

City of Hamilton, Montana



Final Report
Impact Fees for the
Fire and Police Services

February 2007



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February 5, 2007

Mayor Jessica Randazzo
City of Hamilton, MT
223 S. Second Street
Hamilton, MT 59840

Subject: City of Hamilton, Montana Final Report for Impact Fees for the Fire and Police Services

Dear Ms. Randazzo:

HDR Engineering Inc. (HDR) was retained by the City of Hamilton (City) to determine impact fees for fire and police services for new development. Please find attached our final report detailing the findings, conclusions and recommendations of the review undertaken by HDR for the determination of cost based impact fee for the City's fire and police services.

The City's comments and changes have been incorporated into the final report. It is HDR's understanding that the City had the charges set forth in this report reviewed by its legal counsel to assure compliance with Montana law.

We appreciate the opportunity to provide this technical report to the City. Should you have any questions about this report, please call. It has been a pleasure working with you on this project. We look forward to the opportunity to continue to provide assistance to the City.

Sincerely yours,

HDR ENGINEERING INC



Randall P. Goff
Project Principal

C: Steve Green, City of Hamilton
Dennis Stranger, City of Hamilton
Hamilton City Council
Dan Harmon, HDR Engineering, Inc.

Attachment

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Section 1

Introduction and Overview of the Study

1.1 Introduction

HDR Engineering, Inc. (HDR) was retained by the City of Hamilton, Montana (City) to update and determine cost based impact fees for the City’s fire and police services that comply with SB 185 (Montana Code 7-6-1601 to 7-6-1604). This report provides details of the development of cost based impact fees for the City’s fire and police services.

Impact fees are a one-time assessment against new development to pay for the cost of infrastructure required to provide service. Impact fees provide the means of balancing the cost requirements for new infrastructure (buildings and equipment) between existing customers and new customers. The portion of future capital improvements that will provide service to new customers is included in the impact fees. In contrast to this, the City may have future capital projects and equipment requirements that are related to curing existing deficiencies in fire and police services. These costs must be funded by other sources and are not included within the impact fee. By establishing cost-based impact fees, the City will assure that “growth pays for growth” and existing residents and businesses will be sheltered from the financial impacts of growth.

“The objective of this report is to properly place in context the purpose of impact fees, and to determine cost based impact fees for fire and police services that comply with Montana law.”

1.2 Overview of the Study

This report is divided into four distinct components. Section 2 provides a summary of the legal requirements for the enactment of impact fees under Montana law; Section 3 provides the cost based impact fee calculation for the City’s fire services and Section 4 provides the cost based impact fee calculation for the City’s police services.

1.3 Disclaimer

HDR, in its determination of impact fees presented in this report, has used “generally accepted” planning, accounting, and ratemaking principles. This should not be construed as a legal opinion with respect to Montana law. HDR would recommend that the City have its legal counsel review the methodology as discussed herein, to ensure compliance with Montana law.

1.4 Summary

This section of the report has provided an overview of the report developed for the City concerning impact fees. The following section of the report will discuss the legal requirement for impact fees under Montana law.

Section 2

Legal Considerations in Establishing Impact Fees for the City

2.1 Introduction

An important consideration in establishing impact fees is any legal requirements at the state or local level. The legal requirements often establish the methodology around which the impact fees must be calculated or how the funds must be used. Given that, it is important for the City to understand these legal requirements. This section of the report provides an overview of the legal requirements for establishing impact fees under Montana law.

The discussion within this section of the report is intended to be a summary of our understanding of the relevant Montana law as it relates to establishing impact fees. It in no way constitutes a legal interpretation of Montana law by HDR.

2.2 Requirements under Montana Law

In establishing impact fees, an important requirement is that they be developed and implemented in conformance with local laws. In particular, many states have established specific laws

“The laws for the enactment of impact fees in Montana are found in 7-6-1601 to 7-6-1604 of the Montana Code.”

regarding the establishment, calculation and implementation of impact fees. The main objective of most state laws is to assure that these charges are established in such a manner that they are fair, equitable, and cost-based. In other cases, state legislation may have been needed to provide the legislative powers to the utility to establish the charges.

The Montana law enabling legislation for impact fees was enacted in 2005 via Senate Bill 185. This was comprehensive legislation allowing public entities in the State of Montana to enact impact fees for various services. The legal basis for the enactment of impact fees is found in Title 7, Chapter 6, and Part 1601 to 1604 of the Montana Code. A summary of the Montana Code is provided below. A copy of the full code is provided as Exhibit C.

A summary of the requirements under Montana law is as follows:

“7-6-1601. Definitions. As used in this part, the following definitions apply:...

...5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b)The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

7-6-1602. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

(a) describes existing conditions of the facility;

(b) establishes level of service standards;

(c) forecasts future additional needs for service for a defined period of time;

(d) identifies capital improvements necessary to meet future needs for service;

(e) identifies those capital improvements needed for continued operation and maintenance of the facility;

(f) makes a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;

(g) makes a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;

(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;

(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;

(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and

(k) has a component of the budget of the governmental entity that:

(i) schedules construction of public facility capital improvements to serve projected growth;

(ii) projects costs of the capital improvements;

(iii) allocates collected impact fees for construction of the capital improvements; and

(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

....5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements

made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

(i) the need for public facilities capital improvements required to serve new development; and

(ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.

(c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.

(d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.

(e) Impact fees may not include expenses for operations and maintenance of the facility.

7-6-1603. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal....

...(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [7-6-1602](#) in a manner that demonstrates the need for the excess capacity. This part does not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity."

The use of the methodology discussed in Section 3 and Section 4 should assure that the proportional share standard is met and the impact fees are in compliance with Montana law.

2.3 Summary

This section of the report has reviewed the legal basis for establishing impact fees in Montana. HDR concludes that the City has the authority to establish cost-based impact fees and the methodology used should assure compliance with Montana law.

Section 3

Determination of the City's Fire Impact Fees

3.1 Introduction

This section of the report presents the development of the fire impact fees. The calculation of the fire impact fees presented in this section is based on the City's planning criteria and future capital improvements as identified in the City Fire Department's established Capital Improvement Plan (CIP). A letter regarding the basis of the capital improvements for the fire department is included in Exhibit D. To the extent that the cost and timing of future capital improvements change, then the impact fee presented in this section should be updated to reflect the cost of these adjustments.

3.2 Present Fire Impact Fees

The City currently does not assess an impact fee for the fire services.

3.3 Calculation of the City's Fire Impact Fees

The process of calculating impact fees is based upon a four-step process. In summary form, these steps were as follows:

- Determination of planning standards.
- Determination of fire impact fees.
- Determination of any impact fee credits.
- Determination of fire impact fees by development type.

Each of these areas is discussed in more detail below.

3.3.1 Planning Standards

The City currently does not have any deficiencies in providing fire service based on building and equipment requirements to the public that must be addressed by adding new fire stations and equipment. The City is still not in compliance with the number of personnel required under the planning standards. However, this is not includable in the impact fee calculation and must be funded from other sources. All future fire stations and equipment will be driven by the need to service new development in the City.

To meet the population growth in the future, the City has planned for a new fire station and equipment. This new station will serve an additional population growth of 4,500 people based on the current station serving approximately 4,500 people and business (see Exhibit A-1).

3.3.2 Building and Equipment Costs

The next step of the analysis is to review each major functional component of providing fire service and determine the impact fee for that component. In calculating the fire impact fee for the City, only planned future capital improvements were included within the calculation. The components of the City's fire service that were reviewed for purposes of calculating impact fee were as follows:

- New fire stations and equipment
- Administration costs

A brief discussion of the impact fee calculated for each of the components is provided below.

FIRE STATIONS AND EQUIPMENT – To serve new development, the City's fire service plan identified a new station and equipment to maintain the service standards. The cost of the new station was based on the cost of construction of a new 10,000 sq. ft. building and the cost of equipment. The total cost was also reduced by the amount that was assumed to be funded by other sources, including grants and transfers from the City general fund. These costs were then allocated to residential development and commercial development based on the property value. The result was a total cost of \$1,450,000, of which \$651,620 is attributable to residential development and \$798,080 is attributable to commercial development. Details of the calculations are provided in Exhibit A-1 and a letter of support from the City's Fire Department is presented in Exhibit D.

ADMINISTRATIVE CHARGE – Under Montana statute, an impact fee may include a fee for the administration of the impact not to exceed 5% of the impact fee collected. Therefore, the City has included a fire impact fee administrative charge of 5% of the impact fee collected.

3.3.3 Credits

The final step in calculating the fire impact fee was to determine if a credit for payment from other revenue sources was required. No debt is outstanding. Any new debt issued was included in the allocation of new development costs.

This results in a credit for single family residential units of zero and for commercial development of zero per 1,000 sq. ft.

3.4 Net Allowable Fire Impact Fees by Development Type

Based on the sum of the component costs calculated above, the net allowable fire impact fee can be determined. "Net" refers to the "gross" impact fee, less any credits. "Allowable" refers to the concept that the calculated impact fee shown in the following tables are the City's cost-based impact fees. The City, as a matter of policy, may charge any amount up to the allowable impact fee, but not over that amount. Charging an amount greater than the allowable impact fee would not meet the nexus test of a cost-based impact fee.

To determine the residential development fire impact fee, the allocated portion of fire service costs is divided by the population base that will be served to determine a cost per person. This cost is then multiplied by the number of persons per dwelling type to determine a fire impact fee

by residential development type. For commercial development, the allocated fire service costs are divided by the estimated amount of new commercial building space (1,000 sq. ft.) that will be provided fire service. A summary of the calculated net allowable fire impact fees by development type are shown in **Table 3-1**.

Table 3-1 City of Hamilton, Montana Allowable Fire Impact Fees	
Development Type	Impact Fee Calculation Results
Residential per unit	\$365.08
Apartment per unit	\$289.02
Commercial per 1,000 sq ft of building space or fraction thereof	\$885.35

The total impact fee as shown for a single family residential unit is \$365. The details of the net allowable impact fee are shown on Exhibit A-2 and Exhibit A-3.

3.5 Key Assumptions

In the development of the impact fees for the City’s fire system, a key assumption was utilized:

- The City’s capital improvements and costs were used in the calculation.

3.6 Implementation of the Impact Fees

The methodology used to calculate the impact fees takes into account the cost of money or interest charges and inflation. Therefore, HDR would recommend that the City adjust the impact fees each year by an escalation factor to reflect the cost of interest and inflation. The most frequently used source to escalate impact fees is the ENR index which tracks changes in construction costs for municipal projects. This method of escalating the City’s impact fee should be used for no more than a two-year period. After this time period, as required by Montana law, the City should update the charges based on the actual cost of infrastructure and any new planned facilities that would be contained in an updated master plan or capital improvement plan.

3.7 Consultant Recommendations

Based on our review and analysis of the City’s fire service, HDR makes the following recommendations:

- The City should implement impact fees for fire service that are no greater than the impact fees as set forth in this report.
- The City should update the actual calculations for the impact fees based on the methodology, as approved by the resolution or ordinance setting forth the methodology for impact fees, every two years as required by Montana law

3.8 Summary

The fire impact fees developed and presented in this section of the report are based on the planning of the City's service, future capital improvements, and "generally accepted" ratemaking principles. Adoption of the proposed impact fees will provide multiple benefits to the City and create equitable and cost-based charges for new customers.

Section 4

Determination of the City's Police Impact Fees

4.1 Introduction

This section of the report presents the development of the police impact fees. The calculation of the police impact fees presented in this section is based on the City's planning criteria and future capital improvements as identified in the City Police Department's established Capital Improvement Plan (CIP). To the extent that the cost and timing of future capital improvements change, then the impact fee presented in this section should be updated to reflect the cost of these adjustments.

4.2 Present Police Impact Fees

The City currently does not assess an impact fee for the police services.

4.3 Calculation of the City's Police Impact Fees

The process of calculating impact fees is based upon a four-step process. In summary form, these steps were as follows:

- Determination of planning standards.
- Determination of police impact fees.
- Determination of any impact fee credits.
- Determination of police impact fees by development type.

Each of these areas is discussed in more detail below.

4.3.1 Planning Standards

The only asset for the police department that is eligible for inclusion in the impact fee is building space. Equipment is not eligible since the asset life is less than 10 years. The building space required by the police department was provided by the City. The space needs analysis showed a need for 2,310 square feet of new office space. The space needs summary is provided in Exhibit B-1.

4.3.2 Building Costs

The next step of the analysis is to review each major functional component of providing police service and determine the impact fee for that component. The components of the City's police service that were reviewed for purposes of calculating impact fee were as follows:

- New building space
- Administration costs

A brief discussion of the impact fee calculated for each of the components is provided below.

BUILDING SPACE – New office space is estimated at \$150 per square foot and a land cost of \$50,000 resulting in a total cost of \$487,385. This was then allocated to residential and commercial development based on the property value, resulting in \$245,642 for residential development and \$241,743 for commercial development. Details of the calculations are provided in Exhibit B-2 and a letter of support from the City's Police Department is provided in Exhibit D.

ADMINISTRATIVE CHARGE – Under Montana statute, an impact fee may include a fee for the administration of the impact not to exceed 5% of the impact fee collected. Therefore, the City has included a fire impact fee administrative charge of 5% of the impact fee collected.

4.3.3 Credits

The final step in calculating the police impact fee was to determine if a credit for payment from other revenue sources was required. No debt is outstanding for the police, and no new debt is anticipated to be issued, resulting in a credit of zero.

4.4 Net Allowable Police Impact Fees by Development Type

Based on the sum of the component costs calculated above, the net allowable police impact fee can be determined. "Net" refers to the "gross" impact fee, less any credits. "Allowable" refers to the concept that the calculated impact fee shown in the following tables are the City's cost-based impact fee. The City, as a matter of policy, may charge any amount up to the allowable impact fee, but not over that amount. Charging an amount greater than the allowable impact fee would not meet the nexus test of a cost-based impact fee.

To determine the residential development police impact fee, the allocated portion of police service costs is divided by the population base that will be serviced to determine a cost per person. This cost is then multiplied by the number of persons per dwelling type to determine a police impact fee by residential development type. For commercial development, the allocated police service costs are divided by the estimated amount of new commercial building space (1,000 sq. ft.) that will be provided police service. A summary of the calculated net allowable police impact fees for by development type are shown in **Table 4-1**.

Table 4-1
City of Hamilton, Montana
Allowable Police Impact Fees

Development Type	Impact Fee Calculation Results
Residential per unit	\$137.56
Apartment per unit	\$108.90
Commercial per 1,000 sq ft of build space or fraction thereof	\$268.18

The total impact fee, as shown for a single family residential unit, is \$115. The details of the net allowable impact fee are shown on Exhibit B-3 and Exhibit B-4.

4.5 Key Assumptions

In the development of the impact fees for the City’s police service, a key assumption was utilized:

- The City’s capital improvements and costs were used in the calculation.

4.6 Implementation of the Impact Fees

The methodology used to calculate the impact fees takes into account the cost of money or interest charges and inflation. Therefore, HDR would recommend that the City adjust the impact fees each year by an escalation factor to reflect the cost of interest and inflation. The most frequently used source to escalate impact fees is the ENR index, which tracks changes in construction costs for municipal utility projects. This method of escalating the City’s impact fee should be used for no more than a two-year period. After this time period, as required by Montana law, the City should update the charges based on the actual cost of infrastructure and any new planned facilities that would be contained in an updated master plan or capital improvement plan.

4.7 Consultant Recommendations

Based on our review and analysis of the City’s police service, HDR makes the following recommendations:

- The City should implement impact fees for police service that are no greater than the impact fees as set forth in this report.
- The City should update the actual calculations for the impact fees based on the methodology, as approved by the resolution or ordinance setting forth the methodology for impact fees, every two years as required by Montana law

4.8 Summary

The police impact fees developed and presented in this section of the report are based on the planning of the City's service, future capital improvements, and "generally accepted" ratemaking principles. Adoption of the proposed impact fees will provide multiple benefits to the City and create equitable and cost-based charges for new customers.

EXHIBIT A
FIRE IMPACT FEE

City of Hamilton
Fire Impact Fees
Fire Suppression Asset Costs
Exhibit A-1

Station	Description	Cost	Percent Impact Fee Related ¹	Other Funding Sources ²	Impact Fee Cost	Impact Fee Cost ³	
						Residential	Commercial
New	Building	\$ 2,000,000	100%	50%	\$ 1,000,000	\$ 449,600	\$ 550,400
	Fire Engine/Pumper	300,000	100%	50%	150,000	67,440	82,560
	Fire Engine/Pumper	300,000	100%	50%	150,000	67,440	82,560
	Fire Engine/Pumper	<u>300,000</u>	100%	50%	<u>150,000</u>	<u>67,440</u>	<u>82,560</u>
Total Cost		\$ 2,900,000			\$ 1,450,000	\$ 651,920	\$ 798,080

1 - Reflects allocation to new growth

2 - Projected percent funding from grants and property tax levies

3 - Based on the property valuation

**City of Hamilton
 Fire Impact Fees
 Allowable Residential Impact Fees
 Exhibit A-2**

Residential Impact Fee Costs ¹	\$	651,920
Residential Population Served ²		4,500
Cost per Person	\$	144.87
Single Family Dwelling Unit- 2.42 persons per Dwelling Unit	\$	347.69
Administration Fee		17.38
Net Single Family Impact Fee	\$	365.08
Multifamily Dwelling Unit - 1.90 persons per Dwelling Unit	\$	275.26
Administration Fee		13.76
Net Multifamily Impact Fee	\$	289.02

1 - From Exhibit A-1.

2 - Based on 4,500 persons served per fire station.

**City of Hamilton
 Fire Impact Fees
 Allowable Commercial Impact Fees
 Exhibit A-3**

Commercial Impact Fee Costs ¹	\$	798,080
Commercial Acres ²		31.55
1,000 sq ft of Gross Building Area per Acre ³		30.00
Total Gross Building Area (1,000 sq ft)		947
Impact Fee per 1,000 sq ft of Gross Building Area	\$	843.19
Administration Fee		42.16
Net Commercial Impact Fee ⁴	\$	<u>885.35</u>

1 - From Exhibit A-1.

2 - Based on current development area.

3 - Assumes 30,000 sq. ft. per acre.

4 - Per 1,000 sq. ft. of gross building area.

EXHIBIT B
POLICE IMPACT FEE

**City of Hamilton
 Police Impact Fees
 Space Requirements ¹
 Exhibit B-1**

Description	Required	Existing	New
<i>New Officer Space</i>			
Total Net Space	4,486	2,243	2,243
Gross Space ²			673
Gross New Space Required ²			<u>2,916</u>

1 - From City of Hamilton

2 - Net space increased by 30% to reflect hallways, etc.

**City of Hamilton
Police Impact Fees
Cost Allocation
Exhibit B-2**

Required New Space ¹		2,916
Cost per Square Foot ²	\$	150.00
Police Building Cost	\$	437,385
Land Cost ³		<u>50,000</u>
Total Police Building Cost	\$	487,385
Residential Cost ⁴	\$	<u>245,642</u>
Commercial Cost ⁴	\$	<u>241,743</u>

1 - From Exhibit 1.

2 - RS Mean Building cost

3 - Based on recent land purchases.

4 - Based on property valuation.

**City of Hamilton
Police Impact Fees
Allowable Residential Impact Fees
Exhibit B-3**

Residential Impact Fee Costs ¹	\$	245,642
Residential Population Served		4,500
Cost per Person	\$	54.59
Single Family Dwelling Unit- 2.42 persons per Dwelling Unit	\$	131.01
Debt Service Credit		-
Administration Fee		6.55
Net Single Family Impact Fee	\$	137.56
Multifamily Dwelling Unit - 1.90 persons per Dwelling Unit	\$	103.72
Debt Service Credit		-
Administration Fee		5.19
Net Multifamily Impact Fee	\$	108.90

1 - From Exhibit B-2.

**City of Hamilton
Police Impact Fees
Allowable Commercial Impact Fees
Exhibit B-4**

Commercial Impact Fee Costs ¹	\$	241,743
Commercial Acres ²		32
1,000 sq ft of Gross Building Area per Acre ³		30.00
Total Gross Building Area (1,000 sq ft)		947
Impact Fee per 1,000 sq ft of Gross Building Area	\$	255.41
Debt Service Credit		-
Administration Fee		12.77
Net Commercial Impact Fee ⁴	\$	268.18

1 - From Exhibit B-2.

2 - Based on remaining commercial development.

3 - Assumes 30,000 sq. ft. per acre.

4 - Per 1,000 sq. ft. of gross building area or portion thereof.

EXHIBIT C
MONTANA CODE FOR IMPACT FEES

Montana Code Annotated 2005

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7-6-1601. Definitions. As used in this part, the following definitions apply:

(1) (a) "Capital improvements" means improvements, land, and equipment with a useful life of 10 years or more that increase or improve the service capacity of a public facility.

(b) The term does not include consumable supplies.

(2) "Connection charge" means the actual cost of connecting a property to a public utility system and is limited to the labor, materials, and overhead involved in making connections and installing meters.

(3) "Development" means construction, renovation, or installation of a building or structure, a change in use of a building or structure, or a change in the use of land when the construction, installation, or other action creates additional demand for public facilities.

(4) "Governmental entity" means a county, city, town, or consolidated government.

(5) (a) "Impact fee" means any charge imposed upon development by a governmental entity as part of the development approval process to fund the additional service capacity required by the development from which it is collected. An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.

(b) The term does not include:

(i) a charge or fee to pay for administration, plan review, or inspection costs associated with a permit required for development;

(ii) a connection charge;

(iii) any other fee authorized by law, including but not limited to user fees, special improvement district assessments, fees authorized under Title 7 for county, municipal, and consolidated government sewer and water districts and systems, and costs of ongoing maintenance; or

(iv) onsite or offsite improvements necessary for new development to meet the safety, level of service, and other minimum development standards that have been adopted by the governmental entity.

(6) "Proportionate share" means that portion of the cost of capital system improvements that reasonably relates to the service demands and needs of the project. A proportionate share must take into account the limitations provided in [7-6-1602](#).

(7) "Public facilities" means:

(a) a water supply production, treatment, storage, or distribution facility;

(b) a wastewater collection, treatment, or disposal facility;

(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;

(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;

(e) a police, emergency medical rescue, or fire protection facility; and

(f) other facilities for which documentation is prepared as provided in [7-6-1602](#) that have been approved as part of an impact fee ordinance or resolution by:

(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or

(ii) a unanimous vote of the board of county commissioners of a county government.

History: En. Sec. 1, Ch. 299, L. 2005.

Provided by Montana Legislative Services

Montana Code Annotated 2005

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7-6-1602. Calculation of impact fees -- documentation required -- ordinance or resolution -- requirements for impact fees. (1) For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:

- (a) describes existing conditions of the facility;
- (b) establishes level of service standards;
- (c) forecasts future additional needs for service for a defined period of time;
- (d) identifies capital improvements necessary to meet future needs for service;
- (e) identifies those capital improvements needed for continued operation and maintenance of the facility;
- (f) makes a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;
- (g) makes a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;
- (h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;
- (i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;
- (j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and
- (k) has a component of the budget of the governmental entity that:
 - (i) schedules construction of public facility capital improvements to serve projected growth;
 - (ii) projects costs of the capital improvements;
 - (iii) allocates collected impact fees for construction of the capital improvements; and
 - (iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

(2) The data sources and methodology supporting adoption and calculation of an impact fee must be available to the public upon request.

(3) The amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements or reasonable estimates of the cost to be incurred by the governmental entity as a result of new development. The calculation of each impact fee must be in accordance with generally accepted accounting principles.

(4) The ordinance or resolution adopting the impact fee must include a time schedule for periodically updating the documentation required under subsection (1).

(5) An impact fee must meet the following requirements:

(a) The amount of the impact fee must be reasonably related to and reasonably attributable to the development's share of the cost of infrastructure improvements made necessary by the new development.

(b) The impact fees imposed may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development. The following factors must be considered in determining a proportionate share of public facilities capital improvements costs:

- (i) the need for public facilities capital improvements required to serve new development; and
 - (ii) consideration of payments for system improvements reasonably anticipated to be made by or as a result of the development in the form of user fees, debt service payments, taxes, and other available sources of funding the system improvements.
- (c) Costs for correction of existing deficiencies in a public facility may not be included in the impact fee.
- (d) New development may not be held to a higher level of service than existing users unless there is a mechanism in place for the existing users to make improvements to the existing system to match the higher level of service.
- (e) Impact fees may not include expenses for operations and maintenance of the facility.

History: En. Sec. 2, Ch. 299, L. 2005.

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7-6-1603. Collection and expenditure of impact fees -- refunds or credits -- mechanism for appeal required.

(1) The collection and expenditure of impact fees must comply with this part. The collection and expenditure of impact fees must be reasonably related to the benefits accruing to the development paying the impact fees. The ordinance or resolution adopted by the governmental entity must include the following requirements:

(a) Upon collection, impact fees must be deposited in a special proprietary fund, which must be invested with all interest accruing to the fund.

(b) A governmental entity may impose impact fees on behalf of local districts.

(c) If the impact fees are not collected or spent in accordance with the impact fee ordinance or resolution or in accordance with [7-6-1602](#), any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due.

(2) All impact fees imposed pursuant to the authority granted in this part must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

(3) A governmental entity may recoup costs of excess capacity in existing capital facilities, when the excess capacity has been provided in anticipation of the needs of new development, by requiring impact fees for that portion of the facilities constructed for future users. The need to recoup costs for excess capacity must have been documented pursuant to [7-6-1602](#) in a manner that demonstrates the need for the excess capacity. This part does not prevent a governmental entity from continuing to assess an impact fee that recoups costs for excess capacity in an existing facility. The impact fees imposed to recoup the costs to provide the excess capacity must be based on the governmental entity's actual cost of acquiring, constructing, or upgrading the facility and must be no more than a proportionate share of the costs to provide the excess capacity.

(4) Governmental entities may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(a) the need for the dedication or construction is clearly documented pursuant to [7-6-1602](#);

(b) the land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by the governmental entity;

(c) formulas or procedures for determining the worth of proposed dedications or constructions are established as part of the impact fee ordinance or resolution; and

(d) a means to establish credits against future impact fee revenue has been created as part of the adopting ordinance or resolution if the dedication of land or construction of public facilities is of worth in excess of the impact fee due from an individual development.

(5) Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure or for rebuilding a damaged structure unless there is an increase in units that increase service demand as described in [7-6-1602](#)(1)(j). If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed.

(6) This part does not prevent a governmental entity from granting refunds or credits:

(a) that it considers appropriate and that are consistent with the provisions of [7-6-1602](#) and this chapter; or

(b) in accordance with a voluntary agreement, consistent with the provisions of [7-6-1602](#) and this chapter, between the governmental entity and the individual or entity being assessed the impact fees.

(7) An impact fee represents a fee for service payable by all users creating additional demand on the facility.

(8) An impact fee ordinance or resolution must include a mechanism whereby a person charged an impact fee may appeal the charge if the person believes an error has been made.

History: En. Sec. 3, Ch. 299, L. 2005.

Provided by Montana Legislative Services

Montana Code Annotated 2005

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7-6-1604. Impact fee advisory committee. (1) A governmental entity that intends to propose an impact fee ordinance or resolution shall establish an impact fee advisory committee.

(2) An impact fee advisory committee must include at least one representative of the development community and one certified public accountant. The committee shall review and monitor the process of calculating, assessing, and spending impact fees.

(3) The impact fee advisory committee shall serve in an advisory capacity to the governing body of the governmental entity.

History: En. Sec. 4, Ch. 299, L. 2005.

Provided by Montana Legislative Services

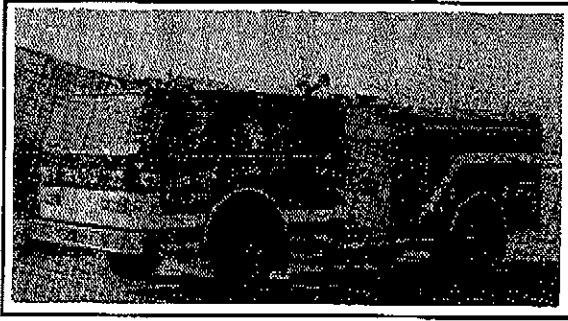
EXHIBIT D
FIRE AND POLICE CAPITAL IMPROVEMENT PLAN
DEPARTMENT LETTERS

MEMO

Date: 10/16/2006
To: Steve Green, Administrative Assistant
From: Ryan Oster, Chief of Police *RO*
RE: Space requirements

Steve,

After considering the issue of future space needs for the Police Department I have come to the conclusion that in order for the Police Department to serve a population of 9,000 people we would need to double the amount of space for offices, storage, etc., that we currently occupy. It will be essential to have that amount of space in order to continue to provide the level of services that the Police Department currently provides.

**Hamilton Volunteer Fire Department**

P.O. BOX 562
Hamilton, Montana, 59840

October 16, 2006

City of Hamilton
C/O Steve Green, Admin Assistant
223 South 2nd
Hamilton, Mt 59840

Dear Steve:

For future planning purposes it is my professional opinion, as Chief of Hamilton Volunteer Fire Department (HVFD), that in the not so distant future a second fire station will be required to adequately service the increased population that is sure to come. The futuristic fire station should accommodate Hamilton Fire with their building needs through a growth period covering approximately double the existing population of approximately 4500 to 9000 residents.

In addition, HVFD maintains a capital improvement program listing future equipment needs of the City that will also have to be continually updated to meet the growing demands of the City of Hamilton.

I would be happy to address any other questions concerning Hamilton Fire and potential growth issues. Thank you for the inquiries.

Sincerely,


Ronald J. Ehl, Chief
Hamilton Volunteer Fire Department