

DATE: March 25, 2016

TO: Working Group Members

FROM: Dwayne Guthrie, PhD, AICP

SUBJECT: **Alternative Impact Fee and Excise Tax Reports for Transportation**

Since our last meeting, staff and the consultant team have decided the best approach is for TischlerBise to prepare three products for the City of Boulder. The first document focuses on the capital cost of transportation improvements assuming more rigorous Development Impact Fee (DIF) legal requirements. The second work product provides a Development Excise Tax (DET) study for a broader set of growth-related transportation improvements. A third (future) work product will focus on operational costs and on-going maintenance of Boulder's multimodal transportation system. The following paragraphs compare and contrast the rationale for alternative DIF and DET reports.

Impact fees are a form of land use regulation, imposed under the City's police power, for the purpose of health, safety, and welfare. In Colorado, local governments must establish an impact fee at a level no greater than necessary to defray projected impacts caused by, and directly related to, proposed development. Also, impact fees may only be used for capital facilities, excluding replacement of infrastructure and correcting existing deficiencies [see CRS 29-20-104.5].

Like an impact fee, Boulder's DET is a one-time charge imposed on new construction. Both DIF and DET schedules (i.e. \$ per development unit) are structured the same and TischlerBise used similar cost allocation methods for both studies.

Key differences between the DIF and DET alternatives are their intent and the magnitude of planned improvements. As a revenue raising mechanism, an excise tax has less restrictive legal constraints than an impact fee. An excise tax is imposed on the performance of an act, the engaging in an occupation, or the enjoyment of a privilege. In some states, home-rule cities may impose excise taxes using general taxation powers. Other states have limited the use of excise taxes to jurisdictions that have special enabling legislation. Boulder has collected an excise tax for transportation since the 1980s. In 1998, voters approved a consolidated DET that included transportation. By policy, a portion of the consolidated DET authorized by voters is also used to acquire land for parks, but the combined total for parkland and transportation is less than the total DET authorized for residential development.