



Loveland Fire Rescue Authority Impact Fee Update

FINAL REPORT

Final Report

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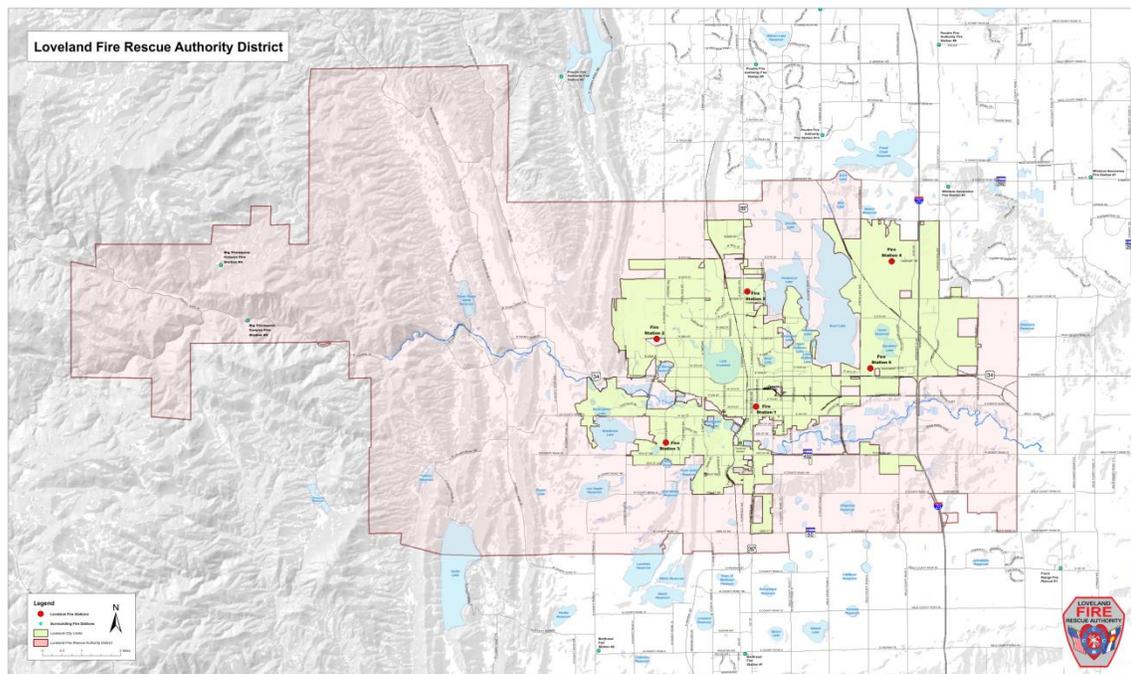
SECTION I.

Introduction

Loveland Fire Rescue Authority (LFRA) provides fire, rescue, and emergency medical services as well as public education in Larimer County, serving the City of Loveland, a portion of the Town of Johnstown and parts of unincorporated Larimer County, as shown in Figure I-1. LFRA services a total area of 190 square miles, including both urban and rural land uses, and responds to approximately 8,600 calls per year.

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, LFRA retained BBC Research & Consulting (BBC) in 2017 to conduct a feasibility assessment and prepare a report documenting the calculation of appropriate fees for its services. This report documents BBC's analysis and recommendations for updating the impact fee system that would recover the proportional capital costs associated with new development.

Figure I-1.
Loveland Fire Rescue Authority Service Area



Source: LFRA.

A. Impact Fee Requirements

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

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

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

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

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

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

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

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

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

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, recreation centers, or other support facilities. Capital infrastructure generally includes streets, parks, administrative facilities, specialized fire or police buildings, and recreational facilities.

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

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

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

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

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 or other specific plans for each department. A plan-based approach requires forecasts of residential 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.** Courts have indicated that all forms of development that have facility impacts—that is, residential, industrial, and commercial developments—must pay their fair share of expansion costs. If one type of development is exempted from fees, then fees may not be sufficient to cover expansion costs that result from new development.
- **Use specificity.** Impact fee calculations vary between different forms and sizes of residential development and different uses of commercial buildings and how they impact demand for public services. When compelling evidence is available that the forms, sizes, or

uses of particular types of development will result in substantially different demands for public services, then 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 updated development impact fees for LFRA.

- **Capital standards.** BBC used LFRA's planned future investment in facilities as the basis for determining capital standards for its new fees. We obtained that information directly from the Authority. 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.
- **Demand for services by land use.** It is important for communities to determine how impact fees should be allocated according to demand for services by land use so that all forms of development pay their fair share of expansion costs. LFRA's data on calls for service indicate that the majority of demand for services is for single family residential purposes (53% single family residential, 16% multifamily residential, 30% commercial, and 1% industrial). BBC allocated LFRA's updated development impact fees accordingly, because the mix of future development in the region is not expected to differ substantially from current land use.
- **Use specificity.** To the extent possible, impact fees should reflect the degree to which different forms, sizes, and uses of particular types of development will result in different demand for public services. However, there is no compelling evidence that suggests that larger homes create more demand for public services than smaller homes. In addition, there is uncertainty about the nature of future commercial development. As a result, BBC treated all residential units equally and all commercial units equally as they relate to public service demand.
- **Fee design costs:** The cost of fee design studies can be recovered through impact fees, so BBC has included the cost of this report in the fee calculations.
- **Proportionality:** By using LFRA's planned future investment in facilities to derive capital standards and then setting fee rates to replace the future standards of facility investment, BBC has ensured that proportionality has been reasonably and fairly derived.

A. LFRA Budget Overview

The Loveland Rural Fire Protection District collects property tax revenue through an 8.708 property tax mill in Larimer County, which it uses to fund its contribution of 18% of the LFRA's annual budget. 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 remaining 82% of LFRA's revenue is obtained from the City of Loveland General Fund, which is primarily derived from sales and use taxes. The 2020 LFRA Budget indicates the District will

collect approximately \$17.4 million of revenue this year. After interfund transfers for pension funds, bond repayment, and capital fund, LFRA projects operating expenses of \$17.4 million, most of which is allocated to personnel costs, including salaries, benefits, and volunteer incentives. However, LFRA 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.

B. Impact Fee Calculations

BBC’s calculations of updated development impact fees for LFRA includes the following steps:

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

1. Projected growth and planned future investment. BBC previously conducted a growth analysis for LFRA as part of a capital expansion fee study for the City of Loveland completed in 2016. The household growth estimates in the 2016 report were based on data from the Larimer county Assessor and growth projections from the City of Loveland Annual Data and Assumptions Report and the North Front Range Metropolitan Planning Organization (NFRMPO).

For this report, BBC kept growth rate projections consistent with those developed as part of the original 2016 and 2017 reports. The ratio of single family residential to multifamily residential development was assumed to remain constant. In order to estimate the non-residential growth component, BBC used employment projections from the NFRMPO. Existing square feet per employee ratios were applied to the employment projections to estimate new non-residential building development. The forecast period for the impact fee calculations is a 15-year horizon, from 2020 to 2035.

Figure II-1 displays the LFRA Growth Projections. Over the 15-year planning horizon, development in the LFRA service area is estimated to produce 19,603 new residential units (14,234 of which are single family and 5,369 of which are multifamily). Non-residential development is expected to produce 6.6 million square feet of additional commercial space and 2.9 million square feet of industrial space.

**Figure II-1.
LFRA Service Area Growth Projections**

	Existing Development (2020)	Future Development: 2035 (15 year)		
		Growth Rate	Total	New Growth
Single family (units)	30,309	2.6%	44,543	14,234
Multifamily (units)	11,432	2.6%	16,801	5,369
Commercial (square feet)	18,084,420	2.1%	24,699,645	6,615,225
Industrial (square feet)	12,373,551	1.4%	15,242,762	2,869,211

The current CIP, updated as of 2020, details planned facilities and significant capital equipment for LFRA stations as shown in Figure II-2. This figure also shows the portion of these facilities that is attributable to new growth and therefore eligible to be included in the impact fee calculation.

Figure II-2.
LFRA Facilities and Capital Investment Plan through 2035 (15 years)

	Amount	Growth x Percentage	= Amount to Include in Fees
Fire Station #3 Replacement	\$6,000,000	0%	\$0
Fire Station #3 Repair & Renewal	\$256,500	0%	\$0
Fire Station #5 Addition	\$3,700,000	72%	\$2,664,000
Apparatus for Fire Station #5 Addition	\$750,000	100%	\$750,000
New Fire Station #10	\$7,500,000	100%	\$7,500,000
Apparatus for Fire Station #10	\$656,000	100%	\$656,000
New Fire Station #11	\$6,500,000	100%	\$6,500,000
Apparatus for Fire Station #11	\$1,500,000	100%	\$1,500,000
Additional Fire Equipment for New Fire Stations	\$1,442,306	100%	\$1,442,306
Training Center Phase I	\$2,641,228	71%	\$1,875,272
Training Center Phase II	\$16,083,365	38%	\$6,111,679
Training Classrooms - B Repair & Renewal	\$210,500	0%	\$0
Training Garage - C Repair & Renewal Training	\$4,000	0%	\$0
Command Center - E Repair & Renewal Training	\$37,000	0%	\$0
Burn Prop Repair & Renewal	\$173,500	0%	\$0
Fire station 4 Relocation	\$5,000,000	75%	\$3,750,000
Impact Fee Study	\$7,000	100%	\$7,000
<i>Minus</i> CEF Fund Balance	\$893,199	100%	\$893,199
Total	\$51,568,200		\$31,863,058

Source: City of Loveland Facilities Master Plan, Loveland Strategic Fire Plan, 2020 LFRA Capital Improvement Plan and discussions with LFRA staff.

Through 2035 there are nearly \$50 million in capital projects planned for LFRA, \$32 million of which are attributable to expected growth. The capital plan includes two new fire stations (#10 and #11) and an expansion of Station #5. The two new stations will serve future growth and are therefore 100 percent eligible to be included in the fee. Much of Station #5 will also serve new growth, although about \$540,000 of the planned investment will be for existing facility upgrades and not to accommodate new growth. As a result, 72 percent of the planned investment is eligible for inclusion in the fee study. Corresponding equipment and apparatus for the two new stations as well as the Station #5 addition are also included in the fee.

The new \$18.7 million fire training campus (Phase I and Phase II) is shown as partially fee eligible. Roughly 29 percent of the Phase I cost will replace existing facilities and therefore cannot be included in the fee. The remaining portion of the Phase I cost will serve new growth by expanding the department’s training capacity and by tailoring training facilities to the specific demands of new development configurations, particularly related to multifamily and commercial development trends. Phase II of the Training Center, estimated to cost \$16.1 million, will fully replace LFRA’s existing Fire Training Grounds but will also expand the department’s training capacity substantially. The amount of Phase II to include in the fee calculation was determined

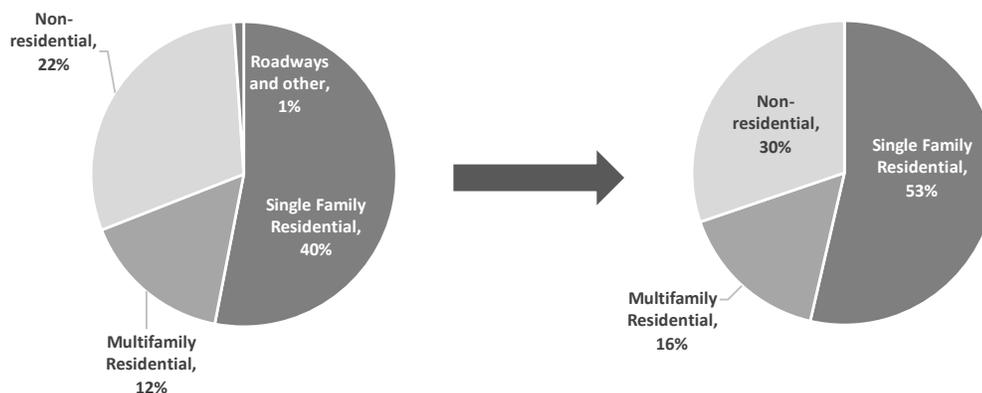
by deducting the current value of the existing training center (\$3.7 million) from the Phase II cost and then allocating 50 percent of the remaining cost to new growth (expansion of facilities) and 50 percent to current service (upgrade of facility quality). The final amount to be included in the fees is \$6.2 million—38 percent of the Phase II cost.

The relocation of Station #4 is also shown as partially fee eligible. Significant growth of the airport is anticipated due to the recent addition of a virtual air traffic control tower as well as residential growth projections. Due to this growth, LFRA must move the station from its current location to an area closer to the runway, in order to comply with Federal Aviation Administration (FAA) standards. Based on conversations with LFRA, at least 75 percent of the relocation cost can be attributed to new growth.

The replacement for Station #3 is shown in the capital plan but is not eligible to be included in the fee calculation because the replacement is necessary to maintain the current level of service rather than driven by future growth. Repair and renewal of existing stations and the current training center are not eligible to be included in the fee calculation for the same reason.

2. Demand for services by land use. Demand for services is not always equal across different land uses. BBC used existing calls for fire and EMS service as a proxy for demand in the fee calculations. In order to mitigate year-to-year fluctuations, BBC evaluated four years of call data (2017 through 2020) to determine the typical distribution of calls for service across different land use categories. Figure II-3 displays LFRA’s calls for service by land use category. Calls classified as “Roadways” and/or “Other” cannot be attributed to a specific land use and are excluded from the impact fee calculation model. Over the four-year period, LFRA received close to 32,000 calls for service. Excluding calls that could not be classified by land use, 53 percent were to single family residential units, 16 percent were to multi-family residential developments, 30 percent were to commercial developments and 1 percent were to industrial developments. The distribution of calls for service between land uses is then applied to the growth projections to determine the future distribution of need for fire infrastructure.

Figure II-3.
Calls for Service (2017-2020) and Burden Distribution for Impact Fee Calculation



Note: Roadways and Other categories cannot be assigned to development type and are therefore excluded from the impact fee calculation.

Source: LFRA and BBC Research & Consulting.

3. Impact fee calculation. Figure II-4 uses LFRA's current service standards and infrastructure replication costs to determine appropriate single family residential, multifamily residential, commercial, and industrial impact fees. BBC used LFRA's calls for service by land use as a proxy for demand and assigned costs to different types of development accordingly. Figure II-4 presents fee calculations for each relevant type of development. The value of total fire infrastructure is presented in the top row of Figure II-4 (and is identical to the last row of Figure II-2).

- The first step in calculating the impact fees was to allocate the total value of future fire infrastructure proportionally to each type of development based on LFRA's burden distribution (i.e., demand for service) by land use. Thus, BBC allocated 53 percent, or \$14 million, to single family residential development, 16 percent, or \$4 million, to multifamily residential development, 30 percent, or \$7.9 million to commercial development, and 1 percent, or \$276,000, to industrial development.
- Next, BBC allocated infrastructure value for each type of development to each unit of future development, based on growth projections, within that category—that is, each dwelling unit for residential development and each square foot for non-residential development—to determine the relevant burden of each unit of future development on future 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 \$1,187 per single-family unit, \$950 per multifamily unit, \$1.44 per commercial square foot, and \$0.12 per industrial square foot. This is compared to the existing maximum defensible LFRA impact fees of \$1,133 per single-family unit, \$747 per multifamily unit, \$0.98 per commercial square foot, and \$0.33 per industrial square foot. The Authority can choose to charge less than this amount but discounts must be uniformly applied to all land use categories.

**Figure II-4.
Full Cost Recovery Impact
Fees for LFRA**

Source:
LFRA and BBC Research & Consulting.

Calculation of Impact Fees	
Value of Future Fire Infrastructure	\$31,863,058
Future Burden Distribution (calls for service)	
Single family	53%
Multifamily	16%
Commercial	30%
Industrial	1%
Costs by Land Use Category	
Single family	\$16,901,047
Multifamily	\$5,098,034
Commercial	\$9,530,511
Industrial	\$333,465
Future Development through 2035	
Single family (in dwelling units)	14,234
Multifamily (in dwelling units)	5,369
Commercial (in square feet)	6,615,225
Industrial (in square feet)	2,869,211
Impact Fee by Land Use (rounded)	
Single family (per dwelling unit)	\$1,187
Multi-family (per dwelling unit)	\$950
Commercial (per square foot)	\$1.44
Industrial (per square foot)	\$0.12

SECTION III.

Summary and Recommendations

The development impact fees of \$1,187 per single family residential dwelling unit, \$950 per multifamily residential dwelling unit, \$1.44 per commercial square foot, and \$0.12 per industrial square foot that BBC recommends for LFRA's consideration represent maximum defensible amounts, and we recognize that the District may choose not to adopt fees as high as those amounts. BBC offers the following recommendations:

- LFRA 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.
- LFRA should adhere to a written policy governing its expenditure of monies from its impact fee fund. The Authority 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 LFRA 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 Authority's board.
- LFRA's impact fees should be updated periodically as it invests in additional infrastructure beyond what is listed in this report or the Authority's population or inventory of commercial square footage changes substantially.
- LFRA's fees should be updated annually based on established inflation indices, such as the Consumer Price Index or the Engineering News Record.