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Brighton Fire Rescue District Impact Fee Study

FINAL REPORT

Final Report

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Brighton Fire Rescue District Impact Fee Study

Prepared for

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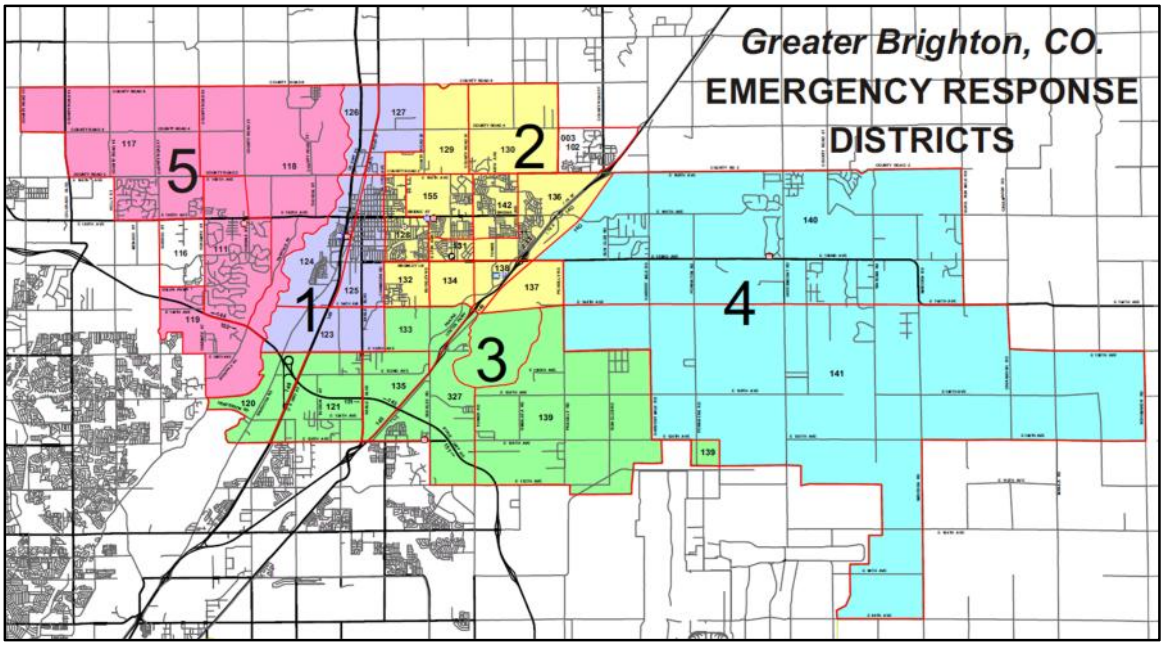
SECTION I.
Impact Fee Design Considerations

This report presents the analysis underlying calculation of proportional development impact fees for the Brighton Fire Rescue District (BFRD, or the District). This section describes fee design requirements and various implementation considerations.

Background and Objectives

The Brighton Fire Rescue District was established as a special district in 1980, and provides emergency medical, rescue, firefighting and safety/prevention services for the City of Brighton, the Town of Wattenburg, part of the City of Commerce City, and parts of the towns of Henderson and Lochbuie. The District also provides aid to large unincorporated areas of Adams and Weld counties. The BFRD directly provides service to a population of about 50,000 and responds to almost 5,500 emergency incidents each year. The district's unique composition of urban, suburban and rural areas requires a wide range of responses and service.

Figure I-1.
Brighton Fire Rescue District Coverage Area



Source: Brighton Fire Rescue District.

In the 2016 legislative session, the Colorado General Assembly passed House Bill 16-1088 explicitly authorizing fire protection districts, with consent of local governments, to impose an impact fee on new development. After this legislative action by the state, the BFRD contracted BBC Research & Consulting to calculate proportional and defensible fees, which when

implemented will provide assurance to the community that new growth is paying its own way and contributing to the fiscal health of the District.

This report documents BBC's analysis and recommendations for designing and implementing an impact fee system that would recover the proportional capital costs associated with all forms of new development.

Impact Fee Design Requirements

There is no universally accepted definition of impact fees, but most studies emphasize the fee's one time use; application to new development; design requirements for proportionality; and restricted use for infrastructure expansion purposes only:

> *"Fees collected through a set schedule or formula, spelled out in a local ordinance….fees are levied only against new development projects as a condition of permit approval to fund infrastructure needed to serve the proposed development. Impact fees are calculated to cover the proportionate share of the capital costs for that infrastructure…[1]"*

The key requirements of impact fee design are set by Colorado Statute, and a series of United States Supreme Court rulings.

Colorado requirements. Colorado statutes enable the use of impact fees and dictate the following fee requirements:

- Impact fees are a one-time payment levied on new development;
- Funds can only be used for growth-related capital infrastructure projects;
  - Applicable infrastructure must have at least a five year life;
  - No funds can be diverted for operations, maintenance, repair or facility replacement purposes;
- Fee revenues must be segregated from other general revenues and used for the purposes for which they were collected;
- Fees must be imposed on all forms of development and cannot be limited to one type of land use;
- Impact fee revenues must be used for capital infrastructure expansion. No funds can be used for correction of existing system deficiencies; and
- There must be a reasonable expectation of benefit by the fee payer.

[1]Juergensmeyer, Julian C., and Thomas E. Roberts. Land Use Planning and Development Regulatory Law. St. Paul, MN: WestGroup, 2003; and ImpactFees.com, Duncan Associates, 20 February 2008.

U.S. Supreme Court decisions. Impact fee design must also respect broad guidance offered by a series of United States Supreme Court rulings. The two most notable court decisions that speak to impact fee design and constraints on fee use are often referred to as *Nollan*[2] and *Dolan*[3].

Guidance from these decisions requires that there be an "essential nexus" between the exaction/fee and the stated interest being advanced by that exaction. In the more recent *Dolan v. City of Tigard* (1994) decision, the U.S. Supreme Court held that in addition to an essential nexus, there must be a "rough proportionality" between the proposed exactions and the project impacts that the exactions are intended to mitigate. In *Dolan,* the court further states that rough proportionality need not be derived with mathematical exactitude but must demonstrate some relationship to the specific impact of the subject project:

> *"We think a term such as 'rough proportionality' best encapsulates what we hold to be the requirements of the Fifth Amendment. No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development."*

Over the past two decades since *Dolan*, many communities have imposed impact fees; thus, there now is a broad set of common practices when considering how best to reflect these judicial and statutory requirements in fee design efforts.

Fee Applicability

As noted above, impact fee revenues can only be used to cover the expansion costs of public infrastructure needed to serve new development and fee amounts can only be set to recover the cost of infrastructure expansion that is proportional to the needs of the new project.

Public infrastructure. *Public or capital infrastructure* is the physical component of public services, generally including buildings, facilities and related improvements, such as parking, lighting, ball fields or other support facilities. Capital infrastructure includes streets, parks, administrative facilities, specialized fire or police buildings, and developed recreation facilities. Under Colorado Statute, infrastructure can include all equipment that has a useful life of five years or longer. It does not include personnel or any element of service costs, even in circumstances where new staff is required to operate the new facilities.

Nature of infrastructure investments. In considering fee requirements, it should be noted that not all capital infrastructure costs are associated with community growth or with the expansion of facility capacity. Most communities make frequent infrastructure investments regardless of growth pressures for repair and replacement of facilities. Communities considering impact fees must recognize three elements of infrastructure needs:

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2 Nollan v. California Coastal Commission, 483 U.S. 82; 1987 and Dolan v. City of Tigard (1994) 114S.Ct. 2309.

3 *Dolan v. City of Tigard* (1994) 114S.Ct. 2309

- **Repair and replacement of facilities**. The expense of maintaining current facilities, such as annual building maintenance, or replacing a roof.
- **Betterment of facilities**. Implementation of new services or improvement of existing facilities (e.g., adding better training equipment at a recreation center) without increasing service capacity.
- **Expansion of facilities.** Expanding an existing city hall to accommodate growing personnel requirements occurring in association with community growth.

Of these three considerations, impact fees can only cover those infrastructure costs associated with the expansion of facilities to serve the needs of new growth.

Other Fee Design Considerations

Over time, a reasonable consensus has emerged in state statutes and federal courts as to how best to assure fee compliance. In order to develop fees, there are three basic components: definition of community standards; calculation of proportional attribution to new growth and attribution of infrastructure needs across all major land uses. These issues and their resolution for this analysis are discussed below.

Setting community standards. The first fee design issue involves determining appropriate capital standards for each category of infrastructure. Some states' enabling legislation describes capital standard criteria with specificity; for instance, Idaho requires that a city use an endorsed capital improvements schedule and then a process of attribution between growth related and other investments—Colorado does not have this same detailed guidance. Facility standards, such as library space per household or recreation facilities per household, can vary widely between communities; thus, it is not appropriate to use standards developed for other towns, or other national standards.

Calculation methodology. There are two common methodologies employed in order to meet the standards described above, the current service standard (capital buy-in) and the capital improvement (plan-based):

- Typically, the buy-in fee design process involves documenting the replacement value of specific capital facilities and qualified equipment used for each category of infrastructure, and then defining that level of investment as the city's capital standard. For instance, a city of 2,500 homes with a 20,000 square foot recreation center (capital replacement value of $5.0 million) would have a recreation center standard of 8 square feet per housing unit (20,000 sq. ft./2,500 homes = 8 sq. ft. per home). At $250/square foot (replacement value of equivalent space), each existing residence would have an embedded recreational investment of $2,000 per home. This would be the community's present facility standard and this is what each new unit could be charged as a "buy-in" amount for a recreational impact fee.

- In the plan-based fee methodology, the cost of new infrastructure is allocated to new growth in proportion to that growth's anticipated demand of the infrastructure. This forward-looking approach requires forecasts of households and commercial growth, and

detailed data on capital expansion plans. For infrastructure to be eligible for inclusion in the impact fee calculation, it must meet the requirement that only items with a useful life of five years or more are designated as fee-eligible capital assets, per CRS 29-20-104.5.[4] Any improvements used to address current service deficiencies or increase the level of service cannot be included in the fee calculation—in other words, the fee calculations must take into account the current level of service and exclude any elements of the plan that would result in a higher level of service.

BBC used the capital buy-in approach to calculate the impact fees presented in this report. This decision was mutually agreed upon by BBC and BFRD as it provides the most accurate and robust fee calculation methodology given all available information.[5]

Adjustments for debt. Since facility standards are defined by a community's demonstrated investment in infrastructure, calculations of community standards must recognize, and net out, any applicable debt. Debt service will be paid by all future residents—new and old; it's not appropriate to charge new development a front end impact fee and then charge the same development again, after becoming residents or property owners, requiring them to also pay the remaining equity and interest costs. All capital infrastructure amounts used in the fee calculations are free of any debt-financed components.

Fee design cost-recovery. The cost of this study may be recovered through fees and used to reimburse the general fund. Fee design costs have been included in the District's infrastructure valuation.

Proportionality. As part of the fee design process it is necessary to ensure that fees only cover the proportional expansion costs caused by new development. The state statutes and aforementioned court decisions require a demonstration of proportionality. In the case of the capital buy-in method, by using existing infrastructure and service population and requiring new development to pay fees at an amount scaled by the current level of service, proportionality is reasonably and fairly derived.

Allocation by land use. The courts have indicated that all forms of development that have facility impacts (residential and commercial) must pay their fair share of expansion costs. If one land use is exempted from fees, all other land uses have no reasonable expectation of seeing facility expansion completed. Quantification of current residential and commercial land uses is obtained from the county assessor's data.

Use specificity. Impact fee systems vary in how precisely they differentiate between varying forms and size of residential development and varying uses of commercial buildings. Detailed non-residential use or other specificity is merited when there is there is compelling evidence that use or size variations reflect substantive difference in the demand for public services. The proposed fee structure for BFRD differentiates between single family and multifamily residential

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[4] Impact Fee Enabling Statute: *CRS 29-20-104.5. Local Government Regulation of Land Use.*

[5] BFRD staff and BBC Research & Consulting conference call February 8, 2017.

units and differentiates non-residential as industrial/warehouse or commercial (retail, office, or other nonresdiential). Residential fees are presented as per-unit fees and nonresidential fees are presented by square foot.

Redevelopment/credits. Application of impact fees raises a series of questions about how to approve redevelopment of existing properties and the circumstances under which fees can be waived or adjusted. The redevelopment of a residence, even a complete demolition and home reconstruction, does not mean an increase in public service costs—it is still one residential unit with little or no implications for service delivery costs or capital needs. Redevelopment of larger lots with multiple homes would be assessed a fee based on the number of net new residences. Similarly, non-residential redevelopment will only be charged on the basis of net new space.

Waivers. The District should not waive impact fees unless the fund is reimbursed from other sources such as the general fund or the developer/owner is making other contributions to system expansion by other mechanisms that meet or exceed the calculated requirements.

Timing. Generally impact fees are collected either at the time of building permit or at the issuance of a certificate of occupancy. BBC recommends the District collect impact fees at the time of building permit, which allows the District more time to extend service.

Updating. Fees should be updated periodically; most communities update fees every five years. Inflationary adjustments are recommended on an annual basis.

SECTION II.
Impact Fee Calculations

This section documents the derivation of impact fees for BFRD.

BFRD Budget Overview

BFRD budgeted operating revenues of approximately $13.9 million in 2016. Property taxes are by far the largest revenue source for the District and accounted for 78 percent of 2016 revenues followed by specific ownership tax revenue (5% of 2016 revenues). BFRD incurred operating expenditures of approximately $7.7 million in 2016.[6] The District currently funds its capital improvements through their General Fund and limited grant funding for special projects. General Fund revenues, driven primarily by a property tax mill levy of 11.795, are intended to fund capital expenditures related to existing population and development (e.g., vehicle replacement), not expenditures related to new population growth and development.

Additional property tax revenue from new growth is unlikely to be sufficient for growth-related capital expansion long term. Instead, tax revenues are likely to be expended for ongoing District expenses and repair/replacement of existing infrastructure as they are currently.

If the BFRD chooses to impose impact fees of the type calculated later in this analysis, it would retain an independent and equitable source of revenue for capital expenditures required to serve new growth. Without impact fees, the District may have to increase property taxes district-wide, reduce service standards for all taxpayers, or do both in order to accommodate growth.

With impact fees, new development pays only their equitable pro rata share of new infrastructure required to serve them while existing taxpayers will not subsidize growth. At the same time, the District's operating funds will be reserved for fiscally appropriate, non-growth related uses.

Impact Fee Calculations

BBC's methodology for the BFRD impact fee includes the following tasks:

1. Quantify the fire infrastructure standards and investments needed to maintain the current level of service;
2. Account for outstanding debt, net-out of District total replacement value;
3. Develop estimates of the District's current service demand by development type (based on calls for service); and
4. Calculate the fire protection infrastructure costs per unit of development (per household, or per square foot of commercial development).

[6]The $7.7 million figure excludes non-operating items (debt service). Total BFRD 2016 budgeted expenses were $8.5 million.

Fire and EMS infrastructure. A conservative method of establishing the District's current level of service for fire protection is to quantify its financial investment in infrastructure and capital equipment. The BFRD has five types of capital infrastructure related spending that are included in the calculation of current infrastructure investment:

- Land and buildings including five fire stations and a garage/maintenance building;
- Major apparatus such as fire engines and specialized vehicles;
- A variety of life-saving and fire-fighting apparatus located at individual fire stations or on pieces of equipment;
- Business personal property such as fire station and office furniture, computers and related durable assets; and
- The cost of this impact fee study.

Figure II-1 on the following page presents the District's current capital infrastructure. Replacement values are based on information provided by BFRD, including a current insurance report detailing the District's capital asset schedule.

As discussed earlier in this report, only the District's equity share of assets can be included in the impact fee calculation (i.e., must exclude debt used to finance fire stations or vehicles).[7] BFRD has an outstanding debt of $831,644 for stations 53, 54 and 55 and truck refurbishment on the 2004 Spartan Quint Rig. Figure II-1 accounts for the debt as a reduction in the allocated replacement value of the affected assets.[8]

The full cost of infrastructure acquired specifically for fighting wildfires is also excluded from the total value used for the fee calculation. Additional residential or commercial development in the district will not directly contribute to capital requirements of fighting wildland fires. Therefore, the fee system should not replicate wildfire-specific infrastructure investments. BFRD property tax or other revenue sources will maintain the wild land fire standard of service. Accordingly, the three Brush Trucks used exclusively for wildfires are not included in the impact fee calculations (shown as 0% "portion to include in impact fees" in Figure II-1). BFRD also maintains two antique fire trucks and a trailer used to haul the antiques that are not used to provide fire protection services to District households and businesses. As such, the value of these assets is excluded from the fee calculation.

The total replacement value of the District's current capital infrastructure is approximately $17.5 million, $16.2 million of which is eligible to be included in the impact fee calculation.

[7] See Section I page 5 for an explanation of debt adjustments.

[8] It should also be noted that BFRD also has a capital lease for the construction of a new station and updates to two existing stations. This future station and the associated debt are not included in the impact fee model as they are not factors in the current level of service provided by BFRD.

Figure II-1. Brighton Fire Rescue District's Current Assets

Notes:

(1) Reflects District's equity in each piece of capital infrastructure, net of any outstanding debt.

(2) Equipment used exclusively for brush fire response and/or antique show vehicles are excluded from the impact fee calculation.

(3) District equity multiplied by replacement value equals allocated replacement value.

Sources:

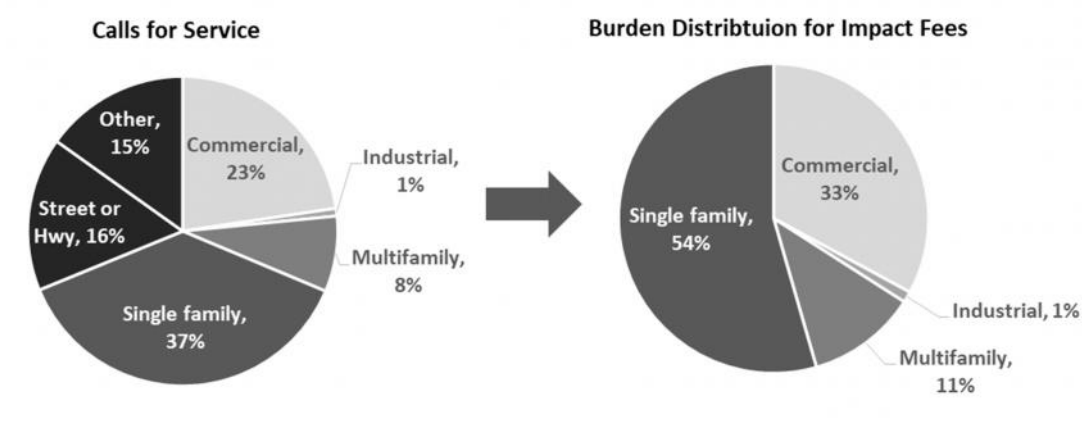
Brighton Fire Rescue District, T. Charles Wilson Insurance Service Insurance Inventory and BBC Research & Consulting.

Type of Capital Infrastructure	Total Replacement Value	Portion to Include in Impact Fees [1], [2]	Allocated Replacement Value [3]
Buildings and Land			
Fire Station 51	$1,746,488	100%	$1,746,488
Fire Station 52	$1,133,144	100%	$1,133,144
Fire Station 53[1]	$1,687,133	89%	$1,495,855
Fire Station 54[1]	$2,649,015	90%	$2,382,889
Fire Station 55[1]	$2,649,015	90%	$2,382,889
Garage/Maintenance Building	$402,284	100%	$402,284
Vehicles			
1915 Republic Antique[2]	$6,141	0%	$0
1927 American Antique[2]	$6,141	0%	$0
1990 GMC Light Rescue	$61,444	100%	$61,444
1990 Kentucky Trailer	$16,936	100%	$16,936
1993 International Pumper	$307,438	100%	$307,438
1997 SCO Safety Trailer	$10,927	100%	$10,927
1999 Chevrolet Suburban First Responder	$39,993	100%	$39,993
2000 Ford Brush Truck[2]	$153,834	0%	$0
2001 Ford Brush Truck[2]	$153,782	0%	$0
2000 Ford Expedition First Responder	$33,153	100%	$33,153
2002 Ford Expedition First Responder	$41,785	100%	$41,785
2003 Kenworth Tanker	$184,441	100%	$184,441
2003 Kenworth Tanker	$184,441	100%	$184,441
2004 Spartan Quint Reg[1]	$689,585	84%	$581,471
2006 Spartan Pumper	$368,991	100%	$368,991
2006 Spartan Pumper	$381,284	100%	$381,284
2006 HAU Trailer	$5,157	100%	$5,157
2006 HAU Trailer	$5,157	100%	$5,157
2008 Zodiak Mark III	$3,016	100%	$3,016
2008 Smeal Pumper	$437,855	100%	$437,855
2010 Ford F350 Brush Truck[2]	$132,613	0%	$0
2010 Kenworth Firetruck Tender	$302,685	100%	$302,685
2010 Kenworth Firetruck Tender	$302,685	100%	$302,685
2010 Metro Utility Liberty II Trailer	$89,242	100%	$89,242
2010 Sportrail SAU712 Trailer	$4,053	100%	$4,053
2010 Smeal Pumper	$554,875	100%	$554,875
2011 Ford F350 w/Snow Plow Truck	$52,013	100%	$52,013
2011 Pierce Tower	$1,005,079	100%	$1,005,079
2012 Chevrolet Tahoe	$37,600	100%	$37,600
2013 Spartan Pumper	$51,639	100%	$51,639
2014 Load Carhauler Trailer[2]	$2,971	0%	$0
2015 Chevrolet Yukon	$41,200	100%	$41,200
2016 Chevrolet Colorado Pickup	$31,397	100%	$31,397
2016 Chevrolet Colorado Pickup	$35,000	100%	$35,000
2016 Chevrolet Tahoe	$64,023	100%	$64,023
Fire Equipment and Business Property			
Firefighting Equipment	$406,028	100%	$406,028
Machinery and other equipment	$895,773	100%	$895,773
Other business and personal property	$142,944	100%	$142,944
Fee Study			
Cost of study	$10,000	100%	$10,000
Total Value of Fire Infrastructure for Fee Calculation	**$17,520,399**		**$16,233,273**

Demand for services by land use. Demand for city services is not always equal across different land uses. BBC used existing calls for fire and EMS service as a proxy for demand in the fee calculations. In order to mitigate operational "busy-ness" (year-to-year fluctuations), BBC evaluated four years (2013 through 2016) of call data to determine the average distribution. Figure II-2 displays BFRD's calls for service by land use category. Calls classified as "street or highway" or "other" cannot be attributed to a specific land use and are excluded from the impact fee calculation model.

Over the four-year period, there were approximately 19,000 calls for service to BFRD. After "street or highway" and "other" calls are excluded, 54 percent were to single family residential units, 11 percent were to multifamily residential developments, 33 percent were to commercial developments, and 1 percent were to industrial/warehouse developments.

Figure II-3.
Calls for Service(2013-2016) and Burden Distribution for Impact Fee Calculation



Note: Street/hwy and other categories cannot be assigned to development type and are therefore excluded from the impact fee calculation.
Source: BFRD and BBC Research & Consulting.

Impact fee calculation. Figure II-3 uses the District's current service standards and infrastructure replication costs, less outstanding lease purchase, to determine appropriate household and commercial fees. The District's calls for service data is used as a reasonable proxy for the assignment of costs to particular types of development.

Full cost-recovery impact fees for BFRD total $688 per single family residential dwelling unit, $550 per multifamily dwelling unit, $559 per thousand square feet of new commercial development, and $60 per thousand square feet of new industrial development. The District can choose to charge less than this amount but discounts must be uniformly applied to all land use categories.

Figure II-3.
BFRD Fire Impact Fees

Note:

BFRD Value of Fire Infrastructure excludes brush fire infrastructure, antique show vehicles and debt on existing assets.

Source:

BBC Research & Consulting, 2017.

Calculation of Impact Fees	
BFRD Value of Fire Infrastructure	$16,233,273
Burden Distribution (based on calls for service)	
Commercial	32.9%
Industrial	1.2%
Single family	54.5%
Multifamily	11.5%
Costs by Category	
Commercial	$5,341,521
Industrial	$186,868
Single family	$8,839,841
Multifamily	$1,865,043
Existing Development	
Commercial (in square feet)	9,551,021
Industrial (in square feet)	3,138,196
Single family (in dwelling units)	12,844
Multifamily (in dwelling units)	3,393
Impact Fee by Land Use	
Commercial (per 1,000 feet^2)	**$559**
Industrial/Warehouse (per 1,000 feet^2)	**$60**
Single family (per dwelling unit)	**$688**
Multifamily (per dwelling unit)	**$550**

Summary and Recommendations

In light of the Brighton Fire Rescue District's expected growth, and its need to finance resulting capital expenditures related to this growth, the impact fees presented in this study are recommended for your consideration.

The fees listed in Figure II-3 should be considered maximum defensible amounts, although it is recognized that the District may choose not to adopt fees as high as the maximum defensible amounts set forth in this analysis.

We also offer the following recommendations for your consideration:

- The District should maintain the Impact Fee Fund separate and apart from the General Fund, withdrawn only to pay for growth-related infrastructure.

- The District should adhere to a written policy governing its expenditure of monies from the Impact Fee Fund. The Fund should be prohibited from paying for District operational expenses including the repair and replacement of existing infrastructure not necessitated by growth. In cases when new infrastructure is expected to partially replace existing capacity and to partially serve new growth, cost sharing between the General Fund and Impact Fee Fund should be allowed on a pro rata basis as determined by the District's board.

- The fees calculated in this study should be updated periodically as the District invests in additional fire protection infrastructure beyond what is listed in Figure II-1, and/or the District's population or inventory of commercial square footage change significantly.

- The fees should be updated annually based on established inflation indices, such as the Consumer Price Index or the Engineering News Record.

- Finally, consider a fee amount that balances infrastructure needs with economic development goals.