vehicle trips.

Changes of use and different land use types are defined in the City’s Zoning Ordinance in Section 23F.04.010. Exhibit B of the Resolution (Attachment 1) outlines changes of use that may be subject to as well as those which would be exempt from the TSF in each zoning district. Staff proposes the reduced rates for change-of-use projects in order to promote reuse of existing buildings, following City policies for adaptive reuse and neighborhood revitalization. Exemptions for small additions of gross floor area and for small projects directly respond to the City’s interest in protecting opportunities for small businesses, incubating new businesses, and encouraging the expansion of Berkeley businesses.

In order to diminish the financial burden on those uses that City policy specifically supports in adopted plans as uses that will revitalize neighborhoods and promote economic development, staff proposes a fee reduction (as described in Table 1) for the following use categories or “priority uses”. (Specific plan citations are provided in parentheses for each land use type.) The Planning Commission reviewed staff’s plan analysis and identification of “priority uses” at its January 25, 2006 and February 8, 2006 meetings.

- **All household goods and services:** To encourage these priority uses in new developments, these uses warrant a reduced fee rate. (*General Plan:* LU-13, LU-16, LU-26, LU-27, Economic Development Element Objectives 3 and 9, ED 4, DT 90; *South Shattuck Strategic Plan Economic Development;* *University Avenue Strategic Plan:* Goal 3, 14; *South Berkeley Plan:* Commercial Area Policy 1.1.6, Goal 2.2; Land Use 2.1, 2.2, 3.5, 4.2; *West Berkeley Plan:* Goal 1, Policy B, Goal 3; *Southside Plan* LU-E2)
- **All Food Service Establishments:** Food service establishments have some of the highest trip rates and consequently would pay relatively high total TSF fees. Because these uses are important in driving economic development and encouraging neighborhood revitalization, it is important to protect new food service uses from a fee that would inhibit or might prohibit their establishment. (*General Plan:* LU-26, DT-90)
- **Theaters ( including motion pictures and stage performance):** Theaters are key uses for the continued revitalization of Downtown Berkeley as an arts and cultural center. (*General Plan:* Economic Development Objectives 8, 9; DT-20, 23, 82; *Southside Plan:* ED-B3)
- **Dance, Exercise, Martial Arts, and Music Studios:** These uses add to the diversity of local neighborhood services, offer recreation and cultural uses, serve mixed age groups, and, as locations of evening activities, contribute to neighborhood safety. (*General Plan:* Economic Development Objectives 3, 8, 9; *Southside Plan:* ED-B3; *South Berkeley Plan:* Community Resources Element Policy 10.1)
- **Food Product Stores, Specialized and General:** Most retail product stores are allowed with a ZC and would be exempt under the proposed TSF program. However, establishments of a certain size in certain districts trigger additional discretion. City plans and policies identify food stores in neighborhoods that are underserved by these uses as priority uses. We therefore propose a reduced fee for these uses. (*Southside Plan:* LU-E2)
- **Retail Sales:** Neighborhood-serving retail sales are key to the revitalization of many of the City’s neighborhoods. City plans also call for retail establishments that serve the whole city in an effort to meet commercial needs locally. Additionally, retail activity is integral to the City’s economic development. Retail establishments that are 7,500 square feet and larger are subject to a childcare and affordable housing fee, both of which may be reduced or waived (with the approval of City Council). The TSF will not be subject to waiver. For retail establishments of this size, the proposed fee would be \$242 per trip for projects that pay the entire childcare and affordable housing fees, and \$451 per trip for those projects whose affordable childcare and housing fees are reduced or waived. (*General Plan:* LU-13, 16, 26, 27; DT-44, 81, 90; *Downtown Plan:* Economic Development Objective 1 and 2; *Southside Plan:* ED-A5; *South Berkeley Plan:* Commercial Area Goal 1, Policy 1.1.6, Land Use Policy 2.1, 2.2, 3.5, 4.1; *West Berkeley Plan:* Economic Development Goal 1, Policy B, Goal 3)

- **Entertainment Establishments:** Nighttime entertainment uses such as music performance spaces are identified as part of the South Berkeley Plan and in Downtown revitalization strategies and contribute to public safety. (*General Plan*: Economic Development Objectives 8, 9; DT-20, DT-82, DT-90; *Southside Plan*: ED B3; *South Berkeley Plan*: Commercial Areas Policy 2.2)
- **Art/craft studios:** Plans and policies, particularly the West Berkeley Plan, prioritize these uses and include objectives to protect and promote artist spaces. (*General Plan*: Economic Development Objectives 8, 9; *West Berkeley Plan*: Economic Development Goal 7)
- **Community Centers:** Community centers offer recreation, cultural and social uses and serve mixed age groups. Because such centers are typically operated by non-profit or governmental agencies, they may be unable to pay a high fee rate. (*General Plan*: LU-13, LU-26; *West Berkeley Plan*: Housing Goal 3)
- **Childcare Facilities:** As stated in a number of the City's plans and policies, the City of Berkeley wants to encourage more neighborhood-serving childcare facilities. (*General Plan*: LU-13, LU-26; *West Berkeley Plan*: Housing Goal 3)
- **Nursing Homes:** Residential health services for elderly residents with health and mobility limitations serve a special needs population in Berkeley. (*General Plan*: LU-13, LU-26; *West Berkeley Plan*: Housing Goal 3)
- **Libraries:** Libraries require discretionary permitting in Berkeley but provide an important community benefit and are located for neighborhood access. For these reasons, along with libraries' existing funding limitations, the City should offer them a reduced fee so that if any library in the City of Berkeley needed to relocate or if a new one were to open, the financial barriers would be minimal. (*General Plan*: LU-13)

### Fee Implementation

To allow land prices to adjust, staff recommends that the City phase in the TSF as follows:

- The fee would not be assessed for the first six months after adoption. Assuming that the second reading of the fee ordinance takes place on July 18, 2006, the fee would become effective 60 days after this date, or on September 18, 2006. The fee would not be assessed until March 18, 2007.
- One-third of the fee would be assessed during the next 12 months (March 18, 2007 through March 18, 2008).
- Two-thirds of the fee would be assessed during the next 12 months (March 19, 2008 through March 19, 2009).
- And the full fee would be assessed after that time, approximately 30 months after adoption (March 20, 2009).

The fee will apply to projects in a phased manner based on when a project's development permit application is deemed complete. For example, projects whose development applications are deemed complete on or after completion of the first six-month phase on February 17, 2007 will be assessed one-third of the TSF. The fee will be collected at the time a building permit is issued. The assessment of the TSF will not cause any significant delay in the permitting process, as long

as the potential applicability of the fee is identified up front, and Transportation staff can determine the TSF charge in parallel with the permitting process. Once the TSF is paid, notice of the fee's payment would be recorded for the parcel and the fee would not need to be paid again unless further intensification occurred, resulting in the generation of more private motor vehicle trips.

Staff will report to Council on the status of the TSF, in terms of the level of fees imposed, the development projects affected, fee revenue raised, and projects funded, on an annual basis. Additionally, California Government Code §66001(d) requires the City to make certain findings for any fees that are not expended within five or more years after deposit. These findings must be made every five years and provided to the public.

#### ALTERNATIVE ACTIONS CONSIDERED

In order to comply with the required mitigation in the General Plan EIR (TRN-2b, "The City will pursue adoption of a Transportation Impact Fee (Policy T-6) after Draft General Plan adoption."), the City should adopt a Transportation Impact Fee to benefit alternatives to private automobile use. However, City Council may elect to assess a smaller or more limited fee for this purpose.

The City may also provide funding for the transportation expenditures outlined in the Transportation Service Fee Nexus Study by other means, such as General Fund monies. The City Council may also place a new transportation improvement tax before Berkeley voters which could generate such funds.

#### CONTACT PERSON

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Peter Hillier, Assistant Director, Public Works Department, 981-7010

#### Attachments:

##### 1: Resolution

Exhibit A: Priority Uses

Exhibit B: Types of Projects Potentially Subject to the TSF

Exhibit C: Trip Reduction Measures

##### 2: Ordinance

3: Transportation Services Fee Nexus Study

4: Comparison of Fee Scenarios

5: Other Cities' Fees: Methodology and Comparisons

RESOLUTION NO. ##,###-N.S.

ESTABLISHING A FEE FOR APPLICANTS FOR DEVELOPMENT PROJECTS TO  
MITIGATE THE PROJECT'S INCREASE IN MOTOR VEHICLE TRIPS AND THEIR  
RESULTING IMPACTS ON CITYWIDE TRANSPORTATION SERVICES AND  
ENVIRONMENTAL QUALITY

WHEREAS, Transportation Element Policy T-6 Transportation Services Fee, Action A. calls for the city to “prepare a nexus study (pursuant to Government Code Section 66000 et seq.) to enable imposition and collection of a Transportation Impact Fee for new development projects” to ensure that new development does not impact existing transportation services and facilities; and

WHEREAS, the City of Berkeley’s General Plan Land Use Element Policy LU-28 Impact Fees calls for the City to “prepare a nexus study to enable collection of a transportation services impact fee” to “ensure that new development adequately mitigates impacts on transportation facilities and services...”; and

WHEREAS, the Final Environmental Impact Report for the General Plan includes Mitigation Measure TRN-2b, which states that “the City will pursue adoption of a Transportation Impact Fee (Policy T-6) after Draft General Plan adoption”.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley as follows:

Section 1. PURPOSE

The purpose of this Resolution is to implement the Berkeley General Plan and to implement Berkeley Municipal Code (BMC) Chapter 22.20 with respect to mitigation of transportation impacts from new development and changes of use. This Resolution provides that Applicants for development projects provide an appropriate offset to their transportation impacts with respect to needs for alternative transportation projects, programs and services.

Section 2. DEFINITIONS

The terms used herein shall be as defined in BMC Sub-Title 23F and BMC Chapter 22.20. Priority Uses shall be as defined in Exhibit A attached hereto and made a part hereof this Resolution. Trip Reduction Measures shall be as defined in Exhibit C attached hereto and made a part hereof this Resolution.

Section 3. APPLICABILITY

The requirements of this Resolution shall apply to development projects throughout the City.

- A. This Resolution shall apply to projects sponsored by private for-profit, non-profit and public sector organizations unless otherwise prohibited by law.
- B. Any development project which has received all required Use Permits, Zoning Permits, Subdivisions, Variances, and/or Administrative Use Permits prior to the enactment of this Resolution is exempt from this Resolution. Pursuant to Government Code 66017, this Resolution shall not be effective until 60 days after the second reading of the accompanying ordinance amending BMC chapter 22.20 and authorizing imposition of the TSF.

#### Section 4. PROCEDURES

The City will assess the fee based on the number of net new weekday PM peak hour trips generated by a development project. For land uses that do not generate new weekday PM peak hour trips, the fee will be based on the number of average weekday trips, multiplied by the diurnal factor, or the percent of weekday trips that typically occur during the PM peak hour. For those development projects that require preparation of a Traffic Impact Study (TIS), which is subject to review and approval by the supervising Traffic Engineer, the TIS will determine the number of weekday PM peak hour trips. For development projects that do not require preparation of a TIS, Traffic Engineering staff will determine the number of weekday PM peak hour trips according to the methodology developed by the City's Transportation Division.

##### A. Trip Reduction Measures

The trip generation rate may be adjusted for site-specific Trip Reduction Measures, such as reduced parking, charges for parking, shuttles, and secure bicycle parking. The following list of Trip Reduction Measures is further defined in Exhibit C attached hereto and made a part hereof this Resolution.

##### All Projects

- EcoPass Program: An additional reduction of 10% of the neighborhood adjustment for development projects that commit to providing free transit passes. This credit is thus more valuable in neighborhoods that have good levels of transit service.
- Carsharing: A 2% credit for development projects that both provide free memberships for residents and employees, and make free parking available for carsharing vehicles.
- Secure Bicycle Parking: An additional reduction of 1% of the neighborhood adjustment for providing bicycle lockers or cages. Bicycle racks are already required under City Code.
- Shuttle Service: A 2-3% reduction for projects that provide or contribute to shuttle service.

- Proximity to Transit: A 1% reduction for projects close to San Pablo Rapid bus stops. (Reductions for BART and other AC Transit lines are already factored in the neighborhood adjustment.)
- Transportation Demand Management (TDM) Program: Up to 3% for implementing other TDM measures, such as employing a transportation coordinator, providing lockers and showers for cyclists, or joining a Transportation Management Association (TMA).

#### Residential Projects Only

- Housing with Less Parking: A reduction of up to 95% for residential projects with less than a 1:1 parking ratio (parking spaces : residential units). This reduction is not combinable with other credits or the neighborhood adjustment.
- Unbundled parking: A 10% credit for developers that charge at least \$100 per space per month for residential parking.

#### Non-Residential Projects Only

- Employee Parking Charge: A 15% credit for projects that charge employees at least \$100 per month for parking. This reduction is not combinable with the Parking Cash-Out credit.
- Parking Cash-Out: A 10% credit for projects that offer employees a cash or transit incentive of at least \$100 per month not to use a parking space. This reduction is not combinable with the Employee Parking Charge credit.

Section 5.     Fee Level

When the trip generation rate is completed, the fee shall be applied as shown in Table 1:

**Table 1.**

<b>Fee Level</b>	<b>Land Uses Subject to the TSF</b>
\$451 per trip	Changes of use to, or new development of the following “priority uses”: <ul style="list-style-type: none"> <li>▪ All household goods and services;</li> <li>▪ All food service establishments;</li> <li>▪ Theatres (including motion pictures and stage performance);</li> <li>▪ Dance, exercise, martial arts, and music studios;</li> <li>▪ Food product stores, specialized and general;</li> <li>▪ Retail sales;<sup>a</sup></li> <li>▪ Entertainment establishments;</li> <li>▪ Art/craft studios;</li> <li>▪ Community centers;</li> <li>▪ Childcare facilities;</li> <li>▪ Nursing homes; and</li> <li>▪ Libraries.</li> </ul>
\$1,381 per trip	Changes of use <sup>b</sup> to: <ul style="list-style-type: none"> <li>▪ Market-rate housing and inclusionary affordable housing units in market-rate housing projects;</li> <li>▪ Accessory dwelling units;</li> <li>▪ Warehouse uses;</li> <li>▪ Manufacturing and wholesale trade uses;</li> <li>▪ Industrial uses;</li> <li>▪ Hotels and lodging;</li> <li>▪ Automobile and other vehicle-oriented uses; and</li> <li>▪ Any other land uses not listed as “priority uses”.</li> </ul>
\$2,543 per trip	New development of: <ul style="list-style-type: none"> <li>▪ Market-rate housing and inclusionary affordable housing units in market-rate housing projects;</li> <li>▪ Accessory dwelling units;</li> <li>▪ Office uses;</li> <li>▪ Warehouse uses;</li> <li>▪ Manufacturing and wholesale trade uses;</li> <li>▪ Industrial uses;</li> <li>▪ Hotels and lodging;</li> <li>▪ Automobile and other vehicle-oriented uses; and</li> <li>▪ Any other land uses not listed as “priority uses”.</li> </ul>

Fee Level	Land Uses Subject to the TSF
Exempt	<ul style="list-style-type: none"> <li>▪ Affordable housing projects in which all units (100%) are affordable;</li> <li>▪ The first 1,000 square feet of floor area of any change-of-use project (when no new floor area is being added);</li> <li>▪ The addition of new floor area of 1,000 square feet or less to an existing structure; and</li> <li>▪ Changes of use between retail, household goods and services, and office uses with gross floor area less than 3,000 square feet.</li> </ul>

Notes: a) Retail establishments that are 7,500 square feet and larger are subject to a childcare and affordable housing fee, both of which may be reduced or waived (with the approval of City Council). For retail establishments of this size, the proposed fee would be \$242 per trip for projects that pay the entire childcare and affordable housing fees, and \$451 per trip for those projects whose affordable childcare and housing fees are reduced or waived.

b) The TSF will be assessed only for changes of use that result in a net increase in motor vehicle trips. Exhibit B outlines changes of use that may be subject to as well as those which would be exempt from the TSF in each zoning district.

The fee level will automatically increase on an annual basis in accordance with the San Francisco Bay Area Consumer Price Index.

The standard schedule for payments under this section shall be in a single installment. The payment shall be made prior to the development project's receipt of its Building Permit. Payment schedules that differ from the above standard shall normally incur an interest charge. Late payments shall bear an interest charge. Other payment schedules may be structured upon approval of the City Manager or his/her designee and/or the Zoning Adjustments Board, when applicable.

Notice of the payment of the fee is recorded for the parcel, and the fee shall not be paid again unless further transportation intensification occurs which results in additional new weekday PM peak hour motor vehicle trips.

- A. MITIGATION RATIONALE – The City of Berkeley shall maintain on file the detailed formulas and calculations that the City has made of this mitigation impact and its offsetting actions and fees contained herein as set forth in BMC Chapter 22.20. This document shall be made available upon request.

Section 6. MITIGATION FUNDS

Fees due pursuant to Section 4 of this Resolution shall be paid to the City or its designated agent and deposited in the Transportation Services Fee Fund for use to fund additional alternative transportation projects, programs and services, as directed by the City Council in accordance with Government Code 66000 et seq.

Section 7. FINDINGS AND DETERMINATIONS

Pursuant to Government Code Section 66001, the Council hereby finds and determines as follows:

- A. The purposes of the fee and other requirements of this Resolution are to implement the Berkeley General Plan and BMC Chapter 22.20 to ensure that applicants for specified development and change-of-use projects provide appropriate mitigation to reduce or eliminate the adverse impacts such projects otherwise would have on the City's transportation system.
- B. The fees required by this Resolution shall be deposited in the City's Transportation Services Fee Fund to be used as set forth in Section 6 of this Resolution in order to mitigate, reduce or eliminate the adverse impacts on the City's transportation system which otherwise would result from specified development projects within the City.
- C. There is a reasonable relationship between the fees' use and the types of development and change-of-use projects to which the fee and other requirements of this Resolution apply as set forth in the Transportation Services Fee Nexus Study, the contents and conclusions of which are incorporated herein by this reference and which shall be maintained on file and reviewed and revised as required by this Resolution and BMC Chapter 22.20.

Section 8. EFFECTIVE DATE OF FEES

The fees established by this Resolution shall become effective 60 days from the date of the second reading of the accompanying ordinance amending BMC chapter 22.20 and authorizing the imposition of the TSF and will be applied to development projects in the following phased manner:

- The fee will not be assessed for the first six months after adoption;
- One-third of the fee will be assessed during the next 12 months;
- Two-thirds of the fee will be assessed during the next 12 months;
- And the full fee will be assessed after that time (30 months after adoption).

Exhibits:

A: Priority Uses

B: Types of Projects Potentially Subject to the Transportation Services Fee (TSF)

C: Trip Reduction Measures

## **Exhibit A**

### **Priority Uses**

In order to diminish the financial burden on those uses that City policy specifically supports in adopted plans as uses that will revitalize neighborhoods and promote economic development, staff proposes a fee reduction (as described in Table 1) for the following use categories or “priority uses”. (Specific plan citations are provided in parentheses for each land use type.) The Planning Commission reviewed staff’s plan analysis and identification of “priority uses” at its January 25, 2006 and February 8, 2006 meetings. “Priority uses” are defined as follows:

- **All household goods and services:** To encourage these priority uses in new developments, these uses warrant a reduced fee rate. (*General Plan:* LU-13, LU-16, LU-26, LU-27, Economic Development Element Objectives 3 and 9, ED 4, DT 90; *South Shattuck Strategic Plan Economic Development;* *University Avenue Strategic Plan:* Goal 3, 14; *South Berkeley Plan:* Commercial Area Policy 1.1.6, Goal 2.2; Land Use 2.1, 2.2, 3.5, 4.2; *West Berkeley Plan:* Goal 1, Policy B, Goal 3; *Southside Plan* LU-E2)
- **All Food Service Establishments:** Food service establishments have some of the highest trip rates and consequently would pay relatively high total TSF fees. Because these uses are important in driving economic development and encouraging neighborhood revitalization, it is important to protect new food service uses from a fee that would inhibit or might prohibit their establishment. (*General Plan:* LU-26, DT-90)
- **Theaters ( including motion pictures and stage performance):** Theaters are key uses for the continued revitalization of Downtown Berkeley as an arts and cultural center. (*General Plan:* Economic Development Objectives 8, 9; DT-20, 23, 82; *Southside Plan:* ED-B3)
- **Dance, Exercise, Martial Arts, and Music Studios:** These uses add to the diversity of local neighborhood services, offer recreation and cultural uses, serve mixed age groups, and, as locations of evening activities, contribute to neighborhood safety. (*General Plan:* Economic Development Objectives 3, 8, 9; *Southside Plan:* ED-B3; *South Berkeley Plan:* Community Resources Element Policy 10.1)
- **Food Product Stores, Specialized and General:** Most retail product stores are allowed with a ZC and would be exempt under the proposed TSF program. However, establishments of a certain size in certain districts trigger additional discretion. City plans and policies identify food stores in neighborhoods that are underserved by these uses as priority uses. We therefore propose a reduced fee for these uses. (*Southside Plan:* LU-E2)
- **Retail Sales:** Neighborhood-serving retail sales are key to the revitalization of many of the City’s neighborhoods. City plans also call for retail establishments that serve the whole city in an effort to meet commercial needs locally. Additionally, retail activity is integral to the City’s economic development. Retail establishments that are 7,500 square feet and larger are subject to a childcare and affordable housing fee, both of which may be reduced or waived (with the approval of City Council). For retail establishments of this size, the proposed fee would be \$242 per trip for projects that pay the entire childcare and affordable housing fees, and \$451 per trip for those projects whose affordable childcare and housing fees are reduced or waived. (*General Plan:* LU-13, 16, 26, 27; DT-44, 81, 90; *Downtown Plan:* Economic

Development Objective 1 and 2; *Southside Plan*: ED-A5; *South Berkeley Plan*: Commercial Area Goal 1, Policy 1.1.6, Land Use Policy 2.1, 2.2, 3.5, 4.1; *West Berkeley Plan*: Economic Development Goal 1, Policy B, Goal 3)

- ***Entertainment Establishments***: Nighttime entertainment uses such as music performance spaces are identified as part of the South Berkeley Plan and in Downtown revitalization strategies and contribute to public safety. (*General Plan*: Economic Development Objectives 8, 9; DT-20, DT-82, DT-90; *Southside Plan*: ED B3; *South Berkeley Plan*: Commercial Areas Policy 2.2)
- ***Art/craft studios***: Plans and policies, particularly the West Berkeley Plan, prioritize these uses and include objectives to protect and promote artist spaces. (*General Plan*: Economic Development Objectives 8, 9; *West Berkeley Plan*: Economic Development Goal 7)
- ***Community Centers***: Community centers offer recreation, cultural and social uses and serve mixed age groups. Because such centers are typically operated by non-profit or governmental agencies, they may be unable to pay a high fee rate. (*General Plan*: LU-13, LU-26; *West Berkeley Plan*: Housing Goal 3)
- ***Childcare Facilities***: As stated in a number of the City's plans and policies, the City of Berkeley wants to encourage more neighborhood-serving childcare facilities. (*General Plan*: LU-13, LU-26; *West Berkeley Plan*: Housing Goal 3)
- ***Nursing Homes***: Residential health services for elderly residents with health and mobility limitations serve a special needs population in Berkeley. (*General Plan*: LU-13, LU-26; *West Berkeley Plan*: Housing Goal 3)
- ***Libraries***: Libraries require discretionary permitting in Berkeley but provide an important community benefit and are located for neighborhood access. For these reasons, along with libraries' existing funding limitations, the City should offer them a reduced fee so that if any library in the City of Berkeley needed to relocate or if a new one were to open, the financial barriers would be minimal. (*General Plan*: LU-13)

**Exhibit B**  
**Types of Projects Potentially Subject to the Transportation Services Fee (TSF)**

The following table shows the types of projects within the City’s various zoning districts that may be subject to the TSF. In general, projects that only require a zoning certificate are not subject to the TSF unless they result in creation of new floor area, as noted in the table. Most commercial projects requiring either an AUP or UP may be subject to the TSF, with certain exceptions as noted in the table.

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<b>C-1 General Commercial</b>  <b>Uses NOT subject to TSF</b>	<ul style="list-style-type: none"> <li>• All retail sales uses except those requiring an AUP or UP (change of use)</li> <li>• All Personal and Household Services, except those requiring an AUP or UP (change of use)</li> <li>• Insurance Agents, Title Companies, Real Estate Agents, Travel Agents (change of use)</li> <li>• Medical Practitioners, including Holistic Health and Mental Health Practitioners (change of use)</li> <li>• Other Professionals, and Government, Institutions, Utilities (change of use)</li> <li>• Automobile Parts Stores (change of use)</li> <li>• Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Uses incidental to a permitted use</li> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> </ul>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> </ul>
<b>C-1 General Commercial</b>  <b>Uses subject to TSF</b>	<ul style="list-style-type: none"> <li>• Any new live/work units</li> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area between 3,000 and 5,000 sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Laundromats (3,000 sq. ft. or more)</li> <li>• Dance, exercise, martial arts, and music studios</li> <li>• Entertainment establishments, including night clubs</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area over 5,000 sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Alcoholic Beverage Retail Sales</li> <li>• Department Stores (3,000 sq. ft. or more)</li> <li>• Firearm/Munitions Businesses (3,000 sq. ft. or more)</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
		<ul style="list-style-type: none"> <li>• All food service establishments (&gt; 200 ft. from R District)</li> <li>• Automobile Repair and Service, including Parts Service</li> <li>• Automobile Sales and Rentals</li> <li>• Recreational Vehicle and Trailers Sales and Rental, including Boats</li> <li>• Automatic Teller Machines</li> </ul>	<ul style="list-style-type: none"> <li>• Pawn Shops and Auction Houses (3,000 sq. ft. or more)</li> <li>• Pet Stores, including sales and grooming (but not boarding) (3,000 sq. ft. or more)</li> <li>• Smoke Shops (3,000 sq. ft. or more)</li> <li>• Veterinary Clinics and Pet Hospitals (3,000 sq. ft. or more)</li> <li>• Video Tape/Disk rental stores (3,000 sq. ft. or more)</li> <li>• Financial Services, Retail (Banks) (3,000 sq. ft. or more)</li> <li>• Adult-oriented businesses</li> <li>• Alcoholic Beverage Service</li> <li>• Amusement Device Arcades</li> <li>• Commercial Recreation Center</li> <li>• All food service establishments (&lt; 200 ft. from R District)</li> <li>• Group Class Instruction for Business, Vocational or Other Purposes</li> <li>• Gyms and health clubs</li> <li>• Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels</li> <li>• Motels, Tourist</li> <li>• Theaters, including Motion Pictures and Stage Performance</li> <li>• Automobile Washes, Mechanical or Self-Service</li> <li>• Gasoline/Automobile Fuel Stations</li> <li>• Motorcycle Stores, including Sales and/or Service</li> <li>• Tire Sales/Service Stores</li> <li>• Drive-in uses</li> <li>• Mixed Use Developments</li> <li>• Child Care Centers</li> <li>• Clubs, Lodges</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
			<ul style="list-style-type: none"> <li>• Community Centers</li> <li>• Group Living Accommodations</li> <li>• Hospitals</li> <li>• Hotels, Residential, includes SROs</li> <li>• Libraries</li> <li>• Nursing Homes</li> <li>• Religious Assembly Uses</li> <li>• Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-N Neighborhood Commercial</b></p> <p><b>Uses NOT Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>All retail sales uses (change of use)</li> <li>All Personal and Household Services (change of use)</li> <li>Automobile parts stores</li> <li>Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>Uses incidental to a permitted use</li> </ul>
<p><b>C-N Neighborhood Commercial</b></p> <p><b>Uses Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>Dance, Exercise, Martial Arts, and Music Studios</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>Alcoholic Beverage Service</li> <li>Commercial Recreation Center</li> <li>Entertainment establishments, including nightclubs</li> <li>Food service establishments</li> <li>Group class instruction</li> <li>Gyms and health clubs</li> <li>Hotels, Tourist</li> <li>Theaters</li> <li>Child Care Centers</li> <li>Clubs, Lodges</li> <li>Community Centers</li> <li>Group Living Accommodations</li> <li>Hotels, Residential, includes SROs</li> <li>Libraries</li> <li>Nursing Homes</li> <li>Religious Assembly Uses</li> <li>Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-E Elmwood Commercial</b></p> <p><b>Uses NOT Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>All retail sales uses (change of use)</li> <li>All Personal and Household Services (change of use)</li> <li>Automobile parts stores</li> <li>Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>Uses incidental to a permitted use</li> </ul>
<p><b>C-E Elmwood Commercial</b></p> <p><b>Uses Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>Alcoholic Beverage Service</li> <li>Commercial Recreation Center</li> <li>Entertainment establishments, including nightclubs</li> <li>Food service establishments</li> <li>Group class instruction</li> <li>Dance, Exercise, Martial Arts, and Music Studios</li> <li>Gyms and health clubs</li> <li>Hotels, Tourist</li> <li>Theaters</li> <li>Child Care Centers</li> <li>Clubs, Lodges</li> <li>Community Centers</li> <li>Group Living Accommodations</li> <li>Hotels, Residential, includes SROs</li> <li>Libraries</li> <li>Nursing Homes</li> <li>Religious Assembly Uses</li> <li>Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-NS North Shattuck Commercial</b></p> <p><b>Uses NOT Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>• All retail sales uses (change of use)</li> <li>• All Personal and Household Services (change of use)</li> <li>• Automobile parts stores</li> <li>• Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>
<p><b>C-NS North Shattuck Commercial</b></p> <p><b>Uses Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Alcoholic Beverage Service</li> <li>• Commercial Recreation Center</li> <li>• Entertainment establishments, including nightclubs</li> <li>• Food service establishments</li> <li>• Group class instruction</li> <li>• Gyms and health clubs</li> <li>• Dance, Exercise, Martial Arts, and Music Studios</li> <li>• Hotels, Tourist</li> <li>• Theaters</li> <li>• Child Care Centers</li> <li>• Clubs, Lodges</li> <li>• Community Centers</li> <li>• Group Living Accommodations</li> <li>• Hotels, Residential, includes SROs</li> <li>• Libraries</li> <li>• Nursing Homes</li> <li>• Religious Assembly Uses</li> <li>• Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-SA South Area Commercial</b></p> <p><b>Uses NOT Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>All retail sales uses (change of use)</li> <li>All Personal and Household Services (change of use)</li> <li>Automobile parts stores</li> <li>Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>Uses incidental to a permitted use</li> </ul>
<p><b>C-SA South Area Commercial</b></p> <p><b>Uses Subject to TSF</b></p>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>Alcoholic Beverage Service</li> <li>Commercial Recreation Center</li> <li>Entertainment establishments, including nightclubs</li> <li>Food service establishments</li> <li>Group class instruction</li> <li>Gyms and health clubs</li> <li>Dance, Exercise, Martial Arts, and Music Studios</li> <li>Hotels, Tourist</li> <li>Theaters</li> <li>Child Care Centers</li> <li>Clubs, Lodges</li> <li>Community Centers</li> <li>Group Living Accommodations</li> <li>Hotels, Residential, includes SROs</li> <li>Libraries</li> <li>Nursing Homes</li> <li>Religious Assembly Uses</li> <li>Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<b>C-T Telegraph Avenue Commercial</b>  <b>Uses NOT Subject to the TSF</b>	<ul style="list-style-type: none"> <li>• All retail sales uses (change of use)</li> <li>• All Personal and Household Services (change of use)</li> <li>• Automobile parts stores</li> <li>• Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>
<b>C-T Telegraph Avenue Commercial</b>  <b>Uses Subject to the TSF</b>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Alcoholic Beverage Service</li> <li>• Commercial Recreation Center</li> <li>• Entertainment establishments, including nightclubs</li> <li>• Food service establishments</li> <li>• Group class instruction</li> <li>• Gyms and health clubs</li> <li>• Dance, Exercise, Martial Arts, and Music Studios</li> <li>• Hotels, Tourist</li> <li>• Theaters</li> <li>• Child Care Centers</li> <li>• Clubs, Lodges</li> <li>• Community Centers</li> <li>• Group Living Accommodations</li> <li>• Hotels, Residential, includes SROs</li> <li>• Libraries</li> <li>• Nursing Homes</li> <li>• Religious Assembly Uses</li> <li>• Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-SO Solano Avenue Commercial</b></p> <p><b>Uses NOT Subject to the TSF</b></p>	<ul style="list-style-type: none"> <li>• All retail sales uses (change of use)</li> <li>• All Personal and Household Services (change of use)</li> <li>• Automobile parts stores</li> <li>• Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>
<p><b>C-SO Solano Avenue Commercial</b></p> <p><b>Uses Subject to the TSF</b></p>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Alcoholic Beverage Service</li> <li>• Commercial Recreation Center</li> <li>• Entertainment establishments, including nightclubs</li> <li>• Food service establishments</li> <li>• Group class instruction</li> <li>• Gyms and health clubs</li> <li>• Dance, Exercise, Martial Arts, and Music Studios</li> <li>• Hotels, Tourist</li> <li>• Theaters</li> <li>• Child Care Centers</li> <li>• Clubs, Lodges</li> <li>• Community Centers</li> <li>• Group Living Accommodations</li> <li>• Hotels, Residential, includes SROs</li> <li>• Libraries</li> <li>• Nursing Homes</li> <li>• Religious Assembly Uses</li> <li>• Schools, public or private</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-W West Berkeley Commercial</b></p> <p><b>Uses NOT Subject to the TSF</b></p>	<ul style="list-style-type: none"> <li>• All retail sales uses except those requiring an AUP or UP (change of use)</li> <li>• All Personal and Household Services, except those requiring an AUP or UP (change of use)</li> <li>• Insurance Agents, Title Companies, Real Estate Agents, Travel Agents (change of use)</li> <li>• Medical Practitioners, including Holistic Health and Mental Health Practitioners (change of use)</li> <li>• Other Professionals, and Government, Institutions, Utilities (change of use)</li> <li>• Automobile Parts Stores (change of use)</li> <li>• Parks and Playgrounds</li> <li>• Change of use to mixed use development of less than 5,000 sq. ft. (no new or additional floor area)</li> <li>• Community Care Facilities/Homes</li> </ul>	<ul style="list-style-type: none"> <li>• Uses incidental to a permitted use</li> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft. (less than 3,500 sq. ft. for changes to Retail Sales)</li> <li>• Hot tubs, Jacuzzis, spas</li> </ul>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>
<p><b>C-W West Berkeley Commercial</b></p> <p><b>Uses Subject to the TSF</b></p>	<ul style="list-style-type: none"> <li>• Any new live/work units</li> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area between 3,000 and 5,000 sq. ft. (between 3,500 and 7,500 sq. ft. for changes to Retail Sales)</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Dance, exercise, martial arts, and music studios</li> <li>• Carry out food Service Stores</li> <li>• Full Service Restaurant under 2,500 sq. ft.</li> <li>• Automobile and Other Vehicle Oriented Uses less than 5,000 sq.</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area over 5,000 sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Alcoholic Beverage Retail Sales</li> <li>• Firearm/Munitions Businesses (3,000 sq. ft. or more)</li> <li>• Pawn Shops and Auction Houses (3,000 sq. ft. or more)</li> <li>• Smoke Shops (3,000 sq. ft. or more)</li> <li>• Laundromats (3,000 sq. ft. or more)</li> <li>• Veterinary Clinics and Pet Hospitals</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
		<p>ft. floor area and less than 10,000 sq. ft. of lot area (see zoning code for specific uses – all other require a UP)</p> <ul style="list-style-type: none"> <li>• Automatic Teller Machines</li> <li>• Mixed Use Development less than 20,000 sq. ft.</li> <li>• Large Family Day Care</li> <li>• Moderate impact, teaching-related home occupations</li> <li>• Religious Assembly Uses</li> <li>• Light Manufacturing and Wholesale Trade Uses 5,000 or less sq. ft.</li> </ul>	<p>(3,000 sq. ft. or more)</p> <ul style="list-style-type: none"> <li>• Video Tape/Disk rental stores (3,000 sq. ft. or more)</li> <li>• Financial Services, Retail (Banks) (3,000 sq. ft. or more)</li> <li>• Adult-oriented businesses</li> <li>• Alcoholic Beverage Service</li> <li>• Amusement Device Arcades</li> <li>• Commercial Recreation Center</li> <li>• Entertainment establishments, including night clubs</li> <li>• Quick Service Restaurants</li> <li>• Full Service Restaurant 2,500 sq. ft. or more</li> <li>• Group Class Instruction for Business, Vocational or Other Purposes</li> <li>• Gyms and health clubs</li> <li>• Hotels, Tourist, including Inns, Bed and Breakfasts and Hostels</li> <li>• Motels, Tourist</li> <li>• Theaters, including Motion Pictures and Stage Performance</li> <li>• Automobile Washes, Mechanical or Self-Service</li> <li>• Gasoline/Automobile Fuel Stations</li> <li>• Motorcycle Stores, including Sales and/or Service</li> <li>• Tire Sales/Service Stores</li> <li>• Open Air Markets (if open during PM peak hour)</li> <li>• Mixed Use Developments if 20,000 sq. ft. or more floor area</li> <li>• Child Care Centers</li> <li>• Clubs, Lodges</li> <li>• Community Centers</li> <li>• Group Living Accommodations</li> <li>• Moderate Impact Home</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
			Occupations <ul style="list-style-type: none"> <li>• Hospitals</li> <li>• Hotels, Residential, includes SROs</li> <li>• Libraries</li> <li>• Nursing Homes</li> <li>• Schools, public or private</li> <li>• Light Manufacturing and Wholesale Trade Uses 5,000 sq. ft. or more</li> </ul>

Zoning District	Projects Requiring a ZC	Projects Requiring an AUP	Projects Requiring a UP
<p><b>C-2 Central Commercial</b></p> <p><b>Uses NOT Subject to the TSF</b></p>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Automobile parts stores less than 3,000 sq. ft.</li> <li>• Parks and Playgrounds</li> </ul>	<ul style="list-style-type: none"> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area less than 1,000 sq. ft.</li> <li>• Any changes of use between Retail Sales, Personal and Household Services, and Offices with gross floor area less than 3,000 sq. ft.</li> <li>• Uses incidental to a permitted use</li> </ul>
<p><b>C-2 Central Commercial</b></p> <p><b>Uses Subject to the TSF</b></p>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area of 3,000 sq. ft. or more</li> <li>• Automobile parts stores with 3,000 or more sq. ft.</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area of 3,000 sq. ft. or more</li> <li>• Food Service Establishments</li> <li>• Dance, Exercise, Martial Arts, and Music Studios</li> <li>• Automobile and other Vehicle Oriented Uses</li> </ul>	<ul style="list-style-type: none"> <li>• Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>• Any change of use of gross floor area of 3,000 or more sq. ft.</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>• Adult-oriented Businesses</li> <li>• Alcoholic Beverage Service</li> <li>• Amusement Device Arcades</li> <li>• Commercial Recreation Center</li> <li>• Entertainment establishments, including nightclubs</li> <li>• Food service establishments</li> <li>• Group class instruction</li> <li>• Gyms and health clubs</li> <li>• Dance, Exercise, Martial Arts, and Music Studios</li> <li>• Hotels, Tourist</li> <li>• Motels, Tourist</li> <li>• Theaters</li> <li>• Automobile and other Vehicle Oriented Uses</li> <li>• Child Care Centers</li> <li>• Clubs, Lodges</li> <li>• Community Centers</li> <li>• Group Living Accommodations</li> <li>• Hotels, Residential, includes SROs</li> <li>• Libraries</li> <li>• Nursing Homes</li> <li>• Religious Assembly Uses</li> <li>• Schools, public or private</li> </ul>

<b>Zoning District</b>	<b>Projects Requiring a ZC</b>	<b>Projects Requiring an AUP</b>	<b>Projects Requiring a UP</b>
<b>M Manufacturing</b>  <b>Uses NOT Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>
<b>M Manufacturing</b>  <b>Uses Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>
<b>Note: If the zoning code changed to allow office uses in this district, then changes of use to office would be subject to the TSF.</b>			

<b>Zoning District</b>	<b>Projects Requiring a ZC</b>	<b>Projects Requiring an AUP</b>	<b>Projects Requiring a UP</b>
<b>MM Mixed Manufacturing</b>  <b>Uses NOT Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>
<b>MM Mixed Manufacturing</b>  <b>Uses Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>Change of use to Office Uses (above 1st floor only)</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> <li>Change of use to Office Uses (above 1st floor only)</li> </ul>
<p>Note: If the zoning code changed to allow additional office uses in this district, then changes of use to office would be subject to the TSF.</p>			

<b>Zoning District</b>	<b>Projects Requiring a ZC</b>	<b>Projects Requiring an AUP</b>	<b>Projects Requiring a UP</b>
<b>MU-LI Mixed Use- Light Industrial</b>  <b>Uses NOT Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any change of use between uses permitted in the district, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between uses permitted in the district, regardless of size, except those noted</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between uses permitted in the district, regardless of size, except those noted</li> </ul>
<b>MU-LI Mixed Use- Light Industrial</b>  <b>Uses Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul> <p>A change of use to any of the following:</p> <ul style="list-style-type: none"> <li>Retail Sales, Personal and Household Services</li> <li>Food and Alcohol Service, Lodging and Entertainment</li> <li>Office Uses</li> <li>Conversion to Live/Work Unit</li> </ul>

<b>Zoning District</b>	<b>Projects Requiring a ZC</b>	<b>Projects Requiring an AUP</b>	<b>Projects Requiring a UP</b>
<b>MU-R Mixed Use-Residential</b>  <b>Uses NOT Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any change of use between Manufacturing and Wholesale Trade or Other Industrial Uses, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between Manufacturing and Wholesale Trade or Other Industrial Uses, regardless of size</li> </ul>	<ul style="list-style-type: none"> <li>Uses incidental to a permitted use</li> <li>Any change of use between Manufacturing and Wholesale Trade or Other Industrial Uses, regardless of size</li> </ul>
<b>MU-R Mixed Use-Residential</b>  <b>Uses Subject to the TSF</b>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul> <p>A change of use from Manufacturing and Wholesale Trade or Other Industrial Uses to any of the following:</p> <ul style="list-style-type: none"> <li>Offices</li> <li>Personal, Household and Business Services</li> <li>Retail Uses</li> <li>Combination Commercial/Residential Units</li> <li>Residential and Related Uses</li> <li>Cafeteria</li> </ul>	<ul style="list-style-type: none"> <li>Any new or additional gross floor area of 1,000 sq. ft. or more</li> </ul> <p>A change of use from Manufacturing and Wholesale Trade or Other Industrial Uses to any of the following:</p> <ul style="list-style-type: none"> <li>Offices</li> <li>Personal, Household and Business Services</li> <li>Retail Uses</li> <li>Combination Commercial/Residential Units</li> <li>Residential and Related Uses</li> <li>Cafeteria</li> <li>Food and Alcohol Service, Lodging, Entertainment, and Assembly Uses</li> <li>Automobile and other Vehicle Oriented Uses</li> <li>Kennels, Pet Boarding, other Services for Pets</li> <li>Mortuaries</li> </ul>

<b>Zoning District</b>	<b>Projects Requiring a ZC</b>	<b>Projects Requiring an AUP</b>	<b>Projects Requiring a UP</b>
<b>Residential Districts</b>	<ul style="list-style-type: none"> <li>• Modifications to existing units, including addition of floor area</li> </ul>	<ul style="list-style-type: none"> <li>• Modifications to existing units, including addition of floor area</li> </ul>	<ul style="list-style-type: none"> <li>• Modifications to existing units, including addition of floor area</li> </ul>
<b>Residential Districts</b> <b>Uses Subject to the TSF</b>	<ul style="list-style-type: none"> <li>• Any new Accessory Dwelling Units</li> </ul>	<ul style="list-style-type: none"> <li>• Any new residential dwelling units</li> </ul>	<ul style="list-style-type: none"> <li>• Any new residential dwelling units</li> </ul>

**Exhibit C  
Trip Reduction Measures**

<b>Measure</b>	<b>Description</b>	<b>Trip Reduction</b>	<b>Requirements</b>
<b>Ecopass Program</b>	Free transit passes for all residents/employees	10% of neighborhood adjustment	Provide copy of agreement with transit operator(s).
<b>Car-Sharing</b>	Free car-sharing memberships for all residents/employees. Provide free car-sharing parking (if requested by operator).	2%	1) Provide copy of agreement with car-sharing operator, including documentation that operator has vehicle(s) within 1/4 mile, or agrees to extend service. 2) Include car-sharing benefits in lease provisions: provide sample lease.
<b>Secure Bicycle Parking</b>	One Class 1 space per residential unit. For employment uses, required Class 1 spaces calculated as: # employees * neighborhood adjustment * 0.15	1% of neighborhood adjustment	Provide site plan with marked locations.
<b>Shuttle Service</b>	Project-funded dedicated shuttle service	3%	Provide copy of agreement with shuttle operator.
	Partially-funded multi-site shuttle service	2%	
<b>Proximity to Transit</b>	Location within 1/4 mile of San Pablo Rapid Bus stop	1%	
<b>TDM Program</b>	Select measures from the following list: a) Pre-tax commuter benefit program b) Guaranteed Ride Home program c) Reduced parking fee for carpools/vanpools d) Preferential parking for carpools/vanpools e) Transit info kiosk, updated at a minimum once a year f) Transportation coordinator g) Distribution of TDM information package	4 or more measures: 1% 8 or more measures: 2%. 12 or more measures: 3%  Some measures only applicable to non-residential uses	1) Include measures in lease provisions; provide sample lease. 2) Provide site plan, if required.

Measure	Description	Trip Reduction	Requirements
	to all residents/employees on arrival plus once a year h) Annual transportation fair i) Ridematching assistance j) Showers, changing rooms k) Telecommuting and compressed workweek l) Provision of on-site amenities (where these are not available close by) m) TMA membership n) Other measures not listed, subject to OOT approval		
<b>Housing with Less Parking</b>	Reduced car-ownership housing	Up to 95% $\% \text{ reduction} = 0.95 - (N \times 95\%)$ where N is the number of spaces per unit. Not to be combined with other trip reductions or neighborhood adjustment.	Only for projects with less than one parking space/unit, in neighborhoods where project residents will have no access to on-street parking. Provide site plan and evidence that all on-street parking within 1/4 mile is unavailable to residents (e.g., agreement that they will be ineligible for residential permit parking.)
<b>Unbundled Parking</b>	Unbundling residential parking (charge for parking separate from housing costs)	10%	Monthly fee must be \$100/space or more (in 2006 dollars); provide sample lease for parking spaces, separate from apartment leases.
<b>Employee Parking Charges</b>	Employee parking fee	15% Not to be combined with Parking Cash-Out	Monthly fee must be \$100/space or more (in 2006 dollars); Provide sample tenant agreement and sample employee agreement.
<b>Parking Cash-Out</b>	Parking cash-out program (employer pays employees not to drive to work)	10% Not to be combined with Employee Parking Charges	Monthly incentive must be \$100/space or more (in 2006 dollars); Provide sample tenant agreement and sample employee agreement.

ORDINANCE NO. –N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) CHAPTER 22.20 TO ESTABLISH A CITYWIDE TRANSPORTATION SERVICES FEES TO MITIGATE THE IMPACTS OF NEW DEVELOPMENT AND CHANGES OF USE WHICH RESULT IN AN INCREASE IN MOTOR VEHICLE TRIPS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 22.20 is amended to read as follows:

**22.20.010 Applicability of chapter**

The regulations, requirements and provisions of this chapter and council resolutions adopted pursuant hereto shall apply to any development project. (Ord. 6179-NS § 1, 1993)

**Section 22.20.020 Findings**

A. There is a shortage of affordable housing, licensable space for child care services and affordable child care and public facilities, adequate employment training and placement services and amenities within the City of Berkeley; there is also an increasing number of motor vehicle trips on the City's roadways;

B. Persons who live and/or work in the City have serious difficulty locating housing, child care and public facilities, adequate employment training and placement services and amenities at prices they can afford; the increasing number of motor vehicle trips on the City's roadways result in increased traffic congestion, noise, air and water pollution, and negative impacts on bicyclists, pedestrians, and bus transit;

C. Local revenues, as supplemented by federal and state sources, do not provide an adequate source of funding to meet local needs for housing, child care and public facilities, adequate employment training and placement services and amenities, or funding for mitigating the impacts of increasing motor vehicle trips by providing sufficient transportation alternatives;

D. Certain development projects create an influx of new employees and their families to the City and generate new motor vehicle trips, and thus generate additional need for affordable housing, child care and public facilities, adequate employment training and placement services and amenities, and alternative transportation facilities and programs;

E. Many potential employees are unable to accept moderately-paying jobs because of a lack of childcare facilities or the cost of obtaining adequate child care. This, in turn, results in increased social and economic costs to the City;

F. In addition, such development projects create individual and cumulative impacts, including changes in, and in many cases deterioration of, the visual environment; an increase in noise, air and water pollution levels; new and increased traffic and parking impacts; power, sewer and other utility demand and consumption; loss of valuable open space; and increased demands on parks, schools, libraries, police, fire and public facilities, services and amenities;

G. The increased demand for affordable housing, child care and public services, adequate employment training and placement facilities and amenities, motor vehicle trips in the absence of sufficient transportation alternatives, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare;

H. The public policy of the City of Berkeley, as reflected by the City's master plan ~~and~~, housing and transportation elements, is (1) to make an adequate supply of housing available to all economic segments of the community, (2) to provide adequate municipal services and facilities, including transportation alternatives, and (3) to control the design and operation of

development projects to insure their compatibility within adjacent residential areas. (Ord. 6179-NS § 2, 1993)

### **Section 22.20.030 Purpose.**

The purpose of this chapter is to assure that development projects mitigate and/or compensate for the increased demand for affordable housing, child care and public services, adequate employment training and placement facilities and amenities, the increasing number of motor vehicle trips that would occur in the absence of sufficient transportation alternatives, and other impacts attributable to and generated by such development projects within the City of Berkeley. (Ord. 6179-NS § 3, 1993)

### **22.20.040 Definitions.**

A. "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who undertakes, proposes and/or applies to the City for, any development.

B. "Benefits" shall include, but not be limited to, any of the following: increased tax revenues; new local employment opportunities; development of desirable public amenities and/or services; potential attraction of additional commercial development; potential stimulation of commercial activity.

C. "Development project" means any activity involving or requiring the issuance by the City of Berkeley to a person or entity of a use permit, variance, building permit, subdivision approval (including tentative, final and parcel maps), license, certificate or other entitlement of any kind.

D. "Infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

E. "Mitigate" and "mitigation" means any of the following:

1. Minimizing impacts by limiting the degree or magnitude of a proposed development project;

2. Rectifying the impact by repairing, rehabilitating or restoring the impacted area or environment;

3. Reducing or eliminating the impact over time by ongoing programs, preservation, maintenance and/or other operations;

4. Compensating for the impact by paying a fee and/or providing replacement and/or substitute resources, facilities, services and/or environments. (Ord. 6179-NS § 4, 1993)

F. "Transportation alternatives" means any mode of transportation that substitutes for or results in a net reduction of single-occupant motor vehicle trips and includes, but is not limited to, walking, bicycling, use of public transportation, car sharing, carpooling, and vanpooling.

G. "Transportation Services Fee" means a fee paid to the City of Berkeley by an applicant for a development project to mitigate the negative impacts of the net increase in motor vehicle trips caused by the development project.

### **22.20.050 Designated implementing authority.**

A. The City Manager shall be the designated authority to develop and implement rules and regulations pertaining to this chapter, and shall have the authority to take any actions he or she may deem necessary and/or appropriate to work and/or negotiate with applicants to advance the purposes of this chapter.

B. The Planning Commission, Zoning Adjustments Board and City Council shall have the authority to impose those mitigation and/or fees authorized by this chapter as conditions of discretionary subdivision approvals, use permits and/or variances.

C. The City shall have the authority to impose administratively those mitigations and/or fees required by this chapter as conditions of permits and entitlements which are not subject to discretionary review by the Planning Commission, Zoning Adjustments Board and/or City Council, including administrative use permits, zoning permits and building permits. (Ord. 6179-NS § 5, 1993)

#### **22.20.060 Requirements.**

A. The applicant of any development project, for which any permit, variance, approval or entitlement of any kind is required by the City, as a condition of such permit, variance and/or other entitlement, shall provide and/or pay to the City those mitigation and/or fees necessary to eliminate, mitigate and/or reduce to an acceptable level those impacts for increased motor vehicle trips and/or increased demand for affordable housing, child care and/or public services, adequate employment training and placement facilities and amenities which are anticipated to be generated by and/or attributable to such development project as established by resolution of the City Council or as otherwise imposed administratively by the City, or by the Planning Commission, Zoning Adjustments Board, or City Council.

B. Nothing in this chapter shall be construed as requiring the City to grant any individual permit, variance, approval and/or other entitlement of any kind for which the applicant proposes or agrees to provide mitigation and/or fees under this chapter.

C. The mitigation and/or fees authorized by this chapter are in addition to any otherwise authorized by law. (Ord. 6179-NS § 6, 1993)

#### **22.20.070 Exception/limit where applicant establishes inapplicability or unconstitutionality of general requirements.**

A. Notwithstanding any other provision of this chapter, the requirements of this chapter shall not apply or shall be limited as follows:

1. No mitigation and/or fees shall be imposed on any applicant or development project where the applicant establishes to the City's satisfaction that the proposed development project will not generate any additional need for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities, impacts from increased motor vehicle trips, or any other impact for which a mitigation and/or fee is otherwise required;

2. The amount and/or level of any mitigation and/or fee under this chapter shall not exceed the reasonable cost of either satisfying the additional demand for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities, alternative transportation facilities or services, or of eliminating and/or reducing to an acceptable level any other impact which reasonably may be anticipated to be generated by or attributed to any individual development project;

3. The City shall not condition any permit in any manner which results in a deprivation of the applicant's constitutional rights.

B. The burden of establishing by satisfactory factual proof the applicability and elements of subsections (A)(1), (A)(2) and (A)(3) of this section shall be on the applicant

C. No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the applicant, that at least one of the requirements set forth in subsection (A)(1), (A)(2) or (A)(3) of this section has been satisfied. (Ord. 6179-NS § 7, 1993)

**22.20.080 Exception--Hardship.**

A. Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:

1. The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and

2. The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.

B. The burden of establishing by satisfactory factual proof the applicability and elements contained in subsections (A)(1) and (A)(2) of this section shall be on the applicant.

C. This section shall not apply to the Transportation Services Fee. (Ord. 6179-NS § 8, 1993)

**22.20.090 Procedure.**

A. Upon receipt of any application for a permit, approval and/or other entitlement subject to the provisions of this chapter, the City shall review the application, obtain information and take any other steps it deems necessary to determine whether and to what extent the proposed development project will generate and/or result in impacts which require mitigation pursuant to this chapter. The City shall calculate, according to formulae and rationales to be maintained and provided upon request to the applicant, the amount of mitigation and/or fees required to be provided by the applicant to offset and/or mitigate the impacts of the proposed development project.

B. For those proposed development projects subject to this chapter which do not require original discretionary review by the Planning Commission, Zoning Adjustments Board and/or City Council, the mitigation and/or fees required by this chapter shall be imposed administratively by the City as a condition of the issuance and/or granting of the permit, approval and/or entitlement otherwise required for any such development project. The amount of such mitigation and/or fees to be imposed shall be determined by the City.

C. Where the mitigation and/or fees required pursuant to this chapter are to be imposed administratively by the City, and where the applicant seeks to establish an exception pursuant to Section 22.20.070 or 22.20.080, the City shall have the authority to limit and/or reduce the amount of mitigation and/or fees up to fifty percent of the amount which otherwise would be required by the chapter. The amount of mitigation and/or fees to be imposed by the City shall not be limited or reduced below fifty percent of the amount which otherwise would be required by this chapter without the approval of the Zoning Adjustments Board or City Council.

D. Where the mitigation and/or fees required pursuant to this chapter are to be imposed by the Planning Commission, Zoning Adjustments Board and/or City Council, and where the applicant seeks to establish an exception pursuant to Section 22.20.070 or 22.20.080, the Planning Commission, Zoning Adjustments Board and/or City Council shall have the authority either to waive, or, alternatively, to limit and/or reduce, the amount of mitigation and/or fees which otherwise would be required by this chapter.

E. The City shall adopt written findings which explain both the rationale for the imposition of any fee and/or mitigation, including the amount thereof, and any reduction or exception granted including the findings required by Section 22.20.070 or Section 22.20.080. Such findings shall be provided to the applicant at the time the permit or entitlement is issued.

F. This section shall not apply to the Transportation Services Fee. (Ord. 6179-NS § 9, 1993)

**22.20.100 Appeal.**

A. The applicant or any development project aggrieved by any administrative decision of the City in imposing any mitigation and/or fee pursuant to this chapter may appeal such decision to the Zoning Adjustments Board in the same manner as provided in Section 20.4 of the City's zoning ordinance (No. 3018-N.S.).

B. The applicant of any development project aggrieved by any decision made by the Planning Commission or Zoning Adjustments Board pursuant to this chapter may appeal such decision to the City Council pursuant to the appeal procedure, if any, governing appeal of decisions made concerning the underlying entitlement such as the use permit or subdivision map. (Ord. 6179-NS § 10, 1993)

**22.20.110 Mitigation rationale.**

The City Manager shall establish, maintain on file and use standard formulae, rationales and calculations by which the amount of mitigation and/or fees required to offset or reduce certain impacts may be determined. Such formulae and calculations shall be provided to any person upon request. (Ord. 6179-NS § 11, 1993)

Section 2. Copies of this Ordinance shall be posted for ten days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



ORDINANCE NO. –N.S.

AMENDING BERKELEY MUNICIPAL CODE (BMC) CHAPTER 22.20 TO ESTABLISH A CITYWIDE TRANSPORTATION SERVICES FEE TO MITIGATE THE IMPACTS OF NEW DEVELOPMENT AND CHANGES OF USE WHICH RESULT IN AN INCREASE IN MOTOR VEHICLE TRIPS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Chapter 22.20 is amended to read as follows:

**22.20.010 Applicability of chapter**

The regulations, requirements and provisions of this chapter and council resolutions adopted pursuant hereto shall apply to any development project. (Ord. 6179-NS § 1, 1993)

**Section 22.20.020 Findings**

A. There is a shortage of affordable housing, licensable space for child care services and affordable child care and public facilities, adequate employment training and placement services and amenities within the City of Berkeley; there is also an increasing number of motor vehicle trips on the City's roadways;

B. Persons who live and/or work in the City have serious difficulty locating housing, child care and public facilities, adequate employment training and placement services and amenities at prices they can afford; the increasing number of motor vehicle trips on the City's roadways result in increased traffic congestion, noise, air and water pollution, and negative impacts on bicyclists, pedestrians, and bus transit;

C. Local revenues, as supplemented by federal and state sources, do not provide an adequate source of funding to meet local needs for housing, child care and public facilities, adequate employment training and placement services and amenities, or funding for mitigating the impacts of increasing motor vehicle trips by providing sufficient transportation alternatives;

D. Certain development projects create an influx of new employees and their families to the City and generate new motor vehicle trips, and thus generate additional need for affordable housing, child care and public facilities, adequate employment training and placement services and amenities, and alternative transportation facilities and programs;

E. Many potential employees are unable to accept moderately-paying jobs because of a lack of childcare facilities or the cost of obtaining adequate child care. This, in turn, results in increased social and economic costs to the City;

F. In addition, such development projects create individual and cumulative impacts, including changes in, and in many cases deterioration of, the visual environment; an increase in noise, air and water pollution levels; new and increased traffic and parking impacts; power, sewer and other utility demand and consumption; loss of valuable open space; and increased demands on parks, schools, libraries, police, fire and public facilities, services and amenities;

G. The increased demand for affordable housing, child care and public services, adequate employment training and placement facilities and amenities, motor vehicle trips in the absence of sufficient transportation alternatives, and the other impacts generated by development projects, unless mitigated, are detrimental to the City's public health, safety and general welfare;

H. The public policy of the City of Berkeley, as reflected by the City's master plan, housing and transportation elements, is (1) to make an adequate supply of housing available to all economic segments of the community, (2) to provide adequate municipal services and facilities,

including transportation alternatives, and (3) to control the design and operation of development projects to insure their compatibility within adjacent residential areas. (Ord. 6179-NS § 2, 1993)

**Section 22.20.030 Purpose.**

The purpose of this chapter is to assure that development projects mitigate and/or compensate for the increased demand for affordable housing, child care and public services, adequate employment training and placement facilities and amenities, the increasing number of motor vehicle trips that would occur in the absence of sufficient transportation alternatives, and other impacts attributable to and generated by such development projects within the City of Berkeley. (Ord. 6179-NS § 3, 1993)

**22.20.040 Definitions.**

A. "Applicant" means any individual, person, firm, partnership, association, joint venture, corporation, entity, combination of entities or authorized representative thereof, who undertakes, proposes and/or applies to the City for, any development.

B. "Benefits" shall include, but not be limited to, any of the following: increased tax revenues; new local employment opportunities; development of desirable public amenities and/or services; potential attraction of additional commercial development; potential stimulation of commercial activity.

C. "Development project" means any activity involving or requiring the issuance by the City of Berkeley to a person or entity of a use permit, variance, building permit, subdivision approval (including tentative, final and parcel maps), license, certificate or other entitlement of any kind.

D. "Infeasible" means incapable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

E. "Mitigate" and "mitigation" means any of the following:

1. Minimizing impacts by limiting the degree or magnitude of a proposed development project;

2. Rectifying the impact by repairing, rehabilitating or restoring the impacted area or environment;

3. Reducing or eliminating the impact over time by ongoing programs, preservation, maintenance and/or other operations;

4. Compensating for the impact by paying a fee and/or providing replacement and/or substitute resources, facilities, services and/or environments. (Ord. 6179-NS § 4, 1993)

F. "Transportation alternatives" means any mode of transportation that substitutes for or results in a net reduction of single-occupant motor vehicle trips and includes, but is not limited to, walking, bicycling, use of public transportation, car sharing, carpooling, and vanpooling.

G. "Transportation Services Fee" means a fee paid to the City of Berkeley by an applicant for a development project to mitigate the negative impacts of the net increase in motor vehicle trips caused by the development project.

**22.20.050 Designated implementing authority.**

A. The City Manager shall be the designated authority to develop and implement rules and regulations pertaining to this chapter, and shall have the authority to take any actions he or she may deem necessary and/or appropriate to work and/or negotiate with applicants to advance the purposes of this chapter.

B. The Planning Commission, Zoning Adjustments Board and City Council shall have the authority to impose those mitigation and/or fees authorized by this chapter as conditions of discretionary subdivision approvals, use permits and/or variances.

C. The City shall have the authority to impose administratively those mitigations and/or fees required by this chapter as conditions of permits and entitlements which are not subject to discretionary review by the Planning Commission, Zoning Adjustments Board and/or City Council, including administrative use permits, zoning permits and building permits. (Ord. 6179-NS § 5, 1993)

**22.20.060 Requirements.**

A. The applicant of any development project, for which any permit, variance, approval or entitlement of any kind is required by the City, as a condition of such permit, variance and/or other entitlement, shall provide and/or pay to the City those mitigation and/or fees necessary to eliminate, mitigate and/or reduce to an acceptable level those impacts for increased motor vehicle trips and/or increased demand for affordable housing, child care and/or public services, adequate employment training and placement facilities and amenities which are anticipated to be generated by and/or attributable to such development project as established by resolution of the City Council or as otherwise imposed administratively by the City, or by the Planning Commission, Zoning Adjustments Board, or City Council.

B. Nothing in this chapter shall be construed as requiring the City to grant any individual permit, variance, approval and/or other entitlement of any kind for which the applicant proposes or agrees to provide mitigation and/or fees under this chapter.

C. The mitigation and/or fees authorized by this chapter are in addition to any otherwise authorized by law. (Ord. 6179-NS § 6, 1993)

**22.20.070 Exception/limit where applicant establishes inapplicability or unconstitutionality of general requirements.**

A. Notwithstanding any other provision of this chapter, the requirements of this chapter shall not apply or shall be limited as follows:

1. No mitigation and/or fees shall be imposed on any applicant or development project where the applicant establishes to the City's satisfaction that the proposed development project will not generate any additional need for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities, impacts from increased motor vehicle trips, or any other impact for which a mitigation and/or fee is otherwise required;

2. The amount and/or level of any mitigation and/or fee under this chapter shall not exceed the reasonable cost of either satisfying the additional demand for affordable housing, child care and/or public facilities, adequate employment training and placement services or amenities, alternative transportation facilities or services, or of eliminating and/or reducing to an acceptable level any other impact which reasonably may be anticipated to be generated by or attributed to any individual development project;

3. The City shall not condition any permit in any manner which results in a deprivation of the applicant's constitutional rights.

B. The burden of establishing by satisfactory factual proof the applicability and elements of subsections (A)(1), (A)(2) and (A)(3) of this section shall be on the applicant

C. No exemption or limit shall be granted pursuant to this section unless a finding is made, based on satisfactory factual proof provided by the applicant, that at least one of the requirements set forth in subsection (A)(1), (A)(2) or (A)(3) of this section has been satisfied. (Ord. 6179-NS § 7, 1993)

**22.20.080 Exception--Hardship.**

A. Notwithstanding any other provision of this chapter, the requirements of this chapter in the discretion of the City may be waived or limited for a particular development project where both of the following findings are made:

1. The imposition of the mitigation and/or fees otherwise required by the City make the development of the particular project infeasible; and

2. The benefits to the City from the particular development project outweigh its burdens in terms of increased demand for affordable housing, child care and/or public facilities, adequate employment training and placement services and/or amenities and/or other impacts which reasonably may be anticipated to be generated by and/or attributable to the development project.

B. The burden of establishing by satisfactory factual proof the applicability and elements contained in subsections (A)(1) and (A)(2) of this section shall be on the applicant.

C. This section shall not apply to the Transportation Services Fee. (Ord. 6179-NS § 8, 1993)

**22.20.090 Procedure.**

A. Upon receipt of any application for a permit, approval and/or other entitlement subject to the provisions of this chapter, the City shall review the application, obtain information and take any other steps it deems necessary to determine whether and to what extent the proposed development project will generate and/or result in impacts which require mitigation pursuant to this chapter. The City shall calculate, according to formulae and rationales to be maintained and provided upon request to the applicant, the amount of mitigation and/or fees required to be provided by the applicant to offset and/or mitigate the impacts of the proposed development project.

B. For those proposed development projects subject to this chapter which do not require original discretionary review by the Planning Commission, Zoning Adjustments Board and/or City Council, the mitigation and/or fees required by this chapter shall be imposed administratively by the City as a condition of the issuance and/or granting of the permit, approval and/or entitlement otherwise required for any such development project. The amount of such mitigation and/or fees to be imposed shall be determined by the City.

C. Where the mitigation and/or fees required pursuant to this chapter are to be imposed administratively by the City, and where the applicant seeks to establish an exception pursuant to Section 22.20.070 or 22.20.080, the City shall have the authority to limit and/or reduce the amount of mitigation and/or fees up to fifty percent of the amount which otherwise would be required by the chapter. The amount of mitigation and/or fees to be imposed by the City shall not be limited or reduced below fifty percent of the amount which otherwise would be required by this chapter without the approval of the Zoning Adjustments Board or City Council.

D. Where the mitigation and/or fees required pursuant to this chapter are to be imposed by the Planning Commission, Zoning Adjustments Board and/or City Council, and where the applicant seeks to establish an exception pursuant to Section 22.20.070 or 22.20.080, the Planning Commission, Zoning Adjustments Board and/or City Council shall have the authority either to waive, or, alternatively, to limit and/or reduce, the amount of mitigation and/or fees which otherwise would be required by this chapter.

E. The City shall adopt written findings which explain both the rationale for the imposition of any fee and/or mitigation, including the amount thereof, and any reduction or exception granted including the findings required by Section 22.20.070 or Section 22.20.080. Such findings shall be provided to the applicant at the time the permit or entitlement is issued.

F. This section shall not apply to the Transportation Services Fee. (Ord. 6179-NS § 9, 1993)

**22.20.100 Appeal.**

A. The applicant or any development project aggrieved by any administrative decision of the City in imposing any mitigation and/or fee pursuant to this chapter may appeal such decision to the Zoning Adjustments Board in the same manner as provided in Section 20.4 of the City's zoning ordinance (No. 3018-N.S.).

B. The applicant of any development project aggrieved by any decision made by the Planning Commission or Zoning Adjustments Board pursuant to this chapter may appeal such decision to the City Council pursuant to the appeal procedure, if any, governing appeal of decisions made concerning the underlying entitlement such as the use permit or subdivision map. (Ord. 6179-NS § 10, 1993)

**22.20.110 Mitigation rationale.**

The City Manager shall establish, maintain on file and use standard formulae, rationales and calculations by which the amount of mitigation and/or fees required to offset or reduce certain impacts may be determined. Such formulae and calculations shall be provided to any person upon request. (Ord. 6179-NS § 11, 1993)

Section 2. Copies of this Ordinance shall be posted for ten days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.



CITY OF BERKELEY

# Transportation Services Fee

## Nexus Study

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Nelson\Nygaard Consulting Associates  
785 Market Street, Suite 1300  
San Francisco, CA 94103

**July 2006**

*No statement in this memorandum is meant to express a legal opinion of any kind. Any explicit or implicit interpretation of law or court precedence in this memorandum is based solely on our experience as non-legal professional practitioners using development impact fees in California. We advise consulting with an expert attorney in this field prior to making any final recommendations based on the content of this memorandum.*

## Introduction

The City of Berkeley's General Plan Policy T-6 Transportation Services Fee states, "Ensure that new development does not impact existing transportation services and facilities." In accordance with the City's General Plan and California Government Code §66000, this study presents a recommended Citywide Transportation Services Fee (TSF) for Berkeley. The purpose of the fee is to fund programs and projects that will mitigate the impacts of new motor vehicle trips generated by future development in the City of Berkeley by enabling the City to invest in alternative transportation modes. Reducing automobile reliance and vehicle miles traveled are Transportation Element Objectives, as are maintaining and improving public transportation and creating a model bicycle- and pedestrian-friendly city.

## Transportation Impacts of Development

Between 2005 and 2025, development in Berkeley is estimated to generate an average of 2,153 new PM peak hour motor vehicle trips per weekday within the City (see Figure 1).<sup>1</sup> This represents approximately a 6% increase in the current number of PM peak hour motor vehicle trips. This figure excludes:

- Motor vehicle trip ends on the UC Berkeley campus because, as a State institution, the University of California would be exempt from any transportation impact fee. According to the Draft Environmental Impact Report for the University's Long Range Development Plan, as many as 930 new vehicle trips ends could be generated by new University-related development through 2020.<sup>2</sup> Any other government agency or institution, such as the Berkeley Unified Schools District, would also be exempt from any impact fees.
- "Pass through" motor vehicle trips of a regional nature; the figure accounts only for motor vehicle trip ends within the City of Berkeley.

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<sup>1</sup> PM peak hour vehicle trips is a generally accepted measure of traffic impacts used in transportation planning practice. PM peak hour vehicle trips are derived from average weekday trips calculated by the Metropolitan Transportation Commission (MTC). It is assumed that 9.5% of average weekday trips occur during the PM peak hour. The figures here refer to "trip ends". In other words, a trip with an origin and destination within the City (e.g. Berkeley Bowl to City Hall) would be counted as two trip ends. A trip with either an origin or a destination within the City (e.g. Berkeley Bowl to an apartment in Oakland) would be counted as a single trip end. This is to ensure conformity with the Traffic Impact Reports which will be used to assess the TSF for a specific development, which consider trip ends.

<sup>2</sup> *University of California, Berkeley 2020 LRDP Draft EIR*, p.F.1-18.

**Figure 1 Projected Increase in Vehicle Trips Within the City of Berkeley**

	Number of PM Peak Hour Vehicle Trip Ends*
2005 Average Trip Ends per Weekday	35,106
2025 Average Trip Ends per Weekday	37,259
New Trip Ends Generated by Development Subject to TSF	2,153

\*Excludes those trip ends on the UC Berkeley campus.

Source: Metropolitan Transportation Commission trip forecasts based on Association of Bay Area Governments Projections 2003 data.

Unless the City takes action to mitigate this increase in motor vehicle trips, they will impact the City’s transportation system as follows:

**1. Impacts on Transit.** Increased congestion from new motor vehicle trips will slow transit travel times. As a result, more resources will be required to provide the same capacity, since fewer seat miles will be available per revenue hour of service. Increased transit expenditure will therefore be needed simply to maintain existing frequencies and capacity. At the same time, the quality of service available to transit riders will be degraded by slower travel times. The scale of all these impacts is expected to be roughly proportional to the increase in vehicle trips.

**2. Impacts on Pedestrians and Cyclists.** New motor vehicle trips have a detrimental impact on conditions for pedestrians and cyclists. Research has found that motor vehicle volumes are one of the most important determinants of the level of service for bicyclists and pedestrians.<sup>3</sup> Increases in motor vehicle volumes are inversely proportional to bicycle and pedestrian level of service. The degraded conditions for pedestrians and cyclists will diminish the attractiveness and use of these modes, in turn leading to further increases in motor vehicle trips and compounding their impacts.

**3. Congestion Impacts.** Traffic impact analyses tend to focus on congestion impacts, such as degraded Vehicle Level of Service, at intersections adjacent to the development. However, new vehicle trips generated by a development will also have citywide congestion impacts, leading to increases in vehicle travel time. Increases in motor vehicle volumes are inversely proportional to Vehicle Level of Service.

**4. Other Impacts.** Increases in motor vehicle traffic have a range of other negative impacts on the City of Berkeley’s environment and transportation system. These impacts are expected to be approximately proportional to the number of new motor vehicle trips. Some of those listed in the City’s General Plan include:

- Increased parking demand

<sup>3</sup> The Bicycle Compatibility Index: A Level of Service Concept. Implementation Manual. FHWA-RD-98-095. Available at: [www.hsrc.unc.edu/research/pedbike/98095/index.html](http://www.hsrc.unc.edu/research/pedbike/98095/index.html). Landis, Bruce *et. al.* (2001), “Modeling the Roadside Walking Environment: Pedestrian Level of Service,” *Transportation Research Record No. 1773*.

- The costs of enforcing traffic safety laws
- Air pollution and greenhouse gas emissions
- Water pollution
- Noise
- Visual degradation
- Energy use

## Mitigation of Identified Impacts

Traditionally, measures to mitigate the impacts of motor vehicle trips have focused on roadway widenings and intersection enhancements. The City of Berkeley, however, seeks to mitigate these impacts through an alternative strategy: reducing the number of motor vehicle trips through provision of effective alternatives. There are several reasons behind this policy decision:

- **Mitigating all impacts.** Most other potential mitigation measures address only specific, selected impacts caused by motor vehicle traffic increases. For example, a clean fuel vehicle program would mitigate air quality impacts, but not those on bicycle and pedestrian safety and comfort.
- **Mitigating impacts across the City.** Some mitigation measures may be able to address a specific impact at a particular location. For example, a transit priority signal may be able to reduce the impacts of new motor vehicle trips on transit travel time at a particular intersection. However, the impacts of motor vehicle trips tend to be extremely diffuse and felt across the entire city transportation network. This means that they are best mitigated by addressing the root cause – increased motor vehicle trips.
- **Achieving the Objectives of the City’s General Plan Transportation Element.** The City of Berkeley General Plan Transportation Element includes the following Objectives which support using alternative mode strategies to mitigate the impacts of motor vehicle trips caused by development:
  - *Reduce automobile use and vehicle miles traveled in Berkeley, and the related impacts by providing and advocating for transportation alternatives and subsidies that facilitate voluntary decisions to drive less.*
  - *Create a model bicycle and pedestrian-friendly city where bicycling and walking are safe, attractive, easy and convenient forms of transportation and recreation for people of all ages and abilities.*
- **Acting as a model, innovative government.** A number of California cities have included significant funding for projects and programs aimed at trip reduction in their traffic impact fees. This innovative approach mitigates the full range of impacts of new vehicle trips, rather than just the impacts on the roadway system, and helps achieve other transportation policy objectives aimed at reducing motor vehicle use and encouraging walking, bicycling, and transit use. Recently, San Francisco and Palo Alto have dedicated 100% and 67% of fee revenue, respectively, toward alternative transportation modes and Transportation Demand Management strategies.

The TSF Nexus Study Report therefore identifies and costs the measures necessary to mitigate the impacts of motor vehicle trips generated by development. New motor vehicle trips will be mitigated by investing in alternative transportation modes to encourage mode shift away from the private automobile. In other words, the City seeks to mitigate new motor vehicle trips generated by development through reducing an equivalent number of motor vehicle trips elsewhere in the City.

## Mitigation Measures

The projects and programs in the TSF expenditure plan are drawn from the City of Berkeley General Plan, the Bicycle Plan, the University Avenue Strategic Plan, and the San Pablo Public Improvement Plan. They include the following elements which have a demonstrated impact on reducing motor vehicle trips:

- **Citywide Transportation Demand Management (TDM) marketing and incentives programs** – TDM programs use marketing and incentives to encourage those who travel within, to, or from Berkeley to use alternative transportation modes. The costs for these programs include materials, program administration, and incentives.
- **Transit service and signage improvements, expansion of the EcoPass program, and improvements to the Downtown Berkeley Bike Station** – Providing additional transit service and improved access to transit services (in the form of passes, the Bike Station and better signage) help make transit a viable alternative to the private automobile and consequently replace new motor vehicle trips with transit trips. Projects include additional revenue hours of transit service, including shuttles; real-time transit information, wayfinding, and schedule signage; an expanded EcoPass program for all Berkeley employers; and expansion of the Downtown Berkeley Bike Station.
- **Pedestrian and bicycle facilities improvements** – The provision of adequate and safe facilities for bicyclists and pedestrians has had a demonstrated positive impact on the number of people who choose to use these modes.

The expenditure plan's mitigation program is designed to be geographically equitable. Transit, bicycle, and pedestrian projects are geographically balanced and spread throughout the city. Additionally, fee revenue is also devoted to citywide programs that benefit all parts of the city. Figure 2 summarizes the expenditure plan, and further detail is provided in Appendix B.

**Figure 2 TSF Expenditure Plan Summary**

Project Description	Supporting Policy	Average Annual Program Cost	Total Cost Over 20 Years
<b>Citywide TDM Marketing and Incentives Programs</b>			
Car sharing marketing and outreach	General Plan Policy T-10	\$35,000	\$700,000
Car sharing membership incentives	General Plan Policy T-10	\$40,000	\$800,000
Car sharing parking location expenses (parking costs reimbursed to City)	General Plan Policy T-10	\$18,000	\$360,000
TDM marketing and outreach, including carpool/vanpool outreach and incentives	General Plan Policy T-11, T-13, T-14, T-2, T-45, EM-17	\$75,000	\$1,500,000
One-Less-Car Program (direct incentives and assistance to reduce vehicle use)	General Plan Policy T-10, T-12	\$120,000	\$2,400,000
Safe Routes to Schools Coordinator	General Plan Policy T-13	\$50,160	\$1,003,200
<b>Total for Citywide TDM Programs</b>		<b>\$338,160</b>	<b>\$6,763,200</b>
<b>Transit Improvements</b>			
Pole-mounted bus schedules and other wayfinding signage	General Plan Policy T-2.A.4; T-2.C		\$65,000
Real-time bus arrival signs at bus stops on trunk line corridors	General Plan Policy T-2.A.4; T-2.C		\$650,000
<i>Soft costs (30% of capital projects)*</i>			<i>\$207,000</i>
Shuttle services	General Plan Policy T-2.D; T-10.11	\$306,000	\$6,120,000
Citywide TransLink and EcoPass incentives for employers	General Plan Policy T-3; T-10.1	\$885,525	\$17,710,504
Downtown Berkeley BART Bike Station Expansion	General Plan Policy T-43.A		\$360,000
Downtown Berkeley BART Bike Station Operations	General Plan Policy T-43.A	\$40,000	\$800,000
<b>Total for Transit Improvements</b>			<b>\$25,912,504</b>

Project Description	Supporting Policy	Average Annual Program Cost	Total Cost Over 20 Years
<b>Pedestrian Facilities Improvements</b>			
Pedestrian Plan Implementation - Specific projects and locations will be determined in the Council-approved Pedestrian Plan.	Pedestrian Plan (to be adopted); General Plan Policy T-48		\$6,299,992
Bulb-outs on University Ave	University Avenue Strategic Plan (November 1996), p. 60		\$499,800
Bulb-outs on San Pablo side streets	San Pablo Ave. Public Improvement Plan (October 2003), p. 3-19		\$1,560,000
<i>Soft costs (30% of capital projects)*</i>			<i>\$2,507,938</i>
<b>Total for Pedestrian Facilities Improvements</b>			<b>\$10,867,730</b>
<b>Bicycle Facilities Improvements</b>			
Bicycle Plan Implementation - implementation of projects adopted as part of the Bicycle Plan.	Bike Plan, General Plan Policy T-42		\$3,340,000
Bicycle signals at intersections	Bike Plan, General Plan Policy T-42		\$1,000,000
Bicycle-actuated signals at intersections (retrofit of existing signals)	Bike Plan, General Plan Policy T-42		\$300,000
Traffic circles on Bicycle Boulevards	Bike Plan, General Plan Policy T-42		\$360,000
<i>Soft costs (30% of capital projects) *</i>			<i>\$1,500,000</i>
<b>Total for Bicycle Facilities Improvements</b>			<b>\$6,500,000</b>
<b>Total Cost</b>			<b>\$50,043,434</b>

\*Soft costs include feasibility, design and engineering; construction management; agency management/administration; legal and insurance costs, etc.

### Trip Reduction Impacts of the TSF Expenditure Plan

All elements of the expenditure plan are explicitly intended to reduce motor vehicle trips by making alternative transportation modes more attractive and providing the information, education, and incentives necessary to encourage people to use them. As shown in Figure 3, these programs will reduce PM peak hour motor vehicle trips by 2,152 vehicles and will mitigate nearly 100% of the motor vehicle trips generated by development subject to the TSF. For detailed calculations of the trip reduction impacts of the TSF expenditure plan, please see Appendix A.

Note that, as discussed above, the expenditure plan is not designed to reduce the specific motor vehicle trips generated by development. Instead, it aims to mitigate their impact by reducing an equivalent number of motor vehicle trips elsewhere in the City of Berkeley.

**Figure 3 Expected Trip Reduction Impacts of the TSF Expenditure Plan**

Expenditure Plan Item	Average Weekday PM Peak Hour Trips Reduced
Citywide Transportation Demand Management Marketing and Incentives Programs	19
Transit Operations	83
Transit Signage	37
Berkeley Bike Station Expansion	20
EcoPass for Berkeley Employers	575
Bicycle Improvements	871
Pedestrian Improvements	547
Total Trips Reduced by TSF Expenditure Plan	2,152
<i>Expected New Motor Vehicle Trips from Development Subject to the TSF</i>	<i>2,153</i>
% of New Trips Mitigated by TSF Expenditure Plan	100%

**Impacts Not Mitigated**

The proposed expenditure plan is designed to mitigate the citywide impacts of increased motor vehicle trips on the major traffic routes within the City of Berkeley. In addition to these citywide impacts, development projects often generate an increase in traffic at intersections immediately surrounding the projects and on the local streets feeding into the projects. These localized impacts are in addition to the impacts mitigated by the proposed expenditure plan, and will continue to be mitigated through site-specific exactions tied to project-based traffic studies.

It should be emphasized that the TSF and mitigations for localized roadway impacts address very different impacts. The TSF mitigates the diffuse, citywide impacts of motor vehicle travel, such as impacts on transit, pedestrians and cyclists, congestion, and air pollution. Even if these are fully mitigated, local impacts may remain due to the concentration of new motor vehicle trips at particular intersections, which will be mitigated based on the analysis in the Traffic Impact Report.

**Fee Level**

The basic impact fee formula is the cost of impact mitigation divided by the amount of impact, yielding a cost per unit of impact. The general impact fee formula is shown below:

$$Impact\ Fee\ Rate = \frac{Cost\ of\ Mitigations/Projects\ to\ Accommodate\ Development}{Aggregate\ Unit\ Impacts\ Generated\ by\ Development}$$

For the TSF, the unit of impact is average weekday PM peak hour motor vehicle trips.<sup>4</sup> The cost of impact mitigation is the share of the total cost of the TSF expenditure plan.

<sup>4</sup> Impact fees are typically quoted on a per unit of development basis such as per housing unit or per square foot. The actual transportation impacts of a development, however, tend to be proportional to the

As discussed previously, MTC estimates that development in Berkeley between 2005 and 2025 will generate 2,153 new average weekday PM peak hour motor vehicle trips. The total cost of mitigating these trips through projects and programs that facilitate and promote alternative mode use totals \$50,043,434 (including program administration and soft costs).

The cost of mitigating each new PM peak hour vehicle trip is \$23,244 (including program administration and soft costs). To ensure that the proposed fee does not place an excessive financial burden on development, the City will assess development only a portion of the total required to fully mitigate the impacts of motor vehicle trips generated by development.<sup>5</sup> The fee calculation for the maximum fee level is shown in Figure 4.

**Figure 4 Maximum Fee Level**

A	PM Peak hour trips generated by development between 2005 and 2025	2,153
B	Total TSF Expenditure Plan Costs	\$50,043,434
C	Administration* (0.25 FTE annually)	\$470,704
D	Maximum Fee per Average Weekday PM Peak Hour Motor Vehicle Trip [(B+C)/A]	\$23,244

*Note that figures in the table have been rounded; the precise values have been used to calculate the fee amount.*

*\* This line item refers to TSF assessment, collection and reporting costs. It is separate from the “soft costs” for implementation of specific projects in the expenditure plan.*

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number of PM peak hour motor vehicle trips generated. This is related to, but not necessarily proportional to, the size of a development, particularly if only broad land use categories are used.

<sup>5</sup> Other sources of funding (e.g. external grants for which the TSF can serve as match funding) may allow the full expenditure plan to be implemented. Every five years, the City is required to report on expected sources of funding for incomplete improvements in the expenditure plan. However, there is no requirement in the Mitigation Fee Act for the City to refund fees should the full expenditure plan not be implemented, provided that fee revenue has been properly spent.

## Appendix A Methodology for Calculating the Trip Reduction Impacts of the TSF Expenditure Plan

The primary purpose of these calculations is to ensure that the Transportation Services Fee does not require developers to “overmitigate” their impact, i.e., pay for measures to reduce more vehicle trips than are generated by development. For this reason, the assumptions used are conservative ones that show a greater trip reduction impact than is likely to be the case. Overestimating likely trip reduction impacts in this manner ensures that developments are not “overmitigating” their impacts.

The following figure summarizes the trip reductions estimated per unit of expenditure. Capital and operating expenditures are treated separately at this point.

Row	Project	Source/Calculation	
<b>1. Citywide Transportation Demand Management</b>			
A	Cost Per Vehicle Trip Reduced	\$6.80	Cost per trip for the Way to Go Seattle One-Less-Car Program (Source: Way to Go, Seattle! One-Less-Car Demonstration Study Final Report, October 2003)
B	Cost per PM Peak Hour Vehicle Trip Reduced	\$71.58	= A / 9.5% <sup>6</sup>
C	Total Annual Cost	\$338,160	TSF Expenditure Plan
D	Number of PM Peak Hour Trips Reduced	19	= C / B / 255 (assumes 255 non-holiday weekdays per year)
<b>2. Transit Operations</b>			
C	Daily Revenue Hours for West Berkeley Shuttle	5.5	2.75 hours in AM and 2.75 hours in PM (Source: West Berkeley Shuttle web site, <a href="http://www.westberkeleyshuttle.com/id7.html">www.westberkeleyshuttle.com/id7.html</a> )
D	Average boardings per revenue hour	25	(Source: John Atkinson, West Berkeley TMA)
E	Vehicle trips reduced per revenue hour	25	= D Assumes 1:1 reduction. This is the likely maximum (conservative) assumption.
F	New revenue hours per weekday	10	TSF Expenditure Plan
G	Vehicle trips reduced per weekday	250	= F * E
H	Number of PM Peak Hour Trips Reduced	83	= G / 3 (A factor of 33% is used, rather than the diurnal factor of 9.5%, since the conversion is from commute trips into PM peak hour trips. This essentially assumes a 3-hour afternoon peak period. This also assumes that approximately one-third of new revenue service hours will be provided during the PM peak hour.)

<sup>6</sup> According to MTC, on a regional basis, 9.5 percent of the region's weekday daily vehicle trips start during 5:00 PM to 6:00 PM (this is the diurnal factor). (Source: 2000 MTC Travel Survey)

Row	Project	Source/Calculation	
<b>3. Bicycle Improvements</b>			
M	Potential Future Bike Commute Mode Split	10.0%	(Source: 1999 Berkeley Bicycle Plan, p. 1-3)
N	Existing Bike Mode Split	4.9%	(Sources: 1999 Berkeley Bicycle Plan, p. 1-3 and 1990 U.S. Census)
O	Potential Increase in Bike Mode Split	5.1%	= N – M Assumed to be achievable with full implementation of Bicycle Transportation Plan.
P	Number of Daily Commute Trips (Roundtrip)	51,255	(Source: 1990 U.S. Census. 1990 data used for consistency with Bicycle Plan)
Q	Number of Daily New Bike Commute Trips	2,614	= O * P
R	Number of Vehicle Commute Trips Reduced	2,614	= Q Assumes 1:1 reduction. This is the likely maximum (conservative) assumption, given that many cyclists will be making new trips or shifting from walking or other modes.
S	Number of PM Peak Hour Trips Reduced with Full Bike Plan Implementation	871	= R / 3. (A factor of 33% is used, rather than the diurnal factor of 9.5%, since the conversion is from commute trips into PM peak hour trips. This essentially assumes a 3-hour afternoon peak period.)
<b>3a. Bike Station</b>			
T	Bike Station: Trips Reduced per Day	210	(Source: TFCA funding application spreadsheet)
U	PM Peak Hour Trips Reduced	20	= T * 9.95% (diurnal factor)
<b>4. Pedestrian Improvements</b>			
V	Existing Pedestrian Mode Split	14.9%	2000 U.S. Census Journey to Work
W	Potential Increase in Pedestrian Mode Split through Full Pedestrian Plan Implementation	3%	A 3% increase is a reasonable assumption. For example, the pedestrian mode split in Cambridge, MA is 24% (2000 U.S. Census).
X	Number of Daily Commute Trips (Roundtrip)	54,674	2000 U.S. Census
Y	Number of Daily New Pedestrian Commute Trips	1,640	= W * X
Z	Number of Vehicle Commute Trips Reduced	1,640	= Y Assumes 1:1 reduction. This is the likely maximum (conservative) assumption, given that many cyclists will be making new trips or shifting from walking or other modes.
AA	Number of PM Peak Hour Trips Reduced with Full Pedestrian Plan Implementation	547	= Z / 3. (A factor of 33% is used, rather than the diurnal factor of 9.5%, since the conversion is from commute trips into PM peak hour trips. This essentially assumes a 3-hour afternoon peak period.)

Row	Project	Source/Calculation	
<b>4. EcoPass</b>			
AB	Total Jobs in Berkeley (less UCB and City of Berkeley employment)	57,466	Source: ABAG Projections 2003
AC	Expected percentage point increase in transit use resulting from providing employees in the City of Berkeley (excluding UCB and City of Berkeley) with EcoPasses	3%	Based on experience with City of Berkeley EcoPass program (approximately 30% utilization rate and 9% mode shift from driving alone to bus transit use)
AD	Vehicle Commute Trips Reduced	1,724	= AB * AC
AE	Number of PM Peak Hour Trips Reduced	575	= AD / 3 (A factor of 33% is used, rather than the diurnal factor of 9.5%, since the conversion is from commute trips into PM peak hour trips. This essentially assumes a 3-hour afternoon peak period.)
<b>5. Transit Signage</b>			
AF	Weekday Boardings in Berkeley on Trunk Lines	7,817	AC Transit ridership data for 43 and 51. (Routes 40 and 40L are not considered because they have few stops within Berkeley.)
AG	Expected % increase in ridership resulting from real-time signage on the 43 and 51 bus routes	5%	Infopolis data from Europe <sup>7</sup>
AH	Expected new riders	391	= AF * AG
AI	Vehicle trips reduced per weekday	391	= AH Assumes 1:1 reduction. This is the likely maximum (conservative) assumption.
AK	Vehicle trips reduced in PM peak hour	37	= AI * 9.5% (diurnal factor)

**Summary Trip Reduction Table**

Project/Program	PM Peak Hour Vehicle Trips Reduced
Citywide Transportation Demand Management	19
Transit Operations	83
Bicycle Improvements	891
Pedestrian Improvements	547
EcoPass for Berkeley Employers	575
Transit Signage	37
<b>TOTAL</b>	<b>2,152</b>

<sup>7</sup> There is little information on the ridership impacts of real-time signage and other wayfinding and information investments in North America, usually because information improvements are usually implemented in concert with frequency and other enhancements. In Europe, however, real-time information has been shown to yield a 5% increase (Infopolis – see <http://www.ul.ie/~infopolis/existing/index.html>), and this figure was recently used to calculate the impact of real-time information on Muni ridership.

## **Appendix B Detailed Expenditure Plan**

This is a detailed project list, supplementing the summary expenditure plan presented in the main body of the Nexus Study.

### **Citywide Transportation Demand Management (TDM) Marketing and Incentives Programs**

*Plan Reference: General Plan Policies T-2, T-10, T-11, T-12, T-13, T-14, and EM-17*

**Carsharing marketing and outreach** – Research has shown that those who participate in carsharing programs reduce the number of motor vehicle trips they make. Carsharing enables households and individuals to reduce the number of motor vehicles they own and increases the likelihood that they will use alternative modes, such as walking, biking, or transit, for shorter-distance trips. Carsharing is able to achieve these results because participants pay for their car use on a per-trip basis, rather than with a large, up-front payment as is typically the case when someone purchases or leases a car. Consequently, it often is more cost-effective to use an alternative transportation mode for many trips.

This program would pay for local advertisements and other marketing materials designed to promote participation in carsharing organizations among both the residential and business community. It also includes associated administrative costs.

**Annual program cost: \$35,000**

**Carsharing membership incentives** – To further encourage business and resident participation in carsharing, the City will offer membership incentives in the form of fee waivers, discounts, and membership subsidies for low-income households.

**Annual program cost: \$40,000**

**Carsharing parking location expenses** – This will provide carsharing parking spaces in City facilities, or private lots or garages, as needed.

**Annual program cost: \$18,000**

**Transportation Demand Management (TDM) marketing and outreach** – Education, marketing, and incentives have proven effective in convincing people to change their behavior. The goal of TDM marketing and outreach is to educate people about the negative impacts of driving alone and the positive benefits of alternative transportation modes so that they use alternative modes (ridesharing, cycling, walking, and transit) for a greater number of their trips, particularly work commute trips. This program includes printed materials and staff attendance and organization of promotional events such as Try Transit Week, Bike to Work Day, Car-Free Day, Earth Day, the Solano Stroll, the Spice of Life Festival, the How Berkeley Can You Be Festival and other local events. Costs include 0.25 FTE Associate Planner and all materials costs.

**Annual program cost: \$75,000**

**One-Less-Car Program** – This program is based on the successful One-Less-Car demonstration study conducted by the City of Seattle between 2000 and 2002. The study offered households information and financial incentives to reduce their car use and try other means of transportation for all trips. Participating households agreed to stop using one of their cars for six to nine weeks. In exchange, they received a weekly stipend to compensate them for participating in the study and to simulate the savings they would have received if they really did not own the car they stopped using during the study period. During the study, participants significantly reduced their single-occupant vehicle use and increased their use of alternative transportation modes. Program costs for the Berkeley One-Less-Car program include all materials and administrative costs and are based on the program costs for the City of Seattle program.

**Annual program cost: \$120,000**

**Safe Routes to Schools Coordinator** – Safe Routes to Schools is a popular program designed to decrease traffic and pollution and increase the health of children and the community. The program promotes walking and biking to school through education and incentives that show how much fun it can be. The program also addresses the safety concerns of parents by encouraging greater enforcement of traffic laws, educating the public, and exploring ways to create safer streets. Safe Routes to Schools programs in Marin County have demonstrated as much as a 15% reduction in school-related vehicle trips. Program costs include 0.5 FTE Associate Planner who will be responsible for implementing and coordinating Safe Routes programs at Berkeley schools.

**Annual program cost: \$50,160**

## **Transit Improvements**

*Plan Reference: General Plan Policies T-2, T-3, T-10, T-43*

**Pole-mounted, rotating bus schedules and other wayfinding signage** – Studies have shown that improvements that make transit service easier to use, such as schedules and wayfinding signage, attract “choice” riders (those who have a choice between driving and riding transit) and consequently reduce vehicle trips. Such signage also provides additional benefits to regular transit users and makes transit service more accessible to riders with disabilities, since rotating signs include information in Braille. Costs are estimated to be \$400 per sign for 100 signs. Additional costs for signage design and installation management and administration total \$37,000.

**Total project cost: \$77,000 (including soft costs)**

**Real-time bus arrival signs at bus stops on trunk line corridors** – There are two time components to a transit trip – waiting for the bus or train to arrive and time spent traveling to the final destination. Studies have found that passengers are particularly sensitive to time spent waiting. While real-time signage does not improve the rate of on-time arrivals and departures, it does enable passengers to know exactly when their bus or train will arrive, allowing them to grab a cup of coffee or run other errands instead of just waiting at the bus stop. Real-time signage thus reduces the perception that time spent waiting for a bus is wasted and consequently makes transit a more attractive mode choice. Costs are estimated to be \$10,000 per sign for 65 signs and

include electrification and hardware costs. Additional costs for installation management and administration total \$195,000.

**Total project cost: \$845,000 (including soft costs)**

**Shuttle services** – Improving the frequency of transit service in heavily traveled corridors has reduced the number of vehicle trips in such corridors. Studies of AC Transit’s San Pablo Rapid service found that 38% of new riders previously drove. Shuttle services would be provided during peak travel times to fill gaps in existing transit service or to improve frequencies in high-volume travel corridors. Services could be purchased from AC Transit or from another operator. Costs are assumed to be \$120 per revenue hour (AC Transit’s average annual cost per revenue hour in 2003) for ten revenue hours of service per weekday. Annual costs are based on 255 weekdays of service per year.

**Total annual project cost - \$306,000**

**Citywide TransLink and EcoPass incentives for employers** – EcoPass programs, which provide an unlimited use transit pass to a particular population, have had a demonstrated impact on reducing vehicle trips. The City of Berkeley’s employee EcoPass program has helped decrease employees’ drive-alone rate to 35% (from 47%) and increased the percentage of bus riders to 14% (from 6%). This program would either cover the full cost or supplement the cost of purchasing EcoPasses for employees working within the City. Once the TransLink universal fare card program is fully implemented, EcoPasses will be provided using this fare instrument. Cost estimates for the program are as follows:

A	Annual Cost per Pass	\$15	This amount would be provided by the City and would pay for a portion of the total EcoPass costs. Participating employers would need to pay any remaining costs. Future negotiations with AC transit would determine the total annual cost per EcoPass.
B	Number of Passes to be Purchased	57,466	The number of jobs in Berkeley in 2005, less UC Berkeley staff and faculty and City of Berkeley EcoPass-eligible staff. UC and City employment are subtracted out since both employers already provide EcoPasses to their employees. Source: ABAG Projections 2003, UC Berkeley, City of Berkeley
C	Total Annual Pass Costs	\$861,990	= A*B
D	Annual Administration Costs	\$23,535	Equivalent to 0.25 full-time-equivalent Associate Planner
E	Total Annual Program Costs	\$885,525	= C + D

**Downtown Berkeley BART Bicycle Station expansion and operation** – The Downtown Berkeley Bike Station provides free, attended bicycle parking for those traveling on BART or visiting Downtown Berkeley. By providing a safe, secure place to park one’s bicycle, the Bike Station facilitates bicycle use and reduces vehicle trips. TSF funds would pay for longer hours and an attendant at the station and would keep costs to cyclists free or as low as possible. Funds would also allow the station to expand from its current capacity of 77 bikes to 300 bikes and would pay for other station improvements.

**Total project cost: \$360,000**

**Total annual operation cost: \$40,000**

## **Pedestrian Facilities Improvements**

*Plan Reference: University Avenue Strategic Plan, San Pablo Avenue Public Improvement Plan, General Plan Policy T-48, Pedestrian Plan (to be adopted)*

**Pedestrian Plan implementation** – Pedestrian facilities improvements, which include projects such as bulb-outs or curb extensions, signage, pavement markings, flashing beacons, in-pavement lights, overhead lighting, pedestrian countdown signals, and left turn signalization, facilitate and increase the attractiveness of walking as a mode of transportation for local trips. The City’s Pedestrian Plan is currently in development and will be approved by the City Council once completed. Project costs are based on the average costs of implementing the types of improvements listed above and may be adjusted once the Pedestrian Plan is adopted.

**Total project cost: \$8,189,990 (including soft costs)**

**Bulb-outs on University Avenue** – To facilitate pedestrians crossing University Avenue, the University Avenue Strategic Plan calls for bulb-outs at intersections and key mid-block crossings to narrow the crossing distance for pedestrians and thus facilitate pedestrian travel. Project costs assume construction of bulb-outs at 14 locations at an average cost of \$37,500 per location.

**Total project cost: \$649,740 (including soft costs)**

**Bulb-outs on San Pablo side streets** – According to the San Pablo Avenue Public Improvements Plan, curb bulb-outs on side streets (bulb-outs would extend into the roadway of the side street and not into San Pablo Ave.) would improve pedestrian access along San Pablo Ave. by reducing crossing lengths and slowing vehicles turning onto side streets from San Pablo Ave. as they enter local streets. Project costs assume construction of bulb-outs at 52 locations at an average cost of \$30,000 per location.

**Total project cost: \$2,028,000 (including soft costs)**

## **Bicycle Facilities Improvements**

*Plan Reference: Berkeley Bicycle Plan, General Plan Policy T-42*

**Bicycle Plan implementation** – The goal of the projects included in the Berkeley Bicycle Plan is to make bicycling safer and more convenient for bicyclists of all ages and skill levels. Doing so will enable Berkeley residents, visitors, and workers to make more of their local trips via

bicycle and will reduce the number of motor vehicle trips in the City. Annual implementation costs are assumed to be approximately \$168,000 (exclusive of soft costs).

**Total project cost: \$4,342,000**

**Bicycle signals at intersections** – Bicycle signals enable cyclists to cross busy streets safely and without extensive delays and provide continuity in the City’s bicycle network. Providing safe, direct, and continuous cycling routes throughout the City enables and facilitates bicycle use for local trips. Project costs assume construction at five intersections at an average cost of \$200,000 per intersection.

**Total project cost: \$1,300,000 (including soft costs)**

**Bicycle-actuated signals at intersections (retrofit of existing signals)** – This project includes installation of bicycle detector loops at up to 50 intersections which enable cyclists to safely and easily cross busy intersections. Project costs assume an average cost of \$6,000 per detector loop (excluding soft costs).

**Total project cost: \$390,000 (including soft costs)**

**Traffic circles on Bicycle Boulevards** – A Bicycle Boulevard, sometimes called a bicycle priority street, is a street where all types of vehicles are allowed, but the roadway is modified as needed to enhance bicycle safety and convenience. Berkeley’s seven bicycle boulevards are the backbone of the City’s network of 50 bikeways. Traffic circles are one of the “traffic calming” tools that are employed on the City’s Bicycle Boulevard network. Traffic circles have a demonstrated ability to slow motor vehicle traffic and reduce collision rates. Project costs assume construction of 24 traffic circles at an average cost of \$15,000 (exclusive of soft costs).

**Total project cost: \$468,000 (including soft costs)**

**Attachment 4**  
**Comparison of Fee Scenarios**

In order to evaluate the original and proposed fee rates, staff calculated the fee rate for a series of projects. The following table presents a comparison of fee scenarios for eight projects in Berkeley: three major new development projects that have been completed, three small-scale residential developments and change of use projects that have been completed, and three hypothetical projects (two of which are based on projects currently in the development pipeline). The spreadsheet presents the original fee proposal as outlined in the Draft Nexus Study as well as calculations based on staff's proposed fee rate. For each of the rates, the sheet illustrates the difference between the total fee assessed with and without proposed reductions for Transportation Demand Management activities.



**Attachment 4: Comparison of Fee Scenarios**

Proposed Fee Levels:

20%	10%	1%	0.1%
\$4,867	\$2,543	\$451	\$242

Project	Square Feet/ # of Units	Estimated PM Peak Hour Trips	Estimated PM Peak Hour Trips w/ TDM reductions	Original Fee Level (no TDM redxns)	Original Fee Level (with TDM redxns)	Proposed Fee without TDM Reductions	Proposed Fee with TDM Reductions <sup>1</sup>
<b>Major New Development Projects</b>							
<b>2020 Kittredge St., Library Gardens</b>							
Apartments (10%)	176 units	40	30				
Retail	3,000 sq. ft.	5	5			\$2,255	\$2,255
<b>Project Total</b>		<b>45</b>	<b>35</b>	<b>\$219,015</b>	<b>\$170,345</b>	<b>\$103,975</b>	<b>\$78,545</b>
<b>2700 San Pablo Ave.</b>							
Condominiums	35 units	16	12				
Retail	5,266 sq. ft.	11	11			\$4,961	\$4,961
<b>Project Total</b>		<b>27</b>	<b>23</b>	<b>\$131,409</b>	<b>\$111,941</b>	<b>\$45,649</b>	<b>\$35,477</b>
<b>2140 Durant Ave., Buddhist Center</b>							
Office	4,795 sq ft.	5	3.75				
Café/Bookstore	1,916 sq. ft.	6	6			\$2,706	\$2,706
Assembly (Kodo)	3,151 sq. ft.	8	8				
Classrooms	1,430 sq ft.	6	6				
Apartments	4 units	2	2				
Dorm Beds, group living	18 beds	0	0				
Library/study/meeting room	2,764 sq. ft.	4	4				
Less previous use (office)	22,079 sq. ft.	0	0				
<b>Project Total</b>		<b>31</b>	<b>29.75</b>	<b>\$150,877</b>	<b>\$144,793</b>	<b>\$66,281</b>	<b>\$63,102</b>

**Attachment 4: Comparison of Fee Scenarios**

Proposed Fee Levels:

20%	10%	1%	0.1%
\$4,867	\$2,543	\$451	\$242

Project	Square Feet/ # of Units	Estimated PM Peak Hour Trips	Estimated PM Peak Hour Trips w/ TDM reductions	Original Fee Level (no TDM redxns)	Original Fee Level (with TDM redxns)	Proposed Fee without TDM Reductions	Proposed Fee with TDM Reductions <sup>1</sup>
<b>Small-Scale Residential Development and Change of Use Projects</b>							
<b>2104-2108 6th St. (two single-family homes to two duplexes)</b>							
2104 6th St.	2 units	1	1				
2108 6th St.	2 units	1	1				
Less existing residential	2 units	-1	-1				
<b>Project Total</b>		<b>1</b>	<b>1</b>	<b>\$4,867</b>	<b>\$4,867</b>	<b>\$2,543</b>	<b>\$2,543</b>
<b>2500 San Pablo Ave., Café Trieste</b>							
Café	1,198 sq. ft.	Exempt 1st 1K s.f. <b>2</b>	1.8				
Previous Use (retail)	1,198 sq. ft.	-1	-1				
<b>Project Total</b>		<b>1</b>	<b>0.8</b>	<b>\$4,867</b>	<b>\$3,894</b>	<b>\$451</b>	<b>\$361</b>
<b>3290 Adeline, Spud's Restaurant</b>							
Full-service restaurant	3,500 sq. ft.	Exempt 1st 1K s.f. <b>15</b>	13.5				
Previous use (retail)	3,500 sq. ft.	-4	-4				
<b>Project Total</b>		<b>11</b>	<b>10</b>	<b>\$53,537</b>	<b>\$48,670</b>	<b>\$4,961</b>	<b>\$4,510</b>

**Attachment 4: Comparison of Fee Scenarios**

Proposed Fee Levels:

20%	10%	1%	0.1%
\$4,867	\$2,543	\$451	\$242

Project	Square Feet/ # of Units	Estimated PM Peak Hour Trips	Estimated PM Peak Hour Trips w/ TDM reductions	Original Fee Level (no TDM redxns)	Original Fee Level (with TDM redxns)	Proposed Fee without TDM Reductions	Proposed Fee with TDM Reductions <sup>1</sup>
<b>Hypothetical Projects</b>							
New restaurant	3,500 sq. ft.	21	18.9	\$102,207	\$91,986	\$9,471	\$8,524
New, Large-Scale Retail (1%) <sup>2</sup>	25,000 sq. ft.	55	49.5	\$267,685	\$240,917	\$24,805	\$22,325
New, Large-Scale Retail (0.1%) <sup>2</sup>	25,000 sq. ft.	55	49.5	\$267,685	\$240,917	\$13,310	\$11,979
<b>Trader Joe's Complex</b>							
Apartments	156 units	73	54.75				
Trader Joe's	13,515 sq. ft.	141	126.9			\$38,786	\$32,427
Retail	875 sq. ft.	2	1.8			\$902	\$812
Previous Retail Use	20,375 sq. ft.	-55	-55				
<b>Project Total</b>		<b>161</b>	<b>128</b>	<b>\$783,587</b>	<b>\$622,976</b>	<b>\$225,327</b>	<b>\$172,468</b>
<b>Downtown Dinner Theatre and Jazz Club</b>							
Theatre	555 seats	9	8				
Café	30 seats	23	22				
Bar	16 seats	12	11				
<b>Project Total</b>		<b>44</b>	<b>41</b>	<b>\$214,148</b>	<b>\$199,547</b>	<b>\$19,844</b>	<b>\$18,491</b>

1) By incorporating Transportation Demand Management (TDM) programs, projects will be able to reduce their trip generation and thus reduce the total amount of their assessed TSF.

2) The fee for Retail larger than 7,500 s.f. could be reduced to 0.1% of the total TSF if the project is assessed the full affordable housing and childcare fees.



**Attachment 5**  
**Other Cities' Fees: Methodology and Comparisons**

The Planning Commission requested that staff present information on the City of Berkeley's fees as compared with neighboring cities' fees. Staff developed a set of nine projects (one actual and eight prototypical) for fee comparison. Staff created a spreadsheet with fee categories (planning, building, and development fees) that included fee types cities might assess on projects and sent this spreadsheet to the Cities of Oakland, Albany, Emeryville, Fremont, and El Cerrito with the request that staff fill it out with the fee amounts that would be applicable were these projects to be in their cities. The following table presents the fee data collected.

Overall, the City of Berkeley's assessed fees tend to be at the lower end of the range compared with the other cities, with the exception of the new 25,000 square-foot retail. In this case, Berkeley assesses the highest amount of fees compared to the other cities. However, because the amount of the childcare and affordable housing fees assessed on large projects (commercial projects larger than 7,500 square feet) is negotiable, the total for this project is therefore represented as a range.

It is important to note that the fee comparison table does not represent the entire costs of development. The costs of land; costs of producing inclusionary housing units; costs of taxes, other assessments and insurance; and the amount of time required for project review and approval are all factors that affect the total cost of development. Fee comparisons are therefore just one element to consider in comparing the cost of development across jurisdictions.



**Attachment 5: Fee Comparison of Select East Bay Jurisdictions**

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>176-Unit Apartment Building with 3,000 s.f. of Ground-Floor Retail</b>					
<i>A. Average Planning Fees</i>	\$50,096.00		\$33,500.00	\$5,500.00	\$14,431-\$27,979 (depending on level of environmental review)
<i>B. Average Building Fees</i>	\$1,246,070.50		\$494,663.75	\$412,871.28	\$787,500.00
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
<i>C. Impact/Infrastructure Fees</i>					
Parks	n/a		n/a	\$1,349,568.00	n/a
Recreation	n/a		n/a	\$907,280.00	n/a
Capital Improvements/Public Facilities/General City	n/a		n/a	\$348,192.00	n/a
City Sewer/Water	\$209,000.00		\$131,296.00	Separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a		n/a	Separate agency	\$256,080.00
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	15% of units if in a redevelopment area
Inclusionary Zoning Requirement for Affordable Housing	yes, 20% of units		yes, 20% of units	15% of units	no inclusionary requirement but 15% affordable is required within the redevelopment area - individual percentages are negotiated per project
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation <sup>3</sup>	\$103,975.00		\$94,432.00	\$348,192.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$42,090.74	\$37,845.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a		\$474,273.30	\$465,400.00	\$1,269,760.22
<i>Subtotal Impact Fees</i>	\$209,000.00	\$0.00	\$742,092.04	\$3,456,477.00	\$1,525,840
<b>Total all Fees (without proposed TSF)</b>	<b>\$1,505,166.50</b>	<b>\$0.00</b>	<b>\$1,270,255.79</b>	<b>\$3,878,848.28 plus other agency stormwater and sewer fees</b>	<b>\$2,340,689-\$2,327,771, plus \$64 per commercial fixture unit</b>
<b>Total with Proposed TSF (maximum amount, 10%)</b>	<b>\$1,609,141.50</b>				
<b>Percent Increase over Existing Fees</b>	<b>6.9%</b>				

Notes: 1) El Cerrito does not levy any impact or in-lieu fees. While noted in the table above, all school and sewer fees are collected separately by the WCCUSD and Stege Sanitary District, respectively. 2) For all applications in El Cerrito, a fee of \$0.43 per mailing label is collected for the 300 ft. notice list.3) Traffic/Transportation Fees reflect actual fees for all cities except Berkeley; the amount shown in italics for Berkeley reflects the currently proposed TSF.

**NOTE:** This fee comparison study compares city fees for a series of prototype projects. Except for project 1, all projects are hypothetical. The square footage and uses were developed to present possible development projects to which fees might be assessed. The aim of this exercise is to provide a rough comparison of the level of fees assessed by other cities in the East Bay. Note: EBMUD fees are not represented. Berkeley's proposed TSF was not calculated for these projects. Fremont's estimates do not include fire sprinkler fees or Sewer/Water or Stormwater/Drainage fees. It is important to note that the fee comparison table does not represent the entire costs of development; cost of land, cost of producing inclusionary units, and the amount of time projects take are all factors that affect the total cost of development.

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>Café, food service (1,000 sq. ft.)</b>					
A. Average Planning Fees	\$8,204.15	\$1,665.00	\$2,500.00	\$1,200.00	\$4,113.00
B. Average Building Fees	\$4,032.98	\$1,459.50	\$4,986.69	\$3,800.19	\$3,322.20
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	n/a	n/a
Recreation	n/a		n/a	n/a	n/a
Capital Improvements/Public Facilities/General City	n/a	\$129.55	n/a	\$784.00	n/a
City Sewer/Water	\$147.09 per DFU	\$1,402.80	\$149.20 per trap	separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$100.00	n/a	separate agency	\$65 per fixture unit
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	n/a
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$4,059.00		\$5,224.00	\$5,000.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$2,323.47	\$119.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$360.00	\$340.00	\$360.00	\$420.00
Subtotal Impact Fees	\$147.09 per DFU	\$1,992.35	\$7,887.47	\$6,263.00	\$420.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$12,237.13 plus \$147.09 per drainage fixture unit</b>	<b>\$5,116.85</b>	<b>\$15,374.16 plus \$149.20 per sewer trap</b>	<b>\$15,236.19 plus other agency fees for sewer, stormwater</b>	<b>\$7,855.20 plus \$65 per stormwater fixture unit</b>
<b>Total with Proposed TSF (1%)</b>	<b>\$16,296.13 plus \$149.07 per drainage fixture unit</b>				
<b>Percent Increase over Existing Fees</b>	<b>33.2%</b>				

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>Neighborhood-serving Retail (1,000 sq. ft.)</b>					
A. Average Planning Fees	\$387.00	\$1,350.00	\$1,700.00	\$2,500.00	\$4,113.00
B. Average Building Fees	\$2,027.42	\$1,269.32	\$1,974.31	\$3,478.82	\$2,129.40
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	n/a	n/a
Recreation	n/a		n/a	n/a	n/a
Capital Improvements/Public Facilities/General City	n/a	\$650.00	n/a	\$784.00	n/a
City Sewer/Water	\$147.09 per DFU	\$526.05	\$149.20 per trap	separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$100.00	n/a	separate agency	\$65 per fixture unit
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	n/a
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$1,353.00		\$3,523.00	\$5,000.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$2,246.79	\$119.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$360.00	\$340.00	\$360.00	\$420.00
Subtotal Impact Fees	\$1,353.00	\$1,636.05	\$6,109.79	\$6,263.00	\$420.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$2,414.42 plus \$147.09 per drainage fixture</b>	<b>\$4,255.37</b>	<b>\$9,784.10 plus \$149.20 per sewer trap</b>	<b>\$16,241.82 plus other agency sewer and stormwater fees</b>	<b>\$6,662.40 plus \$65 per stormwater fixture unit</b>
<b>Total with Proposed TSF (1%)</b>	<b>\$3,767.42 plus \$147.09 per drainage fixture unit</b>				
<b>Percent Increase over Existing Fees</b>	<b>56.0%</b>				

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>Retail (25,000 sq. ft.)</b>					
A. Average Planning Fees	\$15,652.01	\$13,325.00	\$4,800.00	\$2,400.00	\$6,570.00
B. Average Building Fees	\$55,092.80	\$17,196.13	\$39,295.91	\$17,995.96	\$46,273.50
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	n/a	n/a
Recreation	n/a		n/a	n/a	n/a
Capital Improvements/Public Facilities/General City	n/a	\$16,379.55	n/a	\$19,600.00	n/a
Childcare fee <sup>4</sup>	\$0 - \$25,000				
City Sewer/Water	\$147.09 per DFU	\$1,753.50	\$149.20 per trap	separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$2,500.00	n/a	separate agency	\$65 per fixture unit
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing <sup>5</sup>	\$0 - \$100,000		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	n/a
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$13,310 - \$24,805		\$49,200.00	\$125,000.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$4,280.55	\$2,975.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$9,000.00	\$8,500.00	\$9,000.00	\$10,500.00
Subtotal Impact Fees	\$125,000 plus \$147.09 per drainage fixture unit	\$29,633.05	\$61,980.55	\$156,575.00	\$10,500.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$70,744.81 - \$195,744.81 plus \$147.09 per drainage fixture unit</b>	<b>\$60,154.18</b>	<b>\$106,076.46 plus \$149.20 per sewer trap</b>	<b>\$180,970.96 plus sewer and stormwater agency fees</b>	<b>\$63,343.50 plus \$65 per stormwater fixture unit</b>
<b>Total with Proposed TSF (0.1% - 1%)<sup>4</sup></b>	<b>\$95,549.81 - \$209,054.81 plus \$147.09 per drainage fixture unit</b>				
<b>Percent Increase over Existing Fees</b>	<b>7% - 35%</b>				

4) Fees for affordable housing and childcare may be reduced or waived if imposition of the fees makes a project infeasible and the project's benefits to the City outweigh its impacts on affordable housing and childcare.

5) For retail projects over 7,500 sq. ft., if a project is assessed the full affordable housing and childcare fees, it will be assessed 0.1% of the full TSF amount. If the affordable housing and childcare fees are reduced or waived, then the project will be assessed 1% of the full TSF amount.

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>Office (5,000 sq. ft.)</b>					
A. Average Planning Fees	\$7,283.20	\$4,875.00	\$1,000.00	\$1,200.00	\$4,599.00
B. Average Building Fees	\$15,787.91	\$5,198.48	\$13,398.19	\$8,297.10	\$13,209.70
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	n/a	n/a
Recreation	n/a		n/a	n/a	n/a
Capital Improvements/Public Facilities/General City	n/a	\$3,379.55	n/a	\$6,265.00	n/a
City Sewer/Water	\$147.09 per DFU	\$876.75	\$149.20 per trap	separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$500.00	n/a	separate agency	\$65 per fixture unit
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	n/a
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$12,715.00		\$9,840.00	\$31,800.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$2,863.53	\$955.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$1,800.00	\$1,700.00	\$1,800.00	\$2,100.00
Subtotal Impact Fees	\$147.09 per DFU	\$6,556.30	\$14,403.53	\$40,820.00	\$2,100.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$23,071.11 plus \$147.09 per drainage fixture unit</b>	<b>\$16,629.78</b>	<b>\$28,801.72 plus \$149.20 per sewer trap</b>	<b>\$54,317.10 plus fees from sewer and stromwater agencies</b>	<b>\$19,908.70 plus \$65 per stormwater fixture</b>
<b>Total with Proposed TSF (maximum amount, 10%)</b>	<b>\$35,786.11 plus \$147.09 per drainage fixture unit</b>				
<b>Percent Increase over Existing Fees</b>	<b>55.0%</b>				

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>Change of Use, Retail to Café, Food Service (1,000 sq. ft.)</b>					
A. Average Planning Fees	\$1,718.70	\$675.00	\$900.00	No Planning fees	\$1,781.00
B. Average Building Fees	\$3,042.83	\$426.75	\$2,209.49	\$3,700.97	\$2,491.65
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	n/a	n/a
Recreation	n/a		n/a	n/a	n/a
Capital Improvements/Public Facilities/General City	n/a	\$0.00	n/a	n/a - same use category	n/a
City Sewer/Water	\$147.09 per DFU	\$701.40	\$149.20 per trap	separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$0.00	n/a	separate agency	\$65 per fixture unit
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	n/a
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$0.00		\$1,701.00	n/a - same use category	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$3,266.00	n/a - same use category	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$0.00	\$0.00	\$360.00	\$420.00
Subtotal Impact Fees	\$147.09 per DFU	\$701.40	\$4,967.00	\$360.00	\$420.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$4,761.53 plus \$147.09 per drainage fixture unit</b>	<b>\$1,803.15</b>	<b>\$8,076.49 plus \$149.20 per sewer trap</b>	<b>\$8,060.97 plus water and stormwater agency fees</b>	<b>\$4,692 plus \$65 per stormwater fixture unit</b>
<b>Total with Proposed TSF</b>	<b>Exempt from TSF</b>				

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>Single-Family Residence</b>					
A. Average Planning Fees	\$4,440.15	\$2,663.86	\$200.00	\$975.00	\$262.00
B. Average Building Fees	\$9,367.75	\$2,272.68	\$5,375.81	\$7,916.06	\$7,830.90
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$1,800.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	\$11,519.00	n/a
Recreation	n/a		n/a	\$7,745.00	n/a
Capital Improvements/Public Facilities/General City	n/a	\$1,494.55	n/a		n/a
City Sewer/Water	\$147.09 per DFU	\$1,122.00	\$746.00	separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$85.00	n/a	separate agency	\$1,485.00
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	n/a
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$5,086.00		\$819.00	\$2,513.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		n/a	\$321.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$3,360.00	\$6,420.00	\$6,720.00	\$11,580.00
Subtotal Impact Fees	\$147.09 per DFU	\$6,061.55	\$7,985.00	\$28,818.00	\$13,065.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$13,807.90 plus \$147.09 per drainage fixture unit</b>	<b>\$10,998.09</b>	<b>\$13,560.81</b>	<b>\$39,509.06 plus water and stormwater agency fees</b>	<b>\$21,157.90</b>
<b>Total with Proposed TSF (maximum amount, 10%)</b>	<b>\$18893.90 plus \$147.09 per drainage fixture unit</b>				
<b>Percent Increase over Existing Fees</b>	<b>37.0%</b>				

	Berkeley	Albany	Emeryville	Fremont	El Cerrito <sup>1,2</sup>
<b>4-Unit, Multi-Family Residential</b>					
A. Average Planning Fees	\$4,440.15	\$5,396.60	\$2,250.00	\$4,800.00	\$709.00
B. Average Building Fees	13,584.19	\$5,085.90	\$7,245.54	\$8,413.04	\$11,388.83
<b>B (a) Development Review Deposit * Cost Center (Fremont only)</b>				\$4,000.00	
C. Impact/Infrastructure Fees					
Parks	n/a		n/a	\$30,672.00	n/a
Recreation	n/a		n/a	\$20,620.00	n/a
Capital Improvements/Public Facilities/General City	n/a	\$4,854.55	n/a	\$7,860.00	n/a
City Sewer/Water	\$147.09 per DFU	\$4,488.00	\$2,984.00	Separate agency	incl. in bldg. fees
City Stormwater/Drainage	n/a	\$250.00	n/a	Separate agency	\$5,820.00
Libraries	n/a		n/a	n/a	n/a
Community Centers	n/a		n/a	n/a	n/a
Affordable Housing	n/a		n/a	n/a	n/a
Inclusionary Zoning Requirement for Affordable Housing	n/a		n/a	n/a	15% of units if in a redevelopment area
In-Lieu Fee for Affordable Housing	n/a		n/a	n/a	n/a
Traffic/Transportation	\$5,086.00		\$2,012.00	\$7,796.00	incl. in bldg. fees
Parking or Parking In-Lieu Fee	n/a		n/a	n/a	n/a
Fire	n/a		\$2,785.49	\$852.00	incl. in bldg. fees
Police	n/a		n/a	n/a	n/a
Schools	n/a	\$8,960.00	\$9,844.00	\$8,960.00	\$17,756.00
Subtotal Impact Fees	\$147.09 per DFU	\$18,552.55	\$17,625.49	\$76,760.00	\$23,576.00
<b>Total all Fees (without proposed TSF)</b>	<b>\$18,024.34 plus \$147.09 per drainage fixture unit</b>	<b>\$29,035.05</b>	<b>\$27,121.03</b>	<b>\$89,173.04 plus water and sewer agency fees</b>	<b>\$35,673.83</b>
<b>Total with Proposed TSF (maximum amount, 10%)</b>	<b>\$23,110.34 plus \$147.09 per drainage fixture unit</b>				
<b>Percent Increase over Existing Fees</b>	<b>28.0%</b>				