BBC RESEARCH & CONSULTING

Front Range Fire Rescue
Impact Fee Study

FINAL REPORT

Final Report

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Front Range Fire Rescue Impact Fee Study

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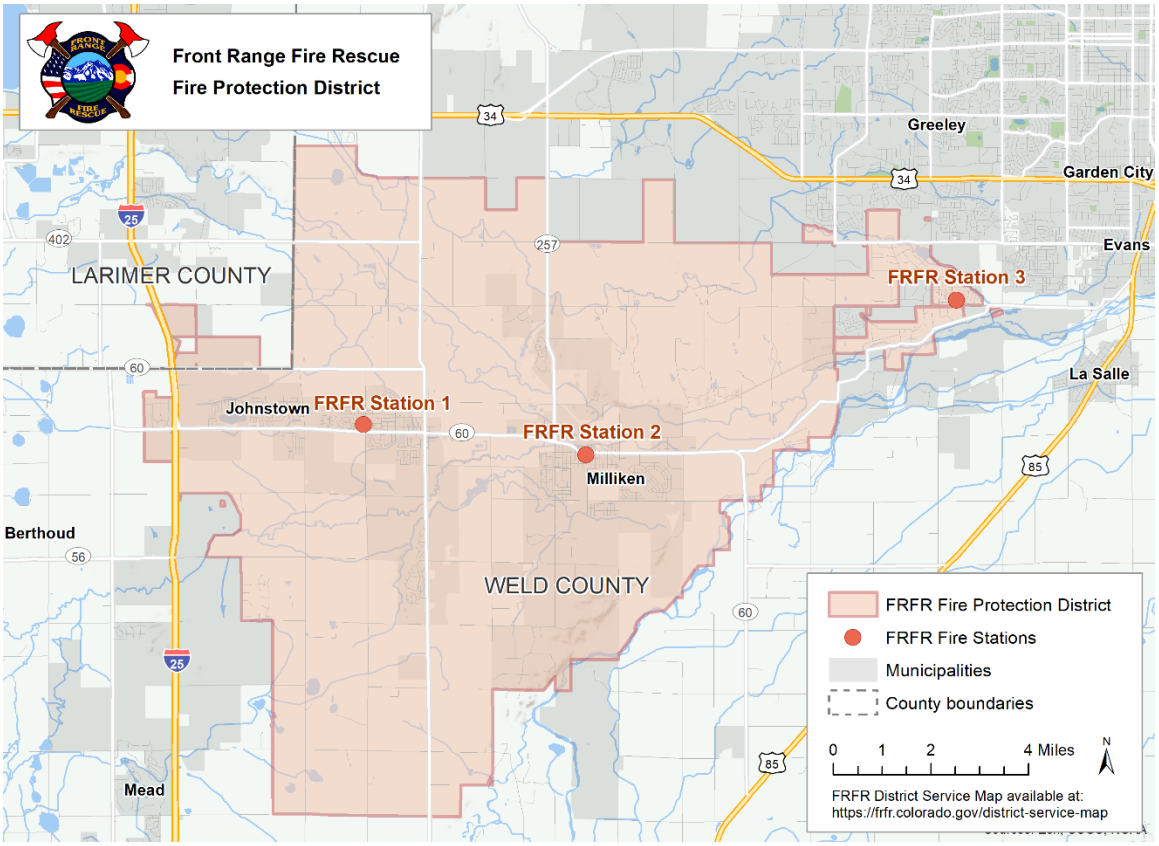
SECTION I.
Introduction

Front Range Fire Rescue Fire Protection District (FRFR) provides fire rescue, emergency medical, and life safety and fire prevention services in Weld and Larimer Counties, serving the Town of Johnstown, the Town of Milliken, and parts of unincorporated Weld and Larimer Counties, as shown in Figure I-1. FRFR's service area includes both urban and rural land uses.

Many fire districts in Colorado impose development impact fees for expansion of public infrastructure. Colorado statute and a series of United States Supreme Court decisions dictate the amounts that districts can charge in impact fees and how they can devise, impose, and spend them. Because of those requirements, FRFR retained BBC Research & Consulting (BBC) in 2023 to conduct a feasibility assessment and prepare a report documenting the calculation of appropriate fees for its services. This report documents BBC's analysis and recommendations for updating the impact fee system that would recover the proportional capital costs associated with new development.

Figure I-1.
Front Range Fire Rescue Fire Protection District Service Area



Source: Fire districts data aggregated by the Colorado Department of Local Affairs. Downloaded from Colorado Information Marketplace, at https://data.colorado.gov/Local-Aggregation/Fire-Districts-in-Colorado/ua3v-vcuh.

A. Impact Fee Requirements

Although there is no universally accepted definition of defensible impact fees, most feasibility assessments focus on the following requirements:

- *One-time application*, meaning that fees are a one-time payment for new development;
- *Restricted use*, meaning that fees are only applicable to infrastructure expansion projects;
- *New development*, meaning that fees are only applicable to new development and not improvements to existing developments; and
- *Proportionality requirements*, meaning that fees must be limited to the proportionate share of the capital costs associated with providing services to the new development.

For example, Juergensmeyer and Thomas (2008) describe impact fees as:

> *"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]

1. Colorado requirements. Consistent with Juergensmeyer and Thomas's (2008) description of impact fees, Colorado law specifies the following requirements for impact fees:

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

2. Supreme Court decisions. Impact fees must also be in accordance with a series of United States Supreme Court rulings. The two most notable court decisions that speak to impact fee requirements are often referred to as *Nollan* and *Dolan*.[2] Guidance from those decisions requires that there be an "essential nexus" between the fee and the community's interest. In *Dolan v. City of Tigard* (1994), the Supreme Court held that, in addition to an "essential nexus," there must be

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[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.

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

"rough proportionality" between the proposed fee and the impacts that the fee is intended to mitigate. In *Dolan,* the Court further ruled that "rough proportionality" need not be derived with mathematical exactitude but must demonstrate some relationship to the specific impact of the 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."*[3]

Over the past two decades since *Dolan*, many fire districts have imposed impact fees, resulting in a broad set of common practices when considering how best to reflect judicial and statutory requirements in designing new fees.

B. Fee Applicability

As noted above, fire districts can only use impact fee revenue to cover the costs of any necessary expansion of public infrastructure that is needed to serve new development. In addition, fee amounts can only be set in a manner that is proportional to the cost of such infrastructure expansion.

1. Public infrastructure. *Public or capital infrastructure* is the physical component of public services. Under Colorado statute, the definition of *infrastructure* can include all equipment that has at least a five-year lifetime. It does not include personnel or any elements of service costs, even in circumstances where new staff is required to operate new facilities. Public infrastructure generally includes buildings, facilities, parking, lighting, recreation centers, or other support facilities. Capital infrastructure generally includes streets, parks, administrative facilities, specialized fire or police buildings, and recreational facilities.

2. Nature of infrastructure investments. Not all capital infrastructure costs are associated with community growth or with the expansion of facility capacity. Most fire districts make infrastructure investments not because of growth pressures but for the repair and replacement of existing facilities. For example, fire districts often make infrastructure investments related to:

- *Repair and replacement of existing facilities*, such as annual building maintenance or replacing a roof;
- *Betterment of existing facilities*, such as introducing new services or improving existing infrastructure without increasing service capacity; and
- *Facilities expansions*, such as expanding an existing building to accommodate growing personnel requirements.

Fire districts are not allowed to account for such investments as part of impact fee calculations.

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

C. Capital Standards

In designing impact fees, fire districts must determine the appropriate capital standards applicable to each category of infrastructure. Facility standards can vary widely between districts. Whereas some states have legislation that describes such criteria with great specificity, other states—like Colorado—use more general standards. There are two primary approaches for calculating capital standards.

1. Replacement value approach. Capital standards can be estimated using the replacement value of specific capital facilities and the qualified equipment necessary for each category of infrastructure. For example, a city of 2,500 homes with a 20,000 square foot recreation center that has a replacement value of $5 million would have a recreation center standard of 8 square feet per housing unit (i.e., 20,000 square feet/2,500 homes = 8 square feet per home) and a replacement value of $250 per square foot (i.e., $5 million/20,000 square feet = $250 per square foot). Thus, each existing residence would have an embedded recreational investment of $2,000 per home (i.e., $250 x 8 square feet = $2,000 per home), representing the community's recreational facility standard, which is what a developer could be charged for recreational facilities for each new unit.

If capital standards are defined using a replacement value approach, then calculations of those standards must account for any debt that applies against the relevant infrastructure. Because current residents are already responsible for that debt, it would be duplicative and inappropriate to charge developers impact fees that also include that debt.

2. Plan-based approach. Fire districts can also use a *plan-based approach* to set capital standards, which relies on capital improvement or other specific plans to estimate the value of capital required to serve future development. A plan-based approach requires forecasts of residential and commercial growth and detailed data on capital expansion plans and costs. Plan-based approaches must focus on expansion-related projects or the expansion portion of projects rather than betterment or replacement projects.

D. Other Considerations

Over time, some consensus has emerged on how best to ensure that impact fees comply with state statutes and court rulings. Many of the factors that fire districts must consider in designing fees appropriately are described above, but BBC also presents other considerations that fire districts must make.

- **Allocation by land use**. Courts have indicated that all forms of development that have facility impacts—that is, residential, industrial, and commercial developments—must pay their fair share of expansion costs. If one type of development is exempted from fees, then fees may not be sufficient to cover expansion costs that result from new development.
- **Use specificity**. Impact fee calculations vary between different forms and sizes of residential development and different uses of commercial buildings and how they impact demand for public services. When compelling evidence is available that the forms, sizes, or uses of particular types of development will result in substantially different demands for public services, then fire districts' impact fees should reflect that information.

- **Redevelopment**. The application of impact fees raises questions about how to deal with the redevelopment of existing properties. The redevelopment of a residence—even if it involves full scraping—does not lead to an increase in service demands, because it is still one residential unit with no implications for service delivery costs or capital needs. In contrast, the redevelopment of a larger lot into multiple homes would be assessed an impact fee based on the net number of new residential units, because there would be clear implications for service delivery and capital needs. Commercial redevelopment would be subject to the same considerations.
- **Waivers**. Fire districts should not waive fees unless the funds are reimbursed from other sources such as the general fund or other contributions by the developer to system expansion that exceed the calculated fees.
- **Timing.** Fees should be assessed at the time that building permits are issued.
- **Updates**. Impact fee calculations should be updated periodically. Most fire districts update their fees every two or three years.
- **Fee design costs.** The cost of fee design studies can be recovered through impact fees and used to reimburse districts' expenditures on the studies.

SECTION II.
Impact Fee Derivation

As described in Section I, there are several types of information that fire districts must consider to appropriately set their development impact fees, including determining capital standards. BBC used data from various sources to make appropriate considerations in developing updated development impact fees for FRFR.

- **Capital standards.** BBC used FRFR's planned future investment in facilities as the basis for determining capital standards for its new fees based on the District's projections of future capital requirements to serve new growth. The valuation included estimates of investments in buildings, furniture, fixtures, and durable equipment. Calculations of capital standards must also account for any debt that exists in connection with relevant infrastructure. FRFR did not have any debt associated with its capital at the time this study was conducted.
- **Demand for services by development type.** It is important for fire districts to determine how impact fees should be allocated according to demand for services by land use so that all forms of development pay their fair share of expansion costs. Data from the Weld and Larimer County Assessors regarding existing building types and square footage within the FRFR service area indicate that the large majority of existing development is single family residential (79% single family residential, 5% multifamily residential, 8% commercial, and 8% industrial). BBC allocated FRFR's updated development impact fees accordingly, because the mix of future development in the region is not expected to differ substantially from current land use.
- **Use specificity.** To the extent possible, impact fees should reflect the degree to which different forms, sizes, and uses of particular types of development will result in different demand for public services. However, there is no compelling evidence that suggests that larger homes create more demand for public services than smaller homes. In addition, there is uncertainty about the nature of future commercial development. As a result, BBC treated all residential units equally and all commercial units equally as they relate to public service demand.
- **Fee design costs**: The cost of fee design studies can be recovered through impact fees, so BBC has included the cost of this report in the fee calculations.
- **Proportionality:** By using FRFR's planned future investment in facilities to derive capital standards and then setting fee rates to replace the future standards of facility investment, BBC has ensured that proportionality has been reasonably and fairly derived.

A. FRFR Budget Overview

The FRFR Fire Protection District collects property tax revenue through an 11.642 property tax mill in Weld and Larimer Counties. A millage rate is the tax rate used to calculate local property taxes and represents the amount per every $1,000 of a property's assessed value that a community would charge. In 2022, property taxes accounted for 82 percent of the FRFR total annual revenue of $5.6 million. The remaining revenue came from plan and permit fees, specific ownership taxes, and other revenue sources. Expenditures totaled $5.3 million in 2022, primarily for personnel (64%) and administration (25%). Personnel costs include salaries, benefits, and volunteer incentives.

Front Range Fire Rescue funds capital purchases through the operating budget and through a 2.0 dedicated mill to the Capital Fund. As discussed on Section I pages 3 and 4, capital investments, in general, are used for repair and replacement; betterment of facilities and service standards; and expansion of facilities. The dedicated mill for capital purchases is not restricted to a specific type of capital need and has historically been used to improve the level of service for existing residents. As such, the dedicated capital mill is not a revenue source that would offset impact fees; instead, the property tax revenues are likely to be expended for repair and replacement of existing infrastructure and service improvement as they are currently.

Additional property tax and specific ownership tax revenues that fund FRFR's operating budget will continue to be dedicated to ongoing expenses and will not likely be sufficient to fund the required level of growth-related capital expansion.

If the FRFR FPD chooses to instate 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. 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, FRFR's capital and operating funds will be reserved for fiscally appropriate, non-growth-related uses.

B. Impact Fee Calculations

BBC's calculations of updated development impact fees for FRFR includes the following steps:

1. Quantify the infrastructure investment needed to maintain current level of service given projected growth;
2. Develop estimates of current patterns of building development within the FRFR service area; and
3. Calculate the fire protection infrastructure costs per unit of development (per household or per square foot of nonresidential development).

1. Projected growth and planned future investment. BBC's estimates of household growth rates in FRFR's service area are based on growth projections by the North Front Range Metropolitan Planning Organization (NFRMPO). The existing ratio of single family residential to multifamily residential development within the service area is assumed to remain consistent.

BBC used employment projections from the NFRMPO to estimate new non-residential building development in FRFR's service area. The existing ratios of commercial and industrial building space per job within the service area is assumed to remain consistent.[4] The forecast period for the impact fee calculations is through 2045.

Figure II-1 displays the growth projections for FRFR's service area through 2045. Over the 22-year planning horizon, development in the FRFR service area is projected to produce 12,440 new residential units (11,594 of which are single family and 847 of which are multifamily). Non-residential development is projected to produce 990,000 square feet of additional commercial and retail space and 968,000 square feet of additional industrial space.

Figure II-1.
FRFR Service Area Growth Projections

	Existing Development (2023)	Future Development		
		Growth Rate	Total	New Growth
Single family (units)	7,738	4.2%	19,332	11,594
Multifamily (units)	565	4.2%	1,412	847
Commercial (square feet)	1,277,669	2.6%	2,268,003	990,334
Industrial (square feet)	1,248,701	2.6%	2,216,582	967,881

Sources: Front Range Fire Rescue, Weld County Assessor, Larimer County Assessor, North Front Range Metropolitan Planning Organization, and BBC Research & Consulting.

FRFR's current Capital Improvement Plan details significant investments in facilities and equipment necessary to serve new growth, as shown in Figure II-2. This figure also shows the

[4] In 2023, for each estimated job in the service area there are 111.1 square feet of commercial building space and 108.9 square feet of industrial building space.

portion of the facilities and equipment expense that is eligible to be included in the impact fee calculation.

Figure II-2.
FRFR Facilities and Capital Investment Plan

	Amount	x	Growth Percentage	=	Amount to Include in Fees
Facilities: Stations					
Station 1	$6,650,000		0%		$0
Station 2	$455,000		0%		$0
Station 3	$200,000		0%		$0
Station 4	$8,000,000		100%		$8,000,000
Station 5	$8,350,000		100%		$8,350,000
Training Grounds	$850,000		0%		$0
Two Rivers Training	$180,000		0%		$0
Logistics Center	$50,000		0%		$0
Fire Apparatus					
2006 2500 gallon Tender (Replacement)	$450,000		0%		$0
2008 Ford Brush Truck (Station 4)	$200,000		100%		$200,000
2010 3500 gallon Tender (Replacement)	$450,000		0%		$0
2013 Dodge Brush Type 6 (Replacement)	$200,000		0%		$0
2015 Pierce PUC Engines (Replacement)	$750,000		0%		$0
2015 Pierce PUC Engines (Replacement)	$750,000		100%		$750,000
2019 Chevy Brush Type 6	$14,000		0%		$0
2024 Ladder Truck TBD	$1,700,000		100%		$1,700,000
2028 Engine (Station 4?)	$750,000		100%		$750,000
Staff Vehicles					
2006 Chevy Pickup (Replacement)	$100,000		0%		$0
2016 Chevy Tahoe (Replacement)	$120,000		0%		$0
2016 Ford Explorer (Replacement)	$120,000		0%		$0
2018 Chevy Colorado (Replacement)	$50,000		0%		$0
2019 Chevy Silverado 1500 (Replacement)	$125,000		0%		$0
2021 Ford F 150 BC Truck (Replacement)	$125,000		0%		$0
2022 Ford F 150 DC Truck	$120,000		0%		$0
2023 LSB Inspector	$50,000		100%		$50,000
2023 Emergency Mgmt.	$50,000		100%		$50,000
2024 OPS BoT LT	$120,000		100%		$120,000
2025 LSB Inspector	$50,000		100%		$50,000
Equipment					
2021 SCBA (Replacement)	$400,000		0%		$0
SCBA (Station 4)	$90,000		100%		$90,000
PPE	$490,000		0%		$0
TIC	$300,000		0%		$0
Fitness Equipment - Station 5	$33,000		100%		$33,000
Fitness Equipment - Station 4	$25,000		100%		$25,000
Other	$15,000		0%		$0
Station Furniture (Station 4)	$300,000		100%		$300,000
Station Furniture (Station 5)	$300,000		100%		$300,000
Extrication Equipment (Station 4)	$100,000		100%		$100,000
Communications & IT					
Radios Replacement	$250,000		0%		$0
Radios (Station 4)	$42,000		100%		$42,000
Office PCs	$10,000		0%		$0
Impact Fee Study	$12,000		100%		$12,000
Subtotal					$20,922,000
Subtract **Impact Fee Fund Balance**	$1,168,749		100%		$1,168,749
Total					**$19,753,251**

Source: Front Range Fire Rescue Capital Improvement Plan 2023 and discussions with FRFR staff.

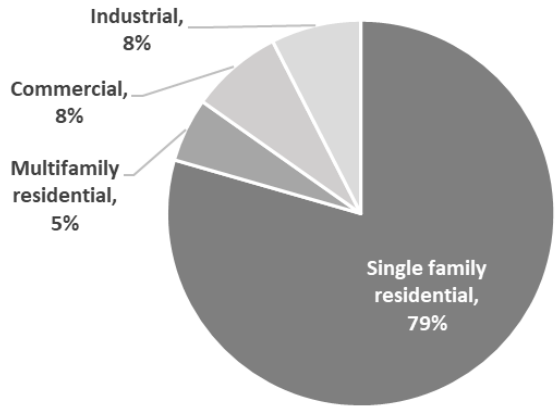
FRFR projects it will need more than $33 million in capital projects to maintain its existing level of service at buildout, including approximately $20 million of capital attributable to new growth. The capital plan includes two fire stations (#4 and #5), each with a built cost of approximately $8 million. Stations 4 and 5 will serve future growth and are therefore 100 percent eligible to be included in the fee calculation. Corresponding equipment and apparatus for the two stations are also included in the fee calculation. Together, the capital required to serve new growth accounts for 60 percent of the total planned investment dollars, all of which are eligible for inclusion in the fee study.

The other 40 percent of the investment outlined in Figure II-2 is not eligible to be included in the fee calculation because the improvements are necessary to maintain the current level of service for existing residents rather than to serve future growth. Repair and renewal of existing stations—as well as the purchase of replacement fire apparatus, vehicles, and equipment—are not eligible to be included in the fee calculation for this same reason.

2. Current distribution of development types. This report utilizes the current distribution of development in the FRFR service area as the basis for allocating eligible infrastructure expansion costs over different types of land uses. This approach is consistent with the Colorado Municipal League's recommendation that cost allocation be based on a measure of land use.

The existing mix of residential and non-residential building square footage is shown in Figure II-3 and is based on data from the Weld County Assessor and the Larimer County Assessor. By square footage, the existing built area in FRFR's service area is 79 percent single family residential, 5 percent multifamily residential, 8 percent commercial, and 8 percent industrial space.

Figure II-3.
Land Uses within FRFR Service Area (% of total built square feet)



Note: Out buildings, roadways, agricultural buildings, mobile homes, schools, churches, and other categories are excluded from the impact fee calculation.

Sources: Front Range Fire Rescue and BBC Research & Consulting.

3. Impact fee calculation. Figure II-4 uses FRFR's capital improvement plan costs to determine appropriate single family residential, multifamily residential, commercial, and industrial impact fees. BBC used the existing distribution of development (Figure II-3) as a proxy for service demand and assigned costs to each type of development accordingly.

Figure II-4 presents fee calculations for each development type. The cost of fire capital infrastructure eligible to be included in the impact fee calculation is presented in the top row of Figure II-4 (and is identical to the last row of Figure II-2).

- The first step in calculating the impact fees was to allocate the total value of future fire capital infrastructure eligible to be included in the impact fee calculation to each type of development based on its proportion of built area as a percent of the total. Thus, BBC allocated 79 percent, or $15.7 million, to single family residential development; 5 percent, or $1.1 million, to multifamily residential development; 8 percent, or $1.5 million, to commercial development; and 8 percent, or $1.5 million, to industrial development.
- Next, BBC allocated infrastructure costs for each development type to the units of future development, based on future growth projections. For residential development, costs were allocated to each unit and for commercial and industrial development, costs were allocated to each square foot. The resulting figures represent the maximum allowable impact fee that can be charged to each unit of new development.

The result of allocating costs in the manner described above resulted in full cost recovery impact fees, which, as shown in the last three rows of Figure II-4 are $1,354 per single family unit, $1,247 per multifamily unit, $1.53 per commercial square foot, and $1.53 per industrial square foot. This is compared to the existing maximum allowable FRFR impact fees of $1,553 per single family unit, $989 per multifamily unit, and $0.88 per non-residential square foot. FRFR can choose to charge less than this amount, but discounts must be uniformly applied to all land use categories.

Figure II-4.
Full Cost Recovery Impact Fees for FRFR

Sources:

Front Range Fire Rescue and BBC Research & Consulting.

Calculation of Impact Fees	
Value of Future Fire Infrastructure	$19,753,251
Building Type Distribution (by square feet)	
Single family	79%
Multifamily	5%
Commercial	8%
Industrial	8%
Costs by Building Type	
Single family	$15,698,788
Multifamily	$1,055,818
Commercial	$1,516,514
Industrial	$1,482,131
Future Development through 2045	
Single family (in dwelling units)	11,594
Multifamily (in dwelling units)	847
Commercial (in square feet)	990,334
Industrial (in square feet)	967,881
Impact Fee by Land Use (rounded)	
Single family (per dwelling unit)	**$1,354**
Multi-family (per dwelling unit)	**$1,247**
Commercial (per square foot)	**$1.53**
Industrial (per square feet)	**$1.53**

SECTION III.
Summary and Recommendations

The development impact fees of $1,354 per single family residential dwelling unit, $1,247 per multifamily residential dwelling unit, and $1.53 per square foot of commercial and industrial development that BBC recommends for FRFR's consideration represent maximum allowable amounts, and we recognize that the District may choose not to adopt fees below these amounts. BBC also offers the following recommendations for implementing the updated fees:

- FRFR should continue to maintain its impact fee fund separate and distinct from its general fund and make withdrawals from the former only to pay for growth-related infrastructure.
- FRFR should adhere to a written policy governing its expenditure of monies from its impact fee fund. The District should not fund operational expenses with impact fees under any circumstance, including the repair and replacement of existing infrastructure not necessitated by growth. In cases when FRFR expects new infrastructure to partially replace existing capacity and to partially serve new growth, cost sharing between its general fund (or capital fund) and its impact fee fund should be considered on a proportional basis as determined by the board.
- FRFR's impact fees should be updated annually at the start of each year based on the U.S. Bureau of Labor Statistic's Western Information Office's consumer price index for the West Region.[5]
- FRFR should continue to conduct impact fee review studies periodically as it invests in additional infrastructure beyond what is listed in this report or if the service area population or inventory of non-residential square footage changes substantially.

[5] https://www.bls.gov/regions/west/news-release/consumerpriceindex_west.htm