

ORDINANCE NO. 2021-04

ADOPTING AND ENACTING IMPACT FEES FOR THE CULINARY WATER SYSTEM, INCLUDING BUT NOT LIMITED TO, ADOPTING AN IMPACT FEE ANALYSIS

RECITALS:

WHEREAS, Sunset City has established Impact Fees for a Culinary Water System; and

WHEREAS, Utah Code Annotated (“UCA”) 11-36a-402 allows for said collection of Impact Fees; and

WHEREAS, UCA 11-36a-303 requires that, prior to amending or enacting new Impact Fees, a City shall prepare an Impact Fee Analysis, which is attached and incorporated hereto as Exhibit “A”; and

WHEREAS, UCA 11-36a-503 also requires that a City must cause to be posted on the Utah Public Notice Website a notice of intent to prepare an Impact Fee Analysis; and

WHEREAS, UCA 11-36a-504 requires, and Sunset City has fulfilled, all noticing requirements included therein and caused to be posted on the Utah Public Notice Website a public notice of intent to adopt Impact Fee Enactment; and

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

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

Section 1– Definitions

Section 2– Findings

Section 3– Adoption of Impact Fees Analysis

Section 4– Adoption and Administering of Impact Fees

Section 5– Procedures for Challenging or Appealing Impact Fees or the Administration Thereof

Section 6– Miscellaneous Provisions

Exhibit A– Culinary Water System Impact Fee Analysis, Culinary Water Impact Fee Facilities Plan, including the Culinary Water System Impact Fee Schedule

SECTION 1- DEFINITIONS

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

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

- 1.1.2. "Development Activity" or "New Development" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for Public Facilities. In the case of annexations or building currently using a septic tank it means existing buildings, structure, or use that creates additional demand and need for Public Facilities by connecting to the sanitary sewer collection system/culinary water system.
- 1.1.3. "Equivalent Residential Unit" ("ERU") means a unit of measure which serves as an index to compare the impact on certain Public Facilities equal to the impacts of one typical single-family detached dwelling unit.
- 1.1.4. "Impact Fees" means the Impact Fees adopted and imposed by this Ordinance on Development Activity or New Development within the City and as allowed by UCA § 11-36a-101 *et al.*
- 1.1.5. "Impact Fee Analysis" means the Impact Fee Analysis prepared by the City's engineer.
- 1.1.6. "Impact Fee Facilities Plan" means the Impact Fee Facilities Plan prepared by the City's engineer.
- 1.1.7. "New Development" means the same as "Development Activity. Please reference the definition for "Development Activity" contained in this Ordinance.
- 1.1.8. "Public Facility(ies)" means the System Improvements that have a life expectancy of ten (10) or more years, the City is an Owner, Partner, or Operator, and are necessary in providing culinary water treatment services.
- 1.1.9. "Proportionate Share" means the cost of Public Facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any Development Activity.
- 1.1.10. "Service Area" means the entire area of the incorporated limits of the City and any area outside of the City, which may hereafter be annexed into the City or serviced by the Sunset City Culinary water System.
- 1.1.11. "System Improvements" means existing or future Public Facilities that are identified in the Impact Fee Analysis and or Impact Fee Facilities Plan assigned to provide services to Service Area.
- 1.1.12. "Utah Impact Fees Act" means Utah Code Title 11, Chapter 36a, and as amended.

SECTION 2- FINDINGS

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

- 2.1.1. There are limited existing Public Facilities, and New Development will create the need for the Public Facilities as set out in the Impact Fee Analysis and/or Impact Fee Facilities Plan.
- 2.1.2. There is a need for Public Facilities for New Development which have been constructed with capacity to service New Development and/or have yet to be constructed to service New Development and is required to protect the public's health, safety, and welfare.
- 2.1.3. The existing level of service as calculated in the Impact Fee Facilities Plan and/or Impact Fee Analysis shall be perpetuated in the future.
- 2.1.4. The imposition and collection of the Impact Fees are necessary in providing the Public Facilities occasioned by the demands and needs of the New Development at existing service levels necessary to preserve the public health, safety, and welfare.
- 2.1.5. The Impact Fees are a fair and equitable means of providing Public Facilities to service New Development. Specifically, the Impact Fee Facilities Plan and/or Impact Fee Analysis establishes: (a) the estimated costs for providing the Public Facilities; (b) identifies the impact on the need for those Public Facilities by New Development; (c) demonstrates how the impacts on the need for the applicable Public Facilities are reasonably related to the New Development; (d) estimates the Proportionate Share of the costs of the needed Public Facilities related to New Development; and (e) identifies how the Impact Fees set out in the Impact Fee Facilities Plan and/or Impact Fee Analysis were determined.
- 2.1.6. The Impact Fees established by this Ordinance are reasonably related to the costs of providing such Public Facilities necessitated by anticipated New Development within the City and are consistent with requirements of the Utah Impact Fees Act.

SECTION 3- ADOPTION OF IMPACT FEES ANALYSIS

3.1. Adoption of Impact Fee Analysis. The Impact Fee Analysis provides the analysis, methodology, and formula used for calculation of the Impact Fees imposed by this Ordinance. The City Council hereby approves and adopts the Impact Fee Analysis for the Culinary water System, as contained in Exhibit A.

SECTION 4- ADOPTION AND ADMINISTERING OF IMPACT FEES

4.1. Adoption and Imposition of Impact Fees. The City Council hereby approves and imposes and levies on all Development Activity or New Development Impact Fees for the Culinary water System.

4.2. Calculation of Impact Fee. Culinary water System impact fee shall be collected in the amount contained in Exhibit A- Culinary water System Impact Fee Schedule.

4.2.1. The Impact Fee Analysis and Impact Fee Facilities Plan, as contained in Exhibit A, shall be used in cases where clarification is required regarding the analysis, methodology, and formula used for calculation of the Impact Fees. If any conflict should occur or arise between Exhibit A- Culinary water System Impact Fee Schedule and the Impact Fee Analysis, the Impact Fee Analysis shall prevail.

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

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

4.3. Service Area Established. The entire area of the incorporated limits of the City and any area outside of the City, which may hereafter be annexed into the City or serviced by the Sunset City Culinary water System.

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

4.4.1 Sanitary Sewer Collection. Development Activity requiring sewer that is located a distance greater than five-hundred (500) feet from an existing sewer line is not subject

to any sewer Impact Fee (meaning collection and treatment) until such time as the Development Activity connects to the Sanitary Sewer Collection System.

4.4.2 Annexations. At the discretion of the City Council, the City may require collection of Impact Fees on a Development Activity being annexed into the Corporate Limits of the City, where the parcel will have an immediate impact on Public Facilities and/or System Improvements upon the completion of the annexation.

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

1. Pay for the Public Facilities or System Improvements provided for by this Ordinance and the Impact Fee Facilities Plan and/or Impact Fee Analysis by the City;
2. Reimburse funds to the City for a Development Activity or New Development's Proportionate Share of Public Facilities or System Improvement already constructed by the City. The amount of funds to be reimbursed per Impact Fee is enumerated in Exhibit A;
3. Reimburse funds or grant Impact Fee credits to individuals or entities who dedicate land, construct and dedicate some or all Public Facilities or System Improvement where those Public Facilities or System Improvements are beyond an individual's or entities' Proportionate Share; and
4. Any other use authorized by the "Utah Impact Fees Act" or law.

4.6 Adjustment, Credits, and Reimbursement. In accordance with UCA 11-36a-402 and as amended, the City Council may adjust and/or grant Impact Fee credits or reimbursement of funds to a developer through the collection of future Impact Fees imposed by this Ordinance. The City Council will consider an adjustment and/or grant Impact Fee credits or reimbursement. Any person or entity who believes he/it is entitled for consideration of an Impact Fee adjustment, credit, or reimbursement shall file a written request with the City Recorder. The written request for an Impact Fee adjustment or credit shall set forth, in detail and specificity, the grounds and asserted facts for which an adjustment, credit, or reimbursement is warranted. Any adjustment or Impact Fee credits or reimbursement granted by the City Council shall be memorialized in written form, and shall be a Public Facility and/or System Improvement included in the Impact Fee Facilities Plan and/or Impact Fee Analysis, and based upon the following:

- 4.6.1. Response to unusual circumstances in specific cases;
- 4.6.2. Response to a request for a prompt and individualized Impact Fee review for the Development Activity of the State, a school district, or a charter school and an offset, credit, or reimbursement for a Public Facility for which an Impact Fee has been or will be collected;
- 4.6.3. Ensure that the Impact Fees are imposed fairly;

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

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

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

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

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

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

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

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

4.10 Interpretation of Ordinance. The City Council is the public body to interpret this Ordinance as necessary for the administration of Impact Fees.

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

5.1. Challenges Regarding the Legality of Impact Fee.

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

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

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

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

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

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

5.2.1. **City Council's Review.** Upon receipt of an administrative appeal, the City Council shall thereafter schedule a public hearing, pursuant to the notice requirements of UCA 10-9a-205, on the appeal at which time all interested persons shall be given an opportunity to be heard. The City Council shall then consider the evidence received

using clearly erroneous standard and render its decision on the administrative appeal no later than thirty (30) days after the challenge to the administration of the Impact Fee is filed.

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

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

5.2.4. City Council's Re-review. If the Utah Property Rights Ombudsman Office's written advisory opinion contradicts the City Council's original decision, the City Council shall reconsider the matter. The City Council shall hold a public hearing, pursuant to the notice requirements of UCA 10-9a-205, and all interested persons shall be given an opportunity to be heard. The City Council shall then reconsider the evidence received using a clearly erroneous standard and render its final decision no later than thirty (30) days after receiving the advisory opinion.

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

a. If the proceeding was audio recorded, a transcript of that audio recording is a true and correct transcript for purposes of this Subsection.

b. If there is a record:

i. the court's review is limited to the record provided by the City; and

ii. the advisory opinion issued by the Property Rights Ombudsman for the State of Utah.

c. If there is an inadequate record, the court may call witnesses and take evidence.

d. The court shall affirm the decision of the City Council's if the decision is supported by substantial evidence in the record.

e. The judge may award reasonable attorneys' fees and costs to the prevailing party in any action brought under this Section.

SECTION 6- MISCELLANEOUS PROVISIONS

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

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

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

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

ADOPTED AND PASSED by the Sunset City Council this ____ day of September, 2021.

SUNSET CITY, a Utah Municipal
Corporation

By _____
D Howard Madsen, Mayor

ATTEST:

Susan R. Hale, City Recorder

Publication or Posting Date: _____

EXHIBIT A
IMPACT FEE ANALYSIS AND FACILITIES PLAN FOR
SUNSET CITY CULINARY WATER SYSTEM

SECTION 10

IMPACT FEE ANALYSIS AND IMPACT FEE FACILITIES PLAN (AMMENDED 3/2021)

10 STATUTORY IMPACT FEE STUDY

10.1 Introduction

The use of impact fees to finance public facilities is a concept that has already gained wide acceptance. The impact fee is frequently used as a source of capital financing in large and medium sized urban areas for system expansion. The theory, practical models, and legislation for determining growth-related costs and calculating impact-fees for new construction are well developed.

The Sunset City Water Master Plan incorporates the city's ability to facilitate future growth. These projects will be needed in order for the city to facilitate the anticipated growth of multi-family dwellings. Impact fees will help economically sustain these projects. An evaluation of this impact fee compared to impact fees in surrounding city's will be included.

This study discusses the framework for estimating an impact fee. It also quantifies the maximum amount that a developer or builder will be required to contribute to pay for the costs of the proposed water system.

The proposed source development and infrastructure improvement projects are expected to be funded by various state and federal agencies, in addition to the water service charges and impact fees.

10.2 Definition of Impact Fee

According to the Utah State Legislative Code 11-36a-102, "Impact fee is a payment of money imposed upon development activity as a condition of development approval. Impact fee does not mean a tax, a special assessment, a building permit fee, and a hookup fee, a fee for project improvements, or other reasonable permit or application fee."

An impact fee is a one-time charge on new construction, typically collected at the time of building permit issuance or connection to the water system. Impact fees are designed to ensure that new development contributes a fair share of the cost of the capital improvements needed to serve growth. The premise on which impact fees are based is that development should pay for the cost of providing the facilities necessary to accommodate growth. The costs of projects needed to support growth are financed with impact fees based on some measurement of a development's impact on future needs.

10.3 Purpose of Impact Fees

The impact fees are designed to cover the costs associated with providing new facilities in Sunset and to allow new users to connect to the city's water system. The broad purpose of impact fees is to protect the public health, safety and general welfare by providing an adequate, safe, and reliable water supply. The specific purpose of the impact fees calculated in this study is to fund

the construction of the proposed water source improvements and infrastructure improvement project. This report documents the data, methodology, and results of the impact fee study.

10.4 Legal Framework and Regulatory Requirement

The methods used to calculate impact fees in this study are intended to satisfy all legal requirements governing such fees, including provisions of the U. S. Constitution, and Utah State Legislative Statutes.

1. U. S. Constitution: Like all land use regulations, impact fees are subject to the Fifth Amendment prohibition on taking of private property for public use without compensation. Both state and federal courts have recognized the imposition of impact fees on development as a legitimate form of land use regulation, provided the fees meet standards intended to protect against regulatory takings. To comply with the Fifth Amendment, development regulations must be shown to substantially advance a legitimate governmental interest. In the case of impact fees, that interest is in the protection of public health, safety, and welfare by ensuring that development is not detrimental to the quality of essential public services.

2. Utah State Legislative Statutes: Based on the Utah Impact Fee Act, a political entity such as county, municipality, or a special district imposing impact fees must prepare a written analysis of each impact fee that:

- Identifies the impact on system improvements required by the development activity.
- Demonstrates how those impacts on system improvements are reasonably related to the development activity.
- Estimates the proportionate share of the costs of the impacts on system improvements that are reasonably related to the new development activity; and identifies how the impact fee was calculated.

Utah Impact Fee Act includes the following Utah State Legislative Codes:

Utah State Legislative Codes	Subject
11-36a-101	Title
11-36a-102	Definitions
11-36a-201	Impact Fees – Impact Fees
11-36a-301	Establishing an Impact Fee - Impact Fee Facility Plan
11-36a-302	Establishing an Impact Fee - Impact Fee Facility Plan Requirements
11-36a-303	Establishing an Impact Fee - Impact Fee Analysis
11-36a-304	Establishing an Impact Fee - Impact Fee Analysis Requirements
11-36a-305	Establishing an Impact Fee – Calculating Impact Fees
11-36a-306	Establishing an Impact Fee – Certification of Impact Fee Analysis
11-36a-401	Enactment of Impact Fees - Impact Fee Enactment
11-36a-402	Enactment of Impact Fees – Required Provision of Impact Fee Enactment
11-36a-501	Notice – Notice of Intent to Prepare an Impact Fee Facilities Plan
11-36a-503	Notice – Notice of Intent to Preparation of an Impact Fee Analysis
11-36a-504	Notice – Notice of Intent to Adopt Impact Fee Enactment – Hearing - Protections
11-36a-601	Impact Fee Proceeds – Accounting of Impact Fees
11-36a-602	Impact Fee Proceeds – Expenditures of Impact Fees
11-36a-603	Impact Fee Proceeds - Refunds
11-36a-701	Challenges - Impact Fees Challenges
11-36a-703	Challenges – Procedure for Challenging an Impact Fee
11-36a-704	Challenges – Mediation
11-36a-705	Challenges – Arbitration

Based on the Utah Impact Fee Act (Utah State Legislative Code 11-36a-102), an impact fee study is a prerequisite for a capital facility plan for a political entity such as county, municipality, or a special district. The political entity may only impose impact fees on development activities when its plan for financing system improvements establishes that impact fees are necessary to achieve equitable allocation to the costs borne in the past and to be borne in the future, in comparison to the benefits already received and yet to be received. The capital facility plan should include impacts that the proposed facility may have on the affected entity.

In calculating the impact fee, the following cost items may be included (Utah Impact Fee Act, Utah State Legislative Code 11-36a-305):

- The construction contract price;
- The cost of acquiring land, improvements, materials, and fixtures;

- The planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and
- The 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 system improvements.

10.5 Impact Fee Analysis

An Impact Fee Analysis (IFA) for Sunset City was conducted to determine the anticipated impacts new development will have on the existing water system (per Utah Code 11-36a-303). As mentioned previously, much of the development Sunset City is expected to see is redevelopment of older areas within the city into multi-family housing. The impacts of the redevelopment of these areas will create a demand multiple times greater than that which is currently present. This added demand will reduce the existing level of service to these areas of the system.

10.5.1 Anticipated Impact

As development occurs within the city, the city will see an increased demand or a drop in the level of service on their system. System demands are determined based on the number of Equivalent Residential Connections (ERCs) the system serves (see Section 3 of this report). Sunset City currently serves 2,082 ERCs. It is anticipated that within the next 10 years there will be two major multi-family developments occurring within Sunset City. One multi-family development will be located at 1300 North and 350 West and the other near 2000 North and Main. These new developments will result in an additional 287 ERCs for total of 2,369 ERCs by 2030. Cost associated with maintaining the level of service in these areas of anticipated development will be discussed later in this section.

10.5.2 Existing Level of Service

Section 4 of this report (Water Demand Criteria) establishes the existing LOS for Sunset City per Utah Administrative Code 309-510. This code provides demand requirements and a LOS for source, storage and distribution. A summary of the water demand criteria and existing LOS for Sunset City is shown below in Table 10.1. It is important to note that impact fee funds cannot be used to increase the LOS, rather maintain the existing LOS.

Table 10.5 Water Demand Criteria / Existing LOS

Source/Storage		
Existing Source (indoor + outdoor)	1,131	Acre-Feet Provided by Weber Basin
Existing ERCs	2,082	
Existing LOS	0.54	Acre-Feet/ERC
Distribution		
Peak Day Demand	40	psi
Peak Instantaneous Demand	30	psi
Fire Flow + Peak Day Demand	20	psi

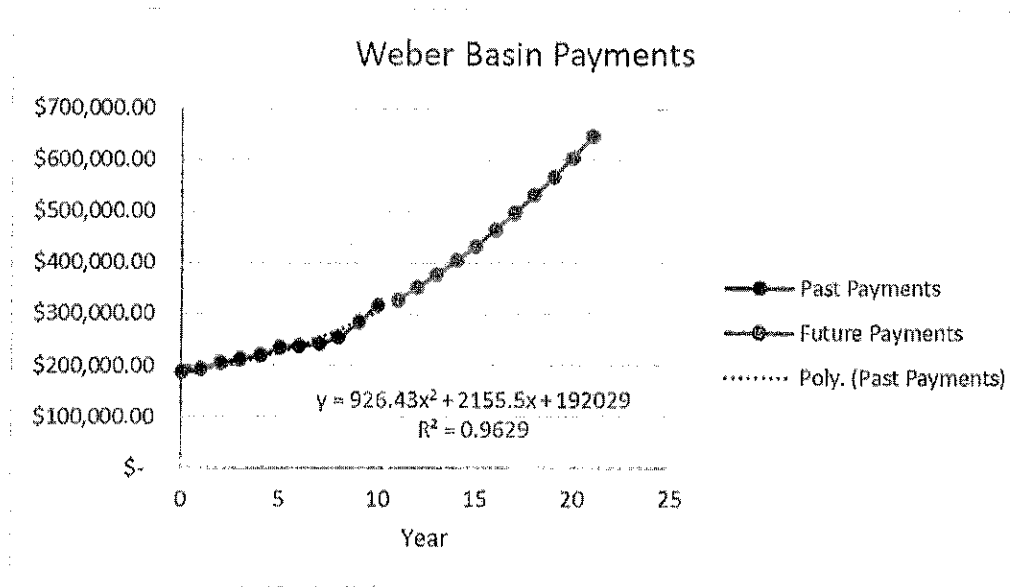
There are currently areas within Sunset City's system that do not meet the LOS above (see hydraulic model exhibits). The areas within Sunset City's system, that do not meet this LOS, would be considered existing deficiencies.

10.5.3 Water System Valuation

Sunset City water system consists of source, storage and distribution. The source and storage are provided by Weber Basin through a purchase agreement which consist of annual payments. In 2020, Sunset City paid \$318,240 for source and storage. Weber Basin reevaluates their water rates annually. Over the past 10 year the water rates from Weber Basin have increased by 70%. Based on invoices from Weber Basin over the past 10 years, by 2030 Sunset City will be paying \$601,668 per year for source and storage. Table 10.2 shows the past 10 years (2010 – 2020) payments to Weber Basin as well as the project payment over the next 10 years (2021-2031).

Table 10.2 Weber Basin Rate Increases

Weber Basin Rate Increases			
Past 10 Years (2010 - 2020)	Past Payment	Projected 10 Years (2021 - 2031)	Projected Payments
0	\$ 186,750.71	11	\$ 337,209.98
1	\$ 192,682.00	12	\$ 357,310.74
2	\$ 203,966.00	13	\$ 378,609.68
3	\$ 213,108.00	14	\$ 401,178.24
4	\$ 218,876.00	15	\$ 425,092.08
5	\$ 233,716.00	16	\$ 450,431.41
6	\$ 238,238.00	17	\$ 477,281.19
7	\$ 241,774.00	18	\$ 505,731.46
8	\$ 256,114.00	19	\$ 535,877.62
9	\$ 284,080.00	20	\$ 567,820.77
10	\$ 318,240.00	21	\$ 601,668.01



The cost to maintain the existing LOS for source and storage through Weber Basin will likely continue to increase over the next 10 years. For this reason, the valuation for source and storage shown in Table 10.3 shows an appreciation rather than depreciation for the source and storage.

The existing distribution system consists of approximately 1,726 connections, 105,000 liner feet of pipe of sizes ranging from 3 – 12 inches in addition to 310 water valves and 183 fire hydrants. The estimated valuation of the distribution system was estimated at an original value of \$10,509,580. The original cost was depreciated according to the City's water system depreciation schedule. Table 10.3 shows the system valuation per system component.

Table 10.3 Source and Storage IFFP Costs

System Component	Original Cost	Cost to IFFP
Source / Storage	\$318,240	\$458,019
Distribution	\$10,509,581	\$3,050,000

10.5.4 Existing and Excess System Capacity

As stated before, impact fee funds are designed to maintain the existing LOS and help offset the cost to maintain that LOS as a result of development. The portion of impact fee funds that can be used to maintain the existing LOS is based on the portion of existing excess capacity consumed by development. The existing and excess source and storage capacity were evaluated in terms of ERCs and yearly demand. The required source and storage capacity for Sunset City is 1,131 acre-feet. Sunset City currently purchases 1,400 acre-feet of source and storage from Weber Basin. This provides Sunset City with an excess source and storage capacity of 269 acre-feet or 498 ERCs. It is anticipated that over the next 10 years Sunset City will add an additional 287 ERCs via multi-family redevelopment which will consume approximately 58% of the existing

capacity. Table 10.4 shows the existing and excess source and storage capacity and the anticipated portion of excess capacity to be consumed over the next 10 years.

Table 10.4 Source/Storage Excess Capacity

Source / Storage Excess Capacity	
Existing ERC	2082
Total Required Acre-Feet	1131
Existing Capacity Acre-Feet	1400
Surplus Capacity Acre-Feet	269
Surplus as % of Total capacity	19%
ERCs Served by Excess Capacity	498
ERCs in IFFP in Horizon	287
% of Excess Capacity	58%

The existing and excess distribution capacity is based on the existing ERCs and the ERCs at the build-out state. The portion of excess capacity consumed over the next 10 years due to development. Sunset City currently serves 2,082 existing ERCs. At buildout, Sunset City will have approximately 2,735 ERCs (see Section 3 of this report). The distribution system excess capacity is the difference between the existing ERCs and ERCs at buildout which is 653 ERCs. Over the next 10 years Sunset City is expected to add 287 ERCs due to anticipated development. The additional 287 ERCs will consume approximately 44% of the existing excess capacity. Table 10.5 shows the existing excess capacity and expected excess capacity consumption over the next 10 years.

Table 10.5 Distribution Excess Capacity

Distribution Excess Capacity	ERCs	% of Buildout	Development
Existing ERCs	2082	76%	-
10 Year IFFP ERCs	2369	87%	-
Buildout ERCs (Year 2060)	2735	100%	-
New ERCs in IFFP (Next 10 Years)	287	10%	44%
New ERCs to Buildout	653	24%	100%

10.5.5 Capital Improvements VS Impact Analysis

Capital improvement projects are designed to address existing system deficiencies. Capital improvement projects are funded through, grants, bonds/loans, usage fees etc. A list of proposed capital improvement projects is included in Section 8 of this report. Impact fee funds cannot be used to fund capital improvement projects. However, if added demands from new development causes the existing LOS to drop, a portion of the impact fee funds can be used to address the drop in LOS. The portion of impact fee funds that can be used on capital improvement project is

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based on the percentage of excess capacity consumed through new development. Table 10.6 shows a list of projects that will be needed to maintain the existing LOS if/when the anticipated developments occur near 1300 North and 2250 North and their estimated cost. The table also show the estimated amount of the project that can be funded through impact fees.

Table 10.6 Capital Projects

Item	Description	Estimated Cost	Future Year	Future Year Cost	ERCs Served	ERCs Remaining	% to IFFP	Cost to IFFP
Source / Storage								
1	Purchase additional 287 ERCs or 155 acre-feet of source and storage from Weber Basin.	\$34,100	2025	\$34,441	287	0	0%	\$0
Distribution								
2	350 West from 1300 North to 1550 North Waterline Improvement Project (Install 1,400' of 8" waterline)	\$450,000	2023	\$454,500	653	287	44%	\$199,757
3	400 West from 1300 North to 1550 North Waterline Improvement Project (Install 1,400' of 8" waterline)	\$450,000	2026	\$459,000	653	287	44%	\$201,735

10.5.6 Maximum Allowable Proposed Impact Fees

The proposed impact fees are based on equitable buy-in and new facility improvement methodology in relation to development. Equitable buy-in, provides a mean for developers to buy-in to an existing system that has been paid for by Sunset City. Equitable buy-in provides funding from developers who stand to benefit from infrastructure which they have not contributed to. The fee associated to the equitable buy-in is based off of the existing system valuation. New facility improvements are new facilities needed to meet the added demands created through development and maintain the existing LOS. Future facility fees are based off of the portion of excess capacity consumed by developers in conjunction with future facility improvement cost required to maintain the existing LOS. The sum of the equitable buy-in fee and new facility fee is the maximum allowable proposed impact fee per ERC for Sunset City which is \$2,690 per ERC. Table 10.7 shows the breakdown of buy-in and new facility fees. For simplicity a meter-based impact fee schedule has been provided in Table 10.8 based off of the maximum allowable proposed impact fee and ERC multiplier.

Table 10.7 Buy In and New Facilities

	Cost	% to IF Eligible	IF Eligible Cost	% In IFA Horizon	Cost in IFA Horizon	ERCs Served	Cost per ERC
Buy In							
Source / Storage	\$458,019	19%	\$88,005.12	58%	\$50,702.73	287	\$176.66
Distribution	\$3,050,000	24%	\$728,208.41	44%	\$320,054.84	287	\$1,115.17
New Facilities							
Source / Storage	\$34,441	0%	\$0				
Distribution	\$913,500	100%	\$913,500.00	44%	\$401,492.34	287	\$1,398.93
Other							
Professional Expense	\$10,000	100%	\$10,000.00	100%	\$10,000.00		
Impact Fee Balance	\$0	100%	\$0.00	100%	\$0.00	287	\$0.00
						Total	\$2,690.77

Table 10.8 Meter Based ERC's

Meter Size (in)	AWWA Flow Rate (GPM)	ERC Multiplier	Impact Fee per Meter Size
3/4	30	1.00	\$2,690.77
1	50	1.75	\$4,708.84
1.5	100	2.92	\$7,848.07
2	160	5.10	\$13,734.12
3	350	8.51	\$22,890.20
4	600	14.89	\$40,057.85
6	1250	24.81	\$66,763.08

The maximum allowable proposed impact fee is considered to be the maximum amount Sunset City can charge for culinary water impact fees. Sunset City can choose to charge less than the recommend maximum allowable impact fee.

10.6 Impact Fee Facility Plan Certification

Ensign Engineering and Sunset City jointly certify that the Impact Fee Facility Plan prepared for Sunset City's culinary water service:

1. Includes only the costs of public facilities that are:
 - a. Allowed under the Impact Fee Act.
 - b. Actually incurred; or
 - c. Projected to be incurred or encumbered within 10 years after the day on which the impact fee is paid.

2. Does not include:
 - a. Costs of operation and maintenance of public facilities
 - b. Costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees above the level of service that is supported by existing residents
 - c. An expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and methodological standards set forth by the federal office of management and budget for federal grant reimbursement and
3. Complies in each and every relevant respect with the Impact Fees Act.

10.7 Impact Fee Analysis Certification

Ensign Engineering and Sunset City jointly certify that the Impact Fee Facility Plan prepared for Sunset City's culinary water service:

1. Includes only the costs of public facilities that are:
 - d. Allowed under the Impact Fee Act.
 - e. Actually incurred; or
 - f. Projected to be incurred or encumbered within 10 years after the day on which the impact fee is paid.
2. Does not include:
 - a. Costs of operation and maintenance of public facilities
 - b. Costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees above the level of service that is supported by existing residents
 - c. An expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and methodological standards set forth by the federal office of management and budget for federal grant reimbursement and
3. Offsets costs with grants or other alternate source of payment; and
4. Complies in each and every relevant respect with the Impact Fees Act.

Ensign Engineering makes this certification with the following disclaimer:

1. All recommendations for implementation of the IFFP made in the IFFP or in the IFA documents are followed by the City Staff and elected officials.
2. If all or a portion of the IFFP or IFA are modified or amended, this certification is no longer valid.

3. All information provided to Ensign Engineering is assumed to be correct, complete and accurate. This includes information provided by the City as well as outside sources.