MONTROSE COUNTY HEALTH AND HUMAN SERVICES CAPITAL EXPANSION IMPACT FEE

PREPARED FOR: MONTROSE COUNTY

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TABLE OF CONTENTS

EXECUTIVE SUMMARY

INTRODUCTION

The purpose of this document is to establish an appropriate capital expansion impact fee for the Montrose County Health and Human Service Department.

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.

NEED

The population of Montrose County is forecast to grow at a rate of 2.33% annually. In the past 6 years almost 2,200 new housing units were built and over 1 million square feet of non-residential space was added. As a consequence of this growth, the Health and Human Service Departments have seen a dramatic workload increase.

IMPACT FEE

The final impact fee once a system of crediting has been applied is $191 per residential unit.

Figure 1. Montrose County HHSD Impact Fee

Fee Schedule	$ 201
Credit	$ 10
Health and Human Services Impact Fee	$ 191

INTRODUCTION

The purpose of this document is to establish an appropriate capital expansion impact fee for Montrose County Health and Human Services.

Capital facilities are a critical element in the maintenance of publicly provided service levels. As any town, city, or county experiences development, greater demands are placed upon infrastructure and capital resources. This additional demand for services presents governments with two options; first, to maintain current funding levels and decrease service levels, or second, to find additional methods of revenue generation in order to maintain current service levels. If decreasing service levels are not acceptable, 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.

The Health and Human Services Department (HHSD) provides numerous health and wellness oriented services to the residents of Montrose County. These services are focused on promoting wellness, and encouraging individuals to live independent lives with the intent of increasing the vitality of the community as a whole. Because a large portion of the funding for the HHSD comes from State and Federal funding which can fluctuate due to political climates and other variables, impact fees are an appropriate funding mechanism to augment revenue sources and ensure that existing service levels are maintained.

Numerous data sources and complex calculations underlie the basic logic that this report is based upon. However the foundation and concept of these fee structures is straightforward and 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 HHSD 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 HHSD facilities?
5. What is the current level of service for HHSD 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 as populations increase. The analysis in this report relies on a 20 year planning horizon, thus 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 attorneys 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 exists without regard to the impacts of new development.[4] Accordingly, the statute requires a local government, before adopting any impact fee, to:

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

(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.

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

[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.

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.

[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 definition of demand units makes these differences clear. Typically demand units are divided between the residential, non-residential sectors, and when relevant, other specific demand units (e.g. oil and gas wells).

For The Health and Human Services Department 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 Health and Human Services.

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 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 use 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 Health & Human Services the capital value LOS and employees are used. 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 health and human service 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 Health and Human Services Department for its capital facilities primarily through intergovernmental revenue transfers.

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.

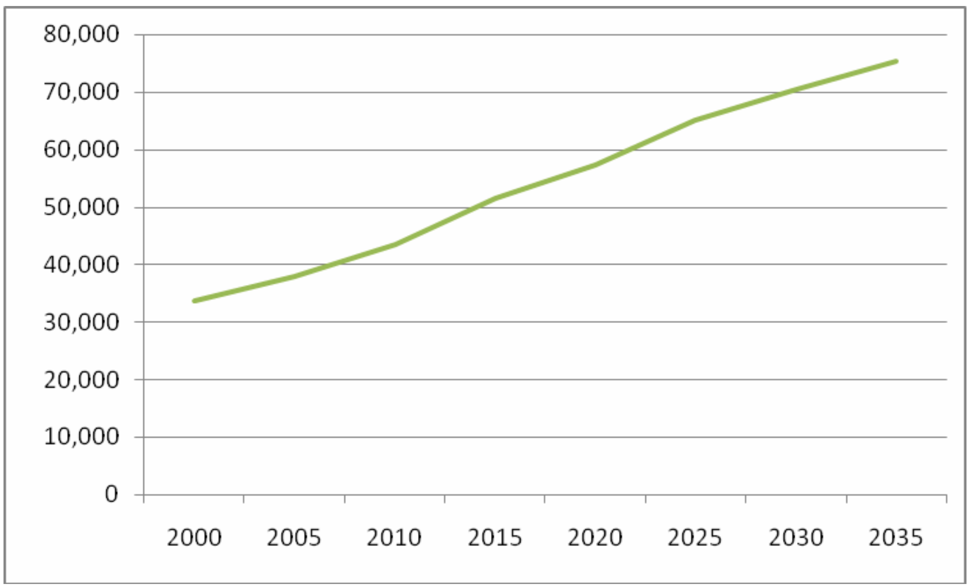
Final Fee Calculation: The final fee is calculated using the fee schedule and the crediting system. It is simply credit subtracted from the fee schedule; this results in a fee tied to a LOS but accounts for alternate capital revenue sources.

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 will grow at an average rate of 2.33% annually; at this rate Montrose County's population is expected to number over 75,000 residents by the year 2035.

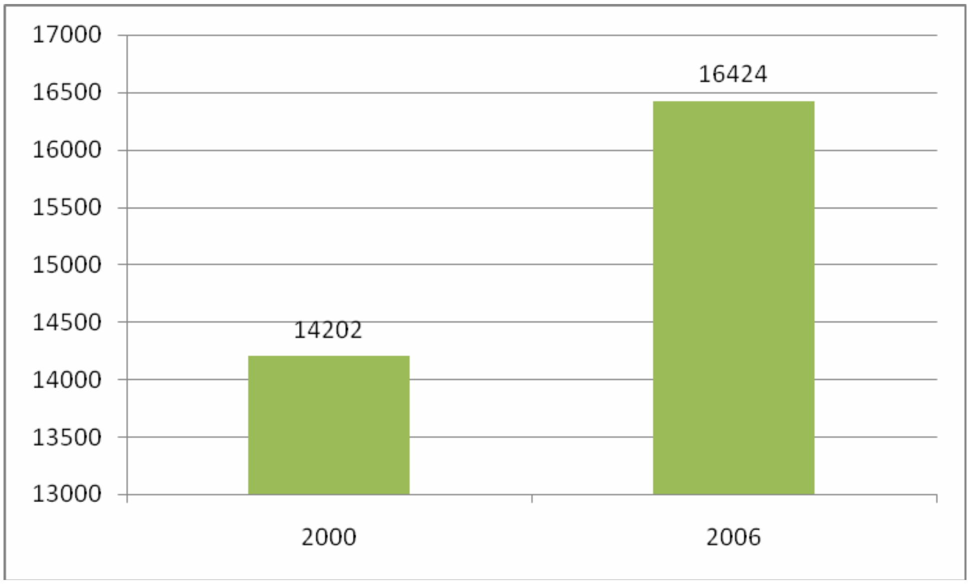
Figure 2 . DOLA Population Forecast Through 2035



CURRENT HOUSING COUNTS

In the past six years Montrose County has experienced an annual average growth rate of 2.45%% in the residential sector gaining 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 certain services. Additional demand from housing units (and their residents) contributes directly to additional work for HHSD employees

Figure 3. Number of Housing Units 2000 & 2006

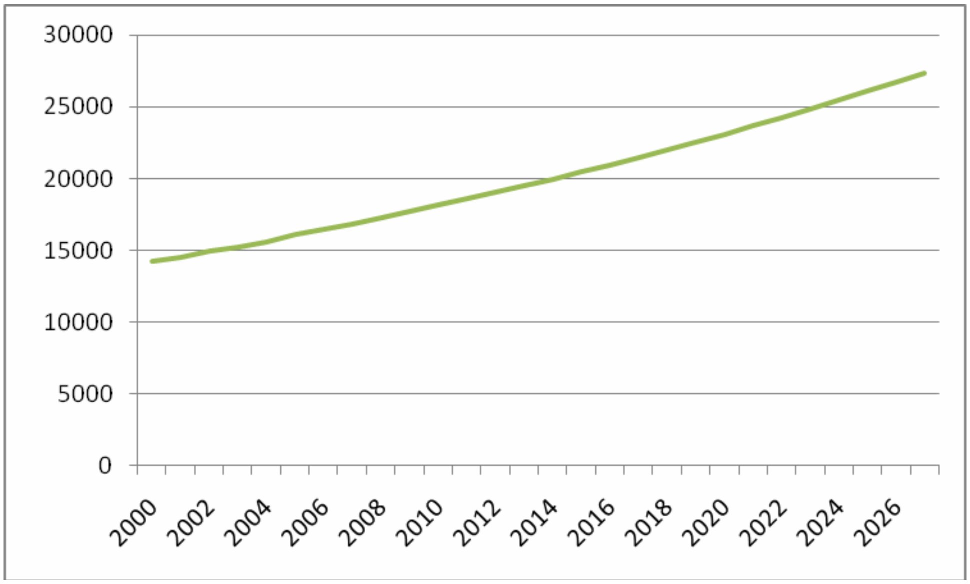


HOUSING PROJECTIONS

Impact fees are meant to provide revenue for capital expansion and maintain existing service levels in the face of future growth. Analysis in this report relies on growth projections through the year 2027. Projections, as opposed to forecasts, are base upon historical data in order to provide a best estimate of future conditions. Projections are however subject to a variety of economic, political and, environmental factors that could drastically alter the numbers.

To acquire a growth rate RPI analysts conducted a number of queries based upon building classification and year built fields with in the Montrose County Assessor Database. Projections are based upon housing counts from the years 2000-2006; this method allowed RPI analysts to generate specific demand unit by historical data. In 2027 Montrose County is expected to gain more than 11,000 additional housing units.

Figure 4. Housing Unit Projection



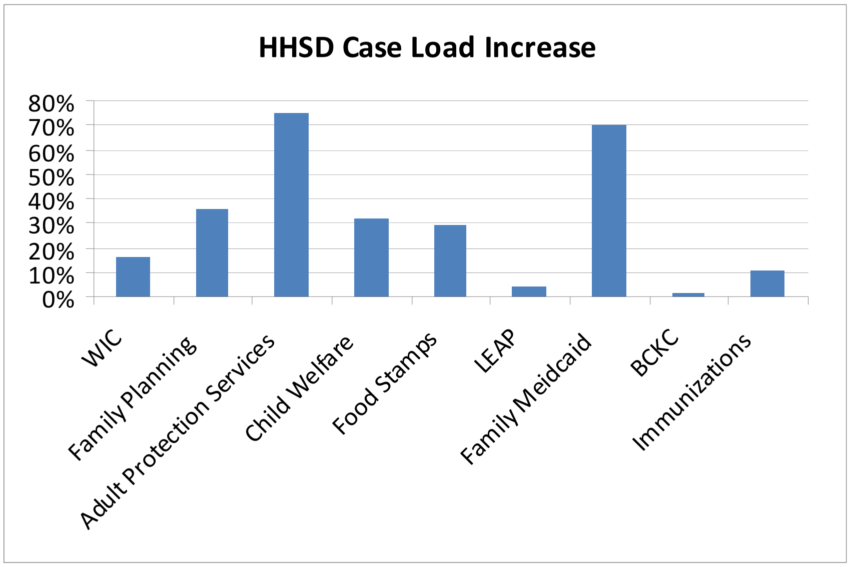
NEED

Historical data suggests that Montrose County is experiencing housing and population growth and should expect these trends to continue. The County should be prepared to handle future growth and associated demands in order to continue to provide its residents with existing service levels.

The analysis in this report defines the HHSD existing service levels. A snapshot of the base year 2006 was used to obtain current service levels. If the capital facilities utilized by the HHSD department do not keep pace with anticipated 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.

According to the Director of Health and Human Services, the HHSD is expected to work 12,361 cases in 2007. This is almost 2,000 more cases than were handled in 2005 and about 1,200 more cases than 2006. These numbers reflect the increased amount of work experienced by the HHSD as a result of an increasing population. Additionally, many of the specific programs administered by the HHSD have seen significant increases in the last 6 years (figure 5).

Figure 5. Case load increase 2000-2006



IMPACT FEE BASE INFORMATION

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

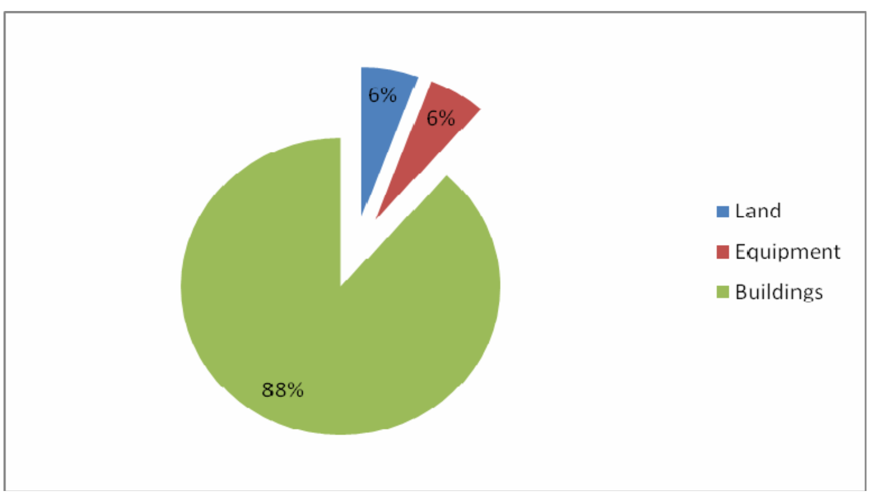
PROPORTIONATE SHARE

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

CAPITAL INVENTORY

With an active asset listing provide by the Montrose County Finance Director, and the Montrose County CIRSA, RPI analysts were able separate existing capital employed by the County into various departments. Further, RPI analysts utilized the Montrose County Assessor Database to derive an average price per acre for vacant land ($31,186). These calculations were 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.

Figure 6. HHSD Capital Facility Breakdown



LEVEL OF SERVICE

The analysis used for Montrose County HHSD relies on the employee LOS approach. This approach was used because the demand for health/wellness services is directly related to the number of employees facilitating HHSD services. Impact fees are designed to help jurisdictions combat the rising costs of capital associated with increasing demand for services. In order to maintain the same LOS as populations grow the County must hire more employees; these additional employees need office space and additional capital investments in order to properly carry out their responsibilities. By using the employee LOS RPI analysts tie the capital cost of an employee to the LOS and ultimately to demographic trends. Simply stated, new growth demands increased services; increases in services require additional employees, and additional employees necessitate additional capital.

Figure 7. HHSD LOS(2006)

	Total HHSD Employees	**LOS (per housing unit)**
Residential	86.9	.00529

FEE SCHEDULE, CREDITING, FINAL FEE AND CASH FLOW

FEE SCHEDULE

To derive an impact fee it is necessary to obtain a capital cost per employee because the fee is primarily based on an employee LOS. Once a capital per employee cost is calculated it is then possible to obtain how much of that cost is attributable to a housing unit.

Calculating the fee schedule for the HHSD first required dividing the capital facilities into the three different capital categories; land, buildings, and equipment. Each of these categories is measured by a specific variable or unit, buildings by square feet, land by acreage and equipment by a dollar value. The units were then converted into a monetary value. For building costs RPI analyst ran a building cost model obtained from the Real Estate Journal; this model is both geographically and structurally relevant. The model yielded a build cost of $ 163 dollars per square foot. Land costs were obtained from the Montrose County Assessors database, by sorting parcels of land sold within the last 5 years RPI analysts concluded an average price per acre of $31,186. Equipment is already expressed in dollar terms and no conversion is necessary. Each employee (current service level) requires 194 square feet, this includes: conference rooms, break rooms, bathrooms and hallways. From the costs per unit and the units per employee it is possible to calculate the capital cost per employee. The total capital cost per employee is almost $140,000. These costs were then multiplied by the residential LOS to derive a per unit cost (figure 8).

Figure 8. HHSD Impact Fee Calculation

	Unit	Cost/ Unit	Unit/Employee	Cost/Employee	Res LOS
Building	Square Feet	$ 163	194	$ 31,587	$ 167
Land	Acreage	$ 31,186	0.158941	$ 4,957	$ 26
Equipment		-	$ 1,454	$ 1,454	$ 8
TOTAL				$ 37,998	$ 201

CREDITS

To ensure that an equitable fee is calculated, a system of crediting was developed to avoid overcharging new developments its fair share of increased capital costs. Although Montrose County does not specifically earmark any revenue for capital facility expenditures, RPI analysts included a crediting section in order to calculate the most accurate fee possible and capture revenue already spent on capital facilities. Because the HHSD receives general fund money through the Health Department and is also funded through the Social Services Fund an HHSD credit required a two tiered approach. The following methodology was used for both the General Fund credit and the Social Services credit.

The first step in creating the HHSD credit was to analyze historical general fund budgeting trends for the General and Social Services Funds. RPI analysts obtained the 2004-2006 budgets and created a general fund crediting mechanism that included revenues from: non-departmental sources, administrative departments, law enforcement, and the health department. This process was also applied to the Social Services fund. In addition to revenues, expenditures on capital were averaged over three years. Revenue averages were then multiplied by the appropriate proportionate share. For example, use taxes are all attributable to the residential sector while law enforcement revenue is attributable to both sectors. These calculations resulted in a sector specific revenue contribution. The sector contribution was then divided by the department specific demand units to arrive at a per household contribution. Final calculations involved computing the percentage of revenue spent of capital - this was simply expenditures on capital divided by the sum of the above revenues. On average 1.24% of these revenues is spent on expanding capital. The following equations sum up the general fund credit mechanism:

Capital Expenditures/ Revenues= % to Capital

(((Revenues*Proportional Share)/Demand Units)*% to Capital)*Dept. % of Capital Expenditures= Non-Departmental Revenue Credit

(((Revenues*Proportional Share)/Demand Units)*% to Capital)= HHSD General Fund Credit

The HHSD credit is summed in figure 9.

Figure 9. HHSD Credits

	Non-Departmental Credit	Department Specific Credit	Total Credit	20 Year Contribution
Residential	$ .24	$ .24	$ .48	$ 10

FINAL IMPACT FEE

The final impact fee is simply the fee schedule minus the 20 year creditable contribution. The final fee for HHSD is $191.

Figure 10. HHSD Capital Improvement Impact Fee

	Residential
Fee Schedule	$ 201
Credit	$ 10
Total	$ 191

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 an HHSD impact fee. The first cash flow analysis is based upon the number of single family building permits issued for the years 2000-2006. Had the HHSD fee be in place beginning in the year 2000 the County would have realized $144,000. On average the County would have had almost an additional $20,000 per year to spend on HHSD related capital improvements.

Figure 11. Historical Cash Flow 2000-2006

Year	Permits	HHSD Rev
2000	*102*	*$ 19,522*
2001	*90*	*$ 17,225*
2002	*95*	*$ 18,182*
2003	*87*	*$ 16,651*
2004	*122*	*$ 23,350*
2005	*127*	*$ 24,307*
2006	*134*	*$ 25,647*
Total		***$ 144,885***

The second cash flow analysis is based upon average annual building permits projected into the future. Because the fee is only applicable to development in the un-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 subject to any number changes that might occur in Montrose County.

Figure 12. Total Revenue through 2027 from Administration Impact Fee

	HHSD Impact Fee Projected Revenue Totals Through 2027
Residential Revenue	*$ 531,119*

IMPLEMENTATION AND ADMINISTRATION

WHO IS SUBJECT TO THE FEE?

RPI recommends that the fee should be applied to all building permits for new residential construction in the 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 demand for services. 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.

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 HHSD 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 HHSD 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 HHSD impact fees prior to the issuance of a building 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 HHSD related improvements). 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 HHSD 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 Manager , 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 Town 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 HHSD 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 periodic revision and updating. The fee should be updated every year to account for inflation in the cost of construction. McGraw Hill construction 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 (figure 13 and 15).

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

Figure 13. Inflationary Increase to the HHSD Impact Fee

Year	Fee
2007	$ 191
2008	$ 197
2009	$ 203
2010	$ 209
2011	$ 215
2012	$ 222
2013	$ 229
2014	$ 235
2015	$ 242
2016	$ 250
2017	$ 257
2018	$ 265
2019	$ 273
2020	$ 281
2021	$ 290
2022	$ 298
2023	$ 307
2024	$ 316
2025	$ 326
2026	$ 336
2027	$ 346

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 at least every two years to keep up with inflation. So long as these accounting practices are followed, this revenue system will very closely keep up with inflation. For this reason, it was not necessary to calculate costs using dollar values from future or past years.

APPENDIX

Figure 14. HHSD Capital Inventory

ASSET	DESCRIPTION	LAST APPR VAL
'231__	'1999 JEEP CHEROKEE__	$ 22,183
'27__	'1999 CHEVY BLAZER__	$ 25,985
'516__	'POLYCOM VSX7000 VIDEO CONFERENCE EQUIP__	$ 6,911
'652__	'1995 CHEVROLET SUBURBAN__	$ 8,302
'691__	'PE2850 3.0GHZ 2MB SERVER__	$ 5,358
'719__	'TELEPHONE SYSTEM EXPANSION__	$ 10,065
'772__	'2007 FORD FOCUS__	$ 12,018
'775__	'2007 FORD FOCUS__	$ 12,018
'9__	'2002 CHEVROLET TRAILBLAZER__	$ 23,537
'475__	'WEST END CLINIC__	$ 30,200
'260__	'MONTROSE WEST HEALTH__	$ 84,901
	Tri-State H&H share	$ 1,809,900
	'4 ACRES - WEST END MEDICAL CLINIC__	$ 124,744

Figure 15. 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		