

Comprehensive Analysis  
City of Yuma  
Land Use Assumptions and Infrastructure Improvements Plan

Prepared By:

Scot Mussi  
President



The following is a report on Yuma's proposed Land Use Assumptions (LUA) and Infrastructure Improvements Plan (IIP), prepared by TischlerBise to bring their development fee program into compliance with SB 1525. Both the LUA and IIP were made available to the public September 1, 2011 and are scheduled for a public hearing November 2, 2011. The scheduled adoption for both documents is December 7, 2011.

In addition to the LUA and IIP, Reliant Consulting reviewed the following documents to ensure that all of the information included in the LUA and IIP was accurate, complete and in compliance with the law:

- City of Yuma FY 2012-2021 Capital Improvement Program
- City of Yuma Fire Services and Facilities Plan 2007
- City of Yuma Parks and Recreation Facilities Plan 2006
- City of Yuma Major Roadways Plan
- Senate Bill 1525
- Employment data from workforce.az.gov
- Level of Service Standards, Municipal Research and Services

In total, over 500 pages of documents have been examined in preparation of this report.

## **Land Use Assumptions**

In order to assess a development impact fee, Yuma is required to prepare Land Use Assumptions (LUA), which are designed to project and indicate changes in land uses, densities and population growth. The LUA report is broken down into three components:

- 1) Residential Development
- 2) Non-Residential Development
- 3) Projection of Vehicle Trip Ends

### **Residential Development Projections**

- In the LUA, TischlerBise indicates that Yuma had a July 1, 2011 population of 91,292. Currently there is an 80% occupancy rate in Yuma, but TischlerBise increase the occupancy rate to 93% based on seasonal migration. TischlerBise does not identify how they arrived at the 93% occupancy rate. At 93% occupancy, Yuma has a current peak population of 106,146.
- The LUA includes a projected housing unit growth of 1.2% over the next 10 years (figure comes from the City of Yuma Community Development Department). From April 1, 2010 to June 30, 2011, 276 permits were issued, which comes to an average growth rate of .006% in FY 2011. The city of Yuma is projecting housing construction is going to double in FY 2012 and continue at that pace for the next 10 years.

### **Non-Residential Development Projections**

- TischlerBise provides a July 1, 2011 job estimate for Yuma at 47,632. They arrive at that number using formulas and data from the Institute of Transportation Engineers and Urban Land Institute that calculate the number of jobs based on the non-residential floor area in Yuma. This calculation is completely speculative and ignores the fact that actual data on employment statistics in Yuma are available at the Bureau of Labor Statistics and online at [www.workforce.az.gov](http://www.workforce.az.gov). According to those statistics, Yuma had a job population of 39,440 in July, not 47,632. For additional context, the job population in Yuma in December 2006 was 39,291.
  
- The LUA states that there was 17,730,975 square feet of nonresidential floor area on July 1, 2006. They also identify that 1,861,399 square feet were constructed from FY2007-FY2011. It is apparent that this 5 year sample is used to project future employment and nonresidential floor area growth, which is predicted to be 2.1% annually. This projection is wildly overstated for 2 reasons:
  - This projection does not take into account vacancy rates and assumes that any new job growth will require new nonresidential development. To put in another context, there are as many jobs in Yuma now as there was in December 2006 but 1.8 million square feet in floor area have been built.
  - This projection is based on 2 years of rapid growth (FY2007 & FY 2008) that should not be included in the calculation.
  
- In total, TischlerBise predicts that 9,797 jobs will be added in the next 10 years, which would require an additional 3,986,234 square feet of nonresidential floor area (2.1% growth).

### **Conclusions on Land Use Assumptions**

- The residential occupancy rates are highly speculative and are not supported by any evidence in the report.
- Projected housing unit growth (1.2%) is likely 50% too high based on all past and future indicators.
- Nonresidential vacancy rates are not factored into the LUA, and since there are as many jobs in Yuma now as there was in 2006 (with an additional 1.8 million square feet in floor area added since then), not all new jobs will require new floor area.
- Projected job growth (2.1%) is likely too high based on all past and future indicators.
- Figure 16 on page 16 appears to use the wrong figure for SF per job for Office/Industrial, and leads to wrong data being used in the LUA and IIP.
- **It is in the best interest of the city to reduce their growth projections so they do not charge fees for facilities they cannot provide in the timeframes required by statute.**

## **Infrastructure Improvements Plan**

In addition to the LUA, Yuma is required to prepare an Infrastructure Improvements Plan, which includes a breakdown of the facilities needed to serve new growth. In order to be included in the plan, however, Yuma must meet multiple statutory requirements to ensure that new development is fairly treated. After reviewing Yuma's IIP, it is clear that several components of the plan do not meet the new legal requirements set forth in SB 1525. Some of the common errors repeated throughout the IIP include:

- **The creation of a city wide service area for all categories of necessary public services, ignoring the substantial nexus and direct benefit requirements under the Service Area definition in statute.**
- **LOS is often not calculated correctly and new growth is often required to provide a higher level of service to existing residents, in direct violation of the law.**
- **The costs found attributable to growth are not proportional and are not based on service units, in direct violation of the law.**
- **Offsets for other sources of revenue (in particular property taxes, public safety taxes, transportation taxes, and grants) are not included in the calculations, even though Yuma's CIP identifies those revenue sources as contributions towards several of the projects in the IIP.**

These are just a few of the problems discovered while reviewing the IIP. The following is a more comprehensive breakdown of TischlerBise's report:

### **Parks and Recreation Facilities**

#### **Service Area**

- TischlerBise identifies the entire city as the service area for parks, yet provides no justification on how this meets the new legal requirements. For parks under 30 acres, state law requires that a "substantial nexus exists between the necessary public services or facility expansions and the development being served," which means that there must be a link between the physical presence of the development in relationship to the park.
- Yuma's IIP identifies one park under 30 acres, Yuma Valley Area Park. The service area for this park should be only the residents it's designed to serve. According to Yuma's Park and Recreation Facility Plan, area parks up to 25 acres serve 25,000 residents and an area up to a 2 mile radius. This is consistent with the standards set forth by the National Recreation and Parks Association and would be in compliance with the law.
- For parks over 30 acres, the nexus standard is even more restrictive and requires a direct benefit to development. Under the direct benefit test, it is required that the municipality demonstrate that the fee being assessed will go to a park that will directly benefit the development. This means that the city must have separate service areas for

parks less than 30 acres and parks over 30 acres, and must identify the development that will directly benefit from the park.

- Yuma’s IIP includes one park over 30 acres, East Mesa Area Park. The city must identify the nearby development that will directly benefit from the assessment of this fee.
- The West main multi-use path that is in the IIP requires to be identified in a more narrow service area as well.

#### Level of Service

- The level of service calculations include the 35 acre West Wetland Park, which must be excluded from the LOS calculation since it exceeds the 30 acre requirement and should be part of a direct benefit service area calculation. TischlerBise’s claim that since the park is “unique” it can be included in the LOS calculation has no legal or statutory foundation.
- The bike paths and trails LOS calculation includes the wetlands paths, which should be excluded.

#### Proportionate Share

- As is consistent throughout the report, TischlerBise utilizes the City Engineering Department to determine the portion of costs “necessitated and attributable to growth.” The IIP does not identify how this is determined or that it is proportionate, which violates the law.

#### Revenue Offset

- TischlerBise does not include an offset for other revenues generated by growth that go towards the construction of necessary public services. In this instance, Yuma’s CIP indicates that sales tax revenue is anticipated to be used towards the park projects in the IIP. The portion of sales taxes from new growth should be offset to prevent growth from paying more than its fair share.

### **Fire Facilities**

#### Service Area

- TischlerBise establishes a citywide service area, in violation of the substantial nexus requirements. Yuma’s IIP includes the construction of 3 fire stations, all located on the east side of town. The substantial nexus for those stations are the areas in which they are going to serve.

### Level of Service

- The IIP indicates two LOS standards: service time within the service area and square footage per person.
  - **Response Time:** The desired response time in the IIP is 4 minutes for the first unit and 6 minutes for the second unit. According to the Fire Services and Facilities Plan, the current response times are 8 minutes for fire calls and 6 minutes for emergency calls. The Fire Services Plan also shows that projected coverage and response time will be improved citywide, demonstrating an increased level of service under the new IIP.
  - **Square Footage per person:** The current fire station square footage is 59,564, or .34 square feet per person. The IIP includes an additional 45,669 square feet of fire stations, a 76% increase in square footage. The population growth anticipated over the next 10 years is 11,139, which will increase the level of service to .90 square feet per person.
- Examining either LOS standard, the city is creating a much higher city wide LOS. **Despite this fact, new growth is being charged for 70% of the costs associated with the construction of the new fire stations. This clearly violates state law.**

### Proportionate Share

- As is consistent throughout the report, TischlerBise utilizes the City Engineering Department to determine the portion of costs “necessitated and attributable to growth.” The IIP does not identify how this is determined or that it is proportionate, which results in new growth being responsible for 70% of the fire station costs, even though they make up less than 11% of future population.
- The Yuma Capital Improvement Program indicates that Fire Station #7 would only require \$350K in impact fees, but is changed to \$1.4 million in the IIP. Again, no explanation on the proportionality is provided.

### Revenue Offset

- TischlerBise does not include an offset for other revenues generated by growth that go towards the construction of the fire facilities. In this instance, Yuma’s CIP indicates that bond revenue and public safety sales tax revenue is anticipated to be used towards the fire projects in the IIP. The portion of sales taxes from new growth should be offset to prevent growth from paying more than its fair share.
- Yuma’s CIP indicates that a grant may be received for the construction of the radio station, which is included in the IIP. The potential funding from the grant should be considered in the fee calculation.

## Police Facilities

### Definition of Necessary Public Services

- TischlerBise includes a replication cost to purchase 142 police vehicles, which is current amount of police vehicles service the city. **This fee, however, is illegal since would be used to replace services that are already provided.** State law stipulates that police facilities may not include “a facility or portion of a facility that is used to replace services that were once provided elsewhere in the municipality.” The replacement costs associated with the 142 vehicles must be paid by existing residents.

### Service Area

- Since new growth will be proved police services from one station, a citywide service area is acceptable. If additional facilities are built in the future that split service throughout the city, additional service areas will be necessary.

### Level of Service

- The IIP maintains the same level of service provided to existing residents (.97 square feet per person), and the 4,000 square feet of new police facilities is consistent with the projected population increase.

### Revenue Offset

- TischlerBise does not include an offset for other revenues generated by growth that go towards the construction of the fire facilities. In this instance, Yuma’s CIP indicates that bond revenue and public safety sales tax revenue is anticipated to be used towards the police projects in the IIP. The portion of sales taxes from new growth should be offset to prevent growth from paying more than its fair share.
- Yuma’s CIP indicates that a grant may be received for the construction of the radio station, which is included in the IIP. The potential funding from the grant should be considered in the fee calculation.

## General Government Facilities

Under the new law, general government impact fees cannot be assessed unless certain requirements are met. TischlerBise identifies two of the requirements:

1. Development fees were pledged to repay debt service obligations related to the construction of the facility.
2. After August 1, 2014 any development fees collected under this subsection are used solely for the payment of principle and interest on the portion of the bonds, notes or other obligations issued before June 1, 2011 to finance construction of the facility.

In addition to these two requirements, however, legislative intent language was included to clarify what this provision meant. In particular, the intent language states that in addition the two previously stated requirements, the fee can only be collected if “the necessary public services were included in a municipality’s infrastructure improvements plan before June 1, 2011.” **If Yuma did not have this General Government Development Fee included in a previously adopted plan, it is not eligible to be assessed an impact fee. Additional clarification is needed to ensure that Yuma may assess this fee.**

### Streets Facilities

#### Definition of Necessary Public Services

- Yuma’s IIP includes projects that may not be legal under the law. For example, the expenditure of fees on freeways highways and bridges is not legal, yet appear to be included in the plan. More detail is required on this subject to determine the legality of these projects.

#### Service Area

- As has been consistent throughout the entire study, TischlerBise establishes a citywide service area, in violation of the substantial nexus requirements.

#### Level of Service

- Yuma’s IIP substantially increases the citywide level of service. Currently there are 249.5 arterial lane miles, and plan on constructing an additional 155.2, bringing the total to 404.7. In total, it is an increase of 62% in lane miles for the city.

#### Proportionate Share

- As has been consistent with the other increases in levels of service, new growth will be paying for a substantial portion of the increase, in violation of state law. Despite only being 10% of future population, new growth will be paying for 40% of the entire street capital plan, and 68% of the arterial street and intersection plan.

### Other Miscellaneous Concerns

- TischlerBise indicates on page 4 of the Land Use Assumptions that no impact fees will be collected south of 56<sup>th</sup> Street. The report does not indicate why that is the case or how it affects the LUA or IIP.



- Many of the projects are not scheduled for construction or completion until the last year of the CIP. With the new completion deadline requirements, and in conjunction with the overoptimistic land use assumptions, many of these projects could result in refunds or violate the collection requirements (it is illegal to collect a fee if the city cannot demonstrate in their IIP that the project will be provided in at least 10 years).
- Completion timeframes are not included in the IIP.
- The law requires a description of all existing necessary public services, which TischlerBise does not include. Rather they cite the CIP and total costs indicated in the CIP.