

BoCC



**RESOLUTION NO. 19 - 471**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**RESOLUTION AMENDING THE EL PASO COUNTY ROAD IMPACT FEE PROGRAM**

**WHEREAS**, on November 15, 2012 and pursuant to Resolution No. 12-382, the Board of County Commissioners of El Paso County, Colorado (“Board” or “County”) adopted the El Paso County Road Impact Fee Program (“Fee Program”); and

**WHEREAS**, the Fee Program identifies specific improvements to El Paso County’s major transportation system necessitated by new development using the Major Transportation Corridors Plan, 2010-2040 and imposes fees on new development to fund such improvements; and

**WHEREAS**, in 2016 the Board approved a change to the Fee Program that expanded its applicability from new subdivisions to all new building permits, effective January 1, 2020; and

**WHEREAS**, the Road Impact Fee Advisory Committee (“Advisory Committee”), which is made up of representatives from the development community and El Paso County, was created by the Board to make recommendations regarding administration of and modifications to the Fee Program; and

**WHEREAS**, the Advisory Committee has recommended approval of changes to the Fee Program that better define processes and procedures for implementing the upcoming change in the applicability and imposition of fees; and

**WHEREAS**, the Advisory Committee has also recommended approval of a change to the Fee Program that limits eligibility for obtaining credits for the construction of Eligible Improvements and Eligible Intersection Improvements, as defined in the Fee Program, to those developers who construct such improvements in connection with development in unincorporated El Paso County and to El Paso County itself; and

**WHEREAS**, the Board has determined that these amendments, as set forth more fully in the Implementation Document attached hereto as Exhibit A, is in the best interest of the citizens of El Paso County.

**NOW, THEREFORE, BE IT RESOLVED** that the El Paso County Board of County Commissioners hereby amends the El Paso County Road Impact Fee Program Implementation Document effective January 1, 2020 as set forth in Exhibit A, attached hereto.



# El Paso County Colorado Road Impact Fee Implementation Document 2019

## INTRODUCTION

New development in unincorporated El Paso County has been subject to an Interim Unincorporated Countywide Transportation Improvement Fee since March 1, 2010. This Interim Fee replaced a similar fee program for the Falcon area that had been in place since 2001 and was adopted instead of a second small-area fee program. The Housing and Building Association of Colorado Springs (HBA) and other stakeholders supported the establishment of a countywide fee system in 2010 and have worked with the County to create such a program.

The basis for the fee system is not new. This Road Impact Fee is simply a method of more fairly and equitably allocating the impact of new development and recovering the cost than individually negotiated developer agreements. The purpose of the program is to develop a process to identify transportation improvements needed to accommodate growth, to allocate fairly the costs of transportation improvements among new developments, and to ensure the proper and timely accounting of improvements and funds. The program does not include all roads in the unincorporated County, only higher traffic roads that provide for regional travel.

### Goal Statements:

- To accurately identify transportation improvements to county and state roads needed to accommodate growth.
- To accurately assess appropriate fees for the transportation improvements and ensure that costs and fees are updated regularly.
- To ensure that either the identified transportation projects are built or that fees are paid.
- To ensure accurate and reliable accounting of fees, credits and reimbursements for eligible improvements.
- To ensure that identified transportation project costs are fairly and equitably distributed.

### Program Principles:

- Ensure that needed roads are built and that the costs of road projects are fairly and equitably distributed by spreading the cost of major collectors and arterials to all new development on a cost per trip basis.
- The fee program is based on the premise that all new development (large and small) should pay a fair share either by building improvements or by paying a fee.
- The fee program is a credit and reimbursement program that would credit (pay back) applicants that build regional transportation improvements.
- The fee program is a program for future development to fund a portion of necessary transportation improvements to accommodate future growth.
- The funds are all held in accounts that are completely separate from county funds.
- The program does not change the current improvement obligation process. Developers will still be responsible for improvements necessary to make their subdivisions work pursuant to the engineering criteria manual and applicable laws.

- Buyer Beware: Developments requiring expensive transportation improvements will not be able to recover the full costs of those improvements. Credits and reimbursements will be on a unit cost basis, not actual costs, to keep fees lower and fairer.
- More predictable, saves time and levels the playing field for all landowners who develop.

## A. DEFINITIONS

For the purpose of this implementation document, the Fee Study and the Road Impact Fee Program, the following definitions shall apply unless the context clearly indicates or requires a different meaning. To the extent that any of the following definitions conflict with definitions of the same term in Land Development Code, then for the purposes of this program, these definitions apply.

Advisory Committee: A committee appointed by the BoCC to provide recommendations on the operation of the Road Impact Fee Program and associated Public Improvement Districts.

Capacity Improvement: An improvement that expands traffic volume capacity by increasing the number of trips that can safely travel on the Major Transportation System, including but not limited to the construction of new roads, intersection improvements or highway interchanges, the widening of existing roads, the installation of traffic signals, and the acquisition or dedication of right-of-way needed for any of the above.

Convenience Commercial: A Fast Food Restaurant or Gas Station/Convenience Store, as defined herein.

Credit Agreement: An agreement between a Credit Applicant and the County, entered into prior to construction of an Eligible Improvement or Eligible Intersection Improvement, which establishes an estimate of credits to be granted upon completion and preliminary acceptance of construction.

Credit Applicant: A person or entity that applies for credit for making a contribution or payment toward, dedicating land for, making a Colorado Department of Transportation (CDOT) signal escrow payment toward, or constructing an Eligible Improvement or Eligible Intersection Improvement in connection with new development in unincorporated El Paso County. Notwithstanding the foregoing, a Credit Applicant also includes El Paso County.

Developer: The owner of a parcel of real property applying for a Development Permit or Land Use Approval or the person or entity submitting such application on the owner's behalf.

Development Permit: Final Plat or Zoning Action approval.

Dwelling Unit: One or more connected rooms and a single kitchen designed for and occupied by no more than one household unit for living and sleeping purposes.

Eligible Improvement: A Capacity Improvement to the Major Transportation System identified in the Road Impact Fee Study and the current update of the Major Transportation Corridors Plan (MTCP), which identify improvements needed to accommodate anticipated growth in the unincorporated area over a period of 20 years or more.

Eligible Intersection Improvement: Construction of either a warranted traffic control signal or a roundabout in lieu of a warranted signal that is identified pursuant to Appendix 2.

Eligible Plat: A final plat that may be recorded in phases pursuant to the provisions of BoCC Resolution No. 12-48.

Fast Food Restaurant: An establishment providing quick meals for in-store dining or take-out that also has a drive-through window or offers service to patrons in their vehicles.

Final Plat: A map and supporting materials and documentation of certain described land prepared in accordance with the Land Development Code and C.R.S. §38-51-106 as an instrument for recording of real estate interests with the Clerk and Recorder and providing a permanent and accurate record of the legal description, dedications, exact size, shape, and location of lots, blocks, roads, easements, and parcels of land. The plat, when recorded by the Clerk and Recorder, becomes the legal instrument whereby the location and boundaries of separate parcels of land within a subdivision or subdivision exemption are identified. The term includes final plats for subdivisions, subdivision exemptions, and vacation and replats.

Gas Station/Convenience Store: An establishment where motor fuel is offered for sale, at retail, to the motoring public, and which may also include a retail store carrying primarily convenience items such as prepackaged foods and beverages, household items, notions and personal products.

General Commercial: A shopping center, excluding outparcels for Convenience Commercial uses, or a free-standing establishment engaged in the selling or rental of goods, services or entertainment to the general public, excluding Convenience Commercial uses. Such uses include, but are not limited to, shopping centers, restaurants other than Fast Food Restaurants, discount stores, supermarkets, home improvement stores, pharmacies, automobile sales and service, banks, movie theaters, amusement arcades, bowling alleys, barber shops, laundromats, funeral homes, vocational or technical schools, dance studios, health clubs and golf courses.

Governing Body: The El Paso County Board of County Commissioners (BoCC).

Gross Floor Area: The total floor area, including basements, mezzanines, and upper floors, if any, expressed in square feet measured from the outside surface of outside walls, but excluding enclosed vehicle parking areas.

Hotel/Motel: An establishment that provides paid lodging in rooms or suites that do not meet the definition of single or multifamily dwelling units.

Impact Fee or Road Impact Fee: The fee charged upon issuance of a Development Permit or Land Use Approval based on growth-driven generated trips.

Industrial: An establishment primarily engaged in the fabrication, assembly or processing of goods. Typical uses include manufacturing plants, welding shops, wholesale bakeries, dry cleaning plants, and bottling works.

Institutional: A governmental, quasi-public or institutional use, or a non-profit recreational use, not located in a shopping center. Typical uses include elementary, secondary or higher educational

establishments, day care centers, hospitals, mental institutions, nursing homes, assisted living facilities, fire stations, city halls, courthouses, post offices, jails, libraries, utilities, museums, places of religious worship, military bases, airports, bus stations, fraternal lodges, parks and playgrounds.

Land Use Approval: an approval or permit issued for a new use or structure on a parcel of property in unincorporated El Paso County that generates new trips for such parcel; examples include building permits, access permits, site plans, site development plans, special use approvals and variance of use approvals.

Major Transportation System: County arterials and major collectors, including intersections with state highways, within unincorporated El Paso County, as well as selected state highways within unincorporated El Paso County, as identified in the most current version of the Major Transportation Corridors Plan and the Road Impact Fee Study.

Mini Warehouse: An enclosed storage facility containing independent, fully enclosed bays that are leased to persons for storage of their household goods or personal property.

Multi-Family: A dwelling unit that is connected to two or more other dwelling units.

Office: A building not located in a shopping center and exclusively containing establishments providing executive, management, administrative or professional services, and which may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, or child care facilities. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, secretarial, data processing, telephone answering, telephone marketing, music, radio and television recording and broadcasting studios; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; medical and dental offices and clinics, including veterinarian clinics and kennels; and business offices of private companies, utility companies, trade associations, unions and nonprofit organizations.

PID District Manager/Administrator: The professional hired to manage the PID funds and to coordinate with the Road Impact Fee Administrator, if the County chooses. These duties may or may not be performed by the Road Impact Fee Administrator.

Potentially Eligible Improvement: A road on the MTCF that is a major collector classification or above and is owned by or will be dedicated to or maintained by El Paso County.

Public Improvement District (PID): A public improvement district or districts created for the purposes of collecting Road Impact Fees, funding Eligible Improvements, or reimbursing those who make Eligible Improvements for the cost of construction or dedication of Eligible Improvements.

Road Impact Fee Administrator: The El Paso County employee primarily responsible for administering the provisions of the Road Impact Fee Resolution, or his or her designee.

Road Impact Fee Study: The *Major Transportation Corridors Plan: Road Impact Fee Study*, prepared in September 2012 or a subsequent similar report.

Road Impact Fee Resolution: The resolution approved by the BoCC creating a permanent countywide road impact fee and subsequent amendments.

Single-Family Detached: A dwelling unit not connected to any other dwelling unit or connected to only one additional dwelling unit.

Warehouse: An establishment primarily engaged in the display, storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. Typical uses include wholesale distributors, storage warehouses, moving and storage firms, trucking and shipping operations and major mail processing centers.

## **B. IMPOSITION OF FEES**

1. Effective until December 31, 2019, property in the unincorporated area of the county meeting any of the following criteria is subject to the payment of Road Impact Fees:

- a. Property that receives Final Plat approval on or after February 11, 2010, either in a public hearing or administratively; or
- b. Property that received Final Plat approval prior to February 11, 2010 with a condition of approval or resolution of approval, or any extended or expired Final Plats subject to Resolution 11-146, that require participation in a transportation improvement or Road Impact Fee program; or
- c. Property that received Final Plat approval prior to February 11, 2010 but that is no longer eligible for recording due to the expiration of time and for which the only extension of time arises by approval of the BoCC in an open and public meeting (hereinafter referred to as an "Expired Final Plat"), regardless whether such Expired Final Plat contains a condition of approval or resolution of approval that requires participation in a transportation improvement or road impact fee program;
- d. Property which was rezoned on or after February 11, 2010 and included a condition of approval to participate in a fee program, or property that receives administrative or BoCC approval for a Zoning Action on or after December 1, 2012. In this case, the fee would be based on the additional trips generated; or
- e. In the event the Final Plat action is a vacation and replat or an amended plat, the Road Impact Fee would only apply to any additional lot(s) created, and then only if additional traffic would be generated from the additional lot(s).

2. Effective on and after January 1, 2020, property in the unincorporated area of the county that receives a Land Use Approval either in a public hearing or administratively, is subject to the payment of Road Impact Fees.

- a. If the property applying for the Land Use Approval has already paid its Road Impact Fee obligation through application of the provisions in Section B.1 above, then it shall not have to pay again at the time of Land Use Approval.

b. Exceptions: the following Land Use Approvals shall not be subject to payment of Road Impact Fees.

i. Those issued for Temporary Uses as defined in the El Paso County Land Development Code.

ii. Those issued to reestablish a use or rebuild a structure that was destroyed or demolished and that legally existed at the time of such destruction or demolition.

3. Timing and Payment of Obligation.

a. Effective until December 31, 2019, the obligation to pay Road Impact Fees is triggered by issuance of a Development Permit.

i. For Single-Family-Detached or Multi-Family residential land uses, the Developer may elect to pay the Road Impact Fees prior to recording the Final Plat or within 90 days of approval of the Zoning Action, or to defer payment until the time of building permit application.

ii. For all other Development Permits, the Developer must defer payment until the time of building permit application.

b. Effective on and after January 1, 2020, the obligation to pay Road Impact Fees is triggered by issuance of a Land Use Approval. For uses or structures that require multiple Land Use Approvals, the obligation is triggered by the final Land Use Approval required.

i. Notwithstanding the foregoing, for Single-Family-Detached or Multi-Family residential Final Plats submitted on or after January 1, 2020, the Developer may elect to pay the Road Impact Fees prior to recording the Final Plat or to defer payment until the time of subsequent Land Use Approval.

4. Option to Join the PID. Developers who receive Final Plat approval and elect or are required to defer payment of the Road Impact Fees to the time of subsequent Land Use Approval may elect to include their plat in a Public Improvement District. The Developer must make such election and comply with all necessary procedures prior to or contemporaneous with plat approval. In the event that there are multiple PIDs with different millage rates, all of the lots within a Final Plat must be placed in the same PID. Plats to be included in the PID shall be submitted to the El Paso County Assessor for review and approval before plat approval. In the case of an expired or extended final plat, the property owner shall declare whether he or she wishes to join the PID and follow all necessary procedures prior to an action to record the expired or extended Final Plat. No Final Plat for property to be included in the PID shall be recorded until the inclusion has been approved. Fee obligations for tax-exempt entities shall be due in full at the time of Land Use Approval regardless of whether they are located in the PID.

a. Exception for Eligible Plats. The election to join a PID must be made for each individual phase at the time that phase is platted. If a Developer elects to include a phase of an Eligible Plat in a PID, the entire phase shall be so included, but the remaining undeveloped tracts in the subdivision shall not be so included. Except as



otherwise provided herein, all provisions of Section B.4 above shall apply to Eligible Plats.

5. Amount of Fees. A Developer's Road Impact Fee obligation shall be in accordance with the following schedule or any amended schedule in effect at the time of fee payment. Road impact fee obligations shall be paid with cash or offset with credits. The County may allow alternative methods of fee payment subject to a development agreement, approval of appropriate guarantees by the County Attorney and approval by the BoCC. Under no circumstances shall Road Impact Fee payment obligations be satisfied by posting of letters of credit or other collateral to guarantee payment at a future date. The cash portion of fees applicable to development in the PID may be adjusted through legislative action of the BoCC without an update of the Road Impact Fee Study, based on an analysis of PID property tax rates, average property values, present value discount rates and other factors.

**Road Impact Fee Calculations Including Intersections**

		Intersections	MTCP	Intersections + MTCP
Costs	<b>Unit cost times # of signals</b>	\$ 22,050,000	\$ 274,811,093	\$ 296,861,093
(Costs / 709868 new trips)+5% contingency	<b>Cost per trip end</b>	\$ 31.06	\$ 406.49	\$ 437.55
Cost of fixing existing deficiencies / existing trips	<b>Deficiency Credit</b>		3.4	3.4
Credit per trip for existing funding sources	<b>Revenue Credit</b>		35.6	35.6
	<b>Cost per trip</b>		\$ 367.49	\$ 398.55
	<b>Tips Per House</b>		9.61	9.61
	<b>Cost Per House</b>		\$ 3,531.58	\$ 3,830.08
		<b>Difference</b>		\$ 298.51
		<b>Percent Increase</b>		7.79%

**Road Impact Fee Schedule**

Land Use	Unit	Full Fee	Upfront Fee in 5 Mill PID	Upfront Fee in 10 Mill PID
Single-Family	Dwelling	\$3,830	\$2,527	\$1,221
Multi-Family	Dwelling	\$2,407	\$1,934	\$1,458
Hotel/Motel	Room	\$2,806	\$2,153	\$1,498
General Commercial	1,000 sf	\$4,958	\$3,851	\$2,745
Convenience Comm.	1,000 sf	\$8,800	\$5,271	\$1,749
Office	1,000 sf	\$3,180	\$1,520	\$-
Public/Institutional	1,000 sf	\$3,372	\$1,645	\$-
Industrial	1,000 sf	\$3,651	\$2,372	\$1,093
Warehouse	1,000 sf	\$1,865	\$1,122	\$378

<b>Mini Warehouse</b>	<b>1,000 sf</b>	<b>\$725</b>	<b>\$243</b>	<b>\$-</b>
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PID fees based on analysis by George K. Baum & Company, 10/11/12 and 10/15/12

- a. With the exception of hotel/motel, nonresidential fees shown in the above fee schedule are per 1,000 square feet of Gross Floor Area, as herein defined.
  - b. If the type of development for which a Development Permit or Land Use Application is requested is not clearly specified in the above fee schedule, the Road Impact Fee Administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use on the fee schedule. The Road Impact Fee Administrator shall first use the definitions set forth in Section A to make this determination. If the appropriate category is still not clear, the Road Impact Fee Administrator shall use the most current edition of the *Trip Generation Manual*, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal, as a guide to select a comparable type of land use based on trip generation rates. The developer or the Road Impact Fee Administrator may request an independent fee study if the use is not contained in the *Trip Generation Manual*. The fee for submission and review of an independent study will be a minimum of \$2,000 per study. See Appendix 1 for the standards for preparing an independent study.
  - c. In many instances, a particular structure may include accessory uses associated with the primary land use. For example, in addition to the actual production of goods, manufacturing facilities often also have office, warehouse, research, and other associated functions. The Road Impact Fees should generally be assessed based on the primary land use. If the applicant can document that an accessory land use accounts for over 25% of the gross floor area of the structure, and that the accessory use is not assumed in the trip generation or other impact data for the primary use, then the Road Impact Fees may be assessed based on the individual square footage of the primary and accessory land uses.
  - d. If the type of development for which a Land Use Approval is requested is for a change of land use type, the fee shall be based on the net increase in the fee for the new land use type as compared to the previous land use type. In the event that the proposed change of land use type results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of Road Impact Fees previously paid.
  - e. If any credits are to be applied in lieu of Road Impact Fee payment pursuant to Section E, the amount of such credit shall be deducted from the amount of the fee to be paid.
  - f. The fee amount includes 63 as-yet unidentified Eligible Intersection Improvements. Eligible Intersection Improvements shall be identified as set forth in Appendix 2. The unit cost for a traffic control signal is \$350,000 and the unit cost for a roundabout is \$700,000. The unit cost for Eligible Intersection Improvements does not include any turn lanes, pavement, or curb and gutter. The pavement, turn lanes, and curb and gutter at intersections are included in the unit costs for Eligible Improvement legs and linear feet.
6. Waivers. The BoCC may waive fees on the development of low- or moderate- income housing or affordable employee housing as it may define such development, provided that the County

appropriates non-impact fee funds to be deposited into the Road Impact Fee Account to replace the foregone Road Impact Fee revenue.

### **C. USE OF ROAD IMPACT FEES AND PID TAX REVENUES**

1. Accounting. All Road Impact Fees received and tax revenues collected from associated Public Improvement Districts will be deposited into one or more interest-bearing accounts to be known collectively as the Road Impact Fee Account. Any interest that may accrue on such amounts shall be retained in the Road Impact Fee Account.

2. Use of Funds. Disbursement of monies from the Road Impact Fee Account shall be only for the following, and shall be prioritized in the following order:

a. Debt Service. To pay debt service, including principal, interest, and any fees associated with obtaining financing and servicing such debt, on any bond issued by the associated Public Improvement Districts and used to finance Eligible Improvements and Eligible Intersection Improvements.

b. Payment of fees. To pay fees from the assessor's or treasurer's office as required by statute.

c. Payment of costs to update the MTCP and Fee Study. To pay for the costs of consultants, materials and equipment associated with updating the MTCP and Fee Program Study at a frequency no more often than once every five years.

d. Reimbursements. To provide reimbursements to persons or entities that have constructed Eligible Improvements or Eligible Intersection Improvements, as described in Section E, Credits and Reimbursements.

e. Construction. To construct Eligible Improvements or Eligible Intersection Improvements.

f. Refunds. To pay refunds, as described in Section F, Refunds.

3. Appropriations. At least once each year, as determined by the Advisory Committee, the Advisory Committee shall propose disbursements from the Road Impact Fee Account for approval by the Board of County Commissioners. After review of the Advisory Committee's recommendation, the Board of County Commissioners shall either approve or modify the recommended disbursement of the monies, subject to the restrictions of Section C.2. Any amounts not appropriated from the Road Impact Fee Account together with any interest earnings shall be carried over to the following fiscal period.

4. Prohibited Uses. Road Impact fees shall not be used to pay for that portion of the cost of any improvement identified in the Road Impact Fee Study as attributable to an existing deficiency.

### **D. USE OF PID BOND PROCEEDS**

1. Expenditures. The expenditure of Public Improvement District bond proceeds shall be only for the following, and shall be prioritized in the following order:

a. To provide reimbursements to Credit Applicants who have received Road Impact Fee credits.

b. To allow El Paso County to construct Eligible Improvements and Eligible Intersection Improvements, including acquisition of right-of-way, needed to improve gaps in the Major Transportation Corridor Plan System.

2. Appropriations. Prior to the expenditure of Public Improvement District bond proceeds, the Advisory Committee shall propose improvements to be funded from the portion of bond proceeds earmarked for constructing Eligible Improvements and Eligible Intersection Improvements. After review of the Advisory Committee's recommendation, the Board of County Commissioners shall either approve or modify the recommended expenditures of the monies, subject to the restrictions of Section D.1. Any bond proceeds not utilized for this purpose shall be used for Credit Applicant reimbursements.

## **E. CREDITS AND REIMBURSEMENTS**

1. Credits Generally. A Credit Applicant may apply for a credit based on unit costs. After subtracting any Road Impact Fees currently due, credits shall be eligible for reimbursement from funds in the Road Impact Fee Account or from bond proceeds. Credits may also be utilized, at the credit holder's discretion, to offset future Road Impact Fees that would otherwise be due. Credit Applicants shall not be eligible for Road Impact Fee credits for improvements for which they are being reimbursed by some other entity or funding source.

2. Credit Agreement. Prior to making a contribution or payment, initiation of construction, dedication of ROW, or CDOT escrow payment, the Credit Applicant shall enter into a credit agreement with the County. The agreement will provide an estimate of credits based on construction plans, ROW plans, or CDOT escrow agreement and is a prerequisite for any future creation of credits. Construction shall be in accordance with the standards found in the current versions of the El Paso County Engineering Criteria Manual and Land Development Code for the particular improvement. In the event staff and the Credit Applicant cannot reach an agreement on the credit amount, the matter may be forwarded to the Advisory Committee for a recommendation and a subsequent final decision by the Board of County Commissioners. Estimated credits will be finalized after construction and acceptance of the improvement or ROW by the County, based on as-built drawings or actual square feet dedicated. If credits are for CDOT escrow payment for improvements in the future, then the Credit Applicant will assign any potential return of the unused escrow to the Road Impact Fee Account with interest.

3. Creation of Credits. Credits will be created when the Eligible Improvement or Eligible Intersection Improvement is approved by the BoCC for preliminary acceptance by the County for maintenance and a completed application is submitted pursuant to paragraph E.6.a. below. The final determination of credits will be made by the BoCC at the request of the Road Impact Fee Administrator. Following approval of credit creation by the BoCC, the County will create a credit account in the name of the Credit Applicant that constructed, dedicated, or contributed to the Eligible Improvement or Eligible Intersection Improvement.

4. Use of Credits. Credits may be utilized in the following manner.
  - a. Fee Offsets. Credits may be utilized, at the credit holder's discretion, to offset future Road Impact Fees that would otherwise be due. A Developer seeking to use credits to offset Road Impact Fees otherwise due shall present authorization from the credit holder for such use. The credit holder's account shall be reduced by the amount of any fee offset provided.
  - b. Reimbursement. Reimbursement of credits shall be made as funds become available from the Road Impact Fee Account or from PID bond proceeds. Reimbursements from the Road Impact Fee Account will be made at least annually following the approval of each year's annual budget by the Board of County Commissioners. Reimbursements from PID bond proceeds will be made following the issuance of each bond. Reimbursements will be made to credit holders in the chronological order in which the credits were created, provided that credits for improvements or dedications made prior to the effective date of the Road Impact Fee Resolution will be considered created on the date of preliminary acceptance by the County for maintenance for the purpose of determining reimbursement order. Credit holders will be notified of the availability of funds to reimburse them. A credit holder may waive or defer all or a portion of any available reimbursement by filing a letter with the Road Impact Fee Administrator to that effect.
  - c. Transfer or Assignment. All or a portion of the credits in a credit holder's account may be transferred or assigned to another person or entity upon filing written notice of such transfer, signed by the transferor and transferee, with the Road Impact Fee Administrator. The Road Impact Fee Administrator shall approve the transfer provided there are adequate funds in the credit holder's account and sufficient information has been provided to create a new account for the transferee.
5. Determining Credit Amounts. The amount of the credit shall be calculated based on standardized unit costs. The unit costs are intended to be conservative and are not intended to fully cover all actual costs. The same costs used to calculate the fees will be used to determine the amount of credit due to a Credit Applicant. A detailed description of standardized unit costs can be found in the Road Impact Fee Study.
  - a. Interim Improvements. Eligible Improvements, but not Eligible Intersection Improvements, may be constructed in phases with the prior approval of the County Engineer. Phasing will occur based on the needs of the transportation system, the impacts from the development, or for project efficiencies. Interim improvements will be allowed and eligible as long as they will be utilized as part of the overall facility in the future (not throwaway sections) as certified by El Paso County, are built to the ultimate standards, and are not constructed only to serve an individual development for a short time. One example of an ineligible improvement would be an auxiliary lane constructed in the interim only to provide access to a single development, but that would be required to be removed when the roadway is expanded. An example of an eligible interim improvement would be building two lanes of four-lane arterial that are built to arterial standards.

6. Credit Application Process.

a. Credits generally. The Credit Applicant shall submit a cover letter summarizing the following information to the Road Impact Fee Administrator to establish credit for Eligible Improvements or Eligible Intersection Improvements constructed. In order to establish the credit amount, the Credit Applicant must submit all required information to the Fee Administrator. Information provided must include:

1. Credit Applicant name and subdivision name and filing or Planning and Community Development Department (PCD) file number for other Land Use Approvals.
2. Name, location and functional class of the road.
3. Certification by a Professional Engineer of construction according to approved plans and followed Engineering Criteria Manual (ECM) Standards.
4. Certification by signed affidavit that all conditions of approval were met, including following of County's Land Development Code (LDC), and that all materials and subcontractors were paid in full.
5. Formal request summarizing the type of improvement or ROW dedication, the amount contributed, the linear feet constructed minus any bridges or drainage structures, the number of signalized intersections or roundabouts by type installed and a calculation of the amount of credit that is being requested using the unit costs.
6. Proof of payment of the CDOT signal escrow and assignment of returned escrow funds to the Public Improvement District and a traffic study documenting the percent of traffic impacting the signal.

b. Pre-Program Credits. Effective January 1, 2020, a Developer applying for a Land Use Approval for property recorded prior to February 11, 2010 and for which capital improvements or land dedication had been made may be eligible for offsets against the Road Impact Fees obligation pursuant to the provisions of this section. Pre-program credits shall only be available for capital improvements that had been included in the County's adopted MTCP at the time they were made. The application for credit consists of an independent credit request to include the following information.

1. Applicants for pre-program credits must file a request with the Road Impact Fee Administrator. The value of the capital improvement shall be determined by multiplying the unit cost of the improvement as identified in the most recent Fee Study by the linear feet of road. Once the value of the capital improvement has been determined, the amount of the offset shall be calculated by dividing the value of the capital improvement by the number of lots in the platted subdivision.
2. The offset amount calculated above shall be applied against the Road Impact Fees obligation for the Applicant's Land Use Approvals. No additional credits shall be created if the offset amount is greater than the Road Impact Fees obligation.
3. Applicants must submit all supporting documentation to the Road Impact Fee Administrator along with a cover letter to apply for pre-program credit. Review

of the information submitted will be by the Road Impact Fee Administrator, who may request additional needed information. When the information provided is determined to be complete by the Road Impact Fee Administrator, the request will be submitted to the Advisory Committee for recommendation to the Board of County Commissioners. Information to be submitted includes:

- a. Subdivision name and Filing
- b. Developed number of lots and /or total area developed per land use to date or number of traffic/trips generated
- c. Total number of lots and/or total area per land use to be developed at expected build out.
- d. Public road improvements constructed including date of preliminary acceptance and proof that the road was identified in the MTCP in effect at the time of construction. Include linear feet constructed. Identify roadway type/classification.
- e. Preliminary acceptance date
- f. Certification that all conditions of approval were met
- g. Cover letter summarizing the type of improvement or ROW dedication, the linear feet constructed, number of signalized intersections, and a calculation of the amount of credit that is being requested
- h. The Fee Administrator may consider other methodologies with sufficient documentation and dedications that are roughly equivalent to the fee amount.

c. Any person or entity may apply for a credit for contribution or payment of signal escrow funds after the construction of an Eligible Intersection Improvement in connection with new development in unincorporated El Paso County. Credits may be granted for escrows collected on intersections that meet the conditions of Appendix 2 and the Eligible Intersection Improvement has been preliminarily accepted by the County for maintenance. Credits will be a percentage of the unit cost of the Eligible Intersection Improvement based on the percent of traffic identified in the escrow agreement or traffic study that supported the escrow agreement. All applicable conditions of paragraph E.6.d. below must also be met.

d. Credits will not be issued unless all of the following conditions are met:

1. Prior to construction, the Credit Applicant must submit and receive approval of construction plans in accordance with the El Paso County Engineering Criteria Manual (ECM).
2. Construction of the eligible improvements will follow all the requirements of the ECM.
3. The Credit Applicant proceeds with construction according to the approved plans. Any changes during construction shall be approved in accordance with the ECM.
4. Upon completion of the construction, the Credit Applicant shall obtain a certification from a Colorado registered Professional Engineer that the facilities inspected are constructed in accordance with the approved plans and all county requirements. A written request for the County inspection of the facilities must be submitted in accordance with the ECM.

5. Inspections of constructed improvements are the same as for any public improvements and are as described in the ECM. Upon successful completion of any punch list items, the BoCC schedules the projects for preliminary acceptance approval. This approval initiates the two-year warranty period, and construction surety is released and replaced by warranty collateral.
6. Proof of payment to the CDOT escrow and assignment of returned funds with interest to the Public Improvement District (if applicable).

7. Reimbursements. Construction of Eligible Improvements and Eligible Intersection Improvements must be in accordance with the current versions of the County's Engineering Criteria Manual (ECM) and Land Development Code (LDC) in order to be reimbursed. All review, permit, inspection, collateral and acceptance procedures including applicable review fees are the same as for any other public improvements project in the County.

8. Unit Cost Schedules. The schedules of unit costs and related diagrams for the Road Impact Fee Program can be found in the Road Impact Fee Study.

## **F. REFUNDS**

The current owner of record of property for which a Road Impact Fee has been paid shall be entitled to a refund of such fee if all or a portion of the Road Impact Fees paid are not spent within ten (10) years after the date of payment. The determination of whether the Road Impact Fees paid have been spent shall be determined using a first-in, first-out accounting standard. The Road Impact Fee Administrator, on determining the need for a refund, shall notify the current owner of the property.

Within 30 days after receipt of a written request for a refund, the Road Impact Fee Administrator must provide a written decision on the refund request including the reasons for the decision. If a refund is due the applicant, the County shall issue a refund payment to the applicant within 30 days of the Road Impact Fee Administrator's written decision on the refund request.

## **G. ADVISORY COMMITTEE**

1. The functions of the Advisory Committee shall include the following.
  - a. Monitor and evaluate implementation of the Road Impact Fee and associated Public Improvement Districts, file annual written reports regarding same, and report to the BoCC any perceived inequities regarding same.
  - b. Advise the BoCC of the need to update or revise the Major Transportation Corridor Plan, the Road Impact Fee Study, or the unit costs.
  - c. Make recommendations to the BoCC regarding credit amount disputes, the disbursement of Road Impact Fee funds or PID bond proceeds, and the appeal of decision regarding independent fee studies.
  - d. Any other tasks the BoCC may direct the Advisory Committee to perform.



2. The Advisory Committee will consider the following Capital Spending Criteria Policy when making recommendations on the use of funds to the Board of County Commissioners.

- a. Capital Spending Criteria Policy Statement: The following factors shall be considered when prioritizing projects:
  - Projects should be constructed near in time and distance to where the fee moneys were collected.
  - Safety
  - Roadway classification / number of people benefited
  - Traffic demand
  - Gaps in system (addressing areas where no development is available to construct the frontage, bottlenecks, etc.)
  - Funding or project efficiencies (joint project, available match or grant funding, project savings due to economies of scale, etc.)
  - Planned schedule of the MTCP

## **H. UPDATES**

1. The Major Transportation Corridor Plan, including projects identified as eligible for the fee program, will be updated at least every six (6) years or as funds are available.

2. The unit costs specified in the Fee Study may be updated periodically, as determined necessary by the Advisory Committee. The update of the unit costs will be prepared by the Road Impact Fee Administrator based on inflation, recent construction bids and updated land costs for the County's park dedication in-lieu fees, and will be reviewed by the Advisory Committee. The updated unit costs will be effective for determining the amount of future credits following the update of the Road Impact Fee study to incorporate the updated unit costs into the fee calculation and the adoption of the updated Road Impact Fees by the BoCC. Updates may also be performed to incorporate decisions by the BoCC on potentially eligible projects, pre-program credits, credit agreements, or other necessary updates or program changes.

- a. The Road Impact Fee Administrator shall have the authority to administratively approve any increase or decrease in the cost per trip set forth in the Fee Study resulting from pre-program credits or the inclusion or deletion of Eligible Improvements into or from the Road Impact Fee Program, provided that the Advisory Committee approves each such update and the total net increase or decrease to the cost per trip resulting from such updates does not exceed 5% per calendar year.

## **I. APPEALS**

Any person or entity that believes that the provisions of the Road Impact Fee Program have been erroneously interpreted or applied must first raise in writing and attempt to resolve the issue with the Road Impact Fee Administrator. The appealing party shall timely provide any information requested by the Road Impact Fee Administrator related to the alleged error or the request will be deemed abandoned. The Road Impact Fee Administrator shall issue a written decision within twenty (20) days of receiving written notice of the alleged error. If the issue cannot be resolved, the alleged erroneous interpretation or application may be appealed to the BoCC within twenty (20) days of the

Road Impact Fee Administrator's written decision. All appeals shall first be heard by the Advisory Committee, who shall make recommendations to the BoCC regarding the appeal. The appealing party shall timely provide any information requested by the Advisory Committee and shall attend any hearing on the issue scheduled by the Advisory Committee or the appeal shall be deemed abandoned. The BoCC is the ultimate interpreter of the meaning and application of the Road Impact Fee Program. Neither the Road Impact Fee Administrator nor the BoCC has the authority to grant individual variances from the provisions of the Road Impact Fee Program except through consideration of an independent fee study.

## Appendix 1 Independent Study Standard

An independent fee study may be performed by the applicant if the proposed development does not clearly fit within one of the established fee categories. See Section B.5, the Road Impact Fee Schedule for more information. Generally, an independent study will not be considered if based on trips not using county roads, as all development occurring in unincorporated El Paso County will, at some point, utilize county roads. Independent studies shall consider the long-term impacts of the building or structure based on its structural characteristics, rather than the short-term impacts of the proposed initial occupant of the building or structure.

1. The preparation of the independent fee study shall be responsibility of the applicant.
2. Any person who requests to perform an independent fee study shall pay an application fee for administrative costs associated with the review and decision on such independent fee calculation study.
3. Formula: The independent fee study shall be by the use of the following formula:

$$\text{FEE} = \text{VMT} \times \text{Cost Per Trip}$$

WHERE:

$$\text{VMT} = \text{ADT} \times \% \text{NEW} \times \text{ATL} / 2$$

ADT = Number of average daily trips generated

%NEW = Percent new trips

ATL = Average trip length in miles on the regional road system

2 = For the portion of the trip allocated to the new development (one trip end)

Cost Per Trip = The cost per trip as adopted by the Board of County Commissioners.

- i. *Standards:* The fee calculation shall be based on data, information or assumptions contained in the fee program or in independent sources. Independent sources may be used if all relevant information and data is provided to and accepted by the County and only if:
  - a. The independent source is an accepted standard source of transportation engineering or planning data or information;
  - b. The independent source is a local study on trip characteristics carried out by a qualified traffic planner or engineer pursuant to an accepted methodology of transportation planning or engineering; or

- c. The percent new trips factor used in the independent fee calculation study is based on actual surveys prepared in El Paso County.
  - d. Meets the requirements of the EL Paso County Engineering Criteria Manual.
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- ii. Procedure. Within ten (10) working days of receipt of an independent fee study, the Road Impact Fee Administrator shall determine if the study is complete. If the Road Impact Fee Administrator determines that the study is not complete, a written statement specifying the deficiencies shall be sent by mail to the person submitting the study. The application shall be deemed complete if no deficiencies are specified. The Road Impact Fee Administrator shall take no further action on the application until it is deemed complete. When the Road Impact Fee Administrator determines the application is complete, the application shall be reviewed, and the Road Impact Fee Administrator shall render a written decision in twenty (20) working days on whether the fee should be modified, and if so, what the amount should be, based on the standards in the following section.
  - iii. Appeal of Independent Fee Study Decision. A fee payer affected by the administrative decision of the Road Impact Fee Administrator on an independent fee study may appeal such decision to the Board pursuant to the appeals procedure set forth in Section I of the Implementation Document. If the Board reverses the decision of the Road Impact Fee Administrator, the Board shall direct that the fee be recalculated in accordance with its findings.

## Appendix 2: Eligible Intersection Improvements

The Road Impact Fee includes the cost of 63 Eligible Intersection Improvements. Unlike Eligible Improvements, Eligible Intersection Improvements have not been specifically identified for inclusion in the Program in order to afford maximum flexibility. To qualify as an Eligible Intersection Improvement, the proposed traffic control signal or roundabout must meet the following criteria:

1. The traffic control signal or roundabout must be identified as warranted by the long range planning horizon in a County-approved Traffic Impact Study that includes a signal warrant study and is prepared by a Colorado Registered Professional Engineer in accordance with the current Engineering Criteria Manual. The intersection must also be owned and maintained by El Paso County or is listed as an eligible State intersection in the Road Impact Fee Study.
2. The intersection at which a traffic control signal or roundabout is warranted cannot include a local road, a private road or access, a driveway, or an access to a single land use (for example, an entrance to a shopping center or a large apartment complex). For exceptions to this criteria, see paragraph 5.a below.
3. A signal or roundabout will not qualify as eligible if a new development is the primary trigger for the signal or roundabout warrant and the primary purpose of the signal or roundabout is to control access to and from that development.
4. Automatic qualification: if a proposed traffic signal or roundabout meets the above criteria, it automatically qualifies as an Eligible Intersection Improvement if it is at the intersection of:
  - a. Two roads identified in the Major Transportation Corridors Plan (MTCP); or
  - b. One road identified in the MTCP and another County non-local road.
5. Requested qualification: if a proposed traffic signal or roundabout meets the criteria in paragraphs 1-3 above, but does not automatically qualify under paragraph 4, a developer may request qualification as an Eligible Intersection Improvement from the Advisory Committee and the Board of County Commissioners. To request qualification, the proposed improvement must be at the intersection of:
  - a. One road identified in the MTCP and a local road to which the developer will construct road improvements changing the functional classification of the road to other than a local road; or
  - b. A new road not listed in the MTCP but constructed by the developer as a non-local road, and an existing non-local road.

The Board of County Commissioners must approve the functional classification of the improved or new road in connection with a land use application or County-initiated project in order for an intersection improvement to qualify under this paragraph.