ORDINANCE #14-12

AN ORDINANCE AMENDING AND UPDATING SANDY CITY'S IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS FOR PARKS AND RECREATION, FIRE, POLICE, WATER, AND STORM WATER FACILITIES AND IMPROVEMENTS; AMENDING THE REVISED ORDINANCES OF SANDY CITY BY AMENDING TITLE 16, "REVENUE AND FINANCE", CHAPTER 14, "DEVELOPMENT IMPACT FEES"; ADOPTING AN AMENDED AND UPDATED IMPACT FEE FOR PARKS AND RECREATION, FIRE, POLICE, WATER, AND STORM WATER; ESTABLISHING CERTAIN POLICIES RELATED TO IMPACT FEES FOR PARKS AND RECREATION, FIRE POLICE, WATER, AND STORM WATER FACILITIES; ESTABLISHING SERVICE AREAS; AND/OR OTHER RELATED MATTERS; ALSO PROVIDING A SAVING CLAUSE FOR THE ORDNANCE AND AN EFFECTIVE DATE.

WHEREAS, Sandy City (the "City") is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the City has legal authority, pursuant to Title 11, Chapter 36a Utah Code Annotated, as amended ("Impact Fees Act" or "Act"), to impose Impact Fees as a condition of development approval, which Impact Fees are used to defray capital infrastructure costs for system improvements attributable to growth activity; and

WHEREAS, the City has historically assessed Impact Fees as a condition precedent to development approval in order to assign capital infrastructure costs to development in an equitable and proportionate manner; and

WHEREAS, the City has traditionally provided a high level of service in its parks and recreation, police and fire protection, water quality and delivery and storm water management, which has been a factor in the City's growth, and high property values due to the services and facilities which City residents enjoy; and

WHEREAS, the City properly noticed its intent to prepare the Impact Fee Facilities Plan (IFFP) and the Impact Fee Analysis (IFA) on April 27, 2012; and

WHEREAS, the City has completed an IFFP and IFA which meets the requirements of State Law and City Ordinance; and

WHEREAS, the City and consultants retained by the City have reviewed and evaluated the land within the City boundaries and have determined there shall be one City-wide Service Area for Parks and Recreation, Fire, Police, and Storm Water at present which includes all land with Sandy City's boundaries and one Service Area for the Water Impact Fee which encompasses the area of the City and any areas outside of the City which are serviced by the City's culinary water system

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but which excludes those areas of the City which are serviced by other water systems such as White City Improvement District and Jordan Valley Water Conservancy District as approximately shown in the IFA. The Service Areas supported by impact fees includes all land served by Sandy City for parks and recreation, fire, police, water, and storm water impact fee services as described in the attached City of Sandy IFFP and IFA; and

WHEREAS, in conjunction with the approval of this ordinance, the City Council held a public hearing on June 17, 2014, which hearing was preceded by notice in the Salt Lake Tribune on June 7, 2014 and by posting in Sandy City Hall, the Sandy City Parks & Recreation Building, and the Salt Lake County Library-Sandy, on the Sandy City Website - http://www.sandy.utah.gov, and the Utah Public Notice Website - http://pmn.utah.gov on June 3, 2014 and made a copy of the IFFP and its Summary, the IFA and its Summary and the Enactment available to the public in the Salt Lake County Library-Sandy and on the City website http://www.sandy.utah.gov, at least ten (10) days before the date of the hearing on June 6, 2014, all in conformity with the requirements of Utah Code Annotated11-36a-502(1).

NOW, THEREFORE, BE IT ORDAINED by the City Council of Sandy City as follows:

SECTION 1. PURPOSE. This Impact Fee Ordinance establishes the City's Impact Fee policies and procedures and amends or repeals certain provisions of prior ordinances related to Impact Fees and conforms to the requirements of the Utah Impact Fees Act (§11-36a) "the Act". It establishes Impact Fees for Parks and Recreation, Fire, Police, Water and Storm Water facilities within the Service Area, provides a schedule of Impact fees for differing types of land-use development and sets forth direction for challenging, modifying and appealing Impact fees.

SECTION 2. DEFINITIONS. Words and phrases that are defined in the Impact Fees Act Chapter 11-36a Utah Code Ann. shall have the same definition in this Development Impact Fees Ordinance. The following words and phrases shall have the following meanings:

"Impact Fee Facilities Plan" means the plan required by Section 11-36a-301 of the Act. Pursuant to Section 11-36a-301 the City has prepared an Impact Fee Facilities Plan (IFFP) in accordance with the Impact Fees Act which is attached hereto as ***Exhibit A***.

"Impact Fee Analysis" means the written analysis required by Section 11-36a-303 of the Act of each impact fee to be imposed. Pursuant to Section 11-36a-303, the City has prepared an Impact Fee Analysis (IFA) of each impact fee which is attached hereto as ***Exhibit B***.

"Development Activity" means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land located within the Service Area that creates additional demand and need for Public Facilities related to Parks and Recreation, Fire, Police, Water, and Storm Water.

"Development Approval" means any written authorization from the City that authorizes the commencement of Development Activity. Typically, development approval would be in the form of a building permit or grading permit issued for infrastructure improvements or Final Subdivision

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Plat Approval issued by the City's Community Development Department.

"City" means a local political subdivision of the State of Utah and is referred to herein as Sandy City.

"Impact Fee" means a payment of money imposed upon Development Activity as a condition of development approval. "Impact Fee" includes development Impact Fees, but is not a tax, a special assessment, a hook-up fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees. In calculating the Impact Fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of System Improvements, and outstanding or future debt service charges if the City might use Impact Fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of System Improvements.

"Project Improvements" includes but is not limited to site improvements and facilities that are planned and designed to provide service for development resulting from a Development Activity and are necessary solely for the use and convenience of the occupants or users of said Development Activity. "Project Improvements" do not include "System Improvements" as defined below.

"Proportionate Share" of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a Development Activity.

"Public Facilities" includes but is not limited to, for purposes of this Ordinance, Park and Recreation, Fire, Police, Water, and Storm Water facilities of the City for the Service Areas.

"Service Area" refers to a geographic area designated by the City based on sound planning and engineering principles in which a defined set of the City's Public Facilities provides service. For purposes of this Ordinance, the Service Areas are described in this Ordinance and in the attached IFFP and IFA.

"System Improvements" refer both to existing Public Facilities designed to provide services within the Service Areas and to future Public Facilities identified in the IFFP adopted by the City that are intended to provide service to the Service Area. "System Improvements" do not include "Project Improvements" as defined above

SECTION 3. WRITTEN IMPACT FEE ANALYSIS.

1. Impact Fee Facilities Plan and Impact Fee Analysis. The City has commissioned the IFFP and IFA for the Parks and Recreation, Fire, Police, Water, and Storm Water Impact Fees that identifies the anticipated impacts upon the City and the facilities required by Development Activity, demonstrates how those impacts on System Improvements are reasonably related to Development Activity, estimates the proportionate share of the costs

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of impacts on System Improvements that are reasonably related to the Development Activity and identifies how the Impact Fees are calculated.

A summary of the IFFP and IFA that is designed to be understood by a lay person is included with the attached IFFP and IFA which demonstrates the need for Impact Fees to be assessed on Development Activity.

A copy of the IFFP and IFA and their summaries have been available for public inspection at least ten (10) days prior to the adoption of this Ordinance.

2. Proportionate Share Analysis. The City has prepared a Proportionate Share Analysis which analyzes whether or not the proportionate share of the costs of future Public Facilities is reasonably related to new Development Activity. The Proportionate Share Analysis identifies the costs of existing Public Facilities, the manner of financing existing Public Facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in the Written Impact Fee Analysis and has been available for public inspection at least ten (10) days prior to the adoption of this Ordinance.

SECTION 4. IMPACT FEE CALCULATIONS

1. Enactment. The City Council hereby enacts this Impact Fee Ordinance in conformance to the requirements of the Utah Impact Fees Act (§11-36a) and in accordance with the IFFP and the IFA and hereby:
   a. Amends Chapter 14 of Title 16 of the Revised Ordinances of Sandy City "Development Impact Fees" to set forth direction for imposing, challenging, modifying and appealing Impact Fees which is attached hereto as ***Exhibit C*** which is hereby adopted; and
   b. Adopts Resolution 14-44C amending the Sandy City Fee Schedule to establish and modify Impact Fees for Park and Recreation, Fire, Police, Water, and Storm Water facilities within the Service Area for differing types of land-use development, a copy of which is attached as ***Exhibit D***.

2. Elements. In calculating the Impact Fees, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of System Improvements, and outstanding or future debt service charges if the City might use Impact Fees as a revenue stream to pay principal and interest on bonds or other obligations to finance the cost of System Improvements.

3. Ordinance. The following provisions are contained in Chapter 14 Title 16 of the Revised Ordinances of Sandy City as shown in ***Exhibit C***:

   a. Service Area. The City hereby establishes one City-wide Service Area for Parks and Recreation, Fire, Police, and Storm Water, at present, which includes all land

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within Sandy City's boundaries, and one Service Area for the Water Impact Fee which encompasses the area of the City and any areas outside of the City which are serviced by the City's culinary water system but which excludes those areas of the City which are serviced by other water systems such as White City Improvement District and Jordan Valley Water Conservancy District as approximately shown in the Impact Fee Analysis Report within which the City calculates and imposes impact fees for various land use categories. The Service Areas include all land served by Sandy City for parks and recreation, fire, police, water, and storm water impact fee services as described in the attached City of Sandy IFFP and IFA.

b. Authorization to Adjust Impact Fee. Title 16 Chapter 14 authorizes the City to adjust the standard impact fee at the time the fee is charged to respond to inflation, unusual circumstances in specific cases or 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; to ensure that the impact fees are imposed fairly; and to permit adjustment based upon studies and data submitted by a developer, including a provision governing calculation of the amount of the impact fee to be imposed on a particular development.

c. Credit or Proportionate Reimbursement of Impact Fees. Title 16 Chapter 14 provides that a developer shall receive a credit against or proportionate reimbursement of an impact fee if the developer dedicates land for a system improvement; builds and dedicates some or all of a system improvement or dedicates a public facility that the City and the developer agree will reduce the need for a system improvement.

d. Impact Fee Exemptions. Title 16 Chapter 14 provides an exemption from impact fees for certain development activities.

e. Impact Fees Accounting. The City will establish a separate interest-bearing ledger account for the Impact Fees collected pursuant to this Ordinance and will conform to the accounting requirements provided in the Impact Fees Act. All interest earned on the collection of Parks and Recreation, Fire, Police, Water, and Storm Water Impact Fees shall accrue to the benefit of the segregated account. Impact Fees collected prior to the effective date of this Ordinance need not meet the requirements of this section.

I. Reporting. At the end of each fiscal year, the City shall prepare a report pursuant to Utah Code Ann. 11-36a-601.

II. Impact Fee Expenditures. The City may expend Impact Fees pursuant to Utah Code Ann. 11-36a-602 including but not limited to expenditures covered by the Impact Fees policy only for System Improvements that are Public Facilities identified in the City's Impact Fee Facilities Plans and of

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the specific public facility type for which the fee was collected. Impact Fees will be expended on a First-In First-Out ("FIFO") basis.

III. Time of Expenditure. Impact Fees collected pursuant to the requirements of this Impact Fees Ordinance are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the City, unless the City Council directs otherwise. For purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

IV. Extension of Time. The City may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing, before the expiration of the six year period, (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.

f. Refunds. The City shall refund any Impact Fees paid by a developer plus interest actually earned when (i) the developer does not proceed with the Development Activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted. An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including, but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based in whole or in part upon the Developer's planned Development Activity even though that capacity may, at some future time, be utilized by another development.

g. Additional Fees and Costs. The Impact Fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the City and other fees and costs that may not be included as itemized component parts of the Impact Fee Schedule. In charging any such fees as a condition of development approval, the City recognizes that the fees must be a reasonable charge for the service provided.

h. Fees Effective at Time of Payment. Unless the City is otherwise bound by a contractual requirement, the Impact Fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Section 4.1 above.

i. Imposition of Additional Fee or Refund After Development Activity. Should any developer undertake Development Activities such that the ultimate density or other impact of the Development Activity is not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the Impact Fee is not initially charged against all units or the total density within the development, the City shall be entitled to recover the total Impact Fee pursuant the IFFP and IFA from the developer or other appropriate person covering the density for which an Impact Fee was not previously paid

4. Resolution. The provisions contained in Resolution 14-44C are as follows:

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Schedule of Impact Fees. Resolution #14-44C establishes 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 the formula that the City will use to calculate each impact fee.

SECTION 5. PROVISIONS SEVERABLE. The provisions of this ordinance shall be severable; and if any provision thereof, or the application of such provision under any circumstances is held invalid, it shall not affect any other provision of this ordinance, or the application in a different circumstance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective ninety (90) days from the date it is approved as set forth below. The City Recorder is hereby directed to publish a summary of this Ordinance as soon as practically possible.

PASSED AND APPROVED by the Sandy City Council this _____day of _____, 2005.

_____
Linda Martinez-Saville, Chairman
Sandy City Council

PRESENTED to the Mayor this _____day of _____, 2014.

APPROVED by the Mayor this _____day of _____, 2014.

_____
Thomas M. Dolan, Mayor

ATTEST:

_____
City Recorder

RECORDED this _____ day of _____, 2014.

SUMMARY PUBLISHED this _____ day of _____, 2014.

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