

PROPOSAL

CITYWIDE IMPACT FEE STUDY

November 19, 2024

dta



CITY OF JONESBORO

SUBMITTED BY:

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NOVEMBER 19, 2024

Prepared for:

City of Jonesboro

300 South Church Street

Jonesboro, AR 72403

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TABLE OF CONTENTS



<u>SECTION</u>	<u>PAGE</u>
I PROJECT UNDERSTANDING	1
A Project Management Services	1
B Project Approach.....	2
II PROPOSED SCOPE OF WORK	5
III PROJECT TIMELINE.....	9
IV COST PROPOSAL.....	10
A Information to be Provided by the City	11
B Disclaimer	11
C Limitations	11



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SECTION I PROJECT UNDERSTANDING

I PROJECT UNDERSTANDING

DTA is pleased to submit this proposal to the City of Jonesboro (the "City"). It is our understanding that the City is seeking a qualified consultant to conduct a Citywide Development Impact Fee ("DIF" or "Impact Fee") study. All work to be completed will satisfy the requirements of Arkansas Code 14-56-103 (the "Arkansas Impact Fee Law"). The Arkansas Impact Fee Law-compliant Fee Study would recommend the appropriate fee justification methodology and fee levels to support specific types of City-selected capital facilities needed to serve new growth. The work will generally consist of all necessary services related to impact fee structuring for complete streets, drainage, parks, and public safety.

A Project Management Services

DTA's client contact and interaction continue beyond the basic deliverables. DTA is a customer and community-centric firm committed to excellence, quality products, and an open and interactive communication environment. We employ these practices in the workplace, in cities, counties, and towns, and with the many clients that we have served for 39 years. **DTA realizes that every client, like every person, is a distinct entity best understood and served in a direct and collaborative manner.**

DTA serves clients in small towns, medium-sized cities, and larger municipalities. Our service philosophy is three-pronged: we strive to know our customers, understand the communities we're privileged to serve, and always provide the best care, advice, and products. At DTA, we also understand that every project is different, and every outcome is special to our team. Our values of accountability, integrity, and excellence underlie all work performed.

DTA has assembled an experienced and capable team with expertise in each unique element of study requested by the City. All personnel will be available full-time (100%) for the duration of the project. As such, a key objective for this project will be to complete all tasks of the project within the agreed-upon budget and schedule. Time and time again, DTA has proven its ability to adhere to contract agreements and understand the importance of good project management. A number of key strategies employed for all of DTA's clients are listed below:

- Reviewing prior studies and effectively managing data requests and data gathering/consolidation;
- Ensuring key stakeholder input is received prior to writing any reports, so work need not be duplicated;
- Leveraging technology to request and track information from various sources and stakeholders;
- Setting up standing conference calls (i.e., weekly, bi-weekly), in addition to scheduled meetings with City staff in order to stay on track with tasks and deliverables and discuss critical project elements; and
- Preparing internal report drafts for City staff review and discussion on conference call(s).

DTA utilizes the software application BQE CORE to track project expenditures. This program is always available to DTA's employees and provides detailed project information ranging from the execution of the contract to completion of the project. To manage this contract effectively in terms of team performance, schedule compliance, and budget adherence, Mr. Wekwete, DTA's Primary Project Manager, will utilize these tools:

- Bi-weekly assignment checklists throughout the life of the contract to ensure each task remains on schedule by utilizing proper staffing assignments.
- Consistent communication with City staff via e-mail, telephone, and in-person meetings, as needed.
- Weekly budget review to ensure no budget overruns occur. DTA's customized accounting system will enable us to track the expenditures to date each week and ensure budget compliance.
- Regular meetings with City staff to discuss progress and any issues and receive guidance.

At DTA, all our multidisciplinary team members come from diverse backgrounds, and we put people first. We pride ourselves on developing strong relationships with our clients and working closely with them to understand the big picture and goals they want to achieve as a result of our engagement, as well as how DTA's work may impact other initiatives both now and in the future. We understand that public finance is about ensuring that communities can thrive by assessing what the best solution is for the community as a whole and what will help the community reach and sustain infrastructure growth goals.

DTA brings a practical perspective combined with real-world experience in working with municipalities, which gives us the ability to understand and communicate with all stakeholders throughout the process. Regarding our engagement approach, we will work closely with City leadership to engage with property owners, business owners, and community leaders to understand any issues or pressure points, as well as what is envisioned for the future.

Finally, DTA will provide independent and objective work products. Our firm regularly reviews legal opinions, regulations, and statutes that impact or modify public finance-related case law. Thus, DTA is committed to providing deliverables that reflect the most current developments in public finance and real property law.

B Project Approach

DTA would provide all-inclusive professional and technical support to the City in developing a conceptual project scope and reviewing any existing City DIF studies related to General Plans, Specific Plans, the Comprehensive Land Use Plan, and the Capital Improvements Plan, in addition to preparing a comprehensive review of required impact fee levels documented in the formal Nexus Study prepared under the Arkansas Impact Fee Law. Having been subjected to legal and developer scrutiny, DTA has developed a streamlined approach and methodology that establishes a rational and substantial nexus between new development and the need for public facilities.

DTA's Final Report shall not address whether any current or proposed DIFs are valid under the U.S. Constitution's Fifth Amendment Takings Clause. On April 12, 2024, in *Sheetz v. County of El Dorado* (2024), the U.S. Supreme Court held that its decisions in *Nollan v. California Coastal*

Comm'n (1987) 483 U.S. 825 and *Dolan v. City of Tigard* (1994) 512 U.S. 374 apply to legislatively imposed conditions on land-use permits. That said, the Supreme Court left it to the California appellate court on remand to address the validity of the traffic impact fee at issue in the case and determine how to apply *Nollan/Dolan* in this context. DTA cannot predict how courts will resolve such issues in the future and is providing no services or guarantees of any kind concerning the validity of any impact fees under the U.S. Constitution's Fifth Amendment Takings Clause.

In determining a reasonable nexus for each specific type of public facility, DTA will utilize one or more of the methodologies discussed below depending upon the data and other information available from the City and its current infrastructure policies. All the fee methodologies employ the concept of an Equivalent Dwelling Unit ("EDU") to allocate benefit among various land use classes. EDUs are a means of quantifying different land uses in terms of their equivalence to a residential dwelling unit, where equivalence is measured in terms of potential infrastructure use or benefit from each type of public facility. For many types of facilities, EDUs are calculated based on the number of residents or employees generated by each land use class. For other facilities, different measures, such as the number of service calls, quantity of trip miles, or amount of storm water run-off, more accurately represent the benefit provided to each land use class. Transportation facilities typically demand EDU calculations predicated on a per unit or per trip basis. The three types of fee methodologies used by DTA to establish EDUs for a public facility within a typical Arkansas Impact Fee Law-compliant study are based on either an existing Infrastructure Plan, a predetermined capacity amount, or a generic standard.

Plan-Based Fees: The first method of apportioning fees is based on a "Plan," such as a Master Plan of Facilities, that identifies a finite set of improvements. These Facilities Plans generally identify a finite set of facilities needed by the public agency and are developed according to assessments of facilities needs prepared by staff and/or outside consultants and adopted by the public agency's legislative body. With this plan-based approach, specific costs can be projected and assigned to all land uses planned in the future, often with a specific time period in mind that reflects new development projections. In preparing an impact fee analysis, facilities costs can be allocated in proportion to the amount of demand caused by each type of future development. It works well when it is difficult to measure the actual service needed by a land use type or where capacity cannot be directly related to demand. These plan-based fees are typically per unit assessments. This type of plan-based approach is generally preferable to the two other approaches to cost allocation listed below, but it does require the existence of a Facilities Plan, which is not always available.

Capacity-Based Fees: A second method of fee assessment is based on the "capacity" of a service or system, such as a water tank or a sewer plant. This kind of fee is not dependent on a particular Land Use Plan (i.e., amount or intensity), but rather it is based on a rate or cost per unit of capacity that can be applied to any type of development as long as the system has adequate capacity. This type of fee is useful when the costs of the facility or system are unknown at the outset, but it requires that the amount of capacity used by a particular land use type be measurable or estimable. Capacity-based impact fees are assessed based on the demand rate per unit.



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SECTION I PROJECT UNDERSTANDING

Standard-Based Fees: A third method of assessing fees is based on “standards” where costs are based on units of demand. This method establishes a generic unit cost for capacity, which is then applied to each land use per unit of demand. Parks are an excellent example of this type of fee structure. For example, a municipality may find that it currently provides five acres of parkland per thousand residents, which it may then require for all new residential development. Thus, this standard is not based on cost but rather on a standard of service. This methodology provides several advantages, including not needing to know the cost of a specific facility, identifying how much capacity or service is provided by the current system, or having to commit to a specific size of facility.

In preparing its analysis, DTA will apply one or more of these three methodologies to each facility type to generate applicable fee levels. However, the results of our quantitative analysis will be tempered by real-world factors to be at least considered by the City prior to the adoption of revised fee levels.

II PROPOSED SCOPE OF WORK

Work products stemming from the work plan described in this section will include a memorandum (“memo”) detailing the findings and methodologies of the growth analysis, a memo summarizing the fee methodology options, and the Draft and Final Reports.

Task 1 – Development of Project Strategy and Kickoff Meeting

DTA staff will meet with City staff in a project kickoff meeting to finalize the details of the project, deliverables, timetables, and tasks, discuss the fee methodologies and best practices, identify needed information (i.e., reports, project/needs lists, stakeholder groups, data, etc.), prepare the final schedule, discuss the public process, and resolve other concerns, as appropriate.

Task 2 – Develop Population and Dwelling Unit Projections

DTA will compile and document existing and future population, planning, and development estimates for the City. The projections resulting from this task will ultimately calculate fee levels. At this stage, DTA will evaluate City resources, influences, all factors affecting the existing Fee Study, and pertinent impact fee(s) as outlined by the City (including impact fee structuring for complete streets, drainage, parks, and public safety). This task comprises four subtasks.

- 2A **Population Projections:** DTA will gather existing information on present and future population for the City from various sources, including staff, the General Plan, existing Master Plans, the Land Use Plan, the Downtown Redevelopment District Code, the Capital Improvements Plan, the Administrative/Police Facilities Spatial Analysis, the U.S. Census, the Arkansas Department of Finance and Administration, and from other data sources, as needed.
- 2B **Conduct Entitlement Research and Projections:** DTA will coordinate with City staff to determine existing and future residential and non-residential development within the City over the planning horizon. To complete this subtask, DTA will review the General Plan/Capital Improvements Plan and related plans to determine expected development land use patterns in the City, assess City records to identify existing entitlements for dwelling units and commercial/industrial development, and project the number of new dwelling units and commercial/industrial development based on existing entitlements and population projections for the next 20 years, or such other target year as selected by City staff.
- 2C **Review Current City Fee Structure:** DTA shall review and summarize the City’s current development fee structures, City policies and procedures, and other regulatory requirements affecting potential fee structures and revenue program requirements.
- 2D **Review Prior City Fee Justification Studies:** DTA shall review the approach and methodology utilized in prior City fee justification studies so they can be evaluated in light of the City’s current needs.

Task 3 – Review Facility/Capital Needs and Levels of Service

This task entails the review of the facilities and capital needs required to serve new development in the study area projected in Task 2. DTA will use existing City materials (and any relevant reports) as base documents and focus our effort on updating this information.

For any fee program to be comprehensive in its scope, it is necessary to complete a thorough identification and review of all the facilities that will be impacted by additional growth, including those already discussed in the General Plan or Capital Improvements Plan. This task will require close coordination with all appropriate City departments.

- 3A **Survey/Interview City Staff:** DTA shall survey/interview City staff to review projected facilities in the City, along with major equipment needs, the timing at which improvements will be needed, and any physical data that would assist in developing the costs estimated below in Subtask 3C. Based upon the results of the surveys and interviews, DTA will verify and, if appropriate, expand the list of new facilities found in the General Plan or Capital Improvements Plan to be included within the fee program for the City.
- 3B **Facilities List:** Based on the information collected in Subtask 3A, DTA shall prepare a facilities needs list that details the new facilities and equipment to serve new development in the City.
- 3C **Review Cost Estimates:** DTA's engineering and technical staff will, as necessary, consult with City department heads and/or engineering staff or equivalent to ascertain and understand in-house cost data for existing and projected facilities and equipment, review and/or refine existing cost data, examine major sources of revenue to fund the construction of new public facilities, and provide a proportional estimate between projected costs for new facilities and estimated revenue from mitigation fees and other sources.

Task 4 – Develop Methodology for Calculating New Fee Amounts

This task entails developing the methodology used to establish the fee amount for each fee component to the extent appropriate. There are two critical issues that must be considered in developing a fee program. The fee program must generate revenues in a timely manner and the methodology must meet the nexus or benefit requirements of the Arkansas Impact Fee Law. It is critical that any fee established be legally defensible.

DTA's Fee Study methodology must meet the nexus or benefit requirements of the Arkansas Impact Fee Law, which requires that there be a nexus between the fees imposed, use of the fees, and development projects on which the fees are imposed. Furthermore, there must be a relationship between the amount of the fee and cost of the improvements. Implicit in these requirements is a stipulation that a public agency cannot impose a fee to cure existing deficiencies in public facilities or improve public facilities beyond what is required based on the specific impacts of new development. The benefit methodology established in this task will be documented in the Final Report.

DTA will recommend a Fee Expenditure Plan to ensure that projects can be fully funded and implemented within any required time limits for expenditures of such funds and possible flexibility to allow collected fees to be used to provide the City with a match for grant applications. Finally, the memo will include recommendations for methodology and next steps. Upon review and discussion by City staff, a methodology will be selected.

Deliverable: Memo Summarizing the Fee Methodology Options

Task 5 – Determine Fee Levels

This task entails calculating the fee amounts based upon the dwelling unit and commercial/industrial development projections completed in Task 2, facilities needs and costs determined in Task 3, and methodology selected in Task 4.

- 5A **Calculate Recommended Fee Amounts:** DTA shall calculate fees for the City by inputting the data compiled under the preceding tasks and computing each fee to be levied. This work will be done in a spreadsheet format that can be updated annually. **DTA will also evaluate this data in comparison to surrounding and comparable cities so as to arrive at comparable and acceptable fee levels.**
- 5B **Document Fee Derivation:** DTA shall document the methodology utilized for the fee calculation model that can be understood by the City and public. DTA shall prepare written statements documenting the validity of the methodology for deriving each of the fees for the City. These statements will be made to meet the requirements of the Arkansas Impact Fee Law and documented in the Final Report discussed below.

Task 6 – Prepare Draft and Final Reports

This task entails the preparation of the Draft and Final Reports for consideration by the City Council and City staff.

- 6A Based on the work completed in Tasks 1-5, DTA will prepare the Draft Report for review and consideration by City staff. The Draft Report will be prepared under the standards of the Arkansas Impact Fee Law and is expected to include an executive summary, population projections, a facilities and improvements list, areas of benefit (if applicable), fee calculations, recommended fee levels, and the suggested process for keeping fees current. The report shall also contain full fee schedule tables showing input data and interim calculation results, as well as abbreviated fee schedule tables.
- 6B **Prepare Final Report:** Based on the incorporation of City staff comments on the Draft Report, DTA will prepare the Final Report for presentation to the City Council and City staff.

Deliverables: Draft and Final Reports

Task 7 – Outline Tasks Required for the Implementation and Administration of the Fee Program

DTA will prepare a list of tasks required of the City once they have adopted their new fee program. These tasks include the determination of actual fee levels if the City decides not to impose the maximum fee levels allowed under the Fee Study, the implementation of the fee credit program, and other issues the City may face when carrying out the fee program. In addition, DTA shall prepare a Draft Ordinance to adopt the fee program, subject to review and approval by the City's legal counsel.

Deliverable: Draft Ordinance

Task 8 – Attend Up to Three (3) Additional In-Person Meetings, Plus Regular Virtual Meetings for Bi-Weekly Updates

This task entails attendance at a total of four (4) in-person meetings/workshops, including the kickoff meeting, with City staff, Advisory Committee, focus groups, stakeholders, and the City Council to present information regarding the status of the impact fee program update, draft study, and Final Report to obtain input. DTA will also be prepared to lead meetings and workshops with selected groups to gain better project understanding, gauge community sentiment, and determine the key objectives. During these meetings, DTA will consider community and stakeholder input. For this purpose, DTA will develop handouts for these meetings that summarize the findings and analysis from the Public Review Draft. DTA staff shall also schedule standing conference calls (i.e., weekly or bi-weekly) with City staff to stay on track with tasks and deliverables, to the extent allowable under the proposed maximum budget.

III PROJECT TIMELINE

DTA’s typical schedule of tasks for a DIF program/Fee Study is outlined below. Given the City’s desired project timeline, this timeline of events can and will be completed within the proposed time frame according to the City’s specifications. **Notably, the firm shall provide ongoing communication, education, and outreach throughout the duration of the project. DTA is able to begin work with minimal notice.**

Table 1: Proposed Schedule

Task	Description	Weeks 1 to 5	Weeks 6 to 9	Weeks 10 to 13	Weeks 14 to 18	Weeks 19 to 22	Weeks 23 to 25	Week 26
1	Development of Project Strategy and Kickoff Meeting	█						
2	Develop Population and Demographic Projections	█	█	█				
3	Review Facility/Capital Needs and Levels of Service	█	█	█	█			
4	Develop Methodology for Calculating New Fee Amounts		█	█	█			
5	Determine Fee Levels and Generate Cash Flow Analysis			█	█	█		
6	Prepare Draft and Final Reports				█	█	█	█
7	Outline Tasks Required for the Implementation and Administration of the Fee Program, Including the Preparation of a Draft Ordinance				█	█	█	█
8	Attend Three (3) Additional In-Person Meetings, Plus Regular Virtual Meetings for Bi-Weekly Updates		█	█	█	█	█	█
Ongoing	Communication, Education, and Outreach of Project	█	█	█	█	█	█	█

IV COST PROPOSAL

Fees for services shall be charged on an hourly basis according to the rates set forth in the **fee schedule** below, with invoices being submitted to the City monthly. The estimated fee for services is not to exceed **\$59,000** for the Fee Study, including out-of-pocket expenses, plus an additional **\$5,000** as a contingency to cover additional tasks, as approved by the City’s Project Manager¹. Further work at that point would require additional fees. Fees for services shall be charged according to the professional services fee schedule identified in Table 2.

Table 2: DTA’s Fee Schedule

Labor Category	Labor Rate
President/Managing Director	\$300/Hour
Senior Vice President	\$275/Hour
Vice President	\$250/Hour
Senior Manager	\$210/Hour
Manager	\$200/Hour
Senior Associate	\$190/Hour
Associate III	\$175/Hour
Associate II	\$165/Hour
Associate I	\$150/Hour
Research Associate II	\$140/Hour
Research Associate I	\$125/Hour

Additional in-person meetings [more than the four (4) in-person meetings specified in the Scope of Work, including the kickoff meeting] shall be billed on a time and materials basis. Only the hours expended shall be billed. **DTA staff shall also schedule standing conference calls (i.e., weekly or bi-weekly) with City staff to stay on track with tasks and deliverables, to the extent allowable under the proposed maximum budget.**

Out-of-pocket and administrative expenses are enclosed in the proposed maximum budget and shall be equal to 3% of DTA’s billings for labor, plus travel expenses and any outside vendor payments. All hourly rates for services apply through December 31, 2025, and are subject to a cost-of-living increase. On or about the first two weeks of each month during which consulting services are rendered hereunder, DTA shall present to the City an invoice covering the current consulting services performed pursuant to this Notice of Authorization. Invoices shall be paid by the City within 30 days of the date of each invoice. A 1.2% charge may be imposed monthly against accounts that are not paid within 45 days of the date of each invoice. The prevailing party in any legal action brought by one party against the other and arising out of this Consultant Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys’ fees.

¹ Any use of the contingency line item will have to be approved (prior to added work) by the City’s Project Manager, so that the City can better track any additional tasks assigned to DTA by the City.

A Information to be Provided by the City

DTA requests that the following information be provided by the City at no charge and in a timely manner such that the project does not extend beyond 6 months from the date of authorization to proceed:

- Identification of offsetting revenue sources to fully understand financing options;
- The City's General Plan, any Specific/Master Plans, Development Agreements, and data regarding existing entitlements;
- To the extent available, detailed description of the proposed public facilities, including the facility name and number of square feet, acres, etc. (as applicable for each type of facility);
- Inventory of completed facilities within the City, including type, size, and location of facility;
- Cost estimates for proposed facilities (DTA anticipates that the City's cost data and estimates will be reviewed by DTA staff and discussed with City staff);
- Existing City Fee Ordinances and/or Resolutions, as applicable; and
- Identification of any committed revenue sources pledged to fund proposed facilities.

B Disclaimer

While DTA has a fiduciary responsibility as a licensed Municipal Advisor, DTA is not, unless otherwise stipulated, acting as the City's Municipal Advisor. The services discussed herein do not constitute any financial advice or fall under the category of municipal advisory services as defined by the SEC.

C Limitations

Additional work requested by the City beyond the tasks identified within the Scope of Work shall be considered out of scope and will be billed on a time and materials basis at the hourly rates identified in Table 2. The labor costs in the table above include attendance at a total of four (4) in-person meetings, including the kickoff meeting, with City staff, community groups, stakeholders, and the City Council. Attendance at more than four (4) in-person meetings, detailed written responses to resolve disputes, or the preparation of more than one set of major revisions to the Draft Impact Fee Methodology Report will be classified as additional work and may require further billing at the hourly rates identified in Table 2 if the maximum fee level has been exceeded.

Other examples of additional work shall include:

- Additional analyses based on revised assumptions requested by the City, including possible changes in the facilities needs list, infrastructure costs, population projections, and related data once the preparation of the Draft Impact Fee Methodology Report has been initiated, as well as adjustments to assumptions once the Draft Impact Fee Methodology Report has been approved;
- Negotiations with stakeholders once the Final Impact Fee Methodology Report has been prepared;
- Time expended related to obtaining data assigned to the City under "Information to be Provided by the City";
- Actual implementation of the fee program;

- Any work related to litigation or any claim or liability arising out of or incident to the April 12, 2024, U.S. Supreme Court decision in *Sheetz vs. County of El Dorado* asking the California courts to reevaluate impact fees adopted under the California Mitigation Act to ensure they do not violate the U.S. Constitution's Fifth Amendment Takings Clause, including but not limited to expert witness services; and
- Reproduction of more than five bound copies of the Final Impact Fee Methodology Report.

The maximum fees listed above assume the review and implementation of the fee program with a schedule between the initiation of services and public outreach that is within the proposed time frame according to the City's specifications.

The logo for DTA (Development Tax Authority) features the lowercase letters 'dta' in a bold, black, sans-serif font. A white, parallelogram-shaped graphic element is positioned above the 't', partially overlapping the 'd' and 'a'.

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