WORK SESSION AGENDA

Monday, April 28, 2025 at 1:00 PM

Council Chambers

CITY HALL
P.O. BOX 20000
LAS CRUCES, NM 88004

700 N. Main St.
PHONE (575) 541-2067

CITY OF LAS CRUCES

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3. AGENDA ITEM

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3.2. CAPITAL IMPROVEMENTS PROGRAM FY26 REVIEW AND PUBLIC HEARING. — 3
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Council Work Session Summary

Meeting: Work Session - Apr 28 2025

TITLE: FISCAL YEAR 2025-2026 BUDGET REVIEW & PUBLIC HEARING.

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The budget development process begins with the production of the five-year forecast, the gathering of City Department budget requests, City Strategic Plan, department strategic plans, and Elevate Las Cruces. Budget staff will review the progress of budget development with City Council through the annual budget retreat held December 17th,2024, work sessions, public hearings, and City Council meetings.

The work session will include a discussion of the FY2026 Budget and its assumptions and department requests.

PLAN(S):

Elevate Las Cruces

COMMITTEE/BOARD REVIEW:

None

Council Work Session Summary

Meeting: Work Session - Apr 28 2025

TITLE: CAPITAL IMPROVEMENTS PROGRAM FY26 REVIEW AND PUBLIC HEARING.

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The development of the Capital Improvements Program (CIP) begins with the preparation of the six-year plan, using City department requests guided by the City's various plans, with the Elevate Las Cruces Comprehensive Plan being the most prominent. CIP staff presented progress updates on plan development to the City Council through the annual CIP retreat held on March 5, 2025. A work session was held on March 24, 2025, and the CIP document will be considered for adoption on May 19, 2025.

The work session will feature a discussion of the FY2026 CIP.

PLAN(S):

Elevate Las Cruces

Council Work Session Summary

Meeting: Work Session - Apr 28 2025

TITLE: CITY OF LAS CRUCES PARKS AND RECREATION IMPACT FEE STUDY

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The Las Cruces Municipal Code (LCMC) Chapter 33 outlines the establishment of and process by which to collect and spend development impact fees, including Park Impact Fees. Section 33-24 of the LCMC requires the periodic update of land use assumptions (LUA) and the capital improvement plan (CIP) every five years while Section 33-32 requires that the City update development impact fees or determine that no update is needed at least every five years.

Parks and Recreation hired Tischler-Bise to develop an analysis and corresponding report of impact fees, levels of service, and land use assumptions. The report represents the **highest amount feasible** for each type of applicable land use, or maximum allowable amounts, which represents new growth's fair share of the cost for the appropriate parks and recreation capital facilities. The work session will present and summarize this information, including the recommendation from the Capital Improvement Advisory Committee (CIAC).

SUPPORT INFORMATION:

Draft Parks Impact Fee Study 2-21-2025

PLAN(S):

None

COMMITTEE/BOARD REVIEW:

CIAC

City of Las Cruces
Parks and Recreation Impact Fee Study
Land Use Assumptions, Capital Improvements Plan, and Development Impact Fees

Prepared for:

City of Las Cruces, New Mexico

DRAFT

February 21, 2025

Prepared by:

TischlerBise
FISCAL | ECONOMIC | PLANNING

4701 Sangamore Road
Suite S240
Bethesda, Maryland 20816
800.424.4318
www.tischlerbise.com

New Mexico requires infrastructure and related development impact fees to be developed by qualified professionals using generally accepted engineering and planning practices. A qualified professional "means a professional engineer, surveyor, financial analyst or planner providing services within the scope of his license, education or experience." TischlerBise is a fiscal, economic, and planning consulting firm specializing in the cost of growth services. Our services include development fees, fiscal impact analysis, infrastructure financing analyses, user fee/cost of service studies, capital improvement plans, and fiscal software. TischlerBise has prepared over 1,000 development fee studies over the past 40 years for local governments across the United States. The primary author of this study, Julie Herlands, Vice President of TischlerBise, is a member of the American Institute of Certified Planners (AICP).

TischlerBise
4701 Sangamore Road
Suite S240
Bethesda, Maryland 20816
800.424.4318

www.tischlerbise.com

February, 2025

Parks and Recreation Impact Fee Study

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EXECUTIVE SUMMARY

Overview

TischlerBise was retained by the City of Las Cruces, New Mexico to prepare an update to the City's Parks and Recreation impact fee. The purpose of this study is to meet the requirements of the New Mexico Development Fees Act. The Act provides local government the authority to impose fees and controls the amount, timing, method of assessment, and use of the funds. This analysis is organized to address the requirements of the Development Fees Act, and in so doing, define an equitable and proportionate assessment that will help fund the requisite facilities, without undue burden on new or existing development.

Development fees (also referred to as impact fees) are one-time payments used to construct system improvements needed to accommodate new development. An impact fee represents new growth's fair share of capital facility needs. By law, impact fees can only be used for capital improvements, not operating or maintenance costs. Impact fees are subject to legal standards, which require fulfillment of three key elements: need, benefit, and proportionality.

- First, to justify a fee for public facilities, it must be demonstrated that new development will create a need for capital improvements.
- Second, new development must derive a benefit from the payment of the fees (i.e., in the form of public facilities constructed within a reasonable period).
- Third, the fee paid by a particular type of development should not exceed its proportional share of the capital cost for system improvements.

TischlerBise documented appropriate demand indicators by type of development for the parks & recreational facilities impact fees. Specific capital costs have been identified using local data and costs. This report includes summary tables indicating the specific factors used to derive the park impact fees. These factors are referred to as level of service standards.

Summary of Capital Improvements and Impact Fees

The impact fees calculated for the City of Las Cruces represent the highest amount feasible for each type of applicable land use, or maximum allowable amounts, which represents new growth's fair share of the cost for the appropriate parks and recreation capital facilities. The City may adopt fees that are less than the amounts shown. However, a reduction in park impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.

Parks and Recreation impact fees are based on information provided by the City's Parks and Recreation Department and are based on actual levels of service for parks and recreation facilities. Components include both land and improvements, and the fee is only calculated for residential development. A summary of methodologies used in the analysis is provided below in Figure 1.

Figure 1. Summary of City of Las Cruces Parks and Recreation Impact Fee Methodologies

Fee Category	Service Area	Incremental Expansion	Plan-Based	Cost Recovery	Cost Allocation
Parks & Recreation	Citywide	Community Park Land Community Park-Athletic Land Neighborhood Park Land Special Facility Land Park Improvements Trails Recreation Center Outdoor Aquatic Facilites	N/A	Indoor Aquatic Facilities	Population

Exactions

Exactions come in many forms and are used to mitigate capital facility needs. Developers may be required to construct infrastructure or municipal buildings, make a cash payment (e.g., impact fees), and/or dedicate land for public use. Also, credits or agreements can be made in which fees are waived when the developer constructs facilities that would have been constructed by the municipality. Exactions are meant to offset growth-related capital costs and are not used for operating expenditures.

Credits and Geographic Area

A general requirement common to impact fee methodologies is the evaluation of *credits*. Two types of credits should be considered, **future revenue credits** and **site-specific credits**. Revenue credits may be necessary to avoid potential double payment situations arising from a one-time impact fee plus the payment of other revenues (e.g., property taxes) that may also fund growth-related capital improvements. Because new development may provide front-end funding of infrastructure, there is a potential for double payment of capital costs due to future payments on debt for public facilities. A debt service credit for existing principal payments is necessary for the City of Las Cruces' Parks and Recreation impact fees because there is outstanding debt for the infrastructure categories in the fee program after the current fiscal year.

The second type of credit is a **site-specific credit** for system improvements that have been included in the Parks and Recreation impact fee calculations. Policies and procedures related to site-specific credits for system improvements should be addressed in the ordinance that establishes the development fees. However, the general concept is that developers may be eligible for site-specific credits only if they provide system improvements that have been included in the impact fee calculations. Project improvements normally required as part of the development approval process are not eligible for credits against impact fees.

Maximum Allowable Parks and Recreation Impact Fee

Figure 2 provides a schedule of the updated maximum allowable Parks and Recreation impact fees for the City of Las Cruces (shaded in green). The fees represent the highest amount allowable for each type or size of housing unit,[1] which represents new growth's fair share of the cost for parks and recreation capital facilities. The City may adopt fees that are less than the amounts shown. However, **a reduction in impact fee revenue will necessitate an increase in other revenues, a decrease in planned capital expenditures, and/or a decrease in levels of service.** Also shown in the figure is a comparison with the current Parks and Recreation impact fee (shaded in gray) along with percentage change from the current fee to the maximum allowable amount.

Figure 2. Summary of Maximum Allowable Parks and Recreation Impact Fees [with Neighborhood Parks]

Housing Type	Persons per Housing Unit	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
Single Family	2.44	$5,934	$2,600	$3,334	128%
Multifamily	1.58	$3,842	$2,600	$1,242	48%

OR

Residential by Square Foot	Persons per Housing Unit*	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
1,300 or less	1.02	$2,480	$2,600	($120)	-5%
1,301 to 2,100	1.85	$4,499	$2,600	$1,899	73%
2,101 or more	2.85	$6,931	$2,600	$4,331	167%

* Persons per housing unit by size of unit is from City of Las Cruces Police Impact Fee Study, 2022.

Per adoption of "Realize Las Cruces," the City's zoning code update, Neighborhood Parks will be provided as part of the development approval process. Levels of service and cost factors for Neighborhood Parks are included in the Development Impact Fee report for documentation purposes but are not recommended to be adopted as part of the Parks Impact Fee update. A fee schedule without Neighborhood Parks (land and improvements) is provided in Figure 3.

[1] Fee schedules are presented in two ways as an option for adoption: (a) by type of housing unit or (b) by size.

Figure 3. Summary of Maximum Allowable Parks and Recreation Impact Fees [without Neighborhood Parks]

Housing Type	Persons per Housing Unit	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
Single Family	2.44	$4,855	$2,600	$2,255	87%
Multifamily	1.58	$3,144	$2,600	$544	21%

OR

Residential by Square Foot	Persons per Housing Unit*	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
1,300 or less	1.02	$2,029	$2,600	($571)	-22%
1,301 to 2,100	1.85	$3,681	$2,600	$1,081	42%
2,101 or more	2.85	$5,671	$2,600	$3,071	118%

* Persons per housing unit by size of unit is from City of Las Cruces Police Impact Fee Study, 2022.

Please note, calculations throughout this report are based on an analysis conducted using MS Excel software. Results are discussed in the memo using one- and two-digit places (in most cases). Figures are typically either truncated or rounded. In some instances, the analysis itself uses figures carried to their ultimate decimal places; therefore, the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown in the report (due to the rounding of figures shown, not in the analysis).

INTRODUCTION TO IMPACT FEES

Definition

Development fees, also known as impact fees or development impact fees, are one-time payments used to fund capital improvements necessitated by new growth. Impact fees have been utilized by local governments in various forms for at least fifty years. Impact fees do have limitations and should not be regarded as the total solution for infrastructure financing needs. Rather, they should be considered one component of a comprehensive portfolio to ensure adequate provision of public facilities with the goal of maintaining current levels of service in a community. Any community considering development impact fees should note the following limitations:

- Impact fees can only be used to finance capital infrastructure and cannot be used to finance ongoing operations and/or maintenance and rehabilitation costs;
- Impact fees cannot be deposited in the local government's General Fund. The funds must be accounted for separately in individual accounts and earmarked for the capital expenses for which they were collected; and
- Impact fees cannot be used to correct existing infrastructure deficiencies unless there is a funding plan in place to correct the deficiency for all current residents and businesses in the community.

Legal Framework

U.S. Constitution. Like all land use regulations, development exactions—including impact fees—are subject to the Fifth Amendment prohibition on taking private property for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against regulatory takings. To comply with the Fifth Amendment, development regulations must be shown to substantially advance a legitimate governmental interest. In the case of impact fees, that interest is in the protection of public health, safety, and welfare by ensuring that development is not detrimental to the quality of essential public services.

There is little federal case law specifically dealing with impact fees, although other rulings on other types of exactions (e.g., land dedication requirements) are relevant. In one of the most important exaction cases, the U. S. Supreme Court found that a government agency imposing exactions on development must demonstrate an "essential nexus" between the exaction and the interest being protected. (See *Nollan v. California Coastal Commission,* 1987.) In a more recent case (*Dolan v. City of Tigard, OR,* 1994), the Court ruled that an exaction also must be "roughly proportional" to the burden created by development. However, the *Dolan* decision appeared to set a higher standard of review for mandatory dedications of land than for monetary exactions such as development impact fees.

Required Findings

There are three reasonable relationship requirements for impact fees that are closely related to "rational nexus" or "reasonable relationship" requirements enunciated by a number of state courts. Although the term "dual rational nexus" is often used to characterize the standard by which courts evaluate the validity of development impact fees under the U.S. Constitution, we prefer a more rigorous formulation that recognizes three elements: "impact or need," "benefit," and "proportionality." The dual rational nexus test explicitly addresses only the first two, although proportionality is reasonably implied, and was specifically mentioned by the U.S. Supreme Court in the *Dolan* case. The reasonable relationship language of the statute is considered less strict than the rational nexus standard used by many courts. Individual elements of the nexus standard are discussed further in the following paragraphs.

***Demonstrating an Impact*.** All new development in a community creates additional demands on some, or all, public facilities provided by local government. If the supply of facilities is not increased to satisfy that additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is a consequence of development that is subject to the fees. The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate conditions created by the developments upon which they are imposed. That principle clearly applies to impact fees. In this study, the impact of development on improvement needs is analyzed in terms of quantifiable relationships between various types of development and the demand for specific facilities, based on applicable level-of-service standards.

***Demonstrating a Benefit*.** A sufficient benefit relationship requires that facility fee revenues be segregated from other funds and expended only on the facilities for which the fees were charged. Fees must be expended in a timely manner and the facilities funded by the fees must serve the development paying the fees. However, nothing in the U.S. Constitution or the State enabling Act requires that facilities funded with fee revenues be available *exclusively* to development paying the fees. In other words, existing development may benefit from these improvements as well.

Procedures for the earmarking and expenditure of fee revenues are typically mandated by the State enabling act, as are procedures to ensure that the fees are expended expeditiously or refunded. All of these requirements are intended to ensure that developments benefit from the fees they are required to pay. Thus, an adequate showing of benefit must address procedural as well as substantive issues.

***Demonstrating Proportionality*.** The requirement that exactions be proportional to the impacts of development was clearly stated by the U.S. Supreme Court in the *Dolan* case (although the relevance of that decision to impact fees has been debated) and is logically necessary to establish a proper nexus. Proportionality is established through the procedures used to identify development-related facility costs, and in the methods used to calculate impact fees for various types of facilities and categories of development. The demand for facilities is measured in terms of relevant and measurable attributes of development. For example, the need for school improvements is measured by the number of public school-age children generated by development.

Unique Requirements of the New Mexico Impact Fee Act

Impact fees in New Mexico are governed by Article 8, Chapter 5 of New Mexico Statutes Annotated (NMSA) – the *Development Fees Act*. The Act imposes certain requirements for impact fee assessment in New Mexico, including[2]:

- Capital facility types that are eligible for impact fee assessment;
- Categories of allowed and prohibited expenses;
- Impact fee administrative procedures and capital facilities plan update requirements, including conditions under which fees must be refunded (impact fees must, for example, be spent within seven years of collection or refunded);
- Requirements guiding the City's definition of an impact fee service area (the area within which fees will be assessed);
- Impact fee analytical requirements that call for preparation of two reports to support the assessment – impact fee Land Use Assumptions, and this Impact Fee Capital Improvement Plan (the IFCIP), which documents the calculation methodology and includes a schedule of impact fees by property type.

The IFCIP includes the following:

- The definition of the impact fee service unit – a standard unit of measure for capital facilities demand planning;
- A demand equivalency table that shows the rate of service unit generation (capital facility capacity demand), by property type;
- The number of projected service units attributable to new development (which is a way to quantify the "impacts" of new development;
- The cost per service unit (cost to meet demand from a unit of new development);
- The net cost per service unit (total cost less impact fee reductions);
- An impact fee net cost schedule that shows the net payable impact fee amount, by property type.

The Development Fees Act includes three other noteworthy provisions:

1. Platted (and un-built) lots are guaranteed, for a period of four years, the impact fee rate in effect at the time of platting. This protection expires at the end of four years, after which the

[2] See the Appendix for the full text of the New Mexico Development Fees Act.

current fee rates apply. Lots platted prior to the adoption of the impact fees in this report have no such protection (because fees in this report have not been assessed in the past). Future impact fee updates will have effect only for lots platted after enactment of the new fees (along with lots platted more than four years before the update).

2. Impact fee exemption is specifically disallowed for public entities.
3. The City may waive fee assessment for “qualified affordable housing.” Qualified units are those affordable to households earning 80% or less of HUD area median income, and which have total monthly shelter costs of less than 30% of gross household income.

Methodologies and Credits

Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics and planning requirements for the facility type being addressed. Each method has advantages and disadvantages in a particular situation, and to some extent can be interchangeable, because each allocates facility costs in proportion to the needs created by development.

Reduced to its simplest terms, the process of calculating impact fees involves two main steps: (1) determining the cost of development-related capital improvements and (2) allocating those costs equitably to various types of development. In practice, though, the calculation of impact fees can become quite complicated because of the many variables involved in defining the relationship between development and the need for facilities. The following paragraphs discuss three basic methods for calculating development impact fees and how those methods can be applied.

Plan-Based Fee Calculation. The plan-based method allocates costs for a specified set of improvements to a specified amount of development. The improvements are identified by a facility plan and development is identified by a land use plan. In this method, the total cost of relevant facilities is divided by total demand to calculate a cost per unit of demand. Then, the cost per unit of demand is multiplied by the amount of demand per unit of development (e.g., housing units or square feet of building area) in each category to arrive at a cost per specific unit of development (e.g., single family detached unit).

Cost Recovery or Buy-In Fee Calculation. The rationale for the cost recovery approach is that new development is paying for its share of the useful life and remaining capacity of facilities already built or land already purchased from which new growth will benefit. This methodology is often used for systems that were oversized such as sewer and water facilities.

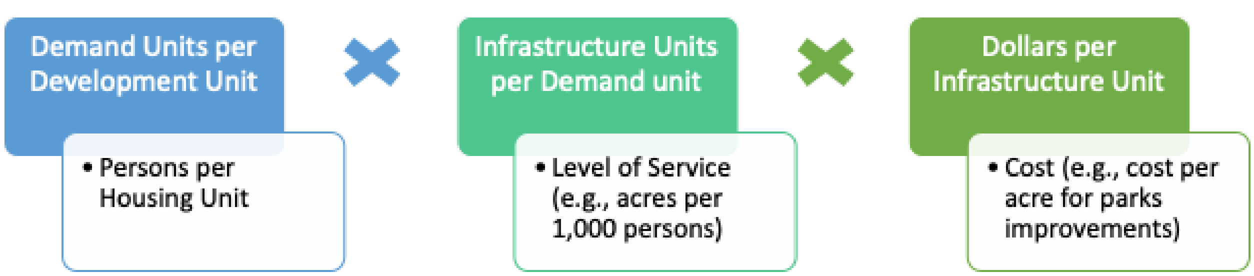
Incremental Expansion Fee Calculation. The incremental expansion method documents the current level of service (LOS) for each type of public facility in both quantitative and qualitative measures, based on an existing service standard (such as square feet per student). This approach ensures that there are no existing infrastructure deficiencies or surplus capacity in infrastructure. New development is only paying its proportionate share for growth-related infrastructure. The level of service standards are determined in a manner similar to the current replacement cost approach used by property insurance companies. However, in contrast to insurance practices, the fee revenues would not be for renewal and/or replacement of existing facilities. Rather, revenue will be used to expand or provide additional facilities, as needed, to accommodate new development. An incremental expansion cost method is best suited for public facilities that will be expanded in regular increments, with LOS standards based on current conditions in the community.

Credits. Regardless of the methodology, a consideration of "credits" is integral to the development of a legally valid impact fee methodology. There are two types of "credits" each with specific, distinct characteristics, but both of which should be addressed in the development of development impact fees. The first is a credit due to possible double payment situations. This could occur when contributions are made by the property owner toward the capital costs of the public facility covered by the impact fee. This type of credit is integrated into the impact fee calculation. The second is a credit toward the payment of a fee for dedication of public sites or improvements provided by the developer and for which the facility fee is imposed. This type of credit is addressed in the administration and implementation of a facility fee program.

Generic Impact Fee Calculation

In contrast to development exactions, which are typically referred to as project-level improvements, impact fees fund growth-related infrastructure that will benefit multiple development projects, or the entire jurisdiction (often referred to as "system-level" improvements). The basic steps in a generic impact fee formula are illustrated in Figure 4. The first step is to determine an appropriate demand indicator, or service unit, for the particular type of infrastructure. The demand/service indicator measures the number of demand or service units for each unit of development. For example, an appropriate indicator of the demand for parks is population growth and the increase in population can be estimated from the average number of persons per housing unit. The second step in the generic impact fee formula is shown in the middle. Infrastructure units per demand unit are typically called Level of Service (LOS) standards. In keeping with the park example, a common LOS standard is park acreage per thousand persons. The third step in the generic impact fee formula is the cost of various infrastructure units. To complete the park example, this part of the formula would establish the cost per acre for park development.

Figure 4. Generic Impact Fee Formula



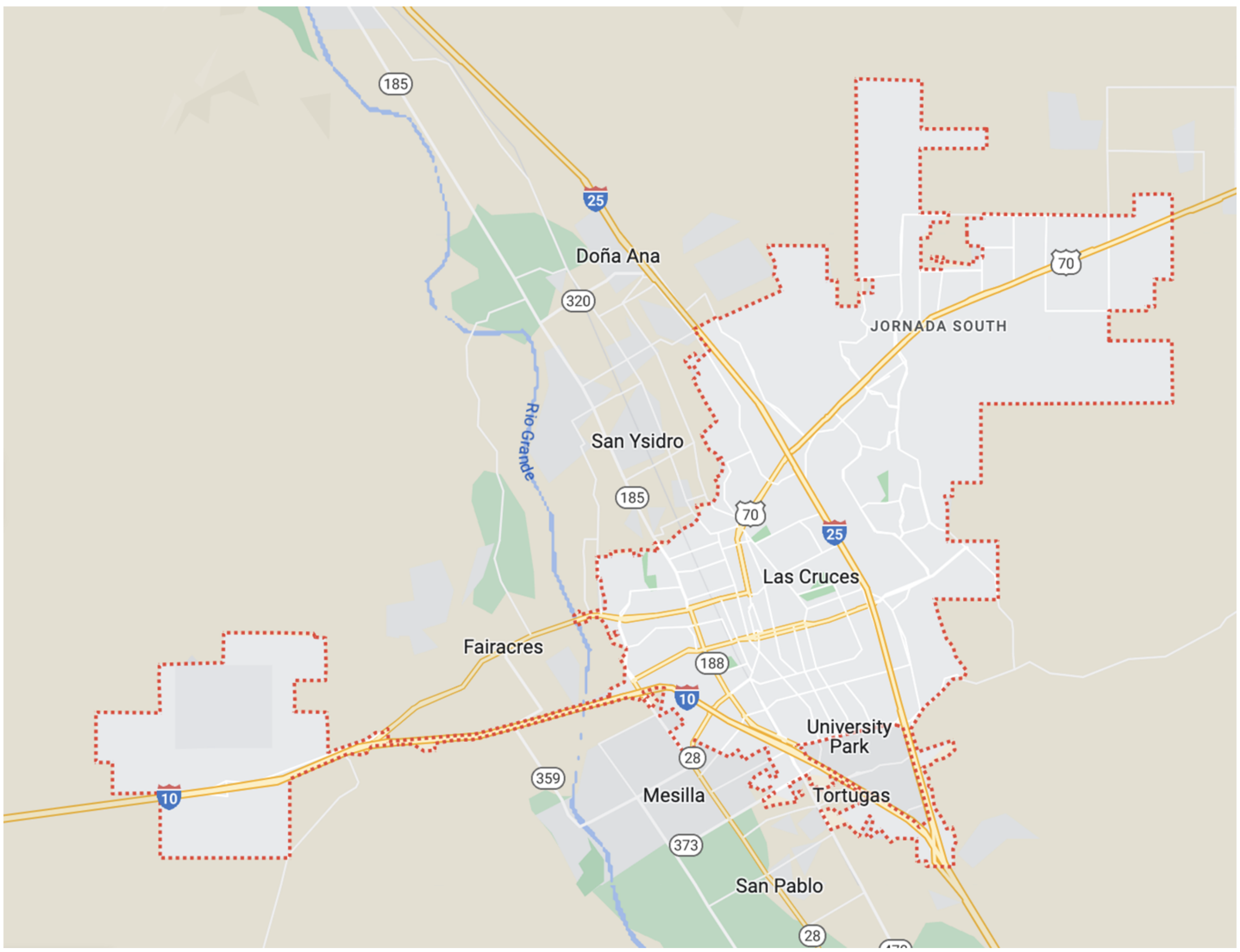
LAND USE ASSUMPTIONS

New Mexico's *Development Fees Act* states that land use assumptions should include a description of the service area and projections of changes in land uses, densities, intensities, and population in the service area over at least a five-year period (see Section 5-8-2.J).

Study Area

The study area for the City of Las Cruces Parks Development Fee Study is the City limits. The study area is used to define levels of service, capacity needs, and any subareas, if needed. The estimates discussed are citywide.

Figure 5 .City of Las Cruces Corporate Boundary: Study Area



Source: Google Maps

Population and Housing Characteristics

Impact fees use per capita standards and persons per housing unit or persons per household to derive proportionate share fee amounts and reflect densities and intensities from development, as referenced in the New Mexico Development Fees Act. Housing types have varying household sizes and, consequently, different demand for City infrastructure and services. Thus, it is important to differentiate between housing types and persons per unit.

When persons per housing unit (PPHU) is used in the development fee calculations, infrastructure standards are derived using year-round population. In contrast, when persons per household (PPHH) is used in the development fee calculations, the fee methodology assumes all housing units will be occupied, thus requiring seasonal or peak population to be used when deriving infrastructure standards. TischlerBise recommends that fees for residential development in Las Cruces be imposed according to year-round population, therefore use persons per housing unit.

Household size by type of unit from the U.S. Census, American Community Survey (2020) is shown in Figure 6. Persons per housing unit (PPHU) is an important demographic factor that helps account for variations in service demand by type of housing. Persons per housing unit will be held constant over the projection period since the development fee represents a “snapshot approach” of current levels of service and costs.

TischlerBise recommends using a minimum of two housing unit categories for the development fee study: (1) Single Family and (2) Multifamily. Figure 6 shows the U.S. Census American Community Survey 2020, 5-Year Estimates data for the city. Single family units have a household size of 2.44 persons and multifamily units have a household size of 1.58 persons.

Figure 6. Persons per Housing Unit

Type of Unit	Persons	Housing Units	Persons per Housing Unit	Housing Mix	Vacancy Rate
Single Family	81,888	33,524	**2.44**	73%	9%
Multifamily	19,590	12,365	**1.58**	27%	12%
Subtotal	**101,478**	45,889	**2.21**	100%	10%
Group Quarters	1,472				
Total	**102,950**				

Source: U.S. Census, 2020: ACS 5-Year Estimates Detailed Tables
Note: Single unit includes detached, attached, and mobile homes.

However, the City of Las Cruces Public Safety Impact Fee (Willdan, 2022) was adopted by size (in square feet) of dwelling units (replicated below in Figure 7).

Figure 7. Persons per Dwelling Unit by Size of Unit

Residential by Square Foot	Persons per Dwelling Unit
1,300 or less	1.02
1,301 to 2,100	1.85
2,101 or more	2.85

Source: "Table 2.2. Occupant Density Assumptions," City of Las Cruces Police Impact Fee Study, 2022 (Willdan, 2022).

Population Growth Trends

Development fees require an analysis of current levels of service. For residential development, current levels of service are determined using estimates of population and housing units. As shown in the following figure, over the 11-year period, the city grew by 14,438 residents.[3]

Figure 8. City of Las Cruces Historical Population Growth (2010 to 2021)

Year	City of Las Cruces Population
2010	98,284
2011	100,212
2012	101,045
2013	101,238
2014	101,192
2015	101,113
2016	101,313
2017	101,963
2018	102,812
2019	103,432
2020	111,385
2021	112,722
Net Increase (2010-2021)	**14,438**
Growth Rate (2010-2021)	**1.25%**

Population as of July 1 except 2020 and 2021, which is as of April 15

Source: U.S. Census; Willdan Financial Services

[3] It should be noted that persons and housing units shown in Figure 6**Error! Reference source not found.** is from the U.S. Census American Community Survey (ACS), which is a continuous monthly mailing of surveys reflecting a sample of the population in Las Cruces, as opposed to the 2020 Census (reflecting a 100 percent count of population), shown in Figure 8. The ACS data is used to establish the relationship between the number of occupants in different types of housing units in the City, to reflect impact by type of housing unit.

Projected Population Growth

Figure 9 provides the City's current population estimate for 2023 and projected population growth through 2033. Projections are from the City of Las Cruces *Public Safety Impact Fee Update*[4] (Willdan Financial Services, 2022) and reflect a growth rate of 1.2 percent per year, resulting in a projected increase of 14,629 over 10 years.

Figure 9. City of Las Cruces Projected Population Growth

Year	City of Las Cruces Population (as of July 1)
2023	115,443
2024	116,828
2025	118,230
2026	119,649
2027	121,085
2028	122,538
2029	124,008
2030	125,497
2031	127,004
2032	128,529
2033	130,072
Net Increase (2023-2033)	**14,629**
Growth Rate (2023-2033)	**1.20%**

Sources: Willdan Financial Services through 2030; subsequent years projected based on average annual growth rate of 1.2% (from above projections).

[4] The City of Las Cruces currently updates its development fees on a rolling basis with Public Safety mostly updated in 2022. Additionally, TischlerBise has prepared the Las Cruces Utilities Development Fee update (latest draft as of September 29, 2023) utilizing consistent land use assumptions and sources from the Public Safety fees.

Housing Unit Estimate and Projections

The *Public Safety Impact Fee Update* established estimates of current housing units in the City and documented projected future growth, based on the assumptions in the City's comprehensive plan, *Elevate Las Cruces*. The number of housing units in the City as of 2023 was determined to be 47,460.

Projections of housing units are shown below. Residential projections are used to determine demand for parks and recreation facilities as well as to project revenues from development fees.

Figure 10. City of Las Cruces Housing Unit Estimate and Projections

Year	City of Las Cruces Population (as of July 1)	City of Las Cruces Housing Units (as of July 1)
2023	115,443	47,460
2024	116,828	48,030
2025	118,230	48,606
2026	119,649	49,190
2027	121,085	49,780
2028	122,538	50,377
2029	124,008	50,982
2030	125,497	51,593
2031	127,004	52,211
2032	128,529	52,837
2033	130,072	53,470
Net Increase (2023-2033)	**14,629**	**6,010**
Growth Rate (2023-2033)	**1.20%**	**1.20%**

Sources: Willdan Financial Services through 2030; subsequent years projected based on average annual growth rate of 1.2% (from above projections).

Housing Unit Projections by Type of Unit

It is anticipated that development fees will be assessed by type of housing unit (i.e., single family or multifamily) or by size (square feet) of a housing unit. Based on housing unit distribution from the U.S. Census 2020 ACS 5-Year Estimates, 73 percent of housing units are single family with the remaining 27 percent multifamily, which is applied to housing unit projections.

Figure 11. City of Las Cruces Housing Unit Projection by Type of Unit

		73%	*27%*
Year	**City of Las Cruces Housing Units**	**Single Family Units**	**Multifamily Units**
2022	46,898	34,261	12,637
2023	47,460	34,672	12,788
2024	48,030	35,088	12,942
2025	48,606	35,509	13,097
2026	49,190	35,936	13,254
2027	49,780	36,367	13,413
2028	50,377	36,803	13,574
2029	50,982	37,245	13,737
2030	51,593	37,691	13,902
2031	52,211	38,143	14,069
2032	52,837	38,600	14,237
2033	53,470	39,062	14,408
Net Increase (2022-2032)	**6,010**	**4,391**	**1,619**

Source: Willdan Financial Services; U.S. Census, 2020: ACS 5-Year Estimates Detailed Tables

Note: Single unit includes detached, attached, and mobile homes.

Nonresidential Development[5]

Current estimates and future projections of nonresidential development are detailed in this section including jobs and nonresidential floor area.

Base Year Employment and Nonresidential Square Footage Estimates

For some development fees, data on employment (number of jobs) and nonresidential square footage in Las Cruces is needed. TischlerBise uses the term "jobs" to refer to employment by place of work. TischlerBise received job estimates and projections from the City's *Public Safety Impact Fee Update*.

Using the job data, TischlerBise estimated nonresidential square footage in the City of Las Cruces for 2023 by using average square feet per job factors shown in Figure 12.

[5] Nonresidential development estimates and projections are included in the land use assumptions to be consistent with the Public Safety and Utilities Development Fee reports; it is not anticipated that the Parks and Recreation Development Fee will be assessed on nonresidential development and therefore will not utilize the nonresidential land use information.

Figure 12. Employee and Building Area Ratios (ITE)

Land Use	Demand Unit	Employees Per 1,000 Sq. Ft.	Sq. Ft. Per Emp
Industrial	1,000 Sq Ft	1.57	637
Office and Other Services	1,000 Sq Ft	3.26	307
Commercial/Retail	1,000 Sq Ft	2.12	472
Mini-Warehouse	1,000 Sq Ft	0.29	3,448
Warehouse	1,000 Sq Ft	0.34	2,941
Hotel/Motel	room	0.35	2,857
Institutional	1,000 Sq Ft	2.83	353

Source: ITE Trip Generation Manual, 11th Edition in Willdan Financial Services

Current job and nonresidential square footage estimates are shown below in Figure 13 by land use type. Nonresidential square footage is estimated by multiplying number of jobs by square feet per employee (e.g., retail jobs at 13,229 x 472 sq. ft. per job = 6,2,44,214 square feet).

Figure 13. Employment and Distribution by Industry Type (2022 Estimate)

	2023 Jobs	Sq Ft per Job	Sq. Ft.
Retail	13,229	472	6,244,214
Office & Other	27,072	307	8,311,135
Industrial	5,356	637	3,411,538
Total	**45,657**		**17,966,887**

Source: Willdan Financial Services; TischlerBise allocation by type based on OnTheMap Application; TischlerBise calculation of square footage.

Employment and Nonresidential Floor Area Projections

Projections for employment growth and nonresidential development in Las Cruces are from the City *Public Safety Impact Fee Update* and reflect 0.70 percent growth annually. Projections are shown for 10 years below in Figure 14, with growth of almost 1.3 million square feet and 3,299 jobs.

Figure 14. Nonresidential Development Projections (2023-2033)

Year	City of Las Cruces Nonres Sq. Ft.	City of Las Cruces Jobs
2023	18,092,655	45,657
2024	18,219,303	45,977
2025	18,346,839	46,299
2026	18,475,266	46,623
2027	18,604,593	46,949
2028	18,734,825	47,278
2029	18,865,969	47,609
2030	18,998,031	47,942
2031	19,131,017	48,278
2032	19,264,934	48,616
2033	19,399,789	48,956
Net Increase (2023-2033)	**1,307,134**	**3,299**
Growth Rate (2023-2033)	**0.70%**	**0.70%**

Sources: Willdan Financial Services; City of Las Cruces.

Summary of Residential Land Use Assumptions

A summary of cumulative residential land use projections to be used in the development fee study is provided below. Base year estimates for 2023 are anticipated to be used in the development fee calculations. Growth projections are used to project future capacity needs as well as cash flows resulting from revenues and expenditures associated with those demands.

Figure 15. Summary of Land Use Assumptions

							Multi Year Increments>>>		
		2023	**2024**	**2025**	**2026**	**2027**	**2028**	**2033**	**10-Year**
		Base	**1**	**2**	**3**	**4**	**5**	**10**	**Change**
Population									
Total Population		**115,443**	**116,828**	**118,230**	**119,649**	**121,085**	**122,538**	**130,072**	**14,629**
Net Increase Per Year		*1,369*	*1,385*	*1,402*	*1,419*	*1,436*	*1,453*	*1,543*	
Housing Units									
Single Family Units	*73%*	34,672	35,088	35,509	35,936	36,367	36,803	39,062	4,391
Multi-Family Units	*27%*	12,788	12,942	13,097	13,254	13,413	13,574	14,408	1,619
Total Housing Units		**47,460**	**48,030**	**48,606**	**49,190**	**49,780**	**50,377**	**53,470**	**6,010**
Single Family Net Increase Per Year		*411*	*416*	*421*	*427*	*431*	*436*	*463*	*4,391*
Multifamily Net Increase Per Year		*151*	*154*	*155*	*157*	*159*	*161*	*171*	*1,619*
Net Increase Per Year		*562*	*570*	*576*	*584*	*590*	*597*	*633*	*6,010*

Source: Willdan Financial Services; U.S. Census, 2020: ACS 5-Year Estimates Detailed Tables

PARKS AND RECREATION CAPITAL IMPROVEMENTS PLAN

Methodology

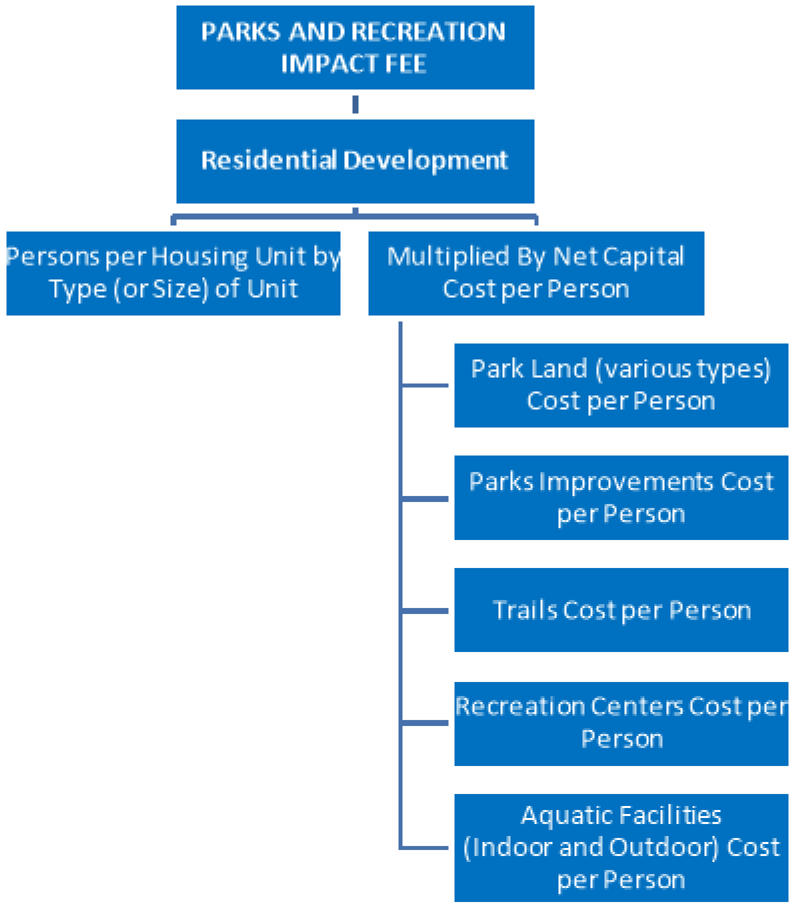
All components of the Parks and Recreation impact fee are based on an incremental expansion methodology, except for indoor aquatics which use a cost recovery methodology. Although the City has an adopted Parks and Recreation Master Plan, the impact fee methodology assumes the City may acquire additional park land and construct additional recreation improvements to serve future growth to maintain current levels of service incrementally over time. This is a conservative approach which limits the City's General Fund exposure. If a plan-based approach were utilized, reliance on long-range growth projections would be likely, which could risk General Fund dollars to implement the plan if growth does not occur as projected.

Parks and recreation capital improvements are allocated 100 percent to residential development. According to the *Development Fees Act*, a service unit for purposes of the parks and recreation impact fee is a person. Included in the fee calculation are:

- Park land acquisition
    - Community Parks
    - Community Parks – Athletic
    - Neighborhood Parks
    - Special Facilities
- Park improvements
- Trails
- Recreation centers
- Indoor Aquatics facilities
- Outdoor Aquatics facilities

Figure 16 diagrams the general methodology used to calculate the Parks and Recreation impact fee. It is intended to read like an outline, with lower levels providing a more detailed breakdown of the impact fee components. The Parks and Recreation impact fee is derived from the product of persons per housing unit (by type or size of unit) multiplied by the net capital cost per person. The boxes in the next level down indicate detail on the components included in the fee.

Figure 16. Parks and Recreation Impact Fee Methodology Chart



Service Area

The City of Las Cruces plans to provide a uniform level of service and equal access to parks and recreational facilities within the City limits therefore the development fee is calculated on a citywide basis.

Ratio of Service Units to Development Unit

Figure 17 displays the demand indicators for residential land uses. For residential development, the table displays the persons per housing unit by type and unit size.

Figure 17. Parks and Recreation Facilities Ratio of Service Unit to Development Unit

Type of Unit	Persons per Housing Unit
Single Family	2.44
Multifamily	1.58

Source: U.S. Census, 2020: ACS 5-Year Estimates Detailed Tables

Note: Single unit includes detached, attached, and mobile homes.

Residential by Square Foot	Persons per Dwelling Unit
1,300 or less	1.02
1,301 to 2,100	1.85
2,101 or more	2.85

Source: "Table 2.2. Occupant Density Assumptions," City of Las Cruces Police Impact Fee Study, 2022 (Willdan, 2022).

Note: TischlerBise does not make any warranties regarding this data.

Parks & Recreation Levels of Service and Cost Factors

Park and Recreation impact fees are based on an inventory of existing citywide parks and current values of recreation improvements in the City's park system. The use of existing standards means there are no existing infrastructure deficiencies. New development is only paying its proportionate share for growth-related infrastructure. Costs and acreages have been provided by City staff.

Community Park Land

As shown in Figure 18, the City has a total of 149.03 active acres of community park land. Acreage for recreation centers on community park land has been removed to avoid double counting. When compared to the 2023 City population estimate of 115,443, this equates to a current level of service of 1.29 acres per 1,000 persons. This level of service is used to determine future needs and costs for park land purchases and development.

To determine the cost per service unit, TischlerBise utilized information provided by the City to determine an average cost per acre of community park land at $65,000. Based on the current level of service standard for community park land (1.29 acres per 1,000 persons) and the City's estimate of the cost per acre ($65,000) to purchase park land, the cost per person is $83.85 (1.29 acres per 1,000 persons x $65,000 per acre = $83.85 per person, rounded).

Figure 18. Community Park Level of Service and Cost Analysis

Site	Active Acres
Branigan Park	4.0
Burn Lake	7.00
Desert Trails Community Park	34.07
East Mesa Park	2.07
Frenger Park	9.9
Henry Benavidez Community Center	6.63
La Llorona Park	4.38
Las Cruces Lions Park	7.61
Mesilla Park	4.65
Metro Verde Splash Pad Park	2.93
Mike Apodaca Park	14.88
R.L. Young Park	21.80
Valley View Park	8.67
Veterans' Memorial Park	14.70
Meerscheidt Rec Center*	4.10
Unidad Park*	1.61
Total	**149.03**

Level of Service (LOS) Standards

Las Cruces Population in 2023	115,443
LOS: Acres Per 1,000 Persons	1.29

**Located within the Hadley Avenue Recreation Complex*
Source: City of Las Cruces Parks and Recreation

Cost Analysis

LOS: Acres Per 1,000 Persons	1.29
Land Cost per Acre	$65,000
Land Cost per Person	**$83.85**

Community Park – Athletic Land

As shown in Figure 19, the City has a total of 148.73 active acres of community park land dedicated solely to athletic facilities. When compared to the 2023 City population estimate of 115,443, this equates to a current level of service of 1.29 acres per 1,000 persons. This LOS is used to determine future needs and costs for park land purchases and development.

To determine the cost per service unit, TischlerBise utilized information provided by the City to determine an average cost per acre of community park land at $65,000. Based on the current level of service standard for community park land (1.29 acres per 1,000 persons) and the City's estimate of the cost per acre ($65,000) to purchase park land, the cost per person is $83.85 (1.29 acres per 1,000 persons x $65,000 per acre = $83.85 per person, rounded).

Figure 19. Community Park-Athletic Level of Service and Cost Analysis

Site	Active Acres
Apodaca Ball Fields	9.13
Burn Lake - Soccer Fields	5.56
High Noon Soccer Complex: Fields 1-2	7.22
High Noon Soccer Complex: Fields 3-5	10.76
Hadley Outdoor Excercise Site*	0.10
Jim Harty Field*	10.51
Maag Park*	13.14
Provencio/Van Dame Soccer Complex*	8.51
Raymond M. Paz Sports Complex*	18.20
Ronald D. Galla T-Ball Complex*	3.88
Soldados Multipurpose Complex*	8.73
East Mesa Public Recreation Complex	53.00
Total	**148.73**

Level of Service (LOS) Standards

Las Cruces Population in 2023	115,443
LOS: Acres Per 1,000 Persons	1.29

**Located within the Hadley Avenue Recreation Complex*
Source: City of Las Cruces Parks and Recreation

Cost Analysis

LOS: Acres Per 1,000 Persons	1.29
Land Cost per Acre	$65,000
Land Cost per Person	**$83.85**

Community Park Land Cost

Current estimated land cost per acre for similarly sized parks is derived from recent City purchases. The figure below provides further detail as well as the weighted cost per acre after removing high and low values.

Figure 20. City Land Purchases of 10-30 Acres

SIZE ACRES	SALES PRICE	PRICE/ACRE	
6.29	$625,000	$99,364	
20.49	$650,000	$31,723	
8.67	$686,854	$79,222	
10.275	$800,000	$77,859	
5.23	$325,344	$62,207	
18	$750,000	$41,667	
8.388	$302,000	$36,004	
21.15	$1,815,000	$85,816	*

Weighted Average without Highest and Lowest Price/Acre

Total Acres	Total Sales	Price/Acre
71.713	$4,679,198	$65,249
	Rounded $/Acre	**$65,000**

** Motel/Bruins, City of Las Cruces purchase March 2024*

Source: City of Las Cruces Real Estate Office

Neighborhood Park Land[6]

As shown in Figure 21, the City has a total of 100.56 active acres of neighborhood park land. When compared to the 2023 City population estimate of 115,443, this equates to a current level of service of 0.87 acres per 1,000 persons. The impact fee calculations utilize a conservative approach and are based on the actual (existing) level of service (LOS). This LOS is used to determine future needs and costs for park land purchases and development.

To determine the cost per service unit, TischlerBise utilized information provided by the City to determine an average cost per acre of neighborhood park land at $70,000 (see Figure 23). Based on the LOS standard for neighborhood park land (0.87 acres per 1,000 persons) and the City's estimate of the cost per acre ($70,000) to purchase park land, the cost per person is $60.90 (0.87 acres per 1,000 persons x $70,000 per acre = $60.90 per person, rounded).

[6] Per adoption of "Realize Las Cruces," the City's zoning code update, Neighborhood Parks will be provided as part of the development approval process. Levels of service and cost factors for Neighborhood Parks are included in the Development Impact Fee report for documentation purposes but are not recommended to be adopted as part of the Parks Impact Fee update. A fee schedule without Neighborhood Parks (land and improvements) is provided herein.

Figure 21. Neighborhood Park Level of Service and Cost Analysis

Site	Acres
Albert Norris Johnson Sr. Memorial Park	1.9
Camelot Gardens Park	1.2
Camunez Park	2.3
Candlelight Knolls Park	0.4
College Manor Park	2.0
Country Club Estates Park	2.3
El Cardon Park	0.7
El Encanto Parquite	0.5
Four Hills Park	1.9
Gus Vlachakis Park	3.3
Hermosa Heights Park	1.2
Klein Park	1.9
La Buena Vida Park	8.7
Las Colinas Arroyo Park	1.3
Legends West Park^	2.0
Metro Verde Ninja Park	2.8
Metro Verde Sculpture Park	1.7
Metro Verde Soccer Park	1.0
Metro Verde Tower Park	1.6
Metro Verde Villas Park	2.2
North Las Cruces Park	8.3
Northpointe Park	1.0
Northridge Park	1.1
Parkhill Estates Park	2.2
Paseo De Onate Park	1.0
Pioneer Woman's Park	2.5
Ponderosa Park	0.7
Rincon Hills Park	3.7
Sagecrest Park	2.1
Salopek / Stull Park	2.2
Sam Graft Park	2.6
San Jose Park	1.8
Sunrise Terrace Park	4.3
Sunset Hills Park	1.5
Tellbrook Park	5.7
Tony Gomez Park	12.1
Valle Verde Park	2.9
Villa Encantada Park	1.9
Vista De La Montana Park	2.2
Total	**100.56**

^ Adjusted to reflect the active portion of the park (2 acres of 11.3 acres)

Level of Service (LOS) Standards	
Las Cruces Population in 2023	115,443
LOS: Acres Per 1,000 Persons	0.87

Source: City of Las Cruces Parks and Recreation

Cost Analysis	
LOS: Acres Per 1,000 Persons	0.87
Land Cost per Acre	$70,000
Land Cost per Person	**$60.90**

Special Use Parks Facility Land

As shown in Figure 22, the City has a total of 38.55 active acres of special use facility land. Based on the 2023 City population estimate of 115,443, this equates to a current level of service of 0.33 acres per 1,000 persons. The impact fee calculations utilize a conservative approach and are based on the actual (existing) level of service. This level of service is used to determine future needs and costs for park land purchases and development.

To determine the cost per service unit, TischlerBise utilized information provided by the City for an average cost per acre of special use facility land at $70,000 (see Figure 23). Based on the current level of service standard for special facility land (0.33 acres per 1,000 persons) and the City's estimate of the cost per acre ($70,000) to purchase special use facility land, the cost per person is $23.10 (0.33 acres per 1,000 persons x $70,000 per acre = $23.10 per person, rounded).

Figure 22. Special Facility Level of Service Standards and Cost Factors

Site	Active Acres
ASCMV Dog Park	1.09
Burn Lake Dog Park	2.04
RC Airplane Park	30.5
Las Cruces BMX Track*	2.6
Las Cruces Dog Park*	1.4
Las Cruces Skate Park*	1.0
Total	**38.55**

Level of Service (LOS) Standards

Las Cruces Population in 2023	115,443
LOS: Acres Per 1,000 Persons	0.33

**Located within the Hadley Avenue Recreation Complex*
Source: City of Las Cruces Parks and Recreation

Cost Analysis

LOS: Acres Per 1,000 Persons	0.33
Land Cost per Acre	$70,000
Land Cost per Person	**$23.10**

Neighborhood Park and Special Facility Land Cost

Current estimated land cost per acre for similarly sized parks is derived from recent City purchases. The figure below provides further detail as well as the weighted cost per acre after removing high and low values.

Figure 23. City Land Purchases of 1-3 Acres

SIZE ACRES	SALES PRICE	PRICE/ACRE
2.71	$777,930	$287,059
3.29	$65,600	$19,939
1.6	$279,000	$174,375
2.5	$210,000	$84,000
2.8	$670,000	$239,286
4.07	$545,000	$133,907
2.45	$220,000	$89,796
5	$200,000	$40,000
2.25	$189,000	$84,000
2.13	$175,000	$82,160
1.38	$179,000	$129,710
2	$179,000	$89,500
2	$174,000	$87,000
2.48	$178,000	$71,774
1.854	$170,000	$91,694
3.6	$169,000	$46,944
1.22	$165,000	$135,246
5	$180,000	$36,000
2.5	$125,000	$50,000
1.2	$117,500	$97,917
4.7	$119,000	$25,319
3	$104,900	$34,967
5	$105,000	$21,000
2.355	$85,000	$36,093
2.355	$85,000	$36,093
2.29	$85,000	$37,118
1.44	$100,000	$69,444
2	$75,000	$37,500
1.44	$55,000	$38,194

Weighted Average without Highest and Lowest Price/Acre

Total Acres	Total Sales	Price/Acre
70.614	$4,938,400	$69,935
	Rounded $/Acre	**$70,000**

Source: City of Las Cruces Real Estate Office

Trails

As shown in Figure 24, the City has a total of 82.65 miles of trails. Based on the 2023 City population estimate of 115,443, this equates to a current level of service of 0.24 miles per 1,000 persons. This level of service is used to determine future needs and costs for park land purchases and development.

To determine the cost per service unit, TischlerBise utilized information provided by the City for average cost per mile, which was estimated at $260,000 (based on cost estimates for Las Cruces Lateral Trail (see Figure 25)). Based on the current level of service standard for trails (0.24 per 1,000 persons) and the City's estimate of the cost to construct a mile of trail ($260,000), the cost per person is $62.40 (0.24 miles per 1,000 persons x $260,000 per mile = $62.40 per person, rounded).

Figure 24. Trail Level of Service and Cost Analysis

Site	Total Miles
Alameda Arroyo Trail	0.73
Armijo Lateral Trail	2.63
Calle Jitas Trail	1.07
Desert Trails Park - path	37.37
Gomez Trail	0.18
La Llorona Multi Use Path - Park	0.24
La Llorona Multi Use Path - South	3.15
La Llorona Multi Use Path- North	1.14
Las Cruces Lateral Trail	3.13
LC Dam Trail	12.82
Legends West Trail	1.32
Mesilla Drain Trail	2.21
Metro Verde Trail	0.22
Metro Verde/Engler - Multi Use Path	0.68
Outfall Channel Trail	4.44
Sonoma Ranch Multi Use Path	3.61
Tierra Verde Trail	0.25
Triviz Multi Use Path	4.57
Twin Parks Trail	0.93
Union Multi Use Path West	0.83
Wetland Trail	1.12
Total	**82.65**

Level of Service (LOS) Standards	
Las Cruces Population in 2023	115,443
LOS: Miles Per 1,000 Persons	0.24

Source: City of Las Cruces Parks and Recreation

Cost Analysis	
LOS: Miles Per 1,000 Persons	0.24
Cost per Mile of Trail	$260,000
Trail Cost per Person	**$62.40**

Figure 25. Trail Improvement Cost Estimate

Park Name	Cost Data Source	Cost	TYPE	Length	Total Cost	Cost per Mile	Cost per Mile (Rounded Down)
Las Cruces Lateral Trail	Initial Opinion of Probable Cost	$419,073	LINEAR	1.6	$419,073	$261,920.63	$260,000

Recreation Centers

Figure 26 lists the City's current inventory of recreation centers. According to information provided by the City, there is 56,245 square feet of building space. When compared to the current City population estimate of 115,443, this equates to a current level of service of 0.49 square feet per person.

Based on the current level of service standard for recreation center space (0.49 square feet per person) and the estimated replacement cost per square foot ($725) provided by the City, recreation center space cost per person is $355.25 (.49 square feet per person x $725 per square foot = $355.25 per person, rounded).

Figure 26. Indoor Recreation Centers Level of Service and Cost Analysis

Site	Location	Square Feet
East Mesa Recreation Center	East Mesa Park	3,260
Frank O'Brien Papen Recreation Center	Mesilla Park	23,335
Meerscheidt Recreation Center	Hadley Recreation Complex	29,650
	Total	**56,245**

Source: City of Las Cruces Parks and Recreation

Level of Service (LOS) Standards

Las Cruces Population in 2023	115,443
LOS: Sq. Ft. Per Person	0.49

Cost Analysis

Total Existing Recreation Center Square Feet	56,245
Las Cruces Population in 2023	115,443
LOS: Sq. Ft. Per Person	0.49
Recreation Building Cost per Square Foot	$725
Recreation Building Cost per Person	**$355.25**

Indoor Aquatic Facilities

Level of service (LOS) and cost factors for Indoor Aquatic Facilities are calculated using a cost recovery methodology as City officials expect these facilities to provide sufficient capacity for the next 20 years. Figure 27 lists the current inventory of the City's two indoor aquatics facilities. According to information provided by the City, the cost for these facilities totals $32,041,250, of which $26,241,250 was paid for by the City through the issuance of bonds. To determine the cost per service unit, the net cost to the City ($26,241,250) is divided by the projected 2043 population (146,562[7]). This results in a cost per person of $179.05 ($26,241,250 / 146,562 persons = $179.05 per person, rounded).

Figure 27. Aquatic Facilities Level of Service Standards and Cost Factors

Indoor Aquatic Facilities

Facility	Square Feet
Las Cruces Regional Aquatics Center	42,295
Las Cruces 50m Community Pool	36,536
Total	**78,831**

Level of Service (LOS) Standards

Las Cruces Population in 2043	146,562
LOS: Sq. Ft. Per Person	0.54

Source: City of Las Cruces Parks and Recreation

Facility	Total Cost	City Funding*
Las Cruces Regional Aquatics Center	$15,800,000	$10,000,000
Las Cruces 50m Community Pool	$16,241,250	$16,241,250
Total	**$32,041,250**	**$26,241,250**

Level of Service (LOS) and Cost Analysis

Las Cruces Population in 2043	146,562
Indoor Aquatics Cost per Person	**$179.05**

** City bonds; direct funding. The portion funded by the State is excluded.*

Source: City of Las Cruces Parks and Recreation

[7] Per assumptions in the Land Use Assumptions, population is projected to continue to grow by 1.2 percent per year reaching 146,562 by the year 2043.

Outdoor Aquatic Facilities

Level of service (LOS) and cost factors for outdoor aquatic facilities are calculated using an incremental expansion methodology. Figure 28 lists the City's current inventory of outdoor aquatics facilities. Indicated in the figure, the City has three outdoor splash pads, each of which has a construction cost of $1,000,000. To determine the cost per service unit, the net cost to the City ($3,000,000) is divided by the 2023 population (115,443). This results in a cost per person of $25.99 ($3,000,000 / 115,443 persons = $25.99 per person, rounded).

Figure 28. Outdoor Aquatic Facilities Level of Service Standards and Cost Factors

Facility	Current Construction Cost per Facility
Metro Verde Splash Park	$1,000,000
Plaza de Las Cruces Splash Pad	$1,000,000
Unidad Splash Pad	$1,000,000
Total	**$3,000,000**

Level of Service (LOS) and Cost Analysis	
Las Cruces Population in 2023	115,443
Outdoor Aquatics Cost per Person	**$25.99**

Source: City of Las Cruces Parks and Recreation

Park Improvements

City officials provided a data sample of two acres of typical park improvements in order to approximate the average cost per acre for park improvements. Indicated in Figure 29, the total average improvement cost for two acres of parkland is $876,217, or $438,109 per acre. To calculate the capital cost per person for park improvements, the total LOS of all park types (3.78 acres per 1,000 persons) is applied to the rounded improvement cost per acre ($438,000). This results in a cost per person of $1,655.64. (Without Neighborhood Parks, the cost per person is $1,274.58.)

Figure 29. Park Improvements Level of Service and Cost Factors

Park Amenity	Number	Unit	Unit Cost	Total
Basketball Court	1	ea	$150,000	$150,000
Benches	4	ea	$1,575	$6,300
Drinking Fountains	1	ea	$3,500	$3,500
Picnic Tables	2	ea	$2,250	$4,500
Picnic Shelter	1	ea	$18,470	$18,470
Playground	1	ea	$365,000	$365,000
Soccer Field	1	ea	$250,000	$250,000
Trashcan	3	ea	$675	$2,025
Irrigation System	1	ls	$10,000	$10,000
Trees	44	ea	$450	$19,800
Shrubs	91	ea	$150	$13,650
Walkways	2800	lf	$1	$2,800
Gravel Mulch	24600	sf	$1	$20,172
Signs	1	ls	$6,750	$6,750
Bicycle Rack	1	ea	$2,250	$2,250
Doggie Bag Dispenser	2	ea	$500	$1,000
Total				**$876,217**

	Park Size (Acres)	2
	Cost per Acre	$438,109
	Cost per Acre (rounded)	**$438,000**
	Level of Service (LOS) Standards	
	2023 Population	115,443
[With Neighborhood Parks]	LOS: Acres per 1,000 persons	3.78
[Without Neighborhood Parks]	LOS: Acres per 1,000 persons	2.91
	Cost Analysis	
[With Neighborhood Parks]	LOS: Acres per 1,000 persons	3.78
[Without Neighborhood Parks]	LOS: Acres per 1,000 persons	2.91
	Improvement Cost per Acre	$438,000
[With Neighborhood Parks]	**Improvement Cost per Person**	**$1,655.64**
[Without Neighborhood Parks]	**Improvement Cost per Person**	**$1,274.58**

Based on unit cost estimates for each item. Does not include design (typically at least 8% of construction cost), NMGRT, and Contingency.

Source: City of Las Cruces Parks and Recreation

Growth-Related Need for Park Facilities

Figure 30 summarizes the growth-related needs and expenditures for Park facilities through 2033. To calculate the growth-related need for each component, the level of service (LOS) is multiplied by the annual population increase. The growth related expenditure is calculated by multiplying the 10-year increase by the cost factor for each component. For example, the projected 10-year need for community park land is 18.9 acres (14,629 persons x 1.29 acres per 1,000 persons = 18.9 acres (rounded)). Based on cost of $65,000 per acre, the cost of land acquisition for community parks is $1,228,500 (18.9 acres x $65,000 per acre = $1,228,500).For all components combined, the 10-year projected expenditure is approximately $37 million.

Figure 30. 10-Year Projected Growth-Related Need for Park Facilities [with Neighborhood Parks]

Facility	Level of Service		Cost Factors	
Community Parks Land	1.29	acres per 1,000 persons	$65,000	per acre
Community Parks - Athletic Land	1.29	acres per 1,000 persons	$65,000	per acre
Neighborhood Park Land	0.87	acres per 1,000 persons	$70,000	per acre
Special Facilities Park Land	0.33	acres per 1,000 persons	$70,000	per acre
Parks Improvements (All Park Types)	3.78	acres per 1,000 persons	$438,000	per acre
Trails	0.24	miles per 1,000 persons	$260,000	per mile
Recreation Centers	0.49	square feet per person	$725	per sq. ft.
Indoor Aquatic	$179	per person		
Outdoor Aquatic	$26	per person		

5-Year increment >>

City of Las Cruces	Base Year 2023	1 2024	2 2025	3 2026	4 2027	5 2028	10 2033	10-Year Increase	Cost of Future Dev.
Population	*115,443*	*116,828*	*118,230*	*119,649*	*121,085*	*122,538*	*130,072*		
Annual Population Increase		*1,385*	*1,402*	*1,419*	*1,436*	*1,453*	*1,543*	*14,629*	
Acres of Community Park Land		1.8	1.8	1.8	1.9	1.9	2.0	18.9	$1,228,500
Acres of Community Athletic Land		1.8	1.8	1.8	1.9	1.9	2.0	18.9	$1,226,653
Acres of Neighborhood Park Land		1.2	1.2	1.2	1.2	1.3	1.3	12.6	$882,000
Acres of Special Facilities Park Land		0.5	0.5	0.5	0.5	0.5	0.5	4.8	$337,933
Acres of Park Improvements		5.2	5.3	5.4	5.4	5.5	5.8	55.3	$24,221,400
Miles of Trails		0.3	0.3	0.3	0.3	0.3	0.4	3.5	$910,000
Square Feet Rec. Center		678.7	687.0	695.3	703.6	712.0	756.2	7,168	$5,197,018
Indoor Aquatic Costs		$247,984	$251,028	$254,072	$257,116	$260,160	$276,325	$2,619,347	$2,619,347
Outdoor Aquatic Costs		$35,996	$36,438	$36,880	$37,322	$37,763	$40,110	$380,211	$380,211

Total Growth Expenditure	$37,003,061

Credit Evaluation

To ensure fee-payers avoid potential double payment for annual debt service, TischlerBise included a credit in the development impact fee calculations. In this case, voter-approved general obligation bonds were issued by the City for a variety of capital improvements. Current outstanding principal on the bonds for all purposes is $31 million of which approximately $15 million was for parks, recreation, and trail improvements with an average interest (coupon) rate of 4.3%. The annual principal payment is divided by the annual demand unit (population) to yield a payment per person. To account for the time value of money, annual payments are discounted using a net present value formula based on the applicable discount (interest) rate. This results in a credit of $97.99 per person, rounded.

Figure 31. Principal Payment Credit for Outstanding GO Bonds

	2019 GO Bonds		2020 GO Bonds		2023 GO Bonds		TOTAL		CREDIT	
Year	*Principal*	*Capacity $ 43%*	*Principal*	*Capacity $ 67%*	*Principal*	*Capacity $ 39%*	*Principal*	*Capacity $*	*Proj. Demand Population*	*Credit per Person*
2024	$985,000	$423,550	$1,030,000	$690,100	$1,775,000	$692,250	**$3,790,000**	**$1,805,900**	116,828	$15.46
2025	$985,000	$423,550	$1,030,000	$690,100	$1,135,000	$442,650	**$3,150,000**	**$1,556,300**	118,230	$13.16
2026	$985,000	$423,550	$1,030,000	$690,100	$1,080,000	$421,200	**$3,095,000**	**$1,534,850**	119,649	$12.83
2027	$985,000	$423,550	$1,030,000	$690,100	$1,080,000	$421,200	**$3,095,000**	**$1,534,850**	121,085	$12.68
2028	$985,000	$423,550	$1,030,000	$690,100	$1,080,000	$421,200	**$3,095,000**	**$1,534,850**	122,538	$12.53
2029	$985,000	$423,550	$1,030,000	$690,100	$1,080,000	$421,200	**$3,095,000**	**$1,534,850**	124,008	$12.38
2030	$985,000	$423,550	$1,030,000	$690,100	$1,080,000	$421,200	**$3,095,000**	**$1,534,850**	125,497	$12.23
2031	$0	$0	$1,030,000	$690,100	$1,080,000	$421,200	**$2,110,000**	**$1,111,300**	127,004	$8.75
2032	$0	$0	$1,065,000	$713,550	$1,080,000	$421,200	**$2,145,000**	**$1,134,750**	128,529	$8.83
2033	$0	$0	$0	$0	$1,080,000	$421,200	**$1,080,000**	**$421,200**	130,072	$3.24
2034	$0	$0	$0	$0	$1,080,000	$421,200	**$1,080,000**	**$421,200**	131,634	$3.20
2035	$0	$0	$0	$0	$1,080,000	$421,200	**$1,080,000**	**$421,200**	133,215	$3.16
2036	$0	$0	$0	$0	$1,100,000	$429,000	**$1,100,000**	**$429,000**	134,814	$3.18
2037	$0	$0	$0	$0	$0	$0	**$0**	**$0**	136,433	$0.00
Total	**$6,895,000**	**$2,964,850**	**$9,305,000**	**$6,234,350**	**$14,810,000**	**$5,775,900**	**$31,010,000**	**$14,975,100**		**$121.62**

Source: City of Las Cruces.

Discount Rate	**4.3%**
Net Present Value	**$97.99**

Note: A credit is provided for principal payments only because interest costs are not included in the fee calculations.

PARKS AND RECREATION DEVELOPMENT IMPACT FEES

Infrastructure standards used to calculate Park and Recreation impact fees are shown in the top portion of Figure 32. For park impact fees, a "service unit" is a person. Figure 32 summarizes service units, conversion factors, and cost factors per service unit for parks and recreation impact fees for the City of Las Cruces as detailed above. As indicated elsewhere, the impact fees are based on the City's actual level of service for park land and improvements. The net capital cost per person ($2,432.04) is the sum of the individual cost factors ($2,530.03), less credits for principal debt payments ($97.99) (for all park components).

The Parks and Recreation impact fee is the product of persons per housing unit multiplied by the net capital cost per person. Fees are presented by type of housing unit. Each household size is multiplied by the net capital cost per person to derive the impact fee per unit. For example, the proposed fee for a single family housing unit is calculated by $2,432.04 cost per person x 2.44 persons per housing unit = $5,934 per unit (truncated). Also shown is a comparison with the City's current fees. The maximum supportable fee represents an increase to the City's current fees. The City may choose to adopt lower fees; however, doing so will result in lower revenues and a lower level of service without funding from other sources.

An alternative schedule is provided by housing unit size. This provides a progressive schedule where smaller units with fewer occupants would pay a proportionally lower fee. Both options are provided in this report for discussion purposes, however adoption and implementation will require a selection of one schedule.

In addition, a second impact fee schedule is provided that omits Neighborhood Parks (see Figure 34). As noted elsewhere, per adoption of "Realize Las Cruces," the City's zoning code update, Neighborhood Parks will be provided as part of the development approval process. Impact fees that include Neighborhood Parks are included in this section for documentation purposes but are not recommended to be adopted as part of the Parks Impact Fee update. A fee schedule without Neighborhood Parks (land and improvements) is provided in this section.

Figure 32. Parks and Recreation Input Variables and Maximum Allowable Development Impact Fee [with Neighborhood Parks]

Park Type	Level of Service (Acres per 1,000
Community Park	1.29
Community Park-Athletic	1.29
Neighborhood Park	0.87
Special Facility	0.33
Total	**3.78**

Facility Type	Capital Costs per Person
Community Park Land	$83.85
Community Park-Athletic Land	$83.85
Neighborhood Park Land	$60.90
Special Facilities Park Land	$23.10
Parks Improvements (All Park Types)	$1,655.64
Trails	$62.40
Recreation Centers	$355.25
Indoor Aquatic	$179.05
Outdoor Aquatic	$25.99
Gross Cost (per person)	**$2,530.03**
Credit for Debt Payments	($97.99)
Net Cost (per person)	**$2,432.04**

Housing Type	Persons per Housing Unit	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
Single Family	2.44	$5,934	$2,600	$3,334	128%
Multifamily	1.58	$3,842	$2,600	$1,242	48%

OR

Residential by Square Foot	Persons per Housing Unit*	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
1,300 or less	1.02	$2,480	$2,600	($120)	-5%
1,301 to 2,100	1.85	$4,499	$2,600	$1,899	73%
2,101 or more	2.85	$6,931	$2,600	$4,331	167%

* Persons per housing unit by size of unit is from City of Las Cruces Police Impact Fee Study, 2022.

To provide additional detail, Figure 33 breaks down the total fee for single family and multifamily units by individual component (including Neighborhood Parks). The largest component of the fees is Park Improvements, and the smallest component is Special Facilities Park Land.

Figure 33. Breakdown of the Housing Unit Impact Fees [with Neighborhood Parks]

Facility Type	Capital Costs per Person	Percent of Total	Single Family Impact Fee	Multifamily Impact Fee
Community Park Land	$83.85	3%	$205	$132
Community Park-Athletic Land	$83.85	3%	$205	$132
Neighborhood Park Land	$60.90	3%	$149	$96
Special Facilities Park Land	$23.10	1%	$56	$36
Parks Improvements (All Park Types)	$1,655.64	68%	$4,040	$2,616
Trails	$62.40	3%	$152	$99
Recreation Centers	$355.25	15%	$867	$561
Indoor Aquatic	$179.05	7%	$437	$283
Outdoor Aquatic	$25.99	1%	$63	$41
Credit for Debt Payments	($97.99)	-4.03%	($239.00)	($155.00)
Gross Cost per Person	**$2,432.04**	**100%**	**$5,935**	**$3,841**

Figure 34 provides the second impact fee schedule without Neighborhood Parks.

Figure 34. Parks and Recreation Input Variables and Maximum Allowable Development Impact Fee [without Neighborhood Parks]

Park Type	Level of Service (Acres per 1,000
Community Park	1.29
Community Park-Athletic	1.29
Neighborhood Park	0.00
Special Facility	0.33
Total	**2.91**

Facility Type	Capital Costs per Person
Community Park Land	$83.85
Community Park-Athletic Land	$83.85
Neighborhood Park Land	$0.00
Special Facilities Park Land	$23.10
Parks Improvements (All Park Types)	$1,274.58
Trails	$62.40
Recreation Centers	$355.25
Indoor Aquatic	$179.05
Outdoor Aquatic	$25.99
Gross Cost (per person)	**$2,088.07**
Credit for Debt Payments	($97.99)
Net Cost (per person)	**$1,990.08**

Housing Type	Persons per Housing Unit	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
Single Family	2.44	**$4,855**	$2,600	$2,255	87%
Multifamily	1.58	**$3,144**	$2,600	$544	21%

OR

Residential by Square Foot	Persons per Housing Unit*	Maximum Allowable Fee per Housing Unit	Current Fee per Housing Unit	Increase/ (Decrease)	% Change
1,300 or less	1.02	**$2,029**	$2,600	($571)	-22%
1,301 to 2,100	1.85	**$3,681**	$2,600	$1,081	42%
2,101 or more	2.85	**$5,671**	$2,600	$3,071	118%

PROJECTED REVENUE FROM PARKS & RECREATION IMPACT FEES

Revenue from the City's Parks and Recreation Impact Fee is estimated based on a projection of 6,010 new housing units in Las Cruces by 2033. Projected impact fee revenue is calculated by multiplying the housing growth by the maximum supportable fee by type of unit. Single family development is projected to generate approximately $26.1 million over 10 years (4,391 units x $5,934 per unit = $26,054,938). Multifamily development is projected to generate approximately $6.2 million in impact fee revenue (1,619 units x $3,842 per unit = $6,222,117). In total, projected revenue is $32.3 million if growth occurs at the projected pace. (Note: Figures include the Neighborhood Parks impact fee components.) A lower pace of growth will generate less revenue as well as generate a need for fewer infrastructure improvements. Revenue from impact fees is expected to cover just over 53% of total parks and recreation expenditures due to the cost recovery for the indoor aquatics facility and credits included in the fee calculation.

Parks and Recreation capital improvements are funded through parks impact fees, taxes, grants, and bonds (retired with taxes or impact fee revenues). Impact fees have been calculated based on local costs (accounting for non-local sources of revenues such as grants) and a credit has been included in the calculation to account for potential double payment from tax revenue paid by fee payer and potentially used to retire bonded debt. Impact fees calculated herein reflect growth's proportionate share of the cost for capacity improvements in each component included in the fee. Other non-impact fee sources of revenue will therefore be used to pay for operating costs as well as capital costs reflecting existing development's share (where applicable), repairs that do not expand capacity, and other expenditures that do not qualify for impact fee funding. Appendix B includes a projection of General Fund revenue.

Figure 35. Projected Revenue from Parks & Recreation Development Impact Fee [with Neighborhood Parks]

	10-Year Projections	
	Total Cost	Growth Cost
Community Parks Land	$1,228,500	$1,228,500
Community Athletic Land	$1,226,653	$1,226,653
Neighborhood Park Land	$882,000	$882,000
Special Facilities Land	$337,933	$337,933
Parks Improvements (All Park Types)	$24,221,400	$24,221,400
Trails	$910,000	$910,000
Recreation Centers	$5,197,018	$5,197,018
Indoor Aquatic	$26,241,250	$2,619,347
Outdoor Aquatic	$380,211	$380,211
Total Cost	**$60,624,964**	**$37,003,061**

Projected Development Impact Fee Revenue

		Residential Projections		
		$5,934 Fee per Single Family Unit	$3,842 Fee per Multifamily Unit	
Year		Housing Units		
Base	2023	34,672	12,788	
Year 1	2024	35,088	12,942	
Year 2	2025	35,509	13,097	
Year 3	2026	35,936	13,254	
Year 4	2027	36,367	13,413	
Year 5	2028	36,803	13,574	
Year 6	2029	37,245	13,737	
Year 7	2030	37,691	13,902	
Year 8	2031	38,143	14,069	
Year 9	2032	38,600	14,237	
Year 10	2033	39,062	14,408	**TOTALS**
10-Year Increase		**4,391**	**1,619**	**6,010**
Projected FeeRevenue =>		**$26,054,938**	**$6,222,117**	**$32,277,055**
Total Costs =>				**$60,624,964**
Other Funding Required* =>				**($28,347,909)**

** Shortfall due to existing development's share and credits included in the fee calculation.*

Figure 36 provides the impact fee revenue projection for the second impact fee schedule without Neighborhood Parks.

Figure 36. Projected Revenue from Parks & Recreation Development Impact Fee [without Neighborhood Parks]

	10-Year Projections	
	Total Cost	Growth Cost
Community Parks Land	$1,228,500	$1,228,500
Community Parks - Athletic Land	$1,226,653	$1,226,653
Neighborhood Park Land	$0	$0
Special Facilities Park Land	$337,933	$337,933
Parks Improvements (All Park Types)	$18,615,000	$18,615,000
Trails	$910,000	$910,000
Recreation Centers	$5,197,018	$5,197,018
Indoor Aquatic	$26,241,250	$2,619,347
Outdoor Aquatic	$380,211	$380,211
Total Cost	**$54,136,564**	**$30,514,661**

Projected Development Impact Fee Revenue

		Residential Projections		
		$4,855 Fee per Single Family Unit	$3,144 Fee per Multifamily Unit	
Year		Housing Units		
Base	2023	34,672	12,788	
Year 1	2024	35,088	12,942	
Year 2	2025	35,509	13,097	
Year 3	2026	35,936	13,254	
Year 4	2027	36,367	13,413	
Year 5	2028	36,803	13,574	
Year 6	2029	37,245	13,737	
Year 7	2030	37,691	13,902	
Year 8	2031	38,143	14,069	
Year 9	2032	38,600	14,237	
Year 10	2033	39,062	14,408	TOTALS
10-Year Increase		**4,391**	**1,619**	**6,010**
Projected FeeRevenue =>		**$21,317,277**	**$5,091,706**	**$26,408,983**
Total Costs =>				**$54,136,564**
Other Funding Required* =>				**($27,727,581)**

** Shortfall due to existing development's share and credits included in the fee calculation.*

APPENDIX A: NEW MEXICO DEVELOPMENT FEES ACT[8]

ARTICLE 8
Land Development Fees and Rights
5-8-1. Short title.
This act [5-8-1 to 5-8-42 NMSA 1978] may be cited as the "Development Fees Act".

History: Laws 1993, ch. 122, § 1.

ANNOTATIONS
Cross references. — For land use easements, see Chapter 47, Article 12 NMSA 1978.

Law reviews. — For article, "Water Supply and Urban Growth in New Mexico: Same Old, Same Old or a New Era," see 43 Nat. Resources J. 803 (2003).

5-8-2. Definitions.
As used in the Development Fees Act:

A. "affordable housing" means any housing development built to benefit those whose income is at or below eighty percent of the area median income; and who will pay no more than thirty percent of their gross monthly income towards such housing;

B. "approved land use assumptions" means land use assumptions adopted originally or as amended under the Development Fees Act;

C. "assessment" means a determination of the amount of an impact fee;

D. "capital improvement" means any of the following facilities that have a life expectancy of ten or more years and are owned and operated by or on behalf of a municipality or county:

(1) water supply, treatment and distribution facilities; wastewater collection and treatment facilities; and storm water, drainage and flood control facilities;

(2) roadway facilities located within the service area, including roads, bridges, bike and pedestrian trails, bus bays, rights of way, traffic signals, landscaping and any local components of state and federal highways;

(3) buildings for fire, police and rescue and essential equipment costing ten thousand dollars ($10,000) or more and having a life expectancy of ten years or more; and

(4) parks, recreational areas, open space trails and related areas and facilities;

[8] Source: Ch. 5, art. 8 NMSA 1978, <https://nmonesource.com/nmos/nmsa/en/item/4376/index.do#!b/a8>, retrieved on 08/22/2022. (Annotations from the source.)

E. "capital improvements plan" means a plan required by the Development Fees Act that identifies capital improvements or facility expansion for which impact fees may be assessed;

F. "county" means a county of any classification;

G. "facility expansion" means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. The term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development, including schools and related facilities;

H. "hook-up fee" means a reasonable fee for connection of a service line to an existing gas, water, sewer or municipal or county utility;

I. "impact fee" means a charge or assessment imposed by a municipality or county on new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump-sum charges, capital recovery fees, contributions in aid of construction, development fees and any other fee that functions as described by this definition. The term does not include hook-up fees, dedication of rights of way or easements or construction or dedication of on-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks or curbs if the dedication or construction is required by a previously adopted valid ordinance or regulation and is necessitated by and attributable to the new development;

J. "land use assumptions" includes a description of the service area and projections of changes in land uses, densities, intensities and population in the service area over at least a five-year period;

K. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, and H class counties, including any home rule municipality or H class county chartered under the provisions of Article 10, Section 6 of the constitution of New Mexico;

L. "new development" means the subdivision of land; reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units;

M. "qualified professional" means a professional engineer, surveyor, financial analyst or planner providing services within the scope of his license, education or experience;

N. "roadway facilities" means arterial or collector streets or roads that have been designated on an officially adopted roadway plan of the municipality or county, including bridges, bike and pedestrian trails, bus bays, rights of way, traffic signals, landscaping and any local components of state or federal highways;

O. "service area" means the area within the corporate boundaries or extraterritorial jurisdiction of a municipality or the boundaries of a county to be served by the capital improvements or facility expansions specified in the capital improvements plan designated on the basis of sound planning and engineering standards; and

P. "service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions.

History: Laws 1993, ch. 122, § 2.

ANNOTATIONS
Cross references. — For establishment of H class county, see 4-44-3 NMSA 1978.

5-8-3. Authorization of fee.
A. Unless otherwise specifically authorized by the Development Fees Act, no municipality or county may enact or impose an impact fee.

B. If it complies with the Development Fees Act, a municipality or county may enact or impose impact fees on land within its respective corporate boundaries.

C. A municipality and county may enter into a joint powers agreement to provide capital improvements within an area subject to both county and municipal platting and subdivision jurisdiction or extraterritorial jurisdiction and may charge an impact fee under the agreement, but if an impact fee is charged in that area, the municipality and county shall comply with the Development Fees Act.

D. A municipality or county may waive impact fee requirements for affordable housing projects.

History: Laws 1993, ch. 122, § 3; 2001, ch. 176, § 1.

ANNOTATIONS
The 2001 amendment, effective June 15, 2001, added Subsection D.

No vested development rights under impact fee ordinance. — Where the municipal impact fee ordinance exempted developers who possessed development rights that vested prior to the ordinance's date of enactment from paying the impact fee; prior to the date the ordinance was enacted, the municipal planning commission approved a site plan for subdivision of land owned by plaintiff; the approved plan established zoning, tract boundaries, vehicle access, bicycle and trail access, public transit access, internal circulation requirements, building heights, setbacks, and common landscape standards; none of the tracts were platted; and the regulations which were promulgated pursuant to the ordinance defined vested rights as development rights acquired and resulting from building permit approval, final plat approval, preliminary plat approval, or site plan for subdivision or site plan for building permit approval and defined site plan for subdivision as a plat that covers at least one lot and specifies access and building criteria, under the ordinance, a developer receives development rights at the time it receives approval of a reliable platting pattern, the developer's original site plan for subdivision did not confer the development rights necessary to establish vested rights under the ordinance, because it did not provide a reliable platting pattern, and the developer was not exempt from paying impact fees. Andalucia Dev. Corp., Inc. v. City of Albuquerque, 2010-NMCA-052, 148 N.M. 277, 234 P.3d 929.

No common law vested development rights. — Where the municipal impact fee ordinance exempted developers who possessed development rights that vested prior to the ordinance's date of enactment from paying the impact fee; prior to the date the ordinance was enacted, the municipal planning commission approved a site plan for subdivision of land owned by plaintiff; the approved plan established zoning, tract boundaries, vehicle access, bicycle and trail access, public transit access, internal circulation requirements, building heights, setbacks, and common landscape standards; none of the tracts were platted; and development of the property was subject to subsequent municipal approvals and the continuance of the project remained entirely within the municipality's discretion, the original site plan for subdivision did not confer a vested development right under common law and the developer was not exempt from paying impact fees. Andalucia Dev. Corp., Inc. v. City of Albuquerque, 2010-NMCA-052, 148 N.M. 277, 234 P.3d 929.

5-8-4. Items payable by fee.
A. An impact fee may be imposed only to pay the following specified costs of constructing capital improvements or facility expansions:

(1) estimated capital improvements plan cost;

(2) planning, surveying and engineering fees paid to an independent qualified professional who is not an employee of the municipality or county for services provided for and directly related to the construction of capital improvements or facility expansions;

(3) fees actually paid or contracted to be paid to an independent qualified professional, who is not an employee of the municipality or county, for the preparation or updating of a capital improvements plan; and

(4) up to three percent of total impact fees collected for administrative costs for municipal or county employees who are qualified professionals.

B. Projected debt service charges may be included in determining the amount of impact fees only if the impact fees are used for the payment of principal and interest on bonds, notes or other obligations issued to finance construction of capital improvements or facility expansions identified in the capital improvements plan.

History: Laws 1993, ch. 122, § 4.

5-8-5. Items not payable by fee.
Impact fees shall not be imposed or used to pay for:

A. construction, acquisition or expansion of public facilities or assets that are not capital improvements or facility expansions identified in the capital improvements plan;

B. repair, operation or maintenance of existing or new capital improvements or facility expansions;

C. upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

D. upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;

E. administrative and operating costs of a municipality or county except as provided in Paragraph (4) of Subsection A of Section 4 [5-8-4 NMSA 1978] of the Development Fees Act;

F. principal payments or debt service charges on bonds or other indebtedness, except as allowed by Section 4 of the Development Fees Act; or

G. libraries, community centers, schools, projects for economic development and employment growth, affordable housing or apparatus and equipment of any kind, except capital improvements defined in Paragraph (3) of Subsection C [D] of Section 2 [5-8-2 NMSA 1978] of the Development Fees Act.

History: Laws 1993, ch. 122, § 5.

ANNOTATIONS
Bracketed material. — The bracketed material was inserted by the compiler and it is not part of the law.

The reference in Subsection G to Subsection C of 5-8-2 NMSA 1978, appears to actually refer to Subsection D of that section.

5-8-6. Capital improvements plan.
A. A municipality or county shall use qualified professionals to prepare the capital improvements plan and to calculate the impact fee. The capital improvements plan shall follow the infrastructure capital improvement planning guidelines established by the department of finance and administration and shall address the following:

(1) a description, as needed to reasonably support the proposed impact fee, which shall be prepared by a qualified professional, of the existing capital improvements within the service area and the costs to upgrade, update, improve, expand or replace the described capital improvements to adequately meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards;

(2) an analysis, which shall be prepared by a qualified professional, of the total capacity, the level of current usage and commitments for usage of capacity of the existing capital improvements;

(3) a description, which shall be prepared by a qualified professional, of all or the parts of the capital improvements or facility expansions and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions;

(4) a definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of capital improvements or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial;

(5) the total number of projected service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(6) the projected demand for capital improvements or facility expansions required by new service units accepted over a reasonable period of time, not to exceed ten years; and

(7) anticipated sources of funding independent of impact fees.

B. The analysis required by Paragraph (2) of Subsection A of this section may be prepared on a system-wide basis within the service area for each major category of capital improvement or facility expansion for the designated service area.

C. The governing body of a municipality or county is responsible for supervising the implementation of the capital improvements plan in a timely manner.

History: Laws 1993, ch. 122, § 6.

5-8-7. Maximum fee per service unit.
The fee shall not exceed the cost to pay for a proportionate share of the cost of system improvements, based upon service units, needed to serve new development.

History: Laws 1993, ch. 122, § 7.

5-8-8. Time for assessment and collection of fee.
A. Assessments of an impact fee shall be made at the earliest possible time. Collection of the impact fee shall occur at the latest possible time.

B. For land that has been planted in accordance with the subdivision or platting procedures of a municipality or county before the effective date of the Development Fees Act or for land on which new development occurs or is proposed without platting, the municipality or county may assess the impact fees at the time of development approval or issuance of a building permit, whichever date is earlier. The assessment shall be valid for a period of not less than four years from the date of development approval or issuance of a building permit, whichever date is earlier.

C. For land that is platted after the effective date of the Development Fees Act, the municipality or county shall assess the fees at the time of recording of the subdivision plat and this assessment shall be valid for a period of not less than four years from the date of recording of the plat.

D. Collection of impact fees shall occur no earlier than the date of issuance of a building permit.

E. For new development that is platted in accordance with the subdivision or platting procedures of a municipality or county before the adoption of an impact fee, an impact fee shall not be collected on any service unit for which a valid building permit has been issued.

F. After the expiration of the four-year period described in Subsections B and C of this section, a municipality or county may adjust the assessed impact fee to the level of current impact fees as provided in the Development Fees Act.

History: Laws 1993, ch. 122, § 8.

ANNOTATIONS
Compiler's notes. — The phrase "effective date of the Development Fees Act", in Subsections B and C, refers to the effective date of Laws 1993, ch. 122, which was July 1, 1993.

5-8-9. Additional fee prohibited; exception.
Except as provided in Subsection F of Section 8 [5-8-8 NMSA 1978] of the Development Fees Act, after assessment of the impact fees attributable to the new development or execution of an agreement for payment of impact fees, additional impact fees or increases in fees may not be assessed for any reason unless the number of service units to be developed increases. In the event of an increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units.

History: Laws 1993, ch. 122, § 9.

5-8-10. Agreement with owner regarding payment.
A municipality or county is authorized to enter into an agreement with the owner of a tract of land for which a plat has been recorded providing for a method of payment of the impact fees over an extended period of time otherwise in compliance with the Development Fees Act.

History: Laws 1993, ch. 122, § 10.

5-8-11. Collection of fees if services not available.
Impact fees may be assessed but shall not be collected unless the:

A. collection is made to pay for a capital improvement or facility expansion that has been identified in the capital improvements plan and the municipality or county commits to complete construction within seven years and to have the service available within a reasonable period of time after completion of construction considering the type of capital improvement or facility expansion to be constructed but in no event longer than seven years;

B. municipality or county agrees that the owner of a new development may construct to adopted municipal or county standards or finance the capital improvements or facility expansions and agrees that the costs incurred or funds advanced will be credited against the impact fees otherwise due from the new development or agrees to reimburse the owner for such costs from impact fees paid from other new developments that will use such capital improvements or facility expansions, which fees shall be collected and reimbursed to the property owner of record at the time the plat of the other new development is recorded; or

C. time period set forth in Subsection A of this section can be extended, provided the municipality or county obtains a performance bond or similar surety securing performance of the obligation to construct the capital improvements or facility expansions but in no event longer than seven years from commencement of construction of the capital improvements or facility expansion for which fees have been collected. The municipality or county shall establish written procedures to ensure that the owner of a new development shall not lose the value of the credits. Any refund for fees shall be made as provided in Section 17 [5-8-17 NMSA 1978] of the Development Fees Act.

History: Laws 1993, ch. 122, § 11.

5-8-12. Entitlement to services.
Any new development for which an impact fee has been paid is entitled to the permanent use and benefit of the services for which the fee was exacted and is entitled to receive prompt service from any existing facilities with actual capacity to serve the new service units.

History: Laws 1993, ch. 122, § 12.

5-8-13. Authority of municipality or county to spend funds or enter into agreements to reduce fees.
Municipalities or counties may spend funds from any lawful source or pay for all or a part of the capital improvements or facility expansions to reduce the amount of impact fees. A developer and a municipality or county may agree to offset or reduce part or all of the impact fee assessed on that new development, provided that the public policy which supports the reduction is contained in the appropriate planning documents of the municipality or county and provided that the development's new proportionate share of the system improvement is funded with revenues other than impact fees from other new developments.

History: Laws 1993, ch. 122, § 13.

5-8-14. Requirement for governmental entities to pay fees.
Governmental entities shall pay all impact fees imposed under the Development Fees Act.

History: Laws 1993, ch. 122, § 14.

5-8-15. Credits against facilities fees.
Any construction of, contributions to or dedications of on-site or off-site facilities, improvements, or real or personal property with off-site benefits not required to serve the new development, in excess of minimum municipal and county standards established by a previously adopted and valid ordinance or regulation and required by a municipality or county as a condition of development approval shall be credited against impact fees otherwise due from the development. The credit shall include the value of:

A. dedication of land for parks, recreational areas, open space trails and related areas and facilities or payments in lieu of that dedication; and

B. dedication of rights of way or easements or construction or dedication of on-site water distribution, wastewater collection or drainage facilities, or streets, sidewalks or curbs.

History: Laws 1993, ch. 122, § 15.

5-8-16. Accounting for fees and interest.
A. The order, ordinance or resolution imposing an impact fee shall provide that all money collected through the adoption of an impact fee shall be maintained in separate interest-bearing accounts clearly identifying the payor and the category of capital improvements or facility expansions within the service area for which the fee was adopted.

B. Interest earned on impact fees shall become part of the account on which it is earned and shall be subject to all restrictions placed on the use of impact fees under the Development Fees Act.

C. Money from impact fees may be spent only for the purposes for which the impact fee was imposed as shown by the capital improvements plan and as authorized by the Development Fees Act.

D. The records of the accounts into which impact fees are deposited shall be open for public inspection and copying during ordinary business hours of the municipality or county.

E. As part of its annual audit process, a municipality or county shall prepare an annual report describing the amount of any impact fees collected, encumbered and used during the preceding year by category of capital improvement and service area identified as provided in Subsection A of this section.

History: Laws 1993, ch. 122, § 16.

5-8-17. Refunds.
A. Upon the request of an owner of the property on which an impact fee has been paid, the municipality or county shall refund the impact fee if existing facilities are available and service is not provided or the municipality or county has, after collecting the fee when service was not available, failed to complete construction within the time allowed under Section 11 [5-8-11 NMSA 1978] of the Development Fees Act or service is not available within a reasonable period of time after completion of construction considering the type of capital improvement or facility expansion to be constructed, but in no event later than seven years from the date of payment under Subsection A of Section 11 of the Development Fees Act.

B. Upon completion of the capital improvements or facility expansions identified in the capital improvements plan, the municipality or county shall recalculate the impact fee using the actual costs of the capital improvements or facility expansion. If the impact fee calculated based on actual costs is less than the impact fee paid, including any sources of funding not anticipated in the capital improvements plan, the municipality or county shall refund the difference if the difference exceeds the impact fee paid by more than ten percent, based upon actual costs.

C. The municipality or county shall refund any impact fee or part of it that is not spent as authorized by the Development Fees Act within seven years after the date of payment.

D. A refund shall bear interest calculated from the date of collection to the date of refund at the statutory rate as set forth in Section 56-8-3 NMSA 1978.

E. All refunds shall be made to the record owner of the property at the time the refund is paid. However, if the impact fees were paid by a governmental entity, payment shall be made to the governmental entity.

F. The owner of the property on which an impact fee has been paid or a governmental entity that has paid the impact fee has standing to sue for a refund under this section.

History: Laws 1993, ch. 122, § 17.

5-8-18. Compliance with procedures required.
Except as otherwise provided by the Development Fees Act, a municipality or county shall comply with that act to levy an impact fee.

History: Laws 1993, ch. 122, § 18.

5-8-19. Hearing on land use assumptions.
To impose an impact fee, a municipality or county shall schedule and publish notice of a public hearing to consider land use assumptions within the designated service area that will be used to develop the capital improvements plan.

History: Laws 1993, ch. 122, § 19.

5-8-20. Information about assumptions available to public.
On or before the date of the first publication of the notice of the hearing on land use assumptions, the municipality or county shall make available to the public its land use assumptions, the time period of the projections and a description of the general nature of the capital improvement facilities that may be proposed.

History: Laws 1993, ch. 122, § 20.

5-8-21. Notice of hearing on land use assumptions.
A. The municipality or county shall publish notice of the hearing conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice shall contain:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON LAND
USE ASSUMPTIONS RELATING
TO POSSIBLE ADOPTION OF
IMPACT FEES";

(2) the time, date and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the land use assumptions that will be used to develop a capital improvements plan under which an impact fee may be imposed;

(4) an easily understandable map of the service area to which the land use assumptions apply; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the land use assumptions.

C. The municipality or county, within thirty days after the date of the public hearing, shall approve or disapprove the land use assumptions.

D. An ordinance, order or resolution approving land use assumptions shall not be adopted as an emergency measure and its adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 21.

5-8-22. System-wide land use assumptions.
A. A municipality or county may adopt system-wide land use assumptions for water supply and treatment facilities in lieu of adopting land use assumptions for each service area for such facilities.

B. Prior to adopting system-wide land use assumptions, a municipality or county shall follow the public notice, hearing and other requirements for adopting land use assumptions.

C. After adoption of system-wide land use assumptions, a municipality or county is not required to adopt additional land use assumptions for a service area for water supply, treatment and distribution facilities or wastewater collection and treatment facilities as a prerequisite to the adoption of a capital improvements plan or impact fee, provided the capital improvements plan and impact fee are consistent with the system-wide land use assumptions.

History: Laws 1993, ch. 122, § 22.

5-8-23. Capital improvements plan required after approval of land use assumptions.
If the governing body adopts an ordinance, order or resolution approving the land use assumptions, the municipality or county shall provide for a capital improvements plan to be developed by qualified professionals using generally accepted engineering and planning practices in accordance with Section 6 [5-8-6 NMSA 1978] of the Development Fees Act.

History: Laws 1993, ch. 122, § 23.

5-8-24. Hearing on capital improvements plan and impact fee.
Upon completion of the capital improvements plan, the governing body shall schedule and publish notice of a public hearing to discuss the adoption of the capital improvements plan and imposition of the impact fee. The public hearing must be held by the governing body of the municipality or county to discuss the proposed ordinance, order or resolution adopting a capital improvements plan and imposing an impact fee.

History: Laws 1993, ch. 122, § 24.

5-8-25. Information about plan available to public.
On or before the date of the first publication of the notice of the hearing on the capital improvements plan and impact fee, the plan shall be made available to the public.

History: Laws 1993, ch. 122, § 25.

5-8-26. Notice of hearing on capital improvements plan and impact fee.
A. The municipality or county shall publish notice of the hearing conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON CAPITAL IMPROVEMENTS PLAN AND ADOPTION OF IMPACT FEES";

(2) the time, date and location of the hearing;

(3) a statement that the purpose of the hearing is to consider the proposed capital improvements plan and the adoption of an impact fee;

(4) an easily understandable map of the service area in which the proposed fee will be imposed;

(5) the amount of the proposed impact fee per service unit; and

(6) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the plan and proposed fee.

History: Laws 1993, ch. 122, § 26.

5-8-27. Advisory committee comments on capital improvements plan and impact fees.
The advisory committee created under Section 37 [5-8-37 NMSA 1978] of the Development Fees Act shall file its written comments on the proposed capital improvements plan and impact fees before the fifth business day before the date of the public hearing on the plan and fees.

History: Laws 1993, ch. 122, § 27.

5-8-28. Approval of capital improvements plan and impact fee required.
A. The municipality or county, within thirty days after the date of the public hearing on the capital improvements plan and impact fee, shall approve, disapprove or modify the adoption of the capital improvements plan and imposition of an impact fee.

B. An ordinance, order or resolution approving the capital improvements plan and imposition of an impact fee shall not be adopted as an emergency measure and its adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 28.

5-8-29. Consolidation of land use assumptions and capital improvements plan.
A. In lieu of separately adopting the land use assumptions and capital improvements plan for a service area containing not greater than three hundred units, a municipality or county may consolidate the land use assumptions and the capital improvements plan, and adopt the assumptions, the plan and the impact fee simultaneously.

B. If a municipality or county elects to consolidate the land use assumptions and capital improvements plan as authorized by Subsection A of this section, the municipality or county shall first comply with

Section 20 [5-8-20 NMSA 1978] of the Development Fees Act and follow the public notice and hearing requirements for adopting a capital improvements plan and impact fee as provided in Section 21 [5-8-21 NMSA 1978] of that act, except:

(1) the headline for the notice by publication shall read as follows:

"NOTICE OF PUBLIC HEARING ON ADOPTION OF LAND USE ASSUMPTIONS AND IMPACT FEES";

(2) the notice shall state that the municipality or county intends to adopt land use assumptions, a capital improvements plan and impact fees at the hearing and does not intend to hold separate hearings to adopt the land use assumptions, capital improvements plan and impact fees;

(3) the notice shall specify a date, not earlier than sixty days after publication of the first notice, and must state that if a person, by not later than the date specified, makes a written request for separate hearings, the governing body shall hold separate hearings to adopt the land use assumptions and capital improvements plan; and

(4) the notice shall provide the name and mailing address of the official of the municipality or county to whom a request for separate hearings shall be sent.

C. In addition to the requirements of Subsection B of this section, the municipality or county shall comply with all other requirements for adopting land use assumptions, a capital improvements plan and an impact fee.

History: Laws 1993, ch. 122, § 29.

5-8-30. Periodic update of land use assumptions and capital improvements plan required.
A. A municipality or county imposing an impact fee shall update the land use assumptions and capital improvements plan at least every five years. The initial five-year period begins on the day the capital improvements plan is adopted.

B. The municipality or county shall review and evaluate its current land use assumptions and shall cause an update of the capital improvements plan to be prepared in accordance with the Development Fees Act.

History: Laws 1993, ch. 122, § 30.

5-8-31. Hearing on updated land use assumptions and capital improvements plan.
The governing body of the municipality or county shall, within sixty days after the date it receives the update of the land use assumptions and the capital improvements plan, schedule and publish notice of a public hearing to discuss and review the update and shall determine whether to amend the plan.

History: Laws 1993, ch. 122, § 31.

5-8-32. Hearing on amendments to land use assumptions, capital improvements plan or impact fee.
A public hearing shall be held by the governing body of the municipality or county to discuss the proposed ordinance, order or resolution amending land use assumptions, the capital improvements plan

or the impact fee. On or before the date of the first publication of the notice of the hearing on the amendments, the land use assumptions and the capital improvements plan, including the amount of any proposed amended impact fee per service unit, shall be made available to the public.

History: Laws 1993, ch. 122, § 32.

5-8-33. Notice of hearing on amendments to land use assumptions, capital improvements plan or impact fee.
A. The municipality or county shall publish notice of the hearing conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice must contain the following:

(1) a headline to read as follows:

"NOTICE OF PUBLIC HEARING ON AMENDMENTS TO LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN OR IMPACT FEES";

(2) the time, date and location of the hearing;

(3) a statement that the purpose of the hearing is to consider amendments to land use assumptions, capital improvements plan or impact fees;

(4) an easily understandable description and map of the service area on which the update is being prepared; and

(5) a statement that any member of the public has the right to appear at the hearing and present evidence for or against the update.

History: Laws 1993, ch. 122, § 33.

5-8-34. Advisory committee comments on amendments.
The advisory committee created under Section 37 [5-8-37 NMSA 1978] of the Development Fees Act shall file its written comments with the applicable municipality or county on the proposed amendments to the land use assumptions, capital improvements plan or impact fees before the fifth business day before the date of the public hearing on the amendments.

History: Laws 1993, ch. 122, § 34.

5-8-35. Approval of amendments required.
A. The municipality or county, within thirty days after the date of the public hearing on the amendments, shall approve, disapprove, revise or modify the amendments to the land use assumptions, the capital improvements plan or impact fees.

B. An ordinance, order or resolution approving the amendments to the land use assumptions, the capital improvements plan or impact fees shall not be adopted as an emergency measure and such adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 35.

5-8-36. Determination that no update of land use assumptions, capital improvements plan or impact fee is needed.
A. If at the time an update under Section 30 [5-8-30 NMSA 1978] of the Development Fees Act is required, the governing body determines that no changes to the land use assumptions, capital improvements plan or impact fees are needed, it may, as an alternative to the updating requirements of Sections 30 through 35 [5-8-30 to 5-8-35 NMSA 1978] of the Development Fees Act, publish notice of its determination conforming to locally adopted regulations governing change-of-zone requests, except as otherwise provided in this section.

B. The notice shall contain the following:

(1) a headline to read as follows:

"NOTICE OF DETERMINATION NOT TO
UPDATE LAND USE ASSUMPTIONS,
CAPITAL IMPROVEMENTS PLAN OR
IMPACT FEES";

(2) a statement that the governing body of the municipality or county has determined that no change to the land use assumptions, capital improvements plan or impact fees are necessary;

(3) an easily understandable description and a map of the service area in which the updating has been determined to be unnecessary;

(4) a statement that if, within a specified date, which date shall be at least sixty days after publication of the notice, a person makes a written request to the designated official of the municipality or county requesting that the land use assumptions, capital improvements plan or impact fees be updated, the governing body may accept or reject such request by following the requirements of Sections 30 through 35 of the Development Fees Act; and

(5) a statement identifying the name and mailing address of the official of the municipality or county to whom a request for an update should be sent.

C. The advisory committee shall file its written comments on the need for updating the land use assumptions, capital improvements plan and impact fees before the fifth business day before the earliest notice of the governing body's decision that no update is necessary is mailed or published.

D. If by the date specified in Paragraph (4) of Subsection B of this section, a person requests in writing that the land use assumptions, capital improvements plan or impact fees be updated, the governing body shall cause, accept or reject an update of the land use assumptions and capital improvements plan to be prepared in accordance with Sections 30 through 35 of the Development Fees Act.

E. An ordinance, order or resolution determining the need for updating land use assumptions, capital improvements plan or impact fees shall not be adopted as an emergency measure and its adoption must comply with the procedural requirements of the Development Fees Act.

History: Laws 1993, ch. 122, § 36.

5-8-37. Advisory committee.
A. On or before the date on which the order, ordinance or resolution is adopted under Section 19 [5-8-19 NMSA 1978] of the Development Fees Act, the governing body of a municipality or county shall appoint a capital improvements advisory committee.

B. The advisory committee shall be composed of not less than five members who shall be appointed by a majority vote of the governing body. Not less than forty percent of the membership of the advisory committee must be representative of the real estate, development or building industries. No members shall be employees or officials of a municipality or county or other governmental entity.

C. The advisory committee serves in an advisory capacity and shall:

(1) advise and assist the municipality or county in adopting land use assumptions;

(2) review the capital improvements plan and file written comments;

(3) monitor and evaluate implementation of the capital improvements plan;

(4) file annual reports with respect to the progress of the capital improvements plan and report to the municipality or county any perceived inequities in implementing the plan or imposing the impact fee; and

(5) advise the municipality or county of the need to update or revise the land use assumptions, capital improvements plan and impact fee.

D. The municipality or county shall make available to the advisory committee any professional reports with respect to developing and implementing the capital improvements plan.

E. The governing body of the municipality or county shall adopt procedural rules for the advisory committee to follow in carrying out its duties.

History: Laws 1993, ch. 122, § 37.

5-8-38. Duties to be performed within time limits.
If the governing body of the municipality or county does not perform a duty imposed under the Development Fees Act within the prescribed period, a person who has paid an impact fee or an owner of land on which an impact fee has been paid has the right to present a written request to the governing body of the municipality or county stating the nature of the unperformed duty and requesting that it be performed within sixty days after the date of the request. If the governing body of the municipality or county finds that the duty is required under the Development Fees Act and is late in being performed, it

shall cause the duty to commence within sixty days after the date of the request and continue until completion.

History: Laws 1993, ch. 122, § 38.

5-8-39. Records of hearings.
A record shall be made of any public hearing provided for by the Development Fees Act. The record shall be maintained and be made available for public inspection by the municipality or county for at least ten years after the date of the public hearing.

History: Laws 1993, ch. 122, § 39.

5-8-40. Prior impact fees replaced by fees under Development Fees Act.
An impact fee that is in place on the effective date of the Development Fees Act shall be replaced by an impact fee imposed under that act by July 1, 1995. Any municipality or county having an impact fee that has not been replaced under that act by July 1, 1995 shall be liable to any party who, after the effective date of that act, pays an impact fee that exceeds the maximum permitted under that act by more than ten percent for an amount equal to two times the difference between the maximum impact fee allowed and the actual impact fee imposed, plus reasonable attorneys' fees and court costs.

History: Laws 1993, ch. 122, § 40.

5-8-41. No effect on taxes or other charges.
The Development Fees Act does not prohibit, affect or regulate any tax, fee, charge or assessment specifically authorized by state law.

History: Laws 1993, ch. 122, § 41.

5-8-42. Moratorium on development prohibited.
A moratorium shall not be placed on new development for the sole purpose of awaiting the completion of all or any part of the process necessary to develop, adopt or update impact fees.

History: Laws 1993, ch. 122, § 42.

5-8-43. Purpose; transfer of development rights.
A. The purpose of this section is to:

(1) clarify an application of existing authority;

(2) provide guidelines for counties and municipalities to regulate transfers of development rights consistent with comprehensive plans;

(3) encourage the conservation of ecological, agricultural and historical land; and

(4) require public notification of transfers of development rights.

B. A municipality or county may, by ordinance, provide for voluntary transfer of all or partial development rights from one parcel of land to another parcel of land.

C. The ordinance shall identify on a zoning map areas from which development rights may be transferred and areas to which development rights may be transferred.

D. The ordinance shall provide for:

(1) the voluntary transfer of a development right from one parcel of land to increase the intensity of development of another parcel of land;

(2) joint powers agreements, if applicable, for administration of transfers of development rights across jurisdictional boundaries;

(3) the method of transfer of development rights, including methods of determining the accounting for the rights transferred;

(4) the reasonable rules to effect and control transfers and ensure compliance with the provisions of the ordinance; and

(5) public notification to the areas to which development rights may be transferred.

E. Transference of a development right shall be in writing and executed by the owner of the parcel from which the development right is being transferred and acknowledged by the transferor. A development right shall not be subject to condemnation.

F. As used in this section, "development right" means the rights permitted to a lot, parcel or area of land under a zoning ordinance or local law respecting permissible use, area, density or height of improvements executed thereon, and development rights may be calculated and allocated in accordance with density or height limitations or any criteria that will effectively quantify a development right in a reasonable and uniform manner.

G. Nothing in this section shall be construed to authorize a municipality or a county to impair existing property rights.

History: Laws 2003, ch. 229, § 1.

ANNOTATIONS
Cross references. — For property law in general, see Chapter 47 NMSA 1978

TischlerBise
FISCAL | ECONOMIC | PLANNING

4701 Sangamore Road, Suite S240 |
Bethesda, MD 20816
301.320.6900

www.tischlerbise.com

Council Work Session Summary

Meeting: Work Session - Apr 28 2025

TITLE: GO BOND QUARTERLY UPDATE

PURPOSE(S) OF DISCUSSION: ☒ **Inform/Update** ☐ **Direction/Guidance** ☐ **Legislative Development/Policy**

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

City staff will present a quarterly update on the status of General Obligation (GO) Bond projects. The update is intended to provide current information about the projects and related timelines.

PLAN(S):

Department Strategic Business Plan

COMMITTEE/BOARD REVIEW:

None