

**El Paso County  
Transportation Improvement Fee Program  
Implementation Process  
October 2009**

**INTRODUCTION**

The unincorporated portion of El Paso County has two designated areas where transportation improvement fees apply. These fees are necessary to ensure that new development contributes fairly toward its impacts on regional roads. The fee system is not new. This fee program is only a new method of more fairly and equitably establishing a fee than any individually negotiated fee system, where a fee for each development would be determined separately.

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 affected stakeholder developments, and to ensure the proper and timely accounting of improvements and funds.

**Goal Statements:**

1. To identify accurately transportation improvements needed to accommodate growth associated with individual developments, needed for population and vehicle miles travelled growth on county and state roads.
2. To accurately assess appropriate fees for the transportation improvements and ensure that costs and fees are updated regularly.
3. To ensure that the identified transportation projects are built or that fees are paid.
4. To ensure accurate and reliable accounting of fees, credits and reimbursements for needed improvements.
5. To ensure that identified transportation projects are fairly and equitably distributed among affected stakeholders.

The transportation improvement fee represents that equitable share of the cost of road improvements to be constructed. The fee is expressed in dollars per trip from the proposed development. The fee is the total cost of all improvements within the small area needed to accommodate all projected developments divided by the number of trips from all the projected developments.

The fees are a one time charge to the developer or builder based on the number and type of building. The fee is estimated at the time of final plat, but is paid before building permits will be issued. The developer may provide road improvements that are creditable toward the fee or may pay the fee.

The transportation improvement fees are subject to annual revision based on the Colorado construction cost index.

## **WHO IS ELIGIBLE FOR THE PROGRAM, WHEN ARE FEES ASSESSED?**

1. Transportation infrastructure improvements within the Improvement Area that are identified in the Major Transportation Corridors Plan are to be funded through the Fee Program by El Paso County, planned developments, and any future developments in the Improvement Area and unincorporated El Paso County. Developments within the Improvement Area and also within the jurisdiction of the Cities of Fountain and Colorado Springs were not included as participants in the Fee Program and are not subject to the fees.
2. Any person or entity that is subdividing land in a manner that increases trips is potentially eligible for the fee program.
3. For larger developments, fees are estimated at the time of final plat and must be paid or improvements built by the time of building permit.
4. For any other subdivision or land use change (zoning and/or more impactful ITE\* use category), fees are to be paid before building permits will be issued.

## **WHICH ROADS ARE ELIGIBLE IMPROVEMENTS?**

1. Any new or improved road that is functionally classified as an arterial, expressway, or freeway within the Improvement Area that is included in the Major Transportation Corridors Plan is potentially eligible for the Fee Program.
2. For small area fee purposes, “internal roads that are entirely within a division of land,” means that the road (including arterial roads) both begins and ends inside of the land division. For roads that either begin or end within a division of land, the roadway is eligible for the program, however, the segment becomes eligible for reimbursement when connections are made that make the road a through street rather than a road that serves only that division of land.
3. The portions of any new or improved roadway within the Improvement Area and also within the jurisdictions of Fountain or Colorado Springs were not eligible for the Fee Program, but the portions of the improvement in unincorporated El Paso County were included as eligible.
4. Annexations – Development proposals identified as part of this Fee Program and unincorporated El Paso County lands as of the acceptance date of this Fee Program shall be bound by the terms herein. As stated in Section 2.4, any new annexations of unincorporated El Paso County lands that affect the jurisdiction of a roadway improvement in the Fee Program should be evaluated for possible adjustment to the eligible costs as part of periodic updates to the Fee Program.
5. Past and/or Partially Constructed Improvements - Eligible construction costs for specific transportation improvements in the Fee Program are identified in the respective small area program report. Some of these improvements are either partially or fully constructed or under construction at the time of Fee Program adoption. Credit for these improvements is eligible for those project components that are built to the appropriate standards for the ultimate functional classification of the road, that remain as part of the completed roadway and are built to ECM standards. Not included are interim, “throw-away” components, as certified by El Paso County. Past improvements must be approved by the County Engineer to become eligible for reimbursement.

6. Interim Improvements - Eligible improvements may be constructed in phases with approval of the County. This will occur based on the needs of the transportation system and to alleviate the impacts from the development. Interim improvements will be allowed and eligible as long as they will be utilized as part of the overall facility in the future (not throw away sections) as certified by El Paso County, 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. If a phased improvement is proposed and the estimated eligible project cost as shown in Table 6 would be exceeded with the phasing, the eligible cost should be updated with the eligible portion of the difference (as certified by El Paso County) during periodic updates to the Program.
7. Roads identified within the Rural Transportation Authority area that are *fully funded* will be removed from the list of improvements for areas where the RTA and the fee area overlap. Roads that are only budgeted but are not funded will be included in the fee area improvements.
8. Eligible costs do not include decorative items, items not required by the ECM or County Engineer, or were not part of the unit costs.

#### **HOW TO DETERMINE THE FEE AMOUNT**

The Fee Program was developed to be implemented on a per-trip basis for residential and commercial land uses. As new developments are proposed, their land uses should be converted to trips based on the adjusted trip rates documented herein. Fees are established by multiplying the estimated trip generation by the cost per trip.

For new developments that are proposed after the Fee Program is established, the following steps are provided for participating in the Transportation Improvement Fee Program:

1. Determine the number of daily vehicle trips to and from the development by multiplying the land use data by the appropriate trip rates.
2. Calculate the development's Fee Program contribution by multiplying the number of daily vehicle trips by the Cost per Trip.
3. For trip rates not listed in trip tables, the Fee Administrator will select an appropriate rate.
4. Document the Estimated Fee at Final Plat in the Transportation Impact Study (*Estimated Credits documented*) Determination of fee obligation. The subdivider's Transportation Impact Study (TIS) required with the final plat for subdivisions within the program area will determine the trips generated by the subdivision based on the proposed land uses. The trips generated multiplied by the fee amount per trip constitutes the subdivision's fee obligation. For single-family residential subdivisions, an equivalent fee amount per single family unit may be used to simplify the calculation.

5. Document the developer's plan to satisfy the fee amount at Final Plat in the Transportation Impact Study, including whether the fee will be paid, improvements built or what combination will satisfy the proper amount. Options include:
  - a. Pay the fee at final plat
  - b. Defer fee to building permit with plat note recorded on property title (and all sales documents, if applicable.)
    - i. Pay fee during approval of site plan
  - c. Build eligible roadways
  - d. Some combination of building and paying the fee as agreed upon by the fee administrator and County Engineer.
6. Construction of eligible improvements will be approved in advance by the County Engineer. The specifics of the fee obligation and method of addressing the obligation will be documented in the required Subdivision Improvements Agreement (SIA). In many cases, the subdivider will construct eligible improvements. In that case, the engineer's estimate of cost prepared by the subdivider for the eligible improvements will be included in the SIA. This estimate will also be used to establish the estimated credit for the work. The final credit amount will be based on actual certified costs of the work, submitted to and approved by the County. For smaller projects or other projects where eligible improvements are not required or applicable, the calculated fee amount will be paid at the time the subdivision plat is recorded.
7. Fee obligation, if not paid at final plat, must be documented on all sales documents and on plat notes to ensure that a title search would find the fee obligation before sale of the property.

### **PROCESS IF BUILDING ELIGIBLE IMPROVEMENTS**

Construction of eligible improvements will be in accordance with the County's Engineering Criteria Manual (ECM) and Land Development Code (LDC). 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.

At the County's discretion, a developer may construct a roadway improvement in lieu of or as part of the required fees. In order for a developer to obtain reimbursement or credit for transportation improvement costs, certain procedures must be followed. Prior to construction, the developer must:

1. Obtain through the subdivision process, an approved TIS that provides the developer's fee estimate and their plan for satisfying the fee. Letters of credit are to be posted with the County in accordance with the Subdivision Ordinance or Regulations.
2. If building, provide Surety Cost Estimate certified by PE during subdivision approval.
3. Submit construction plans to the County Engineer for approval.

4. Obtain three sealed bids for constructing the facilities. If the lowest bid exceeds the Engineer's estimated costs, the County Engineer must review and give approval before proceeding.
5. Construction of the eligible improvements will follow all the requirements of the El Paso County Engineering Criteria Manual (ECM). Design criteria, submittal requirements, and the process for plan review and approval are included in the ECM. Following plan approval, a pre-construction conference is held with the County inspections staff. All required permits such as Army Corps of Engineers, Floodplain Development, Stormwater Management, etc. are to be secured prior to scheduling the pre-construction conference. All review, inspection, partial release, and acceptance procedures including applicable review fees will be the same as for any other public improvements project in El Paso County.
6. The developer proceeds with construction according to the approved plans. Any changes during construction shall be approved by the County Engineer.
7. Upon completion of the construction, the developer 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 to the County Engineer.
8. After construction, inspections will be done by DSD and DOT.
9. After a successful inspection, the assurance for facilities may be released.
10. To receive reimbursement, the developer must construct the improvements as shown on the approved construction drawings.

### **HOW TO ESTABLISH CREDITS**

In order to establish construction credits, the developer must submit all needed information to the Fee Administrator. This step is to occur before preliminary acceptance. Any credits that may have been assumed or established under the former, non-model based system will need to be approved through this credit system.

1. Developer submits to the Fee Administrator:
  - a. Inspection completion and acceptance
  - b. Approved construction documents
  - c. Certification of construction according to approved plans
  - d. A copy of the three bids received
  - e. Actual, paid invoices for eligible costs (as paid bills)
  - f. Estimated fee amount from TIS
  - g. List of items, if any, not constructed to ECM standards
  - h. Cover letter summarizing the included information and a statement of the amount of credit that is being requested.
2. Review of the information submitted will be by a Multidisciplinary Team led by the Fee Administrator.
3. If approved, the Estimated Credits will become Recommended Credits.
4. Recommended Credits will be taken to the Board of County Commissioners for adoption and prioritization. If approved by the BoCC, the credits become Adopted Credits.

5. During the program accounting, the fee system will be updated, audited and reimbursements will be recommended.
6. Reimbursement recommendations will be taken to the BoCC for approval and disbursement. However, payback schedules must be considered in the larger context of timely implementation of improvements by the County and cash flow. The County, if having constructed eligible improvements, is prioritized first on the reimbursement list if they have used public funds to pay for the eligible improvement.

### **IMPORTANT NOTES**

7. There will be no reimbursement of expenses above unit prices. Unique circumstances will be considered during an appeal process if requested.
8. Assignment / portability of credits and obligation - Excess credits and fee obligation may be assigned only with County approval. These credits must also be certified by the County per the above requirements. This may occur in the case of a developer having multiple subdivisions within the program area. This will require waiver of LDC Section 8.7.1., which requires credits to run with the land and within the same subdivision.
9. New planning studies needed due to changes in development plans will be included in the next fee update.
10. Annual Construction Cost Increases – The cost of roadway construction has increased dramatically in recent years, which has a significant effect on construction cost estimates. It is recommended that the Fee Program be adjusted annually to include inflationary cost increases as reflected in the Colorado Construction Cost Index.

### **PERIODIC UPDATES TO THE FEE PROGRAM**

The Fee Program was established based on the most recent land use and transportation system information available at the time. However, since these are primarily undeveloped lands with a relatively undeveloped transportation system, there is a fair amount of speculation in the input assumptions; and as the area develops there will be real-world activities that conflict with the Fee Program assumptions to a greater or lesser degree. As a result, it will be imperative to update the Fee Program on a regular basis as follows:

1. Land Use Assumptions – In developing the Transportation Fee Program, certain properties were explicitly defined in terms of future land uses. Other areas of unincorporated El Paso County within the Improvement Area had less detail available in terms of future land uses. In these cases, the assumptions in the 2030 PPACG socioeconomic dataset were used. As new developments come online, these assumptions will be overridden by actual development plans, which necessitates periodic updates to the Fee Program so that the land use and trip assumptions used to make the Improvement Program viable will be kept up to date.
2. Transportation Improvements – The transportation system planned for the Improvement Area is based on the need to accommodate: 1) current development proposals where that information exists; and 2) PPACG and El Paso County

planning assumptions elsewhere. As agency plans are updated and as new developments come online in and around the Improvement Area, they will override the base land use assumptions used in the original Fee Program's development. When land use plans change, the transportation infrastructure necessary to accommodate the existing and new development may change as well. Therefore, it will be necessary to periodically update the Fee Program to determine if changes to land use assumptions will alter the proposed infrastructure improvements that form the 2030 roadway network.

The potential need for a comprehensive update of the Study and Program should be actively evaluated if and when any of the following triggers were to occur:

- Significant new municipal annexations within the designated Improvement Area;
- A major change to occur in the development assumptions for the Improvement Area due to major changes in approved plans or major changes to development assumptions for currently undeveloped areas;
- Significant changes in external traffic projections that have been used in this process (i.e., changes resulting from future updates to the Pikes Peak Area Council of Government's regional model);
- Major changes to the physical location or jurisdiction of the road network within the Improvement area; or
- Significant changes to assumptions with respect to external funding sources (including the future role of the Pikes Peak Rural Transportation Authority).

## **APPEALS**

If the developer/applicant and the Multidisciplinary Team cannot come to an acceptable agreement, then the matter can be referred to the Director of Development Services. The El Paso County Board of County Commissioners shall be the ultimate appeal entity regarding interpretation and implementation of this Study and Program. The first line of appeal of any County determination with respect to this document may first be made to the Multidisciplinary Team (MDT) making the determination, if applicable, and then to the Director. Any interested party may then appeal the decision of the Director to the Board of County Commissioners using normal processes, either independently or in conjunction with a land use request.

## **INDEPENDENT FEE STUDY OPTION**

The Impact Fee may be computed by the use of an independent fee calculation study at the election of the Applicant with prior approval from the Fee Administrator, for any proposed Traffic Impact-Generating Development interpreted as substantially different from the model used to develop the fee report.

1. Prior approval to submit an independent fee study is required from the Fee Administrator.
2. The preparation of the independent fee calculation study shall be the sole responsibility and cost of the party electing to utilize the study.

3. Any person who requests to perform an independent fee calculation study shall pay the costs associated with the review and decision on such study. The County will utilize a third-party qualified consultant to review the methods and results of the study.
4. The independent fee calculation study shall be based on the same formulas, level of service standards and unit costs for facilities used in the Fee Report, and shall document the methodologies and assumptions used.
5. An independent fee calculation study submitted for the purpose of calculating a Transportation Improvement Fee may be based on data, information or assumptions from independent sources, provided that:
  - a. The independent source is an accepted standard source of transportation engineering or planning data; or
  - b. The independent source is a local study on trip characteristics carried out by a qualified transportation planner or engineer pursuant to an accepted methodology of transportation planning or engineering that has been approved in advance by the Fee Administrator.