

9.0 City and County Financial and Planning Requirements

This chapter of the Planned Growth Strategy, Part 2 – Preferred Alternative report addresses the infrastructure requirements associated with the Preferred Alternative, the current levels of spending, and changes needed related to infrastructure financing and planning. Recommendations also are made to simplify the connection of funding sources to infrastructure needs in order to increase funding predictability and accountability. The figures reported here generally are the same as given above.¹⁴³ Because of the different purpose of this chapter, the need and spending level figures have been modified in some situations. When this occurs, the text provides the rationale. The purpose of this chapter is to provide direction for the City of Albuquerque’s and the County of Bernalillo’s capital programs regarding annual funding requirements for the next 10 years especially. While this chapter was authored by the Management Committee, in part it is based upon consultants’ recommendations.

ly for rehabilitation, correction of deficiencies, and growth. This table combines the expenditure requirements for City and County governments and for the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA). Omitted are the requirements of the State of New Mexico Highway Department related to roadways and of New Mexico Utilities, Inc. All figures in chapter tables are in millions of dollars.

This table indicates a total annual infrastructure spending requirement of \$110.2 million for the City, County, and AMAFCA combined. The infrastructure category with the highest level of need is streets (\$46.84 million), followed by water (\$24.11 million). The percentage distribution of annual need by category is: rehabilitation – 61%; deficiency – 17%; and growth – 23%. What can be considered an infrastructure backlog in the rehabilitation and deficiency categories accounts for 78% of the annual spending need.

9.1 Discussion of City and County Infrastructure Spending

9.1.1 Annual Infrastructure Public Spending Needs

The annual City and County infrastructure public spending needs are contained in Table 55 below. Infrastructure elements covered are water, wastewater, streets, hydrology, and transit. Funding needs are identified separate-

Several assumptions have been made in this table that bear attention. These figures result from the Downtown Scenario in the Planned Growth Strategy, Part 1 – Findings Report. This scenario was found to be the least expensive to serve with infrastructure. If the current trend (Trend Scenario) continues, however, the average required spending levels to support growth would increase. In addition, the New Mexico State Highway Department builds a number of street projects in the county. The

| | Water | Sewer | Streets | Hydrology | Transit | Total |
|----------------|----------------|----------------|----------------|------------------|----------------|-----------------|
| Rehabilitation | \$19.50 | \$13.90 | \$32.10 | \$1.40 | na | \$66.90 |
| Deficiency | \$0.00 | \$0.00 | \$10.40 | \$7.73 | na | \$18.13 |
| Growth | \$4.61 | \$1.20 | \$4.34 | \$5.05 | \$9.98 | \$25.18 |
| Total | \$24.11 | \$15.10 | \$46.84 | \$14.18 | \$9.98 | \$110.21 |

table assumes that the New Mexico State Highway Department plans are consistent with the Preferred Alternative. However, New Mexico State Highway Department projects are often incompatible with City and County priorities. These projects could seriously distort the Planned Growth Strategy Preferred Alternative and require additional City and County funds to be spent on growth-related projects.

The San Juan-Chama water sustainability project costs have been taken out of this table. This was done because, while rate revenues are being collected for this project, major expenditures have not been made in past years. Therefore, inclusion of this project would distort the picture related to water needs and spending. In addition, water rights acquisition costs were removed from the table. The utility has sufficient water rights, on the assumption that the State Engineer recognizes all claimed rights, to support growth to about 2030–2040, beyond the forecast period of this study. This situation is discussed in the final section of this chapter and is based on the current water utility master plan.

The cost of the next major expansion of the wastewater treatment facility also has been removed. The current treatment plant has sufficient capacity to support growth until at least 2010. Additional water conservation will extend this period further. Therefore, inclusion of this project would distort the need/spending picture in this area. Wastewater deficiencies were zeroed out. These deficiencies are identified as the “parallel line” costs in the Planned Growth Strategy, Part 1 – Findings Report.¹⁴⁴ Since wastewater lines require significant rehabilitation and the additional cost of adding capacity while lines are being rehabilitated is very small, the wastewater deficiency costs were eliminated as a needed additional expense. Water and wastewater Utility Expansion Charges have been added back into the calculation of expenditure needs. This approach was taken to balance the spending levels discussed in the next section that include spending based on Utility Expansion Charge revenues.

The street spending levels are for the first 10 years of the Planned Growth Strategy projection period. Street rehabilitation needs are on a higher level for the first 10 years due to the large backlog of these projects. This issue is discussed in “Infrastructure Needs and Levels of Spending” in Section 1.3.5.

Importantly, the Planned Growth Strategy approach assumes that all deficiency needs will be assumed by the public sector.¹⁴⁵ As a result, assumed public street deficiency needs increase from \$5.9 million to \$10.4 million per year. Hydrology deficiency needs, also based on the considerations discussed below, increase from \$5.8 million to \$7.7 million per year.

Hydrology deficiency needs were adjusted by taking into account the special nature of this situation. Some storm drainage infrastructure deficiencies have immediate consequences in terms of public and private flooding. Other deficiencies are of a statistical nature related to the computer modeling of storm flows. The purpose of this chapter is to identify the ongoing spending requirements for hydrology. Public Works Department staff have given each hydrology project a rating in terms of potential flood damages—ranking them into A, B, C, and D categories. It has been assumed that a regular correction program should be put in place for the highest two deficiency categories—A and B. Of total hydrology projects, projects in these categories represent 46.3% of the total requirement.¹⁴⁶ This percentage was applied against the total deficiency need to generate an annual figure of \$6.7 million. An additional \$1 million per year was assumed to be needed to correct hydrology deficiency projects on a case-by-case basis. This is consistent with the “Infill/Community Vitality” set-aside policy that the City Council adopted in Bill No. F/S R-37 (Enactment No. 118-2000) for the 2001 Capital Improvements Program. Transit rehabilitation and deficiency needs were not identified in the Part 1 – Findings Report.

9.1.2 Annual Infrastructure Public Spending Levels

Table 56 contains the annual average spending levels for the City, County, and AMAFCA for the different types of infrastructure and categories of spending (rehabilitation, deficiency, and growth). These figures were based on information provided by City and County staff responsible for these projects.

Related assumptions were made for this table as for Table 55, i.e., no current expenditures for the San Juan-Chama water project or the wastewater treatment plant expansion, water and sewer Utility Expansion Charge revenues are included in the expenditures, and so on.

Of course, these figures take on importance by comparing them to the levels of needs. This is addressed in the next section.

Table 56 Annual Average City, County, and AMAFCA Infrastructure Public Expenditure Levels (in millions)

| | Water | Sewer | Streets | Hydrology | Transit | Total |
|----------------|----------------|---------------|----------------|----------------|---------------|----------------|
| Rehabilitation | \$9.10 | \$7.20 | \$28.30 | \$1.90 | na | \$46.50 |
| Deficiency | \$0.50 | \$0.50 | \$15.40 | \$8.20 | na | \$24.60 |
| Growth | \$3.25 | \$1.77 | \$6.75 | \$2.97 | \$0.00 | \$14.74 |
| Total | \$12.85 | \$9.47 | \$50.45 | \$13.07 | \$0.00 | \$85.84 |

9.1.3 Estimated Annual Infrastructure Overspending and Underspending, City, County and AMAFCA

By comparing the annual public infrastructure spending needs with the average expenditure levels, it is possible to draw some conclusions about overspending and underspending. As above, these totals are for the City, County, and AMAFCA combined. In order to make a recommendation regarding future City and County spending, it is necessary to break down these figures further. In addition, these totals are summary in nature and should be considered in terms of the discussion below.

In Table 57, positive figures represent suggested additional spending and negative figures are possible overexpenditures in terms of the Planned Growth Strategy assumptions made to this point. Additional discussion is needed before drawing the conclusion that spending levels can be reduced in some areas.

The following points summarize this table.

- The total annual net underfunding is estimated as \$24.37 million dollars, or about 22% of the total requirement. This figure rises to \$30.9 million per year if one assumes that deficiency projects are not overfunded.

Table 57 Estimated Annual Additional Spending Requirements, City, County, and AMAFCA Combined (in millions)

| | Water | Sewer | Streets | Hydrology | Transit | Total |
|----------------|----------------|---------------|----------------|---------------|---------------|----------------|
| Rehabilitation | \$10.40 | \$6.70 | \$3.80 | -\$0.50 | na | \$20.40 |
| Deficiency | -\$0.50 | -\$0.50 | -\$5.00 | -\$0.47 | na | -\$6.47 |
| Growth | \$1.36 | -\$0.57 | -\$2.41 | \$2.08 | \$9.98 | \$10.44 |
| Total | \$11.26 | \$5.63 | -\$3.61 | \$1.11 | \$9.98 | \$24.37 |

- Transit growth-related projects are underfunded by over \$9 million per year. This represents the static nature of the bus system in relation to the Planned Growth Strategy goal of enhancing the system. As indicated in Table 56, there has been no expansion of the bus fleet in the recent past. It bears noting that expanding transit will have significant impacts on the City and County General Fund operating expenditures in contrast to the other infrastructure types.
- Underfunding is greatest in the rehabilitation category, \$20.4 million annually, and especially for water and sewer facilities.
- Roadway expenditures appear to indicate that deficiency correction projects are overfunded by \$5 million per year. This interesting situation is discussed further below.
- While street rehabilitation needs and spending appear to be generally in line, it should be borne in mind that this is based primarily on City staff assumptions regarding the extent of need. There are some indications that these assumptions

should be verified further. The figures take on additional meaning when they are viewed in terms of the City and County governments separately. These topics are discussed further below.

9.1.4 Estimated Annual Infrastructure Overspending and Underspending, City and County Separately

A somewhat different perspective appears when the City and County are considered separately with regard to the annual levels of spending in relation to the norms established in the Planned Growth Strategy. Tables 58 and 59 below identify these tentatively accepted spending adjustments called for in the City and the County budgets.

Tables 58 and 59 are summarized in the points below.

- The City appears to be spending \$8.5 million more per year to correct deficiencies in the street system than the norm suggests. The City also appears to be spending \$2 million less per year for growth-related projects than is needed. This reinforces the proposition suggested above

Table 58 Annual Additional Spending Requirements, City Only (in millions)

| | Water | Sewer | Streets | Hydrology | Transit | Total |
|----------------|----------------|---------------|----------------|-----------|---------------|----------------|
| Rehabilitation | \$10.40 | \$6.70 | \$0.06 | na | na | \$17.16 |
| Deficiency | -\$0.50 | -\$0.50 | -\$8.49 | na | na | -\$9.49 |
| Growth | \$1.36 | -\$0.57 | \$2.01 | na | \$9.98 | \$12.78 |
| Total | \$11.26 | \$5.63 | -\$6.42 | na | \$9.98 | \$20.45 |

Table 59 Annual Additional Spending Requirements, County Only (in millions)

| | Water | Sewer | Streets | Hydrology | Transit | Total |
|----------------|-----------|-----------|---------------|-----------|-----------|---------------|
| Rehabilitation | na | na | \$3.78 | na | na | \$3.78 |
| Deficiency | na | na | \$3.54 | na | na | \$3.54 |
| Growth | na | na | -\$4.42 | na | na | -\$4.42 |
| Total | na | na | \$2.90 | na | na | \$2.90 |

that the City is in a catch-up mode with roadway infrastructure. Insufficient funding appears to be provided for growth, resulting in the more than \$460 million dollar backlog in deficiency projects. In turn, this leads to higher levels of spending to address the problem of resulting street congestion. It can not be automatically concluded that the level of spending for deficiency projects is inappropriately high. It is suggested that roadway spending for growth be increased from \$1.8 million per year to \$3.8 million. This is consistent with the need to provide sufficient infrastructure in a timely way to implement the Planned Growth Strategy Preferred Alternative.

- In contrast to the City’s situation, the County of Bernalillo appears to be spending \$4.4 million more per year to support growth than may be needed. The Planned Growth Strategy Downtown Scenario only requires an average County growth expenditure of \$580,000. Average recent spending has been estimated as \$5 million per year. This suggests that the County has been more assertive in using growth-related street infrastructure to direct the location of urban growth. (As discussed above, when the City and County needs and spending are combined, it appears that \$2.4 million more is being spent on growth-related projects than the norm suggests.) This situation is an indication of the need for joint street (and other) infrastructure planning and project development based on a common Preferred Alternative for urban growth.

- City street rehabilitation needs appear to be fully funded according to the assumptions made, while Planned Growth Strategy figures suggest that the County needs to increase street rehabilitation funding by \$3.8 million per year. There is a question regarding the level of City street rehabilitation spending needed. In the “Infrastructure Needs and Levels of Spending” in Section 1.3.5, it was pointed out that from 1995–1999, the City Public Works Department lowered the percent of streets in poor and very poor condition from 60% to 25%. The Planned Growth Strategy suggests that the street condition inventory be independently evaluated before drawing the conclusion that sufficient funds are being provided to cover this important need.
- These figures suggest that County spending to correct roadway deficiencies should be increased by \$3.5 million per year.
- The figures for City water, sewer, and transit expenditures have not changed from the combined City and County totals because the City is responsible for these infrastructure elements.
- It was not possible to separate out the hydrology funding requirements for the City, County, and AMAFCA. However, storm water infrastructure spending was broken down by City, County, and AMAFCA.

Table 60 contains the annual average spending for hydrology projects by the City, County, and AMAFCA, subdivided by category of expenditure.

| | Rehabilitation | Deficiency | Growth | Total |
|--------------|-----------------------|-------------------|---------------|----------------|
| City | \$1.19 | \$5.72 | \$1.44 | \$8.35 |
| County | \$0.00 | \$1.00 | \$0.00 | \$1.00 |
| AMAFCA | \$0.75 | \$1.49 | \$1.53 | \$3.77 |
| Total | \$1.94 | \$8.21 | \$2.97 | \$13.12 |

The following conclusions can be drawn from these data.

- In total, the City of Albuquerque spends more than 2.2 times as much on hydrology infrastructure as AMAFCA (\$8.35 million compared to \$3.77 million).
- However, AMAFCA spends more for growth-related infrastructure than does the City (\$1.53 million versus \$1.44 million). As in the situation with streets, the City finds itself in a catch-up situation—with nearly 69% of its total hydrology spending going for deficiency projects. This appears to result in the City being reactive to growth projects that are supported, in part, by AMAFCA constructed projects.
- As suggested above, the City, County, and AMAFCA should have a common program for supporting urban growth based on the Preferred Alternative. In this context, it appears that an additional \$2 million per year is needed to support all growth-related hydrology needs.

9.2 Capital Program Recommendations

The following recommendations are made for the City, County, AMAFCA, and New Mexico State Highway Department capital programs.

9.2.1 Related to Expenditure Levels

- Water and sewer rehabilitation expenditures should be increased by \$17.1 million per year—an additional \$10.4 million for water rehabilitation and an \$6.7 million for wastewater rehabilitation. Total utility rehabilitation expenditures should be \$33.4 million per year. The adopted financial policy for the utility currently calls for \$22 million per year to be spent for this purpose and sufficient rate revenues have been allocated toward this end. Therefore, it is necessary to raise revenues to support an additional \$11.4 million per year for rehabilitation.
- Water growth-related expenditures should increase by approximately \$1.4 million per year.
- The City's street rehabilitation needs should be independently evaluated to confirm whether an average expenditure level of \$21.4 million is adequate or whether additional funds are needed. If additional funds are needed they should be obtained by prioritizing this need in the City's regular General Obligation bond program without a tax increase.
- Total City street deficiency projects appear to be funded at \$8.5 million more per year than the norm established by Planned Growth Strategy, or 220% higher. The City should evaluate these projects to determine whether their classification as deficiency projects is accurate. Deficiencies in these systems should be addressed in a timely way and if funds are available, correcting these deficiencies is a desirable public purpose.
- The City should increase its growth-related spending for streets by a minimum of \$2 million per year. The spending norm for the county was established based on the financially constrained Middle Rio Grande Conservancy District (MRGCD) Metropolitan Transportation Plan. As noted above, based on Metropolitan Transportation Plan spending levels, the lane miles of congested streets would increase from 317 miles in 1995 to over 1,100 miles in 2020. An adjustment upwards in roadway and linked transit spending seems likely. This situation also should be evaluated further.
- Subsequent to further analysis and the integration of City and County transportation planning and project development, the County might decrease its growth-related spending for streets by \$4.4 million per year. The Planned Growth Strategy analysis also indicates that the County should increase annual spending for rehabilitation by \$3.8 million and for deficiency correction by \$3.5 million.

- Very substantial increases in transit system capital (on the order of \$9 million per year) appear to be needed based on expanding the system. New funding sources will be needed to address this concern. Expansion of the bus fleet will have significant operating cost impacts that are funded by General Fund sources.
- The City, County, and AMAFCA should increase their growth-related spending for hydrology by \$2.1 million per year based on integrating City, County, and AMAFCA programs guided by the Planned Growth Strategy Preferred Alternative.

9.2.2 Related to Capital Programs

These recommendations are of a policy nature and will need to be refined in the actual implementation of the Planned Growth Strategy.

- Funding sources should be directly linked to expenditure categories through the adoption of legal requirements. This action will assure adequate funding for infrastructure needs, funding reliability, and accountability.
- The City's General Obligation Bond program should be devoted entirely to infrastructure, capital facility, and vehicle and equipment rehabilitation and replacement.
- Growth-related expenditures should be funded exclusively from Impact Fees; federal, state, and private grants; exactions; and reimbursed waivers based on adopted plans. The public funding needs identified in this study assume continuation of the current practices of the private sector paying a set portion of infrastructure costs to support growth, such as water and sewer service lines, local streets and hydrology within subdivisions, portions of arterials and collectors. If private payments are reduced, the cost basis of Impact Fees would increase.
- Development Impact Fees should be set initially at just under 100% of the marginal cost of growth as defined in this report after adjusting for realistic levels of grant funding. As discussed below, waivers of Impact Fees should be provided when development supports the objectives of the Planned Growth Strategy Preferred Alternative as contained in adopted Area, Corridor, Sector, and Redevelopment Plans. Establishment of Impact Fees at the actual marginal cost of growth will increase the effectiveness of fee waivers based on adopted plans.
- Phased over time, the City should transfer \$10 million per year from the General Fund to achieve the objectives of the Planned Growth Strategy Preferred Alternative as expressed within adopted Area Plans, Sector Plans, Redevelopment Plans, and Corridors Plans. These monies may be used to pay for development Impact Fees (including water and wastewater Impact Fees) of projects that meet the objectives of these adopted plans. This level of funding will represent a significant portion of all Impact Fees owed if projects are compatible with public-approved plans. Tax Increment Financing districts should be established in redevelopment areas to increase the funds available to implement Planned Growth Strategy objectives in these neighborhoods.
- The public sector should assume the current burden of deficiency corrections projects. The private sector would be assessed for these projects only if desired development precedes the City's and County's capital programs. Adequately funding growth-related-projects will reduce (but not eliminate) deficiency projects over time. Deficiency correction projects should be financed by the Transportation Infrastructure Tax (Gross Receipts), federal and state grants, and exactions. (It is possible that some adjustment to the Transportation Infrastructure Tax may be needed to shift additional funding from rehabilitation to deficiency projects based on implementing

the recommendation that the General Obligation Bond program be devoted entirely to rehabilitation and replacement.)

- Growth projects for Community Centers, Senior Centers, and Multi-Service Centers; transit; and schools should be funded by Impact Fees; federal, state and private grants; exactions; and reimbursed waivers based on adopted policies. The Development Impact Fee Statute should be amended to include these facilities.
- Special “Quality of Life” projects, such as the baseball stadium and sports arena, should be funded by grants and dedicated new taxes subject to voter approval. This approach was taken initially with the Explora Science Center, Balloon Museum, and Aquarium.
- The City, County, and AMAFCA should integrate their infrastructure construction programs based on the Planned Growth Strategy Preferred Alternative.
- The State Highway Department’s capital plan should be consistent with the Planned Growth Strategy Preferred Alternative.

9.2.3 Financing Capital Needs

Two significant funding challenges identified here are related to additional water and sewer rehabilitation needs totaling \$11.4 million annually and transit expansion totaling more than \$9 million annually in capital costs and a minimum of an additional \$10 million per year in operating costs (which may be as high as twice this amount if one includes paratransit service and assumes lower fare box revenues). The following suggestions are made for addressing these and other less significant funding requirements.

- The cash requirements for water and wastewater system rehabilitation, based on spending \$11.4 million more per year, will ramp up over time under the utility’s financial policy of 50% cash and 50% debt

financing. For the first 10 years, this cash requirement has been estimated by the utility to average \$9 million dollars annually. The Impact Fee approaches suggested in the Planned Growth Strategy may net a 50% increase in water and wastewater development fee revenues, or about \$4 million per year. It should be noted that these revenues include water and sewer Impact Fees paid by the General Fund for development that meets policy objectives. In addition, the cash requirements of the utility’s ammonia treatment facility will decline by approximately \$3.5 million per year as bonds are retired in about two years. These additional funds should be specified as a funding source for the utility’s existing Water and Sewer Rehabilitation Fund. (Rates sufficient to cover a total annual rehabilitation need of \$33.2 million should be dedicated to the Water and Sewer Rehabilitation Fund.) These two methods would yield about \$7.5 million per year. The additional \$1.5 million (less than 1.5% of utility revenues) probably can be obtained through normal financial management. No rate increase is proposed at this time until these other methods are put in place and evaluated. A small rate increase might be needed afterward to address any rehabilitation funding shortfall found.

- Significant capital and operating increases would be required to expand the transit system. As has been discussed above, the Planned Growth Strategy supports linking transportation capacity sources to include both buses and streets.¹⁴⁷ Transit should become eligible to receive development Impact Fees and exactions. Federal Transit Authority grants, new state grants, Impact Fees, and exactions should be used to expand the bus fleet. The operating cost impact has been estimated to be in the \$10 to \$20 million dollar range annually. Shifting growth-related infrastructure costs and special Quality of Life projects to grants, Impact Fees, exactions, and special voter-approved taxes should

off-load existing funding sources especially the General Obligation program. Planned Growth Strategy supports dedicating the entire General Obligation program to facility, vehicle and equipment rehabilitation and replacement. It is believed that these recommendations may free funding capacity, now at \$65 million per year within the General Obligation program, by approximately \$10 million per year. Because this program is bond financed, reducing total expenditures will produce cash savings that increase over time. An analysis conducted by the City Treasurer's office indicated that reducing the General Obligation Program from \$65 million to \$55 million per year would generate an average cash savings of \$10.5 million dollars per year—starting at \$4.4 million in the first year. If an overall examination of Citywide rehabilitation needs determines that the General Obligation program can be reduced, property tax revenue now flowing to the General Obligation Bond debt service fund should be shifted to increase transit operating revenues. Furthermore, if the independent review of street rehabilitation needs concurs with staff estimates, it may be possible to fund a significant portion of this operating cost increase by the extension of the Transportation Infrastructure Tax beyond 2010 with a much higher percentage of the revenue stream flowing to transit. Such an extension of the Infrastructure Tax should be subject to voter approval. These two revenue sources may be sufficient to cover expanded transit operating costs from

2000–2025 without an increase in current tax levels.

- Other small increases in spending for growth-related streets and hydrology projects, based on currently estimated needs, can be funded through reasonable Impact Fees.

Special consideration should be given to acquiring additional water rights over time. As noted above, the Planned Growth Strategy assumed that over \$3 million per year should be spent to acquire water rights. These costs have escalated significantly in the past two years. Since there appear to be sufficient rights to support urban growth until about 2030–2040 based on the current water utility master plan, these costs were not incorporated into the Planned Growth Strategy need figures. Although this issue is beyond the scope of the Planned Growth Strategy, it is reasonable for the community to aggressively acquire water rights to support growth beyond 2030. The cost of water rights is not currently included in development Impact Fees. In the future, new development might be asked to provide a renewable water supply and water rights or, otherwise, pay an Impact Fee for the utility to acquire water rights. In addition, the community should consider increasing its conservation objective from 30% to 40% or about 150 gallons per person per day. The outcome of this effort would allow existing water rights to support a larger population and employment base and would lower the per capita costs of water rights.

Notes

Section 2

1. See Chapter 2.
2. As is discussed later in this chapter, the categories of land use approvals subject to the system, as well as the consequences of not meeting the level of service standard, are major policy decisions for the community. This chapter is not intended to suggest that an outright moratorium be imposed where a level of service standard is not met. However, increases in density and the staging of development, can be tied to the level of service without resorting to a moratorium.
3. New Mexico Statutes Annotated (NMSA) § 3-7-15.
4. An Adequate Public Facilities Ordinance is often referred to as a “concurrency” regulation. Both terms are used interchangeably in this chapter.
5. Concurrency is also identified as a follow-up issue in the West Side Strategic Plan (March 17,1997), pp. 230-231.
6. See, e.g., Policies II.B.2.a.4 (phase Planned Communities in Reserve Area with respect to Capital Improvements Program), II.B.4.a.7 & b.3 (use Capital Improvements Program to implement development objectives and guide development through facilities plans in Semi-Urban Area); II.D.1.d (review zoning requests for compliance with “service level performance standards”), II.D.4.c.2 (amend land development regulations to provide “service levels and performance standards for streets and intersections”).
7. Chapter 23, § 8 of the Development Process Manual requires Traffic Impact Studies and establishes a uniform level of service for signalized and nonsignalized roads. While developers are required to provide information relating to site phasing, the timing and sequencing of development consistent with facility capacity is not required. Instead, the requirement relates to off-site roadway requirements and traffic signalization. The Development Process Manual Chapters relating to Drainage (22), Wastewater (24), and Water (25) contain good information for determining a level of service but do not require the timing and sequencing of development.
8. Florida Administrative Code § 9J-5.003(45).
9. The ensuing discussion is drawn from Section 1.2.2 Urban Development Paradigm Shift.
10. See, e.g., NMSA §§ 72-5-1 (permit from state engineer required for appropriation of surface waters); 72-5A-4 (permit required for governmental agency to use groundwater resources); 72-12-1 (permit for use of underground waters).
11. *Cherokee Water & Sanitation District v. El Paso County*, 770 P.2d 1339 (Colo. App. 1988). This case is cited only as an example of how standards can be measured and does not imply that the standard is appropriate for Albuquerque.
12. Currently, neither City nor County impact fees (Utility Extension Charges) charge for the water resource consumed by the development.
13. Institute of Transportation Engineers, *Highway Capacity Manual*, Special Report No. 209, 1985.
14. See discussion of tier systems in Section 5.4.3.
15. City of Austin, About the Smart Growth Criteria Matrix, <http://www.ci.austin.tx.us/smartgrowth/smartmatrix>, 2000.
16. *Golden v. Planning Board of the Town of Ramapo*, 30 N.Y.2d 359, 334 N.Y.S.2d 138, 285 N.E.2d 291, *app. diss'd*, 409 U.S. 1003 (1972).
17. Florida Statutes § 163.3180 (7).
18. Florida Department of Transportation, “Making Transportation Concurrency Work,” *Community Planning* vol. 9, no. 1 (Winter 2000).
19. Florida Statutes § 163.3180 (5)(a).
20. The legislation also permits development within these areas which pose only special part-time demands on the transportation system to be exempt from the Adequate Public Facilities Ordinance for transportation facilities. A special part-time demand is defined as one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.
21. These concepts will be addressed in Chapters 7 and 11 of the Planned Growth Strategy, Part 2 – Preferred Alternative.
22. See NMSA §§ 3-7-5 through 3-7-10.

23. See NMSA §§ 3-7-11 through 3-7-16.
24. See NMSA §§ 3-7-17 and 3-7-17.1.
25. See NMSA § 3-57-1 et seq.
26. NMSA § 3-57-1 et seq.
27. There has been at least one recent annexation of territory outside a conservancy district that was approved by the municipal boundary commission method of NMSA § 3-7-11 et seq. *In re Application by the West Tijeras Canyon Ltd. Co.*, No. 99-03 (Municipal Boundary Commission, Jan. 14, 2000). The approval of this annexation was appealed to the State Second Judicial District Court by the City of Albuquerque and other interested parties, and was overturned by court order entered January 8, 2001. This case is on appeal.
28. Development Process Manual, Volume 1, Chapter 10, Section 1.
29. City Code § 14-16-4-1, County Code Appendix A, Section 25.
30. City Code § 14-16-4-3, County, Extra-Territorial Zoning Ordinance, Section 20.5.
31. City Code § 14-16-4-2, County Code Appendix A, Sections 5, 23, 24.
32. City Code § 14-14-3-3, County Code Section 74-21 et seq.
33. City Code § 14-14-3-4, County Code Section 74-31 et seq.
34. City Code § 14-14-3-5, County Code Section 74-41 et seq.
35. NMSA § 3-19-6.
36. Andres Duany, posting to Practice of New Urbanism list serve <PRO-URB@LIST-SERV.UGA.ED> dated October 8, 1999).
37. The concept of low-impact development is a comprehensive technology-based approach to managing urban storm water. See United States Environmental Protection Agency, *Low-Impact Development Design Strategies: An Integrated Design Approach* (January 2000), and the United States Environmental Protection Agency, *Low-Impact Hydrologic Analysis* (January 2000). Hydrologic functions such as infiltration, frequency and volume of discharges, and groundwater recharge can be maintained with the use of reduced impervious surfaces, functional grading, open channel sections, disconnection of hydrologic flowpaths, and the use of bioretention/filtration landscape areas. Low-impact development also incorporates multifunctional site design elements into the storm water management plan. Such alternative storm water management practices as on-lot micro-storage, functional landscaping, open drainage swales, reduced imperviousness, flatter grades, increased runoff travel time, and depression storage can be integrated into a multifunctional site design.
38. R. Cervero, *Suburban Gridlock*, Rutgers, 1986, p. 37.
39. Cervero, *Suburban Gridlock*, pp. 64-65.
40. Cervero, *Suburban Gridlock*, p. 116
41. Cervero, *Suburban Gridlock*, p. 206.
42. R. Cervero, *America's Suburban Centers: The Land-Use Transportation Link*, prepared for Office of Policy and Budget, Urban Mass Transportation Administration, U.S. Department of Transportation and Rice Center, Joint Center for Urban Mobility Research, 1988, p. 64.
43. Cervero, *America's Suburban Centers*, pp. 64-65. For a detailed discussion of design amenities, see Moudon & Hess, et al., *Effects of Site Design on Pedestrian Travel in Mixed-Use, Medium-Density Environments*, May 1997, Report No. WA-RD 432.1; *Pedestrian Facilities Guidebook: Incorporating Pedestrians Into Washington's Transportation System*, September 1997. The seminal works on pedestrian site design are Richard K. Untermaun, *Accommodating the Pedestrian: Adapting Towns and Neighborhoods for Walking and Bicycling*, Van Nostrand Reinhold, 1984 and D. Appleyard, *Liveable Streets*, University of California Press, 1981; see also S. Breines & W. Dean, *The Pedestrian Revolution: Streets without Cars*, Vintage Books, 1974; A. Moudon, *Public Streets for Public Use*, Columbia University Press, 1987; B. Rudofsky, *Streets for People: A Primer for Americans*, Anchor Press/Doubleday, 1969.
44. See Reid Ewing, *Pedestrian & Transit-Friendly Design*, Public Transit Office, Florida Department of Transportation, March 1996.
45. Susan Handy, *Urban Form and Pedestrian Choices: A Study of Austin Neighborhoods*, Community and Regional Planning Program, School of Architecture, University of Texas at Austin, April 1996.
46. 1000 Friends of Oregon, *Making Land Use Transportation Air Quality Connections, The Pedestrian Environment*, Vol. 4A (Dec. 1993) (at www.bts.gov/ntl/docs/tped.html).

47. Susan Handy, "Understanding the Link Between Urban Form and Nonwork Travel Behavior," *J. Planning Education & Research* 15: 183-198, 1996.
48. See Randall Crane, "Cars and Drivers in the New Suburbs: Linking Access to Travel in Neotraditional Planning," *APA Journal* 51:62, Winter 1996 (summarizing studies).
49. R. Cervero, "Land-Use Mixing and Suburban Mobility," *Transportation Quarterly* (citing Colorado/Wyoming Chapter Technical Committee, "Trip Generation for Mixed Use Developments"), *ITE Journal* 57(2): 27-32, 1987.
50. American Society of Civil Engineers, *Traditional Neighborhood Development—Will the Traffic Work?* ASCE 1990. (summarized in Book-out, "Neotraditional Town Planning: Cars, Pedestrians & Transit," *Urban Land*, p. 10, p. 15, February 1992.)
51. Crane, p. 62.
52. Handy, "Understanding the Link," p. 183-198; Friedman, Gordon & Peers, "Effect of Neotraditional Neighborhood Design on Travel Characteristics," *Transportation Research Record* 1466: 63-70, 1993; John Holtzclaw, *Explaining Urban Density and Transit Impacts on Auto Use*, Natural Resources Defense Council, January 15, 1991, in California Energy Commission Docket No. 89-CR-90; Kitamura, Ryuichi, Mokhtarian & Laidet, *A Micro-Analysis of Land Use and Travel in Five Neighborhoods in the San Francisco Bay Area*, Institute of Transportation Studies, University of California at Davis, November 1994.
53. City of Albuquerque Planning Department, *How to Create Village and Community Centers on Albuquerque's West Side*, Draft, Feb. 1999.
54. City of Albuquerque Planning Department, *Design Standards and Guidelines for Downtown Central Avenue*, Dec. 1992.
55. This assumes that the methodology for testing trip generation in these areas does not take into consideration the availability of transit and alternative transportation modes.
56. City Code § 2-12-1.
57. City Code § 2-12-3.
58. City Code § 2-12-4.
59. County Code Section 2-271 et seq.
60. Bill No. R-390, Enactment No. 20-1984.
61. See Line Extension Policies 14.B, 14.C (expansion in designated areas outside of the city limits permitted "within the capacity of the system").
62. Line Extension Policies 8, 10.
63. This statement does not imply that a reduction in water demand level of service should be omitted from a concurrency management system.
64. Private systems are already subject to the City/County Comprehensive Plan. See Line Extension Policy 6.E.
65. Unlike the sewer criteria, the water criteria do not establish a demand per unit of development. This should be specified in the Development Process Manual or Adequate Public Facilities Ordinance if not already specified in the City' subdivision regulations.
66. City Code § 14-14-2-3.
67. City Code § 14-14-4-13.
68. City Code § 14-14-3-4.
69. County Code § 74-1 et seq.
70. Information pertaining to terrain management (storm water protection), recreational facilities, public schools, and public transportation is only required for subdivisions exceeding 100 lots.
71. City Code § 14-14-5-3, County Code Section 74-71, 72, 73.
72. 845 P.2d at 798.
73. 845 P.2d at 797.
74. NMSA § 5-8-7.
75. See NMSA § 5-8-16.
76. The term "no net expense" is not defined by the City but will be characterized later.
77. *Hollywood, Inc. v. Broward County*, 431 SE 2nd 606 (Fla. 4th DCA).
78. Revenue credit occurs when new development adds to a tax or rate base, such as the ad valorem base that, when taxed or assessed rates, generates revenue that is used in part to finance the very facilities which are financed by Impact Fees. The Impact Fees and Utility Expansion Charges may need to be adjusted to offset this revenue credit. However, if there is little evidence of taxes or rates being used for growth-related purposes, the credit may be negligible or nil.
79. See especially "Fostering Community" in Section 1.3.4 Preferences for Albuquerque's Growth and Development.
80. See especially "Fostering Community" in Section 1.3.4 Preferences for Albuquerque's Growth and Development.
81. For details on level of service/concurrency linkage to development agreements, see Chapter 5.

82. See Part 1, Chapter 4, Section 4.5 Transportation System Findings.
83. Andres Duany and Elizabeth Plater-Zyberk in *Towns and Town-Making Principles*, edited by Alex Krieger with William Lennertz, New York: Rizzoli, 1992, 2nd ed., p. 96.
84. Duany and Plater-Zyberk, *Towns and Town Making Principles*, pp. 96-103 and e-mail, Andres Duany to Michael Lewyn, June 12, 2000, Kevin Kelly and Heather Tansey, *New Urbanism*, Lawrence University, Wisconsin, September 1997.
85. Raymond Unwin, *Town Planning in Practice*, 1971 ed., p. 289, p. 381, New York: Benjamin Blom.
86. Reid Ewing with Robert Hodder, *Best Development Practices: A Primer for Smart Growth*, Chicago: American Planning Association with the Urban Land Institute, n.d.
87. Duany and Plater-Zyberk, pp. 96-103.
88. It is common practice for plans to leave detailed regulatory criteria to local land development regulations.
89. West Side Strategic Plan, p. 15.
90. West Side Strategic Plan, p. 2.
91. Correspondence, Planning Department to City Council, April 30, 1998, pp. 27-28.
92. Correspondence, Planning Department to City Council, April 10, 1999.
93. Design Collaborative Southwest Architects, Westside Community Center and Village Center Design Guidelines, draft April 1, 1998.
94. Correspondence, Planning Department to City Council, April 28, 2000.
95. "Planning Practice," *Planning*, August 1997, pp. 11-13; see also Traditional Neighborhood District, Austin Texas Website, //www.ci.Austin.tx.us/development/. Based on this nonbinding approach; however, Austin's Traditional Neighborhood Development code has not been used to date.
96. Moule and Polyzoides and Dekker/Perich/Sabatini, Master Plan, Alvarado Transportation Center Project Area, Albuquerque, New Mexico, August 11, 1999.
97. Planning Department, City of Albuquerque, Downtown 2010 Sector Development Plan, May 2000.
98. See Chapter 10, Section 10.1.1 Common Growth Management Techniques.
99. Architectural Research Consultants, Guidelines for Construction, Alteration, Demolition within Historic Huning Highland, 1979.
100. See Section 1.3.4 Preferences for Albuquerque's Growth and Development.
101. City Code §§ 14-14-2-4 and Article 14, parts 4 and 5.
102. City Code § 14-16-3-11.
103. Memo from Fred J. Aquirre to Lou Colombo, re: Transportation and Drainage Development Requirements, July 19, 2000.
104. Letter from Larry Blair, Director, City Public Works Department to Juan Vigil, Bernalillo County Manager, re: Cost Elements of Water and Wastewater Utility Expansion Charges, January 18, 2000.
105. See Growth Management Analysts, Water and Wastewater Utility Expansion Charges Study, January 1996, hereinafter the "Utility Expansion Charges Study."
106. See "Albuquerque's Growth Trends" in Section 1.3.5.
107. Development Fees Act (NMSA § 5-8-2.D(1)).
108. Ariz. Rev. Stat. Ann. § 9-500.05, 48.701 et seq.; Cal. Gov't Code §§ 65864-65869.5; Colo. Rev. Stat. §§ 24-68-101 et seq.; Hawaii Rev. Stat. § 46-121 et seq.; Fla. Rev. Stat. § 163.3220 - 163.3247; Minn. Stat. Ann. § 462.358(3c); N.J. Rev. Stat. § 40.55-D et seq.; and Nev. Rev. Stat. § 278.0201 - 278.0207; see generally Delaney, *Development Agreements, The Road from Prohibition to "Let's Make a Deal,"* 1992 Inst. on Planning, Zoning and Eminent Domain, ch. 2, Matthew-Bender, 1992; Taub, *Development Agreements*, 42 Land Use L. and Zoning Dig. 3, Dec. 1990.
109. *Leroy Land Development Corp. v. Tahoe Regional Planning Agency*, 939 F.2d 696 (9th Cir. 1991); *Thrust IV Inc. v. Styles*, 1995 WL 251276 (N.D. Cal.) (remedy provision of development agreement limiting causes of action to mandamus and specific performance barred action for Fifth Amendment substantive due process).
110. See NMSA 3-7-17.1 ("The municipality may make agreement to annexation a condition of extending sewer and water service if the extension of the service is paid for entirely with municipal money"); Colo.Rev.Stat. § 31-12-121; Ill. Municipal Code § 11-15.1-2. Annexation agreements conditioned on rezoning have been upheld on the grounds that the annexation statute does not prohibit such agreements. *Tanner v. City of Boulder*, 405 P.2d 939 (Colo. banc 1965); *Geralnes v. City of Greenwood Village*, 583 F.Supp. 830 (D. Colo. 1984);

- cf. Rooney v. City of Aurora*, 534 P.2d 825 (Colo. App. 1975) (dismissal appeal of trial court action challenging contract for annexation and zoning due to lack of final, appealable judgment).
111. Curtin and Edelstein, *Development Agreement Practice in California and Other States*, in 1994 Planning and Zoning L. Handbook §§ 13.01, 13.03, the state legislature cannot authorize a local government to contract away its police powers, *Marco Development Corp. v. City of Cedar Falls*, 473 N.W.2d 41 (Ia. 1991); see also *Colowyo Coal v. City of Colorado Springs*, 879 P.2d 438, 447 (Colo. App. 1994) (reserved powers doctrine); *Sprenger, Grubb and Associates v. City of Hailey*, 127 Idaho 576, 903 P.2d 741 (1995) (finding no contractual intent to implement regulatory freeze, but suggesting in dicta that a regulatory freeze would be unenforceable).
 112. *Midcities Company v. Town of Superior*, 916 P.2d 595 (Colo. App. 1995) (annexation agreements valid and enforceable); *Geralnes v. Village of Greenwood*, 583 F. Supp. 830 (D. Colo. 1984) (upholding agreement limiting power to rezone).
 113. The agreement provided for approval of subdivision "superblocks."
 114. *Giger v. City of Omaha*, 232 Neb. 676, 442 N.W.2d 182 (1989).
 115. *Dacy*, 845 P.2d at 797, citing *County of Ada v. Walter*, 96 Idaho 630, 533 P.2d 1199, 1201 (1975), *Midtown Properties, Inc. v. Township of Madison*, 68 N.J. Super. 197, 172 A.2d 40, 45-46 (1961), *aff'd*, 78 N.J. Super. 471, 189 A.2d 226 (1963).
 116. *Id.*, 845 P.2d at 797-798.
 117. *Id.*, citing *City of Knoxville v. Ambrister*, 196 Tenn. 1, 263 S.W.2d 528, 530 (1953).
 118. See the preannexation and development agreement with Westland Development Co. (11/4/98) and the preannexation agreement with the State of New Mexico Land Office regarding Mesa del Sol.
 119. These procedures are outlined in Chapter 6 Financial Implementation of the Planned Growth Strategy Preferred Alternative.
 120. See Chapter 6.
 121. See Chapter 6.
 122. Carmichael, "Transferable Development Rights as a Basis for Land Use Control," 2 Fla St.U.L. Rev. 35, 47-48 (1974).
 123. The transfer ratio is the amount of development that can be transferred from a sending parcel divided by the amount of development that can be built on the sending parcel. For example, in Montgomery County, Maryland—one unit can be built on a sending parcel for each 25 acres of land; but development rights can be transferred from the sending parcel at a rate of one per five acres. For every unit built on a sending parcel, five units can be transferred, for a transfer ratio of five-to-one. While the majority of Transfer of Development Rights programs in the country have a 1:1 transfer ratio, there have been Transfer of Development Rights programs created with transfer ratios as high as 8:1 (Dade County, Florida), 20:1 (Island County, Washington), 4:1 (New Jersey Pinelands, New Jersey), 6:1 (Oxnard, California).
 124. Roughly a dozen states have adopted some type of requirement that regulatory and/or development approvals be consistent with local comprehensive plans. Some are linked to mandatory comprehensive plans, while others are from states in which comprehensive plans are authorized, but not required, by law.
 125. Jacobson, Thomas, *The Consistency Doctrine: Policy and Legal Considerations*, prepared for the New Mexico Chapter of the American Planning Association, September 2000.
 126. Myron Orfield, *Metro Politics: A Regional Agenda for Community and Stability*, Lincoln Institute of Land Policy, 1997. Orfield believes a more comprehensive sharing system, which included a larger percentage of commercial industrial tax base and some of the high-valued home tax base, would be able to reach the broader aims of reducing competition for tax base and undermining the incentives behind fiscal zoning.
 127. See discussion of intergovernmental agreements, below.
 128. One possible exception is rezonings, which constitute an amendment to the zoning ordinance.
 129. See, e.g., N.C.G.S. § 160A-475(8).
 130. See "Fostering Community," in Section 1.3.4 and also recognized in the City's Family Housing Development Ordinance (Section 14-17-3, Revised Ordinances of Albuquerque [ROA] 1994).
 131. See Part 1, Section 2.3.3 Pricing Data by Area.
 132. Growth Management Analysts, "The Impact of Impact Fees on Economic Develop-

- ment” appearing in the *Development Impact Fees Report* (May 1995). (p. 32)
133. Growth Management Analysts, “The Impact of Impact Fees on Economic Development” in the *Development Impact Fees Report*, May 1995, p. 6.
134. Part 1, Chapter 6 The Benefits of Growth to the Bernalillo County Economy, 2000–2020 and Growth Management Analysts, “The Impact of Impact Fees on Economic Development” in the *Development Impact Fees Report*, May 1995, pp. 5–7 esp.
135. Sections 14-17-1 et seq. ROA 1994.
136. Mark White, “Development Fees and Exemptions for Affordable Housing: Tailoring Regulations to Achieve Multiple Public Objectives,” *Florida State University Journal of Land Use and Environmental Law* 25:6, 1990.
137. See Chapter 8.
138. Lennertz in Duany and Plater-Zyberk, *Towns and Town-Making Principles*, p. 102.
139. “Fostering Community” in Section 1.3.4.
140. See City of Albuquerque, Indicators Progress Commission, *Albuquerque 2000 Progress Report*, May 2000.
141. See Rolf Goetze, *Stabilizing Neighborhoods: A Fresh Approach of Housing Dynamics and Perceptions*, Boston Redevelopment Authority, 1977.
142. See “Albuquerque’s Growth Trends” in Section 1.3.5.
143. See “Infrastructure Needs and Levels of Spending” in Section 1.3.5 and “Inducements to Development – Infrastructure Related” in Section .1.3.6.
144. See Chapter 4, Section 4.4. Wastewater System Infrastructure Analysis.
145. As discussed in the “Infrastructure Needs and Levels of Spending” (Section 1.3.5), it has been assumed that 41% of street deficiency costs and 29% of hydrology deficiency costs are borne by the private sector based on existing law.
146. Public Works Department, Hydrology Division, *Albuquerque Area Wide Storm Drainage Projects*, January 1997.
147. See Chapter 8 Combining the Level of Service Standards and Financial Implementation.

