

## **PUBLIC NOTICE**

**Public Body:** Tremonton City Council

**Subject:** Impact Fee Enactment

**Notice Title:** Notice to Adopt Wastewater Treatment Plant Impact Fee Enactment, including but not limited to, the Wastewater Treatment Plant Impact Fee Ordinance and Impact Fee Analysis

**Notice Type:** Notice to Adopt Impact Fee Enactment

**Notice Date:** October 26, 2023

### **Description/Agenda:**

In accordance with the requirements of Utah Code Annotated 11-36a-504, Tremonton City Corporation, Utah, gives public notice to adopt a Wastewater Treatment Plant Impact Fee Enactment including but not limited to Impact Fee Ordinance and Impact Fee Analysis for Wastewater Treatment Plant. The location(s) that are included in the Impact Fee Enactment is the entire area of the incorporated limits of Tremonton City and any area outside of Tremonton City, which may hereafter be annexed into Tremonton City or any area serviced by the Tremonton City Wastewater Treatment Plant.

A public hearing shall be held by the City Council on November 7, 2023, at 7:00 pm or soon thereafter in the Tremonton City Council Chambers, located at 102 S. Tremont Street, Tremonton, Utah 84337, to receive public comment on the adoption of the aforementioned Wastewater Treatment Plant Impact Fee Enactment. Draft copies of (1) the Wastewater Treatment Plant Impact Fee Enactment Ordinance; (2) a summary of the Wastewater Treatment Plant Impact Fee Analysis; and (3) a complete draft of the Wastewater Treatment Plant Impact Fee Analysis will be available on or before October 26, 2023, at [www.tremontonccity.org](http://www.tremontonccity.org), at the Tremonton City Library located at 210 N. Tremont Street, Tremonton, Utah, and the Satellite Library Branch located in the Bear River Valley Senior Center located at 510 West 1000 North, Tremonton, Utah during regular business hours. Additionally, on or before October 26, 2023, copies of the aforementioned documents are available to the public at the Tremonton City Recorder's Office at 102 S. Tremont Street, Tremonton, Utah, during regular business hours. The public may file written objections to adopting the Wastewater Treatment Plant Impact Fee Enactment for the Tremonton City Council's consideration. Written objections, questions about this notice, or contents of the Impact Fee Enactment may be directed to Shawn Warnke, Tremonton City Manager, at (435) 257-9504, [swarnke@tremontonccity.com](mailto:swarnke@tremontonccity.com), or mailed to Shawn Warnke, 102 S. Tremont St. Tremonton, UT 84337.

**Notice of Special Accommodations:** If you need special accommodations to participate in a City Council Meeting, please call the City Recorder, Linsey Nessen, at 435-257-9506. Please provide at least 24 hours notice for adequate arrangements to be made.

Notice of Electronic or telephone participation: Tremonton City passed Ordinance No. 13-04 approving Electronic Meeting Procedures in accordance with Section 52-4-207 of Utah Code Annotated.

## EXECUTIVE SUMMARY

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Tremonton City commissioned Zions Public Finance, Inc. (ZPFI) to calculate the City's impact fees in accordance with Utah State Law. An impact fee is a payment of money imposed upon new development activity to mitigate the impact of new development on public infrastructure. In conjunction with this project, Aqua Engineering prepared the Wastewater Treatment Plant Capital Facilities and Impact Fee Facilities Plan ("IFFP") dated 2023.

The recommended impact fee structure presented in this analysis has been prepared to satisfy the Impact Fees Act, Utah Code Ann. § 11-36a-101 et. seq., and represents the maximum impact fees that Tremonton ("City") may assess. The City will be required to use revenue sources other than impact fees to fund any projects that constitute repair and replacement, cure any existing deficiencies, or increase the level of service for existing users.

Projections for equivalent residential unit (ERU) growth in the City are as follows:

**TABLE 1: GROWTH IN DEMAND**

| Year | ERUs  |
|------|-------|
| 2022 | 3,658 |
| 2023 | 3,745 |
| 2024 | 3,835 |
| 2025 | 3,926 |
| 2026 | 4,020 |
| 2027 | 4,115 |
| 2028 | 4,214 |
| 2029 | 4,314 |
| 2030 | 4,417 |
| 2031 | 4,526 |
| 2032 | 4,637 |
| 2033 | 4,751 |

*Source: IFFP, p. 18*

### Wastewater Service Levels

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Wastewater service levels for one typical detached single-family dwelling (ERU) are defined in the IFFP as follows:

- 350 gallons of flow per day
- 0.65 lbs. BOD/day
- 0.70 lbs. TSS/day
- 0.117 lbs. TKN/day (at an influent concentration of 40 mg/L)
- 0.021 lbs. Phosphorus/day (at an influent concentration of 7.5 mg/L)

### Wastewater Service Area

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This analysis covers the Tremonton service area, which includes all the incorporated limits of Tremonton City.

### Wastewater Capital Facilities

The IFFP identifies the portion of the following new facilities that will be required to meet the demands of new development.

**TABLE 2: NEW CONSTRUCTION PROJECTS**

|                            | Construction Year | Total Cost         | Impact Fee Eligible | Inflation Adjusted Impact-Fee Eligible Cost |
|----------------------------|-------------------|--------------------|---------------------|---------------------------------------------|
| New Aeration Basin         | 2024              | \$3,507,550        | \$2,056,909         | \$2,118,616                                 |
| New Secondary Clarifier    | 2025              | \$2,876,840        | \$2,876,840         | \$3,052,040                                 |
| UV Disinfection Upgrade    | 2023              | \$1,043,080        | \$424,120           | \$424,120                                   |
| Upsize Outfall Yard Piping | 2024              | \$218,900          | \$89,006            | \$91,676                                    |
| Compost Facility Expansion | 2025              | \$1,551,700        | \$1,551,700         | \$1,646,199                                 |
| Electrical Upgrades        | 2026              | \$282,700          | \$114,947           | \$125,606                                   |
| <b>TOTAL</b>               |                   | <b>\$9,480,770</b> | <b>\$7,113,522</b>  | <b>\$7,458,256</b>                          |

*Source: IFFP, p. 74*

In addition, the IFFP identifies previous improvements with remaining capacity of \$513,065 that will serve 2,057 additional ERUs.

### Wastewater System Impact Fee Calculation

The maximum impact fee allowed by law is \$2,679.38 per ERU in 2024.

**TABLE 3: MAXIMUM IMPACT FEE PER ERU IN YEAR 2024**

| Description                | Amount per ERU    |
|----------------------------|-------------------|
| Existing (Buy-In)          | \$249.42          |
| New Construction           | \$2,709.33        |
| Consulting                 | \$51.05           |
| Fund Balance               | \$0.00            |
| <b>Gross Fee</b>           | <b>\$3,009.81</b> |
| 2024 Credit                | (\$330.43)        |
| <b>Maximum Fee per ERU</b> | <b>\$2,679.38</b> |

Credits are made to the impact fee for the portion of the new capital projects that will benefit existing development. The IFFP identifies \$2,367,248 of the cost of the new projects that will benefit existing development. This figure has been inflation adjusted to \$2,430,219 as shown in Table 6. Credits are spread over 20 years with an average payment per ERU per year. The net present value of these payments is used to calculate the credit that must be made each year so that new development does not pay twice – once through an impact fee and then through increased rates over time.

**TABLE 4: MAXIMUM IMPACT FEE PER ERU**

| Year | ERUs  | Payment per Year | Payment per ERU | NPV*     | Max Fee per ERU |
|------|-------|------------------|-----------------|----------|-----------------|
| 2024 | 3,835 | \$121,510.96     | \$31.69         | \$330.43 | \$2,679.38      |
| 2025 | 3,926 | \$121,510.96     | \$30.95         | \$315.26 | \$2,694.55      |
| 2026 | 4,020 | \$121,510.96     | \$30.23         | \$300.07 | \$2,709.73      |
| 2027 | 4,115 | \$121,510.96     | \$29.53         | \$284.85 | \$2,724.96      |
| 2028 | 4,214 | \$121,510.96     | \$28.84         | \$269.56 | \$2,740.24      |
| 2029 | 4,314 | \$121,510.96     | \$28.17         | \$254.20 | \$2,755.60      |
| 2030 | 4,417 | \$121,510.96     | \$27.51         | \$238.75 | \$2,771.06      |
| 2031 | 4,526 | \$121,510.96     | \$26.85         | \$223.18 | \$2,786.63      |
| 2032 | 4,637 | \$121,510.96     | \$26.20         | \$207.49 | \$2,802.32      |
| 2033 | 4,751 | \$121,510.96     | \$25.57         | \$191.66 | \$2,818.15      |

\*NPV = net present value discounted at 5 percent



**ORDINANCE NO. 23-08**

**ADOPTING AND ENACTING IMPACT FEES FOR THE WASTEWATER  
TREATMENT PLANT, INCLUDING BUT NOT LIMITED TO ADOPTING AN  
IMPACT FEE ANALYSIS**

**RECITALS:**

**WHEREAS**, Tremonton City has established an Impact Fee Analysis for the Wastewater Treatment Plant adopted with Ordinance No. 18-02 on January 2, 2018, which is a prerequisite to collecting Impact Fees; and

**WHEREAS**, Tremonton City is currently accessing and collecting Impact Fees for a Wastewater Treatment Plant authorized by Ordinance No. 18-02 on January 2, 2018; and

**WHEREAS**, from time to time, amending an Impact Fee Analysis is a fundamental element of accessing and collecting Impact Fees for a Wastewater Treatment Plant; and

**WHEREAS**, UCA 11-36a-303 requires that, prior to amending or enacting new Impact Fees, a City shall prepare an Impact Fee Analysis; and

**WHEREAS**, UCA 11-36a-503 requires the City to post on the Utah Public Notice Website a notice of intent to prepare an Impact Fee Analysis (see Appendix C); and

**WHEREAS**, UCA 11-36a-504 enumerates public noticing requirements to be followed to adopt or amend an Impact Fee Analysis which the City has fulfilled (see Appendix C); and

**WHEREAS**, Tremonton City has caused a copy of the Impact Fee Analysis for the Wastewater Treatment Plant, together with a summary designed to be understood by a layperson, to be available to the public at various locations, including but not limited to each public library within Tremonton City; and

**WHEREAS**, Tremonton City held a public hearing on November 7, 2023, to receive public comment on the Impact Fee Analysis and the enactment of Impact Fees for the Wastewater Treatment Plant; and

**WHEREAS**, the Tremonton City Council has considered all written and oral statements made at the public hearing objecting to or supporting the City's plan to adopt the Impact Fee Analysis and the enactment of Impact Fees for the Wastewater Treatment Plant; and

**WHEREAS**, in accordance with UCA 11-36a-302(3), Tremonton City Council's plan for financing System Improvements for the Wastewater Treatment Plant establishes that Impact Fees are necessary to maintain the existing level of service.

**NOW, THEREFORE, BE IT ORDAINED** that the Tremonton City Council hereby adopts the Impact Fee Enactment as follows:

|                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------|
| Section 1– Definitions                                                                                                               |
| Section 2– Findings                                                                                                                  |
| Section 3– Adoption of Impact Fee Analysis                                                                                           |
| Section 4– Adoption and Administering of Impact Fees                                                                                 |
| Section 5– Procedures for Challenging or Appealing Impact Fees or the Administration Thereof                                         |
| Section 6– Miscellaneous Provisions                                                                                                  |
| Appendix A– Wastewater Treatment Plant Impact Fee Schedule                                                                           |
| Appendix B– Impact Fee Analysis for the Wastewater Treatment Plant                                                                   |
| Appendix C– Notice of intent to prepare an Impact Fee Facilities Plan and Impact Fee Analysis & Notice to Adopt Impact Fee Enactment |

## SECTION 1- DEFINITIONS

1.1 Definitions. As used in this Ordinance, the following terms shall have the meanings herein set out:

1.1.1. “City” means Tremonton City and its incorporated boundaries.

1.1.2. “Development Activity” or “New Development” means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for Public Facilities. In the case of annexations or buildings currently using a septic tank, it means existing buildings, structure, or use that creates additional demand and need for Public Facilities by connecting to the sanitary sewer collection system/wastewater treatment plant.

1.1.3. “Equivalent Residential Unit” (“ERU”) means a unit of measure that serves as an index to compare the impact on certain Public Facilities equal to the impacts of one typical single-family detached dwelling unit.

1.1.4. “Impact Fee(s)” means the Impact Fee(s) adopted and imposed by this Ordinance on Development Activity or New Development within the City and as allowed by UCA § 11-36a-101 *et al.*

1.1.5. “Impact Fee Analysis” means the Impact Fee Analysis prepared and certified by Zions Bank Public Finance and adopted by the City Council in this Ordinance.

1.1.6 “Impact Fee Facilities Plan” means the Impact Fee Facilities Plan prepared by Aqua Engineering as adopted by the City Council in Ordinance No. 23-07.

1.1.7. “Development Review Committee” means the public body established in Chapter 1.04 of the Tremonton City *Land Use Code*.

1.1.8. “New Development” means the same as “Development Activity. Please reference the definition of “Development Activity” contained in this Ordinance.

1.1.9. “Public Facility(ies)” means the System Improvements that have a life expectancy of ten (10) or more years, the City is an Owner, Partner, or Operator, and are necessary for providing wastewater treatment services.

1.1.10. “Proportionate Share” means the cost of Public Facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any Development Activity.

1.1.11. “Service Area” means the entire area of the incorporated limits of the City and any area outside of the City which may hereafter be annexed into the City or serviced by the Tremonton City Wastewater Treatment Plant.

1.1.12. “System Improvements” means existing or future Public Facilities that are identified in the Impact Fee Analysis and or Impact Fee Facilities Plan assigned to provide services to the Service Area.

1.1.13. “Utah Impact Fees Act” means Utah Code Title 11, Chapter 36a, and as amended.

## SECTION 2- FINDINGS

2.1. Findings. The City Council hereby finds and determines:

2.1.1. There are limited existing Public Facilities, and New Development will create the need for Public Facilities as set out in the Impact Fee Analysis and/or Impact Fee Facilities Plan.

2.1.2. There is a need for Public Facilities for New Development that have been constructed with the capacity to service New Development and/or have yet to be constructed to service New Development and are required to protect the public’s health, safety, and welfare.

2.1.3. The existing level of service, as calculated in the Impact Fee Facilities Plan and/or Impact Fee Analysis, shall be perpetuated in the future.

2.1.4. The imposition and collection of the Impact Fees are necessary for providing the Public Facilities occasioned by the demands and needs of the New Development at existing service levels necessary to preserve the public health, safety, and welfare.

2.1.5. The Impact Fees are a fair and equitable means of providing Public Facilities to service New Development. Specifically, the Impact Fee Facilities Plan and/or Impact Fee Analysis establishes (a) the estimated costs for providing the Public Facilities; (b) identifies the impact on the need for those Public Facilities by New Development; (c) demonstrates how the impacts on the need for the applicable Public Facilities are reasonably related to the New Development; (d) estimates the Proportionate Share of the costs of the needed

Public Facilities related to New Development; and (e) identifies how the Impact Fees set out in the Impact Fee Facilities Plan and/or Impact Fee Analysis were determined.

2.1.6. The Impact Fees established by this Ordinance are reasonably related to the costs of providing such Public Facilities necessitated by anticipated New Development within the City and are consistent with requirements of the Utah Impact Fees Act.

## SECTION 3- ADOPTION OF IMPACT FEES ANALYSIS

3.1. Adoption of Impact Fee Analysis. The Impact Fee Analysis provides the analysis, methodology, and formula used for the calculation of the Impact Fees imposed by this Ordinance. The City Council hereby approves and adopts the Impact Fee Analysis for the Wastewater Treatment Plant, as contained in Appendix B.

## SECTION 4- ADOPTION AND ADMINISTERING OF IMPACT FEES

4.1. Adoption and Imposition of Impact Fees. The City Council hereby approves and imposes and levies on all Development Activity or New Development Impact Fees for the Wastewater Treatment Plant.

4.2. Calculation of Impact Fee. Wastewater Treatment Plant impact fee shall be collected in the amount contained in Appendix A- Wastewater Treatment Plant Impact Fee Schedule.

4.2.1. The Impact Fee Analysis and Impact Fee Facilities Plan, as contained in Appendix B and Ordinance No. 23-07, shall be used in cases where clarification is required regarding the analysis, methodology, and formula used for the calculation of the Impact Fees. If any conflict should occur or arise between Appendix A- Wastewater Treatment Plant Impact Fee Schedule and the Impact Fee Analysis, the Impact Fee Analysis shall prevail.

4.2.2. Adoption of ERU Schedule for Commercial Land Uses. The Wastewater Treatment Plant impact fee is calculated based on an Equivalent Residential Unit (“ERU”). The City Council hereby approves and adopts Appendix A as the ERU schedule for the Wastewater Treatment Plant, which enumerates the number of Equivalent Residential Units for commercial land uses. For land uses not specified in the ERU schedule, the Development Review Committee shall apply the land use set forth in the ERU schedule that is deemed most similar to the proposed use. If the development plan approval or permit for the Development Activity or New Development indicates a mix of uses in the development, the Impact Fees shall be calculated separately for each use according to the ERU schedule, and the results aggregated.

4.2.3. Utility Estimates. In the event, estimates are used to calculate the impact on Public Facilities for Development Activities, after twenty-four (24) months of actual use, if it is determined that peak use is in excess of the estimates used to calculate the impact of the Development Activity, the City shall have the right to collect the difference between actual peak use and estimated use by the Development Activity. If peak use is less than estimated use, a proportional refund shall be granted.

4.3. Service Area Established. The Wastewater Treatment Plant's service area is comprised of the entire area of the incorporated limits of the City and any area outside of the City, which may hereafter be annexed into the City or serviced by the Tremonton City Wastewater Treatment Plant.

4.4. Exemption of Impact Fees. In accordance with UCA 11-36a-403 and as amended, the City Council may, at its discretion, approve an Impact Fee exemption for Development Activity or New Development when it finds that the Development Activity or New Development has a broad public purpose and when the City Council establishes one or more sources of funds other than Impact Fees to pay for that Development Activity impact on Public Facilities and/or System Improvements.

4.5. Time of Collection. Unless otherwise provided by the City Council, Impact Fees imposed by this Ordinance shall be paid prior to, and as a condition of, the issuance of a building permit for any Development Activity or New Development. If Development Activity occurs for commercial development or New Development, for which no building permit is required, the Impact Fees imposed by this Ordinance shall be paid prior to the issuance of a street cut permit, conditional use permit, business license, issuance of City permits, or connection to the sanitary sewer collection/wastewater treatment plant. If, for some reason, the Development Activity or New Development does not require a City-issued permit or a permit was issued without payment of Impact Fees, the City may impose the Impact Fee prior to providing services, or when feasible and at the City Council's discretion may disconnect the Development Activity or New Development from the Public Facilities until the Impact Fee is paid in full.

4.5.1 Sanitary Sewer Collection. Development Activity requiring sewer that is located a distance greater than five hundred (500) feet from an existing sewer line is not subject to any sewer Impact Fee (meaning collection and treatment) until such time as the Development Activity connects to the Sanitary Sewer Collection System.

4.5.2 Annexations. At the discretion of the City Council, the City may require the collection of Impact Fees on a Development Activity being annexed into the Corporate Limits of the City, where the parcel's pre-existing development will have an immediate impact on Public Facilities and/or System Improvements.

4.6. Use of Impact Fees. Impact Fees collected by the City shall be used solely to:

4.6.1 Pay for the Public Facilities or System Improvements provided for by this Ordinance and the Impact Fee Facilities Plan and/or Impact Fee Analysis by the City;

4.6.2 Reimburse funds to the City for a Development Activity or New Development's Proportionate Share of Public Facilities or System Improvement already constructed by the City. The amount of funds to be reimbursed per Impact Fee is enumerated in Appendix A;

4.6.3 Reimburse funds or grant Impact Fee credits to individuals or entities who dedicate land, construct, and dedicate some or all Public Facilities or System Improvement where

those Public Facilities or System Improvements are beyond an individual's or entities' Proportionate Share; and

4.6.4 Any other use authorized by the "Utah Impact Fees Act" or law.

4.7 Adjustment, Credits, and Reimbursement. In accordance with UCA 11-36a-402 and as amended, the City Council may adjust and/or grant Impact Fee credits or reimbursement of funds to a developer through the collection of future Impact Fees imposed by this Ordinance. The City Council hereby designates the Tremonton City Development Review Committee as the public body to review and make recommendations for the City Council to consider an adjustment and/or grant Impact Fee credits or reimbursement. Any person or entity who believes they are entitled to consideration of an Impact Fee adjustment, credit, or reimbursement shall file a written request with the Chairperson of the City's Development Review Committee. The written request for an Impact Fee adjustment or credit shall set forth, in detail and specificity, the grounds and asserted facts for which an adjustment, credit, or reimbursement is warranted. Any adjustment or Impact Fee credits or reimbursement granted by the City Council shall be memorialized in written form and shall be a Public Facility and/or System Improvement included in the Impact Fee Facilities Plan and/or Impact Fee Analysis and based upon the following:

4.7.1. Response to unusual circumstances in specific cases;

4.7.2. Response to a request for a prompt and individualized Impact Fee review for the Development Activity of the State, a school district, or a charter school and an offset, credit, or reimbursement for a Public Facility for which an Impact Fee has been or will be collected;

4.7.3. Ensure that the Impact Fees are imposed fairly;

4.7.4. Adjust the amount of the Impact Fees to be imposed on a particular Development Activity based on studies and data submitted by the developer;

4.7.5. Ensure that a developer, including a school district or a charter school, receives a credit or proportionate reimbursement of an Impact Fee if the developer dedicates land for a System Improvement; builds and dedicates some or all of a System Improvement; or dedicates a Public Facility.

4.7.6. Ensure that a developer receives a credit or proportionate reimbursement against Impact Fees for any dedication of land for, improvement to, or new construction of, any System Improvements provided by the developer if the facilities: are System Improvements; or are dedicated to the public; and offset the need for an identified System Improvement.

4.7.7. For any other provision or requirement by the "Utah Impact Fees Act" or law to adjust Impact Fees.

4.8. Accounting of Impact Fees. The City shall account for Impact Fees collected in accordance with the UCA 11-36a-601 and as amended.

4.9. Expenditure of Impact Fee. In accordance with UCA 11-36a-602 and as amended, the City may expend Impact Fees only for a System Improvement: (a) identified in the Impact Fee Facilities Plan or like improvement, and (b) for the specific Public Facility type for which the fee was collected. The City shall expend or encumber the Impact Fees for a permissible use within six (6) years of their receipt; except the City may hold the fees for longer than six (6) years if it identifies, in writing: (a) an extraordinary and compelling reason why the fees should be held longer than six (6) years; and (b) an absolute date by which the fees shall be expended.

4.10. Refund of Impact Fee. In accordance with UCA 11-36a-603 and as amended, the City Council shall refund any Impact Fee paid by a Developer, plus interest earned, as calculated by the post-judgment interest rate for the state of Utah pursuant to UCA 15-1-4, when the following circumstances exist: (1) the Developer does not proceed with the Development Activity and has filed a written request for a refund to the City Council; (2) the Impact Fee has not been spent or encumbered within the required time limits; and (3) no impact has resulted.

4.10.1. Developer Defined. For purposes of Section 4.10 of this Ordinance only, “Developer” shall mean the person or entity to whom the City has a record of issuing a building permit, street cut permit, conditional use permit, business license, or issuance for the Development Activity or New Development in which the Impact Fee was imposed and levied.

4.11 Interpretation of Ordinance. The City Council hereby designates the Tremonton City Development Review Committee as the public body to interpret Ordinance No. 23-07 and this Ordinance as necessary for the administration of Impact Fees.

## SECTION 5 - PROCEDURES FOR CHALLENGING OR APPEALING IMPACT FEES OR THE ADMINISTRATION THEREOF

### 5.1. Challenges Regarding the Legality of Impact Fee.

5.1.1. Legality Appeal. Any person or entity required to pay an Impact Fee who believes the Impact Fee does not meet the requirements of law may file a written request for information with the Chairperson of the City’s Development Review Committee. The written request for information shall set forth, in detail and specificity, all grounds and asserted facts to support the claim of an illegal Impact Fee.

5.1.2. Written Analysis and Relevant Information. Within two (2) weeks of the receipt of the request for information, the City shall provide the person or entity with the written analysis required by the Utah Impact Fee Act and with any other relevant information relating to the legality of the City’s Impact Fees. The City may charge for all copies provided in response to such a request in an amount set out in the City’s Consolidated Fee Schedule.

5.1.3. Impact Fee Appeal. Within thirty (30) days after receiving the written analysis and relevant information from the City, any person or entity required to pay an Impact Fee may file an appeal challenging the legal validity of the City's Impact Fee. The appeal shall be filed with the Chairperson of the City's Development Review Committee in written form, providing detail and specificity as to why the Impact Fee is being challenged.

a. Property Rights Ombudsman's Review. After receiving the appeal, the City shall provide The Property Rights Ombudsman for the State of Utah with all of the relevant analysis and information regarding the Impact Fee and Appeal for its issuance of an advisory opinion pursuant to UCA 13-43-205.

5.1.4. Declaratory Judgment. Any person or entity residing in or owning property within a Service Area and any organization, association, or corporation representing the interests of persons or entities owning property within a Service Area after filing an appeal with the City and receiving the advisory opinion from the Property Rights Ombudsman for the State of Utah pursuant to UCA 13-43-205, may file a declaratory judgment action challenging the validity of the Impact Fees.

5.2. Administrative Appeal. Within thirty (30) days after paying an Impact Fee, any person or entity who has paid the Impact Fee and wishes to challenge the administration of the City's Impact Fee shall file a written administrative appeal with the Chairperson of the City's Development Review Committee. The written appeal shall set forth, in detail and specificity, all grounds for the appeal and all facts relied upon by the appealing party with respect to the administration of the Impact Fee that is being appealed.

5.2.1. Development Review Committee's Review. Upon receipt of an administrative appeal, the Development Review Committee shall thereafter schedule a public hearing, pursuant to the notice requirements of UCA 10-9a-205, on the appeal, at which time all interested persons shall be given an opportunity to be heard. The Development Review Committee shall then consider the evidence received using clearly erroneous standards and render its decision on the administrative appeal no later than thirty (30) days after the challenge to the administration to the Impact Fee is filed.

5.2.2. Exclusivity. Any person or entity who has failed to comply with the administrative appeal remedies established by this Section may not file or join an action challenging the administration of any Impact Fee.

5.2.3. Property Rights Ombudsman's Review. Within ninety (90) days of the Development Review Committee's administrative appeal decision, any party to the appeal who is adversely affected by the Development Review Committee's decision may file an appeal via a request for an advisory opinion with the Utah Property Rights Ombudsman Office in accordance with U.C.A. 13-43-205 *et al.*

5.2.4. Development Review Committee's Re-review. If the Utah Property Rights Ombudsman Office's written advisory opinion contradicts the Development Review Committee's original decision, the Development Review Committee shall reconsider the

matter. The Development Review Committee shall hold a public hearing, pursuant to the notice requirements of UCA 10-9a-205, and all interested persons shall be given an opportunity to be heard. The Development Review Committee shall then reconsider the evidence received using a clearly erroneous standard and render its final decision no later than thirty (30) days after receiving the advisory opinion.

5.2.5. District Court Review. Within thirty (30) days of the Development Review Committee's final decision, an adversely affected party may petition the First Judicial District Court for Box Elder County to review the decision. In the event of a petition to the First Judicial District Court, the City shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders, and, if available, a true and correct transcript of its proceedings.

- a. If the proceeding was audio recorded, a transcript of that audio recording is a true and correct transcript for purposes of this Subsection.
- b. If there is a record:
  - i. the court's review is limited to the record provided by the City; and
  - ii. the advisory opinion issued by the Property Rights Ombudsman for the State of Utah.
- c. If there is an inadequate record, the court may call witnesses and take evidence.
- d. The court shall affirm the decision of the Development Review Committee if the decision is supported by substantial evidence in the record.
- e. The judge may award reasonable attorneys' fees and costs to the prevailing party in any action brought under this Section.

## SECTION 6- MISCELLANEOUS PROVISIONS

6.1 Conflicts between this Ordinance and "Utah Impact Fees Act" as Amended. If any conflict should occur or arise between this Ordinance and the Utah Impact Fees Act, as amended, the Utah Impact Fees Act shall prevail.

6.2 Severability. If any section, subsection, sentence, clause, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby and shall remain in effect and be enforced to the extent permitted by law.

6.3 Effective Date. In accordance with 11-36a-401 (2), this Impact Fee Ordinance shall not take effect until ninety (90) days after the day on which the Impact Fee Ordinance is approved.

6.4 Incorporations of Recitals and Appendices. The Recitals and all Appendices of this Ordinance are integral to the enactment and administration of Impact Fees, and the City Council hereby approves and adopts the Recitals and Appendices as part(s) of the enactment of this Impact Fee Ordinance.

ADOPTED AND PASSED by the Tremonton City Council this 7<sup>th</sup> day of November 2023.

TREMONTON CITY, a Utah Municipal  
Corporation

By \_\_\_\_\_  
Lyle Holmgren, Mayor

ATTEST:

\_\_\_\_\_  
Linsey Nessen, City Recorder

Publication or Posting Date: \_\_\_\_\_

## APPENDIX A – Wastewater Treatment Plant Impact Fee Schedule

### Residential Use Impact Fee

**TABLE 11: MAXIMUM IMPACT FEE PER ERU IN YEAR 2024**

| Description                | Amount per ERU    |
|----------------------------|-------------------|
| Existing (Buy-In)          | \$249.42          |
| New Construction           | \$2,709.33        |
| Consulting                 | \$51.05           |
| Fund Balance               | \$0.00            |
| <b>Gross Fee</b>           | <b>\$3,009.81</b> |
| 2024 Credit                | (\$330.43)        |
| <b>Maximum Fee per ERU</b> | <b>\$2,679.38</b> |

**TABLE 12: MAXIMUM IMPACT FEE PER ERU IN SUBSEQUENT YEARS**

| Year | Gross Fee  | Credit for Projects Benefitting Existing Development | Max Impact Fee per ERU |
|------|------------|------------------------------------------------------|------------------------|
| 2024 | \$3,009.81 | \$330.43                                             | \$2,679.38             |
| 2025 | \$3,009.81 | \$315.26                                             | \$2,694.55             |
| 2026 | \$3,009.81 | \$300.07                                             | \$2,709.73             |
| 2027 | \$3,009.81 | \$284.85                                             | \$2,724.96             |
| 2028 | \$3,009.81 | \$269.56                                             | \$2,740.24             |
| 2029 | \$3,009.81 | \$254.20                                             | \$2,755.60             |
| 2030 | \$3,009.81 | \$238.75                                             | \$2,771.06             |
| 2031 | \$3,009.81 | \$223.18                                             | \$2,786.63             |
| 2032 | \$3,009.81 | \$207.49                                             | \$2,802.32             |
| 2033 | \$3,009.81 | \$191.66                                             | \$2,818.15             |

### **Wastewater Equivalent Residential Unit Chart for Commercial Land Uses**

The following schedule enumerates the Equivalent Residential Unit (ERU) for wastewater treatment for commercial land uses. For land uses not specified in the table below, the Development Review Committee (DRC) shall determine the commercial land use in the schedule deemed most similar to the proposed use. If the development plan approval or permit for the proposed Development Activity indicates a mix of commercial land uses in the development, the impact fees shall be calculated separately for each use, and the results aggregated.

| <b><u>Wastewater Equivalent Residential Unit Chart for Commercial Land Uses<sup>1</sup></u></b> |                                          |
|-------------------------------------------------------------------------------------------------|------------------------------------------|
| <b>Land Use</b>                                                                                 | <b>Equivalent Residential Unit (ERU)</b> |
| Banks                                                                                           | 1 ERU                                    |
| Barber Shops                                                                                    | 1 ERU or 0.07 ERU per chair              |
| Beauty Shops                                                                                    | 1 ERU or 0.07 ERU per chair              |
| Bowling Alley with Snack Bar                                                                    | 2.5 ERU                                  |
| Car Dealership                                                                                  | 1 ERU                                    |
| Car Washes – Self Service                                                                       | 21 ERU                                   |
| Child Care Center                                                                               | 0.03 ERU per child                       |
| Convenience Store                                                                               | 1 ERU                                    |
| Convenience Store with Fast Food                                                                | 3 ERU                                    |
| Dental Offices                                                                                  | 1 ERU or 0.3 ERU per chair               |
| Department Stores                                                                               | 1 ERU or 0.5 ERU per public toilet       |
| Drug Stores                                                                                     | 1 ERU or 0.5 ERU per public toilet       |
| Dry Cleaners                                                                                    | 2.5 ERU                                  |
| Funeral Homes                                                                                   | 1 ERU                                    |
| Furniture Stores                                                                                | 1 ERU or 0.5 ERU per public toilet       |
| Gyms                                                                                            | 0.04 ERU per user                        |
| Hospitals                                                                                       | 0.34 ERU per bed                         |
| Kennels and Animal Hospitals                                                                    | 5 ERU                                    |
| Laundromats                                                                                     | 7 ERU or 0.8 ERU per washing machine     |
| Medical Office Buildings                                                                        | 1.3 ERU or 0.03 ERU per patient          |
| Motel/Hotel with Restaurant                                                                     | 21 ERU plus 0.4 per unit                 |
| Motel/Hotel                                                                                     | 0.4 per unit                             |
| Multi-Family Attached                                                                           | 0.65 ERU per unit                        |
| Multi-Family Stacked                                                                            | 0.65 ERU per unit                        |
| Multi-Family Twin/Duplex                                                                        | 0.65 ERU per unit                        |
| Newspaper Office                                                                                | 1 ERU                                    |
| Nursing Home                                                                                    | 0.34 ERU per bed                         |
| Restaurant – Fast Food                                                                          | 6.5 ERU                                  |
| Restaurant                                                                                      | 21 ERU                                   |
| Retail Store                                                                                    | 1 ERU or 0.5 ERU per public toilet       |
| Retirement Home                                                                                 | 0.34 ERU per bed                         |
| Schools – Public & Private                                                                      | 0.03 ERU per student                     |
| Supermarkets                                                                                    | 8 ERU                                    |
| Swimming Pools                                                                                  | 0.02 ERU per swimmer                     |
| Taverns, Bars or Lounges                                                                        | 0.03 ERU per seat                        |
| Theaters                                                                                        | 0.01 ERU per seat                        |
| Warehouse                                                                                       | 1 ERU                                    |

Note <sup>1</sup>: Data used for the **Wastewater Equivalent Residential Unit Chart for Commercial Land Uses** is based on historical water & wastewater use within Tremonton City for each specific land use, and data used from Utah Division of Drinking Water Table 510-1 & Table 510-2 Source Demand for Indoor Use.

## **Industrial Users Impact Fee Calculation and Pretreatment Ordinance**

Tremonton City has adopted the *Tremonton City Industrial Wastewater/Pretreatment Regulations* (hereafter referred to as “Pretreatment Ordinance”) as codified in the *Revised Ordinances of Tremonton City Corporation*. The Pretreatment Ordinance defines industrial users that are required to receive a Wastewater Discharge Permit and associated pollutant limits that may be discharged to the Tremonton City Wastewater Treatment Plant. Industrial users’ impact fees shall be calculated and assessed based upon their influent’s highest characteristic of the following: Flow, BOD, or TSS as stated in their Wastewater Discharge Permit. The highest characteristic contained in an industrial use’s influent shall be converted to an equivalent residential unit (ERU) and assessed the impact fee accordingly. In calculating the highest characteristic for an ERU, the City shall use the level of service for one ERU’s influent as identified in the *Wastewater Treatment Plant Capital Facilities Plan & Impact Fee Facilities Plan 2023 Update*, which is as follows:

- 350 gallons of flow per day
- 0.65 lbs. BOD/day
- 0.70 lbs. TSS/day
- 0.117 lbs. TKN/day (at an influent concentration of 40 mg/L)
- 0.021 lbs. Phosphorus/day (at an influent concentration of 7.5 mg/L)

Since an industrial user’s impact fees are calculated upon the stated pollution limits contained in a City issued Wastewater Discharge Permit, the City, at its sole discretion, may assess and collect additional impact fees for industrial users that continually violate their Wastewater Discharge Permit by discharging influent that exceeds their permit’s stated limits. More specifically, in addition to any remedy contained in the Pretreatment Ordinance for violating their Wastewater Discharge Permit, after a twenty-four (24) month period of actual use, if the industrial user has exceeded the pollution limits contained within the Wastewater Discharge Permit more than twenty (20) percent of the time, the City may assess and collect the difference between the impact fee associated with the actual peak use during the twenty-four (24) month period and the impact fee previously paid using the same calculation procedure identified above.

## **APPENDIX B- Impact Fee Analysis for the Wastewater Treatment Plant**

**APPENDIX C– Notice of intent to prepare an Impact Fee Facilities Plan and Impact Fee  
Analysis & Notice to Adopt Impact Fee Enactment**

## **PUBLIC NOTICE**

**Public Body:** Tremonton City Council

**Subject:** Impact Fee Enactment

**Notice Title:** Notice to Adopt Wastewater Treatment Plant Impact Fee Enactment, including but not limited to, the Wastewater Treatment Plant Impact Fee Ordinance and Impact Fee Analysis

**Notice Type:** Notice to Adopt Impact Fee Enactment

**Notice Date:** October 26, 2023

### **Description/Agenda:**

In accordance with the requirements of Utah Code Annotated 11-36a-504, Tremonton City Corporation, Utah, gives public notice to adopt a Wastewater Treatment Plant Impact Fee Enactment including but not limited to Impact Fee Ordinance and Impact Fee Analysis for Wastewater Treatment Plant. The location(s) that are included in the Impact Fee Enactment is the entire area of the incorporated limits of Tremonton City and any area outside of Tremonton City, which may hereafter be annexed into Tremonton City or any area serviced by the Tremonton City Wastewater Treatment Plant.

A public hearing shall be held by the City Council on November 7, 2023, at 7:00 pm or soon thereafter in the Tremonton City Council Chambers, located at 102 S. Tremont Street, Tremonton, Utah 84337, to receive public comment on the adoption of the aforementioned Wastewater Treatment Plant Impact Fee Enactment. Draft copies of (1) the Wastewater Treatment Plant Impact Fee Enactment Ordinance; (2) a summary of the Wastewater Treatment Plant Impact Fee Analysis; and (3) a complete draft of the Wastewater Treatment Plant Impact Fee Analysis will be available on or before October 26, 2023, at [www.tremontoncitu.org](http://www.tremontoncitu.org), at the Tremonton City Library located at 210 N. Tremont Street, Tremonton, Utah, and the Satellite Library Branch located in the Bear River Valley Senior Center located at 510 West 1000 North, Tremonton, Utah during regular business hours. Additionally, on or before October 26, 2023, copies of the aforementioned documents are available to the public at the Tremonton City Recorder's Office at 102 S. Tremont Street, Tremonton, Utah, during regular business hours. The public may file written objections to adopting the Wastewater Treatment Plant Impact Fee Enactment for the Tremonton City Council's consideration. Written objections, questions about this notice, or contents of the Impact Fee Enactment may be directed to Shawn Warnke, Tremonton City Manager, at (435) 257-9504, [swarnke@tremontoncitu.com](mailto:swarnke@tremontoncitu.com), or mailed to Shawn Warnke, 102 S. Tremont St. Tremonton, UT 84337.

**Notice of Special Accommodations:** If you need special accommodations to participate in a City Council Meeting, please call the City Recorder, Linsey Nessen, at 435-257-9506. Please provide at least 24 hours notice for adequate arrangements to be made.

Notice of Electronic or telephone participation: Tremonton City passed Ordinance No. 13-04 approving Electronic Meeting Procedures in accordance with Section 52-4-207 of Utah Code Annotated.

STATE OF UTAH    )

      : ss.

County of Box Elder )

I, Linsey Nessen, the City Recorder of Tremonton, Utah, do hereby certify that the above and foregoing is a full and correct copy of Ordinance No. 23-08, entitled **“ADOPTING AND ENACTING IMPACT FEES FOR THE WASTEWATER TREATMENT PLANT, INCLUDING BUT NOT LIMITED TO, ADOPTING AN IMPACT FEE ANALYSIS”** adopted and passed by the City Council of Tremonton, Utah, at a regular meeting thereof on the 7<sup>th</sup> day of November, 2023, which appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Linsey Nessen  
City Recorder

(city seal)



# Tremonton City

## DRAFT Wastewater Treatment Plant Impact Fee Analysis October 2023



ZIONS PUBLIC FINANCE, INC.

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## EXECUTIVE SUMMARY

Tremonton City commissioned Zions Public Finance, Inc. (ZPFI) to calculate the City's impact fees in accordance with Utah State Law. An impact fee is a payment of money imposed upon new development activity to mitigate the impact of new development on public infrastructure. In conjunction with this project, Aqua Engineering prepared the Wastewater Treatment Plant Capital Facilities and Impact Fee Facilities Plan ("IFFP") dated 2023.

The recommended impact fee structure presented in this analysis has been prepared to satisfy the Impact Fees Act, Utah Code Ann. § 11-36a-101 et. seq., and represents the maximum impact fees that Tremonton ("City") may assess. The City will be required to use revenue sources other than impact fees to fund any projects that constitute repair and replacement, cure any existing deficiencies, or increase the level of service for existing users.

Projections for equivalent residential unit (ERU) growth in the City are as follows:

**TABLE 1: GROWTH IN DEMAND**

| Year | ERUs  |
|------|-------|
| 2022 | 3,658 |
| 2023 | 3,745 |
| 2024 | 3,835 |
| 2025 | 3,926 |
| 2026 | 4,020 |
| 2027 | 4,115 |
| 2028 | 4,214 |
| 2029 | 4,314 |
| 2030 | 4,417 |
| 2031 | 4,526 |
| 2032 | 4,637 |
| 2033 | 4,751 |

Source: IFFP, p. 18

### Wastewater Service Levels

Wastewater service levels for one typical detached single-family dwelling (ERU) are defined in the IFFP as follows:

- 350 gallons of flow per day
- 0.65 lbs. BOD/day
- 0.70 lbs. TSS/day
- 0.117 lbs. TKN/day (at an influent concentration of 40 mg/L)
- 0.021 lbs. Phosphorus/day (at an influent concentration of 7.5 mg/L)

## Wastewater Service Area

This analysis covers the Tremonton service area which includes all the incorporated limits of Tremonton City.

## Wastewater Capital Facilities

The IFFP identifies the portion of the following new facilities that will be required to meet the demands of new development.

**TABLE 2: NEW CONSTRUCTION PROJECTS**

|                            | Construction Year | Total Cost         | Impact Fee Eligible | Inflation Adjusted<br>Impact-Fee Eligible<br>Cost |
|----------------------------|-------------------|--------------------|---------------------|---------------------------------------------------|
| New Aeration Basin         | 2024              | \$3,507,550        | \$2,056,909         | \$2,118,616                                       |
| New Secondary Clarifier    | 2025              | \$2,876,840        | \$2,876,840         | \$3,052,040                                       |
| UV Disinfection Upgrade    | 2023              | \$1,043,080        | \$424,120           | \$424,120                                         |
| Upsize Outfall Yard Piping | 2024              | \$218,900          | \$89,006            | \$91,676                                          |
| Compost Facility Expansion | 2025              | \$1,551,700        | \$1,551,700         | \$1,646,199                                       |
| Electrical Upgrades        | 2026              | \$282,700          | \$114,947           | \$125,606                                         |
| <b>TOTAL</b>               |                   | <b>\$9,480,770</b> | <b>\$7,113,522</b>  | <b>\$7,458,256</b>                                |

*Source: IFFP, p. 74*

In addition, the IFFP identifies previous improvements with remaining capacity of \$513,065 that will serve 2,057 additional ERUs.

## Wastewater System Impact Fee Calculation

The maximum impact fee allowed by law is \$2,679.38 per ERU in 2024.

**TABLE 3: MAXIMUM IMPACT FEE PER ERU IN YEAR 2024**

| Description                | Amount per ERU    |
|----------------------------|-------------------|
| Existing (Buy-In)          | \$249.42          |
| New Construction           | \$2,709.33        |
| Consulting                 | \$51.05           |
| Fund Balance               | \$0.00            |
| <b>Gross Fee</b>           | <b>\$3,009.81</b> |
| 2024 Credit                | (\$330.43)        |
| <b>Maximum Fee per ERU</b> | <b>\$2,679.38</b> |

Credits are made to the impact fee for the portion of the new capital projects that will benefit existing development. The IFFP identifies \$2,367,248 of the cost of the new projects that will benefit existing development. This figure has been inflation adjusted to \$2,430,219 as shown in Table 6. Credits are spread over 20 years with an average payment per ERU per year. The net present value of these payments is used to calculate the credit that must be made each year so that new development does not pay twice – once through an impact fee and then through increased rates over time.

**TABLE 4: MAXIMUM IMPACT FEE PER ERU**

| Year | ERUs  | Payment per Year | Payment per ERU | NPV*     | Max Fee per ERU |
|------|-------|------------------|-----------------|----------|-----------------|
| 2024 | 3,835 | \$121,510.96     | \$31.69         | \$330.43 | \$2,679.38      |
| 2025 | 3,926 | \$121,510.96     | \$30.95         | \$315.26 | \$2,694.55      |
| 2026 | 4,020 | \$121,510.96     | \$30.23         | \$300.07 | \$2,709.73      |
| 2027 | 4,115 | \$121,510.96     | \$29.53         | \$284.85 | \$2,724.96      |
| 2028 | 4,214 | \$121,510.96     | \$28.84         | \$269.56 | \$2,740.24      |
| 2029 | 4,314 | \$121,510.96     | \$28.17         | \$254.20 | \$2,755.60      |
| 2030 | 4,417 | \$121,510.96     | \$27.51         | \$238.75 | \$2,771.06      |
| 2031 | 4,526 | \$121,510.96     | \$26.85         | \$223.18 | \$2,786.63      |
| 2032 | 4,637 | \$121,510.96     | \$26.20         | \$207.49 | \$2,802.32      |
| 2033 | 4,751 | \$121,510.96     | \$25.57         | \$191.66 | \$2,818.15      |

\*NPV = net present value discounted at 5 percent

## CHAPTER 1: OVERVIEW OF THE WASTEWATER IMPACT FEES

### Summary

An impact fee is intended to recover the City's costs of building wastewater treatment plant capacity to serve new residential and non-residential development rather than passing these growth-related costs on to existing users through rates. The Utah Impact Fees Act allows only certain costs to be included in an impact fee which include expansionary projects or existing unused capacity paid for by the City.

### Costs to be Included in the Impact Fee

The impact fees proposed in this analysis are calculated based upon:

- Existing excess capacity in the system;
- New capital infrastructure for wastewater treatment that will serve new development; and
- Professional and planning expenses related to the construction of system improvements that will serve new development.

The costs that cannot be included in the impact fee are as follows:

- Costs for projects that cure system deficiencies;
- Costs for projects that increase the LOS above that which is currently provided;
- Operations and maintenance costs;
- Costs of facilities funded by grants or other funds that the City does not have to repay; and
- Costs of reconstruction of facilities that do not have capacity to serve new growth.

### Utah Code Legal Requirements

Utah law requires that communities and special districts prepare an Impact Fee Analysis (IFA) before enacting an impact fee. Utah law also requires that communities/districts give notice of their intent to prepare and adopt an IFA. This IFA follows all legal requirements as outlined below. The City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Analysis in accordance with legal requirements.

#### Notice of Intent to Prepare Impact Fee Analysis

A local political subdivision must provide written notice of its intent to prepare an IFA before preparing the Plan (Utah Code §11-36a-503). This notice must be posted on the Utah Public Notice website. The City has complied with this noticing requirement for the IFA by posting notice. A copy of the notice is attached as Appendix A.

#### Preparation of Impact Fee Analysis

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an impact fee analysis. (Utah Code 11-36a-304).

Section 11-36a-304 of the Utah Code outlines the requirements of an impact fee analysis which is required to:

- (1) An impact fee analysis shall:
  - (a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

- (b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
  - (c) demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
  - (d) estimate the proportionate share of:
    - (i) the costs for existing capacity that will be recouped; and
    - (ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and
  - (e) identify how the impact fee was calculated.
- (2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:
- (a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
  - (b) the cost of system improvements for each public facility;
  - (c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
  - (d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
  - (e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
  - (f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;
  - (g) extraordinary costs, if any, in servicing the newly-developed properties; and
  - (h) the time-price differential inherent in fair comparisons of amounts paid at different times.

### Calculating Impact Fees

Utah Code states that for purposes of calculating an impact fee, a local political subdivision or private entity may include:

- (a) the construction contract price;
- (b) the cost of acquiring land, improvements, materials, and fixtures;

- (c) the cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
- (d) for political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes or other obligations issued to finance the costs of the system improvements.

Additionally, the Code states that each political subdivision or private entity shall base impact fee amounts on realistic estimates and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

### **Certification of Impact Fee Analysis**

Utah Code states that an Impact Fee Analysis shall include a written certification from the person or entity that prepares the Impact Fee Analysis. This certification is included at the conclusion of this analysis.

### **Impact Fee Enactment**

Utah Code states that a local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402. Additionally, an impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysts. An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

## CHAPTER 2: IMPACT FROM GROWTH UPON THE CITY'S FACILITIES AND LEVEL OF SERVICE

*Utah Code 11-36a-304(1)(a)(c)*

### Projected Wastewater Demands

The City has been experiencing steady growth and this is anticipated to continue in the long-term. The table below shows wastewater growth projections as identified in the IFFP. The City's wastewater system serves 3,745 equivalent residential connections (ERUs) in 2023 which are projected to grow to 4,751 ERUs by 2033. The growth between 2023 and 2033 is expected to be 1,006 ERUs.

**TABLE 5: GROWTH IN DEMAND**

| Year | ERUs  |
|------|-------|
| 2022 | 3,658 |
| 2023 | 3,745 |
| 2024 | 3,835 |
| 2025 | 3,926 |
| 2026 | 4,020 |
| 2027 | 4,115 |
| 2028 | 4,214 |
| 2029 | 4,314 |
| 2030 | 4,417 |
| 2031 | 4,526 |
| 2032 | 4,637 |
| 2033 | 4,751 |

*Source: IFFP, p. 18*

### Wastewater Service Area

This analysis covers the Tremonton service area which includes all the incorporated limits of Tremonton City.

### Existing and Proposed LOS Analysis

Wastewater service levels for one typical detached single-family dwelling (ERU) are defined in the IFFP<sup>1</sup> as follows:

- 350 gallons of flow per day
- 0.65 lbs. BOD/day
- 0.70 lbs. TSS/day
- 0.117 lbs. TKN/day (at an influent concentration of 40 mg/L)
- 0.021 lbs. Phosphorus/day (at an influent concentration of 7.5 mg/L)

<sup>1</sup> IFFP, p. 70

## CHAPTER 3: IMPACT ON CAPACITY FROM DEVELOPMENT ACTIVITY

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*Utah Code 11-36a-304(1)(a)*

### Excess Capacity and Deficiency

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According to Aqua Engineering, the City's wastewater engineers, there is excess capacity in the wastewater system. New development can be charged a buy-in fee, as part of the overall impact fee, for the capacity it consumes. The actual cost of the system projects with excess capacity is estimated at \$513,065. The existing excess capacity is sufficient to serve 2,057 ERUs.<sup>2</sup>

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<sup>2</sup> IFFP, p. 74.

## CHAPTER 4: SYSTEM IMPROVEMENTS REQUIRED FROM DEVELOPMENT ACTIVITY

*Utah Code 11-36a-304(1)(b)(c), (2)(b)*

The City has determined to maintain its current level of wastewater system service. Therefore, additional wastewater system improvements will be required in order to maintain the established wastewater system level of service. The means by which the City will meet growth demands include constructing the following projects as set forth in the Impact Fee Facilities Plan. This will occur through requiring new development to pay for its proportionate share of existing excess capacity consumed over the next 10 years as well as paying for its proportionate share of new construction projects.

New wastewater construction projects over the next 10 years are shown in the table below:

**TABLE 6: NEW CONSTRUCTION PROJECTS**

|                            | Construction Year | Total Cost         | Impact Fee Eligible | Expense for Existing Users | Inflation Adjusted Impact-Fee Eligible Cost | Inflation Adjusted Expense for Existing Users |
|----------------------------|-------------------|--------------------|---------------------|----------------------------|---------------------------------------------|-----------------------------------------------|
| New Aeration Basin         | 2024              | \$3,507,550        | \$2,056,909         | \$1,450,641                | \$2,118,616                                 | \$1,494,160                                   |
| New Secondary Clarifier    | 2025              | \$2,876,840        | \$2,876,840         |                            | \$3,052,040                                 | \$0                                           |
| UV Disinfection Upgrade    | 2023              | \$1,043,080        | \$424,120           | \$618,960                  | \$424,120                                   | \$618,960                                     |
| Upsize Outfall Yard Piping | 2024              | \$218,900          | \$89,006            | \$129,894                  | \$91,676                                    | \$133,791                                     |
| Compost Facility Expansion | 2025              | \$1,551,700        | \$1,551,700         |                            | \$1,646,199                                 | \$0                                           |
| Electrical Upgrades        | 2026              | \$282,700          | \$114,947           | \$167,753                  | \$125,606                                   | \$183,308                                     |
| <b>TOTAL</b>               |                   | <b>\$9,480,770</b> | <b>\$7,113,522</b>  | <b>\$2,367,248</b>         | <b>\$7,458,256</b>                          | <b>\$2,430,219</b>                            |

## CHAPTER 5: PROPORTIONATE SHARE ANALYSIS

*Utah Code 11-36a-304(1)(d)(e)*

### Maximum Legal Wastewater Impact Fee per ERU

The Impact Fees Act requires the Impact Fee Analysis to estimate the proportionate share of the future and historic cost of existing system improvements that benefit new growth that can be recouped through impact fees. The impact fee for existing assets must be based on the historic costs while the fees for construction of new facilities must be based on reasonable future costs of the system.

The impact fee calculation includes the following components:

- Buy-in to existing, excess capacity
- New construction costs
- Consultant costs
- Credit for impact fee fund balance
- Credit for new construction projects that benefit existing development

### Buy-In to Existing, Excess Capacity

The IFFP identifies existing excess capacity of \$513,065 which will serve an additional 2,057 ERUs. Therefore, the proportionate buy-in share is \$249.42 per ERU.

**TABLE 7: EXCESS CAPACITY BUY-IN COST**

| Description                    | Amount          |
|--------------------------------|-----------------|
| Actual Cost of Excess Capacity | \$513,065       |
| Remaining Capacity in ERUs     | 2,057           |
| <b>Cost per ERU</b>            | <b>\$249.42</b> |

### New Construction – System Improvements Necessitated by New Development

Total new improvement costs, adjusted for inflation, that attributable to new development over the next 10 years are \$7,458,256 divided by the new ERUs served, resulting in a cost of \$2,709.33 per ERU.

**TABLE 8: PROPORTIONATE SHARE ANALYSIS, NEW CONSTRUCTION NECESSITATED BY NEW DEVELOPMENT**

| Description                | Construction Year | Inflation Adjusted Impact Fee Eligible | New ERUs Served | Cost per ERU      |
|----------------------------|-------------------|----------------------------------------|-----------------|-------------------|
| New Aeration Basin         | 2024              | \$2,118,616.27                         | 2,056           | \$1,030.46        |
| New Secondary Clarifier    | 2025              | \$3,052,039.56                         | 3,143           | \$971.06          |
| UV Disinfection Upgrade    | 2023              | \$424,120.00                           | 3,485           | \$121.70          |
| Upsize Outfall Yard Piping | 2024              | \$91,676.18                            | 3,485           | \$26.31           |
| Compost Facility Expansion | 2025              | \$1,646,198.53                         | 3,143           | \$523.77          |
| Electrical Upgrades        | 2026              | \$125,605.69                           | 3,485           | \$36.04           |
| <b>TOTAL</b>               |                   | <b>\$7,458,256.23</b>                  |                 | <b>\$2,709.33</b> |

## Consultant Costs

The Impact Fees Act allows for fees charged to include the reimbursement of consultant costs incurred in the preparation of the IFFP and IFA.

Consultant costs are estimated at \$51,360 in order to prepare the IFFP and IFA that were necessary in order to calculate defensible impact fees. The engineering and consultant studies are considered to serve development over the next 10 years. Based on the ERUs served over the next 10 years, the total cost per ERU is \$51.05.

**TABLE 9: PROPORTIONATE SHARE ANALYSIS – CONSULTANT COSTS**

| Description                  | Amount         |
|------------------------------|----------------|
| Consulting Fees              | \$51,360       |
| Growth in ERUs               | 1,006          |
| <b>Total Consulting Cost</b> | <b>\$51.05</b> |

## Impact Fee Fund Balance

There is no impact fee fund balance and therefore no credits have been made for a fund balance.

## Credits Against Impact Fees

Credits must also be calculated for the portion of future improvements that will benefit existing development and for any outstanding bonds. The City does not have any outstanding bonds so credits are made solely for the projects benefitting new development.

The IFFP identifies \$2,367,248 of the cost of the new projects that will benefit existing development. This figure has been inflation adjusted to \$2,430,219 as shown in Table 6. Credits are spread over 20 years with an average payment per ERU per year. The net present value of these payments is used to calculate the credit that must be made each year so that new development does not pay twice – once through an impact fee and then through increased rates over time.

**TABLE 10: CREDITS BY YEAR FOR PROJECTS BENEFITTING EXISTING DEVELOPMENT**

| Year | ERUs  | Payment per Year | Payment per ERU | NPV*     |
|------|-------|------------------|-----------------|----------|
| 2024 | 3,835 | \$121,510.96     | \$31.69         | \$330.43 |
| 2025 | 3,926 | \$121,510.96     | \$30.95         | \$315.26 |
| 2026 | 4,020 | \$121,510.96     | \$30.23         | \$300.07 |
| 2027 | 4,115 | \$121,510.96     | \$29.53         | \$284.85 |
| 2028 | 4,214 | \$121,510.96     | \$28.84         | \$269.56 |
| 2029 | 4,314 | \$121,510.96     | \$28.17         | \$254.20 |
| 2030 | 4,417 | \$121,510.96     | \$27.51         | \$238.75 |
| 2031 | 4,526 | \$121,510.96     | \$26.85         | \$223.18 |
| 2032 | 4,637 | \$121,510.96     | \$26.20         | \$207.49 |
| 2033 | 4,751 | \$121,510.96     | \$25.57         | \$191.66 |

\*NPV = net present value discounted at 5 percent

### Summary of Maximum Impact Fees

The maximum impact fee allowed by law is \$2,679.38 per ERU in 2024. Credits are spread over 20 years with an average payment per ERU per year. The net present value of these payments is used to calculate the credit that must be made each year so that new development does not pay twice – once through an impact fee and then through increased rates over time.

**TABLE 11: MAXIMUM IMPACT FEE PER ERU IN YEAR 2024**

| Description                | Amount per ERU    |
|----------------------------|-------------------|
| Existing (Buy-In)          | \$249.42          |
| New Construction           | \$2,709.33        |
| Consulting                 | \$51.05           |
| Fund Balance               | \$0.00            |
| <b>Gross Fee</b>           | <b>\$3,009.81</b> |
| 2024 Credit                | (\$330.43)        |
| <b>Maximum Fee per ERU</b> | <b>\$2,679.38</b> |

**TABLE 12: MAXIMUM IMPACT FEE PER ERU IN SUBSEQUENT YEARS**

| Year | Gross Fee  | Credit for Projects Benefitting Existing Development | Max Impact Fee per ERU |
|------|------------|------------------------------------------------------|------------------------|
| 2024 | \$3,009.81 | \$330.43                                             | \$2,679.38             |
| 2025 | \$3,009.81 | \$315.26                                             | \$2,694.55             |
| 2026 | \$3,009.81 | \$300.07                                             | \$2,709.73             |
| 2027 | \$3,009.81 | \$284.85                                             | \$2,724.96             |
| 2028 | \$3,009.81 | \$269.56                                             | \$2,740.24             |
| 2029 | \$3,009.81 | \$254.20                                             | \$2,755.60             |
| 2030 | \$3,009.81 | \$238.75                                             | \$2,771.06             |
| 2031 | \$3,009.81 | \$223.18                                             | \$2,786.63             |
| 2032 | \$3,009.81 | \$207.49                                             | \$2,802.32             |
| 2033 | \$3,009.81 | \$191.66                                             | \$2,818.15             |

## CHAPTER 6: MANNER OF FINANCING, CREDITS, ETC

### *Utah Code 11-36a-304(2)(c)(d)(e)(f)(g) and (h)*

An impact fee is a one-time fee that is implemented by a local government on new development to fund and pay for the proportionate costs of public facilities (system improvements) that are needed to serve new development. As a matter of policy and legislative discretion, a City may choose to have new development pay the full cost of its proportionate share of new public facilities and existing facilities that have excess capacity to service new development through impact fees. Alternatively, local governments may elect to subsidize new development by using other sources of revenue (user charges, special assessments, bonds, taxes, grants) to pay for the new facilities required to service new development and use impact fees to recover the cost difference between the total cost of the new facilities and the other sources of revenue.

At the current time, no other sources of funding other than impact fees have been identified, but to the extent that any are identified and received in the future, then impact fees will be reduced accordingly. The City has found that it is necessary to charge an impact fee to maintain the existing level of service into the future.

Additional system improvements beyond those funded through impact fees that are desired to raise the level of service will be paid for by the community through other revenue sources such as user charges, special assessments, General Obligation bonds, general taxes, etc.

### Impact Fee Credits

The Impact Fees Act requires that the IFA consider the relative extent to which new development activity will contribute to financing the excess capacity of system improvements for new facilities, by such means as user charges, special assessments, or payment from the proceeds of general taxes so that new development is not charged twice. This IFA clearly identifies the amount of excess capacity to be paid for by new development.

In terms of new facilities, all impact fee amounts collected must be spent for the specific project improvements listed in the IFFP and incorporated into this IFA. No user fees, special assessments, etc., are contemplated to offset any of the costs associated with the new wastewater facilities.

Credits may also be paid back to developers who have constructed or directly funded system improvements that are included in the IFFP or donated to the City in lieu of impact fees, including the dedication of land for system improvements. This situation does not apply to developer exactions for project improvements. Any item for which a developer receives credit should be included in the IFFP and must be agreed upon with the City before construction begins.

The standard impact fee can also be decreased to respond to unusual circumstances in specific cases in order to ensure that impact fees are imposed fairly. In certain cases, a developer may submit studies and data that clearly show a need for adjustment.

### Extraordinary Costs and Time Price Differential

It is not anticipated that there will be any extraordinary costs in servicing newly developed properties. To account for the time-price differential inherent in fair comparisons of amounts paid at different times, actual costs have been used to compute buy-in costs to public facilities with excess capacity and current

costs have been used to compute impacts on system improvements required by anticipated development activity to maintain the established level of service for each public facility.

## CERTIFICATION

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Zions Public Finance, Inc. certifies that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
  - a. allowed under the Impact Fees Act; and
  - b. actually incurred; or
  - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
  - a. costs of operation and maintenance of public facilities;
  - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
3. offsets costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.

## APPENDIX A: NOTICE OF INTENT

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### Utah Public Notice

#### City Council/RDA

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#### Public Notice: Impact Fee Facilities Plan & Impact Fee Analysis

**Notice Date & Time:** 7/6/22 1:00 AM

*Description/Agenda:*

PUBLIC NOTICE

Public Body: Tremonton City Council

Subject: Impact Fee Facilities Plan and Impact Fee Analysis

Notice Title: Notice of Intent

Notice Type: Notice of Intent to Prepare Impact Fee Facilities Plan and Impact Analysis

Notice Date: July 6, 2022

*Description/Agenda:*

Tremonton City Corporation, Utah in accordance with the requirements of Utah Code Annotated 11-36a-501 and 11-36a-503, posts a notice of its intent to prepare or amend an Impact Fee Facilities Plan and Impact Fee Analysis for the Tremonton City Wastewater Treatment Plant. The location(s) that will be included in the Impact Fee Facilities Plan and Impact Fee Analysis is/are all areas within the legal Tremonton City limits and the declared annexation areas of Tremonton City.

Notice of Special Accommodations: If you need special accommodations to participate in a City Council Meeting, please call the City Recorder, Linsey Nessen, at 435-257-9506. Please provide at least 24 hours' notice for adequate arrangements to be made.

Notice of Electronic or telephone participation: Tremonton City passed Ordinance No. 13-04 approving Electronic Meeting Procedures in accordance with Section 52-4-207 of Utah Code Annotated.

*Notice of Special Accommodations:*

Persons with disabilities needing special assistance to participate in this meeting should contact Linsey Nessen no later than 48 hours prior to the meeting.

*Notice of Electronic or telephone participation:*

Anchor location for Electronic Meeting by Telephone Device. With the adoption of Ordinance No. 13-04, the Board may participate per Electronic Meeting Rules. Those eligible to request

participation by electronic means should contact Linsey Nessen, City Recorder no later than 48 hours prior to the meeting to make arrangements.

*Other information:*

*Location:*

102 S TREMONT STREET, TREMONTON, 84337

*Contact information:*

Linsey Nessen, City Recorder , [lnessen@tremontoncny.com](mailto:lnessen@tremontoncny.com), (435)257-9506

*To stop receiving email notifications for this public body, please click this link:*

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