



# Agenda Item

## City Council

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**Item #:** 3.30.

9/14/2021

**File #:** 21-0490

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

**THRU:** Rick Otto, City Manager

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

### 1. SUBJECT

Update to the Transportation System Improvement Program fee nexus study.

### 2. SUMMARY

The Transportation System Improvement Fee was modernized and adopted by City Council in 2020, resulting in a fee program that was more sustainable, flexible, and fair. A fee nexus study was developed to support those recently approved changes. This minor update amends information in the project listing contained in that nexus study, while keeping the fee structure and amounts unchanged.

### 3. RECOMMENDED ACTION

Approve the updated nexus study.

### 4. FISCAL IMPACT

None.

### 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 development to pay its fair share toward additional transportation infrastructure needs. Over the years, TSIP has undergone major updates on several occasions, most recently in 2020 to address some limitations with the previous fee program.

The 2020 fee update accomplished several key goals, including (1) consolidating the city into a single citywide fee area; (2) establishing a fee level that would meet future infrastructure needs without overburdening development; (3) building in an escalation factor that allows the fee to keep pace with construction costs, and (4) developing a more comprehensive list of projects that can be funded through the TSIP.

Chapter 15.41 of the Orange Municipal Code requires that the TSIP be reviewed on an annual basis. While future annual programmatic reviews may not result in any recommended changes, staff identified minor adjustments that would considerably enhance the TSIP without affecting the actual fee amounts approved by City Council last year. The following changes are proposed:

1. Modify the project listing to substitute certain specific projects with more generic projects types. Doing so enables the program to better adapt to evolving infrastructure needs;
2. Adjust the cost estimate for implementing three projects (Develop Active Transportation Plan; Update Bicycle Master Plan; and Traffic Signal Synchronization) based on updated information; and
3. Reduce the percentage of new development's contribution to certain projects, based on the premise that other factors significantly contribute to future transportation needs, including existing deficiencies, and regional pass-through traffic. Doing so allows greater flexibility in pursuing funding through certain grant programs that prohibit the use of sales tax dollars where developer fees can be used instead. Notably, OCTA's M2 program will only fund the portion of an eligible project's cost that cannot be recovered through development fees (such as TSIP.) Therefore, downward adjusting development's contribution to account for the aforementioned factors increases the amount of potential M2 funding the City can receive in the future.

Whereas the cumulative effect of reducing development contributions toward several projects does reduce the maximum allowable fee that can legally be collected under the TSIP program, it does not actually affect the City's adopted fee amounts. This is because (1) the City did not elect to assess the maximum allowable fee that was identified in the 2020 nexus study, choosing instead to set the fee level at 25 percent of that maximum; and (2) the reduced maximum allowable, as determined by the updated nexus study, is still higher than what was adopted. Effectively, the proposal changes the order of operation: from assessing a low percentage of a higher maximum allowable, to assessing a high percentage of a lower maximum allowable. Again, by making this change, the City is able to increase grant eligibility while keeping its current TSIP fees unchanged.

This proposed minor update preserves all of the stated benefits associated with the 2020 TSIP update. The current and proposed project listings, along with respective development contributions (expressed thereon as "maximum allowable rate") are attached.

## 7. ATTACHMENTS

- Nexus Study Update with Project Listing
- 2020 TSIP Nexus Study with Project Listing