MONTROSE COUNTY FAIRGROUNDS CAPITAL EXPANSION IMPACT FEE

PREPARED FOR: MONTROSE COUNTY
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INTRODUCTION

The purpose of this document is to establish an appropriate capital expansion impact fee for the Montrose County Fairgrounds.

METHODOLOGY

The methodology in this report utilizes common impact fee calculations and structures including: demand units, capital facility inventory, level of service (LOS), proportionate share, and crediting.

IMPACT FEE

The final impact fee once a system of crediting has been applied totals $106.

Figure 1. Montrose County Fairgrounds Impact Fee

Fee Schedule	*$ 147*
Credit	*$ 41*
Impact Fee	*$ 106*

INTRODUCTION

The purpose of this document is to establish an appropriate capital expansion impact fee for the Montrose County Fairgrounds.

Capital facilities employed by public jurisdictions are a crucial element in maintenance of service levels. As a town, city, municipality, or county grows; greater demands are going to be placed upon the infrastructure, administration, and subsequently its capital facilities. With growth comes an additional demand for services presenting governments with two options; first, to maintain current funding levels and accept decreased service levels, or second, to find additional methods of revenue generation so that current service levels can be maintained. If decreasing service levels is not deemed an acceptable option, governments must find a mechanism by which new growth pays its fair share of the increasing costs. Without additional revenue provided by new growth, taxpayers at large will have to bear the increased financial burden. This is in effect a subsidy of new growth by current residents.

In counties with a strong agricultural component, such as Montrose County, the Fairgrounds provide the community as a whole with numerous important benefits. These benefits include: common area for agricultural events, fields and arenas for sporting events, floor space for conventions and trade shows, and a central meeting place for community sponsored festivals. As Montrose County grows it will be necessary to increase the capacity of the Fairgrounds in order to accommodate new residents and maintain the unique culture of Montrose County. If the facilities are not increased proportionally with increased use, services provided by this community asset will degrade. The aim of this report is to provide an equitable method for new growth to contribute its fair share of expenses related to expanding the Fairgrounds.

Numerous data sources and complex calculations underlie the basic logic that this report is based upon. However, the foundation of this report is simple and is essentially answers the following questions:

1. Does Montrose County have a need for an impact fee to charge new development its share of the cost of expanding fairground facilities?
2. Does Montrose County have the legal authority to charge such a fee?
3. How do residential and non-residential land uses draw upon facilities for basic County services relative to one another?
4. How much does it cost to build or expand fairground facilities?
5. What is the current level of service for fairground facilities?
6. What should the fee amounts be?
7. Should credits or waivers be offered to any types of development?
8. How much revenue might the County expect the fees to yield?
9. What steps and considerations are involved in implementing the fee?

Impact fees are designed to maintain an existing level of service for capital facilities as populations and non-residential development increase. This impact fee is designed around a 20 year planning horizon, thus the projections and analysis are carried through 2027.

LEGAL AUTHORITY

The following legal analysis was provided by Lindsey Nicholson of Goldman, Robbins, Nicholson P.C. as a subcontractor to RPI Consulting LLC. The analysis is intended to provide third party legal analysis of impact fee legislation and application in Colorado; RPI Analysts are not attorneys nor does RPI retain attorney's on staff. The appropriateness and legality of imposing this or any other impact fee schedule is entirely at the Montrose County Board of Commissioners, and County Attorney discretion and judgment. RPI does not make any claims as to the legality or appropriateness of impact fees or the accuracy of the following legal analysis.

IMPACT FEES GENERALLY

The authority for counties to levy direct fees on new development to help offset the impacts of such development derives from C.R.S. § 29-20-104.5, adopted in 2001. This statute grants local governments the authority to impose growth-related impact fees as a condition of approval of an application for new development. However, the statute requires that such impact fees be:

(1) Legislatively adopted;

(2) Generally applicable to a broad class of property owners; and

(3) Intended to defray the projected impacts on capital facilities directly caused by proposed development[1].

In addition, the statute requires that the collected impact fees be used to "fund expenditures by such local government on capital facilities needed to serve new development".[2] "Capital facilities" are defined as "improvements or facilities" that:

(1) Are directly related to any service that the local government is authorized to provide;

(2) Have an estimated useful life of five years or longer; and

(3) Are required by the charter or general policy of the local government pursuant to resolution or ordinance[3].

It is not clear under current law whether a "capital facility" would include equipment.

The statute is clear, however, that the collected fees must be used to offset new impacts and that they cannot be used to remedy any current deficiency in capital facilities – i.e., one that

[1] C.R.S. § 29-20-104.5(1).
[2] *Id.*
[3] C.R.S. § 29-20-104.5(4).

exists without regard to the impacts of new development.[4] Accordingly, the statute requires a local government, before adopting any impact fee, to:

(1) Quantify the reasonable impacts of the proposed development on existing capital facilities;

(2) Establish the fee at a level no greater than necessary to defray the impacts *directly related* to the proposed development[5]; and

(3) Include provisions in the legislatively-adopted fee structure to "avoid double-charging developers an impact fee for the same facility that the jurisdiction has imposed an exaction."[6]

The required quantification of the impacts and calculation of the fee so as not to be greater than necessary to defray directly-related impacts of development is typically met by the preparation of an impact fee study, such as this one. There are no reported cases construing these quantification requirements; however, based upon the holdings of the Colorado Supreme Court in a case[7] that shortly predates the adoption of the impact fee statute, legal commentators[8] believe that the requirements are meant to be less restrictive than the case-specific "essential nexus" and "rough proportionality" tests that are applied to government exactions (i.e., requirements that an owner give up a portion of his property for public use as a condition of approval of development). In the referenced case, the Colorado Supreme Court held that because the setting of impact fees is a "legislative function that involves many questions of judgment and discretion, [the courts] will not set aside the methodology chosen by an entity with ratemaking authority unless it is inherently unsound".[9] Further, the impacts of each specific development proposal need not be quantified, but may be looked at cumulatively, and an impact fee schedule may differentiate among different types of development and their likely impacts, so long as there is a rational basis for the differentiation.

PERMISSIBLE USES OF IMPACT FEES IMPOSED BY MONTROSE COUNTY

Based on the foregoing statutory requirements, Montrose County may adopt a schedule of impact fees applicable to new development; provided, however, that such fees will be used to fund capital facilities that are directly related to a service that the County is authorized by other law to provide. Statutory counties, like Montrose County, have limited express powers provided by statute and such implied powers as may be reasonably necessary to carry out the express powers.

[4] C.R.S. § 29-20-104.5(2).
[5] *Id.*
[6] C.R.S. § 29-20-104.5(3).
[7] Krupp v. Breckenridge San. Dist., 19 P.3d 687 (Colo. 2001).
[8] Carolynne C. White, "Municipal Perspective on Senate Bill 15: Impact Fees", 31 Colo. Law. 93 (May 2002).
[9] Krupp, 19 P.3d at 694.

It is our understanding that the County intends to adopt impact fees for the purpose of funding expenditures by or for the following departments: road and bridge; general administration; law enforcement; health and human services; and fairgrounds. Assuming that the County is authorized by other law to provide the services provided by these departments[10], and further assuming that the fees generated will be used to purchase or construct "capital facilities" serving such departments (not to simply go into the general fund for such departments), the County has the authority to adopt impact fees for these departments. Again, the use of the funds must be prospective and cannot be used to remedy any existing deficiencies in the facilities of these departments.

TIMING OF IMPOSITION OF IMPACT FEE

With regard to the timing of the imposition of a newly enacted impact fee ordinance or resolution, the statute prohibits the imposition of any impact fee on any "development permit for which the applicant submitted a complete application" prior to the adoption of the impact fee schedule[11]. Accordingly, whether an impact fee can be imposed on an application that was put "into the pipeline" prior to the formal adoption of the impact fee resolution would need to be determined by reference to what constitutes a "complete application" under the local land use regulations.

With respect to whether impact fees can be imposed on building permit applications for lots in projects that were approved well before the impact fees were adopted, the statute is not clear. The statute provides that the payment of impact fees can be imposed as a condition of approval of a "development permit", which is defined as "any preliminary or final approval of an application for rezoning, planned unit development, conditional or special use permit, subdivision, development or site plan, or similar application for new construction".[12] With the exception of the last phrase "or similar application for new construction," all of the types of development permits listed are permits issued by a local government's planning department, rather than its building department. A conservative reading of the statute would be that the impact fees cannot be imposed as a condition of approval of a building permit in an approved development; however, reasonable minds can differ in this interpretation, and we understand that some local governments nonetheless impose fees at the building permit stage. We also understand that some local governments have remedied the situation by requiring the submittal of a site plan to the planning department as a prerequisite to the issuance of a building permit and including such site plan within the definition of "development permit" under their land use regulations.

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[10] Counties have the express powers to lay out, alter and maintain roads (C.R.S. § 30-11-107(1)(h)) and to provide for the general administration of county affairs (C.R.S. § 30-11-107). The powers to provide and maintain fairgrounds and to provide law enforcement and health and human services may be reasonably implied powers; however, we defer to the legal opinion of the Montrose County Attorney on this issue.

[11] C.R.S. § 29-20-104.5(6).

[12] C.R.S. § 29-20-103(1).

ACCOUNTING FOR RECEIVED IMPACT FEES

Finally, all impact fees received by the County must be collected and accounted for in accordance with C.R.S. § 29-1-803.[13] This statute requires that all collected impact fees be deposited in an interest-bearing account that clearly identifies the category, account, or fund of capital expenditure for which the fee was imposed. Each such category, account, or fund must be accounted for separately, and interest earned on the fees must be credited to the account.

Limitation and Disclaimer (Lindsey Nicholson): This opinion letter is delivered solely for the benefit of Montrose County as general background information regarding its proposed adoption of impact fees. It is not to be relied on by any other party or for any other purpose. We are not familiar with and have not, in connection with this opinion letter or otherwise, undertaken any independent investigation of factual matters affecting this opinion, and we disclaim any obligation to do so. The final interpretation of state statutes and case law regarding impact fees and the legality and appropriateness of Montrose County's adoption of any impact fee program should be determined by the Montrose County Attorney and/or its Board of County Commissioners.

[13] C.R.S. § 29-10-104.5(5).

METHODOLOGY

An impact fee can be derived for any service that a county or municipality is authorized to provide to its constituents. While these reports differ from service to service (roads, law enforcement, parks, administration, etc.) there are a few underlying concepts present in all impact fee analysis:

1. Demand Units
2. Demonstration or Need (Nexus)
3. Capital Facilities Inventory
4. Level of Service (LOS)
5. Proportionate Share
6. Credits
7. Final Fee Calculation

Demand Units: Differing land uses place demand on public services and facilities differentially. For example big box retail (or any retail) requires different levels and types of services than single family homes. The specific definition of the various demand units makes these differences clear. Typically demand units are divided between the residential, non-residential sectors, and when relevant, other specific demand units (example: oil and gas wells).

For the Fairgrounds analysis, all demand is attributed to the residential sector. In contrast to the services provided by roads, law enforcement, and general administration, commercial properties are not generally considered to generate demand for services provided by a County Fairgrounds.

Demonstration of Need (Nexus): In order for an impact fee to be legitimate, there must be an established link between the need for additional capital and growth. If growth is happening but it is not affecting the amount of capital necessary for an organization to operate, then there is no nexus for the fee to be based upon. The demonstration of need is typically exhibited by an increase in services demanded due to additional population, housing units or non-residential square feet. Services, in terms of capital, are typically measured through a capital facilities level of service or an employee level of service.

Capital Facilities Inventory: provides a value of the capital employed by a department to provide a given service. This inventory is composed of all capital valued at over $5,000 or that has a life span of more than five years. RPI analysts are typically quite conservative in determining what assets constitute capital facilities (see appendix).

Level of Service: measured in two ways, the amount of capital per demand unit and the amount of employees per demand unit. It is an important concept that assigns capital value and employees to current demand units, this is then used as a measure of service levels. Level of service (LOS) is used to extrapolate future capital needs due to growth. For example, if there are 1000 residents and one Town Marshal the current level of service would be .001, if the town grows by 1000 people it would be necessary add an additional Marshal in order to maintain the .001 LOS.

For the Fairgrounds the capital value LOS is used because of the relatively low amount of employees and because the Fairgrounds' buildings are used primarily in the direct provision of a service and not as office space. Capital Facility LOS is simply the total value of capital multiplied by each sectors proportionate share to obtain each sectors proportional capital inventory. This value is then divided by the demand units, providing a per unit share of the capital value.

Proportionate Share: the relative amount of demand for services experienced by different sectors. Services provided by governments are not uniformly distributed to all sectors of society due to the differing needs of each sector. Proportionate share is analyzed on a case by case basis, using many different variables in order to provide a percentage breakdown of how services are used in a given population. In other words, proportionate share determines how much of what type of facility service land uses demand.

In this case the proportionate share is 100% attributed to the residential sector given that all demand for fairground facilities originates from residential housing units.

Credits: provide an equitable method for calculating impact fees. Often governments pay for capital expenditures from general fund accounts that are derived from taxes on the demand unit sectors (property taxes, sales taxes, motor vehicle taxes, etc.). Credits prevent double dipping, thus preventing impact fees from overcharging residents for improvements. For example, if a portion of road and bridge department capital is paid for by a mill levy upon property, residents and businesses are contributing monies used in a capital expenditures account. If developers were required to pay an impact fee while simultaneously paying property taxes, the resulting fee schedule would account for more than the developer's fair-share. Because this is both unfair and possibly un-statutory, credits must be developed where necessary.

Each credit is spread over a 20 year period; this is to account for an estimated useful lifespan of capital assets. Credits are calculated on a per unit basis and then simply subtracted on a per unit basis from the fee schedule.

Credits are dependent upon how governments allocate certain taxes to capital facilities. The Montrose County Fairgrounds pays for its capital facilities through a series of donations and transfers from the Conservation Trust Fund, and from Great Outdoors Colorado. A credit is developed to account for the revenue that the Fairgrounds receives from the Conservation Trust Fund (Great Outdoors Colorado funds are distributed as grant funds and annual payments are not assured).

The following basic equations sum up impact fee methodology:

(Proportional Share * Capital Facilities Value) / Demand Units = Fee Schedule

((Departmental Revenues* Proportional Share)/Demand Units)*% Spent on Capital= Credit

Fee Schedule - Credit= Impact Fee

There are additional complexities in each department that depend on a variety of variables, the above equations are meant only to outline the general methods by which impact fees are calculated.

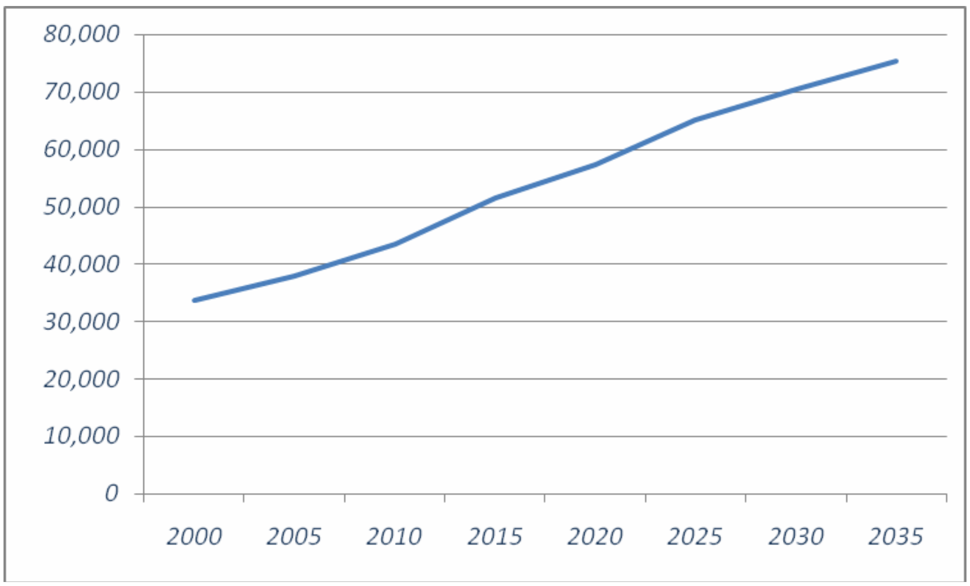
Final Fee Calculation: The final fee is calculated using the fee schedule and the crediting system. It is simply credit subtracted from the fee schedule; this results in a fee tied to a LOS but accounts for alternate capital revenue sources.

NEED, TRENDS, AND RATIONAL NEXUS

POULATION

The Colorado Department of Local Affairs (DOLA) conducts population forecasts for counties and municipalities in Colorado. DOLA forecasts that Montrose County will grow at an average rate of 2.33% annually, at this rate, Montrose County's population will be over 75,000 residents by 2035.

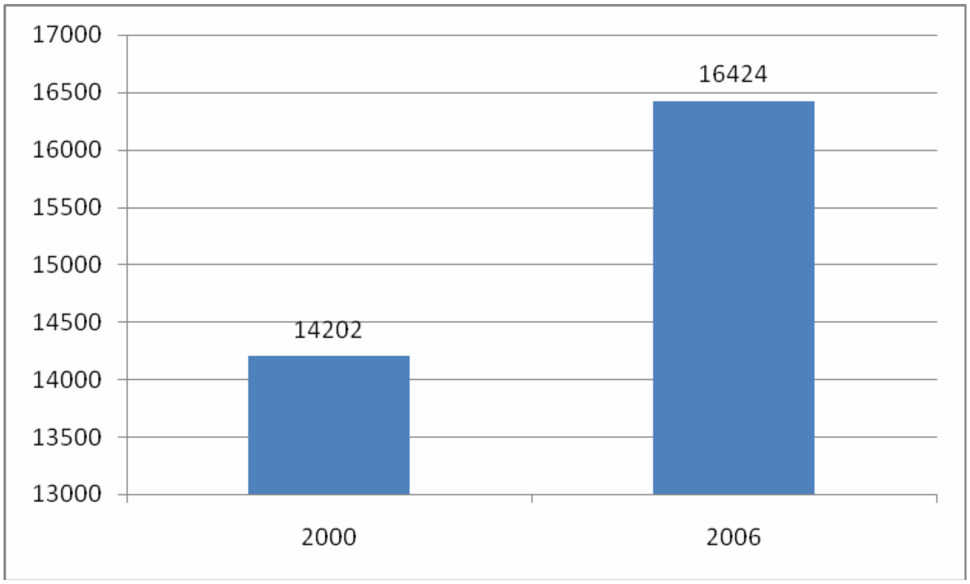
Figure 2. DOLA Population Forecast Through 2035



CURRENT HOUSING COUNTS

In the past six years Montrose County has experienced a growth rate of approximately 2.54% in the residential sector and has gained approximately 2,200 new housing units. As the number of housing unit grows additional strains are placed upon the infrastructure and organizational systems that are charged with providing services to those housing units and the Fairgrounds are no exception. More houses means new sports teams, additional livestock events and, more participants in expos and rodeos. Thus an increase in the demand for services means additional strains placed upon the Fairgrounds.

Figure 3. Number of Housing Units 2000 & 2006

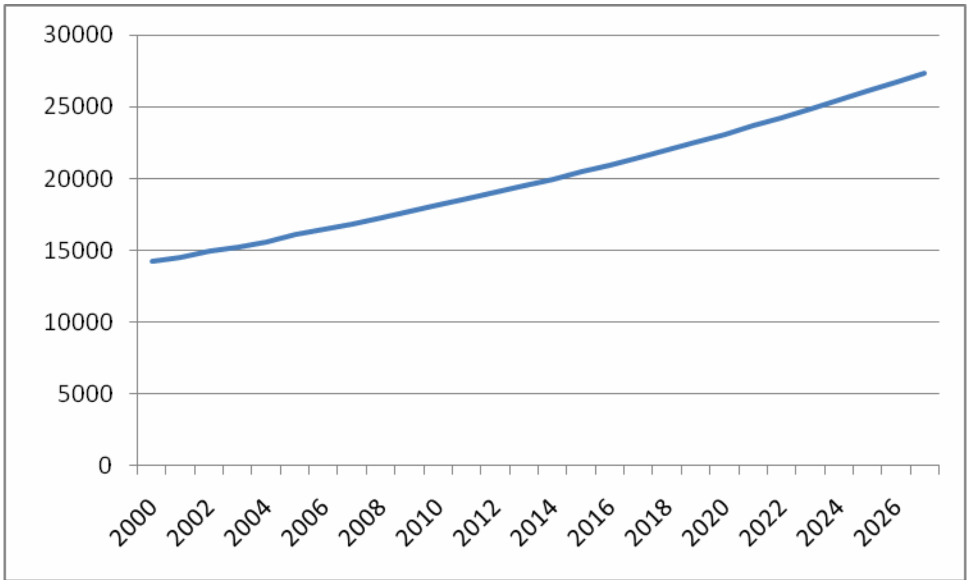


HOUSING PROJECTIONS

Impact fees are meant to provide revenue for future anticipated growth, the analysis in this report relies on growth projections through the year 2027. Projections, as opposed to forecasts, are based upon historical data in order to provide a best estimate as to future conditions. However, such methodologies are subject to a variety of economic, political and, environmental factors that could significantly alter projection numbers.

The housing unit projections are based upon housing unit counts taken by the Colorado Department of Local Affairs. Additionally, to obtain the 2006 number, RPI analysts obtained the number of building permits issued in Montrose County. Using this historical data, an average increase was obtained and then applied to the planning horizon (year 2027).

Figure 4. Housing Unit Projection



NEED

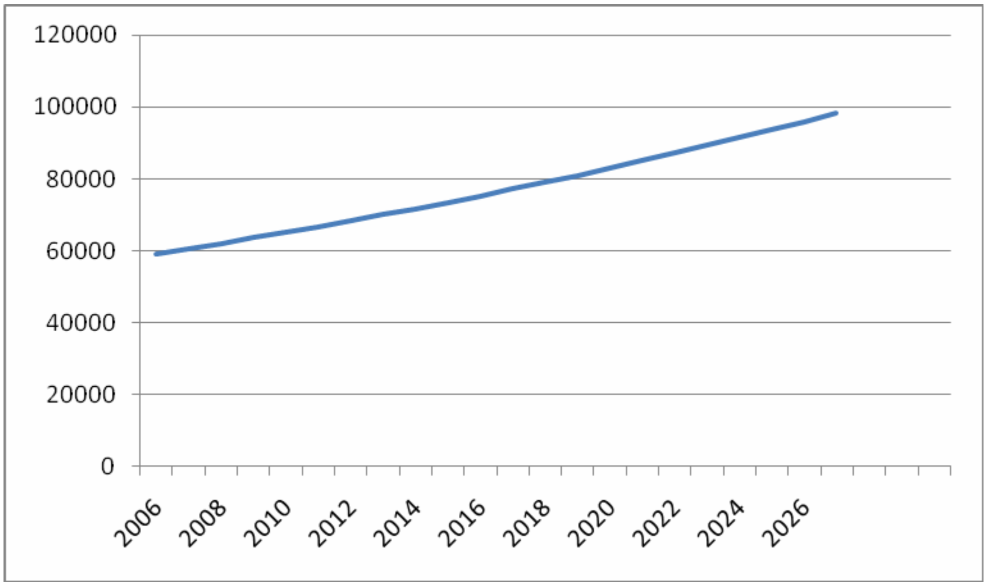
Historic analysis of residential unit and population growth in Montrose County indicates that the trends will likely continue. The County should be prepared to handle future growth and demands associated with it in order to continue to provide its residents with an acceptable level of service.

The analysis in this report assumes that the Fairgrounds is operating at a acceptable level of service to the residents of Montrose County, additionally the base year of 2006 was used to obtain current level of service. If the capital facilities utilized by the Fairgrounds does not keep pace with growth the level of service currently provided will decline. Thus Montrose County must either accept a declining service rate or find a mechanism for which to pay for the necessary increases for capital facilities.

While no concrete data was available for the number of user days that the fairgrounds generates, according to the Fairgrounds Director in 2006 the fairgrounds had close to 50,000 people attend events (gun shows, craft shows, mule days, county fair etc.) Another 9,000 citizens utilized the fairgrounds for recreations district programs that take place September through April. These attendance estimates when divided by the current housing numbers show that each household generates approximately 3.6 user days. If this conservative rate remains constant, in the year 2027 the fairgrounds should expect approximately 100,000 user days.

Important Note: Because of the lack of available data these numbers were derived from a single year of attendance estimates, not past historical data.

Figure 5. Number of User Days through 2027



Important Note: According to the Fairgrounds Director, Montrose County Fairgrounds is experiencing parking shortages, and outdated barns. While impact fees cannot pay for backlog it is possible to update an unacceptable level of service. Once the backlog problems are corrected for a new capital facilities (using a revenue source other than impact fees – e.g. grants) a new capital inventory can be used to calculate a new fee to maintain an improved LOS.

IMPACT FEE BASE INFORMATION

The proportionate share, capital inventory and LOS are essential components of impact fee calculations, establishing a base value of capital per demand unit upon which the impact fee is further developed.

PROPORTIONATE SHARE

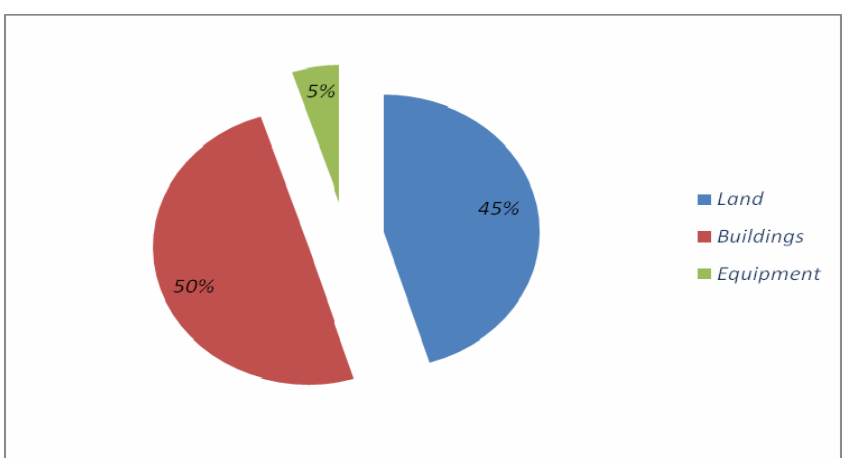
As previously stated there is no reason to attribute any demand to the non-residential sector. Given the nature and services provided by the Fairgrounds all demand originates from the residential population of Montrose County. Thus the value of the capital inventory is not divided between different demand units; the result is 100% of the value is assigned to the residential sector.

CAPITAL INVENTORY

With an active asset listing provided by the Montrose County Finance Directory and the County's CIRSA records, RPI analysts were able separate existing capital employed by the County into various departments. Using the Montrose County Assessor Database, analysts derived an average price per acre for vacant land ($31,186). This was necessary because land is considered capital and must be included in the total value of capital employed by each department. By combing the equipment and building values from the asset listing with the overall price of land a total capital amount is calculated.

The Fairgrounds capital is comprised of 35 acres of land, 13 buildings, and equipment such as vehicles and tractors. The overall value of capital is about $2.4 million, land and buildings account for the majority (95%) of the capital facility value. Land is valued at about $1.1 million, the equipment at about $120,000 and the buildings approximately $1.2 million.

Figure 6. Capital Facilities Breakdown



LEVEL OF SERVICE

The level of service provided by various government services is measured by two different variables, the employees per demand unit and the amount of department capital per demand unit. In order to prevent service levels from declining as the County grows the number of employees will need to be increased to alleviate a system that is experiencing higher demand. In order for these additional employees to work efficiently there will need to be a simultaneous increase in the capital facilities that are employed by the County's staff. It is important to understand that revenue generated from impact fees is only applicable to capital related expenditures. Impact fees cannot be used to pay for increasing operating costs such as payroll, supplies and other general overhead expenses.

Currently there are 3 fulltime and 1 part-time employees working for the Fairgrounds. This translates to an employee LOS of 0.0021, and a capital LOS of $147. In other words, for every house in Montrose Country the Fairgrounds utilizes $147 worth of capital and 0.0021 of each employee's time. Note that employee time and or space is not a component of this particular impact fee calculation the information is provided as additional data only.

Figure 7. Level of Service

Residential Units	*Total Capital*	*Capital LOS*
16345	*$ 2,411,480*	*$ 147*

FEE SCHEDULE, CREDITING, FINAL FEE AND CASH FLOW

FEE SCHEDULE

The capital LOS is the base figure in calculating a capital expansion impact fee. The logic behind using the capital LOS is that currently each housing unit necessitates a given amount of capital and if new development is going to experience the same level of service, thus maintaining it for the community as a whole, new growth should pay that share of expanding the capital.

The fee schedule for the Montrose County Fairgrounds is $147 per housing demand unit (figure 7).

CREDITS

In order to develop a fair impact fee, a system of crediting must be established to avoid overcharging developers. The Fairgrounds receive monies from The Conservation Trust Fund because this is essentially an intergovernmental transfer it is necessary to include this revenue in the calculation of the Fairgrounds impact fee.

To calculate this credit, RPI analysts average the amount of lottery source money that the Fairgrounds spent each year on capital facilities. This number was then divided by the total number of housing units in the County. To calculate how much of this revenue is applied towards capital, RPI analysts divided the three year average of capital expenditures by the three year average of creditable revenues. Approximately 55% of these revenues were spent on capital facility related projects, thus analysts multiplied the per housing unit contribution by 55% to arrive at a per household capital contribution amount. This number was then multiplied by 20 to arrive at the total credit.

Figure 8. Credits per Demand Unit

Creditable Revenue	Revenue Per Housing Unit	Amount Spent on Capital	Credit Over 20 years
$ 128,845	$ 7.84	$ 2.03	$ 41

Each housing unit receives a two dollar annual credit from the creditable revenue source resulting in an overall credit of $41, computed to a twenty year period (i.e. $2.03 x 20 = $41). This credit amount is then subtracted from the fee schedule the final impact fee is calculated.

FINAL IMPACT FEE

Impact fees typically are derived from two components, fee schedule and credits. When the revenue credit is subtracted from the capital facility LOS the resulting fee is $106.

Figure 9. Fairgrounds Capital Expansion Impact Fee

Fee Schedule	*$ 147*
Credit	*$ 41*
Impact Fee	*$ 106*

CASH FLOW

RPI analysts performed 2 differing cash flow analyses to provide a picture of what the County could realize in funds with the institution of the Fairgrounds impact fee. The first cash flow analysis is based upon the number of single family building permits issued for the years 2000-2006. Overall the County would have realized around $80,000 in revenue if the Fairgrounds fee had been in place starting in the year 2000.

Figure 10. Historical Cash Flow 2000-2006

Year	Permits	Fairgrounds Revenue
2000	102	$ 10,826
2001	90	$ 9,552
2002	95	$ 10,083
2003	87	$ 9,234
2004	122	$ 12,949
2005	127	$ 13,479
2006	134	$ 14,222
Total		**$ 80,346**

The second cash flow analysis is based upon residential projections to the year 2027. Neither of these analyses should be used for budgeting purposes, they are simply intended to provide the County with an idea of what the revenue streams from this impact fee could be. Because the fee is only applicable to development in the non-incorporated area of Montrose County un-incorporated projections were used to find the total amount of revue that could be expected by 2027. RPI emphasizes that these cash flow analyses are meant to be conservative by nature and these revenue streams are suspect to any number changes in that might occur in Montrose County.

Figure 11. Total Revenue through 2030 from Administration Impact Fee

	Revenue Totals Through 2027
Residential Revenue	*$ 178,940*

IMPLEMENTATION AND ADMINISTRATION

WHO IS SUBJECT TO THE FEE?

RPI recommends that the fee be applied to all building permits for new residential construction within County boundaries. The fee should be applied to development on existing platted vacant lots and to development that may occur in the future. The fee should not apply to residential remodels since these do not typically result in increased traffic generation. The fee should not be applied to the replacement of any existing legal residential unit.

EXEMPTION FOR AFFORDABLE HOUSING

The impact fee Statute includes specific provisions allowing (but not requiring) local governments to exempt "low or moderate income affordable employee housing" from impact fees:

> *…a local government may waive an impact fee or other similar development charge on the development of low- or moderate- income housing or affordable employee housing as defined by the local government.*[14]

If the County chooses to consider an exemption or reduction in fees for affordable housing, several issues should be explored.

1. How does the County define affordable housing? The first step would be to determine how to measure affordability. Typically, affordability is based on the earning power of local households or prospective newcomer households, but local circumstances might make additional considerations necessary (such as commuter households with higher earnings in adjacent counties).

2. After affordability is defined, the question becomes: How does this affordability, or local households' ability to pay for housing relate to the construction of *new units* of various types and sizes? In other words, how does the County go from defining affordability (usually defined in terms of an affordable price) to setting some exemption threshold? Would the exemption be based on size, unit type, location? Other issues relate to real estate market dynamics and the fact that housing that is affordable in today's market may be unaffordable in next year's market.

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14 CRS. 29-20-104.5

3. A waived fee can be a market cue, creating incentives for certain types of development and disincentives for other types. For example, the County conducts an analysis and finds that affordable housing, as defined by local earning power, includes mobile homes and apartments. If the County grants an exemption for affordable housing defined in such a way, it may create incentives for this type of development. This may be good, bad, or benign, depending on the County's ability to provide services to these denser development types without jeopardizing service levels or other community goals or values.

4. Finally, if the County waives fees for development of a certain type, or below a certain size, how does it propose to maintain service levels for County services given the waived revenue? The population occupying the affordable housing will draw upon general government facilities the same as other residents, but will not be paying the fee. Maintaining service levels may require the County to make up for the waived revenue from other funds.

In short, the County likely has full authority to create a waiver or discount for affordable housing, but implementing such waivers or discounts requires careful analysis of regional labor force dynamics, real estate markets, and may require some expenditure out of other funds to compensate for waived revenues.

EXEMPTIONS FOR CERTAIN PUBLIC FACILITIES

Montrose County may wish to waive impact fees for some public facilities (classified as government /institutional /community facilities). For example, the County might consider exempting all government and special district facilities from the impact fee. Fundamentally, services and facilities provided by governments (local, state, and federal) and special districts all serve the same end, to provide some type of service to residents, businesses, and visitors.

WHEN TO COLLECT THE FEE

Given the Impact Fee Statue language, it may be advisable for the County to collect the Fairgrounds Impact Fee prior to the issuance of a building permit, when permit fees are collected. This approach is sensible in the context of impact fees because the impacts are experienced when the development takes place. Furthermore, Developers generally prefer this method because it minimizes the amount of time they are required to carry the cost of the fee before they can pass it off to the buyer. Ultimately this decision is up to the County, as of yet the State Statues do not provide a clear cut time upon which impact fees need to be paid.

OTHER CONSIDERATIONS

- Be certain that the goal of requiring new development to pay its fair share of the costs of Fairgrounds capital related improvements is a clearly stated goal, objective, or policy in the County's Master Plan.

- Adopt the fee schedule by resolution or ordinance into the land use code.
- The fee schedule, applicability, and purpose should be located or referenced in the Zoning Development Permit section of the Code.
- The Zoning Development Permit section of the Code should be amended to require the payment of the adopted Fairgrounds impact fees prior to the issuance of a “development” permit.
- Include within the resolution or ordinance legislating code amendments a statement concerning the purpose of the fee (to require new development to pay its fair share of the costs of Fairgrounds capital expansion). Also note provisions to sequester the funds and stipulate the purposes of their expenditure.
- Adopt language into the code allowing for an administrative appeal process for the Fairgrounds impact fee. The ability to appeal should be granted to applicants for development as well as to the fee administrator. In practice, an applicant for appeal would be appealing a determination of the fee administrator. Given that the fee administrator will most likely be the County Manger or an assistant to the Manger, the appeal would best be directed towards the County Commissioners. Additionally, an appeal could be delegated to the specific department head. Generally, an appeal of a determination of an impact fee must occur within a certain window of time after the fee determination is made (15 days is typical). Statutory time limits on appeals can also limit the amount of time the County has to schedule the appeal hearing, and public notice should be provided to adjacent property owners and affected parties or more broad public notice should occur in the newspaper. [15] A fair administrative appeal process is a necessary tool for resolving conflicts and avoiding litigation.

UPDATING THE FEE

All of the revenue received from the implementation of this impact fee must be kept in a separate interest bearing account, and must be used only for projects that are related to Fairgrounds capital improvement. It is important that the monies garnered be placed in an account to accrue interest so that the fee revenues are not devalued by inflation.

Furthermore, RPI recommends that the fee undergo periodical revision and updating. The fee should be updated every few years to account for inflation in the cost of construction. McGraw Hill construction inflation index is the authority on construction inflation and conducts ongoing studies of construction costs to produce a construction inflation index. Since 1990 the construction prices have increased on average 3% due to inflation (figures 12 and 14). Figure 12 outlines fee schedule increases to the year 2027 based upon this average 3% increase. Please note that the revenue projections did not take this 3% increase into account.

15 The County will need to research the specific time limits and noticing requirements surrounding this type of appeal.

Figure 12. Inflationary Increase to the Fairgrounds Impact Fee Through 2027

2007	$ 106
2008	$ 110
2009	$ 113
2010	$ 116
2011	$ 120
2012	$ 123
2013	$ 127
2014	$ 131
2015	$ 135
2016	$ 139
2017	$ 143
2018	$ 147
2019	$ 152
2020	$ 156
2021	$ 161
2022	$ 166
2023	$ 171
2024	$ 176
2025	$ 181
2026	$ 186
2027	$ 192

Note on using 2006 dollars: All of the costs and fees are calculated in 2006 dollars throughout this support study. This is a consistent method because RPI assumes that the revenues collected will be invested to keep up with inflation while the fee amount will be adjusted every year. So long as these accounting practices are followed, this revenue system will very closely keep maintain existing service levels. For this reason, it was not necessary to calculate costs using dollar values from future or past years.

APPENDIX

Figure 13. Fairgrounds Capital Inventory

ASSET	DESCRIPTION	LAST APPRAISED VALUE
'128__	'1975 MACK WATER TRUCK__	$ 33,324.00
'16__	'1995 JOHN DEERE TRACTOR__	$ 31,405.00
'17__	'1994 943B MELROSE BOBCAT W/FORKS__	$ 22,278.00
'251__	'FRIENDSHIP HALL__	$ 501,192.00
'252__	'FAIRGROUNDS BEEF BARNS__	$ 85,205.00
'253__	'GRANDSTAND__	$ 253,352.00
'455__	'HORSE BARNS__	$ 21,171.80
'457__	'FAIRGROUNDS PAVILION - BEEF BARNS__	$ 19,294.09
'458__	'ARENA - FAIRGROUNDS__	$ 24,598.31
'459__	'40 STALL HORSE BARN__	$ 2,000.00
'461__	'SWINE BARN - FAIRGROUND__	$ 32,469.33
'462__	'SHEEP BARN - FAIRGROUND__	$ 1,000.00
'463__	'OLD SWINE BARN - FAIRGROUND__	$ 1,000.00
'464__	'GOAT BARN - FAIRGROUND__	$ 45,390.56
'466__	'GREEN BUILDING - FAIRGROUND__	$ 27,314.72
'580__	'GRANDSTAND RESTROOMS FAIRGROUNDS__	$ 185,975.47
'601__	'2000 CAT 416C BACKHOE LOADER__	$ 33,000.00
land	35 acres	$ 1,091,510
Total		$ 2,411,480.28

Figure 14. Construction Inflation

McGraw Hill Construction Inflation Index	% Inflation	
1990	4732	
1991	4835	2.2%
1992	4985	3.1%
1993	5210	4.5%
1994	5408	3.8%
1995	5471	1.2%
1996	5620	2.7%
1997	5826	3.7%
1998	5920	1.6%
1999	6059	2.3%
2000	6221	2.7%
2001	6343	2.0%
2002	6538	3.1%
2003	6694	2.4%
2004	7115	6.3%
2005	7888	3.2%
Average		3.0%

Source: McGraw Hill Construction