

Drinking Water Impact Fee Facilities Plan

August 2023



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EXECUTIVE SUMMARY

The purpose of this Impact Fee Facilities Plan (IFFP) is to determine the impacts placed on the Beaver Dam, Bothwell, Collinston, Harper Ward, and South Willard drinking water systems by development. The IFFP determines the water sources, storage, and distribution facilities needed to accommodate future development. It also identifies which improvements may be funded by impact fees. Bear River Water Conservancy District (BRWCD) contracted with J-U-B Engineers, Inc. to prepare this IFFP and a separate Impact Fee Analysis (IFA) consultant to prepare the IFA.

Various analyses of the water systems have been completed, including the 2017 Drinking Water System Master Plan, 2021 Drought Resiliency Plan, 2023 Beaver Dam Supply Analysis, and 2023 Bothwell System Hydraulic Modeling and Recommendations memorandum, which serve as the basis of this IFFP.

Utah Code 11-36a-301 requires that a local political subdivision or private entitiy "prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity." The code defines the elements that are to be included within the IFFP. The IFFP establishes the existing level of service, identifies capacity in existing facilities, and determines the demands placed on the systems from future growth. BRWCD's proposed level of service matches the existing level of service. The necessary projects required to maintain the level of service are identified, along with their estimated costs.



1 INTRODUCTION

1.1 BACKGROUND

Bear River Water Conservancy District (BRWCD) supplies drinking water to both retail and wholesale clients. This Impact Fee Facilities Plan (IFFP) focuses on the retail clients. BRWCD prepared a Capital Facilities Plan (CFP) for the Beaver Dam, Bothwell, Collinston, Harper Ward, and South Willard drinking water systems, including water sources, storage, and distribution. Various analyses of the water systems have been completed, including the 2017 Drinking Water System Master Plan, 2021 Drought Resiliency Plan, 2023 Beaver Dam Supply Analysis, and 2023 Bothwell System Hydraulic Modeling and Recommendations memorandum, which serve as the basis of this IFFP.

1.2 SERVICE AREA

1.2.1 Beaver Dam System Service Area

The Beaver Dam system consists of a small, unincorporated area that is located near the northeastern corner of Box Elder County.

1.2.2 Bothwell System Service Area

The Bothwell system consists of small, unincorporated areas to the west and to the north of Tremonton City.

1.2.3 Collinston System Service Area

The Collinston system consists of small, unincorporated areas to the north of Deweyville, along State Highway-38.

1.2.4 Harper Ward System Service Area

The Harper Ward system consists of small, unincorporated areas along State Highway-38, between Brigham City and Honeyville.

1.2.5 South Willard System Service Area

The South Willard system consists of small, unincorporated areas to the south of Willard City, along State Highway-89

1.3 System Growth

Each of the five systems is experiencing a unique level of growth, with the most significant growth occurring within the Bothwell and South Willard systems. Table 1 shows the existing (2023) and future 2033 equivalent residential connections (ERCs) for each of the five systems. The existing ERCs are based on input from BRWCD and data from the Utah Division of Water Rights website. The future 2033 ERCs



are based on annual growth rates that were provided by BRWCD, or areas that BRWCD anticipates development will occur in the next 10 years.

Table 1: Projected ERC Growth by System

System	Existing (2023) ERCs	2033 ERCs
Beaver Dam	42	56 ¹
Bothwell	60	400 ²
Collinston	84	113 ¹
Harper Ward	105	122 ³
South Willard	4	200 ²

¹Based on anticipated 3% annual growth

²Based on anticipated development areas

³Based on anticipated 1.5% annual growth



2 UTAH CODE LEGAL REQUIREMENTS

Utah law requires that communities prepare an Impact Fee Facilities Plan (IFFP) before preparing an Impact Fee Analysis (IFA) and enacting an impact fee. Utah law also requires that communities give notice of their intent to prepare and adopt an IFFP. This IFFP follows all legal requirements as outlined below. BRWCD has retained J-U-B Engineers, Inc. to prepare the IFFP in conjunction with a separate IFA consultant, who will review the IFFP and prepare the IFA in accordance with legal requirements.

2.1 Notice of Intent to Prepare Impact Fee Facilities Plan

A local political subdivision shall provide written notice of its intent to prepare or amend an IFFP (Utah Code §11-36a-501). BRWCD has complied with this noticing requirement for the IFFP by posting notice.

2.2 Preparation of Impact Fee Facilities Plan

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an IFFP (Utah Code 11-36a-301).

Section 11-36a-302(a) of the Utah Code outlines the requirements of an IFFP, which include the following:

- i. identify the existing level of service
- ii. establish a proposed level of service
- iii. identify any excess capacity to accommodate future growth at the proposed level of service
- iv. identify demands placed upon existing facilities by new development activity at the proposed level of service
- v. identify the means by which the political subdivision or private entity will meet those growth demands

Further, the proposed level of service may:

- i. exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
- ii. establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.



In preparing an IFFP, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

- a) grants
- b) bonds
- c) interfund loans
- d) impact fees
- e) anticipated or accepted dedications of system improvements

2.3 CERTIFICATION OF IMPACT FEE FACILITIES PLAN

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



3 EXISTING LEVEL OF SERVICE

Utah Code 11-36a-302(1)(a)(i)

Level of service is defined in the Utah code under the Impact Fees Act as the "performance standard or unit of demand for each capital component of a public facility within a service area". This section discusses the level of service currently being provided to existing users within each of the five systems. The information in the following sections regarding water supply, distribution, and storage requirements was obtained from BRWCD and the Utah Division of Water Rights website.

3.1 WATER SUPPLY LEVEL OF SERVICE

Water supply represents the total water available, both the average annual volume and the peak day flow rate, to the water system.

3.1.1 Beaver Dam System Water Supply Level of Service

Average Annual Demand:

Based on the Beaver Dam Supply Analysis completed by Keller Associates in February 2023, the average annual demand for the Beaver Dam system is 0.37 acre-feet/ERC, which includes both indoor and outdoor use.

Peak Day Demand:

BRWCD has established the existing peak day demand level of service for the Beaver Dam system as 0.37 acre-feet/ERC per year, with a peaking factor of 2.0.

0.37 acre-feet/ERC per year, with a peaking factor of 2.0 = 661 gallons per day (gpd)/ERC

3.1.2 Bothwell System Water Supply Level of Service

Average Annual Demand:

Based on historic data from 2020 to 2022, the average annual demand for the Bothwell system is 0.88 acre-feet/ERC, which includes both indoor and outdoor use. Future developments are anticipated to use other water sources for outdoor use; therefore, the average annual demand for indoor use only is 0.48 acre-feet/ERC.

Peak Day Demand:

BRWCD has established the existing peak day demand level of service for the Bothwell system for indoor and outdoor use as 0.88 acre-feet/ERC per year, with a peaking factor of 2.0.

0.88 acre-feet/ERC per year, with a peaking factor of 2.0 = 1,571 gpd/ERC



BRWCD has established the existing peak day demand level of service for the Bothwell system for indoor use only as 0.48 acre-feet/ERC per year, with a peaking factor of 2.0.

0.48 acre-feet/ERC per year, with a peaking factor of 2.0 = 857 gpd/ERC

3.1.3 Collinston System Water Supply Level of Service

Average Annual Demand:

Based on observed historic demands, the average annual demand for the Collinson system is 1.0 acrefeet/ERC, which includes both indoor and outdoor use.

Peak Day Demand:

BRWCD has established the existing peak day demand level of service for the Collinston system as 1.0 acre-feet/ERC per year, with a peaking factor of 2.0.

1.0 acre-feet/ERC per year, with a peaking factor of 2.0 = 1,785 gpd/ERC

3.1.4 Harper Ward System Water Supply Level of Service

Average Annual Demand:

Based on historic data from 2018 to 2022, the average annual demand for the Harper Ward system is 0.73 acre-feet/ERC, which includes both indoor and outdoor use.

Peak Day Demand:

BRWCD has established the existing peak day demand level of service for the Harper Ward system as 0.73 acre-feet/ERC per year, with a peaking factor of 2.0.

0.73 acre-feet/ERC per year, with a peaking factor of 2.0 = 1,303 gpd/ERC

3.1.5 South Willard System Water Supply Level of Service

Average Annual Demand:

The South Willard System currently serves four ERCs, some of which are non-residential. As a result, residential water use per ERC is difficult to calculate. Therefore, residential water usage was assessed using data from Willard City, which is adjacent to the South Willard System. Based on observed historic demands in Willard City, the average annual demand for the South Willard system is 0.35 acre-feet/ERC, which includes indoor use only. The South Willard system has other water sources for outdoor use.



Peak Day Demand:

BRWCD has established the existing peak day demand level of service for the South Willard system as 0.35 acre-feet/ERC per year, with a peaking factor of 2.0.

0.35 acre-feet/ERC per year, with a peaking factor of 2.0 = 625 gpd/ERC

3.2 WATER DISTRIBUTION LEVEL OF SERVICE

The level of service for each of the distribution systems is based on the following criteria:

- Each system shall meet the required fire flows for new residential, industrial, and commercial
 areas, while maintaining a minimum residual pressure of 20 pounds per square inch (psi) in the
 distribution system under peak day demands.
- Each system shall maintain a minimum pressure of 40 psi during peak day demand and 30 psi during peak instantaneous demand.
- Maximum pipe velocity in distribution lines of 5 feet per second (ft/s).
- Each system shall meet all flow requirements, regardless of the source or combination of sources from which the water is delivered. Water from wells, springs, tanks, and purchase agreements shall be able to operate collectively or independently to meet the required demands. If one or more sources is offline, the system shall be able to deliver water to the other areas in the system with minimal effect on peak day pressures.

3.3 WATER STORAGE LEVEL OF SERVICE

Water storage provides equalization storage that compensates for varying demands throughout the day and during different seasons. Outdoor equalization storage is based on typical densities for retail customers served within each system. Storage for fire flow is also needed for large demands placed on the system as a result of firefighting efforts. Fire flow storage values are based on the 2017 Drinking Water System Master Plan. The storage also includes a volume of water for emergency storage in the event of source interruption or issues with other critical system components. BRWCD has based the storage level of service for each system on the requirements prescribed by the State of Utah.

3.3.1 Beaver Dam System Water Storage Level of Service

The existing storage capacity for the Beaver Dam system is 200,000 gallons.

Equalization Storage: Equalization storage is the storage required to satisfy the peak demands on the system that are greater than what the system sources can provide. Equalization storage minimum requirements are prescribed by the State of Utah.

<u>Indoor:</u>

State Requirement = 400 gallons/ERC

400 gallons/ERC * 42 ERCs = 16,800 gallons



Outdoor:

State Requirement = 2,848 gallons/irrigated acre

2,848 gallons/irrigated acre * 0.06 irrigated acres/ERC * 42 ERCs = 7,177 gallons

Fire Flow Storage: Fire flow storage is the amount of water needed for fire suppression. The required fire flow rate for the system has been set by BRWCD at 1,000 gpm for one hour, or 60,000 gallons. The required fire flow storage is assumed to remain constant, regardless of future growth.

Emergency Storage: Emergency storage is the amount of storage set aside for emergency situations. These emergency situations could include natural disasters, treatment plant failures, line breaks, or similar events. This storage volume has been determined by BRWCD and set at 10% of the equalization storage, or 2,398 gallons.

Total Storage: The total storage required of the Beaver Dam system is 86,375 gallons. The total storage required of the system minus the fire flow storage is 26,375 gallons. Storage per ERC is 26,375 gallons / 42 ERCs = 628 gallons/ERC.

3.3.2 Bothwell System Water Storage Level of Service

The existing storage capacity for the Bothwell system is 500,000 gallons.

Equalization Storage:

Indoor:

State Requirement = 400 gallons/ERC

400 gallons/ERC * 60 ERCs = 24,000 gallons

Outdoor (for existing ERCs):

State Requirement = 2,848 gallons/irrigated acre

2,848 gallons/irrigated acre * 0.263 irrigated acres/ERC * 60 ERCs = 44,941 gallons

Fire Flow Storage: The required fire flow rate for the system has been set by BRWCD at 1,000 gpm for one hour, or 60,000 gallons. The required fire flow storage is assumed to remain constant, regardless of future growth.

Emergency Storage: The emergency storage volume has been determined by BRWCD and set at 10% of the equalization storage, or 6,894 gallons.

Total Storage: The total storage required of the system is 135,835 gallons. The total storage required of the system minus the fire flow storage is 75,835 gallons. Storage per existing ERC is 75,385 gallons / 60 ERCs = 1,264 gallons/ERC.

Future developments are anticipated to use other water sources for outdoor use. Therefore, equalization and emergency storage for outdoor use will not be needed for future ERCs. Storage per



future ERC is 24,000 gallons (indoor equalization storage) + 2,400 gallons (emergency storage equal to 10% of indoor equalization storage) / 60 ERCs = 440 gallons/ERC.

3.3.3 Collinston System Water Storage Level of Service

The existing storage capacity for the Collinston system is 500,000 gallons.

Equalization Storage:

Indoor:

State Requirement = 400 gallons/ERC

400 gallons/ERC * 84 ERCs = 33,600 gallons

Outdoor:

State Requirement = 2,848 gallons/irrigated acre

2,848 gallons/irrigated acre * 0.33 irrigated acres/ERC * 84 ERCs = 78,947 gallons

Fire Flow Storage: The required fire flow rate for the system has been set by BRWCD at 1,500 gpm for two hours, or 180,000 gallons. The required fire flow storage is assumed to remain constant, regardless of future growth.

Emergency Storage: The emergency storage volume has been determined by BRWCD and set at 10% of the equalization storage, or 11,255 gallons.

Total Storage: The total storage required of the system is 303,802 gallons. The total storage required of the system minus the fire flow storage is 123,802 gallons. Storage per ERC is 123,802 gallons / 84 ERCs = 1,474 gallons/ERC.

3.3.4 Harper Ward System Water Storage Level of Service

The existing storage capacity for the Harper Ward system is 170,000 gallons.

Equalization Storage:

Indoor:

State Requirement = 400 gallons/ERC

400 gallons/ERC * 105 ERCs = 42,000 gallons

Outdoor:

State Requirement = 2,848 gallons/irrigated acre

2,848 gallons/irrigated acre * 0.25 irrigated acres/ERC * 105 ERCs = 74,760 gallons

Fire Flow Storage: The required fire flow rate for the system has been set by BRWCD at 1,000 gpm for two hours, or 120,000 gallons. The required fire flow storage is assumed to remain constant, regardless of future growth.



Emergency Storage: The emergency storage volume has been determined by BRWCD and set at 10% of the equalization storage, or 11,676 gallons.

Total Storage: The total storage required of the system is 248,436 gallons. The total storage required of the system minus the fire flow storage is 128,436 gallons. Storage per ERC is 128,436 gallons / 105 ERCs = 1,223 gallons/ERC.

3.3.5 South Willard System Water Storage Level of Service

The existing storage capacity for the South Willard system is 1,000,000 gallons.

Equalization Storage:

Indoor:

State Requirement = 400 gallons/ERC

400 gallons/ERC * 4 ERCs = 1,600 gallons

Outdoor:

The South Willard system has other water sources for outdoor use.

Fire Flow Storage: The required fire flow rate for the system has been set by BRWCD at 1,000 gpm for two hours, or 120,000 gallons. The required fire flow storage is assumed to remain constant, regardless of future growth.

Emergency Storage: The emergency storage volume has been determined by BRWCD and set at 10% of the equalization storage, or 160 gallons.

Total Storage: The total storage required of the system is 121,760 gallons. The total storage required of the system minus the fire flow storage is 1,760 gallons. Storage per ERC is 1,760 gallons / 4 ERCs = 440 gallons/ERC.

3.4 Existing System Conclusions

The existing levels of service for water supply, distribution, and storage for each of the water systems are summarized in Table 2.



Table 2. Existing Level of Service

	Existing Level of Service								
Category	Beaver Dam System	Bothwell System (Indoor & Outdoor Use)	Bothwell System (Indoor Use Only)	Collinston System	Harper Ward System	South Willard System			
Average Annual Demand	0.37 ac-ft/ERC	0.88 ac-ft/ERC	0.48 ac-ft/ERC	1.0 ac-ft/ERC	0.73 ac-ft/ERC	0.35 ac-ft/ERC			
Peak Day Demand	661 gpd/ERC	1,571 gpd/ERC	857 gpd/ERC	1,785 gpd/ERC	1,303 gpd/ERC	625 gpd/ERC			
Min. Fire Flow Residual Pressure	20 psi	20 psi	20 psi	20 psi	20 psi	20 psi			
Min. Peak Instantaneous Demand Pressure	30 psi	30 psi	30 psi	30 psi	30 psi	30 psi			
Min. Peak Day Demand Pressure	40 psi	40 psi	40 psi	40 psi	40 psi	40 psi			
Max. Distribution Pipe Flow Velocity	5 ft/s	5 ft/s	5 ft/s	5 ft/s	5 ft/s	5 ft/s			
Storage	628 gal/ERC + Fire Flow	1,264 gal/ERC + Fire Flow	440 gal/ERC + Fire Flow	1,474 gal/ERC + Fire Flow	1,223 gal/ERC + Fire Flow	440 gal/ERC + Fire Flow			



4 PROPOSED LEVEL OF SERVICE

Utah Code 11-36a-302(1)(a)(ii)

The proposed level of service is used to evaluate future needs of the system. Per the Impact Fee Act, the "proposed level of service may diminish or equal the existing level of service" (Utah Code 11-36a-302(1)(b). A proposed level of service may "exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service" (Utah Code 11-36a-302(1)(c)(i).

The proposed level of service will remain the same as the existing level of service for each of the five systems (see Table 2).



5 EXCESS CAPACITY TO ACCOMMODATE GROWTH

Utah Code 11-36a-302(1)(a)(iii)

This section identifies excess capacity in the water supply, distribution, and storage. The proposed level of service must be maintained when identifying excess capacity.

5.1 WATER SUPPLY EXCESS CAPACITY

The existing excess capacity for water supply is the difference between the available water and the existing demand. The future excess capacity for water supply is the difference between the available water and the future demand. BRWCD is working towards establishing district-owned water sources for each of the water systems and eliminating dependance on outside water suppliers. Water supply excess capacity in the following sections is based on the existing district-owned water sources for each of the systems, which are yet to be established for some systems.

5.1.1 Beaver Dam System Water Supply Excess Capacity

Based on the Beaver Dam Supply Analysis completed by Keller Associates in February 2023, the Beaver Dam system is currently at capacity, with no remaining excess capacity. No further analysis was done for this system.

5.1.2 Bothwell System Water Supply Excess Capacity

When BRWCD purchased the Newman Well for the Bothwell system, it included the water rights associated with the well. The water rights include 2,835 acre-feet of water for use within the Bothwell area, or 1,669.5 acre-feet of water for use outside of the Bothwell area. For this study, it is assumed that all retail demand is within the Bothwell area. Although the Newman Well is capable of producing more than 2,835 acre-feet of water per year, water production is limited by the water rights.

2023 Average Annual Demand Excess Capacity

60 ERCs * 0.88 acre-feet/ERC = 52.8 acre-feet

Wholesale Water Use = 1,009 acre-ft

2023 Current Water Rights for BRWCD Sources = 2,835 acre-feet

1,773.2 acre-feet excess capacity in 2023

2033 Average Annual Demand Excess Capacity

60 ERCs * 0.88 acre-feet/ERC = 52.8 acre-feet (Existing, which includes outdoor use)

340 ERCs * 0.48 acre-feet/ERC = 163.2 acre-feet (Future, which does not include outdoor use)



Wholesale Water Use = 1,009 acre-ft

2023 Current Water Rights for BRWCD Sources = 2,835 acre-feet

1,610 acre-feet excess capacity in 2023

2023 Peak Day Demand Excess Capacity

60 ERCs * 1,571 gpd/ERC = 94,260 gpd (Existing, which includes outdoor use)

2023 Current Water Supply from BRWCD Sources = 6,782,400 gpd (Future, which does not include outdoor use)

6,688,140 gpd excess capacity in 2023

2033 Peak Day Demand Excess Capacity

60 ERCs * 1,571 gpd/ERC = 94,260 gpd (Existing, which includes outdoor use)

340 ERCs * 857 gpd/ERC = 291,380 gpd (Future, which does not include outdoor use)

2023 Current Water Supply from BRWCD Sources = 6,782,400 gpd

6,396,760 gpd excess capacity in 2033

5.1.3 Collinston System Water Supply Excess Capacity

2023 Average Annual Demand Excess Capacity

84 ERCs * 1.0 acre-feet/ERC = 84 acre-feet

2023 Annual Volume Available from BRWCD Sources = 0 acre-feet

84 acre-feet deficient in 2023

2033 Annual Average Demand Excess Capacity

113 ERCs * 1.0 acre-feet/ERC = 113 acre-feet

2023 Annual Volume Available from BRWCD Sources = 0 acre-feet

113 acre-feet deficient in 2033

2023 Peak Day Demand Excess Capacity

84 ERCs * 1,785 gpd/ERC = 149,940 gpd



2023 Current Water Supply from BRWCD Sources = 0 gpd

149,940 gpd deficient in 2023

2033 Peak Day Demand Excess Capacity

113 ERCs * 1,785 gpd/ERC = 201,705 gpd

2023 Current Water Supply from BRWCD Sources = 0 gpd

201,705 gpd deficient in 2033

5.1.4 Harper Ward System Water Supply Excess Capacity

2023 Average Annual Demand Excess Capacity

105 ERCs * 0.73 acre-feet/ERC = 76.65 acre-feet

2023 Annual Volume Available from BRWCD Sources = 0 acre-feet

76.65 acre-feet deficient in 2023

2033 Average Annual Demand Excess Capacity

122 ERCs * 0.73 acre-feet/ERC = 89.06 acre-feet

2023 Annual Volume Available from BRWCD Sources = 0 acre-feet

89.06 acre-feet deficient in 2033

2023 Peak Day Demand Excess Capacity

105 ERCs * 1,303 gpd/ERC = 136,815 gpd

2023 Current Water Supply from BRWCD Sources = 0 gpd

136,815 gpd deficient in 2023

2033 Peak Day Demand Excess Capacity

122 ERCs * 1,303 gpd/ERC = 158,966 gpd

2023 Current Water Supply from BRWCD Sources = 0 gpd

158,966 gpd deficient in 2033



5.1.5 South Willard System Water Supply Excess Capacity

2023 Average Annual Demand Excess Capacity

4 ERCs * 0.35 acre-feet/ERC = 1.4 acre-feet

2023 Annual Volume Available from BRWCD Sources = 200 acre-feet

198.6 acre-feet excess capacity in 2023

2033 Average Annual Demand Excess Capacity

200 ERCs * 0.35 acre-feet/ERC = 70 acre-feet

2023 Annual Volume Available from BRWCD Sources = 200 acre-feet

130 acre-feet excess capacity in 2033

2023 Peak Day Demand Excess Capacity

4 ERCs * 625 gpd/ERC = 2,500 gpd

2023 Current Water Supply from BRWCD Sources = 216,000 gpd

213,500 gpd excess capacity in 2023

2033 Peak Day Demand Excess Capacity

200 ERCs * 625 gpd/ERC = 125,000 gpd

2023 Current Water Supply from BRWCD Sources = 216,000 gpd

91,000 gpd excess capacity in 2033

5.2 WATER DISTRIBUTION EXCESS CAPACITY

The excess capacity for water distribution was calculated for each system based on hydraulic model results provided by BRWCD. The hydraulic model results were based on the established level of service for the distribution systems and represent available distribution system capacity for retail use.

5.2.1 Beaver Dam System Water Distribution Excess Capacity

Based on the Beaver Dam Supply Analysis completed by Keller Associates in February 2023, the Beaver Dam system is currently at capacity, with no remaining excess capacity. No further analysis was done for this system.



5.2.2 Bothwell System Water Distribution Excess Capacity

Based on the Bothwell System Hydraulic Modeling and Recommendations study completed in October 2022, the Bothwell system is currently at capacity, with no remaining excess capacity. No further analysis was done for this system.

5.2.3 Collinston System Water Distribution Excess Capacity

2023 Water Distribution Excess Capacity

Peak Day Demand: 1,785 gpd/ERC * 84 ERCs = 149,940 gpd = 104 gpm

Available Distribution System Capacity for Retail Use = 1,000 gpm

Distribution System Excess Capacity = 896 gpm

2033 Water Distribution Excess Capacity

Peak Day Demand: 1,785 gpd/ERC * 113 ERCs = 201,705 gpd = 140 gpm

Available Distribution System Capacity for Retail Use = 1,000 gpm

Distribution System Excess Capacity = 860 gpm

5.2.4 Harper Ward System Water Distribution Excess Capacity

2023 Water Distribution Excess Capacity

Peak Day Demand: 1,303 gpd/ERC * 105 ERCs = 136,815 gpd = 95 gpm

Available Distribution System Capacity for Retail Use = 700 gpm

Distribution System Excess Capacity = 605 gpm

2033 Water Distribution Excess Capacity

Peak Day Demand: 1,303 gpd/ERC * 122 ERCs = 158,966 gpd = 110 gpm

Available Distribution System Capacity for Retail Use = 700 gpm

Distribution System Excess Capacity = 590 gpm

5.2.5 South Willard System Water Distribution Excess Capacity

2023 Water Distribution Excess Capacity



Peak Day Demand: 625 gpd/ERC * 4 ERCs = 2,500 gpd = 2 gpm

Available Distribution System Capacity for Retail Use = 1,200 gpm

Distribution System Excess Capacity = 1,198 gpm

2033 Water Distribution Excess Capacity

Peak Day Demand: 625 gpd/ERC * 200 ERCs = 125,000 gpd = 87 gpm

Available Distribution System Capacity for Retail Use = 1,200 gpm

Distribution System Excess Capacity = 1,113 gpm

5.3 WATER STORAGE EXCESS CAPACITY

The excess capacity for water storage is the difference between the total volume of the existing storage and the current and future requirements.

5.3.1 Beaver Dam System Water Storage Excess Capacity

2023 Storage Excess Capacity

42 ERCs * 628 gallons/ERC + 60,000 gallons (fire suppression) = 86,376 gallons

2023 Current Water Storage Capacity = 200,000 gallons

113,624 gallons excess capacity in 2023

2033 Storage Excess Capacity

56 ERCs * 628 gallons per ERC + 60,000 gallons (fire suppression) = 95,168 gallons

2023 Current Water Storage Capacity = 200,000 gallons

104,832 gallons excess capacity in 2033

5.3.2 Bothwell System Water Storage Excess Capacity

2023 Storage Excess Capacity

60 ERCs * 1,264 gallons/ERC + 60,000 gallons (fire suppression) = 135,840 gallons

2023 Current Water Storage Capacity = 500,000 gallons

364,160 gallons excess capacity in 2023



2033 Storage Excess Capacity

60 ERCs * 1,264 gallons/ERC + 60,000 gallons (fire suppression) = 135,840 gallons

340 ERCs * 440 gallons per ERC = 149,600 gallons

2023 Current Water Storage Capacity = 500,000 gallons

214,560 gallons excess capacity in 2033

5.3.3 Collinston System Water Storage Excess Capacity

2023 Storage Excess Capacity

84 ERCs * 1,474 gallons/ERC + 180,000 gallons (fire suppression) = 303,816 gallons

2023 Current Water Storage Capacity = 500,000 gallons

196,184 gallons excess capacity in 2023

2033 Storage Excess Capacity

113 ERCs * 1,474 gallons per ERC + 180,000 gallons (fire suppression) = 346,562 gallons

2023 Current Water Storage Capacity = 500,000 gallons

153,438 gallons excess capacity in 2033

5.3.4 Harper Ward System Water Storage Excess Capacity

2023 Storage Excess Capacity

105 ERCs * 1,223 gallons/ERC + 120,000 gallons (fire suppression) = 248,415 gallons

2023 Current Water Storage Capacity = 170,000 gallons

78,415 gallons deficient in 2023

2033 Storage Excess Capacity

122 ERCs * 1,223 gallons per ERC + 120,000 gallons (fire suppression) = 269,206 gallons

2023 Current Water Storage Capacity = 170,000 gallons

99,206 gallons deficient in 2033



5.3.5 South Willard System Water Storage Excess Capacity

2023 Storage Excess Capacity

4 ERCs * 440 gallons/ERC + 120,000 gallons (fire suppression) = 121,760 gallons

2023 Current Water Storage Capacity = 1,000,000 gallons

878,240 gallons excess capacity in 2023

2033 Storage Excess Capacity

200 ERCs * 440 gallons per ERC + 120,000 gallons (fire suppression) = 208,000 gallons

2023 Current Water Storage Capacity = 1,000,000 gallons

792,000 gallons excess capacity in 2033

5.4 EXCESS CAPACITY SUMMARY

Table 3 provides a summary of the water supply excess capacity that will be consumed by future growth.

Table 4 provides a summary of the water distribution excess capacity that will be consumed by future growth.

Table 5 provides a summary of the storage excess capacity that will be consumed by future growth.

Table 3. Summary of Water Supply Excess Capacity Consumed by Future Growth

Description	Available Peak Day Demand from BRWCD Sources (gpm) ¹	Maximum ERCs Served	Original Construction Cost	Existing ERCs Served	Future Growth ERCs Served	Cost to Future Growth		
	Bot	hwell System	1					
Water Supply (Newman Well) ²	1,610	2,655	\$1,250,000	60	2,595	\$1,221,754		
	South Willard System							
Water Supply (South Willard Well #1 Pump House)	150	346	\$426,243	4	342	\$421,315		

¹Calculation of Available Peak Day Demand accounts for wholesale user demand.

²Water supply for the Bothwell system consists of the Newman Well and a Backup Well as a redundnat source. When the Newman Well is not operational, the Backup Well, which has a lower capacity than the Newman Well, is used to meet water demands. Therefore, the available peak day demand is limited to the capacity of the Backup Well.

Table 4. Summary of Water Distribution Excess Capacity Consumed by Future Growth

Description	Available Distribution System Capacity for Retail Use (gpm) ¹	Maximum ERCs Served	Original Construction Cost	Existing ERCs Served	Future Growth ERCs Served	Cost to Future Growth			
		Collinsto	n System						
Distribution System	1,000	807	\$2,833,682	84	723	\$2,538,625			
		Harper Wa	ard System						
Distribution System	700	774	\$872,398	105	669	\$753,988			
South Willard System									
Distribution System	1,200	2,765	\$680,047	4	2,761	\$679,063			

¹Based on hydraulic model results provided by BRWCD. Capacities shown represent available capacity for retail use; capacities related to wholesale use were removed.

Table 5. Summary of Storage Excess Capacity Consumed by Future Growth

Description	Available Storage Capacity (gal)	Maximum ERCs Served	Original Construction Cost	Existing ERCs Served	Future Growth ERCs Served	Cost to Future Growth				
Beaver Dam System										
Water Storage Tank	200,000	223	\$528,236	42	181	\$428,748				
		Bothwel	l System							
Water Storage Tank ¹	500,000	888	\$500,000	60	828	\$466,216				
		Collinsto	n System							
Water Storage Tanks	1,000,000	556	\$925,363	84	472	\$785,560				
	South Willard System									
Water Storage Tank	1,000,000	2,000	\$709,884	4	1,996	\$708,465				

¹Original Construction Cost was estimated based on available data.



6 DEMANDS ON EXISTING FACILITIES FROM NEW DEVELOPMENT

Utah Code 11-36a-302(1)(a)(iv)

This section identifies demands placed upon the existing public facilities by new development at the proposed levels of service. For each system, BRWCD determined the anticipated annual growth rate, or directly identified the anticipated number of additional ERCs based on the anticipated development areas. Table 6 shows the additional number of ERCs anticipated for each system by 2033. The demands caused by new development for each system are associated with the increase in ERCs from the current number to the estimated number in 2033 (see Table 1).

Table 6. Projected Growth by 2033

System	ERCs Added by 2033
Beaver Dam ¹	14
Bothwell ²	340
Collinston ¹	29
Harper Ward ³	17
South Willard ²	196

¹ERCs based on anticipated 3% annual growth

²ERCs based on anticipated development areas

³ERCs based on anticipated 1.5% annual growth



7 REQUIRED INFRASTRUCTURE TO MEET DEMANDS OF NEW GROWTH

Utah Code 11-36a-302(1)(a)(v)

To meet the requirements of the Impact Fee Act, this section outlines the means by which each of the five systems will meet growth demands. The projects identified for each of the systems were taken from the 2021 Drought Resiliency Plan and the 2023 Bothwell System Hydraulic Modeling and Recommendations memorandum. The impact of new development on each of the systems was used to assign the percentage of each project cost that can be attributed to future growth. A summary of the required infrastructure improvements to meet the demands of new growth is provided in the following sections.

7.1 WATER SOURCES

7.1.1 Beaver Dam System Water Sources

Based on the Beaver Dam Supply Analysis completed by Keller Associates in February 2023, the Beaver Dam system is currently at capacity, with no remaining excess capacity. No further analysis was done for this system.

7.1.2 Bothwell System Water Sources

The water sources that serve the Bothwell system have sufficient capacity for both existing and future demands. No water source improvements are planned.

7.1.3 Collinston System Water Sources

All water for the Collinston system is currently purchased from Deweyville Town. BRWCD plans to eliminate the purchase of water from Deweyville Town in the future. Therefore, BRWCD plans to construct a new pump station and pipeline for the Flat Canyon well and to drill and equip a new well to meet the peak day demands associated with future development.

7.1.4 Harper Ward System Water Sources

All water for the Harper Ward system is currently purchased from Brigham City. BRWCD plans to eliminate the purchase of water from Brigham City in the future. Therefore, BRWCD plans to drill and equip a new well to provide water to the Harper Ward system to serve both existing users and future development.

7.1.5 South Willard System Water Sources

In recent years, the well serving the South Willard system became partially blocked. BRWCD was unable to remove the blockage, but was able to equip the well with a smaller pump that meets the demands of the system. While the existing well will remain in service, BRWCD plans to drill and equip a new well to



supplement the existing well and to serve as a backup water source. If the existing well becomes fully blocked, the new well will serve as the primary source of water for the system.

7.2 WATER DISTRIBUTION

7.2.1 Beaver Dam System Water Distribution

Based on the Beaver Dam Supply Analysis completed by Keller Associates in February 2023, the Beaver Dam system is currently at capacity, with no remaining excess capacity. No further analysis was done for this system.

7.2.2 Bothwell System Water Distribution

In the Bothwell System Hydraulic Modeling and Recommendations memorandum dated October 15, 2022, the Bothwell distribution system was found to be at capacity. The Bothwell System Hydraulic Modeling and Recommendation memorandum dated April 25, 2023 identifies four phases of distribution system pipeline improvements. BRWCD plans to implement three of the four improvements within the next 10 years to increase system capacity.

7.2.3 Collinston System Water Distribution

The Collinston water distribution system has sufficient capacity for both existing and future demands. No distribution system improvements are planned.

7.2.4 Harper Ward Water Distribution

The Harper Ward water distribution system has sufficient capacity for both existing and future demands. However, BRWCD will construct a transmission line from the future water storage tank (see Section 7.3.4) to the distribution system.

7.2.5 South Willard Water Distribution

The South Willard water distribution system has sufficient capacity for both existing and future demands. However, BRWCD will construction a transmission line from the new well (see Section 7.1.5) to the water storage tank.

7.3 WATER STORAGE

7.3.1 Beaver Dam System Water Storage

The Beaver Dam system has sufficient storage capacity for both existing and future demands. No storage improvements are planned for the system.



7.3.2 Bothwell System Water Storage

The Bothwell system has sufficient storage capacity for both existing and future demands. No storage improvements are planned for the system.

7.3.3 Collinston System Water Storage

The Collinston system has sufficient storage capacity for both existing and future demands. No storage improvements are planned for the system.

7.3.4 Harper Ward System Water Storage

Current water storage for the Harper Ward system is provided by the Brigham City water storage tank and the Honeyville City water storage tank. BRWCD plans to construct a new 500,000 gallon water storage tank and pipeline to eliminate dependance on the Brigham City and Honeyville City water storage tanks.

7.3.5 South Willard System Water Storage

The South Willard system has sufficient storage capacity for both existing and future demands. No storage improvements are planned for the system.

7.4 10 YEAR IMPROVEMENT PLAN

Only infrastructure to be constructed within the next 10 years is considered in the calculation of the impact fees. Table 7 lists the projects for each system that are planned to be constructed in the next 10 years. Project costs are broken into the following two categories:

- 1. The portion of the project that existing users should pay (Cost to Existing).
- 2. The portion of the project that can be paid for through new development impacts (Cost to Future Growth).

Detailed cost estimates for the projects can be found in Appendix A. The construction cost estimates are based on costs from recent bids for similar projects. Construction cost estimates for the well and storage tank projects were obtained from the 2021 Drought Resiliency Plan and updated based on recent bids.



Table 7. Future Improvement Projects

	Estimated Year of Construction	Maximum ERCs Served	Total Project Cost	Funding from Grants	Existing ERCs Served	Cost to Existing	Future Growth ERCs Served	Cost to Future Growth
	Bothwell Sy	stem						
Pipe Segment A (10800 West & 12800 North to I-84) ¹	2024	622	\$1,058,180	\$402,000	0	\$0	622	\$656,180
Pipe Segment B (Tank & 10800 West to 13600 North)	2026	706	\$3,487,615	\$0	0	\$0	706	\$3,487,615
Pipe Segment C (Along I-84 from 12800 North to 1000 North in Tremonton)	2030	1,294	\$3,716,103	\$0	0	\$0	1,294	\$3,716,103
Subtotals for Bothwell System		2,622	\$8,261,899	\$402,000		\$0	2,622	\$7,859,899
	Collinston Sy	/stem						
Flat Canyon Pump Station and Pipeline	2024	200	\$1,882,255	\$637,000	84	\$523,007	116	\$722,248
Collinston Well	2026	210	\$2,581,200	\$1,050,000	0	\$0	210	\$1,531,200
Subtotals for Collinston System			\$4,463,455	\$1,687,000		\$523,007		\$2,253,448
	Harper Ward	System						
Harper Well	2025	685	\$2,814,560	\$461,081	105	\$360,752	580	\$1,992,727
500,000 Gallon Storage Tank	2025	211	\$1,450,000	\$237,539	105	\$603,357	106	\$609,104
Transmission Line	2025	866	\$618,848	\$101,380	105	\$62,741	761	\$454,726
Subtotals for Harper Ward System			\$4,883,408	\$800,000		\$1,026,851		\$3,056,557
	South Willard	System						
South Willard Well #2	2025	957	\$1,174,500	\$454,897	0	\$0	957	\$719,603
Transmission Line	2025	1,805	\$891,021	\$345,103	0	\$0	1,805	\$545,919
Subtotals for South Willard System			\$2,065,521	\$800,000		\$0		\$1,265,521
Total Improvement Project Costs			\$19,674,283	\$3,689,000		\$1,549,858		\$14,435,425

¹Project cost estimate provided by BRWCD based on costs from a developer. Developer will be responsible for construction of 38% of pipe segment.



8 POTENTIAL REVENUE SOURCES TO FINANCE IMPACTS TO SYSTEM

Utah Code 11-36a-302.2(2)

This Impact Fee Facilities Plan includes a discussion of potential revenues sources for the water systems. These revenue sources include user charges; grants, low interest loans, and donations; bonds; impact fees; and anticipated or accepted dedications of system improvements.

8.1 USER CHARGES

BRWCD collects user fees for water distribution services, which pay for the water demands. User fees are the primary source of funding for the operation and maintenance expenses associated with the water distribution systems.

8.2 Grants, Low Interest Loans, and Donations

Grants and low interest loans can be used to fund water system projects. Impact fees may not reimburse the portion of projects funded through grants. Additionally, some infrastructure may be donated, though this typically is at the project improvement level rather than at the system improvement level.

8.3 Bonds

In addition to collecting impact fees, BRWCD may elect to issue bonds to maintain a steady flow of funds to pay for needed improvements.

8.4 IMPACT FEES

Impact fees are a common and equitable method of funding new system improvements as they impose the cost of providing capacity for new growth upon the new growth. The detailed analysis required to impose impact fees accurately allocates the true impact on a system or facility to those creating the impact. Those creating the most impact, therefore, pay more.

8.5 ANTICIPATED OR ACCEPTED DEDICATIONS OF SYSTEM IMPROVEMENTS

Any item that a developer funds must be included in the IFFP if a credit against impact fees is to be issued and must be agreed upon with BRWCD before construction of the improvements. This type of arrangement is typically accomplished with a development agreement between BRWCD and the developer, with the private funds being spent for initial improvements and the public funds being used to reimburse developers in accordance with planned expenditures.



9 IMPROVEMENTS TO MAINTAIN LEVEL OF SERVICE

Utah Code 11-36a-302(3)

State Law allows impact fees to be collected to maintain the same level of service in the water system as growth occurs. All projects included as part of this impact fee facility plan are required to maintain the existing level of service. Any projects related to correcting existing deficiencies have a percentage of the costs assigned to existing users according to the existing and future demand.



10 CERTIFICATIONS

This IFFP has been prepared in accordance with Utah Code Title 11 Chapter 36a, Impact Fee Act. In accordance with Utah Code Title 11-36a-306(1), J-U-B Engineers, Inc. makes the following certification.

"I certify that the attached impact fee facilities plan:

- 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; or

3. complies in each and every relevant respect with the Impact Fees Act."

- 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; and
- Dated:

J-U-B ENGINEERS, INC.



Appendix A Improvement Projects Opinions of Probable Cost

Project: Bothwell Pipe Segment B (Tank & 10800 West to 13600 North)

Item	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$165,778	\$165,778
2	Traffic Control	1	LS	\$62,167	\$62,167
3	SWPPP	1	LS	\$20,722	\$20,722
4	12" C-900 PVC Pipe	10,000	LF	\$140	\$1,400,000
5	Misc Fittings	30	EA	\$5,000	\$150,000
6	Pipe Bedding Material	2,100	TON	\$23	\$48,300
7	Imported Backfill Material	8,400	TON	\$27	\$226,800
8	Untreated Base Course (8" thick)	2,800	TON	\$30	\$84,000
9	Asphalt Pavement (3" thick)	1,088	TON	\$150	\$163,125
10	Easements	10,000	LF	\$40	\$400,000
11	Design Engineering (10%)	1	LS	\$207,223	\$207,223
12	Construction Engineering (7%)	1	LS	\$145,056	\$145,056
13	Contingency			20%	\$414,445
	Total				\$3,487,615

Project: Bothwell Pipe Segment C (Along I-84 from 12800 North to 1000 North in Tremonton)

Item	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$176,542	\$176,542
2	Traffic Control	1	LS	\$66,203	\$66,203
3	SWPPP	1	LS	\$22,068	\$22,068
4	12" C-900 PVC Pipe	10,700	LF	\$140	\$1,498,000
5	Misc Fittings	30	EA	\$5,000	\$150,000
6	Pipe Bedding Material	2,247	TON	\$23	\$51,681
7	Imported Backfill Material	8,988	TON	\$27	\$242,676
8	Untreated Base Course (8" thick)	2,996	TON	\$30	\$89,880
9	Asphalt Pavement (3" thick)	1,164	TON	\$150	\$174,544
10	Easements	10,700	LF	\$40	\$428,000
11	Design Engineering (10%)	1	LS	\$220,678	\$220,678
12	Construction Engineering (7%)	1	LS	\$154,475	\$154,475
13	Contingency			20%	\$441,356
	Total				\$3,716,103

Project: Collinston Flat Canyon Pump Station and Pipeline

Item	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$97,300	\$97,300
2	Pitless Adapter Installed	1	LS	\$30,000	\$30,000
3	Submersible Pumping System, 140 gpm 25 hp	1	LS	\$40,000	\$40,000
4	Pumping System Electrical and Controls	1	LS	\$35,000	\$35,000
5	Pump Station Complete w/Vault, Valves & Piping	1	LS	\$80,000	\$80,000
6	Onsite Pond or Buried Discharge for Flushing	1	LS	\$30,000	\$30,000
7	Air Gap Structure	1	LS	\$8,000	\$8,000
8	Telemetry Station	1	LS	\$15,000	\$15,000
9	RMP Powerline Extension	1	LS	\$100,000	\$100,000
10	Trenching, 4-inch Conduit and Backfill by District	1,600	FT	\$25	\$40,000
11	6" Diameter DR 11 160 psi HDPE Water Pipeline	6,780	LF	\$75	\$508,500
12	Connection at Buried Pump Station	1	LS	\$4,000	\$4,000
13	Connection at Existing 12-Inch Dia. Pipeline	1	LS	\$7,500	\$7,500
14	Chlorine Room in South Booster Station	1	LS	\$55,000	\$55,000
15	Environmental Evaluation and Clearance	1	LS	\$20,000	\$20,000
16	Property and Easements Purchases	1	LS	\$305,000	\$305,000
17	Mitigation to Bitners	1	LS	\$20,000	\$20,000
18	Design Engineering		•	8%	\$111,624
19	Construction Engineering			7%	\$96,271
20	Contingency			20%	\$279,060
	Total				\$1,882,255

Item	Description	Quantity	Unit	Unit Price	Amount
1	Permits (PER)	1	LS	\$35,000	\$35,000
2	Environmental	1	LS	\$35,000	\$35,000
3	Design, Permitting, and Bidding	1	LS	\$100,000	\$100,000
4	Building and Equipment Design	1	LS	\$60,000	\$60,000
5	Construction	1	LS	\$1,700,000	\$1,700,000
6	Construction Engineering	1	LS	\$130,000	\$130,000
7	Source Protection Plan	1	LS	\$35,000	\$35,000
8	Well Level SCADA Equipment	1	LS	\$30,000	\$30,000
9	8 Inch C-900 Pipe	200	LF	\$130	\$26,000
10	Contingency			20%	\$430,200
	Total				\$2,581,200

Project: Harper Well
Project: No.: 57-23-006
Date: August 2023

Item	Description	Quantity	Unit	Unit Price	Amount
1	Preliminary Engineering Report (PER)	1	LS	\$35,000	\$35,000
2	Environmental	1	LS	\$50,000	\$50,000
3	Design, Permitting, and Bidding	1	LS	\$50,000	\$50,000
4	Building and Equipment Design	1	LS	\$75,000	\$75,000
5	Power line	1	LS	\$200,000	\$200,000
6	Construction	1	LS	\$1,350,000	\$1,350,000
7	Construction Engineering	1	LS	\$110,000	\$110,000
8	Well Level SCADA Equipment	1	LS	\$25,000	\$25,000
9	Source Protection Plan	1	LS	\$25,000	\$25,000
10	Test Well	1	LS	\$425,467	\$425,467
11	Contingency			20%	\$469,093
	Total				\$2,814,560

Client: Bear River Water Conservancy District
Project: Harper Ward 500,000 Gallon Storage Tank

Item	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$80,000	\$80,000
2	500,000 Gallon Tank	1	LS	\$1,000,000	\$1,000,000
3	Design Engineering	1	LS	\$100,000	\$100,000
4	Construction Engineering	1	LS	\$70,000	\$70,000
5	Contingency			20%	\$200,000
	Total				\$1,450,000

Project: Harper Ward Transmission Line

Item	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$33,227	\$33,227
2	Traffic Control	1	LS	\$12,460	\$12,460
3	SWPPP	1	LS	\$4,153	\$4,153
4	8" C-900 PVC Pipe	2,400	LF	\$100	\$240,000
5	Misc Fittings	10	EA	\$5,000	\$50,000
6	Pipe Bedding Material	504	Ton	\$23	\$11,592
7	Imported Backfill Material	2,016	Ton	\$27	\$54,432
8	Untreated Base Course (8" thick)	672	Ton	\$30	\$20,160
9	Asphalt Pavement (3" thick)	261.0	Ton	\$150	\$39,150
10	Design Engineering (10%)	1	LS	\$41,533	\$41,533
11	Construction Engineering (7%)	1	LS	\$29,073	\$29,073
12	Contingency			20%	\$83,067
	Total				\$618,848

Project: South Willard Well #2

Item	Description	Quantity	Unit	Unit Price	Amount
1	Design, Permitting, and Bidding	1	LS	\$40,000	\$40,000
2	Environmanal	1	LS	\$30,000	\$30,000
3	Building and Equipment Design	1	LS	\$75,000	\$75,000
4	Construction	1	LS	\$725,000	\$725,000
5	Design Engineering			8%	\$69,600
6	Construction Engineering			7%	\$60,900
7	Contingency			20%	\$174,000
	Total				\$1,174,500

Project: South Willard Transmission Line

Item	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization	1	LS	\$47,840	\$47,840
2	Traffic Control	1	LS	\$17,940	\$17,940
3	SWPPP	1	LS	\$5,980	\$5,980
4	8" C-900 PVC Pipe	3,600	LF	\$100	\$360,000
5	Misc Fittings	10	EA	\$5,000	\$50,000
6	Pipe Bedding Material	756	Ton	\$23	\$17,388
7	Imported Backfill Material	3,024	Ton	\$27	\$81,648
8	Untreated Base Course (8" thick)	1,008	Ton	\$30	\$30,240
9	Asphalt Pavement (3" thick)	391.5	Ton	\$150	\$58,725
10	Design Engineering (10%)	1	LS	\$59,800	\$59,800
11	Construction Engineering (7%)	1	LS	\$41,860	\$41,860
12	Contingency			20%	\$119,600
	Total				\$891,021



Appendix B Impact Fees Act

Chapter 36a Impact Fees Act

Part 1 General Provisions

11-36a-101 Title.

This chapter is known as the "Impact Fees Act."

Enacted by Chapter 47, 2011 General Session

11-36a-102 Definitions.

As used in this chapter:

(1)

- (a) "Affected entity" means each county, municipality, special district under Title 17B, Limited Purpose Local Government Entities - Special Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:
 - (i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or
 - (ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, special district, special service district, school district, interlocal cooperation entity, or specified public utility.
- (b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.
- (2) "Charter school" includes:
 - (a) an operating charter school;
 - (b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and
 - (c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
- (3) "Development activity" 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.
- (4) "Development approval" means:
 - (a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;
 - (b) development activity, for a public entity that may develop without written authorization from a local political subdivision;
 - (c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:
 - (i) to reserve or provide:
 - (A) a water right;
 - (B) a system capacity; or
 - (C) a distribution facility; or
 - (ii) to deliver for a development activity:

- (A) culinary water; or
- (B) irrigation water; or
- (d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:
 - (i) to reserve or provide:
 - (A) sewer collection capacity; or
 - (B) treatment capacity; or
 - (ii) to provide sewer service for a development activity.
- (5) "Enactment" means:
 - (a) a municipal ordinance, for a municipality;
 - (b) a county ordinance, for a county; and
 - (c) a governing board resolution, for a special district, special service district, or private entity.
- (6) "Encumber" means:
 - (a) a pledge to retire a debt; or
 - (b) an allocation to a current purchase order or contract.
- (7) "Expense for overhead" means a cost that a local political subdivision or private entity:
 - (a) incurs in connection with:
 - (i) developing an impact fee facilities plan;
 - (ii) developing an impact fee analysis; or
 - (iii) imposing an impact fee, including any related overhead expenses; and
 - (b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.
- (8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, special district, special service district, or private entity.

(9)

- (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.
- (b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.
- (10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
- (11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
- (12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13)

- (a) "Local political subdivision" means a county, a municipality, a special district under Title 17B, Limited Purpose Local Government Entities Special Districts, a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.
- (b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.
- (14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:
 - (a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

- (b) functional condition of development approval because the private entity:
 - (i) has no reasonably equivalent competition in the immediate market; and
 - (ii) is the only realistic source of water for the applicant's development.

(15)

- (a) "Project improvements" means site improvements and facilities that are:
 - (i) planned and designed to provide service for development resulting from a development activity;
 - (ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and
 - (iii) not identified or reimbursed as a system improvement.
- (b) "Project improvements" does not mean system improvements.
- (16) "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.
- (17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:
 - (a) water rights and water supply, treatment, storage, and distribution facilities;
 - (b) wastewater collection and treatment facilities;
 - (c) storm water, drainage, and flood control facilities;
 - (d) municipal power facilities;
 - (e) roadway facilities;
 - (f) parks, recreation facilities, open space, and trails;
 - (g) public safety facilities;
 - (h) environmental mitigation as provided in Section 11-36a-205; or
 - (i) municipal natural gas facilities.

(18)

- (a) "Public safety facility" means:
 - (i) a building constructed or leased to house police, fire, or other public safety entities; or
 - (ii) a fire suppression vehicle costing in excess of \$500,000.
- (b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19)

- (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.
- (b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:
 - (i) are necessitated by the new development; and
 - (ii) are not funded by the state or federal government.
- (c) "Roadway facilities" does not mean federal or state roadways.

(20)

- (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.
- (b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.
- (21) "Specified public agency" means:
 - (a) the state;

- (b) a school district; or
- (c) a charter school.

(22)

- (a) "System improvements" means:
 - (i) existing public facilities that are:
 - (A) identified in the impact fee analysis under Section 11-36a-304; and
 - (B) designed to provide services to service areas within the community at large; and
 - (ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.
- (b) "System improvements" does not mean project improvements.

Amended by Chapter 16, 2023 General Session

Part 2 Impact Fees

11-36a-201 Impact fees.

- (1) A local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter.
- (2) A local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.
- (3) Nothing in this chapter may be construed to repeal or otherwise eliminate an impact fee in effect on the effective date of this chapter that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this chapter.

Enacted by Chapter 47, 2011 General Session

11-36a-202 Prohibitions on impact fees.

- (1) A local political subdivision or private entity may not:
 - (a) impose an impact fee to:
 - (i) cure deficiencies in a public facility serving existing development;
 - (ii) raise the established level of service of a public facility serving existing development; or
 - (iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;
 - (b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or
 - (c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2)

- (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:
 - (i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;
 - (ii) on a school district or charter school for a park, recreation facility, open space, or trail;
 - (iii) on a school district or charter school unless:

- (A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and
- (B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;
- (iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:
 - (A) the Utah National Guard;
 - (B) the Utah Highway Patrol; or
 - (C) a state institution of higher education that has its own police force;
- (v) on development activity on fair park land, as defined in Section 11-68-101; or
- (vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.

(b)

- (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:
 - (A) the school is intended to replace another school, whether on the same or a different parcel;
 - (B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and
 - (C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.
- (ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)
 - (i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.
- (c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:
 - (i) the state's development causes an impact on the road facility; and
 - (ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.
- (3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Amended by Chapter 502, 2023 General Session

11-36a-203 Private entity assessment of impact fees -- Charges for water rights, physical infrastructure -- Notice -- Audit.

- (1) A private entity:
 - (a) shall comply with the requirements of this chapter before imposing an impact fee; and
 - (b) except as otherwise specified in this chapter, is subject to the same requirements of this chapter as a local political subdivision.
- (2) A private entity may only impose a charge for water rights or physical infrastructure necessary to provide water or sewer facilities by imposing an impact fee.

- (3) Where notice and hearing requirements are specified, a private entity shall comply with the notice and hearing requirements for special districts.
- (4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Amended by Chapter 16, 2023 General Session

11-36a-204 Other names for impact fees.

- (1) A fee that meets the definition of impact fee under Section 11-36a-102 is an impact fee subject to this chapter, regardless of what term the local political subdivision or private entity uses to refer to the fee.
- (2) A local political subdivision or private entity may not avoid application of this chapter to a fee that meets the definition of an impact fee under Section 11-36a-102 by referring to the fee by another name.

Enacted by Chapter 47, 2011 General Session

11-36a-205 Environmental mitigation impact fees.

Notwithstanding the requirements and prohibitions of this chapter, a local political subdivision may impose and assess an impact fee for environmental mitigation when:

- (1) the local political subdivision has formally agreed to fund a Habitat Conservation Plan to resolve conflicts with the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531, et seq. or other state or federal environmental law or regulation;
- (2) the impact fee bears a reasonable relationship to the environmental mitigation required by the Habitat Conservation Plan; and
- (3) the legislative body of the local political subdivision adopts an ordinance or resolution:
 - (a) declaring that an impact fee is required to finance the Habitat Conservation Plan;
 - (b) establishing periodic sunset dates for the impact fee; and
 - (c) requiring the legislative body to:
 - (i) review the impact fee on those sunset dates;
 - (ii) determine whether or not the impact fee is still required to finance the Habitat Conservation Plan; and
 - (iii) affirmatively reauthorize the impact fee if the legislative body finds that the impact fee must remain in effect.

Enacted by Chapter 47, 2011 General Session

11-36a-206 Prohibition of school impact fees.

- (1) As used in this section, "school impact fee" means a charge on new development in order to generate revenue for funding or recouping the costs of capital improvements for schools or school facility expansions necessitated by and attributable to the new development.
- (2) Beginning March 21, 1995, there is a moratorium prohibiting a county, city, town, local school board, or any other political subdivision from imposing or collecting a school impact fee unless hereafter authorized by the Legislature by statute.
- (3) Collection of any fees authorized before March 21, 1995, by any ordinance, resolution or rule of any county, city, town, local school board, or other political subdivision shall terminate on May 1, 1996, unless hereafter authorized by the Legislature by statute.

Renumbered and Amended by Chapter 3, 2018 General Session

Part 3 Establishing an Impact Fee

11-36a-301 Impact fee facilities plan.

- (1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.
- (2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements required by Section 11-36a-302.
- (3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than \$250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:
 - (a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and
 - (b) each applicable notice required by this chapter is given.

Amended by Chapter 200, 2013 General Session

11-36a-302 Impact fee facilities plan requirements -- Limitations -- School district or charter school.

(1)

- (a) An impact fee facilities plan shall:
 - (i) identify the existing level of service;
 - (ii) subject to Subsection (1)(c), establish a proposed level of service;
 - (iii) identify any excess capacity to accommodate future growth at the proposed level of service;
 - (iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and
 - (v) identify the means by which the political subdivision or private entity will meet those growth demands.
- (b) A proposed level of service may diminish or equal the existing level of service.
- (c) A proposed level of service may:
 - (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
 - (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.
- (2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

- (a) grants;
- (b) bonds;
- (c) interfund loans:
- (d) impact fees; and
- (e) anticipated or accepted dedications of system improvements.
- (3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).

(4)

- (a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:
 - (i) through the planning process; or
 - (ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.
- (b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).

(c)

- (i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.
- (ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

Amended by Chapter 200, 2013 General Session

11-36a-303 Impact fee analysis.

- (1) Subject to the notice requirements of Section 11-36a-504, each local political subdivision or private entity intending to impose an impact fee shall prepare a written analysis of each impact fee.
- (2) Each local political subdivision or private entity that prepares an impact fee analysis under Subsection (1) shall also prepare a summary of the impact fee analysis designed to be understood by a lay person.

Enacted by Chapter 47, 2011 General Session

11-36a-304 Impact fee analysis requirements.

- (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) subject to Subsection (2), 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) based on the requirements of this chapter, 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.

Enacted by Chapter 47, 2011 General Session

11-36a-305 Calculating impact fees.

- (1) In 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) for services provided for and directly related to the construction of the system improvements, the cost for planning and surveying, and engineering fees;
 - (d) for a 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; and
 - (e) one or more expenses for overhead.
- (2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Amended by Chapter 35, 2021 General Session

11-36a-306 Certification of impact fee analysis.

- (1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:
 - "I certify that the attached impact fee facilities plan:
 - 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; or
- 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; and
- 3. complies in each and every relevant respect with the Impact Fees Act."
- (2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:
 - "I certify 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; or
 - 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."

Amended by Chapter 35, 2021 General Session

Part 4 Enactment of Impact Fees

11-36a-401 Impact fee enactment.

(1)

- (a) 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.
- (b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.
- (2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

11-36a-402 Required provisions of impact fee enactment.

- (1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:
 - (a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;

(b)

(i) a schedule of impact fees for each type of development activity that specifies the amount of the impact fee to be imposed for each type of system improvement; or

- (ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;
- (c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:
 - (i) respond to:
 - (A) unusual circumstances in specific cases; or
 - (B) 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 or credit for a public facility for which an impact fee has been or will be collected; and
 - (ii) ensure that the impact fees are imposed fairly; and
- (d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.
- (2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:
 - (a) dedicates land for a system improvement;
 - (b) builds and dedicates some or all of a system improvement; or
 - (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.
- (3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit 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:
 - (a) are system improvements; or
 - (b)
 - (i) are dedicated to the public; and
 - (ii) offset the need for an identified system improvement.

Enacted by Chapter 47, 2011 General Session

11-36a-403 Other provisions of impact fee enactment.

- (1) A local political subdivision or private entity may include a provision in an impact fee enactment that:
 - (a) provides an impact fee exemption for:
 - (i) development activity attributable to:
 - (A) low income housing;
 - (B) the state;
 - (C) subject to Subsection (2), a school district; or
 - (D) subject to Subsection (2), a charter school; or
 - (ii) other development activity with a broad public purpose; and
 - (b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.
- (2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.
- (3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session

Part 5 Notice

11-36a-501 Notice of intent to prepare an impact fee facilities plan.

- (1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.
- (2) A notice required under Subsection (1) shall:
 - (a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;
 - (b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and
 - (c) subject to Subsection (3), be provided for the geographic area where the proposed impact fee facilities will be located, as a class A notice under Section 63G-30-102, for at least 10 days.
- (3) For a private entity required to post notice under Subsection (2)(c):
 - (a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and
 - (b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website and, as available, on the general purpose local government's website.

Amended by Chapter 435, 2023 General Session

11-36a-502 Notice to adopt or amend an impact fee facilities plan.

- (1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:
 - (a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;
 - (b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;
 - (c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and
 - (d) hold a public hearing to hear public comment on the plan or amendment.
- (2) With respect to the public notice required under Subsection (1)(a):
 - (a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);
 - (b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and
 - (c) each special district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

(3) Nothing contained in this section or Section 11-36a-503 may be construed to require involvement by a planning commission in the impact fee facilities planning process.

Amended by Chapter 16, 2023 General Session

11-36a-503 Notice of preparation of an impact fee analysis.

- (1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall provide a public notice for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days.
- (2) For a private entity required to post notice under Subsection (1):
 - (a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and
 - (b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website and, as available, on the general purpose local government's website.

Amended by Chapter 435, 2023 General Session

11-36a-504 Notice of intent to adopt impact fee enactment -- Hearing -- Protections.

- (1) Before adopting an impact fee enactment:
 - (a) a municipality legislative body shall:
 - (i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;
 - (ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and
 - (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;
 - (b) a county legislative body shall:
 - (i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;
 - (ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and
 - (iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;
 - (c) a special district or special service district shall:
 - (i) comply with the notice and hearing requirements of Section 17B-1-111; and
 - (ii) receive the protections of Section 17B-1-111;
 - (d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:
 - (i) make a copy of the impact fee enactment available to the public; and
 - (ii) provide notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, for the local political subdivision, as a class A notice under Section 63G-30-102, for at least 10 days; and
 - (e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.
- (2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Amended by Chapter 16, 2023 General Session Amended by Chapter 435, 2023 General Session

Part 6 Impact Fee Proceeds

11-36a-601 Accounting of impact fees.

A local political subdivision that collects an impact fee shall:

- (1) establish a separate interest bearing ledger account for each type of public facility for which an impact fee is collected;
- (2) deposit a receipt for an impact fee in the appropriate ledger account established under Subsection (1);
- (3) retain the interest earned on each fund or ledger account in the fund or ledger account;
- (4) at the end of each fiscal year, prepare a report that:
 - (a) for each fund or ledger account, shows:
 - (i) the source and amount of all money collected, earned, and received by the fund or ledger account during the fiscal year; and
 - (ii) each expenditure from the fund or ledger account;
 - (b) accounts for all impact fee funds that the local political subdivision has on hand at the end of the fiscal year;
 - (c) identifies the impact fee funds described in Subsection (4)(b) by:
 - (i) the year in which the impact fee funds were received;
 - (ii) the project from which the impact fee funds were collected;
 - (iii) the project for which the impact fee funds are budgeted; and
 - (iv) the projected schedule for expenditure; and
 - (d) is:
 - (i) in a format developed by the state auditor;
 - (ii) certified by the local political subdivision's chief financial officer; and
 - (iii) transmitted to the state auditor within 180 days after the day on which the fiscal year ends.

Amended by Chapter 394, 2017 General Session

11-36a-602 Expenditure of impact fees.

- (1) A local political subdivision may expend impact fees only for a system improvement:
 - (a) identified in the impact fee facilities plan; and
 - (b) for the specific public facility type for which the fee was collected.

(2)

- (a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber an impact fee collected with respect to a lot:
 - (i) for a permissible use; and
 - (ii) within six years after the impact fee with respect to that lot is collected.
- (b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:
 - (i) an extraordinary and compelling reason why the fees should be held longer than six years; and
 - (ii) an absolute date by which the fees will be expended.

Amended by Chapter 190, 2017 General Session

11-36a-603 Refunds.

- (1) A local political subdivision shall refund any impact fee paid by a developer, plus interest earned, when:
 - (a) the developer does not proceed with the development activity and has filed a written request for a refund:
 - (b) the fee has not been spent or encumbered; and
 - (c) no impact has resulted.

(2)

- (a) As used in this Subsection (2):
 - (i) "Affected lot" means the lot or parcel with respect to which a local political subdivision collected an impact fee that is subject to a refund under this Subsection (2).
 - (ii) "Claimant" means:
 - (A) the original owner;
 - (B) the person who paid an impact fee; or
 - (C) another person who, under Subsection (2)(d), submits a timely notice of the person's valid legal claim to an impact fee refund.
 - (iii) "Original owner" means the record owner of an affected lot at the time the local political subdivision collected the impact fee.
 - (iv) "Unclaimed refund" means an impact fee that:
 - (A) is subject to refund under this Subsection (2); and
 - (B) the local political subdivision has not refunded after application of Subsections (2)(b) and (c).
- (b) If an impact fee is not spent or encumbered in accordance with Section 11-36a-602, the local political subdivision shall, subject to Subsection (2)(c):
 - (i) refund the impact fee to:
 - (A) the original owner, if the original owner is the sole claimant; or
 - (B) to the claimants, as the claimants agree, if there are multiple claimants; or
 - (ii) interplead the impact fee refund to a court of competent jurisdiction for a determination of the entitlement to the refund, if there are multiple claimants who fail to agree on how the refund should be paid to the claimants.
- (c) If the original owner's last known address is no longer valid at the time a local political subdivision attempts under Subsection (2)(b) to refund an impact fee to the original owner, the local political subdivision shall:
 - (i) post a notice on the local political subdivision's website, stating the local political subdivision's intent to refund the impact fee and identifying the original owner;
 - (ii) maintain the notice on the website for a period of one year; and
 - (iii) disqualify the original owner as a claimant unless the original owner submits a written request for the refund within one year after the first posting of the notice under Subsection (2)(c)(i).

(d)

- (i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.
- (ii) A notice under Subsection (2)(d)(i) shall:
 - (A) explain the person's valid legal claim to the refund; and

- (B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.
- (e) A local political subdivision:
 - (i) may retain an unclaimed refund; and
 - (ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

Amended by Chapter 215, 2018 General Session

Part 7 Challenges

11-36a-701 Impact fee challenge.

(1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.

(2)

- (a) A person or an 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 local political subdivision who established the impact fee.
- (b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.

(3)

- (a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that a local political subdivision imposed may challenge:
 - (i) if the impact fee enactment was adopted on or after July 1, 2000:
 - (A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and
 - (B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and
 - (ii) except as limited by Subsection (3)(c), the impact fee.

(b)

- (i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.
- (ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section 17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).
- (c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.

(4)

- (a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:
 - (i) the substantially prevailing party on that cause of action:
 - (A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and
 - (B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee; and
 - (ii) in accordance with Section 13-43-206, a local political subdivision shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:
 - (A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and
 - (B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the local political subdivision within 30 days after the day on which the court issued the final ruling on the impact fee.
- (b) A local political subdivision subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee.
- (c) This Subsection (4) may not be construed to create a new cause of action under land use law.
- (d) Subsection (4)(a) does not apply unless the cause of action described in Subsection (4)(a) is resolved and final.
- (5) Subject to the time limitations described in Section 11-36a-702 and procedures described in Section 11-36a-703, a claimant, as defined in Section 11-36a-603, may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with Section 11-36a-602.

Amended by Chapter 215, 2018 General Session

11-36a-702 Time limitations.

- (1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:
 - (a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;
 - (b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee;
 - (c) for a challenge under Subsection 11-36a-701(5):
 - (i) if the local political subdivision has spent or encumbered the impact fee, one year after the expiration of the time specified in Subsection 11-36a-602(2); or
 - (ii) if the local political subdivision has not yet spent or encumbered the impact fee, two years after the expiration of the time specified in Subsection 11-36a-602(2); or
 - (d) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.

(2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Amended by Chapter 215, 2018 General Session

11-36a-703 Procedures for challenging an impact fee.

(1)

- (a) A local political subdivision may establish, by ordinance or resolution, or a private entity may establish by prior written policy, an administrative appeals procedure to consider and decide a challenge to an impact fee.
- (b) If the local political subdivision or private entity establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the day on which the challenge to the impact fee is filed.
- (2) A challenge under Subsection 11-36a-701(3)(a) is initiated by filing:
 - (a) if the local political subdivision or private entity has established an administrative appeals procedure under Subsection (1), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;
 - (b) a request for arbitration as provided in Section 11-36a-705; or
 - (c) an action in district court.
- (3) The sole remedy for a successful challenge under Subsection 11-36a-701(1), which determines that an impact fee process was invalid, or an impact fee is in excess of the fee allowed under this act, is a declaration that, until the local political subdivision or private entity enacts a new impact fee study, from the date of the decision forward, the entity may charge an impact fee only as the court has determined would have been appropriate if it had been properly enacted.
- (4) Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1) may not be construed as requiring a person or an entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1).
- (5) The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.
- (6) This chapter may not be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Amended by Chapter 200, 2013 General Session

11-36a-704 Mediation.

- (1) In addition to the methods of challenging an impact fee under Section 11-36a-701, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable impact fee.
- (2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.
- (3) The specified public agency may submit a request for mediation under this section at any time, but no later than 30 days after the day on which an impact fee is paid.
- (4) Upon the submission of a request for mediation under this section, the local political subdivision or private entity shall:
 - (a) cooperate with the specified public agency to select a mediator; and
 - (b) participate in the mediation process.

Enacted by Chapter 47, 2011 General Session

11-36a-705 Arbitration.

- (1) A person or entity intending to challenge an impact fee under Section 11-36a-703 shall file a written request for arbitration with the local political subdivision within the time limitation described in Section 11-36a-702 for the applicable type of challenge.
- (2) If a person or an entity files a written request for arbitration under Subsection (1), an arbitrator or arbitration panel shall be selected as follows:
 - (a) the local political subdivision and the person or entity filing the request may agree on a single arbitrator within 10 days after the day on which the request for arbitration is filed; or
 - (b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an arbitration panel shall be created with the following members:
 - (i) each party shall select an arbitrator within 20 days after the date the request is filed; and
 - (ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.
- (3) The arbitration panel shall hold a hearing on the challenge no later than 30 days after the day on which:
 - (a) the single arbitrator is agreed on under Subsection (2)(a); or
 - (b) the two arbitrators are selected under Subsection (2)(b)(i).
- (4) The arbitrator or arbitration panel shall issue a decision in writing no later than 10 days after the day on which the hearing described in Subsection (3) is completed.
- (5) Except as provided in this section, each arbitration shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (6) The parties may agree to:
 - (a) binding arbitration;
 - (b) formal, nonbinding arbitration; or
 - (c) informal, nonbinding arbitration.
- (7) If the parties agree in writing to binding arbitration:
 - (a) the arbitration shall be binding;
 - (b) the decision of the arbitration panel shall be final;
 - (c) neither party may appeal the decision of the arbitration panel; and
 - (d) notwithstanding Subsection (10), the person or entity challenging the impact fee may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).

(8)

- (a) Except as provided in Subsection (8)(b), if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
- (b) For purposes of applying Title 63G, Chapter 4, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Section 63G-4-502, "agency" means a local political subdivision.

(9)

- (a) An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the local political subdivision is located.
- (b) An appeal under Subsection (9)(a) shall be filed within 30 days after the day on which the arbitration panel issues a decision under Subsection (4).
- (c) The district court shall consider de novo each appeal filed under this Subsection (9).

(d) Notwithstanding Subsection (10), a person or entity that files an appeal under this Subsection (9) may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).

(10)

- (a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
- (b) The filing of a written request for arbitration within the required time in accordance with Subsection (1) tolls all time limitations under Section 11-36a-702 until the day on which the arbitration panel issues a decision.
- (11) The person or entity filing a request for arbitration and the local political subdivision shall equally share all costs of an arbitration proceeding under this section.

Enacted by Chapter 47, 2011 General Session