



EAST CONTRA COSTA FIRE PROTECTION DISTRICT

Final Report
Development Impact Fee Study
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Prepared by:



Corporate Headquarters
32605 Temecula Parkway, Suite 100
Temecula, CA 92592
Toll free: 800.676.7516

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Executive Summary

The East Contra Costa Fire Protection District (ECCFPD or the District) has retained NBS Government Finance Group to prepare this study to analyze the impacts of new development on the District's facility and equipment needs and to calculate impact fees based on that analysis. The methods used in this study are intended to satisfy all legal requirements of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000 *et seq.*).

It is important to note that the District does not have authority under California law to establish or impose impact fees on development projects. Because the District serves the Cities of Oakley and Brentwood and parts of unincorporated Contra Costa County, each of those agencies must adopt the impact fees calculated in this report if they are to apply district wide.

Organization of the Report

Chapter 1 of this report provides an overview of the legal requirements for establishing and imposing such fees, and the methods used to calculate impact fees.

Chapter 2 contains data on existing and future development and the demand factors used to allocate costs in the impact fee analysis.

Chapter 3 presents the impact fee calculations and explains the data and methodology used in the calculations. Chapter 3 also projects the potential future revenue from impact fees calculated in this report.

Chapter 4 contains recommendations for adopting and implementing impact fees, including suggested findings to satisfy the requirements of the Mitigation Fee Act.

Existing and Future Development

Chapter 2 of this report presents estimates of existing development and projections of future development out to 2040 for the area served by ECCFPD. Data from a variety of sources, including the cities of Brentwood and Oakley, Contra Costa County, the Contra Costa County Transportation Authority (CCTA) and the Association of Bay Area Governments (ABAG) were used to prepare the development data tables in Chapter 2.

Because of some inconsistencies in the information obtained from different sources, it was necessary for NBS to resolve those inconsistencies and arrive at the estimates of existing development and projections of future development used in this study for the entire District.

Impact Fee Analysis

Chapter 3 of this report calculates fire impact fees for the District based on costs for both existing and future facilities and equipment. Those costs are allocated to both existing and future development so that they are shared equitably by all development in the District.

The impact of development on the need for fire protection facilities is represented in this study by service population. Service population is a composite variable consisting of both residents of the District (population) and employees of businesses in the District. Residents are included to represent residential development and employees are included to represent non-residential development.

Since the demand represented by one resident doesn't necessarily equal the demand represented by one employee, the employee component of service population is normally weighted to reflect the difference. Residents are given a weight of 1.0 and employees are given a weight that reflects their relative impact. However, in this case, for reasons discussed below, residents and employees are weighted equally.

Data in the 2016 *East Contra Costa FPD Deployment Performance and Headquarters Staffing Adequacy Study* by Citygate Associates (Deployment and Staffing Study) conducted by Citygate Associates showed that over a three-year period, residential development generated 85.3% of the District's incidents. (See discussion in Chapter 2)

To accurately represent the real-world impacts of development, the service population used in this study should reflect the split of incidents between residential and non-residential development. NBS found that equally weighting residents and employees in the service population results in a residential component that makes up 85.3% of the existing service population, exactly matching the percentage of incidents generated by residential development in the incident distribution data from the Deployment and Staffing Study.

Impact Fees

Table 3.6 from Chapter 3 of this report is reproduced on the next page. It shows the impact fees per unit of development calculated in this study. As shown in Table 3.6, a 2% administrative charge is added to those fees to recover the cost of complying with Mitigation Fee Act accounting and reporting requirements, as well as the cost of future impact fee update studies. The impact fees shown in Table 3.6 below are compared with existing impact fees for Oakley, Brentwood and unincorporated Contra Costa County in the appendix to this study.

Table 3.6 Impact Fee per Unit

Development Type	Units ¹	Cost per Capita ²	Svc Pop per Unit ³	Cost per Unit ⁴	2% Admin Charge ⁵	Impact Fee per Unit ⁶
Residential - Single-Family	DU	\$416.82	3.10	\$ 1,292.13	\$ 25.84	\$ 1,317.97
Residential - Multi-Family	DU	\$416.82	2.20	\$ 916.99	\$ 18.34	\$ 935.33
Residential - Mobile Home Park	DU	\$416.82	2.10	\$ 875.31	\$ 17.51	\$ 892.82
Residential - Age-Restricted	DU	\$416.82	1.70	\$ 708.59	\$ 14.17	\$ 722.76
Commercial	KSF	\$416.82	2.10	\$ 875.31	\$ 17.51	\$ 892.82
Office	KSF	\$416.82	2.80	\$ 1,167.08	\$ 23.34	\$ 1,190.42
Industrial	KSF	\$416.82	1.40	\$ 583.54	\$ 11.67	\$ 595.21

¹ DU = dwelling unit; KSF = 1,000 gross square feet of building area

² Cost per capita of service population; see Table 3.5

³ See Table 2.1

⁴ Cost per unit = cost per capita X service population per unit

⁵ 2% administrative charge = cost per unit X 0.02

⁶ Impact fee per unit = cost per unit + 2% administrative charge

Chapter 1. Introduction

Purpose

The purpose of this study is to analyze the impacts of development on the need for fire protection facilities and other capital assets provided by the East Contra Costa Fire Protection District (ECCFPD) and to calculate impact fees that apply throughout the District.

The methods used to calculate impact fees in this report are intended to satisfy all legal requirements governing such fees, including provisions of the U. S. Constitution, the California Constitution and the California Mitigation Fee Act (Government Code Sections 66000-66025.)

Background

Over time, portions of the area now comprising the East Contra Costa Fire Protection District have been served by several smaller fire districts as well as the Contra Costa County Fire Protection District (CCCYPD). ECCFPD was formed in November of 2002 by combining the Bethel Island Fire District, the East Diablo Fire District, and the Oakley Fire District. ECCFPD now serves the Cities of Oakley and Brentwood and a large area within unincorporated eastern Contra Costa County. Over time, separate impact fees were established for various parts of the District, including the cities of Oakley and Brentwood, the Contra Costa County Fire Protection District and the predecessor districts listed above. The impact fees calculated in this study are intended to apply districtwide and replace other impact fees that currently apply within the area served by ECCFPD.

Legal Framework for Impact Fees

This brief summary of the legal framework for development fees is intended as a general overview. It was not prepared by an attorney and should not be treated as a legal opinion.

Fire Protection District Law of 1987. California Health and Safety Code Section 13916, which is part of the Fire Protection District Law of 1987, states: “A (fire protection) district board shall not charge a fee on new construction or development for the construction of public improvements or facilities or the acquisition of equipment.” However, although the District itself may not charge such fees, it is quite common in California for cities and counties to impose fire impact fees for fire protection districts that provide services within their jurisdiction. The fees calculated in this report are intended to be adopted by the cities of Oakley and Brentwood and Contra Costa County.

U. S. Constitution. Like all land use regulations, development exactions including impact fees are subject to the 5th Amendment prohibition on taking of private property

for public use without just compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against “regulatory takings.” A regulatory taking occurs when regulations unreasonably deprive landowners of property rights protected by the Constitution.

In two landmark cases dealing with exactions, the U. S. Supreme Court has held that when a government agency requires the dedication of land or an interest in land as a condition of development approval, or imposes ad hoc exactions as a condition of approval on a single development project that do not apply to development generally, a higher standard of judicial scrutiny applies. To meet that standard, the agency must demonstrate an “essential nexus” between such exactions and the interest being protected (See *Nollan v. California Coastal Commission*, 1987) and make an “individualized determination” that the exaction imposed is “roughly proportional” to the burden created by development (See *Dolan v. City of Tigard*, 1994).

Until recently, it was widely accepted that legislatively enacted impact fees that apply to all development in a jurisdiction are not subject to the higher standard of judicial scrutiny flowing from the *Nollan* and *Dolan* decisions. But after the U. S. Supreme Court decision in *Koontz v. St. Johns Water Management District* (2013), state courts have reached conflicting conclusions on that issue.

In light of that uncertainty, any agency enacting or imposing impact fees would be wise to demonstrate a nexus and ensure proportionality in the calculation of those fees.

Defining the “Nexus.” While courts have not been entirely consistent in defining the nexus required to justify exactions and impact fees, that term can be thought of as having the three elements discussed below. We think proportionality is logically included as one element of that nexus, even though it was discussed separately in *Dolan v. Tigard*. The elements of the nexus discussed below mirror the three “reasonable relationship” findings required by the Mitigation Fee Act for establishment and imposition of impact fees.

Need or Impact. Development must create a need for the facilities to be funded by impact fees. All new development in a community creates additional demands on some or all public facilities provided by local government. If the capacity of facilities is not increased to satisfy the additional demand, the quality or availability of public services for the entire community will deteriorate. Impact fees may be used to recover the cost of development-related facilities, but only to the extent that the need for facilities is related to the development project subject to the fees.

The *Nollan* decision reinforced the principle that development exactions may be used only to mitigate impacts created by the development projects upon which they are imposed. In this study, the impact of development on facility needs is analyzed in terms of quantifiable relationships between various types of development and the demand for

public facilities based on applicable level-of-service standards. This report contains all of the information needed to demonstrate compliance with this element of the nexus.

Benefit. Development must benefit from facilities funded by impact fees. With respect to the benefit relationship, the most basic requirement is that facilities funded by impact fees be available to serve the development paying the fees. A sufficient benefit relationship also requires that impact fee revenues be segregated from other funds and expended in a timely manner on the facilities for which the fees were charged. Nothing in the U.S. Constitution or California law requires that facilities paid for with impact fee revenues be available exclusively to development projects paying the fees.

Procedures for earmarking and expenditure of fee revenues are mandated by the Mitigation Fee Act, as are procedures to ensure that the fees are either expended expeditiously or refunded. Those requirements are intended to ensure that developments benefit from the impact fees they are required to pay. Thus, over time, procedural issues as well as substantive issues can come into play with respect to the benefit element of the nexus.

Proportionality. Impact fees must be proportional to the impact created by a particular development project. Proportionality in impact fees depends on properly identifying development-related facility costs and calculating the fees in such a way that those costs are allocated in proportion to the facility needs created by different types and amounts of development. The section on impact fee methodology, below, describes methods used to allocate facility costs and calculate impact fees that meet the proportionality standard.

California Constitution. The California Constitution grants broad police power to local governments, including the authority to regulate land use and development. That police power is the source of authority for local governments in California to impose impact fees on development. Some impact fees have been challenged on grounds that they are special taxes imposed without voter approval in violation of Article XIII A. However, that objection is valid only if the fees charged to a project exceed the cost of providing facilities needed to serve the project. In that case, the fees would also run afoul of the U. S. Constitution and the Mitigation Fee Act.

Articles XIII C and XIII D, added to the California Constitution by Proposition 218 in 1996 require voter approval for some “property-related fees,” but exempt “the imposition of fees or charges as a condition of property development,” which includes impact fees. That exemption also applies with respect to Proposition 26 which amended Article XIII C to reclassify some fees as taxes.

The Mitigation Fee Act. California’s impact fee statute originated in Assembly Bill 1600 during the 1987 session of the Legislature and took effect in January 1989. AB 1600 added several sections to the Government Code, beginning with Section 66000. Since that time, the impact fee statute has been amended from time to time and in 1997 was

officially titled the “Mitigation Fee Act.” Unless otherwise noted, code sections referenced in this report are from the Government Code.

The Mitigation Fee Act does not limit the types of capital improvements for which impact fees may be charged. It defines public facilities very broadly to include "public improvements, public services and community amenities." Although the issue is not specifically addressed in the Mitigation Fee Act, it is clear both in case law and statute (see Government Code Section 65913.8) that impact fees may not be used to pay for maintenance or operating costs. Consequently, the fees calculated in this report are based on the cost of capital assets only.

The Mitigation Fee Act does not use the term “mitigation fee” except in its official title. Nor does it use the more common term “impact fee.” The Act simply uses the word “fee,” which is defined as “a monetary exaction, other than a tax or special assessment...that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project”

To avoid confusion with other types of fees, this report uses the widely-accepted terms “impact fee” and “development impact fee” which both should be understood to mean “fee” as defined in the Mitigation Fee Act.

The Mitigation Fee Act contains requirements for establishing, increasing and imposing impact fees. They are summarized below. It also contains provisions that govern the collection and expenditure of fees and requires annual reports and periodic re-evaluation of impact fee programs. Those administrative requirements are discussed in the implementation chapter of this report.

Required Findings. Section 66001 requires that an agency establishing, increasing or imposing impact fees, must make findings to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and,
3. Determine that there is a reasonable relationship between:
 - a. The use of the fee and the development type on which it is imposed;
 - b. The need for the facility and the type of development on which the fee is imposed; and
 - c. The amount of the fee and the facility cost attributable to the development project. (Applies when fees are imposed on a specific project.)

Each of those requirements is discussed in more detail below.

Identifying the Purpose of the Fees. The broad purpose of impact fees is to protect public health, safety and general welfare by providing for adequate public facilities. The specific purpose of the fees calculated in this study is to fund construction of certain

capital improvements that will be needed to mitigate the impacts of planned new development on City facilities, and to maintain an acceptable level of public services as the City grows.

This report recommends that findings regarding the purpose of an impact fee should define the purpose broadly, as providing for the funding of adequate public facilities to serve additional development.

Identifying the Use of the Fees. According to Section 66001, if a fee is used to finance public facilities, those facilities must be identified. A capital improvement plan may be used for that purpose but is not mandatory if the facilities are identified in a General Plan, a Specific Plan, or in other public documents. In this case, we recommend that the Oakley and Brentwood City Councils and the Contra Costa County Board of Supervisors adopt this report as the public document that identifies the facilities to be funded by the fees.

Reasonable Relationship Requirement. As discussed above, Section 66001 requires that, for fees subject to its provisions, a "reasonable relationship" must be demonstrated between:

1. the use of the fee and the type of development on which it is imposed;
2. the need for a public facility and the type of development on which a fee is imposed; and,
3. the amount of the fee and the facility cost attributable to the development on which the fee is imposed.

These three reasonable relationship requirements, as defined in the statute, mirror the nexus and proportionality requirements often cited in court decisions as the standard for defensible impact fees. The term "dual rational nexus" is often used to characterize the standard used by courts in evaluating the legitimacy of impact fees. The "duality" of the nexus refers to (1) an impact or need created by a development project subject to impact fees, and (2) a benefit to the project from the expenditure of the fees.

Although proportionality is reasonably implied in the dual rational nexus formulation, it was explicitly required by the Supreme Court in the *Dolan* case, and we prefer to list it as the third element of a complete nexus.

Development Agreements and Reimbursement Agreements. The requirements of the Mitigation Fee Act do not apply to fees collected under development agreements (see Govt. Code Section 66000) or reimbursement agreements (see Govt. Code Section 66003). The same is true of fees in lieu of park land dedication imposed under the Quimby Act (see Govt. Code Section 66477).

Existing Deficiencies. In 2006, Section 66001(g) was added to the Mitigation Fee Act (by AB 2751) to clarify that impact fees "shall not include costs attributable to existing deficiencies in public facilities..." The legislature's intent in adopting this amendment, as

stated in the bill, was to codify the holdings of *Bixel v. City of Los Angeles* (1989), *Rohn v. City of Visalia* (1989), and *Shapell Industries Inc. v. Governing Board* (1991).

That amendment does not appear to be a substantive change. It is widely understood that other provisions of law make it improper for impact fees to include costs for correcting existing deficiencies.

However, Section 66001(g) also states that impact fees “may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.”

Impact Fee Calculation Methodology

Any one of several legitimate methods may be used to calculate impact fees. The choice of a particular method depends primarily on the service characteristics of, and planning requirements for, the facility type being addressed. Each method has advantages and disadvantages in a particular situation. To some extent they are interchangeable, because they all allocate facility costs in proportion to the needs created by development.

Allocating facility costs to various types and amounts of development is central to all methods of impact fee calculation. Costs are allocated by means of formulas that quantify the relationship between development and the need for facilities. In a cost allocation formula, the impact of development is measured by some attribute of development such as added population or added vehicle trips that represent the impacts created by different types and amounts of development.

The method used to calculate impact fees in this study is called the Plan-Based Method. Plan-based impact fee calculations are based on the relationship between a specified set of improvements and a specified increment of development. The improvements are typically identified in a facility plan or plans, while the development is identified in a land use plan or set of plans that forecasts potential development by type and quantity.

Using this method, facility costs are allocated to various categories of development in proportion to the service demand created by each type of development. To calculate plan-based impact fees, it is necessary to determine what facilities will be needed to serve a particular increment of new development.

With this method, the total cost of eligible facilities is divided by the total units of additional demand to calculate a cost per unit of demand. As discussed in detail in Chapter 2, service population is used in this study as the indicator of demand for fire protection and emergency response services. So in this study, the cost per unit of demand is multiplied by the service population per unit of development to arrive at a cost per unit of development for each type of development. Details regarding the data

and methodology used to calculate impact fees in this study are presented in Chapter 2 and Chapter 3.

As discussed in Chapter 3, the resources of a single fire station do not serve a particular area in isolation from the other resources of the District. The District's fire protection and emergency response capabilities are organized as an integrated system. Whenever an emergency response is required, whether for a fire or other emergency, the response may involve resources from multiple fire stations.

The method used to calculate impact fees in this study reflects that fact by allocating costs for both existing and future capital facilities to both existing and future development Districtwide. The method used to calculate impact fees in this report ensures that the impact fees will recover only future development's share of the cost of all capital assets needed to serve the District in 2040. The projected revenue from impact fees calculated in this report will not be adequate to fund all of the new facilities, apparatus, vehicles and equipment needed to serve the District in 2040. Funding from other sources will be needed to pay for a portion of those assets.

Terminology

Where "fire protection facilities" or a similar term is used in this report, it is intended to mean fire protection and emergency response facilities, apparatus, vehicles and equipment.

Organization of the Report

Chapter 2, which follows, contains data on existing and future development used in the impact fee analysis. Chapter 3 presents the impact fee analysis and impact fee calculations. Chapter 4 outlines recommendations for implementing the impact fees calculated in this report.

Chapter 2. Development Data

This chapter presents data on existing and future development in the area served by the East Contra Costa Fire Protection District. The information in this chapter is used to allocate the cost of capital facilities between existing and future development and among various types of new development in the calculation of impact fees.

Study Area

The study area for this impact fee study is the area within the boundaries of the East Contra Costa Fire Protection District, which includes the cities of Brentwood and Oakley and part of the unincorporated portion of Contra Costa County, including Discovery Bay, Bethel Island, Knightsen, Byron, Marsh Creek and Morgan Territory.

Time Frame

For consistency, 2040 is used as the target date for forecasts of future development in this chapter. However, it is the amount of future development rather than the rate and timing of that development that matters in the impact fee calculations. Costs used in the impact fee calculations are current costs. Impact fees calculated in this study should be adjusted over time to reflect changes in costs for land, construction and equipment.

Development Types

The development types defined in this study are intended to reflect actual land uses rather than zoning or general plan land use designations. The following breakdown of development types is used throughout this study.

- Residential – Single-Family
- Residential – Multi-Family
- Residential – Mobile Home Park
- Residential – Age Restricted
- Commercial
- Office
- Industrial

Demand Variable – Service Population

To calculate impact fees, the relationship between facility needs and development must be quantified in cost allocation formulas. Some measurable attribute of development must be used as a “demand variable” in those formulas. The demand variable used to calculate fire protection impact fees in this study is service population.

Service population is commonly used to represent the demand created by development for fire protection and emergency response services. Resident population alone represents only residential development and does not reflect the service demand created by non-residential development. Service population is a composite variable that includes both residents of the District and employees of businesses in the District.

Residents are included to represent the impacts of residential development while employees are included to represent the impacts of non-residential development.

Because the impact of one new resident is not necessarily the same as the impact of one new employee, employee numbers are typically weighted to reflect the difference. In estimating those weights, residents are assigned a weight of 1.0. The weight assigned to employees is relative to the residential weight of 1.0.

In this study, the employee component of the service population is also assigned a weight of 1.0, meaning that residents and employees are weighted equally. That weighting results in a service population where the residential and non-residential components are in balance with the relative shares of emergency response incidents generated in recent years by residential and non-residential development in the District.

NBS analyzed the distribution of ECCFPD’s incidents by development type based on three years of data on incidents by property use from Table 32 in Volume 2 of the 2016 *East Contra Costa FPD Deployment Performance and Headquarters Staffing Adequacy Study* by Citygate Associates.¹ As shown in Exhibit 1A, below, that analysis of the most recent available data found that 85.3% of incidents logged from 2013 to 2015 were generated by residential development.

Exhibit 1A: Distribution of Incidents (2013-2015)

Development Type	Incidents	% of Total
Single-Family Residential	10,549	67.4%
Multi-Family Residential	1,000	6.4%
Other Residential	1,806	11.5%
Subtotal Residential	13,355	85.3%
Commercial	1,526	9.7%
Other Non-residential	776	5.0%
Subtotal Non-Residential	2,302	14.7%
Total	15,657	100.0%

Note: These figures exclude incidents in undeveloped areas such as vacant land, agricultural land, rivers and lakes

Figures for existing development in Table 2.2 later in this chapter show that with employees and residents weighted equally in the service population, 85.3% of the estimated 2019 service population is residential. So, the weighting of service population components in this study is consistent with actual demand for service by residential and non-residential development in the District in recent years. Projections of 2040 development in Table 2.4 show that the residential share of service population at 83.2%.

¹ This study is available on the ECCFPD website

While not a factor in the impact fee calculations, it is worth noting that the 2019 estimates in Table 2.2 indicate that about 83% of the District’s service population is in the cities of Brentwood and Oakley. In 2040, that number is projected to be 82.5%.

Demand Factors

Each type of development defined in this study has a specific value for population, employees and service population per unit as shown in Table 2.1. Those values affect how the capital costs of the District’s facilities and equipment are allocated to various types of development in this study.

The demand factors shown in Table 2.1 for population per unit and employees per unit are intended to approximate District-wide averages and may differ from the factors for the Cities of Brentwood, Oakley and unincorporated census designated places (CDPs) in the District.

Table 2.1: Demand Factors

Land Use Category	Unit Type ¹	Population per Unit ²	Employees per Unit ³	Service Pop per Unit ⁴
Residential - Single-Family	DU	3.10		3.10
Residential - Multi-Family	DU	2.20		2.20
Residential - Mobile Home Park	DU	2.10		2.10
Residential - Age-Restricted	DU	1.70		1.70
Commercial	KSF		2.10	2.10
Office	KSF		2.80	2.80
Industrial	KSF		1.40	1.40

¹ DU = dwelling units; KSF = 1,000 square feet of gross building area

² Average population per unit for single-family, multi-family and mobile home park based on analysis of data from U. S. Census Bureau American Community Survey; average population per unit for age-restricted residential estimated by NBS

³ Employees per unit based on data provided by the City of Brentwood Planning Department

⁴ Service population per unit for residential categories = population per unit; service population per unit for non-residential categories = employees per unit (see discussion in text)

Existing and Forecasted Development

Summaries of existing and forecasted development in the District are presented in Tables 2.2 through 2.4 below. Because the District encompasses two cities and only part of unincorporated Contra Costa County, there is no single source of information about existing and future development for the District as a whole. Sources of data used in each of the following tables are indicated in footnotes to those tables. In some cases, the

available data on existing and future development were for different years and had to be adjusted for consistency.

Table 2.2 shows estimated existing development in the District as of January 1, 2019 in terms of population, employees and service population. In the following tables, SFDU stands for single-family dwelling unit, MFDU stands for multi-family dwelling unit and MH stands for mobile home, meaning a unit in a mobile home park.

Several sources of data were used in constructing this table and valuable input was provided by staff for the two cities and Contra Costa County. Some inconsistencies in data from different sources were resolved by NBS and/or ECCFPD staff.

Table 2.2: ECCFPD 2019 Dwelling Units, Population and Employees

Land Use Category	2019 SFDU ¹	2019 MFDU/MH ¹	2019 Population ²	2019 Employees ³	2019 Service Population ⁴
Brentwood	18,241	2,368	63,516	14,393	77,909
Oakley	11,814	1,118	41,759	5,384	47,143
Discovery Bay CDP	4,729	222	15,034	1,332	16,366
Other Unincorporated	2,210	398	8,068	947	9,015
Totals	36,994	4,106	128,377	22,056	150,433

¹ Single-family and multi-family/mobile home dwelling unit data for Brentwood and Oakley based on January 2019 California Department of Finance (DOF) estimates; data for Discovery Bay CDP and other unincorporated areas based on 2018 data from the Contra Costa Transportation Authority (CCTA) increased by 2% to 2019

² Population for Brentwood and Oakley based on the January 2019 DOF estimates; 2018 data for Discovery Bay CDP and other unincorporated areas from the Contra Costa Transportation Authority (CCTA) increased by 2% to 2019

³ Except for Brentwood, 2018 employee data from CCTA is increased 2% to 2019, Brentwood employees based on 2014 General Plan DEIR increased 15% to 2019

⁴ Service population = population + employees; see report text for details

Table 2.3 shows added dwelling units, population and employees in the District from 2019 to 2040. The numbers in that table represent the difference between 2019 development in Table 2.2 and 2040 development in Table 2.4.

Table 2.3: ECCFPD Added Dwelling Units, Population and Employees - 2019-2040

Land Use Category	Added SFDU	Added MFDU/MH	Added Population	Added Employees	Added Svc Population
Brentwood	7,637	3,243	29,050	7,507	36,557
Oakley	4,750	2,918	26,612	8,891	35,503
Discovery Bay CDP	2,775	250	9,267	863	10,130
Other Unincorporated	1,295	852	5,548	827	6,375
Totals	16,457	7,263	70,477	18,088	88,565

Note: All figures in this table represent the difference between the 2040 numbers in Table 2.4 and the 2019 numbers in Table 2.2

Table 2.4 shows projected dwelling units, population, employees, and service population for the District in 2040.

Table 2.4: ECCFPD 2040 Dwelling Units, Population and Employees

Land Use Category	2040 SFDU ¹	2040 MFDU/MH ¹	2040 Population ²	2040 Employees ³	2040 Service Population ⁴
Brentwood	25,878	5,611	92,566	21,900	114,466
Oakley	16,564	4,036	68,371	14,275	82,646
Discovery Bay CDP	7,504	472	24,301	2,195	26,496
Other Unincorporated	3,505	1,250	13,616	1,774	15,390
Totals	53,451	11,369	198,853	40,144	238,997

¹ Single-family and multi-family/mobile home dwelling unit data for Brentwood is from the City's 2014 General Plan DEIR; 2040 dwelling units for Oakley estimated by NBS for consistency with 2040 population data provided by the City; dwelling units for Discovery Bay CDP and other unincorporated areas are based on 2040 data from the Contra Costa Transportation Authority (CCTA) with additional data provided by the Contra Costa County Dept of Conservation and Development

² 2040 population for Brentwood, Discovery Bay CDP and other unincorporated areas based on dwelling units and population per unit; 2040 Oakley population provided by the City

³ 2040 employees for Brentwood based on maintaining the 2019 ratio of jobs to dwelling units; 2040 employees for Oakley provided by the City; 2040 employees for Discovery Bay CDP and other unincorporated areas based on CCTA projections

⁴ Service population = population + employees; see report text for details

It should be noted that NBS made a substantial adjustment to the number of future jobs projected for the City of Brentwood in the 2014 Brentwood General Plan DEIR. The DEIR projected that the number of jobs in the existing City alone would grow from 12,516 in 2014 to 33,748 at buildout, an increase of 21,232 or 169%. However, ABAG's 2013 Plan Bay Area *Final Forecast of Jobs Population and Housing* projects only 3,000 new jobs in Brentwood from 2010 to 2040.

NBS was concerned that the DEIR forecast of job growth in Brentwood reflected land use capacity rather than economic feasibility over the next 20 years. The DEIR forecast implies that Brentwood would add about the same number of jobs projected by ABAG for Concord, and more jobs than are projected for any of several other Bay Area cities including San Mateo, Hayward, Redwood City, Walnut Creek and Mountain View for the 2010-2040 time frame.

Using the number of jobs projected in Brentwood’s General Plan DEIR would increase the ratio of jobs to dwelling units in Brentwood to 1.21 per unit, compared with 0.7 in 2014. In this chapter, we project 2040 jobs in Brentwood based on the current ratio of 0.7 jobs per dwelling unit. That would be a 52% increase of 7,507 from 2019 to 2040, more than twice the number forecasted by ABAG from 2010 to 2040.

For reference, Table 2.5 shows the percentage change in dwelling units, population and employees in the District from 2019 to 2040 based on data in the previous three tables.

Table 2.5: ECCFPD 2019 - 2040 % Change in Units, Population and Employees

Land Use Category	% Change SFDU	% Change MFDU/MH	% Change Population	% Change Employees	% Change Svc Pop
Brentwood	41.9%	137.0%	45.7%	52.2%	46.9%
Oakley	40.2%	261.0%	63.7%	165.2%	75.3%
Discovery Bay CDP	58.7%	112.3%	61.6%	64.8%	61.9%
Other Unincorporated	58.6%	214.1%	68.8%	87.3%	70.7%
Totals	44.5%	176.9%	54.9%	82.0%	58.9%

The information in the foregoing tables is used in the next chapter in the calculation of fire protection impact fees for the East Contra Costa Fire Protection District.

Chapter 3. Fire Protection Impact Fees

This chapter calculates impact fees for fire protection facilities, apparatus and equipment for the East Contra Costa Fire District Protection District.

The District currently operates three fire stations (#52, #53 and #59). A fourth station (#55) was recently completed but is not yet in operation. The District also contracts with CAL FIRE for year-around staffing of a CAL FIRE station on Marsh Creek Road to serve the lightly populated western portion of the District. That CAL FIRE station would otherwise be staffed only part of the year.

Based on a 2016 Deployment and Staffing Study² the District is planning for a total of nine District-operated fire stations to serve development in the District by 2040.

Methodology

Impact fees may be used to pay only for capital assets, not for staffing or operating costs. Impact fee calculation methodology for this study was discussed generally in Chapter 1. Chapter 2 discussed the use of service population to represent service demand created by various types of development. This chapter walks step-by-step through the calculation of impact fees for ECCFPD's fire protection and emergency response facilities, apparatus, vehicles and equipment.

As discussed in Chapter 1, development in any part of the District is served by all of the District's facilities, apparatus, and equipment, not just by the nearest fire station. When an emergency call is received, the fire company based in the nearest fire station may not be available so the initial response would be handled from a different station. And in the case of a fire, even a residential fire can require a response by at least five fire engines, 15 firefighters and one or more battalion chiefs.

Because the emergency services provided by ECCFPD depend on an integrated system of facilities and staff, the method used to calculate impact fees in this report allocates costs for all existing and planned facilities in the District to all existing and future development in the District, so that capital costs are shared equitably. In effect, by paying the impact fees, new development is paying for its proportionate share of all of the District's existing and future capital assets.

The share of cost to be recovered by impact fees calculated in this study is equal to new development's share of the total service population projected for 2040. Specifically, future development's share of 2040 service population as shown in Table 2.4 in Chapter 2 is 37.1% of projected 2040 buildout population. The revenue projected from impact fees calculated in this study equals 37.1 % of the total cost of existing and future ECCFPD

² *East Contra Costa FPD Deployment Performance and Headquarters Staffing Adequacy Study* by Citygate Associates; this study is available on the ECCFPD website

assets shown in Table 3.4 That assumes the projections of future development used in this study are correct.

Level of Service

The critical measure of level of service for fire protection and emergency medical services is emergency response time. The number of fire stations needed to serve a particular area with acceptable response times is determined by specific conditions within the area. In this case, the number and general location of existing and future fire stations needed to provide an acceptable level of service within the District were identified in the 2016 deployment and staffing study cited in footnote 1 on page 3-1. Those fire stations and their associated apparatus, vehicles and equipment are discussed in the next section.

Each new development project will pay impact fees according to the added service population it generates. Revenue from impact fees will not cover the cost of all of the new fire stations, apparatus and equipment that will be needed by ECCFPD out to 2040. The District will raise the remaining revenue needed for its planned facilities from other sources.

Existing and Future Facilities

The District is currently operating at a service deficit. Of the nine fire stations planned to serve the District by 2040, three currently exist and are in operation. A fourth has been constructed but is not yet staffed. Revenue projections presented later in this chapter indicate that impact fees calculated in this report would generate approximately enough revenue to construct and equip three additional fire stations. Funding for the two remaining fire stations will have to be obtained from sources other than impact fees.

Table 3.1 lists the District's existing facilities and planned facilities with estimated building construction cost for future buildings, depreciated replacement cost for existing buildings, and estimated land cost (for future facilities) or land value (for existing facilities).

Table 3.1: Existing and Future Fire Stations

Facility	Constr Date	Bldg Sq Ft	Site Acres	Building Cost or Repl Cost ¹	Useful Life ²	Est Land Cost/Value ³	Depreciated Bldg Cost ⁴	Impact Fee Cost Basis ⁵
Station 52 - Brentwood	2001	6,841	0.94	\$ 5,130,750	50	\$ 280,500	\$ 3,283,680	\$ 3,564,180
Station 53 - Oakley	2011	9,263	1.60	\$ 6,947,250	50	\$ 480,000	\$ 5,835,690	\$ 6,315,690
Station 55 - Oakley	2019	7,447	1.00	\$ 5,700,000	50	\$ 300,000	\$ 5,700,000	\$ 6,000,000
Station 59 - Discovery Bay	2002	6,047	1.00	\$ 4,535,250	50	\$ 300,000	\$ 2,993,265	\$ 3,293,265
Station 51 - Brentwood	Future	10,000	5.00	\$ 10,000,000	50	\$ 1,500,000	\$ 10,000,000	\$ 11,500,000
Station 50 (Admin) Brentwd	Future	8,500	Incl	\$ 6,375,000	50		\$ 6,375,000	\$ 6,375,000
Station 54 Repl - Brentwood	Future	9,263	1.75	\$ 9,263,000	50	\$ 525,000	\$ 9,263,000	\$ 9,788,000
Future Station - Brentwood	Future	9,263	1.75	\$ 9,263,000	50	\$ 525,000	\$ 9,263,000	\$ 9,788,000
Future Station - Oakley	Future	9,263	1.75	\$ 9,263,000	50	\$ 525,000	\$ 9,263,000	\$ 9,788,000
Station 58 Repl - Discov Bay	Future	9,263	1.75	\$ 9,263,000	50	\$ 525,000	\$ 9,263,000	\$ 9,788,000
Regional Training Center	Future	N/A	20.00	\$ 10,000,000	50	\$ 0	\$ 10,000,000	\$ 10,000,000
Total				85,740,250		4,960,500	81,239,635	\$ 86,200,135

¹ Estimated replacement cost for existing buildings provided by ECCFPD based on costs for recently constructed fire stations; estimated costs for future fire stations based on architect's estimate of \$1,000 per square foot; ECCFPD estimated cost for Station 50 (administration building) based on \$750 per square foot; costs include furniture, fixtures, building equipment and site development

² Assumed useful life of buildings in years

³ Estimated land cost (future stations) or land value (existing stations) based on \$300,000 per acre; land for the Regional Training Center is expected to be obtained at no cost to the District

⁴ Depreciated building replacement cost for existing stations using straight-line depreciation over the useful life of the asset; no depreciation applies to future building cost

⁵ Impact fee cost basis = depreciated building replacement cost or new building cost + estimated land cost or value.

Table 3.2 on the next page shows the replacement cost and depreciated replacement cost for the District's existing firefighting apparatus and vehicles. Many items shown in that table are fully depreciated so their cost will not be reflected in the impact fee calculations.

Table 3.2: Existing Fire Apparatus and Vehicles

Model Year	Description	Useful Life (Yrs)	Replacement Cost ¹	Depr Repl Cost ²	Impact Fee Cost Basis ³
2019	Type 1 Engine ⁴	10	\$ 775,000	\$ 775,000	\$ 775,000
2019	Type 1 Engine ⁴	10	\$ 775,000	\$ 775,000	\$ 775,000
2019	Type 1 Engine ⁴	10	\$ 775,000	\$ 775,000	\$ 775,000
2007	Type 1 Engine (Reserve)	10	\$ 775,000	\$ 0	\$ 0
2007	Type 1 Engine (Reserve)	10	\$ 775,000	\$ 0	\$ 0
2007	Type 1 Engine (Reserve)	10	\$ 775,000	\$ 0	\$ 0
2005	Type 3 Engine	10	\$ 268,295	\$ 0	\$ 0
2004	Type 3 Engine	10	\$ 268,295	\$ 0	\$ 0
2004	Type 3 Engine	10	\$ 268,295	\$ 0	\$ 0
2003	Type 1 Water Truck	10	\$ 252,946	\$ 0	\$ 0
2001	Type 1 Water Truck	10	\$ 263,639	\$ 0	\$ 0
1992	Type 1 Water Truck	10	\$ 160,578	\$ 0	\$ 0
2002	Type 1 Water Truck	10	\$ 248,740	\$ 0	\$ 0
2019	Ford F250 4x4 Pickup	7	\$ 75,000	\$ 75,000	\$ 75,000
2019	Ford F250 4x4 Pickup	7	\$ 75,000	\$ 75,000	\$ 75,000
2020	Ford F250 4x4 Pickup	7	\$ 75,000	\$ 85,714	\$ 85,714
2008	Ford F250 4x4 Pickup	7	\$ 75,000	\$ 0	\$ 0
2018	Ford Explorer	7	\$ 70,000	\$ 60,000	\$ 60,000
1989	GMC 3500 4x4 Flatbed Truck	10	\$ 65,000	\$ 0	\$ 0
2003	Honda Odyssey Mini-Van	7	\$ 40,000	\$ 0	\$ 0
2012	Big Tex Utility Trailer	15	\$ 10,000	\$ 5,333	\$ 5,333
Total			\$ 6,865,788	\$ 2,626,048	\$ 2,626,048

¹ Replacement cost provided by ECCFPD based on recent purchases by the District or estimates from vendors (e.g., purchasing contract with Pierce Manufacturing for Type 1 engines approved by the Board of Directors, 12/12/18)

² Depreciated replacement cost using straight-line depreciation over the useful life of the asset

³ Impact fee cost basis equals the depreciated replacement cost

⁴ Acquired through a 5-year lease-purchase agreement

The District’s plan is to place either a type 1 fire engine (7 stations) or a ladder truck (2 stations) in each fire station. Each fire station would also have one type 3 wildland fire engine and one water tender.

Table 3.3 shows the estimated cost of additional fire apparatus and vehicles that will be needed to equip six new fire stations. The cost of personal protective equipment for 54 additional firefighters needed to staff those six fire stations is also shown in Table 3.3

Table 3.3: Future Fire Apparatus, Vehicles and Equipment

Description	No. of Units	Cost per Unit ¹	Impact Fee Cost Basis ²
Ladder Truck	2	\$ 950,000	\$ 1,900,000
Type 1 Engine	4	\$ 775,000	\$ 3,100,000
Type 3 Engine	6	\$ 450,000	\$ 2,700,000
Water Truck	6	\$ 300,000	\$ 1,800,000
Personal Protective Equipment ³	54	\$ 23,917	\$ 1,291,518
Total			\$ 10,791,518

¹ Replacement cost provided by ECCFPD based on recent purchases by the District or estimates from vendors (e.g., purchasing contract with Pierce Manufacturing for Type 1 engines approved by the Board of Directors, 12/12/18)

² Impact fee cost basis = number of units X cost per unit

³ Personal protective equipment for future added firefighters; estimated cost based on recent purchases by the District from L. N. Curtis and Sons on the NPP Government Contract

Table 3.4 summarizes the impact fee cost basis figures from the three previous tables. The total cost from Table 3.4 will be used to calculate impact fees in the next section.

Table 3.4: Impact Fee Cost Basis - Existing and Future Assets

Component	Impact Fee Cost Basis ¹
Existing and Future Fire Stations	\$ 86,200,135
Existing - Fire Apparatus and Vehicles	\$ 2,626,048
Future - Fire Apparatus and Vehicles	\$ 10,791,518
Total	\$ 99,617,701

¹ See Tables 3.1, 3.2 and 3.3

Cost per Capita of Service Population

As discussed in Chapter 2, service population is used as the demand variable for the impact fee calculations in this report. Table 3.5 calculates an average cost per capita of service population by dividing the total impact fee cost basis from Table 3.4 by the total 2040 projected service population of the District, as shown in Table 2.4 in Chapter 2.

Table 3.5: Cost per Capita of Service Population

Total Impact Fee Cost Basis ¹	2040 Service Population ²	Cost per Capita ³
\$99,617,701	238,997	\$416.82

¹ See Table 3.4

² Projected 2040 service population for the District; see Table 2.4

³ Cost per capita of service population = total impact fee cost basis / 2040 service population

Impact Fees per Unit of Development

Impact fees per unit of development by development type are calculated using the cost per capita of service population from Table 3.5 and the service population per unit from Table 2.1. Table 3.6 shows those calculations.

Table 3.6 also calculates a 2% administration charge that is added to the impact fee. That charge is intended to cover the cost of accounting, reporting and other administrative activities required by the Mitigation Fee Act, as well as the cost of periodic updates to the impact fee study. Two percent of the impact fee amount is a widely used estimate of the cost of complying with the requirements of the Mitigation Fee Act.

Table 3.6 Impact Fee per Unit

Development Type	Units ¹	Cost per Capita ²	Svc Pop per Unit ³	Cost per Unit ⁴	2% Admin Charge ⁵	Impact Fee per Unit ⁶
Residential - Single-Family	DU	\$416.82	3.10	\$ 1,292.13	\$ 25.84	\$ 1,317.97
Residential - Multi-Family	DU	\$416.82	2.20	\$ 916.99	\$ 18.34	\$ 935.33
Residential - Mobile Home Park	DU	\$416.82	2.10	\$ 875.31	\$ 17.51	\$ 892.82
Residential - Age-Restricted	DU	\$416.82	1.70	\$ 708.59	\$ 14.17	\$ 722.76
Commercial	KSF	\$416.82	2.10	\$ 875.31	\$ 17.51	\$ 892.82
Office	KSF	\$416.82	2.80	\$ 1,167.08	\$ 23.34	\$ 1,190.42
Industrial	KSF	\$416.82	1.40	\$ 583.54	\$ 11.67	\$ 595.21

¹ DU = dwelling unit; KSF = 1,000 gross square feet of building area

² Cost per capita of service population; see Table 3.5

³ See Table 2.1

⁴ Cost per unit = cost per capita X service population per unit

⁵ 2% administrative charge = cost per unit X 0.02

⁶ Impact fee per unit = cost per unit + 2% administrative charge

Customizing Impact Fees

The non-residential development types defined in this study and shown in Table 3.6 are rather broad, and some proposed development projects may not fit neatly into a particular category. In such cases, the agency imposing impact fees may wish to adjust the fee to the particular characteristics of the project. That can be done quite simply by multiplying the cost per capita shown in Table 3.5 by the added service population associated with the project. Since each employee equates to one added unit of service population, the added service population equals the number of employees to be added by the project. Using the example of a 100-room hotel with 0.5 employees per room, the impact fee would be calculated as 50 employees X \$416.82 per employee for an impact fee of \$20,841.00.

Projected Revenue

Table 3.7 projects the total revenue from the impact fees calculated in this chapter. That projection assumes that future development to 2040 occurs as forecasted in this study.

Revenue is projected by applying the impact fee per capita to added service population from Table 2.3 in Chapter 2. The revenue projected in Table 3.7 excludes the 2% administrative charge, so it includes only revenue available for new capital facilities.

Table 3.7 Projected Revenue

Added Service Population ¹	Revenue per Capita ²	Projected Revenue ³
88,565	\$416.82	\$36,915,058

¹ See Table 2.3

² See Table 3.5

³ Projected Revenue = added service population X revenue per capita

The total impact fee revenue projected in Table 3.7 amounts to 37.1% of the total cost of existing and future facilities, apparatus and equipment identified in this chapter and represents future development's proportionate share of those costs. Assuming that future development in the District occurs as forecasted in this study, that revenue would provide approximately 108% of the amount needed to construct and equip three new fire stations. Additional revenue from other sources will be needed to fund other facilities planned by the District.

Updating the Fees

The impact fees calculated in this chapter are based on current cost estimates. Between impact fee update studies, we recommend that the District review those costs annually and adjust the fees as needed to keep pace with percentage changes in construction and equipment costs. ECCFPD intends to use the average of the Consumer Price Index published by the U. S. Bureau of Labor Statistics and the California Construction Cost Index published by the California Department of General Services to update the fees.

Because impact fees for ECCFPD must be adopted by Contra Costa County and the Cities of Brentwood and Oakley, we recommend that updates to the fees be coordinated among those agencies so that the fees remain the same for all agencies over time.

Nexus Summary

As discussed in Chapter 1 of this report, Section 66001 of the Mitigation Fee Act requires that an agency establishing, increasing or imposing impact fees, must make findings to:

Identify the purpose of the fee;

Identify the use of the fee; and,

Determine that there is a reasonable relationship between:

- a. The use of the fee and the development type on which it is imposed;
- b. The need for the facility and the type of development on which the fee is imposed; and
- c. The amount of the fee and the facility cost attributable to the development project.

Satisfying those requirements also ensures that the fees meet the “rational nexus” and “rough proportionality” standards enunciated in leading court decisions bearing on impact fees and other exactions. (For more detail, see “Legal Framework for Impact Fees” in Chapter 1.)

The following paragraphs explain how the impact fees calculated in this chapter satisfy those requirements.

Purpose of the Fee: The purpose of the impact fees calculated in this chapter is to pay for new development’s proportionate share of the cost of providing fire protection facilities to serve future development in area served by the East Contra Costa Fire Protection District.

Use of the Fee. Impact fees calculated in this chapter will be used to pay for future fire protection facilities needed to serve the East Contra Costa Fire Protection District.

As provided by the Mitigation Fee Act, the agency imposing the fees may borrow against the fire facilities impact fee fund if the funds are needed to support another impact fee-eligible project. The borrowed funds must be repaid with interest.

Reasonable Relationship between the Use of the Fee and the Development Type on Which It Is Imposed. The impact fees calculated in this chapter will be used to pay for new development’s proportionate share of the cost of fire protection facilities needed to serve the East Contra Costa Fire Protection District.

Reasonable Relationship between the Need for the Facilities and the Type of Development on Which the Fee Is Imposed. All new development in the East Contra Costa Fire Protection District increases the demand for fire protection and emergency medical services provided by the District. The impact fees calculated in this chapter will pay for additional fire protection facilities needed serve the additional demand that will be created by anticipated development in the District.

Reasonable Relationship between the Amount of the Fee and the Facility Cost Attributable to the Development Project. The amount of the fire protection impact fees charged to a development project will depend on the estimated service population to be added by that project. Thus, the fee charged to a development project reflects that

project's proportionate share of the cost of facilities needed by the East Contra Costa Fire Protection District to provide an acceptable level of service.



Chapter 4. Implementation

This chapter of the report contains recommendations for adoption and administration of impact fees, and for the interpretation and application of the development impact fees calculated in this study. It was not prepared by an attorney and is not intended as legal advice.

Statutory requirements for the adoption and administration of fees imposed as a condition of development approval (impact fees) are found in the Mitigation Fee Act (Government Code Sections 66000 *et seq.*).

Adoption

As discussed in Chapter 1, California Health and Safety Code Section 13916, which is part of the Fire Protection District Law of 1987, does not allow the board of a fire protection district to charge a fee on new construction or development for the construction of public improvements or facilities or the acquisition of equipment.

Consequently, the fire protection impact fees calculated in this report must be adopted by the agencies having authority to approve development projects in the areas served by ECCFPD, namely Contra Costa County and the cities of Brentwood and Oakley.

The form in which development impact fees are enacted should be determined by the attorneys for those agencies. Procedures for adoption of fees subject to the Mitigation Fee Act, including notice and public hearing requirements, are specified in Government Code Sections 66016 and 66018. It should be noted that Section 66018 refers to Government Code Section 6062a, which requires that the public hearing notice be published at least twice during the required 10-day notice period. Government Code Section 66017 provides that fees subject to the Mitigation Fee Act do not become effective until 60 days after final action by the governing body.

Actions establishing or increasing fees subject to the Mitigation Act require certain findings, as set forth in Government Code Section 66001 and discussed below and in Chapter 1 of this report.

Establishment of Fees. Pursuant to the Mitigation Fee Act, Section 66001(a), when an agency establishes fees to be imposed as a condition of development approval, it must make findings to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and
3. Determine how there is a reasonable relationship between:
 - a. The use of the fee and the type of development project on which it is imposed; and,

- b. The need for the facility and the type of development project on which the fee is imposed

Examples of findings that could be used for impact fees calculated in this study are shown below. The specific language of such findings should be reviewed and approved by the Attorney for the agency adopting the fees. A more complete discussion of the nexus for the impact fees can be found in Chapter 3 of this report.

Sample Finding: Purpose of the Fee. The [City Council or Board of Supervisors] finds that the purpose of the impact fees hereby enacted is to protect the public health, safety and welfare by requiring new development to contribute to the cost of fire protection facilities needed to mitigate the impacts created by that development.

Sample Finding: Use of the Fee. The [City Council or Board of Supervisors] finds that revenue from the impact fees hereby enacted will be used to provide public facilities needed to mitigate the impacts of new development. Those facilities are identified in the 2020 East Contra Costa Fire Protection District Impact Fee Study by NBS.³

Sample Finding: Reasonable Relationship: Based on analysis presented in the 2020 East Contra Costa Fire Protection District Impact Fee Study by NBS, the [City Council or Board of Supervisors] finds that there is a reasonable relationship between:

- a. The use of the fees and the types of development projects on which they are imposed; and,
- b. The need for facilities and the types of development projects on which the fees are imposed.

Administration

The California Mitigation Fee Act (Government Code Sections 66000 et seq.) mandates procedures for administration of impact fee programs, including collection and accounting, reporting, and refunds. References to code sections in the following paragraphs pertain to the California Government Code.

³ According to Gov't Code Section 66001 (a) (2), the use of the fee may be specified in a capital improvement plan, the General Plan, or other public documents that identify the public facilities for which the fee is charged. The findings recommended here identify this impact fee study as the source of that information.

Imposition of Fees. Pursuant to the Mitigation Fee Act, Section 66001(a), when an agency imposes an impact fee upon a specific development project, it must make essentially the same findings adopted upon establishment of the fees to:

1. Identify the purpose of the fee;
2. Identify the use of the fee; and
3. Determine how there is a reasonable relationship between:
 - a. The use of the fee and the type of development project on which it is imposed;
 - b. The need for the facility and the type of development project on which the fee is imposed

Per Section 66001 (b), at the time when an impact fee is imposed on a specific development project, the agency is also required to make a finding to determine how there is a reasonable relationship between:

- c. The amount of the fee and the facility cost attributable to the development project on which it is imposed.

In addition, Section 66006 (f) provides that a local agency, at the time it imposes a fee for public improvements on a specific development project, "... shall identify the public improvement that the fee will be used to finance." The required notification could refer to the improvements identified in this study.

Section 66020 (d) (1) requires that the agency, at the time it imposes an impact fee, provide the applicant with a written statement of the amount of the fee and written notice of a 90-day period during which the imposition of the fee can be protested. Failure to protest imposition of the fee during that period may deprive the fee payer of the right to subsequent legal challenge.

Section 66022 (a) provides a separate procedure for challenging the establishment of an impact fee. Such challenges must be filed within 120 days of enactment.

Collection of Fees. Section 66007 (a), provides that a local agency shall not require payment of fees by developers of residential projects prior to the date of final inspection, or issuance of a certificate of occupancy, whichever occurs first.

However, "utility service fees" (not defined) may be collected upon application for utility service. In a residential development project of more than one dwelling unit, Section 66007 (a) allows the agency to choose to collect fees either for individual units or for phases upon final inspection, or for the entire project upon final inspection of the first dwelling unit completed.

Section 66007 (b) provides two exceptions when the local agency may require the payment of fees from developers of residential projects at an earlier time: (1) when the

local agency determines that the fees “will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy” or (2) the fees are “to reimburse the local agency for expenditures previously made.”

These statutory restrictions on the time at which fees may be collected do not apply to non-residential development.

In cases where the fees are not collected upon issuance of building permits, Subsections 66007 (c) (1) and (2) provide that the agency may require the property owner to execute a contract to pay the fee, and to record that contract as a lien against the property until the fees are paid.

Earmarking and Expenditure of Fee Revenue. Section 66006 (a) mandates that fees be deposited “with other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected.” Section 66006 (a) also requires that interest earned on the fee revenues be placed in the capital account and used for the same purpose.

The language of the law is not clear as to whether depositing fees “with other fees for the improvement” refers to a specific capital improvement or a class of improvements (e.g., street improvements).

We are not aware of any agency that has interpreted that language to mean that funds must be segregated by individual projects. And, as a practical matter, that approach would be unworkable because it would mean that no pay-as-you-go project could be constructed until all benefiting development had paid the fees. Common practice is to maintain separate funds or accounts for impact fee revenues by facility category (e.g., fire protection or park improvements), but not for individual projects.

Impact Fee Exemptions, Reductions, and Waivers. In the event that a development project is found to have no impact on facilities for which impact fees are charged, such project must be exempted from the fees.

If a project has characteristics that will make its impacts on a particular public facility or infrastructure system significantly and permanently smaller than the average impact used to calculate impact fees in this study, the fees should be reduced accordingly. Per Section 66001 (b), there must be a reasonable relationship between the amount of the fee and the cost of the public facility attributable to the development on which the fee is imposed. The fee reduction is required if the fee is not proportional to the impact of the development on relevant public facilities.

In some cases, the agency may desire to voluntarily waive or reduce impact fees that would otherwise apply to a project as a way of promoting goals such as affordable

housing or economic development. Such a waiver or reduction may not result in increased costs to other development projects, so the effect of such policies is that the lost revenue must be made up from other fund sources.

Credit for Improvements Provided by Developers. If an agency requires a developer, as a condition of project approval to dedicate land or construct facilities or improvements for which impact fees are charged, the agency should ensure that the impact fees are adjusted so that the overall contribution by the developer does not exceed the impact created by the development.

In the event that a developer voluntarily offers to dedicate land, or construct facilities or improvements in lieu of paying impact fees, the agency may accept or reject such offers and may negotiate the terms under which such an offer would be accepted. Excess contributions by a developer may be offset by reimbursement agreements.

Credit for Existing Development. If a project involves replacement, redevelopment or intensification of previously existing development, impact fees should be applied only to the portion of the project that represents a net increase in demand for relevant facilities, applying the demand factors used in this study to calculate that particular impact fee.

Annual Reports. Section 66006 (b) (1) requires that once each year, within 180 days of the close of the fiscal year, the local agency must make available to the public the following information for each separate account established to receive impact fee revenues:

1. A brief description of the type of fee in the account or fund;
2. The amount of the fee;
3. The beginning and ending balance of the account or fund;
4. The amount of the fees collected and interest earned;
5. Identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the percentage of the cost of the public improvement that was funded with fees;
6. Identification of the approximate date by which the construction of a public improvement will commence, if the agency determines sufficient funds have been collected to complete financing of an incomplete public improvement;
7. A description of each inter-fund transfer or loan made from the account or fund, including interest rates, repayment dates, and a description of the improvement on which the transfer or loan will be expended;
8. The amount of any refunds or allocations made pursuant to Section 66001, paragraphs (e) and (f).

The annual report must be reviewed by the governing at its next regularly scheduled public meeting, but not less than 15 days after the statements are made public, per Section 66006 (b) (2).

Fifth Year Reports on Unexpended Funds. Prior to 1996, the Mitigation Fee Act required that a local agency collecting impact fees was required to expend or commit impact fee revenue within five years or make findings to justify a continued need for the money. Otherwise, those funds had to be refunded. SB 1693, adopted in 1996 as an amendment to the Mitigation Fee Act, changed that requirement in material ways.

Now, Section 66001 (d) requires that, for the fifth fiscal year following the first deposit of any impact fee revenue into an account or fund as required by Section 66006 (b), and every five years thereafter, the local agency shall make all of the following findings for any fee revenue that remains unexpended, whether committed or uncommitted:

1. Identify the purpose to which the fee will be put;
2. Demonstrate the reasonable relationship between the fee and the purpose for which it is charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements for which impact fees are to be used;
4. Designate the approximate dates on which the funding necessary to complete financing of those improvements will be deposited into the appropriate account or fund.

Those findings are to be made in conjunction with the annual reports discussed above. If such findings are not made as required by Section 66001, the local agency could be required to refund the moneys in the account or fund, per Section 66001 (d).

Once the agency determines that sufficient funds have been collected to complete financing on incomplete improvements for which impact fee revenue is to be used, it must, within 180 days of that determination, identify an approximate date by which construction of the public improvement will be commenced (Section 66001 (e)).

Note: Because impact fees for East Contra Costa Fire Protection District must be adopted by other agencies as discussed above, the District and those agencies should agree on which agency will be responsible for annual reporting and the fifth year review required by the Mitigation Fee Act, and should develop procedures to ensure that the requirements of the Act are satisfied.

Annual Update of the Capital Improvement Plan. Section 66002 (b) of the Mitigation Fee Act provides that if a local agency cites a capital improvement plan to identify the use of impact fees, that plan must be adopted and annually updated by a resolution of the governing body at a noticed public hearing. The alternative, per Section 66001 (a)

(2) is to identify improvements by applicable general or specific plans or in other public documents.

In most cases, the CIP identifies projects for a limited number of years and may not include all improvements needed to serve future development covered by the impact fee study. We recommend that this impact fee study be cited as the public document identifying the use of the fees.

Indexing of Impact Fees. Where impact fees calculated in this report are based on current costs, those costs should, if possible, be adjusted periodically to account for changes in the cost of facilities or other capital assets that will be funded by the impact fees. That adjustment is intended to account for escalation in costs for land, construction, vehicles and other relevant capital assets.

Training and Public Information

Effective administration of an impact fee program requires considerable preparation and training. It is important that those responsible for collecting the fees, and for explaining them to the public, understand both the details of the fee program and its supporting rationale.

Before fees are imposed, a staff training workshop is highly desirable if more than a handful of employees will be involved in collecting or accounting for fees.

It is also useful to pay close attention to handouts that provide information to the public regarding impact fees. Impact fees should be clearly distinguished from other fees, such as user fees for application processing, and the purpose and use of impact fees should be made clear.

Finally, anyone responsible for accounting, capital budgeting, or project management for projects involving impact fees must be fully aware of the restrictions placed on the expenditure of impact fee revenues and should refer to this report for a list of the facilities and on which the impact fee calculations are based.

APPENDIX A

Comparative Fee Survey – Development Impact Fees

East Contra Costa Fire Protection District
Development Impact Fee Study 2020
Fee Comparison

EAST CONTRA COSTA FIRE PROTECTION DISTRICT				COMPARISON AGENCIES		
Land Use	Units	Current Fee	Proposed Fee	Cosumnes CSD Fire Department [1]	Contra Costa County Fire Protection District [2]	Sacramento Metropolitan Fire District [3]
Single Family Residential	DU					
City of Brentwood		\$ 880.95	\$ 1,319	\$1,771 - \$2,085	\$ 970	\$ 1,104
City of Oakley		\$ 766.55				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		\$ 480.00				
Multi-Family	DU					
City of Brentwood		\$ 880.95	\$ 935	\$1,170 - \$1,373; \$819 - \$1,106 for age restricted	\$ 460	\$ 861
City of Oakley		\$ 478.96				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		\$ 305.00				
Secondary Dwelling Unit	DU					
City of Brentwood		n/a	tbd	n/a	n/a	\$ 662
City of Oakley		\$ 225.11				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		n/a				
Mobile Home	DU					
City of Brentwood		n/a	\$ 893	n/a	n/a	n/a
City of Oakley		\$ 462.59				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		\$ 280.00				
Commercial	SF					
City of Brentwood		\$ 0.1737	\$ 0.89	\$1.36 - \$1.76	\$ 0.66	\$ 0.58
City of Oakley		\$ -				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		\$ 0.0300				
Office	SF					
City of Brentwood		\$ 0.1737	\$ 1.19	\$1.36 - \$1.76	\$ 0.58	\$ 0.97
City of Oakley		\$ -				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		n/a				
Industrial/Institutional	SF					
City of Brentwood		\$ 0.1737	\$ 0.60	\$0.79 - \$0.57	\$ 0.39	\$ 0.52
City of Oakley		\$ -				
Unincorporated Contra Costa County - Bethel Island, East Diablo, Oakley		n/a				

Notes:

[1] CCSD Fire Notice of Fee Increase, January 2, 2019; Fees are by "zone" of location

[2] CCC Ordinance 2019-21 Findings Report Final. CCCFPD serves the following incorporated cities: Antioch, Clayton, Concord, Lafayette, Martinez, Pittsburg, Pleasant Hill, San Pablo, and Walnut Creek as well as the following unincorporated communities:

[3] SMFD Ordinance, 2015