

## EXHIBIT A

### ARTICLE VI, SECTION 119 CAPITAL FACILITIES IMPACT FEE

#### 119.1 DEFINITIONS

For the purposes of this Section, the following terms shall have the following meanings. To the extent that the definitions of words, terms or phrases as prescribed in C.R.S. 29-20-103 and C.R.S.29-20-104.5, conflict with such words or phrases as defined in this Section the former shall control.

1. **Administrative Capital Facilities.** The building improvements for adding office space to the County Courthouse as defined in the Impact Fee Study. Administrative Capital Facilities do not include the costs of vehicles and equipment.
2. **Affordable Housing.** A housing unit having a sales price of no more \$250,000.00 adjusted annually as set forth in paragraph 119.3 B (5).
3. **Board.** The Board of County Commissioners of Rio Blanco County, Colorado.
4. **Building Permit.** A Building Permit issued by the County Building Official permitting the construction of a building or structure within the County.
5. **Capacity, County Road.** The maximum number of vehicles which have a reasonable expectation of passing over a given section of a county road in one (1) direction, or in both directions, during a given time period, under prevailing traffic conditions, expressed in terms of vehicles per peak hour.
6. **Capital Facilities.** As provided in C.R.S 29-20-104.5 (4), as amended, any improvement or facility that:
  - a. Is directly related to any service that a local government is authorized to provide; and
  - b. Has an estimated useful life of five years or longer; and
  - c. Is required by the charter or general policy of a local government pursuant to a resolution or ordinance.

This Section establishes Impact Fees for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities and Road and Bridge Capital Facilities.

7. **Commencement of Impact-Generating Development/Development Permit.** An event which occurs upon any of the following: the final approval of a Planned Unit Development, a special use permit, a conditional use permit, a temporary use permit, a

special use license, a well permit, a subdivision plat, or the issuance of a building permit, whichever occurs first after the effective date of this Section.

8. **County Road System.** All roads within the County identified on Exhibit “2” which is attached hereto and incorporated herein by reference.
9. **County.** Rio Blanco County, Colorado.
10. **Developer.** A person undertaking development.
11. **Development.** Any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, which creates additional demand for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities and Road and Bridge Capital Facilities.
12. **Fee Payer.** A person commencing Impact-Generating Development/Development Permit who is obligated to pay an Impact Fee in accordance with the terms of this Section.
13. **Fee Schedule or Impact Fee Schedule.** The Impact Fees for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities, and Road and Bridge Capital Facilities established by this Section. The Impact Fee Schedule is attached to this Section as Exhibit “1,” and incorporated herein by reference.
14. **Impact Fee Administrator.** The County Land Use Director or a designee.
15. **Impact Fee Study.** Refers collectively to the General Fund Administrative, Law Enforcement/Justice Facility, & Road & Bridge Capital Facilities, Final Report dated December 2007; the Fiscal Impact Analysis: General Fund Operations Existing Conditions & Year 2022, Final Report dated September, 2007; the Road & Bridge Department Impact Fee Support Study, dated April, 2008; the Public Facilities Mitigation Fee Support Study, dated September 2007; the Road & Bridge Department Impact Fee Independent Fee Calculation Manual dated April, 2008. The Impact Fee Study was prepared by Rural Planning Institute Consulting, Inc. (RPI).
16. **Impact Fee Trust Fund.** The trust fund established by Paragraph 119.5 of this Section, which includes an Administrative Capital Facilities Account, a Law Enforcement/Justice Capital Facilities Account, and a Road and Bridge Capital Facilities Account. The Impact Fee Trust Fund is also called the Trust Fund.
17. **Impact Fees.** The Administrative Capital Facilities Impact Fee (Administrative Fee), Law Enforcement/Justice Capital Facilities Impact Fee (Law Enforcement Fee), and Road and Bridge Capital Facilities Impact Fee (Road and Bridge Fee) established by this Section.

18. **Independent Fee Calculation Study.** A study prepared by a Fee Payer, calculating the cost of Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities, and/or Road and Bridge Capital Facilities required to serve the Fee Payer's proposed development, that is performed on an average cost (not marginal cost) methodology, uses the service units and unit construction costs stated in the Impact Fee Study, and is performed in compliance with any criteria for such studies established by this Section.
19. **Law Enforcement/Justice Capital Facilities.** The building improvements for the County's new Justice Center defined in the Impact Fee Study. Law Enforcement/Justice Capital Facilities do not include the costs of vehicles or other related equipment needed in the provision of Law Enforcement services.
20. **Level of Service (LOS).** A measure of the relationship between service capacity and service demand for Capital Facilities (in this Section Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities, and/or Road and Bridge Capital Facilities). The level of service for these capital facilities is established in the Impact Fee Study.
21. **Person.** Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, limited liability company, association, two (2) or more persons having a joint or common interest, or any other entity.
22. **Road and Bridge Capital Facilities.** The preliminary engineering, engineering design studies, pavement management studies, land surveys, alignment studies, engineering, permitting and construction of all necessary features for any road on the County Road System, undertaken to accommodate additional traffic (through the provision of additional capacity) resulting from new Impact-Generating Development in the County. Road and Bridge Capital Facilities include but are not limited to: (a) construction of new through lanes; (b) construction of new bridges; (c) construction of new drainage facilities in conjunction with new road construction; (d) purchase and installation of traffic signals, including new and upgraded signalization; (e) construction of curbs, gutters, sidewalks, medians and shoulders in conjunction with new road construction; (f) relocating utilities to accommodate new road construction; (g) the construction and reconstruction of intersections; (h) the widening of existing roads; (i) bus turnouts; (j) acceleration and deceleration lanes; (k) interchanges; (l) traffic control devices, (m) right of way acquisition costs; and (n) vehicles and equipment with an estimated useful life of five years or longer. For the purposes of this Section, Site-Related Improvements and maintenance of existing roads shall not constitute Road and Bridge Capital Facilities.
23. **Site-Related Improvements.** Those transportation improvements that provide direct access to the development from the County Road System. Direct access improvements include but are not limited to the following: (a) driveways and roads leading to and from the development; (b) right and left turn lanes leading to those driveways and roads; (c) traffic control measures for those driveways and roads; and (d) internal roads. Credit is not provided for Site-Related Improvements under the terms of this Section.

24. **State.** The State of Colorado.

25. **Successor-in-Interest.** A person, as defined by this Section, who is conveyed a fee simple interest in a development for which an Impact Fee is paid or a credit is approved pursuant to the terms of this Section.

## 119.2. **IMPACT FEES IMPOSED**

### **A. Obligation to Pay and Time of Payment.**

After the effective date of this Section, any person who causes the Commencement of Impact-Generating Development, except those exempted pursuant to Sub-Paragraph 119.2 F, Exemptions, shall be obligated to pay Impact Fees pursuant to the terms of this Section. The obligation to pay the Impact Fees shall run with the land. The amount of the Impact Fees shall be determined in accordance with Paragraph 119.3, Calculation of Impact Fees, and paid to the Impact Fee Administrator at the time of approval or issuance of a Development Permit. If any credits are due pursuant to Paragraph 119.4, Credits, they shall be determined at that time.

### **B. Fees Promptly Deposited into Accounts in Trust Fund.**

All monies paid by a Fee Payer pursuant to this Section shall be identified as Impact Fees and shall be promptly deposited in the appropriate Impact Fee Trust Accounts established and described in Paragraph 119.5, Impact Fee Trust Fund.

### **C. Extension of Previously Issued Development Permit**

If the Fee Payer is applying for an extension of a Development Permit issued previously, the Impact Fees required to be paid shall be the net increase between the Impact Fees applicable at the time of the current permit application and any Impact Fees previously paid pursuant to this Section.

### **D. Permit for Change in Use, Expansion, Redevelopment, or Modification.**

If the Fee Payer is applying for a Permit to allow for a change of use or for the expansion, redevelopment, or modification of an existing development, the Impact Fees required to be paid shall be based on the net increase in the Impact Fees for the new use as compared to the previous use.

### **E. Prior Conditions and/or Agreements.**

Any person who, prior to the effective date of this Section, accepted as a condition of a Development Permit approval to pay Impact Fees if and when an Impact Fee Resolution is adopted by the County, shall be responsible for the payment of the Impact Fees on or before sixty days from the effective date of this Section.

## **F. Exemptions.**

The following types of development are exempted from payment of the Impact Fees. Any claim for exemption shall be made no later than the time when the applicant applies for a Development Permit. Any claim for exemption not made at or before that time shall be waived. The Impact Fee Administrator shall determine the validity of any claim for an exemption pursuant to the standards set forth as follows:

1. Reconstruction, expansion, alteration or replacement of a previously existing residential unit that does not create any additional residential units.
2. New Impact-Generating Development the Fee Payer can demonstrate will create no greater demand over and above that produced by the existing use or development.
3. Rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe.
4. Construction of unoccupied accessory units related to a residential unit.
5. Impact-Generating Development for which an Impact Fee was previously paid in an amount that equals or exceeds the Impact Fee that would be required by this Section.
6. Affordable Housing as defined in paragraph 119.1 (1)
7. Development for which a complete application for an applicable Development Permit was submitted prior to the effective date of this Section. For the purposes of this Section, an application for a Development Permit shall not be considered complete unless and until (1) all the required information and submittal materials required by all relevant County Departments are submitted and received and (2) the appropriate official has determined the application is complete. The decision of the appropriate official with respect to completeness is final. This provision is not applicable to Developments where there was a prior condition and/or agreement regarding Impact Fees as described in Paragraph 119.2.

## **119.3 CALCULATION OF IMPACT FEES**

### **A. General.**

1. Except for those electing to pay Impact Fees pursuant to Paragraph 119.3 C, Independent Fee Calculation Study, the Impact Fees applicable to the Impact-Generating Development shall be as determined by the Fee Schedule attached to this Section as Exhibit 1: Impact Fee Schedule, which is incorporated herein by reference. The Impact Fee Schedule on Exhibit 1

is based on the Impact Fee Study. It applies to the broad class of land uses within the County, differentiates between types of land uses, and is intended to defray the projected impacts caused by proposed new development on Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities and Road and Bridge Capital Facilities.

2. If the proposed Impact-Generating Development is of a type not listed in Exhibit 1: Impact Fee Schedule, the Impact Fees applicable to the most nearly comparable type of land use listed in Exhibit 1 shall be used.

3. If the proposed Impact-Generating Development includes a mix of those uses listed in Exhibit 1: Impact Fee Schedule, then the Impact Fees shall be determined by adding up the Impact Fees that would be payable for each use as if it was a freestanding use pursuant to Exhibit 1.

#### **B. Annual Adjustment.**

The Impact Fees shown in Exhibit 1: Impact Fee Schedule, will be adjusted annually by the Impact Fee Administrator to reflect the following:

1. The effects of inflation on those costs for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities and Road and Bridge Capital Facilities. On July 1, 2009, and on July 1 of each following year unless and until the Fees in Exhibit 1 are revised or replaced, each Impact Fee amount set forth in Exhibit 1 shall be adjusted for inflation, based on the annual Construction Cost Index published by Engineering News Record or a comparable index more applicable to construction costs in Rio Blanco County. Such adjustments in the Impact Fees shall become effective immediately upon calculation by the Impact Fee Administrator, and shall not require additional action by the Board to be effective.

2. The effects of inflation on the affordable housing exemption based upon the same index referred to in paragraph 1 above.

#### **C. Independent Fee Calculation Study.**

1. In lieu of calculating the amount(s) of Impact Fees by reference to Exhibit 1: Impact Fee Schedule, a Fee Payer may request that the amount of the required Impact Fee be determined based on an Independent Fee Calculation Study.

2. If a Fee Payer requests the use of an Independent Fee Calculation Study, the Fee Payer shall be responsible for retaining a qualified professional (approved by the Impact Fee Administrator) to prepare the Independent Fee Calculation Study that complies with the requirements of this Section, at the Fee Payer's expense.

3. Each Independent Fee Calculation Study shall be based on the same LOS standards and unit costs for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities

and Road and Bridge Capital Facilities used in the Impact Fee Study, and shall document the relevant methodologies and assumptions used.

4. An Independent Fee Calculation Study must be initiated by the submission of an application to the Impact Fee Administrator, along with an application fee in an amount determined by the Impact Fee Administrator to defray the costs associated with the review of the Independent Fee Calculation Study.

5. Within a reasonable period of time from receipt of an application for Independent Fee Calculation Study, the Impact Fee Administrator shall determine if the application is complete. If it is determined the application is not complete, a written statement specifying the deficiencies shall be sent by mail to the person submitting the application. The Impact Fee Administrator shall take no further action on the application until it is complete.

6. When it is determined the application is complete, the application shall be reviewed by the Impact Fee Administrator and a written decision rendered within a reasonable period of time on whether the Impact Fees should be modified, and if so, what the amount should be, based on the standards in Paragraph 119.3 C 7.

7. If, on the basis of generally recognized principles of impact analysis, it is determined the data, demand information, and assumptions used by the fee payer to calculate the Impact Fees in the Independent Fee Calculation Study more accurately measure the proposed Impact-Generating Development's impact on the appropriate Capital Facilities, the Impact Fees determined in the Independent Fee Calculation study shall be deemed the Impact Fees due and owing for the proposed development. The Fee adjustment shall be set forth in an Impact Fee Agreement. If the Independent Fee Calculation Study fails to satisfy these requirements, the Impact Fees applied shall be the Fees established in Exhibit 1: Impact Fee Schedule.

## 119.4 CREDITS

### A. General

Any person causing the Commencement of Impact-Generating Development may apply for credit against Impact Fees otherwise due, up to but not exceeding the full obligation of Impact Fees proposed to be paid pursuant to the provisions of this Section, for any contributions, construction, or dedication of land (where appropriate) accepted by the County for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities or Road and Bridge Capital Facilities. Credits against Road and Bridge Capital Facilities Fees shall be provided only for Road and Bridge Capital Facilities on the County Road System identified in the Impact Fee Study.

### B. Valuation of Credits

1. Credit for required land dedication, at the Fee Payer's option, shall be valued at either (1) 100 percent of the most recent assessed value for such land as shown in the records of the

County Assessor, or (2) the fair market value of the land established by a private appraiser approved by the Impact Fee Administrator in an appraisal paid for by the Fee Payer.

2. Credit for required construction of Capital Facilities shall be valued by the County based on complete engineering drawings, specifications, and construction costs estimates submitted by the Fee Payer to the Impact Fee Administrator. The Impact Fee Administrator shall determine the amount of credit due based on the information submitted, or, if the Impact Fee Administrator determines the information is inaccurate or unreliable, then the determination shall be made based on alternative engineering or construction costs acceptable to the Impact Fee Administrator

3. Contributions for Capital Facilities shall be based on the value of the contribution or payment at the time they are made to the County.

### **C. Credits Effective Date**

1. Credits for required land dedication shall become effective after the credit is approved pursuant to this Section, a Credit Agreement is entered into, and the land has been conveyed to the County in a form acceptable to the Impact Fee Administrator at no cost to the County and the dedication of land has been accepted by the Impact Fee Administrator.

2. Credits for required construction of Capital Facilities shall become effective after the credit is approved pursuant to this Section, a Credit Agreement is entered into and (a) all required construction has been completed and has been accepted by the Impact Fee Administrator, (b) a suitable maintenance and warranty bond has been received and approved by the Impact Fee Administrator, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable County and State requirements. Approved credits for the construction of Capital Facilities may become effective at an earlier date if the Fee Payer posts security in the form of a performance bond, irrevocable letter of credit, or escrow agreement and the amount and terms of such security are accepted by the Impact Fee Administrator. At a minimum, such security must be in the amount of the approved credit or an amount determined to be adequate to allow the County to construct the Capital Facilities for which the credit was given, whichever is higher.

3. Credits for contributions for Capital Facilities shall become effective after the credit is approved pursuant to this Section, a Credit Agreement is entered into and the contribution is actually made to the County in a form acceptable to the Impact Fee Administrator and has been accepted by the Impact Fee Administrator.

### **D. Transferability of Credits**

1. Credits for contributions, construction or dedication of land shall be transferable within the same Development and for the same Capital Facility for which the credit is provided, but shall not be transferable outside the development or used as credit against Fees for other Capital Facilities. Credit may be transferred pursuant to these terms and conditions by any

written instrument that clearly identifies which credits issued under this Section are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the Impact Fee Administrator for registration of the change in ownership.

2. The total amount of the credit shall not exceed the amount of the Impact Fees due for the Development.

3. The County may enter into a Capital Contribution Front-Ending Agreement with any person who proposes to construct Capital Facilities to the extent the fair market value of the construction of these Capital Facilities exceeds the obligation to pay Impact Fees for which a credit is provided pursuant to this Section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to the Impact-Generating Development's use of the Capital Facilities constructed.

#### **E. Procedure**

1. In order to obtain a credit against Impact Fees otherwise due, the Fee Payer must submit an offer for contribution, construction or dedication of land. The offer shall be submitted to the Impact Fee Administrator, and must specifically request a credit against Impact Fees.

2. The offer for credit shall include the following:

a. If the proposed offer involves credit for the dedication of land for Capital Facilities: (i) A drawing and legal description of the land; (ii) the value of the land at the date a Permit is proposed to be issued for the Impact-Generating Development, prepared by a professional Real Estate Appraiser; and if applicable (iii) a certified copy of the Development Permit for which the land was agreed to be dedicated.

b. If the proposed credit involves construction of Capital Facilities: (i) The proposed plan for the specific construction certified by a duly qualified and licensed Colorado engineer or contractor; and (ii) the projected costs for the suggested improvement, which shall be based on local information for similar improvements, along with the construction timetable for the completion thereof. Such estimated costs shall include the costs of construction or reconstruction, the costs of all labor and materials, the costs of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for one (1) year after completion of construction, costs of plans and specifications, surveys of estimates of costs and of revenues, costs of professional services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction; or (iii) a statement under oath of the facts that qualify the Fee Payer to receive a credit.

c. If the proposed offer involves a credit for any contribution for Capital Facilities, the following documentation shall be provided: (i) A certified copy of the Development Permit in which the contribution was agreed; and (ii) if payment has

been made, proof of payment; or (iii) if payment has not been made, the proposed method of payment.

3. Within a reasonable period of time from receipt of the proposed application, the Impact Fee Administrator shall determine if the application is complete. If it is determined that the proposed application is not complete, the Impact Fee Administrator shall send a written statement to the applicant outlining the deficiencies. No further action shall be taken on the application until all deficiencies have been corrected or otherwise settled.

4. Once the Impact Fee Administrator determines the offer for credit is complete, it shall be reviewed within a reasonable period of time and approved if it complies with the requirements in Paragraph 119.4.

5. If the offer for credit is approved by the Impact Fee Administrator, a Credit Agreement shall be prepared and signed by the Fee Payer and the Board. The Credit Agreement shall specifically outline the land dedication for Capital Facilities, construction of Capital Facilities, or contribution for Capital Facilities, the time by which it shall be dedicated, completed, or paid, and any extensions thereof, and the value (in dollars) of the credit against the Impact Fees the Fee Payer shall receive for the dedication, construction, or contribution.

6. Each time a request to use approved credits is presented to the County the Impact Fee Administrator shall reduce the amount of the Impact Fees, and shall note in the County's records and the Credit Agreement the amount of credit remaining, if any. Upon request of the Fee Payer or the Fee Payer's transferee, the Impact Fee Administrator shall issue a letter stating the amount of credit remaining.

#### **119.5. IMPACT FEE TRUST FUND**

##### **A. Establishment of Impact Fee Trust Fund.**

1. There is hereby established the Impact Fee Trust Fund (hereinafter "Trust Fund") for the purpose of ensuring Impact Fees collected pursuant to this Section are designated for the accommodation of Capital Facility impacts reasonably attributable to the new Impact-Generating Development that paid the Fees.

2. The Trust Fund shall be divided into three (3) Departments, Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities, and Road and Bridge Capital Facilities.

3. The Trust Fund shall be maintained in an interest bearing account and shall be managed in conformance with C.R.S. 29-1-803.

4. All Impact Fees collected by the County pursuant to this Section shall be promptly deposited into the Trust Fund by the Impact Fee Administrator or a designee and allocated to the appropriate Department. The Administrative Capital Facilities Fees shall be allocated

to the Administrative Capital Facilities Department. The Law Enforcement Fees shall be allocated to the Law Enforcement/Justice Capital Facilities Department. The Road and Bridge Capital Facilities Fees shall be allocated to the Road and Bridge Capital Facilities Department.

5. Interest earned on monies in the Trust Fund shall be subject to the same restrictions on use applicable to the Impact Fees deposited in the Trust Fund.

6. All income derived from these investments shall be retained in the Trust Fund until spent pursuant to the requirements of this Section.

7. Monies in each Department shall be considered to be spent in the order collected, on a first-in/first-out basis.

8. A record of the Trust Fund shall be available for public inspection in the Impact Fee Administrator's office, during normal business hours.

#### **119.6. EXPENDITURE OF IMPACT FEES**

##### **A. Administrative Capital Facilities Fee.**

The monies collected from the Administrative Fee shall be used only to acquire and construct Administrative Capital Facilities within the County.

##### **B. Law Enforcement/Justice Capital Facilities Fee.**

The monies collected from the Law Enforcement Fee shall be used only to acquire or construct Law Enforcement/Justice Capital Facilities within the County.

##### **C. Road and Bridge Capital Facilities Fee.**

The monies collected from the Road and Bridge Capital Facilities Fee shall be used only to acquire or construct Road and Bridge Capital Facilities on the County Road System identified in the Impact Fee Study. The identification of impacted Road and Bridge Capital Facilities may be amended from time to time.

##### **D. General Provisions.**

1. No monies shall be spent for maintenance, of any Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities, or Road and Bridge Capital Facilities.

2. No monies shall be spent to remedy deficiencies in Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities, or Road and Bridge Capital Facilities existing on the effective date of this Section.

3. At least once during each fiscal year of the County, the Impact Fee Administrator shall present to the Board a proposed Impact Fee Capital Facilities Budget for Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities and Road and Bridge Capital Facilities. This Impact Fee Capital Facilities Budget shall recommend assigning monies from each Department to specific Administrative Capital Facilities, Law Enforcement/Justice Capital Facilities and Road and Bridge Capital Facilities. Based on this recommendation, the Board shall approve an annual Impact Fee Capital Facilities Budget and assign monies from the Trust Fund for the specific Capital Facilities identified. Any monies, including any accrued interest, not assigned to specific Capital Facility projects and not expended shall remain in the Trust Fund allocated to the originally designated Department until the next fiscal year.

#### **119.7. REFUNDS OF IMPACT FEES PAID**

##### **A. Refund Request**

Any Impact Fees collected shall be returned to the Fee Payer or the Fee Payer's Successor-in-Interest if the Impact Fees have not been spent or encumbered within seven (7) years from the date the Impact Fees were received by the County, along with actual interest accrued on said Impact Fees. Fees shall be deemed to be spent on the basis of the first Fee collected shall be the first Fee spent.

##### **B. Procedure**

The refund shall be administered by the Impact Fee Administrator and shall be undertaken through the following process:

a. A Refund Application must be submitted within one (1) year following the end of the seventh year from the date on which the Impact Fee was received by the County. The Refund Application must include the following information:

- (i) A copy of the dated receipt issued for payment of the Impact Fee;
- (ii) A copy of the Development Permit; and
- (iii) Evidence that the applicant is the Successor-in-Interest to the Fee Payer (if relevant).

b. Within a reasonable period of time from receipt of the Refund Application, the Impact Fee Administrator shall determine if the application is complete. If it is determined the application is not complete, a written statement specifying the deficiencies shall be forwarded by mail to the person submitting the application. The Impact Fee Administrator shall take no further action on the Refund Application until it is deemed complete.

c. When it is determined the Refund Application is complete, it shall be reviewed within a reasonable period of time and shall be approved if it is determined a Fee has

been paid and has not been spent or encumbered within the period of time required under this Paragraph. The refund shall include the Fee paid plus actual interest accrued on said Impact Fee.

### **C. Limitations**

1. If a Fee Payer has paid an Impact Fee required by this Section and obtained a Development Permit, and the Development Permit for which the Fee was paid later expires without the possibility of further extension and construction of the development has not started, the Fee Payer or the Fee Payer's Successor-in-Interest shall be entitled to a refund of the Fee paid, without interest. In order to be eligible to receive a refund of Impact Fees pursuant to this subsection, the Fee Payer or the Fee Payer's Successor-in-Interest shall be required to submit an application for such refund to the Impact Fee Administrator within thirty (30) days after the expiration of the Development Permit for which the Fee was paid. If a Successor-in-Interest claims a refund of an Impact Fee, the County may require written documentation that such rights have been conveyed to the claimant.

2. After an Impact Fee has been paid pursuant to this Section, no refund of any part of such Fee shall be made if the development for which the Fee was paid is started, whether or not the development is later demolished, destroyed, altered, reconstructed, or reconfigured, even if the size of the development or the number of units in the development is reduced.

## **119.9 REVIEW BY THE BOARD**

### **A. Five Year Review**

The Impact Fees described in this Section and the administrative procedures of this Section shall be reviewed at least once every five (5) years to ensure that (a) the demand and cost assumptions underlying the Impact Fees are still valid, (b) the resulting Impact Fees do not exceed the actual costs of constructing Capital Facilities that are of the type for which the Fees are paid and that are required to serve new Impact-Generating Development, (3) the monies collected or to be collected in each Impact Fee Department have been and are expected to be spent for Capital Facilities for which the Fees were paid, and (4) that the Capital Facilities for which the Fees are to be used will benefit the new development paying the Fees.

### **B. Annual Review**

The Board shall annually review the Impact Fees shown in Exhibit 1: Impact Fee Schedule, to determine whether adjustments should be made to reflect the following:

1. Receipt of funds from sources other than Impact Fees designated for the Capital Facilities for which Impact Fees are paid and that are required to serve Impact-Generating Development.

2. Addition of projects necessitated by new Impact-Generating Development and not part of the Impact fee Study or deletion of projects included in the Impact Fee Study.

3. The effects, if any, of the Rio Blanco County Road and Bridge Department's annual review of its project list and priorities.

Stakeholders will be given an opportunity to review and provide input to the Board as part of its review process.

## **119.10 MISCELLANEOUS PROVISIONS**

### **A. Project Related Improvements**

Nothing in this Section shall restrict the County from requiring an applicant for a Development Permit to construct reasonable Capital Facility improvements designed and intended to serve the needs of the applicant's project, whether or not such Capital Facility improvements are of a type for which credits are available under Paragraph 119.4, Credits.

### **B. Administrative Costs**

The County shall be entitled to retain not more than two (2) percent of the Impact Fees collected as payment for the expenses of collecting the Fees and administering this Section. In the case of refunds of Impact Fees under Paragraph 119.7, Refunds of Impact Fees Paid, the County shall be entitled to retain not more than an additional two (2) percent of the Impact Fee payment made as payment for the expenses of processing the reimbursement request.

### **C. Mistake/Misrepresentation in Payment of Fee**

If an Impact Fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a Fee Payer shall be refunded by the County together with accrued interest, if any, within thirty (30) days after the County's acceptance of the recalculated amount. Any amounts underpaid by the Fee Payer shall be paid to the County within thirty (30) days after the County's acceptance of the recalculated amount, with interest at the then current rate calculated from the date of such underpayment. In the case of an underpayment to the County, the County shall not issue any additional Development Permits or approvals for the project for which the Impact Fee was previously paid until such underpayment is corrected. If amounts owed to the County are not paid within such thirty (30) day period, the County may also revoke or cancel any permits issued in reliance on the previous payment of such Impact Fee and refund such Fee to the then current owner of the land if construction of the Development for which the permit was issued has not commenced.

### **D Appeal**

1. Any determination or decision made by the Impact Fee Administrator under this

Section may be appealed to the Board by filing with the Impact Fee Administrator within thirty (30) days of the determination or decision being appealed: (1) a written Notice of Appeal on a form provided by the Impact Fee Administrator, (2) a written explanation of why the appellant feels the determination or decision is in error, and (3) an appeal fee established by the County.

2. The Board shall promptly fix a time and place for hearing the appeal, and the Board shall mail a notice of the hearing to the appellant at the address given in the Notice of Appeal. The hearing shall be conducted at the time and place stated in the notice given by the Board. The Board shall consider the appeal and either affirm or modify the decision or determination of the Impact Fee Administrator based on the relevant standards and requirements of this Section. The decision of the Board shall be final.

#### **E. Titles**

The titles used in this Section are for convenience only, and shall not affect the interpretation of any portion of the text of this Section.

#### **F. Judicial Review**

Any judicial action or proceeding to attack, review, set aside or annul the adoption of the Fee Schedule established in this Section (Exhibit 1), or any actions taken by the County or the Impact Fee Administrator pursuant to the terms of this Section shall be governed by C.R.S. 29-20-104.5 (7), and all other relevant laws of the State.