



# COUNTY OF SAN DIEGO

## LAND USE AGENDA ITEM

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**DATE:** December 11, 2024

**03**

**TO:** Board of Supervisors

### **SUBJECT**

**RECEIVE TRANSPORTATION IMPACT FEE AND REGIONAL TRANSPORTATION CONGESTION IMPROVEMENT PROGRAM FISCAL YEAR 2023-24 COMPREHENSIVE ANNUAL AND FIVE-YEAR MITIGATION FEES REPORT AND RELATED CEQA FINDING (DISTRICTS: ALL)**

### **OVERVIEW**

The County of San Diego's infrastructure improvement fee programs are designed to equitably distribute the costs associated with new development by charging fees that correspond to the impacts of development projects. These programs help fund necessary infrastructure improvements while alleviating the financial burden on taxpayers. This approach ensures that the growth in the community is sustainable and that essential public services are maintained. By linking fees directly to development impacts, the County aims to create a balanced framework that supports both growth and community needs.

The State of California's Mitigation Fee Act (Act) (Section 66000-66025) establishes requirements that jurisdictions must follow when imposing fees on developers that are intended to mitigate impacts from those developments. The Act requires agencies collecting these types of fees to review and make available to the public an annual report accounting for the development fees held by the agency. The Act also requires that the agency review to confirm that fees collected more than five years ago are still needed for the improvements for which the fees were collected. An annual report and five-year findings are required by the Act to be consolidated into a single report made available to the public within 180 days after the last day of each fiscal year, which is December 28, 2024, for the current reporting period.

This letter describes two mitigation fees that the County of San Diego (County) collects and is accompanied by a report required by the Act in Attachment A. One fee is the Transportation Impact Fee and the other is the Regional Transportation Congestion Improvement Program fee. These fees are both collected from developers to mitigate impacts from traffic associated with their development projects. The County also maintains a third traffic impact mitigation fee program which was established on June 19, 1973 (94) called Board Policy J-25 (J-25), Participation of Individuals, Organizations, Private Developers, or other Jurisdictions in the Implementation of Intersection Betterments. The J-25 fee differs from the two fees described in this letter mainly in that J-25 fees are collected on an ad hoc basis according to the level of traffic

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impact a development is expected to cause as opposed to a set fee schedule. A letter and accompanying report submitted to the County Board of Supervisors at the December 11, 2024 hearing describes the J-25 fee and includes reporting information required by the Act.

The County's Transportation Impact Fee (TIF) was established to enable developers of large and small development projects to mitigate cumulative traffic impacts in accordance with California Environmental Quality Act (CEQA) guidelines by paying into the TIF program instead of constructing physical road improvements. The TIF program was based on traffic impacts using traffic congestion as a measure under CEQA. Senate Bill (SB) 743 changed how traffic impacts are measured under CEQA, which are now measured by how much extra driving a project generates, referred to as Vehicle Miles Traveled, or VMT, instead of measuring congestion. As a result of this change to CEQA, after July 1, 2020, new projects that are not able to rely on or tier from a previous environmental analysis adopted prior to VMT, may not mitigate traffic impacts under CEQA using the TIF program. Fees that are held by the County are subject to guidelines from the TIF program and can only be used for projects on the approved list of roads in unincorporated communities as identified in the TIF Transportation Needs Assessment Report published September 2012. These guidelines ensure that road improvements will serve the communities associated with the development project for which fees were paid.

In addition to TIF, the County collects the Regional Transportation Congestion Improvement Program (RTCIP) fee. Fees from RTCIP ensure future development projects contribute their proportional share of funding needed to mitigate regional transportation impacts. RTCIP fees may only be spent on improvements on Regional Arterial System roads as required by the TransNet Extension Ordinance.

Today's request is for the Board of Supervisors to receive the Transportation Impact Fee and Regional Transportation Congestion Improvement Program Fiscal Year 2023-24 Comprehensive Annual and Five-Year Mitigation Fees Report, which contains the Mitigation Fee Act annual report and five-year findings.

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**RECOMMENDATION(S)  
CHIEF ADMINISTRATIVE OFFICER**

1. Find that the receipt of the Transportation Impact Fee and Regional Transportation Congestion Improvement Program Fiscal Year 2023-24 Comprehensive Annual and Five-Year Mitigation Fees Report is not subject to the California Environmental Quality Act (CEQA), as specified under Section 15060(c)(3) and Section 15378 of the CEQA Guidelines and Section 21065 of the Public Resources Code, because it involves an administrative review of a fiscal report with no commitment to any specific project that may have a significant effect on the environment, and is not a project.
2. Receive the Transportation Impact Fee (TIF) and Regional Transportation Congestion Improvement Program (RTCIP) Fiscal Year 2023-24 Comprehensive Annual and Five-Year Mitigation Fees Report and adopt the findings included therein.

**EQUITY IMPACT STATEMENT**

Fees collected in accordance with the Traffic Impact Fee program and Regional Transportation Congestion Improvement Program fund improvements are needed to mitigate traffic impacts arising from private development. This helps ensure a transportation system that is safe and accessible for all road users and modes of transportation, and for people of all income levels, races, ethnicities, ages, and abilities.

**SUSTAINABILITY IMPACT STATEMENT**

The proposed actions in today's request support the County of San Diego's (County) sustainability goals to align the County's available resources with services to maintain fiscal stability. The fund balances are used to help ensure the County can provide road improvements that maintain safe, reliable, and efficient travel for all modes of transportation in the unincorporated areas of the county. As funds are used for projects, the improved roads and intersections will incorporate features that reduce storm runoff, enhance pedestrian and cyclist safety, and improve operations to reduce idling and emissions, which aligns with the County's sustainability goal of reducing greenhouse gasses.

Additionally, staff are exploring practical strategies for facilitating residential development in vehicle miles traveled (VMT) efficient and infill areas. Following the conclusion of the analyses, staff will evaluate the future use of fee program funds to support these initiatives and associated findings.

**FISCAL IMPACT**

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years.

**BUSINESS IMPACT STATEMENT**

N/A

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### **ADVISORY BOARD STATEMENT**

While the recommendations today are administrative in nature, the Department of Public Works (DPW) regularly engages with Community Planning and Sponsor Groups and the public to help determine community needs for transportation improvements. For example, DPW staff are currently conducting a series of outreach meetings throughout the unincorporated area to discuss current and planned capital improvement projects. Additionally, project-specific outreach is conducted when sufficient fees are collected to initiate a capital improvement project.

### **BACKGROUND**

The State of California's Mitigation Fee Act (Act) (Section 66000-66025) establishes requirements that jurisdictions must follow when imposing fees on developers that are intended to mitigate impacts from those developments. The Act requires agencies collecting these types of fees to review and make available to the public an annual report accounting for the development fees held by the agency. The Act also requires that the agency review to confirm that fees collected more than five years ago are still needed for the improvements for which the fees were collected. An annual report and five-year findings are required by the Act to be consolidated into a single report made available to the public within 180 days after the last day of each fiscal year, which is December 28, 2024, for the current reporting period.

This letter describes two mitigation fees that the County of San Diego (County) collects and is accompanied by a report required by the Act in Attachment A. One fee is the Transportation Impact Fee and the other is the Regional Transportation Congestion Improvement Program fee. These fees are both collected from developers to mitigate impacts from traffic associated with their development projects. The County also maintains a third traffic impact mitigation fee program which was established on June 19, 1973 (94) called Board Policy J-25 (J-25), Participation of Individuals, Organizations, Private Developers, or other Jurisdictions in the Implementation of Intersection Betterments. The J-25 fee differs from the two fees described in this letter mainly in that J-25 fees are collected on an ad hoc basis according to the level of traffic impact as opposed to a set fee schedule. A letter and accompanying report submitted to the County Board of Supervisors at the December 11, 2024 hearing describes the J-25 fee and includes reporting information required by the Act.

The County of San Diego's (County) Transportation Impact Fee (TIF) was a program established to allow developers to mitigate cumulative traffic impacts in accordance with the California Environmental Quality Act (CEQA) guidelines for projects approved before July 1, 2020. Developers of large and small development projects can mitigate cumulative traffic impacts by paying into the TIF program instead of constructing physical road improvements. The TIF program also includes the collection of the Regional Transportation Congestion Improvement Program (RTCIP) fee to ensure future development contributes its proportional share of funding needed for Regional Arterial System roads as required under the TransNet Extension Ordinance.

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The Board of Supervisors (Board) adopted the TIF program on April 20, 2005 (10). The TIF program was established to provide a means for developers to mitigate cumulative traffic impacts on local County roads in accordance with the CEQA. Developers wishing to participate in the TIF program could elect to mitigate cumulative traffic impacts by paying the TIF program instead of constructing physical road improvements. The TIF program provided a cost-effective mechanism for the mitigation of cumulative traffic impacts resulting from development projects because, for some projects, the cost of building road improvements would exceed any possible economic return to developers on their project. TIF fees are still collected for projects approved before July 1, 2020.

On July 1, 2020, Senate Bill (SB) 743 changed how traffic impacts are measured under environmental law. The County stopped requiring new projects to pay into the TIF program, as it used an outdated method that measured traffic delays. Now, impacts are measured by how much extra driving a project generates, referred to as Vehicle Miles Traveled, or VMT. Projects approved prior to the passage of SB 743 and Projects relying on or tiering from environmental documents completed prior to SB 743 may continue to mitigate cumulative impacts by paying the TIF.

The TIF program is guided by the TIF Program Update Nexus Study (Nexus Study) from September 2012. The Nexus Study established initial development fee amounts based on the cost to construct road improvements to mitigate traffic impacts from development. The fees are adjusted annually to keep up with construction cost increases. Fee amounts vary depending on the location and type of the development. The Nexus Study also identified specific roads where the fees must be used as well as the types of improvements that they can be used for. The Nexus Study and current fee rates for the TIF and RTCIP are available on the County's Department of Public Works website.

The County also collects the RTCIP fee to ensure future development contributes its proportional share of funding needed for specified roads as required under the TransNet Extension Ordinance. The RTCIP fee is a flat fee charged for each residential unit at the rate of \$2,741.97 in Fiscal Year 2023-24 and adjusted annually. RTCIP fees must be used on improvements in accordance with the TransNet Extension Ordinance on roadways identified as part of the Regional Arterial System network. SB 743 did not affect the RTCIP fee.

When RTCIP and TIF fees are collected they are deposited into trust accounts. The trust accounts are held separately from other funds to ensure they are properly tracked and accounted for. Each trust account has one or more projects that are eligible to use the fees for improvements. In the case of RTCIP, there is a single account that may be used on Regional Arterial System roads within the unincorporated area. For TIF, there are 29 accounts that each have eligible improvements and associated costs identified in the Nexus Study. The TIF accounts include 23 accounts for Community Planning Areas (CPA) which are used to fund improvements to specific segments of local road networks within each community. There are three regional

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accounts (i.e., North, South, and East) that span across the county and are used to fund improvements on specific segments of regional roadways. Finally, there are three regional (i.e., North, South, and East) TIF accounts that span across the county that may be used to fund improvements where development projects cause traffic impacts on specific segments of Caltrans roadways.

The County holds collected fees in trust accounts and then constructs road improvements when sufficient fees are collected in an account for an eligible road improvement, or when additional funding is made available from another source. Fees in each account may only be used on specific improvements identified by the Nexus Study and fees may not be transferred between accounts, so it can take several years before there are sufficient funds for a project. Among the TIF accounts, 12 accounts have a balance of \$0 because they have no collections or their balances have been drawn down for roadway improvements, while the remaining accounts are either being utilized for projects currently in progress or on reserve until more fees are collected and additional funds are made available, as needed, to construct necessary improvements.

The accompanying report in Attachment A details account balances for TIF and RTCIP for Fiscal Year 2023-24. In that fiscal year, TIF account transactions included collecting a total of \$741,901, \$735,757 spent on road improvement projects, and \$13,624 spent on administering the program, resulting in a balance of \$21,827,700 across the 29 TIF accounts. For the same fiscal year, RTCIP transactions included \$2,696,876 in collections, \$166,198 spent on road improvement projects, and \$32,528 spent on administering the program, resulting in a balance of \$20,860,762 in the trust fund account. Since 2005, the Department of Public Works has expended a total of \$21,162,272 from the local TIF and RTCIP TIF Trust Funds on preliminary engineering evaluations and road improvement projects.

Staff has reviewed the balance of program funds and determined that the improvements for which the funds were collected are still necessary. The County is currently using fees for improvements on Riverford Road and on Woodside Avenue in Lakeside, South Santa Fe Avenue in North County Metro, and for completed improvements to State Route 76. When sufficient funding is available, projects are prioritized and initiated. The attached report includes a list of incomplete projects and approximate dates when funding is expected to be available to develop and construct those projects. Staff are also currently exploring practical strategies for facilitating residential development in VMT efficient and infill areas in four areas (Buena Creek, Valle de Oro/Casa de Oro, Lakeside/North El Cajon, and Spring Valley) as part of the Development Feasibility Analysis. If directed by the Board following the report out on the Development Feasibility Analysis in early 2025, staff will evaluate the future use of RTCIP and TIF funds to support these initiatives and associated findings.

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The Act requires that agencies annually review and make available to the public a report accounting for the development fees held by the agency. The Act also requires that the agency review to confirm that fees collected more than five years ago are still needed for the improvements for which the fees were collected. Staff has reviewed the balance of the program funds and determined that the improvements for which the funds were collected are still necessary. An annual report and five-year findings are required by the Act to be consolidated into a single report made available to the public within 180 days after the last day of each fiscal year, which is December 28, 2024, for the current reporting period. The required report is included in Attachment A and was made available on the Department of Public Works website before December 28, 2024.

Today's request is for the Board to receive the Transportation Impact Fee and Regional Transportation Congestion Improvement Program Fiscal Year 2023-24 Comprehensive Annual and Five-Year Mitigation Fees Report. The report includes the information required to be included in an annual report by Government Code §66006(b) and the findings required to be included in the five-year report by Government Code §66001(d). The information included in Attachment A regarding each of the findings required by Government Code §66001(d) will be adopted by the Board by today's action.

#### **ENVIRONMENTAL STATEMENT**

Section 15060(c)(3) of the California Environmental Quality Act (CEQA) Guidelines specifies that an activity is not considered a project if it does not cause a direct or reasonably foreseeable indirect physical change in the environment. The proposed action involves the receipt of an annual report and five-year findings required by the Mitigation Fee Act to account for traffic mitigation funds. This action does not involve the approval of construction projects or any direct physical changes. Subsequent environmental review would be required under CEQA once TIF-funded projects are proposed. Therefore, since this action does not result in a physical change or impact, it is not subject to CEQA review pursuant to Section 15060(c)(3) of the CEQA Guidelines.

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**LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN**

Today's proposed action supports the Sustainability and Community Initiatives in the County of San Diego's (County) 2024-2029 Strategic Plan Sustainability, Community, and Equity initiatives in the County's Strategic Plan by providing infrastructure and building safe communities to improve the quality of life for all residents and all modes of transportation in the unincorporated areas of the county.

Respectfully submitted,



DAHVIA LYNCH

Deputy Chief Administrative Officer

**ATTACHMENT(S)**

Attachment A: Transportation Impact Fee (TIF) and Regional Transportation Congestion Improvement Program (RTCIP) Fiscal Year 2023-24 Comprehensive Annual and Five-Year Mitigation Fees Report