



# Agenda Item

## City Council

---

**Item #:** 11.2.

**9/8/2020**

**File #:** 20-088

---

**TO:** Honorable Mayor and Members of the City Council

**THRU:** Rick Otto, City Manager

**FROM:** Christopher Cash, Public Works Director

### **1. SUBJECT**

Public Hearing to consider modernizing the City's Transportation System Improvement Program (TSIP) fees.

### **2. SUMMARY**

Modernizing the TSIP primarily consists of consolidating the three existing program areas to establish a single citywide fee; diversifying project categories eligible to be funded through the fee program, and adjusting fees. Staff has prepared the updated Orange Municipal Code (OMC) ordinances and resolutions to establish the citywide fee area and adjust the TSIP fee.

### **3. RECOMMENDED ACTION**

1. Introduce and approve Ordinance No. 17-20 for First Reading. An Ordinance of the City Council of the City of Orange amending Chapter 15.41 of the Orange Municipal Code to update the program areas subject to Transportation Systems Improvement Program fees and modify the yearly adjustment method for Transportation Systems Improvement Program fees.
2. Approve Resolution No. 11270. A Resolution of the City Council of the City of Orange repealing Resolution No. 10284 and revising the Transportation Systems Improvement Program fee categories and related fees.

### **4. FISCAL IMPACT**

The proposed ordinance and resolution will ensure that that the TSIP fees will keep pace with construction costs over time. The revised impact fees will become effective November 12, 2020. The total revenue generation will depend on the pace at which new development projects are entitled.

### **5. STRATEGIC PLAN GOALS**

Goal 1: Provide for a safe community

- b. Provide and maintain infrastructure necessary to ensure the safety of the public

Goal 2: Be a fiscally healthy community

- b. Analyze future fiscal needs and potential revenue opportunities

## 6. DISCUSSION AND BACKGROUND

The City has been assessing a Transportation System Improvement Program (TSIP) fee on new development for many years. Considered a mitigation fee under the California Government Code, TSIP effectively provides a mechanism for a development to pay its fair share toward additional transportation infrastructure needed to support associated increases in transportation demand. While the current TSIP fee structure has adequately served the City in the past, it has a number of limitations that should be addressed in order to continue to meet the City's needs. Those include:

1. The TSIP is currently comprised of three (3) separate fee areas, and fees collected from within any one area are generally designated to fund improvements in that same area. Often times, the areas of funding availability and needs are not aligned, which can result in funding delays for high priority projects located in underfunded fee areas. The establishment of multiple fee areas can be appealing to (a) large cities, particularly those with geographically, or economically non-contiguous areas or (b) developing cities that experience a geographic imbalance in development activity (and, therefore, infrastructure needs). However, medium sized, built-out cities, such as present day Orange, typically benefit more from the added flexibility of a citywide transportation fee program.
2. As presently constituted, the TSIP is only intended to fund projects that are capacity-enhancing. While capacity-enhancing projects remain important and would continue to be identified as eligible improvements, the TSIP has the potential to fund additional types of transportation projects, including those that can make our streets safer, smarter, and more vibrant. Examples of additional project categories include, but are not limited to, traffic calming, intelligent transportation systems, active transportation (pedestrian and bicycle improvements,) and complete streets.
3. The TSIP fee was last updated in 2008 and has not been adjusted since. Over the last 12 years, the construction cost index (CCI) has increased by approximately 40 percent. At the same time, the purchasing power of fees collected have been rapidly diminishing. If this trend were to continue, fee revenues will eventually become insufficient in providing for infrastructure needed to support development. To put our fees in perspective, five other full-service Orange County cities (Anaheim, Fullerton, Santa Ana, Huntington Beach, and Brea) were surveyed for comparison. The survey indicated that, Orange's TSIP fees (average of the three existing fee areas) are generally well below the five-city average. In the case of certain land uses, e.g. single family residential and office, Orange's TSIP fees are over 50 percent below average.

### Nexus Study

In order to modernize the TSIP and address the above limitations a nexus study must be conducted, the purpose of which is to provide the technical analysis necessary under the Mitigation Fee Act to support an updated fee. Among other things, the nexus study does the following:

- Identifies transportation improvements to be included;
- Identifies the cost of said improvements;
- Determines proportionate allocation of cost to new development; and
- Establishes the maximum allowable fee that can legally be collected for various types of new development, e.g., residential, commercial, office, etc.

The nexus study that has been conducted for purposes of modernizing the TSIP fee provides support

for modernization of the fee. In the study, prepared by Economic and Planning Systems, Inc., the issue of consolidating the three (3) existing fee areas was analyzed. The study found justification for consolidating the three (3) existing fee areas into a single citywide fee area. The city transportation network is such that transportation demand generated by one part of the city has the potential to affect any other part of the city.

The study also identified projects that would be eligible for funding through a new TSIP and their estimated costs. As part of the project development process, projects of low feasibility, such as those that require right-of-way acquisition, were eliminated, and replaced with other project types. Many projects that have been historically funded through TSIP were retained, including right-turn lane additions, new traffic signals, traffic signal modifications, and feasible intersection widening. In addition, next-generation traffic signal equipment, fiber optic and communication system expansion, complete streets projects, traffic calming, curb ramp replacement, and bicycle master plan implementation were introduced which will allow for a broader range of capacity and transportation improvements funded under the fee and will allow for technological transportation advances to be funded under the program.

Lastly, the nexus study also determined that, based on projected growth, infrastructure needs, and the full portion of project costs that can be attributed to new development, the maximum allowable fee that can be charged is approximately 500% higher than the existing fee levels. The percentage difference between maximum allowable and existing will vary across land use due to changes in traffic generation intensity further discussed below. Because charging the maximum allowable fee can render development cost-prohibitive, cities may set their fees anywhere at or below the maximum allowable.

### **Proposed Changes to Fee Structure**

TSIP fees, like most transportation development fees, are typically apportioned across various land uses based on the relative impact that each land use is expected to have on the transportation system (traffic demand.) Doing so results in a more equitable fee program in which any given development project would pay its fair share, no more or less. Over time, modifications in human behavior, social preferences, and technological advancements can significantly affect the traffic generation intensity associated with each land use category. Therefore, to maintain equity in the fee program would preclude using existing fees as a basis for upward adjustments, as the assumptions around each land uses' impact on the transportation system have changed in the intervening years. Rather, the fees should also be reapportioned across the various land uses to reflect changes in travel demand, in addition to any changes in magnitude.

Based on the above, the fee setting process was guided by the following principles:

1. Increase the overall revenue generation potential of the fee program by an amount that would result in recovering some of the cumulative CCI increases since 2008;
2. Ensure that the fees do not exceed the maximum allowable as identified in said nexus study;
3. Reapportion the fees between land uses based on up-to-date trip rates and the nexus study;
4. Balance the need to adequately fund transportation facilities with the desire to promote development; and
5. Provide for a built-in annual adjustment based on future changes to the CCI, similar to the City's other development fees.

To best achieve these objectives, staff recommends setting the TSIP fees based on 25 percent of the maximum project cost that can be attributed to new development. The resulting fees for each land use, shown in the table below, were determined by calculating 25 percent of the maximum project cost attributable to new development, subtracting out the existing TSIP fund balance, and dividing the result by projected growth in travel demand in the City. This cost was then apportioned across land uses based on their relative impact in generating new trips and vehicle miles. Since the understanding of trips generated by each land use has changed since 2008, the percentage change between the proposed and existing fees will vary from one land use to another. Those land uses that today generate fewer trips than they did in 2008 will see a relatively lower increase in fees compared to land uses where trip generation has stayed the same or increased. The percentage change for each land use is shown in the table below.

Setting the fee in this manner increases the revenue generation potential of the TSIP program and captures some of the deferred fee increases since 2008, while still maintaining fee competitiveness with our comparator cities. For comparison, the city collected \$568,749 in TSIP fees in 2019. If instead, the proposed rates were applied to the same 2019 projects, that total would have been \$728,682, an increase of 28 percent. With that in mind, the actual percentage increase over any period of time or across any combination of past projects would vary based on land use composition and location (since the previous fees were area specific and, again, the proposed fee adjustments vary by land use.)

In addition to changes to the proposed fee amounts, staff also recommends two additional adjustments in order to promote fee equity and fee schedule streamlining:

1. Based on trip generation intensity, TSIP fees for condos and townhomes should be calculated based on multi-family rates, rather than single family rates; and
2. Eliminate from the fee schedule educational, hospital, religious and child care uses. Fees for these land uses will be considered an "atypical/other" use and charged a per-trip end fee rate.

The table below shows five values for each land use. Those are, the current average fee, the fee had it been adjusted by CCI since 2008 (40% increase over current fee), the maximum allowable fee per the nexus study, the proposed fee using 25% of the allowable increase per the nexus study, and the percent change between the proposed fee and the current average fee per land use category. An expanded table with more detailed information is also attached.

**TSIP FEE TABLE**

Land Use	Existing Average	Existing Average Adjusted to 2020 Dollars	Maximum Allowable	PROPOSED (25 percent of Maximum Allowable) <sup>4</sup>	% Change (Proposed vs. Existing)
Single Family (per unit) <sup>1</sup>	\$1,022.00	\$1,439.00	\$6,119.86	\$1,473.90	44%
Apartments/ Multi Family (per unit) <sup>2</sup>	\$763.67	\$1,075.00	\$3,526.70	\$849.37	11%
Hotel (per room)	\$912.33	\$1,285.00	\$5,370.77	\$1,293.49	42%

General Office (per square foot)	\$1.25	\$1.76	\$6.26	\$1.51	55%
Medical Office (per square foot)	\$4.11	\$5.79	\$22.36	\$5.38	31%
Industrial (per square foot)	\$0.79	\$1.12	\$3.19	\$0.77	-3%
Retail/ Commercial (per square foot)	\$4.64	\$6.53	\$15.76	\$3.80	-18%
Hospital (per bed)	\$1,342.33	\$1,890.01	\$14,339.18	n/a <sup>3</sup>	n/a
Church/ Synagogue (per square foot)	\$1.04	\$1.46	\$4.46	n/a <sup>3</sup>	n/a
School (per student)	\$146.67	\$206.51	\$1,304.15	n/a <sup>3</sup>	n/a
Child Care (per square foot)	\$8.91	\$12.55	\$6.97	n/a <sup>3</sup>	n/a
Atypical/ Other (per trip end)	\$113.67	\$160.04	\$642.44	\$154.72	36%

1. Condos and Townhomes are currently charged the single family rate. Because their traffic generation characteristics are more similar to apartments, they are reclassified as multi-family.
2. Proposed apartment rate will apply to condos and townhomes.
3. In order to streamline the fee schedule, these relatively uncommon land uses will be deleted. They will now fall under the "other" land use, with fees being calculated on a per trip end basis. The actual fee for each of the deleted land uses would be the same whether calculated per square foot/bed/student or per trip end.
4. 25% of allowable maximum revenue potential less existing TSIP fund balance.

## Summary and Public Noticing

If approved, the above fees will go into effect on November 12, 2020, and adjusted annually to the CCI on July 1 of each year.

Public noticing of this hearing was done in a manner prescribed by state law and the Orange Municipal Code. Moreover, staff communicated the proposed increase, including a teleconference and a copy of the Nexus Study to the Building Industry Association, Orange County Chapter.

## 7. ATTACHMENTS

- Expanded TSIP Fee Table
- TSIP Nexus Study Report
- Transportation Fee Comparison Memo
- Ordinance 17-20
- Resolution 11270