
School Land Dedication / Fees in Lieu

Final Report

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Chaffee County School Districts

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Executive Summary

Introduction

Local Governments are statutorily enabled to require land dedications or fee's in lieu for the provision of school lands when new development occurs. This report represents a calculation of a fair and equitable fee structure for assessing new residential development a share of its impacts to the school district's capital facility needs. The intent of this document is to provide in one place, nearly all of the information needed to adopt a new schedule of land dedication / fee's in lieu for the Chaffee County School Districts.

Methodology

The methodology for determining land dedications or fees in lieu resides in: 1) determining the students generated by housing type (e.g. single family homes, multi-family, & mobile homes) and by grade level (i.e. elementary, middle, high), 2) calculating the acreages utilized per student, per grade level, and 3) assessing current real estate prices on a per acre basis for potential school sites. The methodology used in this report is similar or identical to those used in many other school districts throughout Colorado and the Nation.¹

Existing Fees

Neither of Chaffee Counties School Districts nor any of Chaffee County's Municipalities currently possess a fee structure for school lands.

New Fees

A new fee structure uniformly adopted by Chaffee County and the Cities of Buena Vista, Poncha Springs, and Salida, based on current capital facilities needs of the Chaffee County School Districts, current real estate prices, and current student generation rates, will yield equitable and adequate land dedication/fee based on housing type. Two proposed fee structures follow:

Single Family Homes (detached housing units)	\$ 230
Multi-Family Homes (any attached units)	\$ 383
Mobile Homes	\$ 341

Or

Gross (all unit types)	\$ 253
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¹ A partial list of school districts using similar or identical methodologies include: Montrose, Ridgway, Thompson, Weld, Brighton, Aspen, Ouray, , Douglas, and Elizabeth.

Report

Introduction & Background

The purpose of School Land Dedication / Fees in Lieu is to ensure the availability of school sites and land areas for school facilities necessary to serve future residents.

Definitions

The analysis within this report uses US Census Bureau data terminology. The following definitions represent unit type definitions as they are presented in the *Census 2000 Summary File 3 Technical Documentation*². Although the fee structure has been collapsed into three divisions (single family, multi-family attached, and mobile homes) to be streamlined and more easily administered, all of the definitions are given independently and the collapsed (i.e. multi-family) category is defined in the summary at the end of this section.

Units in Structure

The data on units in structure (also referred to as “type of structure”) were obtained from answers to Census Bureau long-form questionnaire Item 34, which was asked on a sample basis at both occupied and vacant housing units. A structure is a separate building that either has open spaces on all sides or is separated from other structures by dividing walls that extend from ground to roof. In determining the number of units in a structure, all housing units, both occupied and vacant, are counted. Stores and office space are excluded.

1-unit, detached. This is a 1-unit structure detached from any other house; that is, with open space on all four sides. Such structures are considered detached even if they have an adjoining shed or garage. A 1-family house that contains a business is considered detached as long as the building has open space on all four sides. Mobile homes to which one or more permanent rooms have been added or built also are included.

1-unit, attached. This is a 1-unit structure that has one or more walls extending from ground to roof separating it from adjoining structures. In row houses (sometimes called townhouses), double houses, or houses attached to nonresidential structures, each house is a separate, attached structure if the dividing or common wall goes from ground to roof.

² 2003 – TECHNICAL DOCUMENTATION: Census 2000 Summary File 3 Technical Documentation/prepared by the U.S. Census Bureau, 2002

2 or more units. These are units in structures containing 2 or more housing units, further categorized as units in structures with 2, 3 or 4, 5 to 9, 10 to 19, 20 to 49, and 50 or more units.

Mobile home. Both occupied and vacant mobile homes to which no permanent rooms have been added are counted in this category. Mobile homes used only for business purposes or for extra sleeping space and mobile homes for sale on a dealer's lot, at the factory, or in storage are not counted in the housing inventory. In 1990, the category was "mobile home or trailer."

Boat, RV, van, etc. This category is for any living quarters occupied as a housing unit that does not fit in the previous categories. Examples that fit in this category are houseboats, railroad cars, campers, and vans.

Note on Comparability: Data on units in structure have been collected since 1940 and on mobile homes and trailers since 1950. In 1970 and 1980, these data were shown only for year-round housing units. A category of "other" was used in 1990, but this category was greatly overstated. It was replaced by "Boat, RV, van, etc." in Census 2000. A similar category, "Boat, tent, van, etc." was used in 1980. In Census 2000, this question was asked on a sample basis. In 1990 and prior to 1980, the unit in structure question was asked on a 100-percent basis. In 1980, data on units at address were collected on a 100-percent basis and data on units in structure were collected on a sample basis. The 1980 data on "units at address" should not be used a proxy for "units in structure" because some multiunit buildings had more than one street address.

Summary of Definitions

For the purposes of the application of fees single family residences include only detached units as per the definition above. Multi-family units include all developments with one or more attached units. Mobile homes are as per the definition above. **Figure A** demonstrates the classifications.

Figure A.

Single Family	Detached single family residences with open air on all four sides
Multi-Family	Any attached units (e.g. condominiums, townhouses, apartments, row houses, etc.)
Mobile Homes	Mobile homes

Rationale

New residential subdivisions produce both new students and, often overlooked, the potential for new students. New residential units (i.e. houses, apartments, mobile homes, condos, etc.) are known to generate school aged children and it is a simple matter to examine existing census data to determine at what average rates school-aged children are being generated.

While it is sometimes argued that certain development types (e.g. luxury or resort area development) are currently generating students at lower rates than typical residential

developments,³ it is important to understand that once undeveloped land is converted to a residential structure (e.g. a single family home) that unit possesses the potential to harbor student generating families in the future, even if it does not currently. Consequently all units are assessed based on the conversion of use and not on present uses. This bears repeating - all units are assessed on their potential to domicile students not their current uses. However, the fee structure is built on existing, actual student generation rates by domicile type in the county as calculated by a survey in 2003.

School land dedications and fees in lieu have been an element of Colorado State Statutes since 1972. A number of districts employ these dedications and a partial list of municipalities and existing fees is listed in **figure B** for comparison.

Figure B.⁴

Aurora	\$ 4000
Avon	\$ 1450
Glenwood Springs	\$ 2202
Montrose	\$ 488
Commerce City	\$ 619

42 of 207 municipalities exact some sort of dedication or fee in lieu for school lands. The fees-in-lieu range in price from a low of \$ 150 to \$4000 per housing unit.

Legislative Authority

Colorado State Statute 30-28-133 mandated that all Colorado counties must create a county planning commission that would further “develop, propose, and recommend subdivision regulations” and that the board of county commissioners “...shall adopt and enforce...” subdivision regulations. The authority for Colorado counties to assess dedications for schools either in the form of land or cash is clear.

The pertinent section of the state statute follows:

(4) Subdivision regulations adopted by the board of county commissioners pursuant to this section shall also include, as a minimum, provisions governing the following matters:

(a) Sites and land areas for schools and parks when such are reasonably necessary to serve the proposed subdivision and the future residents thereof. Such provisions may include:

(i) Reservation of such sites and land areas, for acquisition by the county;

³ This may sometimes be true in the present due to the demographic characteristics of resort or luxury homeowners (i.e. older and perhaps retired)

⁴ Fees in lieu as of October 2000 as reported by the Colorado Municipal League in *Paying for Growth, Impact Fees Under Senate Bill 15* 2002 Colorado Municipal League.

- (II) Dedication of the sites and land areas to the county, to a school district, or to the public or, in lieu thereof, payment of a sum of money not exceeding the fair market value of the sites and land areas or a combination of such dedication and such payment; except that the value of the combination shall not exceed the fair market value of the sites and land areas. Any sums, when required, or moneys to be paid to the board of county commissioners pursuant to this paragraph (a) may, if approved by the board of county commissioners, be paid directly to a school district. If the sites and land areas are dedicated to the county, to a school district, or the public, the board of county commissioners may, at the request of the affected entity, sell the land. The subdivider shall have a right of first refusal to purchase all or a portion of any land dedicated by the subdivider to a county, school district, or other public entity pursuant to this subparagraph (II) before the land is sold, transferred, or conveyed to any party other than a school district. Prior to selling or otherwise transferring ownership of the land, the county, school district, or other public entity selling the land shall provide written notice to the subdivider of its intention to sell or transfer ownership of all or any portion of the land. The subdivider shall then have sixty days to provide written notice to the county, school district, or other public entity of the subdivider's interest in purchasing all or a portion of the land to be sold. The purchase of the land by the subdivider shall be upon such terms and conditions and for such consideration as the parties may mutually agree; however, in no event shall the purchase price exceed the fair market value of the land at the time the subdivider dedicated the land to the county, school district, or other public entity. Any right of first refusal created pursuant to this subparagraph (II) shall expire twenty years from the date the land was dedicated by the subdivider to a county, school district, or other public entity. Except as provided in subsection (4.3) of this section, any such sums, when required, or moneys paid to the board of county commissioners from the sale of the dedicated sites and land areas shall be held by the board of county commissioners:
 - (A) For the acquisition of reasonably necessary sites and land areas or for other capital outlay purposes for schools or parks;
 - (B) For the development of the sites and land areas for park purposes; or
 - (C) For growth-related planning functions by school districts for educational purposes;

- (III) Dedication of such sites and land areas for the use and benefit of the owners and future owners in the proposed subdivision;
 - (a) Standards and technical procedures applicable to storm drainage plans and related designs, in order to ensure proper drainage ways, which may require, in the opinion of the board of county commissioners, detention facilities which may be dedicated to the county or the public, as are deemed necessary to control, as nearly as possible, storm waters generated exclusively within a subdivision from a one hundred year storm which are in excess of the historic runoff volume of storm water from the same land area in its undeveloped and unimproved condition;

- (b) Standards and technical procedures applicable to sanitary sewer plans and designs, including soil percolation testing and required percolation rates and site design standards for on-lot sewage disposal systems when applicable;
 - (c) Standards and technical procedures applicable to water systems.
- (4.3) After final approval of a subdivision plan or plat and receipt of dedications of sites and land areas or payments in lieu thereof required pursuant to subparagraph (II) of paragraph (a) of subsection (4) of this section, the board of county commissioners shall give written notification to the appropriate school districts and local government entities. Following such notice, a school district or local government entity may request periodic transfer on no longer than an annual basis of such land or moneys to the district or entity. When a board of county commissioners determines that the school district or local government entity has demonstrated a need for the land or moneys based on a long-range capital plan or evidence of the impact of the subdivision on the district or entity, or both, it shall periodically transfer on no longer than an annual basis the land or moneys to the appropriate school district or local government entity. The district or entity shall use the transferred land or moneys only for a purpose authorized by sub-subparagraphs (A) to (C) of subparagraph (II) of paragraph (a) of subsection (4) of this section. Any moneys received by the board of county commissioners that are transferred pursuant to this subsection (4.3) are not county revenues for purposes of paragraph (d) of subsection (7) of section 20 of article X of the state constitution.

Basic authority for land dedications at the municipal level may be construed from State Statutes 29-20, 24-67, and 31-23, as a home-rule city additional authority may be found in the municipal code and charter.

Methodology Section

Generating defensible school land dedication fees is simple in the grand sense but complicated when examined stepwise. This section outlines the general steps utilized to develop the fee structure as well as detail the methodology on a step-by-step basis.

Detailed Methodological Disclosure⁵

Data Collection/Survey

The purpose of the survey was to gather information from residents to develop student generation rates for households in Chaffee County. In order to determine student generation rates within the general population as accurately as possible, a random digit dialing technique was used to contact residents throughout the County. Upon contact, respondents were informed that we were calling on behalf of the Salida and

⁵ Note that the Survey research and materials contained in the Methodology section were prepared by RRC & Associates. The report in its entirety is appended to this document as Attachment V.

Buena Vista school districts and that we were conducting a random survey of residents concerning future school facility needs in the County.

The only screen for respondents to the survey was for residents to be 18 years of age or older. The survey was also stratified so that approximately 8 to 9% of respondents were of Hispanic or Latino ethnicity, based upon the 2000 U.S. Census data. Respondents were also given the opportunity to respond to the survey in Spanish if a language barrier was present. Overall results from the 400 interviews completed have an overall margin of error of approximately +/- 4.9 percentage points calculated for questions at 50% response⁶. The survey was conducted between January 9 and January 14, 2003. The narrative of this report is followed by a copy of the survey form used in the survey.

Summary of Findings

Respondent Profile: Along with ethnic background, results from the survey were compared against other key data from the U.S. Census as a check for representativeness of respondents to the survey. Based on the survey data, approximately 27% of households surveyed had children ages 18 and under living in the household—the same figure indicated from the 2000 U.S. Census. Age of children among survey respondents was also checked against the census data, which also revealed very similar results as compared to the 2000 U.S. Census.

The mix of single family detached homes (81%) vs. multi-family residences (9%) vs. mobile homes (9%) in the sample was skewed slightly towards single family residences (81% vs. 71% in the U.S. Census) and away from mobile homes (9% vs. 18% in the U.S. Census). The percentage of multi-family residences in the sample was nearly the same as the census (9% vs. 11%). The higher percentage of single family detached residences and lower percentage of mobile homes (as compared to the 2000 U.S. Census) can be explained by two primary factors: 1) some mobile home residences considered themselves to be single family residences, and 2) there are a number of mobile homes in the County that are likely used as seasonal second homes (likely summer second homes by older empty nesters), and as such, many were likely unoccupied during the time of the survey.

Another check of the data involved the mix of male vs. female respondents to the survey. To most accurately reflect the mix of males vs. females in the general population of the County, the survey data were weighted to reflect a distribution of approximately 53% male and 47% female, based upon the 2000 U.S. Census.⁷

⁶ For a sample size of 400 surveys, margin of error is +/- 4.9 percent calculated for questions at 50% response (if the response for a particular question is "50%"—the standard way to generalize margin of error is to state the larger margin, which occurs for responses at 50%). Note that the margin of error is different for every single question response on the survey depending on the resultant sample sizes, proportion of responses, and number of answer categories for each question. Comparison of differences in the data between various segments, therefore, should take into consideration these factors (as a general comment, it is sometimes more appropriate to focus attention on the general trends and patterns in the data rather than on the individual percentages).

Overall Student Generation Rate: Based on the analysis of number of school aged children per household in Chaffee County, the overall student generation rate per household was calculated to be approximately 0.3626. This figure is inline with and consistent with an anticipated student generation rate of approximately 0.31 based upon a calculation of number of students and households reported in the 2000 U.S. Census.

Student Generation Rate by School Grade Level: The overall 0.3626 student generation rate consists of a student generation rate of 0.1870 for elementary grade level children, plus 0.0588 for middle school level children, plus 0.1169 for high school level children.

Student Generation Rate by Type of Housing: Based on the survey data, the student generation rate for single family detached homes was 0.3343, with multi-family residences generating 0.5364 students per household and mobile homes generating 0.4981 students per household. As discussed earlier, due to the time of year the survey was conducted, the student generation rate for mobile homes may be slightly higher than expected due to a number of mobile homes that are used as second homes (many likely by older empty nesters with children grown not living in the household). Multi-family residences had the highest student generation rates for both elementary and middle school grade level children, while mobile homes had the highest rate for high school level children.

Student Generation Rate by Location of Residence: The communities within Chaffee County tend to behave very similarly with respect to student generation, with rates similar comparing Buena Vista (0.3903) and Salida (0.3524), and slightly lower in Poncha Springs (0.3035) and Nathrop (.3028).

Student Generation Rate by Ethnic Background: Student generation rates were also very similar comparing respondents with white/Caucasian ethnic backgrounds (0.3618) with Hispanic or Latino respondents (0.3395).

Facility Requirements

After assessing student generation rates RPI utilized facility requirements provided by the school district to determine the quantity of land needed per student for new school facilities. **Figure C** demonstrates these assumptions for Buena Vista & Salida School Districts.

Figure C.

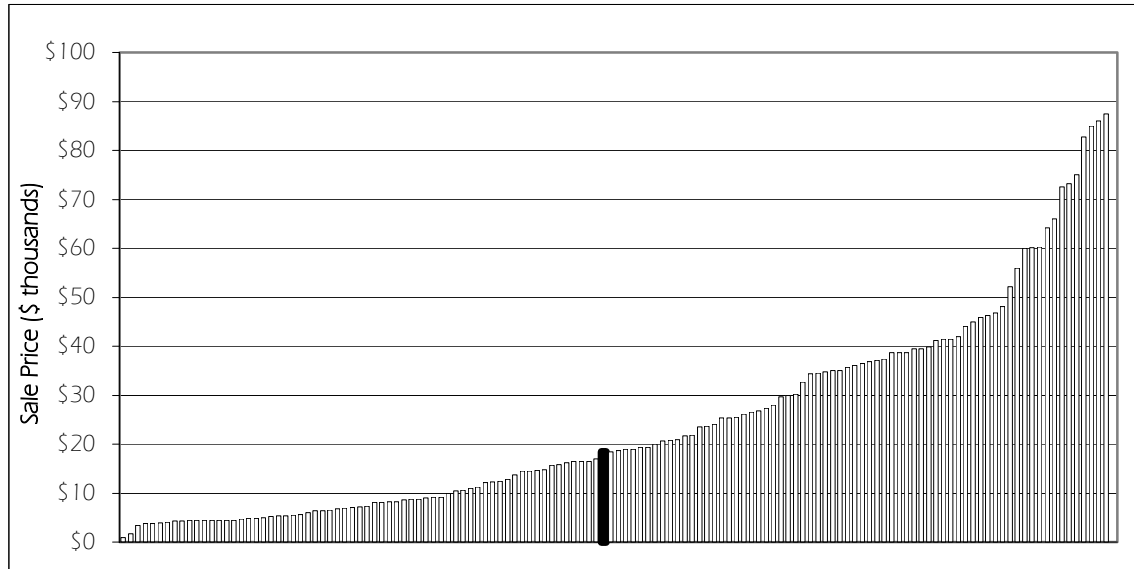
School Type	Total Acreage Required for Facility	Student Capacity	Acres Needed per Student
Elementary	15	350	0.04
Middle	30	650	0.05
High	45	1800	0.03

Real Estate Analysis

Determining the price per acre for land is a critical component for establishing a price for a fee-in-lieu payment for the dedication schedule. Rather than adjust each fee on a case by case basis, it is typical for governments to simply adopt a flat rate, justified with recent sales of property and update the land cost every two years.

RPI analyzed all current real estate sales within the Chaffee County School Districts. Multiple Listing Service (MLS) sales data of vacant land were collected from January 2002 to December 2002 in parcels from 1 - 45 acres. One hundred thirty-five (135) total sales were evaluated from the MLS data base. From this analysis, a final, flat, per acre price was derived. Because the distribution of sales was positively skewed⁸, RPI utilized the median rather than the mean per acre sale price in the interest of generating a more conservative and accurate per acre cost. The thick black bar in figure D represents the median price per acre in Chaffee County.

Figure D.



Calculations

The final calculation is based on the following formula:

$$\begin{aligned}
 &\text{Grade Elementary} \quad [G_1 * FA = AR_2] \quad (AR_2 * LC_3 = \text{Fee}) \\
 &+ \\
 &\text{Grade Middle School} \quad [G_1 * FA = AR_2] \quad (AR_2 * LC_3 = \text{Fee}) \\
 &+ \\
 &\text{Grade High School} \quad [G_1 * FA = AR_2] \quad (AR_2 * LC_3 = \text{Fee})
 \end{aligned}$$

G_1 = Generation Rate AR_2 = Per Student Acreage Requirement LC_3 = Land Cost per Acre $AR_2 = (G_1 * FA)$ FA = Total Facility Acreage Requirements

⁸ I.e. the mean is a higher value than the median.

=

TOTAL FEE for UNIT TYPE

Fee Schedule

Using the methodology outlined above, the following fee schedule is recommended. Fees should be applied to housing unit types as defined in the *Definitions* section of this report.

Figure E.

	Generation Rate (G ₁)	Total Facility Acreage Requirements (FA) ⁹	Acreage Requirement (AR ₂) ¹⁰	Land Cost per Acre (LC ₃)	FEE
Single Family					
Elementary	0.1767	0.0429	0.0076	\$ 18,371	139
Middle	0.0482	0.0462	0.0022	\$ 18,371	41
High	0.1093	0.0250	0.0027	\$ 18,371	50
TOTAL SINGLE FAMILY					\$ 230
Multi-Family (any attached)					
Elementary	0.2713	0.0429	0.0116	\$ 18,371	214
Middle	0.1215	0.0462	0.0056	\$ 18,371	103
High	0.1437	0.0250	0.0036	\$ 18,371	66
TOTAL MULTI-FAMILY					\$ 383
Mobile Home					
Elementary	0.2229	0.0429	0.0096	\$ 18,371	175
Middle	0.1008	0.0462	0.0047	\$ 18,371	80
High	0.1744	0.0250	0.0044	\$ 18,371	85
TOTAL MOBILE HOME					\$ 341

Or

Gross Fee (All Unit Types)	.3626	.0380	.0138	\$ 18,371	\$ 253
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The gross fee simplifies administration by applying a single, per unit fee, to all types of housing. It has the disadvantage of not applying complete accuracy to the actual variances of student generation found in differing unit types. Either fee structure is accurate and defensible.

Existing Fee Structures

The absence of existing fee structures is costing the school district potential revenues. For example, if a 150 unit subdivision were proposed generating approximately 54 students (i.e. .36 students per unit * 150) the absence of existing fees would garner no revenue; although the 54 new students would require more than 2 additional acres of

⁹ Per student

¹⁰ Per student, per unit

land to house the buildings to school them. This is true even if current facilities are not at capacity because, as mentioned previously in the “Rationale” section of this report the existing housing stock has the potential to domicile students even though current occupancy of housing units may not reflect total potential populations.

Administration

Administration of school land dedication or fee’s in lieu is contingent on a number of issues including on timing and fee structure (or land dedication) chosen.

Timing

Fees can be collected prior to final subdivision plat approval or prior to building permit issuance. RPI advises that the school district collect the fees or land dedication at prior to plat approval rather than building permit.. In either case, it is advisable that jurisdictions alert developers to the fees from the subdivision process outset. Municipalities should address the land dedication issue at annexation.

Payment

Ideally land dedications or payments of cash in lieu should be paid directly to the school district (pending approval of the Board of County Commissioners CRS 30-28-133 (4) (a) (II) rather than through the local government entity. This greatly simplifies the accounting process and ensures that the School District is receiving the dedication or fees.

Criteria

RPI recommends that the school district maintain control over the decision to accept land dedications or demand cash in lieu. Some districts establish criteria to make this determination, although this is not necessary – the district may desire to maintain authority to make decisions on a case-by-case basis. It should be noted that CRS 30-28-133 (4) (a) (II) stipulates that the sub-divider has the right of first refusal to purchase the land for a period of twenty years after the land has been acquired by the School District. The sub-divider is allowed under this statute to purchase the land for no more than the fair market value of the parcel at the time the land was subdivided.

Exemptions

Exempting properties from the fee structure (except in obvious cases such as nursing homes) is not recommended. If projects are to be exempted, RPI recommends that provisions be made to cover the land dedication /fee in lieu charges through other means when appropriate.¹¹ Failing to do so may create equity questions and promote a challenge of the fee structure. Exempted developments might include affordable

¹¹ Meaning that the waived fees should be paid by the government entity granting the exemption.

housing, indigent accommodations, nursing homes, college dormitories, or others as explicitly defined by the County or Municipality.

Updating

Regularly updating a land dedication /fee in lieu schedule is a critical component of maintaining an effective fee structure. One component of the fee should be regularly updated: 1) the real estate (i.e. cost per acre) should be updated approximately every two years and this may most conveniently coincide with assessor appraisals.

Other components for the fee structure that should be updated include: student generation rates, facility needs, total students, and total unit types.

Student generation rates should be updated when there is reason to believe that radical demographic shifts have taken place in the district. These shifts may be the result of natural migration patterns, significant new development projects, or changes in the districts borders. For example, a single, very large subdivision that provides relatively low cost housing that is marketed toward young first time homeowners may dramatically increase the overall student generation of single family homes – the fee schedule should then reflect this new reality.

Facility needs may change over time as the result of evolving school facility standards. Or, more simply, there may be a shift from the current general planning standard either up or down regarding the acreages required for certain school types.

Total student numbers will naturally be updated when student generation rates are revised. However, there may be reason to increase this number independent of a full revision of the generation rates. This revision may be logical if student numbers are increasing at a higher rate than actual units (i.e. residential structures). This situation might arise if there were a transition out of the district boundary of retirement aged people who's dwellings are then occupied by families with school aged children. This occurrence is easily checked by examining a relative spike in student populations and comparing them with existing/historical building permits.

Finally, the mix of unit types may need to be revised along with the other numbers if a trend is discovered making the current allocation of unit types (i.e. single family, multifamily, etc...) obsolete. This may occur for example – if it is discovered that few if any multifamily units are being built in district boundaries, or alternately, that multifamily units are dominating the new construction market. Changing the unit mix is really a component of an entire fee revision rather than an independent variable in the equations. (see **Attachment III** for a recommended update schedule)

Alternatives

Although the Colorado State legislature codified the prohibition of school impact fees in 1996, a handful of local governments have adopted a creative mechanism whereby local governments, the development community, and the school district collaborate to create a voluntary system to ensure the adequate provision of capital

facilities revenue for school districts in the face of new development. The details of this arrangement are discussed briefly below. If this system were to be negotiated in the Chaffee County School Districts, much of the analysis utilized in this report might be used to construct an equitable schedule of fees. The only significant difference being that future capital facilities needs required by the district would be used rather than formulas regarding acreages and real estate analysis.

Capital Investment Fee Mechanism

Although school impact fees have been specifically prohibited by Colorado State Statute 22-54-102, a voluntary system has been established in Colorado (e.g. Brighton School District) that is currently functioning albeit contingent on the voluntary cooperation of several parties.

This mechanism, which may be plausible in the Chaffee County School Districts, is guided by the following logic.

A 501(c)(3) foundation is established with a board of directors containing representatives from the County Commission, City Councils, the development community, and the School Boards. The District then outlines its capital facilities planning needs and associated costs. Student generation rates and per unit contributions are calculated (similar to the costs outlined in this document) and voluntary contributions are established on a per unit basis. Essentially, these "contributions" represent impact fees that are voluntarily given to the school district and held in trust by the non-profit corporation to be expended as needed.

This approach rests on two principles. First that the school district can show that new developments will require the need for additional facilities and that the local governments will deny subdivision requests if that subdivision decreases the schools existing service level (i.e. inadequate facilities to serve new students). Second, that there is enough consensus among the development community to willingly assent to voluntary contributions to the school district based on the calculation methodology adopted by the district.

While the advantages to generating a system such as this may be great, the logistics of organizing such a system can be significant. Moreover, the system might be easily upset by a single developer who was not party to the original agreement or who has decided that the fees are too high etc; likewise elected government officials may cycle into office that will not refuse subdivision requests based on the facility standards set by the school district.

Attachment – I. Draft IGA

The following IGA may serve as general template between the School Districts, Chaffee County, and Chaffee County Municipalities.

Please note that this is presented as a general template only and that modifications will be necessary to meet local conditions and preferences.

INTERGOVERNMENTAL AGREEMENT CONCERNING FAIR CONTRIBUTIONS FOR PUBLIC SCHOOL SITES BETWEEN THE CITY OF _____, CHAFFEE COUNTY, AND THE _____ SCHOOL DISTRICT

THIS AGREEMENT is entered into by and between the _____(City) (County) of (City), a (municipal corporation) (Colorado County), and the _____(School District), a political subdivision of the State of Colorado, to be effective as of the ____th day of _____ (Effective Date) (revised _____ day of _____, _____).

RECITALS

A. Local governments are encouraged and authorized to cooperate or contract with other units of government, pursuant to C.R.S. § 29-20-105, for the purpose of planning or regulating the development of land, including, but not limited to, the joint exercise of planning, zoning, subdivision, building, and related regulations.

B. The (City)(County) and School District have cooperated with respect to managing the orderly growth of the community by identifying potential public school site locations.

C. Growth in residential land development and the construction of new residential dwellings in the (City)(County) necessitates the acquisition of additional public school capital facilities to accommodate the increases in the student population. Requiring land dedication or conveyance for public school capital facilities, or payments in-lieu of land dedication or conveyance for public school sites, (hereinafter collectively referred to as "Fair Contribution for Public School Sites"), will provide a portion of the resources to meet such demand.

D. To provide adequate public school capital facilities to serve the (City)(County) residents of newly constructed residential dwelling units, it is appropriate that the School District and (City)(County) cooperate in the area of public school capital facilities acquisition by use of Fair Contribution for Public School Sites.

E. Requiring Fair Contribution for Public School Sites in a manner appropriate for an efficiently functioning (City)(County) and to ensure that new development does not negatively impact the provision of services.

F. Statutory power is granted to Municipalities and Counties, and it is a reasonable exercise of this power to require Fair Contribution for Public School capital facilities as a method of ensuring that new residential construction and residential development bear a proportionate share of the cost of public school capital facilities acquisition necessary to accommodate the educational service capacity demands of the residents who will be living in the new dwelling units.

G. Requiring Fair Contribution for Public School Sites for new residential construction and development is reasonable and necessary to protect, enhance, and preserve the public health, safety, and welfare of the (City's)(County's) citizens.

H. The (City)(County) and School District, upon consideration of the impacts of new residential construction and residential land development on the ability of the School District to provide public school facilities in the (City)(County), agree that it is in the best interests of the citizens of the (City)(County) to mutually enter into an intergovernmental agreement for the purpose of providing for Fair Contribution for Public School Sites, as provided in this Agreement.

I. The (City)(County) and School District do hereby define the rights and obligations of each entity with respect to planning for new public school capital facilities and Fair Contribution for Public School Sites.

AGREEMENT

NOW, THEREFORE, in consideration of the objectives and policies expressed in the recitals and the mutual promises contained in this Agreement, the ((City)(County) and School District agree as follows:

1. School Facility Coordination and Development Referrals

a. The School District, insofar as is feasible, shall consult with and advise the (City)(County) in writing-in advance of public school facility acquisition and site development.

b. The (City)(County) shall refer to the School District all residential land development applications for review and comment concerning impact of the development on the School District and the adequacy of public school sites and facilities. The (City)(County) will consider the School District's comments in conjunction with the review and processing of each individual residential development application, and will implement land dedication for public school facilities or payments in-lieu of land dedication for public school facilities consistent with this Agreement and the (municipal)(county) code then in effect. If a nonresidential land development application is filed with the (City)(County) that may have influence or effect on property owned by or activities of the School District, the (City)(County) shall also refer information pertaining to that application to the School District for review and comment. The School District agrees to promptly review the referred development application and promptly submit its comments, recommendations, and requests to the (City)(County).

2. Methodology

a. Contemporaneous with the effective date and the effective date of the (City)(County) (municipal)(county) code amendment requiring Fair Contribution for Public School Sites, the (City)(County) agrees to enforce such municipal code amendment as a precondition to the lawfully authorized construction of new residential dwelling units not otherwise exempted under Section 5 below.

b. The School District has adopted a methodology dated January, 2003, to determine Fair Contribution for Public School Sites for three categories of dwelling units. The parties agree the Methodology, attached and incorporated herein as Exhibit A, has been developed in a manner so as to fairly apportion the cost of acquiring public school facilities made necessary by new residential development.

c. As part of the Methodology, the School District has adopted planning standards related to facility enrollment capacities, public school site acreage requirements, and student yields for each of three types of residential dwellings (single family homes, multi-family units, , and mobile homes). The (City)(County) and the School District agree that the Methodology is reasonable and the approved then-current Methodology shall apply to new residential construction within the (City)(County). The Methodology shall be the basis for computing Fair Contribution for Public School Sites for new residential construction. The (City)(County) and School District agree that the Methodology adopted by the School District shall be periodically reviewed and revised to reflect the current standards and conditions within the School District.

d. Unless and until modified by the parties, the Methodology and its supplementary background materials shall include, but shall not be limited to, the following factors:

(1) School planning standards which establish the student yields and technical and educational specifications for facilities for each category of school facility (elementary, middle, and high school levels), consistent with the policy of the Board of Education of the School District;

(2) The capacity (City)(County) demand for each category of school facility resulting from each category of residential dwelling (single family, multifamily units, condos/townhouses, and mobile homes);

(3) The means for determining the per acre fair market value of land for each type of residential dwelling; and

(4) The procedure for calculating Fair Contribution for Public School Sites required and applicable to each type of residential dwelling.

e. The Methodology shall be updated periodically as conditions warrant by the mutual consent of the (City)(County) and the School District. A copy of the updated Methodology shall be furnished to the (City)(County) within 30 days after its adoption by the School District. The (City)(County) shall hold a public hearing before revising the Methodology.

3. Fair Contribution for Public School Sites Requirement

a. As Fair Contribution for Public School Sites, any person or entity, as part of an applicable residential land development application shall dedicate or convey land for a public school facility to the School District, or in the event the dedication of land is not deemed feasible or in the best interests of the School District as determined by the Superintendent or designee, the School District may require a payment in lieu of land dedication or conveyance to the School District. The manner and amount of either type of Fair Contribution for Public School Sites shall be as stated in this Agreement and the incorporated Methodology. This shall not preclude the School District and any person or entity from mutually agreeing to resolve the issue of Fair Contribution for Public School Sites in a manner other than as stated above.

b. If the Fair Contribution for Public School Sites includes the dedication of land, according to paragraph 3.a. above, the (City)(County) agrees before recording of the final plat to require proof that the dedication has been made to the School District in a manner and on terms satisfactory to the School District and in accordance with the following requirements:

(1) The person or entity has conveyed to the School District by general warranty deed, title to the land slated for dedication, which title is to be free and clear of all liens, encumbrances, and exceptions (except those approved in writing by the School District), including, without limitation, real property taxes, which will be prorated to the date of conveyance or dedication. The person or entity shall also enter into a contract for the sale and purchase of real property containing customary terms for the land which is being conveyed to or purchased by the School District.

(2) At the time of dedication or conveyance, the person or entity shall provide a title insurance commitment and policy in an amount equal to the fair market value of the dedicated property. At the appropriate time, not later than the issuance of the first building permit for the land development project, the person or entity shall also pay or provide for the payment of one-half of street development costs, and shall either provide, or pay or make provision for the payment of the costs associated with making improvements for water, sewer, and utilities stubbed to the site, and overlot grading of the dedicated land. The person or entity shall also have furnished any off-site easements which the School District needs to develop the site.

(3) The lands being dedicated or conveyed to the School District shall be located

and configured as directed by the School District.

(4) The person or entity conveying the land to the School District shall satisfy the (City) (County)'s water rights requirements prior to conveying the property to the School District

(5) In addition to conveyed or dedicated lands, the School District shall have the right to purchase adjacent lands owned by the developer at its fair market value so that the dedicated or conveyed and purchased lands together form a contiguous parcel which meets the School District's land area requirements listed in Exhibit A.

c. The (City)(County) agrees that before issuing a building permit for any residential dwelling unit not otherwise exempted under Section 5 below, it will require proof that the Fair Contribution for Public School Sites, according to paragraph 3.a. or 3.b. above, has been received by the School District. The Superintendent of the School District, or the Superintendent's Designee, shall provide such proof in a timely manner to the (City)(County) Manager of the (City)(County), or the (City)(County) Manager's designee.

d. Nothing contained in this Agreement shall preclude the School District from commenting to the (City)(County) upon the adequacy of public school sites or facilities, necessary in its judgment, to meet the impact of the development project.

4. Use of Fair Contribution for Public School Sites

a. The School District shall hold or deposit in trust for public school capital facilities all funds it receives as Fair Contribution for Public School Sites, and all funds it may receive from the sale of land dedicated or conveyed as Fair Contribution for Public School Sites. The School District shall meet all requirements of C.R.S. §§ 29-1-801 to -803, if applicable. The School District shall be solely responsible for each Fair Contribution for Public School Sites it receives. No Fair Contribution for Public School Sites shall constitute revenue of the (City)(County) under the provisions of Article X, Section 20 of the Colorado Constitution.

b. The School District shall use all funds it receives as Fair Contribution for Public School capital facilities. Subject to the limitations in this Agreement, the time for, nature, method, and extent of each public school site acquisition or other expenditures covered herein shall be within the sole discretion of the School District.

c. Except as otherwise provided in this Agreement, any funds received as Fair Contribution for Public School Sites the School District has not used for acquisition or development of public school capital facilities within twenty years of collection it shall tender for refund, with interest earned and credited according to C.R.S. §§ 29-1-801 to -803, to the person who made the Fair Contribution for Public School Sites. The School District shall give written notice by first-class mail to the person who made the Fair Contribution for Public School Sites at his or her address as reflected in the records maintained by the School District. If the person does not file a written claim for refund of the funds with the School District within 90 day's of the mailing of such notice, the Fair Contribution for Public School Sites refund shall be retained by the School District.

5. Exemptions From Fair Contribution for Public School Sites

a. The following uses within the (City)(County)'s boundaries shall be excepted from Fair Contribution for Public School Sites:

(1) Construction of any nonresidential building or structure;

(2) Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;

(3) Construction of any building or structure for limited term stay or for long term assisted living, including, but not limited to, bed and breakfast establishments, boarding or rooming houses, family-care homes, group-care homes, halfway houses, nursing homes, or hospices, except where such building or structure will be used primarily to house school aged children; and

(4) Construction of any residential building or structure classified as housing for older persons, pursuant to the Federal Fair Housing Act in effect.

6. Annual Report, Accounting, and Audit

a. The School District shall submit an annual report on or before March 1 of each year to the (City)(County) describing the School District's use of the Fair Contribution for Public School Sites funds during the preceding fiscal year. This report shall also include:

(1) A review of the assumptions and data upon which the Methodology is based, including student generation ratios, and attendance area boundaries;

(2) Statutory changes or changes in the Methodology, including the School Planning Standards, and in School District policies related to acquisition or construction of school sites and facilities; and

(3) Any recommended modifications to Fair Contribution for Public School Sites land areas or amounts included in the Methodology.

b. After receipt of the report, the (City)(County) shall review it, considering those matters listed in the previous subsection, and complete its review within 60 days of receipt.

c. The School District shall establish and maintain an accounting system to ensure that all Fair Contribution for Public School Sites funds are used according to this Agreement.

d. The School District shall cause an audit to be performed annually of the Fair Contribution for Public School Sites funds it receives, uses or expends under this Agreement. The audit shall be conducted according to the generally accepted accounting principles for governmental entities. A copy of said audit shall be furnished to the (City)(County). The cost of the audit shall be paid for by the School District. The audit may be part of the School District's annual audit.

7. Term of Agreement

The term of this Agreement shall commence on the Effective Date, and continue for a period of ten years thereafter unless renewed or extended by the mutual consent of the (City)(County) and the School District. However, any party may terminate this Agreement, at any time and for any reason, upon one year written notice to the other parties.

8. Miscellaneous Provisions

a. **Faith and Credit.** No party shall extend the faith or credit of the other to any third person or entity.

b. **Amendments.** This Agreement may be amended only by mutual agreement of the parties and shall be evidenced by a written instrument authorized and executed with the same formality as accorded this Agreement.

c. **Notice.** Any notice required by this Agreement shall be in writing. If such notice is hand delivered or personally served, it shall be effective immediately upon such delivery or service. If given by mail, it shall be certified with return receipt requested and addressed to the following addresses:

Notice given by mail shall be effective upon receipt.

d. **Governing Law.** This Agreement and the rights and obligations of the parties hereto shall be interpreted and construed in accordance with the laws of the State of Colorado.

e. **Severability.** If this Agreement, or any portion of it, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding, shall not affect the validity of the remaining portions of the Agreement.

f. **Indemnification.** The parties agree to cooperate in the defense of any legal action that may be brought contesting the validity of this Agreement or the implementing ordinances. Each party to the litigation shall be responsible for a pro-rata share of the costs and attorneys' fees incurred in such defense. Any monetary judgment shall be allocated in accordance with the judgment, except that the School District shall be solely responsible for any required refund of contributions it has received. Nothing contained in this Agreement shall constitute any waiver by the (City)(County) or the School District of the provisions of the Colorado Governmental Immunity Act or other applicable immunity defense. This provision shall survive termination of the Agreement, and be enforceable until all claims are precluded by statutes of limitation.

g. **Provisions Construed as to Fair Meaning.** The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attributes to such party of the source of the language in question.

h. **Compliance with Ordinances and Regulations.** Each of the parties hereto shall enact or adopt or, if necessary, repeal or amend such ordinances, rules, regulations or policies as are necessary to implement and complement this Agreement. This Agreement shall be administered consistent with all current and future (City)(County) laws, rules, charters, ordinances and regulations concerning land dedication or conveyance for public school sites, or payment in-lieu of land dedication or conveyance for public school sites.

i. **No Implied Representations.** No representations, warranties or certifications, express or implied, shall exist as between the parties, except as specifically stated in this Agreement.

j. **No Third Party Beneficiaries.** None of the terms conditions or covenants in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than the (City)(County) or the School District receiving services or benefits under this Agreement shall be only an incidental beneficiary.

k. **Financial Obligations.** This Agreement shall not be deemed a pledge of the credit of the (City)(County) or the School District, or a collection or payment guarantee by the (City)(County) to the School District. Nothing in this Agreement shall be construed to create a multiple-fiscal year direct or indirect municipal debt or municipal financial obligation.

l. **Integrated Agreement and Amendments.** This Agreement is an integration of the entire understanding of the parties with respect to the matters stated herein. The parties shall only amend this Agreement in writing with the proper official signatures attached thereto.

m. **Waiver.** No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default

IN WITNESS WHEREOF, the parties hereto have executed this Agreement which shall be in full force and effect the day and year first above written.

(CITY)(COUNTY) OF

By: _____

ATTEST: _____
(City)(County) Clerk Date

APPROVED AS TO LEGAL FORM:

(City)(County) Attorney

(School District)

By: _____
President Board of Education

ATTEST:

Secretary Date

APPROVED AS TO LEGAL FORM:

School District Attorney

Attachment – II. Draft Code Language

A. General Rules.

- a. Applicants shall identify and provide community facilities during the subdivision review process. During the preliminary subdivision plat review the (municipality)(county) shall refer for comment proposed subdivision plats to applicable agencies.
- b. In order to facilitate the future acquisition of *land* areas required to implement this Development Code, the (city)(county) may require that *land* be reserved, dedicated, or donated for the future acquisition and development of schools, parks, playgrounds, and other public uses and purposes.
- c. The (city)(county) shall have the discretion to accept any offered donation or *dedication of land* area.
- d. When the subdivision generates a need for public improvements, including public school sites, the applicant shall make fair contribution to the cost, construction, or provision of such improvements that is acceptable to the service provider, including fair contribution for public school sites acceptable to the school district. (See Section “Intergovernmental Agreement Concerning Fair Contributions for Public School Sites Between the (City)(County) and the Chaffee County School Districts).

B. Fair Contribution for Public School Sites.

1. Applicability/Dedication or Payment In-Lieu Required.

- a. Unless exempt under subsection (C)(2) below, applicants shall provide proof that the school district received fair contribution for public school sites prior to final plat approval.
- b. If a subdivision plat includes land identified in the () (master)(comprehensive) plan for a public school site, the applicant shall dedicate such land as fair contribution for public school sites, provided such dedication is acceptable to the school district. Prior to dedication, the applicant shall provide street access to the subject land and install all utilities.
- c. The school district may, at its discretion, accept a payment in-lieu of land dedication for public school sites.

2. Exemptions from Contribution Requirements. Subject to school district approval, the following uses are exempt from the fair contribution for public school sites requirement:

- a. Construction of any nonresidential building or structure;
- b. Alteration, replacement or expansion of any legally existing building or structure with a comparable new building or structure which does not increase the number of residential dwelling units;
- c. Construction of any building or structure for limited term stay or for long-term assisted living, including, but not limited to, bed and breakfast establishments,

boarding or rooming houses, family-care homes, group-care homes, halfway houses, hotels, motels, nursing homes, or hospices; and

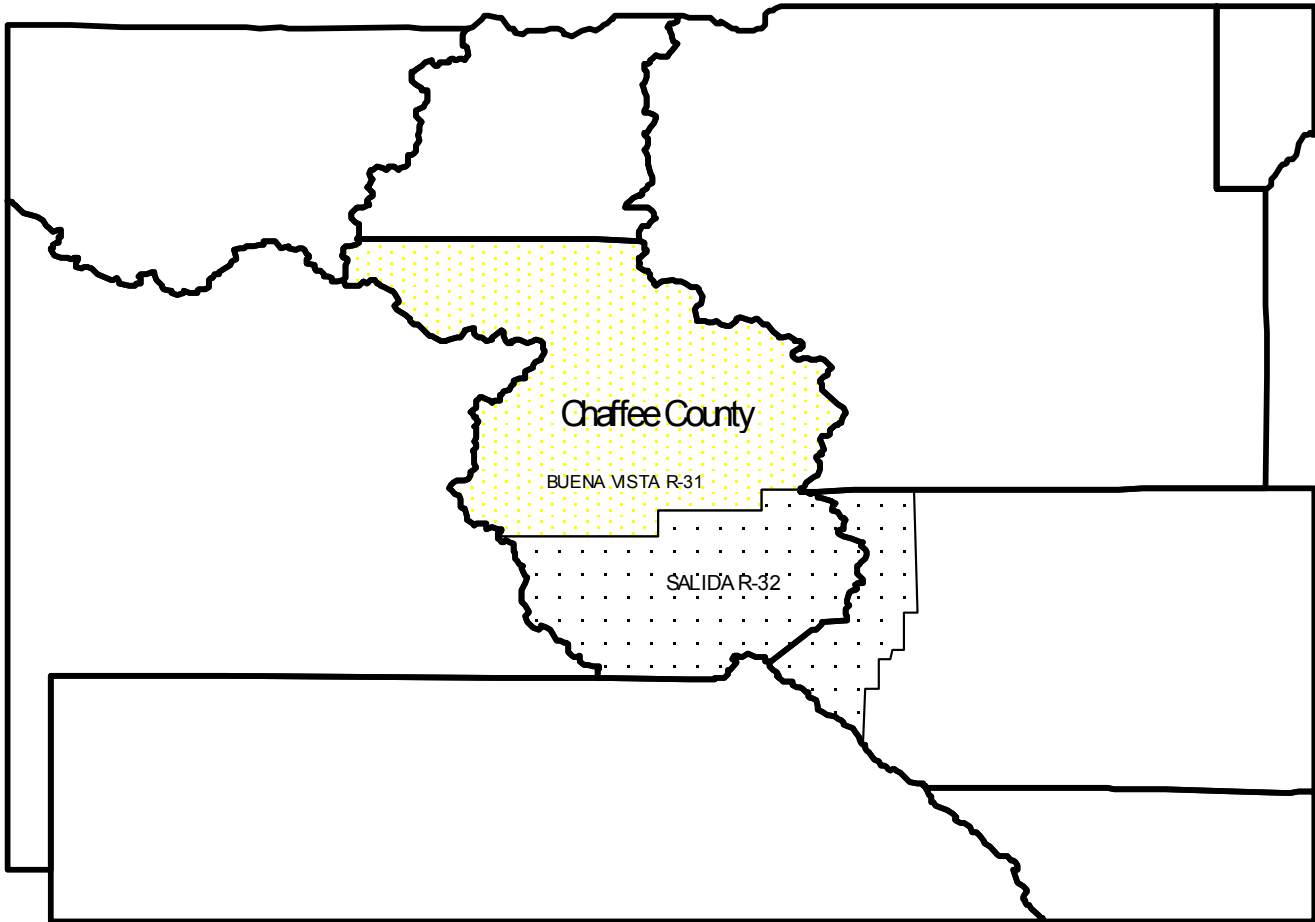
- d. Construction of any residential building or structure classified as housing for older persons, under the Federal Fair Housing Act then in effect
2. "Fair Contribution" Defined. "Fair contribution for public school sites" means land dedication or conveyance for public school sites, or payments in-lieu of land dedication or conveyance for public school sites, that will provide a portion of the land for public school sites that growth in residential development and construction of residential dwellings necessitate.

Attachment – III. Recommended Fee Update Schedule

The following chart indicates a suggested update time schedule for critical fee components for a ten year period.

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Real Estate (per acre costs)		X		X		X		X		X
Student Generation Rates					X					X
Facilities Requirements					X					X
Student Count		X		X		X		X		X

Attachment – IV. Chaffee County School Districts



Attachment – V. RRC Survey Report