Windsor Severance Fire Rescue Impact Fee Study

FINAL REPORT

Final Report

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SECTION I.
Introduction

Windsor Severance Fire Rescue (WSFR, or the District) provides fire rescue services in Larimer and Weld counties, serving the towns of Windsor, Severance, and the surrounding communities, as shown in Figure I-1. WSFR services a population of more than 40,000 residents in a total area of 100 square miles and responds to approximately 3,600 calls per year. Because of a heightened interest in development, the District is considering implementing *development impact fees* as part of a larger strategy to ensure that future development pays its own way and existing residents and services are not financially burdened by new growth.

Many Colorado communities impose development impact fees for expansion of public infrastructure. Some cities have entire suites of fees with separate charges for multiple infrastructure categories (e.g., streets, parks, and fire protection). Colorado statute and a series of United States Supreme Court decisions dictate the amounts that communities can charge in impact fees and how they can devise, impose, and spend them. Because of those requirements, WSFR retained BBC Research & Consulting (BBC) 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 implementing an impact fee system that would recover the proportional capital costs associated with new development.

A. Impact Fee Requirements

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

- *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]

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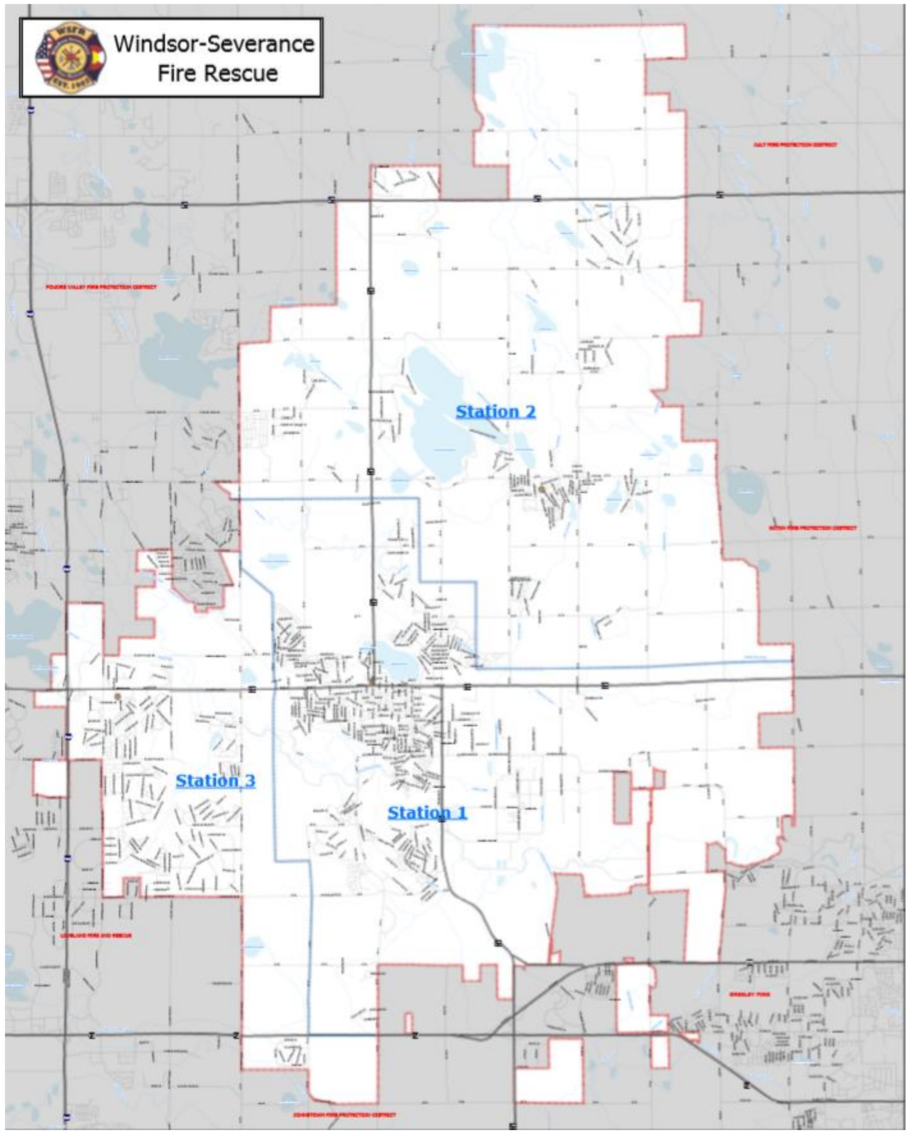
[1] Juergensmeyer, Julian C., and Thomas E. Roberts. Land Use Planning and Development Regulatory Law. St. Paul, MN: WestGroup, 2003; and ImpactFees.com, Duncan Associates, 20 February 2008.

Figure I-1.
WSFR boundaries

Source:
WSFR.



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 state's interest. In *Dolan v. City of Tigard* (1994), the Supreme Court held that, in addition to an "essential nexus," there must be "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 communities 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, communities 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, ball fields, 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 communities make many infrastructure investments not because of growth pressures but for the repair and replacement of existing facilities, and it is not allowable to account for such investments as part of impact fee calculations. For example, communities often make infrastructure investments related to:

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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 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.

C. Capital Standards

In designing impact fees, communities must determine the appropriate capital standards applicable to each category of infrastructure. Facility standards, such as library space or recreation facilities per household, can vary widely between communities. Whereas some states have legislation that describes such criteria with great specificity, other states—like Colorado—use more general standards.

1. Replacement value approach. Typically, determining capital standards involves estimating 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. Sometimes, communities use a *plan-based approach* to set capital standards, which relies on capital improvement plans or other specific plans for each department. A plan-based approach requires forecasts of households and commercial growth and detailed data on capital expansion plans. 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 communities must consider in designing fees appropriately are described above, but BBC also presents other considerations that communities must make.

- **Allocation by land use**. The 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 the cost of needed expansion that results 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 communities' 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**. Communities 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 communities 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 communities' general funds.

SECTION II.
Impact Fee Derivation

As described in Section I, there are several types of information that communities 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 WSFR's development impact fees.

- **Capital standards.** BBC used WSFR's current investment in facilities as the basis for determining capital standards for its new fees. We obtained that information directly from the District. The valuation included estimates of investments in furniture, fixtures, and durable equipment. Calculations of capital standards must account for any debt that exists in connection with relevant infrastructure.
- **Land use allocation**. It is important for communities to determine how impact fees should be allocated according to land use so that all forms of development pay their fair share of expansion costs. Although WSFR does not maintain a database of relevant land use, data from the Larimer and Weld County Assessor's Offices indicates that the majority of current development is for residential purposes (63.9% single family residential, 4.0% multifamily residential, 20.7% commercial, and 11.4% industrial and other non-residential). BBC allocated WSFR's new development impact fees accordingly, because future development in the region is not expected to differ substantially from 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, WSFR has modest expectations for commercial growth, and 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 the 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 WSFR's current investment in facilities to derive capital standards and then setting fee rates to replace the current standards of facility investment, BBC has ensured that proportionality has been reasonably and fairly derived. New growth is simply replicating its proportional share of an existing facility standard. Existing standards will be the standards to which new growth will be held accountable.

A. WSFR Budget Overview

Property tax revenues for WSFR are collected through the District's 7.75 property tax mill in Larimer and Weld counties across the geographic area. 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. The 2020 WSFR Budget indicates the District will collect revenues of approximately $12.4 million this year, the vast majority of which is tax-related revenue from property taxes and specific ownership taxes. After interfund transfers for pension funds, bond repayment, and capital fund, WSFR projects operating expenses of $8.6 million, most of which is allocated to personnel costs, including salaries, benefits, and volunteer incentives. However, WSFR also funds capital purchases through its operating budget. As discussed in Section I, capital investments are generally used for repair and replacement, betterment of facilities and service standards, and facilities expansion.

Additional property tax and specific ownership tax revenue that funds WSFR's operating budget will continue to be dedicated to ongoing District expenses and will not likely be sufficient to fund the required level of growth-related capital expansion. If WSFR chooses to establish impact fees of the type presented in this report, it would retain an independent and equitable source of revenue for capital expenditures required to serve new growth. With impact fees, new development pays their equitable share of new infrastructure and existing taxpayers will not be responsible for subsidizing growth. In addition, WSFR's capital and operating funds can be reserved for other, non-growth-related uses.

B. Impact Fee Calculations

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

1. Quantify the infrastructure investment needed to maintain current level of service;
2. Develop estimates of WSFR's current land use pattern; and
3. Calculate the fire protection infrastructure costs per unit of development (per household or per square foot of commercial development).

1. Infrastructure investment. A conservative method of establishing WSFR's current level of service for fire protection is to quantify its financial investment in infrastructure and capital equipment. Specifically, WSFR has five types of capital infrastructure-related spending that should be included in a calculation of current infrastructure investment:

- Land and buildings, including three fire stations;
- Major apparatus, such as fire engines and specialized vehicles;
- A variety of lifesaving and fire-fighting apparatus;
- Business property, such as furniture, computers, and related durable assets; and
- The cost of this impact fee study.

WSFR currently has $1,125,236 in outstanding debt service on a bond used to fund the development of the district's fire stations. Thus, equity in the stations is 88 percent of their replacement value. WSFR holds no additional debt, so its equity in its remaining assets is 100 percent of their replacement value. Figure II-1 presents WSFR's current infrastructure and the value eligible to be included in impact fee calculations. As shown in the last row of Figure II-1, the total replacement value of WSFR's current infrastructure is approximately $16.1 million.

Figure II-1.
WSFR's Current Assets

Type of Capital Infrastructure	Total Replacement Value	Portion to Include in Impact Fees (1)	Allocated Replacement Value (2)
Buildings and Land			
100 7th St, Windsor, CO 80550	$5,034,659	88%	$4,435,937
7790 Rea Pkwy, Windsor, CO 80550	$2,081,059	88%	$1,833,579
9 Timber Ridge Pkwy, Severance, CO 80550	$2,346,405	88%	$2,067,370
121 6th St, Windsor, CO 80550 (Museum)	$762,570	0%	$0
Vehicles			
1987 Freightliner Tanker	$100,000	100%	$100,000
1941 International Antique	$15,000	0%	$0
1999 Ford Brush Vehicle	$80,000	0%	$0
1999 Freightliner Pumper	$225,000	100%	$225,000
2000 Ford Brush Vehicle	$80,000	0%	$0
2000 Spartan Pumper	$400,000	100%	$400,000
2005 Chevrolet First Responder	$20,000	100%	$20,000
2004 Pace Trailer	$2,000	100%	$2,000
2005 Sutphen Pumper	$500,000	100%	$500,000
2006 Enterprise Trailer	-	100%	$0
2007 Chevrolet Silverado	ACV	100%	$0
1925 Reo Antique	$35,000	0%	$0
2009 Spartan Rescue Hvy	$510,000	100%	$510,000
2003 Ford First Responder	$10,000	100%	$10,000
2000 IFS Tote Mule Chem Foam Trailer	$10,000	100%	$10,000
2011 SVI Pumper	$525,000	100%	$525,000
2012 Ford First Responder	$37,663	100%	$37,663
2012 Spartan Pumper	$525,000	100%	$525,000
2012 Ford Brush Vehicle	$90,000	0%	$0
2013 Wells Cargo Trailer	$9,664	100%	$9,664
1951 Ford Antique	$6,400	0%	$0
2014 Ford Expedition	ACV	100%	$0
2015 Echo Trailer	-	100%	$0
2015 Dodge Amb ALS	$165,000	100%	$165,000
2015 Dodge Amb ALS	$165,000	100%	$165,000
2015 Ford Transit Connect XLT	ACV	100%	$0
2018 Spartan Pumper	$550,000	100%	$550,000
2019 Ford First Responder	$40,800	100%	$40,800
2018 Ram Brush Vehicle	$162,900	0%	$0
2019 Chevrolet First Responder	$30,000	100%	$30,000
2019 Chevrolet First Responder	$30,000	100%	$30,000
2020 Ford First Responder	$40,000	100%	$40,000
2020 Pierce Water Tender	$425,000	100%	$425,000
2020 Pierce Ladder Truck	$1,400,000	100%	$1,400,000
Fire Equipment and Business Property			
Communication & IT	$614,430	100%	$614,430
Fire Equipment	$1,152,121	100%	$1,152,121
Station and Office Equipment	$275,000	100%	$275,000
Fee Study			
Cost of study	$10,000	100%	$10,000
Total Value of Fire Infrastructure for Fee Calculation			**$16,108,565**

Notes:

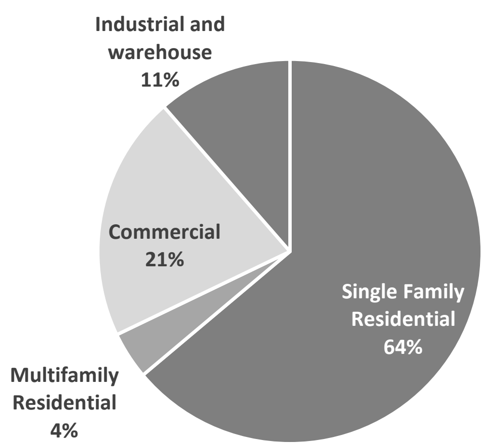
(1) Reflects WSFR's equity in each piece of capital infrastructure net of any outstanding debt service obligation.
(2) Total replacement value x Portion to include in impact fees = Allocated replacement value.

Source:

WSFR and BBC Research & Consulting.

2. Current land use. BBC used WSFR's current distribution of development as a basis for allocating certain infrastructure expansion costs over different types of land uses, which is consistent with the Colorado Municipal League's recommendation that cost allocation be based on measures of land use. Figure II-2 presents the distribution of residential and non-residential building square footage, based on data from the Weld County Assessor and the Larimer County Assessor. As shown in Figure II-2, 64 percent of development in the region is single family residential, 4 percent is multi-family residential, 21 percent is commercial, and 11 percent is industrial/other non-residential.

Figure II-2.
Distribution of Residential and Non-Residential Square Footage, 2020



Source:

WSFR and BBC Research & Consulting.

3. Impact fee calculation. Figure II-3 uses WSFR's current service standards and infrastructure replication costs to determine appropriate household, commercial, and other non-residential fees. BBC used WSFR's existing land use pattern as a proxy for the assignment of costs to particular types of development. Figure II-3 presents fee calculations for each relevant type of development. The value of total fire infrastructure is presented in the top row of Figure II-3 (and is identical to the last row of Figure II-1).

- The first step in calculating impact fees was to allocate the total value proportionally to each type of development, based on WSFR's existing land use pattern. Thus, BBC allocated $10.3 million to single family residential development (or, 63.9%), $644,000 to multifamily residential development (or, 4.0%), $3.3 million to commercial development (or, 20.7%), and $1.8 million to industrial and other non-residential development (or, 11.4%).

- Next, BBC allocated infrastructure value for each type of development to each unit of existing development within that category—that is, each dwelling unit for residential development and each square foot for commercial, industrial, and other non-residential development—to determine the relevant burden of each unit of existing development on current infrastructure.

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-3 are $693 per single family residential dwelling unit, $272 per multifamily residential dwelling unit, and $0.35 per square foot of commercial, industrial, and other non-residential development. WSFR can choose to charge less than those amounts but it must apply discounts uniformly to all land use categories.

Figure II-3.
Full Cost Recovery Impact Fees for WSFR

Source:
WSFR and BBC Research & Consulting.

Calculation of Impact Fees	
Value of Fire Infrastructure	$16,108,565
Current Land Use Distribution	
Single family residential	63.9%
Multifamily residential	4.0%
Commercial	20.7%
Industrial	11.4%
Costs by Land Use Category	
Single family residential	$10,289,307
Multifamily residential	$643,666
Commercial	$3,337,682
Industrial	$1,837,910
Existing Development	
Single family residential (in dwelling units)	14,850
Multifamily residential (in dwelling units)	2,368
Commercial (in square feet)	9,492,055
Industrial (in square feet)	5,226,845
Impact Fee by Land Use	
Single family residential (per dwelling unit)	**$693**
Multifamily residential (per dwelling unit)	**$272**
Commercial (per square foot)	**$0.35**
Industrial (per square foot)	**$0.35**

4. Sprinklers in lieu of fees. The presence of sprinkler systems can reduce the service burden on a fire district, while also preventing loss of both property and life. All commercial buildings within the District are required to have a fully automatic fire sprinkler system if the square footage exceeds 5,000 square feet. Full sprinkler requirements are outlined in Chapter 9 of the 2018 International Fire Code. Fire districts may choose to waive or reduce impact fees for those residential or commercial developments who voluntarily install sprinkler systems.

Nationwide, the average cost per sprinklered square foot is $1.61. Thus, the average cost of voluntary sprinkler installation will often outweigh the value of impact fees. While the presence of sprinklers within a development does not eliminate the need for a response from the District in the event of an emergency, it helps to offset the impacts of the feepayer's development activity. In addition, sprinkler systems reduce property loss by up to 70 percent and reduce the chance of death by up to 80 percent.

WSFR will offer waived or reduced impact fees for those developments that voluntarily install a sprinkler system. The reduction of impact fees should serve to incentivize residential and commercial developers to consider the installation of sprinkler systems when it is not required.

BBC recommends that WSFR reduce impact fees by a percentage commensurate to the reduced service costs when a sprinkler system is voluntarily installed. For example, if WSFR implemented a 75 percent fee reduction, the impact fee for a residential property would be reduced to $173 per single family dwelling unit and $68 per multifamily dwelling unit, and the fee for a commercial or industrial property would be reduced to $0.09 per square foot. Because the presence of sprinklers does not completely eliminate the need for the District to respond to a call for a service, BBC recommends that the fee not be eliminated in its entirety.

WSFR may choose whether to waive or reduce the calculated impact fees for those developments that voluntarily install a sprinkler system. Should the District choose to reduce the fees, this fee reduction must be applied uniformly across all development types. In addition, developers must install sprinklers across the entire development, rather than on selected properties.

SECTION III.
Summary and Recommendations

The development impact fees of $693 per single family residential dwelling unit, $272 per multifamily residential dwelling unit, and $0.35 per square foot of commercial, industrial, and other non-residential development that BBC recommends for WSFR's consideration represent maximum defensible amounts, and we recognize that the District may choose not to adopt fees as high as the maximum defensible amounts. BBC also offers the following recommendations:

- WSFR should maintain its impact fee fund separate and apart from its general fund and make withdrawals from the former only to pay for growth-related infrastructure.
- WSFR should adhere to a written policy governing its expenditure of monies from its impact fee fund. WSFR should be prohibited from paying for operational expenses with impact fees, including the repair and replacement of existing infrastructure not necessitated by growth. In cases when WSFR 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 allowed on a proportional basis as determined by the District's board.
- WSFR's impact fees should be updated periodically as it invests in additional infrastructure beyond what is listed in this report or the District's population or inventory of commercial square footage changes substantially.
- WSFR's fees should be updated annually based on established inflation indices, such as the Consumer Price Index or the Engineering News Record.