



SAN FRANCISCO PLANNING DEPARTMENT

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BOARD OF SUPERVISORS
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File 150790

September 11, 2015

Ms. Angela Calvillo, Clerk
Honorable Supervisor Wiener
Board of Supervisors
City and County of San Francisco
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

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**Re: Transmittal of Planning Department Case Number 2015-009096PCA:
Establishing a New Citywide Transportation Sustainability Fee
Board File No. 150790
Planning Commission Recommendation: Approval with Modifications**

Dear Ms. Calvillo and Supervisor Wiener:

On September 10, 2015, the San Francisco Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposal introduced by Supervisors Scott Wiener, Breed, and Christensen to: create a new Planning Code Section 411A; amend Planning Code Sections 411 (Transit Impact Development Fee), 401 (Definitions), and 406 (Waiver, Reduction, or Adjustment of Development Project Requirements); and to make other conforming amendments to the Area Plan Fees in Planning Code Article 4. At the hearing, the Planning Commission recommended approval with modifications.

The proposed amendments have been determined to be not a project under the California Environmental Quality Act Guidelines Section 15378(b)(4) and is thus exempt from environmental review. Pursuant to San Francisco's Administrative Code Section 8.12.5 "Electronic Distribution of Multi-page Documents", the Department is sending electronic documents and one hard copy. Additional hard copies may be requested by contacting Lisa Chen at (415)575-9124.

Supervisor, please advise the City Attorney at your earliest convenience if you wish to incorporate the changes recommended by the Commissions.

Please find attached documents relating to the action of the Planning Commission, as well as a resolution issued by the SFMTA Board of Directors and a list of Board and public comments heard at their September 1st meeting. If you have any questions or require further information please do not hesitate to contact me.

Sincerely,

Aaron D. Starr
Manager of Legislative Affairs

Transmittal Materials

**CASE NO. 2015-009096PCA
Establishing a New Transportation Sustainability Fee**

cc:

Andres Power, Aide, Supervisor Wiener's Office

Jon Givner, Deputy City Attorney

Andrea Ruiz-Esquide, Deputy City Attorney

Nicole Elliot, Mayor's Director of Legislative & Government Affairs

Attachments (two hard copies of the following):

Planning Commission Resolution

SFMTA Board of Directors Resolution No 15-123

SFMTA Board of Directors September 1st Meeting: Summary of Board Member & Public Comments

Planning Department Executive Summary



SAN FRANCISCO PLANNING DEPARTMENT

Planning Commission Resolution No. 19454 HEARING DATE SEPTEMBER 10, 2015

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Project Name: Establishing a New Transportation Sustainability Fee
Case Number: 2015-009096PCA [Board File No. 150790]
Initiated by: Mayor Lee and Supervisor Wiener, Supervisor Breed, and Supervisor Christensen / Substituted September 8, 2015
Staff Contact: Lisa Chen, Planner, Citywide Division
 lisa.chen@sfgov.org, 415-575-9124
Reviewed by: Adam Varat, Senior Planner, Citywide Division
 adam.varat@sfgov.org, 415-558-6405
Recommendation: Recommend Approval

RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT A PROPOSED ORDINANCE AMENDING THE PLANNING CODE BY ESTABLISHING A NEW CITYWIDE TRANSPORTATION SUSTAINABILITY FEE AND SUSPENDING APPLICATION OF THE EXISTING TRANSIT IMPACT DEVELOPMENT FEE, WITH SOME EXCEPTIONS, AS LONG AS THE TRANSPORTATION SUSTAINABILITY FEE REMAINS OPERATIVE; AMENDING SECTION 401 TO ADD DEFINITIONS REFLECTING THESE CHANGES; AMENDING SECTION 406 TO CLARIFY AFFORDABLE HOUSING AND HOMELESS SHELTER EXEMPTIONS FROM THE TRANSPORTATION SUSTAINABILITY FEE; MAKING CONFORMING AMENDMENTS TO THE AREA PLAN FEES IN ARTICLE 4 OF THE PLANNING CODE; AFFIRMING THE PLANNING DEPARTMENT'S DETERMINATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND MAKING FINDINGS, INCLUDING GENERAL FINDINGS, FINDINGS OF PUBLIC NECESSITY, CONVENIENCE AND WELFARE, AND FINDINGS OF CONSISTENCY WITH THE GENERAL PLAN AND THE EIGHT PRIORITY POLICIES OF PLANNING CODE SECTION 101.1.

WHEREAS, on September 8, 2015 Mayor Lee and Supervisors Wiener, Breed, and Christensen introduced a proposed Ordinance under Board of Supervisors (hereinafter "Board") File Number 150790, which would amend the Planning Code to establish a new Transportation Sustainability Fee (hereinafter TSF) and suspend application of the current Transit Impact Development Fee (TIDF), with some exceptions, for as long as the TSF is in effect; and

WHEREAS, San Francisco is a popular place to work, live and visit, placing strain on the City's existing transportation network; and

WHEREAS, Since 1981, the City has imposed a Transit Impact Development Fee ("TIDF") on new development in the City, first limited to office space in the downtown core, and expanded to most non-residential uses citywide in 2004; and

WHEREAS, Starting in 2009, the City and the San Francisco County Transportation Authority have worked to develop a comprehensive citywide transportation fee and supporting nexus study (the "TSF Nexus Study"), published in 2015; and

WHEREAS, The TSF Nexus Study concluded that all new land uses in San Francisco will generate an increased demand for transportation infrastructure and services, and recommended that the TSF apply to both residential and non-residential development project in the City; and

WHEREAS, This fee would help offset impacts of both residential and non-residential development projects on the City's transportation network, including impacts on transportation infrastructure that support pedestrian and bicycle travel; and

WHEREAS, The TSF rates take into consideration the recommendations of a TSF Economic Feasibility Study that analyzed the impact of the TSF on the feasibility of development projects throughout the City; and

WHEREAS, The TSF Expenditure Plan will help enable the San Francisco Municipal Transportation Agency ("SFMTA") and other regional transportation agencies serving San Francisco to meet the demand generated by new development and thus maintain their existing level of service; and

WHEREAS, The TSF will require sponsors of development projects in the City to pay a fee that is reasonably related to the financial burden such projects impose on the City's transportation network; and

WHEREAS, Every five years, or sooner if requested by the Mayor or the Board of Supervisors, the SFMTA will update the TSF Economic Feasibility Study, analyzing the impact of the TSF on the feasibility of development, throughout the City; and

WHEREAS, The Planning Department determined that the proposed legislation is not a project under the California Environmental Quality Act, as a "government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment." (CEQA Guidelines Section 15378(b)(4)); and

WHEREAS, The Planning Commission (hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to consider the proposed Ordinance on September 10, 2015; and

WHEREAS, the Planning Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of Department staff and other interested parties; and

WHEREAS, all pertinent documents may be found in the files of the Department, as the custodian of records, at 1650 Mission Street, Suite 400, San Francisco; and

WHEREAS, the Planning Commission has reviewed the proposed Ordinance; now, therefore, be it

MOVED, that the Planning Commission hereby recommends that the Board of Supervisors **approval the proposed ordinance with the following modifications:**

1. Grandfather residential projects before July 1, 2014 with a 50% fee reduction and residential projects after July 1, 2014 with a 25% fee reduction;
2. Exempt non-profit secondary institutions that require a full Institutional Master Plan from paying the fee;
3. Apply the fee to non-profit hospitals that require a full Institutional Master Plan;
4. Request that the Board consider fee rates of up to 33% of nexus, subject to further analysis of development feasibility;
5. Request that the Board consider graduated fee rates based on area/neighborhood of the city, and/or consider removing the area plan fee reduction; and,
6. Require economic feasibility analysis updates every three years rather than five, and include the Planning Commission as an entity that may request analyses sooner.

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

7. Substantial investments in infrastructure are needed to address the predicted demands on the transportation system and street network generated by new growth.
8. The TSF is an efficient and equitable method of providing funds to address the transportation demands imposed on the City by new development projects, and is projected to generate approximately \$1.2 billion in revenue over the next 30 years, of which approximately \$420 million would be new revenue.
9. The TSF rates were set to maximize revenues for transportation and complete streets without making developments too costly to build, and were based on the findings of the TSF Nexus Study and TSF Economic Feasibility Study.
10. **General Plan Compliance.** The proposed amendments to the Planning Code are not addressed in the General Plan; the Commission finds that the proposed Ordinance is not inconsistent with the Objectives and Policies of the General Plan.
11. **Planning Code Section 101 Findings.** The proposed amendments to the Planning Code are consistent with the eight Priority Policies set forth in Section 101.1(b) of the Planning Code in that:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The proposed Ordinance would not have a negative impact on neighborhood serving retail uses and will not impact opportunities for resident employment in and ownership of neighborhood-serving retail.

2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The proposed Ordinance would not have a negative effect on housing or neighborhood character.

3. That the City's supply of affordable housing be preserved and enhanced;

The proposed Ordinance would not have an adverse effect on the City's supply of affordable housing.

4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The proposed Ordinance would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking, and would raise revenues to enhance transit service and improve streets to meet growing demand.

5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;

The proposed Ordinance would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The proposed Ordinance would not have an impact on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The proposed Ordinance would not have an impact on the City's Landmarks and historic buildings.

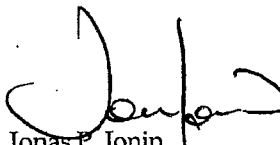
8. That our parks and open space and their access to sunlight and vistas be protected from development;

The proposed Ordinance would not have an impact on the City's parks and open space and their access to sunlight and vistas.

8. **Planning Code Section 302 Findings.** The Planning Commission finds from the facts presented that the public necessity, convenience and general welfare require the proposed amendments to the Planning Code as set forth in Section 302.

NOW THEREFORE BE IT RESOLVED that the Commission hereby recommends that the Board ADOPT the proposed Ordinance as described in this Resolution.

I hereby certify that the foregoing Resolution was adopted by the Commission at its meeting on September 10, 2015.



Jonas P. Ionin
Commission Secretary

AYES: Fong, Wu, Antonini, Hillis, Johnson, Moore, Richards

NOES:

ABSENT:

ADOPTED:



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary Planning Code Text Change HEARING DATE: SEPTEMBER 10, 2015

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Project Name: Establishing a New Citywide Transportation Sustainability Fee
Case Number: 2015-009096PCA [Board File No. 150790]
Initiated by: Mayor Lee, Supervisor Wiener, Supervisor Breed, and
Supervisor Christensen / Substituted July 28, 2015
Staff Contact: Lisa Chen, Planner, Citywide Division
lisa.chen@sfgov.org, 415-575-9124
Reviewed by: Adam Varat, Senior Planner, Citywide Division
adam.varat@sfgov.org, 415-558-6405
Recommendation: Recommend Approval

PLANNING CODE AMENDMENT

The proposed Ordinance would amend the Planning Code by: establishing a new citywide Transportation Sustainability Fee (TSF) and suspending application of the existing Transit Impact Development Fee (TIDF), with some exceptions, as long as the TSF remains operative; amending Section 401 to add definitions reflecting these changes; amending Section 406 to clarify affordable housing and homeless shelter exemptions from the Transportation Sustainability Fee; amending conforming amendments to the Area Plan fees in Planning Code, Article 4; affirming the Planning Department's determination under the California Environmental Quality Act; and, making findings, including general findings, findings of public necessity, convenience and welfare, and findings of consistency with the General Plan and the eight priority policies of Planning Code Section 101.1.

Overview: The Transportation Sustainability Program (TSP)

San Francisco is a popular place to work, live and visit, placing strains on the City's existing transportation network. The City is projected to grow substantially over the next 25 years – by 2040, up to 100,000 new households and 190,000 new jobs are expected in San Francisco.¹ Without enhancements to our transportation network, this growth will result in more than 600,000 cars on our streets – or more than all the cars traveling each day on the Bay and Golden Gate bridges combined. If we don't invest in transportation improvements citywide, we can expect unprecedented gridlock on our streets, and crowding on our buses and trains.

The City is addressing the need to enhance and expand the system in a comprehensive way, including making multiple public investments in key projects such as:

¹ Association of Bay Area Governments (ABAG), *Projections 2013*.

- Transit capital and operational investments (Central Subway, Muni Forward, Bus Rapid Transit Projects, etc.)
- Bicycle infrastructure (protected lanes, parking, etc.)
- Pedestrian safety (Vision Zero, Walk First, etc.)

The Transportation Sustainability Program ("TSP") is an initiative aimed at improving and expanding the transportation system to help accommodate new growth, and creating a policy framework for private development to contribute to minimizing its impact on the transportation system, including helping to pay for the system's enhancement and expansion. The TSP is a joint effort by the Mayor's Office, the San Francisco Planning Department, the San Francisco County Transportation Authority and the San Francisco Municipal Transportation Agency (SFMTA), comprised of the following three components:

1. **Invest: Fund Transportation Improvements to Support Growth.** The proposed Transportation Sustainability Fee ("TSF") would be assessed on new development, including residential development, to help fund improvements to transit capacity and reliability as well as bicycle and pedestrian improvements.
2. **Align: Modernize Environmental Review.** This component of the TSP will change how the City analyzes impacts of new development on the transportation system under the California Environmental Quality Act (CEQA). This reform has been prompted by California State Bill 743, which requires that the existing Level of Service (LOS) transportation review standard be replaced with a more meaningful metric such as Vehicles Miles Traveled (VMT). The Governor's Office of Planning and Research (OPR) and the Secretary of Natural Resources are currently working to develop the new transportation review guidelines, and are expected to release new CEQA guidelines in 2016.
3. **Shift: Encourage Sustainable Travel.** This component of the TSP will help manage demand on the transportation network through a Transportation Demand Management (TDM) Program, making sure new developments are designed to make it easier for new residents, visitors, and workers to get around more easily without a car. The City will create a consolidated menu of TDM options to help developers design projects that encourage more environmentally-friendly travel modes such as transit, walking, and biking. Public outreach on the TDM program is expected to begin in Fall or Winter 2015.

These three components are discrete policy initiatives that are programmatically linked through the TSP. The focus of this Planning Code amendment is on the first component of the program, the Transportation Sustainability Fee (TSF), which was introduced at the Board of Supervisors by Mayor Lee and co-sponsoring Supervisors Wiener, Breed, and Christensen on July 21st, 2015 [BOS File No. 150790]. The changes to CEQA are being led at the state level, while the TDM component will be considered separately at future hearings.

The TSF is a proposed citywide development impact fee intended to help offset the impact of new development on the City's transportation system. In 2013, Mayor Edwin Lee convened a Transportation Task Force to investigate what San Francisco needs to do to fix our transportation

network and prepare it for the future. The Task Force found that in order to meet current need and future demand, the City needs to invest \$10 billion in transportation infrastructure through 2030, including \$6.3 billion in new revenue. In November 2014, San Francisco voters passed Proposition A, approving a \$500 million one-time investment in transportation infrastructure. They also passed Proposition B, which is projected to contribute about \$300 million for transportation over the next 15 years. These funds are dedicated to improving the City's existing transportation infrastructure and do not materially address the need to expand the system's capacity, which will be required to accommodate new growth.

The TSF would provide additional revenue to help fill the City's transportation funding gap. The TSF would replace the current Transit Impact Development Fee (TIDF; Planning Code Section 411), which is a citywide impact fee on nonresidential development, and would expand applicability to include both larger market-rate residential and nonresidential uses. Developments would pay the proposed fee, contributing a portion of their fair share to help pay for transportation system expansion and efficiency measures to serve the demand created by new residents and workers.

On May 15, 2012, Mayor Lee, along with co-sponsoring Supervisors Wiener and Olague, introduced a previous ordinance to establish a Transportation Sustainability Fee [BOS File no. 120524], which was proposed to replace the TIDF and expand applicability to residential and nonprofit uses. At that time, the fee was contemplated as both a mitigation fee under CEQA and a development impact fee, and a draft nexus study and economic feasibility study were developed.

The TSF was reintroduced by Mayor Lee and co-sponsoring Supervisors Wiener, Breed, and Christensen on July 21, 2015. As part of the new proposal, the City and the San Francisco County Transportation Authority have reconfigured the program and are now proposing the TSF as a development impact fee only. This proposal includes an updated nexus study and economic feasibility study (Exhibits D and E, respectively), as well as an expenditure plan that would allocate funds towards categories of projects intended to offset impacts of new development on the City's transportation network, including transit capital maintenance, transit expansion and reliability, and pedestrian and bicycle projects.²

In the course of developing the TSF proposal, staff conducted extensive outreach to affected stakeholders to solicit feedback on the fee. Public outreach included but was not limited to the following groups: Citizen Advisory Committees (SFMTA, SFCTA, Eastern Neighborhoods, Market & Octavia); SFCTA Board; Housing Action Coalition; Chamber of Commerce; Residential Builders Association; BART; Hospital Council; SFMTA Board Policy and Governance Committee and Full Board, San Francisco Bicycle Coalition; WalkSF; residential and commercial real estate developers; participants in the Muni Equity Strategy Working Group – including Chinatown Community Development Center, Transit Riders, Senior & Disability Action, Council of Community Housing Organizations; SPUR; BOMA; San Francisco Labor Council; the Small Business Commission, and others. A full schedule of outreach meetings and public hearings is

²The Complete Streets nexus was established by the Citywide Nexus Study available at: http://www.sf-planning.org/ftp/files/plans-and-programs/plan-implementation/20140403_SFCityWideNexusAnalysis_March2014.pdf

attached (Exhibit F). Staff considered the feedback received during this process when drafting the proposed legislation.

The Way It Is Now:

The Transit Impact Development Fee, or TIDF (Section 411), is an impact fee levied on most non-residential development citywide and serves as the City's primary mechanism to offset the impacts of new development on the transportation system. Revenue generated by the fee is directed to the SFMTA and used to fund Muni transit capital and preventive maintenance. First enacted in the Downtown area by local ordinance in 1981, the fee has been amended in 2004, 2010, and 2012 to expand both the geographic scope and the types of development subject to the fee, in recognition that a broad range of uses have impacts on the City's transit system. The TIDF rates are applied to seven non-residential economic activity categories as follows:

Table 1. Transit Impact Development Fee (TIDF)
(2015 Rates)

<i>Use</i>	<i>Fee [\$/GSF]</i>
Management, Information, and Professional Services	\$13.87
Retail/Entertainment	\$14.59
Cultural/Institution/Education	\$14.59
Medical	\$14.59
Visitor services	\$13.87
Museum	\$12.12
PDR	\$7.46

The TIDF does not apply to residential uses, and currently there is no citywide transportation impact fee on residential uses. However, in many plan areas, both residential and nonresidential projects pay an area plan impact fee that allocates a portion of revenues to transportation within the specific Area Plans. Many of these area plans also allocate a portion of funds to complete streets projects (such as pedestrian safety and bicycle projects); however, there is currently no citywide impact fee dedicated to complete streets projects.

The TIDF also exempts properties owned and operated by non-profits (through a Charitable Exemption process per Section 411.8) and by the city, state, and federal governments. Projects that fall within a redevelopment plan or an area covered by an existing development agreement are also exempt, to the extent that application of the fee would violate the terms of that plan or agreement.

Required payment of the TIDF is triggered by an application for any of the following:

- New construction of 800 square feet or greater;
- Additions of greater than 800 square feet to an existing building; and,
- Changes of use greater than 800 square feet from an economic activity category with a lower fee rate to a category with a higher fee rate.

A prior use credit is available for existing uses on the project site, as long as such uses were an approved and active use within five years prior to the date of the development application.

Finally, the existing TIDF includes a Policy Credit program (Section 411.3(d)(2)) that may reduce or eliminate the fee burden for some projects if they reduce onsite parking supply or if they qualify as a small business (defined as a business that is less than 5,000 square feet; formula retail uses are ineligible). Credits are available first-come, first-served on an annual basis, until the annual limit is reached (equal to 3% of the total anticipated TIDF revenue for the current fiscal year).

The Way It Would Be:

Proposed TSF Fee Rates

If adopted, the TSF would replace the current TIDF for as long as the TSF remains in effect. It would apply to commercial developments, large market-rate residential developments, and large non-profit universities (those that are required to submit a full Institutional Master Plan per Section 304.5). Under the TSF, there would be no change in the status quo for the vast majority of nonprofits, who would continue to be eligible for a Charitable Exemption. The TSF would consolidate land use categories into residential, non-residential, and PDR, consistent with other Planning Code impact fees. Table 2 shows the proposed fee TSF rates and how they compare to the current TIDF rates.

Table 2. TIDF vs. TSF Proposed Fee Schedule

<i>Use</i>	<i>Existing: Transit Impact Development Fee (TIDF)</i> [\$/GSF]	<i>Proposed: Transportation Sustainability Fee (TSF)</i> [\$/GSF]
Residential	n/a	\$7.74
Nonresidential	\$13.87 - \$14.59	\$18.04
PDR	\$7.46	\$7.61

These proposed fee amounts were informed by two reports: the San Francisco Transportation Sustainability Fee Nexus Study ("TSF Nexus Study") and the San Francisco Transportation Sustainability Fee Economic Feasibility Study ("TSF Economic Feasibility Study"). The TSF Nexus Study describes the total cost to the City of providing transit service to the new population, based on the increased transportation demand from new development. The TSF Economic Feasibility Study evaluated the potential impact of a range of fee levels on new development, to determine how high fees could be set without making projects too costly to

build. See the following sections for further discussion of how the proposed fee amounts were established.

The legislation would require the City to update the TSF Economic Feasibility Study every five years, or sooner if requested by the Mayor or the Board of Supervisors. This update will analyze the impact of the TSF on the feasibility of development throughout the city.

TSF Nexus Study

The proposed fee rates are based on two technical documents – the TSF Nexus Study and the TSF Economic Feasibility Study. The TSF Nexus Study, developed by Urban Economics, is intended to meet the requirements of the California Mitigation Fee Act. (California Government Code Section 66000 et seq). This statute establishes requirements and principles for local jurisdictions to impose certain fees as a condition of development approval. One of the requirements is that the local jurisdiction establish a reasonable relationship or “nexus” between the impacts of new development and the use of the proposed fee.

The TSF Nexus Study identified a range of transportation projects that will be needed to serve new growth and established that the total cost to the City of providing these services through 2040 is as follows:

Table 3: Maximum Justified TSF¹ per Building Square Foot (2015 dollars)

<i>Use</i>	<i>Transit</i> ²	<i>Complete streets</i> ³	<i>Total</i>
Residential	\$22.59	\$8.34	\$30.93
Nonresidential (excluding PDR)	\$80.68	\$6.74	\$87.42
Production, Distribution, Repair (PDR)	\$22.59	\$3.48	\$26.07

1. The TSF Nexus Study describes the maximum amount of development impact fees that can be charged for transit and complete streets projects, inclusive of citywide fees (e.g. TIDF, TSF) and any area plan impact fees that include a transit or complete streets component.
2. Includes transit capital maintenance and transit capital facilities.
3. Nexus established in the San Francisco Citywide Nexus Study (2014). Includes bicycle facilities plus pedestrian and other streetscape infrastructure.

The nexus study methodology involved estimating the demand for new infrastructure, based on a consistent set of development estimates for 2010 and land use projections for 2040. These estimates are converted to trip generation estimates and used to evaluate the impact of development on the transportation system, and subsequently, the cost of new infrastructure needed to address this demand. Further information on the land use and trip generation assumptions used to establish the maximum justified TSF rates can be found in Appendix A of the TSF Nexus Study.³

³ Residential trip generation calculations are based on housing unit sizes from the Eastern Neighborhoods Nexus Study (2008). Nonresidential trip generation calculations are based on trip generation rates from the TIDF Nexus Study (2011)

The nexus study determines the legally justified maximum rate that can be charged to new development. In order to understand the implications of the fee on new development, the City also commissioned a TSF Economic Feasibility Study to help determine the ultimate fee rates.

TSF Economic Feasibility Study

The concurrent TSF Economic Feasibility Study, conducted by Seifel Consulting, helped inform what fee levels would maximize transportation revenues, without stifling development or causing housing and commercial real estate costs to increase substantially. The study evaluated the potential impact of the proposed TSF on new residential and non-residential developments citywide, by modeling the financial feasibility of ten development prototypes (seven residential, three nonresidential) under several fee scenarios, representing fee rates ranging from 100% to 250% of levels initially proposed in the 2012 TSF proposed ordinance. This translates to a range of \$6.19 - \$15.48/GSF for residential uses and \$14.43 - \$36.08/GSF for nonresidential uses.

The economic feasibility study found that the current market could support \$7.74/GSF for residential uses and \$18.04/GSF for non-residential uses citywide, or roughly 125% of the levels proposed in 2012 (accounting for cost inflation). These fees would amount to an increase of roughly 1 to 2% of construction costs for residential developments, and less than 1% of construction costs for nonresidential projects, depending on project and construction type. The study found that this would not have a major impact on overall project feasibility or resulting housing costs in neighborhoods where most new development is occurring.

The study also found that raising the TSF above these proposed amounts could inhibit development feasibility in some areas of the city and for some project types. New development in certain neighborhoods in the City – such as the western neighborhoods and outer Mission – have lower than average price levels and rents and may not be financially feasible given the current high cost of construction relative to potential revenues. While the TSF itself will not cause these developments to be infeasible, it may further distance these areas from development feasibility. As the City wants to ensure that new housing and other development can occur in these areas, the study recommended setting fees no higher than what was ultimately proposed in the TSF ordinance. As part of the TSF proposal, the City will renew the economic feasibility analysis every five years – or sooner if requested by the Mayor or the Board of Supervisors – to ensure that the fee levels are appropriate.

The following Table 4 illustrates the proposed TSF rates compared to the maximum justified nexus amounts identified in the TSF Nexus Study, taking into consideration the contribution of area plan fees which may include expenditures that fall under the transit and complete streets nexus categories.

and employment density factors that are consistent with the Planning Department's land use allocation tool, with the exception of office development. Office trip generation calculations utilize the TIDF trip generation rate and an employment density factor that blends the citywide factor with the recent figure identified in the Central SoMa draft EIR analysis, which found that the area has higher employment densities than the city average (see Table A-3 of the TSF Nexus Study for more information).

Table 4. Proposed Fees compared to Transit and Complete Streets Nexus

<i>Use</i>	<i>Proposed TSF (\$/GSF)</i>	<i>Transit: Total fees as a % of maximum justified nexus¹</i>	<i>Complete streets: Total fees as a % of maximum justified nexus¹</i>
Residential	\$7.74	33% - 34% (in area plans: 33% - 34%)	3% - 99% (in area plans: 30% - 99%)
Non-residential	\$18.04	21% - 32% (in area plans: 22% - 32%)	8% - 89% (in area plans: 18% - 89%)
PDR	\$7.61	32% - 33% (in area plans: 32% - 33%)	7% (in area plans: 7%)
1. "Total fees as a % of maximum justified nexus" includes portions of area plan impact fees that are dedicated to transit and complete streets projects, with the exception of the Transit Center District Plan area. That area plan fee (the Transit Center Transportation & Street Improvement Fee) has a separate nexus designated for specific projects meant to address the substantial impacts on transit associated with areas developed to such a high level of density.			

TSF Applicability and Exemptions

The proposed TSF would apply to any development project that results in:

- More than 20 new dwelling units
- New group facilities, or additions of 800 gross square feet or more to an existing group housing facility
- New construction or additions of non-residential or PDR uses greater than 800 gross square feet
- Changes/replacement of use from a category with a lower fee rate to a category with a higher fee rate

The following table summarizes how these fee triggers compare to the current TIDF.

Table 5: Fee Triggers, TIDF vs. Proposed TSF

<i>Development Type</i>	<i>TIDF Fee Trigger</i>	<i>Proposed TSF Fee Trigger</i>
Non-residential and PDR	New construction of 800 sf or greater Additions of 800 sf or greater	New construction of 800 sf or greater Additions of 800 sf or greater
Residential	n/a (not assessed on residential)	Any development (new construction or additions) that results in more than 20 new units New group housing facilities or additions of 800 sf or more to an existing facility
Changes of use	All changes of use of 800 sf or greater	All changes of use, except for small businesses (see below)

Under the proposed TSF, the following types of development would be exempt from paying the fee. Many of these exemptions are intended to ensure that the TSF is aligned with other citywide policy goals (e.g. increasing production of affordable housing).

- Affordable housing: income-restricted housing units up to 80% of AMI, consistent with other Planning Code impact fees; income-restricted middle-income units up to 150% of AMI if they are located in a building where all of the units are income-restricted. Inclusionary housing units as required under Section 415 would still be subject to the fee.
- HOPE SF projects, including market-rate and affordable units, and non-residential square footage.
- Small businesses (< 5,000 square feet) applying for a change of use from PDR to Non-Residential, except formula retail.
- Non-profit institutions (same as existing TIDF), except for large non-profit universities that are required to submit a full Institutional Master Plan (Section 304.5).
 - Non-profit hospitals would continue to be exempt. However, the ordinance proposes that the Board of Supervisors may vote to apply the TSF to hospitals when California's Seismic Safety Law requirements are exhausted (currently estimated for 2030).
- Projects that fall within a redevelopment plan or area covered by a development agreement, to the extent that application of the fee would violate the terms of that plan or agreement (same as existing TIDF).
- City-, state-, and federally-owned projects (same as existing TIDF).

The proposed TSF would eliminate the current TIDF requirement for prior uses to be active within the last five years in order to receive a fee credit, which would increase the number of projects that would be eligible to receive a credit for prior uses on site. This change would streamline administration of the fee and is consistent with the way other area plan fees are assessed in the Planning Code.

The proposal would also eliminate the policy credits program currently in the TIDF, which is a first-come, first-served program to reduce or eliminate fees for small businesses and projects that reduce onsite parking. The TSF proposes a small business exemption that would, in effect, expand the existing policy credit system and apply it to all qualifying small businesses, obviating the need for a credit. The TSF would not provide any reduction or credit for projects that reduce onsite parking. The existing policy credit system does not serve as an adequate incentive for developers to reduce their parking supply, as the available credits are very limited in scope and are typically expended early in the year. However, parking reduction is being contemplated as one of the tools that may be included in a future Transportation Demand Management program, which is another component of the TSP.

Relationship to Area Plan Fees

Developments in many plan areas – where much of the city’s growth is concentrated – currently pay area plan impact fees that require a specific portion of revenues to be allocated to transit and/or complete streets projects. Under the TSF proposal, residential projects in some area plans may be eligible for a reduction of their area plan fee, which can help offset some of the cost of the TSF. Non-residential developments would not receive such a fee reduction, and would continue to pay both the full citywide transportation fee (the proposed TSF) and the full area plan impact fee, as they do under the existing TIDF.

The area plan fee reduction for residential uses would be equal to the transit component of the area plan infrastructure fee, up to the full amount of the TSF. (For example, the Market & Octavia Community Improvements Fee on residential uses requires 22% of fee revenues to be allocated to transit projects, so the fee reduction would be \$10.92/GSF (2015 rates) multiplied by 22%, which equals \$2.40/GSF.) Residential projects (as well as non-residential projects) would continue to pay the complete streets portion of the area plan in full, and would not receive any fee reduction for this amount.

Taking into consideration the area plan fee reduction, the net new residential fee under the proposed TSF would be as follows:

Table 6: Residential Fee Increases in Area Plans Under Proposed TSF (2015 fee rates)

<i>Plan area</i>	<i>Area plan residential fee reduction (\$/GSF)</i>	<i>Net new residential fee (Proposed TSF Rate, Less area plan fee reduction) (\$/GSF)</i>
Outside of Area Plans	\$0.00	\$7.74
Eastern Neighborhoods		
Tier 1	\$0.97	\$6.77
Tier 2	\$1.46	\$6.28
Tier 3	\$1.94	\$5.80
Balboa Park	\$1.17	\$6.57
Market & Octavia	\$2.40	\$5.34
Van Ness & Market SUD	\$4.00	\$3.74
Visitacion Valley ¹	\$0.00	\$7.74
Rincon Hill ¹	\$0.00	\$7.74
Transit Center District Plan (TCDP)²		
Tier 1 (FAR below 1:9)	\$0.00	\$7.74
Tier 2 (FAR 1:9 to 1:18)	\$0.00	\$7.74
Tier 3 (FAR above 1:18)	\$0.00	\$7.74
1. The area plan fees for Visitacion Valley and Rincon Hill do not include a component for transit, so there would be no area plan fee reduction. 2. Transit Center District Plan is not eligible for an area plan fee reduction. The Transit Center Transportation and Street Improvement Fee is designated to address the substantial impacts on transit associated with development to such a high degree of density.		

Grandfathering of Projects in the Development Pipeline

The proposed legislation includes a grandfathering provision for projects that are currently under review by the City, in recognition of the fact that such projects may not have anticipated the cost of the TSF when making past financial decisions about their development projects. The grandfathering proposal is as follows:

- **Projects that have received a planning entitlement:** these projects would not be subject to the TSF, but would be subject to the TIDF and pay the existing TIDF rates.
- **Projects that have submitted a development application, but have not received an entitlement:**
 - Residential projects would pay 50 percent of the new TSF rate.
 - Non-residential and PDR projects would be subject to the TIDF, and would pay the full amount of the existing TIDF rate.

Projects would continue to be subject to any other existing applicable impact fees, such as Area Plan impact fees.

TSF Expenditure Plan

The TSF is projected to generate a total of approximately \$1.2 billion in over 30 years. If the fee is not adopted, the TIDF would generate about \$24 million a year on average for transit capital and maintenance projects. The TSF is expected to generate an additional \$14 million a year in revenue – resulting in over \$400 million in net new revenue over 30 years. It will expand eligible expenditures to include transit service expansion and reliability improvements, bicycle/pedestrian projects, and program administration, in addition to the transit capital maintenance projects that are currently funded by the TIDF. Table 7 indicates how much revenue the TSF is projected to raise annually and over 30 years, and what the predicted cost is of the proposed fee exemptions and grandfathering.

Table 7: Projected TSF Revenues (2015\$)

<i>Category</i>	<i>Annual revenue</i>	<i>30-year revenue total</i>
TSF	\$45,700,000	\$1,370,000,000
Less: TIDF (existing)	(\$24,000,000)	(\$719,400,000)
Less: Exemptions & Grandfathering ¹	(\$7,700,000)	(\$230,000,000)
Net new revenue under proposed TSF	\$14,000,000	\$420,600,000
Total TSF	\$38,000,000	\$1,170,000,000
<p>1. Includes projected revenue loss due to exemptions for affordable housing, small residential (≤ 20 units), small businesses, and non-profits, plus grandfathering for projects in development pipeline. 2. Figures are rounded to nearest \$1000.</p>		

Tables 8 and 9 show how the TSF expenditure program would be allocated among project types. TSF revenue would help fund projects that fall within these categories, such as (but not limited to): the expansion of the Muni fleet, reliability and travel time improvements projects, upgrades to Muni maintenance facilities, improvements to regional transit (such as retrofitting BART train

cars to provide more space for passengers and bikes), and improvements to bike and pedestrian infrastructure.

**Table 8. TSF Expenditure Program (Proposed Table 411A.6A)
(except Rincon Hill and Visitacion Valley)**

<i>Project type</i>	<i>% expenditure</i>
Transit Capital Maintenance (Replaces current TIDF expenditures)	61%
Transit Service Expansion and Reliability Improvements - SF	32%
Transit Service Expansion and Reliability Improvements - Regional	2%
Complete Streets (Bicycle and Pedestrian Improvements)	3%
Program Administration	2%

**Table 9. TSF Expenditure Program (Proposed Table 411A.6B)
(in Rincon Hill and Visitacion Valley¹)**

<i>Project type</i>	<i>% expenditure</i>
Transit Capital Maintenance (Replaces current TIDF expenditures)	61%
Transit Service Expansion and Reliability Improvements - SF	35%
Transit Service Expansion and Reliability Improvements - Regional	2%
Complete Streets (Bicycle and Pedestrian Improvements)	0%
Program Administration	2%
1. The TSF expenditure plan in Rincon Hill and Visitacion Valley area plans does not allocate funds to complete streets, as these area plan fees do not include any transit expenditures and already allocate a high proportion of funds to complete streets improvements.	

Fee revenues would be collected by the Planning Department and then routed to the SFMTA to be allocated through an interagency process that will be outlined in a Memorandum of Understanding, currently being developed. The SFMTA and the Mayor's Office, as part of the regular budgeting process, will develop a five-year spending plan and a two-year expenditure budget for each category. As part of this process, SFMTA and the Mayor's office will confer with the County Transportation Authority. Every two years the Controller's Office will produce a report identifying the fees collected and actual expenditures by project in each category, which will be reviewed at the City's Capital Planning Committee.

In order to respond to community feedback that projects should prioritize areas where significant growth is anticipated to occur, language was added in the substitute ordinance (introduced July 28, 2015) specifying that the expenditure plan shall give priority to transportation projects identified in area plans.

Other amendments to the Planning Code

The fee proposal also includes technical clean up language to clarify definitions, ensure accurate application of the fee, and provide cross-references where necessary. These changes include modifications to impact fee definitions (Section 401) and fee waivers and exemptions applicable to affordable housing (Section 406(b)), as well as conforming language in the area plan impact fees (Sections 418, 420, 421, 422, 423, 424, and 424.7).

ISSUES AND CONSIDERATIONS

TSF Public Outreach and Comment

City staff conducted outreach on the TSF to key stakeholders who would be impacted by the fee, including: Citizen Advisory Committees (SFMTA, SFCTA, Eastern Neighborhoods, Market & Octavia); SFCTA Board; Housing Action Coalition, Chamber of Commerce, Residential Builders Association, BART, Hospital Council, SFMTA Board Policy and Governance Committee and Full Board, San Francisco Bicycle Coalition, Walk SF, residential and commercial real estate developers, participants in the Muni Equity Strategy Working Group – including Chinatown Community Development Center, Transit Riders, Senior & Disability Action, Council of Community Housing Organizations; SPUR; BOMA; San Francisco Labor Council; the Small Business Commission, and others. The proposed legislation incorporates the feedback staff received as part of the stakeholder engagement process. A full schedule of outreach meetings and public hearings is attached (Exhibit F).

The SFMTA Board of Directors unanimously resolved to support adoption of the TSF without modifications at their September 1st meeting, as did the Small Business Commission at their August 24th meeting. Most stakeholders, including residential developers, expressed support for the legislation and acknowledged that new development needs to contribute to fund transportation improvements. Stakeholders raised several issues during the public outreach, as follows:

Small Businesses

The Small Business Commission had questions about the applicability of the fee, particularly as it relates to the 5,000 square foot threshold. Similarly, the Chamber of Commerce had questions about the applicability of the fee to changes of use as well as to formula retail. Staff met with representatives from the Chamber of Commerce and presented at two Small Business Commission meetings at the end of August to address these concerns. At the August 24th hearing, the Small Business Commission voted unanimously to issue a resolution in support of the Transportation Sustainability Fee, without modifications.

Area Plan CACs

Members of the Market/Octavia and Eastern Neighborhoods Community Advisory Committees (CACs) expressed general support of the overall fee concept. They also indicated a desire to ensure that funding would be allocated to projects within the respective area plans. To address

this concern, the proposed legislation states that when allocating revenues, priority should be given to specific projects identified in the different area plans. The Chair and Vice Chair of the Market and Octavia CAC submitted a letter of support for the proposed legislation (attached).

Development Community

Staff from residential and commercial development firms acknowledged that new development may further strain our transportation system, and they were generally supportive of the proposed TSF amounts. However, some developers noted that the grandfathering rates for residential uses were set too high (initially proposed at 75% of the TSF rate, versus 50% in the current proposal) which could make some projects currently in the development pipeline infeasible. Further, some residential builders noted that the fee might disproportionately burden smaller residential projects, which led to the development of the fee exemption for projects 20 units and smaller.

Transportation & Other Advocates

Finally, some advocates have expressed concerns with respect to the fee not being high enough, the grandfathering provisions being too expansive, and the middle-income exemption being too lenient (targeting households that earn up to 150% of AMI). They also requested that the fee be assessed on space dedicated to accessory parking, which is not currently considered as part of gross square footage for the purpose of calculating Planning Code impact fees. As described above, the fee amounts were set based on the findings of the TSF Economic Feasibility Study, with the goal of maximizing transportation revenues while maintaining economic feasibility in a range of neighborhoods around the city. See the "Basis for Recommendation" section below for further discussion of these findings.

Potential Modifications to the Ordinance

As part of the continued public outreach process that occurred in August (coinciding with the recess at the Board of Supervisors), technical code issues were identified that require modifications to the ordinance as substituted on July 28, 2015. These issues are minor and non-substantive in nature, and they are expected to be addressed in an additional substitute version of the ordinance. Any such changes will be identified in a subsequent memo to the Planning Commission.

REQUIRED COMMISSION ACTION

The proposed Ordinance is before the Commission so that it may recommend adoption, rejection, or adoption with modifications to the Board of Supervisors.

RECOMMENDATION

The Department recommends that the Commission recommend *approval* of the proposed Ordinance and adopt the attached Draft Resolution to that effect.

BASIS FOR RECOMMENDATION

The proposed TSF is projected to generate approximately \$1.2 billion in revenue for transportation and complete streets projects to accommodate the City's expected growth, which represents over \$400 million net new revenue above current TIDF and Area Plan impact fees. This revenue would help address funding needs identified by the TSF Nexus Study and the Mayor's Transportation Task Force, and would support the City's Transit First Policy by funding more transit vehicles, faster and more reliable transit, and safer streets for all users. During the development of the TSF, outreach was conducted with key stakeholders to inform them about the fee and solicit feedback, much of which has been incorporated in the proposed ordinance.

Combined with the other two components of the Transportation Sustainability Program, the TSF would ensure that new developments are doing their part to contribute to improve the transportation system, as well as minimize their impacts by encouraging more sustainable modes of travel. If adopted, the TSF would be the first citywide transportation fee on residential uses, ensuring that market-rate residential developers throughout the city are paying to improve the transportation system to serve new growth. The fee would also represent the first citywide fee to fund complete streets improvements, which will be allocated to projects that improve safety and comfort for pedestrians and bicyclists. The proposal would also increase the amount that nonresidential developments are expected to pay, generating additional revenue for transportation. The economic feasibility study found that these fees would not have a significant impact on development feasibility or housing costs across the city.

Fee amounts were set with the goal of maximizing transportation revenues, without inhibiting development feasibility. The study found that fee amounts above those proposed in the TSF ordinance could negatively impact development feasibility for some project types and in some areas of the city. Further, the study noted that if the real estate market were to experience a downturn such that future revenue growth is insufficient to cover construction and other development costs, new development will be more sensitive to higher impact fees. For these reasons, the study recommended that the TSF be established at no more than 125% of the initial fee levels, which is consistent with the fee amounts proposed in the TSF ordinance.

Similarly, the TSF grandfathering proposal for residential projects was developed to ensure that the fee does not cause projects currently in the pipeline to become infeasible. Members of the development community acknowledged the need for additional transportation funding, but indicated that payment of 75% of the fee (the amount initially proposed during the outreach process) would be difficult for projects already in the development pipeline that haven't budgeted for this cost in their pro formas. However, they indicated that most residential projects could likely support a 50% fee amount.

Although stakeholders have voiced feedback that the income criteria for the proposed middle-income exemption is too high, staff from the Mayor's Office of Housing and Community Development (MOHCD) have confirmed that the 150% AMI threshold is appropriate and consistent with the agency's eligibility criteria for the Middle Income Rental Housing Program.⁴

Finally, in response to stakeholder comments, staff have investigated whether impact fees could be assessed on space devoted to accessory parking. They found that charging such uses cannot be justified by the TSF Nexus Study, as the study did not include an analysis of whether the amount of accessory parking has a corresponding impact on increased demand for transportation services. However, as mentioned above, parking reduction may be one of the tools considered as part of the Transportation Demand Management program currently under development by the City.

ENVIRONMENTAL REVIEW

The proposal to create a new Planning Code Section 411A; amend Planning Code Sections 411 (Transit Impact Development Fee), 401 (Definitions), and 406 (Waiver, Reduction, or Adjustment of Development Project Requirements); and to make other conforming amendments to the Area Plan Fees in Planning Code Article 4 is exempt from environmental review under Section 15378(b)(4) of the CEQA Guidelines.

RECOMMENDATION:	Recommendation of Approval
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Attachments:

- Exhibit A: Draft Planning Commission Resolution
- Exhibit B: Board of Supervisors File No. 150790
- Exhibit C: CEQA Findings
- Exhibit D: San Francisco Transportation Sustainability Fee (TSF) Nexus Study
- Exhibit E: San Francisco Transportation Sustainability Fee Economic Feasibility Study
- Exhibit F: TSF Stakeholder Outreach List
- Exhibit G: Public Comments

⁴ More information on the Middle Income Rental Housing Program is available at <http://sf-moh.org/index.aspx?page=1411>.