Cost of Development Element

EXECUTIVE SUMMARY

The Cost of Development element explains how the city requires development to pay its fair share for the cost of new capital facilities such as water and sewer plants, large transmission lines, parks, fire stations, major streets and libraries.

New developments financial responsibility: charge new development its fair share of capital growth costs through taxes and impact fees.

Financing methods:

- ❑ Require new development to pay its fair share to provide facilities necessary to serve it through construction of facilities, impact fees and utility charges with appropriate exceptions consistent with the other goals and policies of the General Plan.
- ❑ Use bonds where facilities are needed before sufficient revenues from new development are available.
- ❑ Expand areas in which impact fees are charged to include all parts of the city except for the infill incentives districts.
- ❑ Study impact fees for desert preserves and transit facilities.
- ❑ Continue the city's current policies for ensuring that development pays its fair share, through such methods as subdivision requirements, water and wastewater repayment agreements, and impact fees.

INTRODUCTION

The Cost of Development element identifies policies and strategies Phoenix uses to require that development pay its fair share of the cost of additional capital facilities necessary because of new development, unless the development is located in an infill incentive district. This element is required by Arizona Revised Statute (ARS) §9-461.05.D.4. and meets the requirements of that paragraph. This is a new requirement adopted in 1998 with the Growing Smarter Act passed by the state legislature.

The city of Phoenix has long required private and most public or semi-public developers to construct the streets, sewers and water mains in and adjacent to their developments. After the Nollan and Dolan U.S. Supreme Court cases in 1995, Phoenix adopted a proportionality policy to standardize the city's requests for developer contributions. To assist developers in constructing water and wastewater facilities between their developments and existing improvements, the city permitted water and sewer repayments. These agreements require future beneficiaries of the facilities to repay the developer that caused the facilities to be constructed. In the 1980s four fees were adopted to require financial participation: the Water Development Occupational Fee, Sewer Development Occupational Fee, Water Resources Acquisition Fee, and the Development Impact Fees. City of Phoenix and public school facilities are not required to pay impact fees.

Beginning in 1987, the city of Phoenix determined the amount of development impact fees through the preparation and adoption of specific infrastructure financing plans, and began assessing them on new development in the areas with infrastructure financing plans. Chapter 29 of the Phoenix City Code authorizes this assessment. The stated purpose for assessing these fees is, "Requiring new development to pay its proportionate share of the costs to the municipality associated with providing necessary public services to the development as shown on the specific infrastructure financing plan." Chapter 29 provisions, "apply to all development within any planning area of the city of Phoenix at such time as a specific infrastructure financing plan for that planning area has been adopted . . ." Infrastructure financing plans specify needs for each of the following categories of capital facilities:

- Equipment Repair Facilities
- Fire Protection
- Libraries
- Major Streets and Bridges
- Parks
- Police
- Solid Waste Disposal
- Storm Drainage
- Wastewater
- Water

Impact fees have been increased significantly since first assessed in 1988 and in 2001 were $4000 to $6000 per equivalent dwelling unit in the southern parts of Phoenix, and nearly $10,000 per equivalent dwelling unit in northern areas. In 1995 the City Council adopted an infill housing program that authorized waiving the Development Occupational Fees and other fees to encourage construction of housing in designated infill areas. This program will have to be revised to conform to the infill incentive district provisions of this General Plan. Information on these development requirements, agreements and fees is provided in the Appendix.

Implementation of this element allows Phoenix to continue collecting revenues and requiring contributions to provide for the new capital facilities identified in other General Plan elements. Without contributions from developers, many areas will not be serviced because of fiscal constraints on the city, and some development could not take place. Impact fees spread costs more evenly among developers, and ensure that early developers do not have to pay a disproportionate amount of infrastructure costs (when repayment agreements are used). Impact fees reward developers who build in areas where there are lower infrastructure costs, and ensure that infrastructure needed for new development in high-cost areas is not subsidized. Impact fees take into account future revenue offsets from new development. Only facilities that will benefit impact fee areas are included in the calculation of the fees, and fees collected are put into dedicated accounts that must be spent on specific infrastructure. As a result, the impact fee program is revenue-neutral from the perspective of the city (the fees are collected and spent for the benefit of property owners in their respective impact fee areas).

This element only addresses financing costs related to growth. Costs of repair, replacement and upgrading are funded through current revenues and bonds supported by secondary property taxes.

GOAL 1 NEW DEVELOPMENT'S FINANCIAL RESPONSIBILITY: NEW DEVELOPMENT IN THE CITY OF PHOENIX SHOULD NOT PLACE A FINANCIAL BURDEN ON EXISTING DEVELOPMENT EXCEPT WHERE THE BONDING CAPACITY OF EXISTING DEVELOPMENT IS USED FOR CONSTRUCTION OF FACILITIES UNTIL REVENUES FROM NEW DEVELOPMENT ARE AVAILABLE.

Sixty-seven percent of those responding to the General Plan Survey said that the city should not raise taxes paid by everyone to pay for building facilities needed to serve new development.

Policies:

1. Require all new development to contribute any additional public facilities within or adjacent to the development that are required to serve that development and are consistent with the policy on proportionality with appropriate exceptions consistent with the other goals and policies of the General Plan.

   The policy on proportionality is described in the Appendix. It was adopted by the City Council in 1995, to ensure that Phoenix development requirements were in accord with the U.S. Supreme Court decisions in the Nollan and Dolan cases. It identifies what facilities can be required as a condition of development and what can be only discretionary requests. Facilities covered by this policy are public streets, including right of way, transit facilities, water and sewer, and storm drainage.

   Recommendation:

   A. Amend the Phoenix City Code, Chapter 31, to add the requirement that subdividers tile any private irrigation facilities, to ensure that the new facility is designed to maintain or improve gravity flow of irrigation water to those it serves.

2. Require all new development to construct regional growth-related capital facilities or provide funds for its proportional share of the costs that are necessary to serve the

development and are consistent with the policy on proportionality.

As used here, regional growth-related capital facilities are those facilities for which the city of Phoenix is responsible and which are beyond the facilities needed for local service to a development. Examples of these facilities are arterial streets, water transmission mains of at least 16 inches in diameter, and regional sewers of at least 18 inches in diameter.

3. Allow reductions or elimination of contributions or fees in infill incentive districts.

4. Do not require a developer to contribute to the cost of a project, even if he would otherwise have been required to construct it, after the project has been put out for bid by the city.

5. Require a developer to put funds in escrow in lieu of construction of a project, if the project is included in the Capital Improvements Program but has not been put out for bid, unless the project is included in an Infrastructure Financing Plan.

6. Require development to construct the planned size of water and wastewater facilities, but require the developer to pay only his proportional share.

7. Calculate and collect development impact fees as specified in Chapter 29 of the Phoenix City Code.

   This program is described in the Appendix. The fees provide funding for the following capital facility categories: Equipment Repair, Fire, Libraries, Major Streets, Parks, Police, Solid Waste, Storm Drainage, Wastewater, and Water.

8. Study the benefits of modifying the Phoenix impact fees to pay for other necessary public facilities, to add locations where the fees are not assessed, and to support other goals of the General Plan.

Recommendations:

A. Study assessing development impact fees that would recover the costs for desert preserves and transit facilities.

B. Assess development impact fees in all areas of the city except for the infill incentive districts. Areas could be added either as specific infrastructure financing plans at the village level, or as citywide plans by capital facility category. If by village, priority for adding new areas shall be as follows:

- ❑ The remainder of Deer Valley Village
- ❑ South Mountain Village outside of the infill incentive district and the Laveen impact fee area
- ❑ Maryvale Village outside of the infill incentive district
- ❑ Paradise Valley Village
- ❑ Area north of the North Gateway and
- ❑ Desert View impact fee areas
- ❑ Camelback East Village outside of the infill incentive district
- ❑ North Mountain Village
- ❑ Alhambra Village outside of the infill incentive district
- ❑ The portions of Encanto and Central City villages outside of the infill incentive district

Sixty-nine percent of respondents to the General Plan Survey said the city should charge fees on new development to cover its costs. It is expected that the fees in the central city, outside of the infill incentive districts, will be relatively low or zero after taking into account existing facilities and revenues from existing development.

C. Work to develop intergovernmental agreements with Maricopa County to accept and disburse development impact fees for construction of public facilities, in areas where infrastructure financing plans have been adopted and land is gradually being annexed by the city.

D. Study the potential for reducing or eliminating contributions or fees in order to encourage affordable housing and economic development, when in the public interest and in accord with the law.

E. Study the use of impact fees for metropolitan transportation and open space facilities, including freeways. (The transportation component is also addressed in the Circulation element, Goal 8.)

F. Update the community on the status of the impact fee program in a triennial report on revenues and facilities constructed with the revenues.

9. Calculate and collect Water Resources Acquisition fees as specified in Chapter 30 of the Phoenix City Code.

10. Require developers to install ultimate sized facilities both on-site and off-site in outlying areas where infrastructure is not programmed. No city funds would be used, but water and sewer repayment agreements would be made available.

11. Participate in oversizing of wastewater and water facilities with cash paid over a 10-year period or sooner, if a facility is in the Capital Improvement Program in areas where infrastructure, though not adjacent, is reasonably available or programmed and funded.

 Oversizing is the practice of installing water and sewer facilities larger than required for the development doing the installation. Oversizing is normally required by the city of Phoenix when new pipes or other facilities are needed by a development in a location planned for regional facilities by the Water Services Department. This avoids having to install parallel facilities at a later date as the area develops.

Figure 1 shows where impact fees are currently assessed and where they would not be assessed in infill incentive districts. The remaining unshaded areas between the current assessment areas and the infill districts are the portions of the city about which studies would be conducted to determine if development is paying its fair share and if not where impact fees would be assessed to achieve that.

GOAL 2 FINANCING METHODS: ADDITIONAL PUBLIC SERVICES FOR NEW DEVELOPMENT SHOULD BE FUNDED AND FINANCED USING THE BEST METHODS AVAILABLE.

Policies:

1. Use bonds as a funding source to construct necessary growth-related capital facilities:

 A. commensurate with revenues derived from new development and normally used for bonding, and

 B. for initial development where development impact fees are not available but where the bonds will later be repaid from future fees calculation.

2. Consider use of Community Facility Districts to pay for facilities needed by new development, as long as those facilities are not included in infrastructure financing plans.

3. Use Development Impact Fees to fund any costs of regional growth-related capital facilities where other revenues paid or to be paid by the new development are not sufficient.

 As used here, regional growth-related capital facilities are those facilities for which the city of Phoenix is responsible and which are beyond the facilities needed for local service to a development. Examples of these facilities are arterial streets, water transmission mains of at least 16 inches in diameter, and regional sewers of at least 18 inches in diameter.

4. Use in-lieu fees in the form of payments to escrow accounts, to fund a development's proportionate share of facilities related to the development in cases where construction of those facilities is deferred and where impact fees are not assessed.

5. Use the city policy on proportionality to determine the amount of facility construction and right-of-way dedications that new development must provide.

6. Use contracts with private entities or service privatization, where it can be demonstrated that it will result in lower operating and capital costs to the users of the service.

7. Use improvement districts in areas of new development where enhanced capital facility standards are desired by those to be included in the district.

GOAL 3 FUNDING FAIRNESS: ENSURE THAT MECHANISMS USED TO FUND AND FINANCE PUBLIC SERVICES RESULT IN A BENEFICIAL USE AND BEAR A REASONABLE RELATIONSHIP TO THE BURDEN IMPOSED.

Policies:

1. Ensure that all requirements for dedications of land, construction of facilities, or fees meet the tests of rational nexus and proportionality.

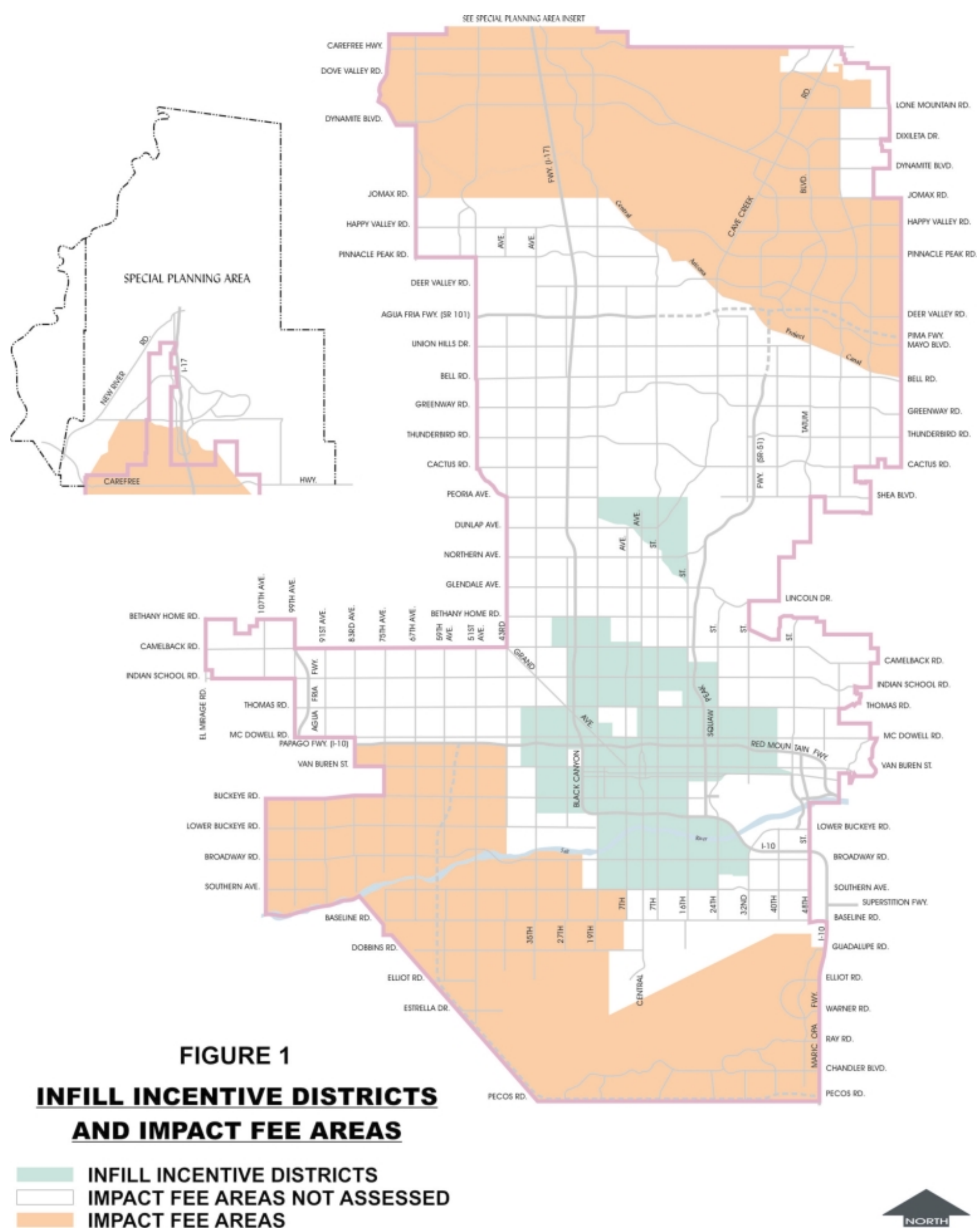

FIGURE 1

INFILL INCENTIVE DISTRICTS AND IMPACT FEE AREAS

Rational nexus means that requirements must be linked to the demand placed on facilities by the development.

2. Maintain all revenues from development impact fees in separate funds and use the funds only to construct facilities for which the fees were collected.

3. Ensure that requirements for building a larger facility than required by the development or extending facilities beyond the needs of the development are balanced by city financial participation or the opportunity for repayment agreements.

   This policy addresses the need to build a minimum-size facility such as a booster pump, or to extend water mains to provide a system loop.