

A RESOLUTION ADOPTING THE 2017 REGIONAL IMPACT FEE FACILITIES PLAN AND ANALYSIS, ENACTING AN IMPACT FEE PURSUANT TO THE IMPACT FEE FACILITIES PLAN AND IMPACT FEE ANALYSIS, AND PRESCRIBING RELATED POLICY AND PROCEDURE

WHEREAS, the Washington County Water Conservancy District (District) is a political subdivision of the State of Utah, duly authorized and organized pursuant to Utah law;

WHEREAS, the District is authorized pursuant to Title 11, Chapter 36a, Utah Code Annotated, as amended (Impact Fees Act), to impose impact fees as a condition of development approval, which impact fees are used to mitigate the impact of new development on public infrastructure necessary for water supply, treatment, and transmission;

WHEREAS, the District desires to assess impact fees as a condition of development approval in order to appropriately assign the costs of public infrastructure necessitated by new development to the new development;

WHEREAS, the District currently assesses a regional impact fee under the Regional Water Capital Facilities Plan and Impact Fee Analysis adopted October 2006 (2006 CFP) in the Regional District Service Area depicted in **Exhibit 1: Impact Fee Service Area**;

WHEREAS, the District has directed Applied Analysis and Zions Bank Public Finance, Inc. (Consultants), to prepare an Impact Fee Facilities Plan (IFFP) and Impact Fee Analysis (IFA) consistent with the Impact Fees Act, which are included in **Exhibit 2: 2017 Regional Water Impact Fee Facilities Plan & Analysis**;

WHEREAS, the IFFP and IFA recommend updating the fees currently assessed in the Regional District Service Area (the area served by the District's regional system, including new District retail customers and new customers of the District's municipal wholesale partners under the Regional Water Supply Agreement);

NOW THEREFORE, the Board of Trustees of the Washington County Water Conservancy District RESOLVES and ENACTS as follows:

Section 1 PURPOSE

Pursuant to the requirements of the Impact Fees Act, this Impact Fee Resolution (Resolution) (i) adopts the 2017 Regional Impact Fee Facilities Plan and Analysis, (ii) modifies and enacts the District's regional water impact fee pursuant to the Plan and Analysis, and (iii) adopts related policy and procedure.

Section 2 DEFINITIONS AND EXHIBITS

Words and phrases that are defined in the Act have the same definition in the Resolution. The exhibits referenced are incorporated herein.

Section 3 NOTICE

1. Pursuant to sections 11-36a-501 and 503 of the Impact Fees Act, notice of intent to prepare the IFFP and IFA was published on the Utah Public Notice Website, included as **Exhibit 3**.
2. Before approving the Resolution, the District held a public hearing on September 20, 2017.
3. Within the timeframes required by the Impact Fees Act and Utah Code Annotated Section 17B-1-111, the District provided the following notices (see **Exhibit 4**):
 - a. The District posted notice of the public hearing in four public places within the District.
 - b. The District published notice of the public hearing in a newspaper of general circulation in the District.
 - c. The District has made available a copy of this Resolution, the IFFP and IFA (and summary of both designed to be understood by a lay person) for public inspection.
 - d. The District has posted notice of the District's intent to modify the existing impact fee and to enact the modified impact fee, specifying the impact fee type on the Utah Public Notice Website.
 - e. The District has placed a copy of the IFFP, IFA and summary in each public library in the District.
 - f. Additionally, the District has placed a copy of the Resolution in each public library in the District, and the IFFP, IFA and summary have been posted on the District website.

Section 4 ADOPTION OF THE 2017 REGIONAL IMPACT FEE FACILITIES PLAN AND ANALYSIS

1. Impact Fee Facilities Plan and Analysis. The 2017 Regional Impact Fee Facilities Plan and Analysis (**Exhibit 2**) demonstrate the need for regional impact fees to be charged as a condition of development approval to mitigate the impact of new development on public infrastructure necessary for water supply, treatment, and transmission. The IFFP and IFA identify the impacts on the District's regional water system from new development activity, demonstrate how those impacts on system improvements are reasonably related to the development activity, estimate the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity, and identify how the impact fee is calculated.

The Board hereby adopts the 2017 Regional Impact Fee Facilities Plan and Analysis with the following clarifications (underlined language is added; stricken language is removed):

- a. On page 2, the first paragraph will be amended to read:

In compliance with the Utah Impact Fees Act, Utah Code Ann. § 11-36a-101, *et seq.* (the “Act”), Washington County Water Conservancy District (District) commissioned Applied Analysis and Zions Public Finance, Inc. (Consultants) to prepare the following Regional Water Impact Fee Facilities Plan (IFFP) and Impact Fee Analysis (IFA) for the 10-year planning window spanning 2017 to 2026 to benefit all District retail and wholesale customers served by the District’s regional system.

- b. On page 19, the last sentence of the paragraph will be amended to read:

Commercial, institutional, and some residential connections may require more than one ERC.

- c. On page 19, footnote 25 will be amended to read:

The multipliers used to establish ERCs per meter size are ~~representative of~~ based on the multipliers derived from historic average annual water use for different meter sizes in the City of St. George.

2. Full Impact Fee. The IFA calculates the full impact fee permitted to be charged under the Impact Fees Act (full impact fee) to be \$17,071 (in 2017 dollars) per Equivalent Residential Connection (ERC).

The Consultants recommend that the portion of the impact fee attributable to future facilities be tied to the annually published Producer’s Price Index of Construction Materials (PPI), and adjusted yearly to account for changes in construction costs of new facilities. For illustrative purposes, page 14 of the Appendix to the 2017 Regional Impact Fee Facilities Plan and Analysis demonstrates the annual adjustment of the full impact fee assuming a 2.4% yearly average of the month over month increase in the PPI (which will change each year with the publication of the PPI).

The Board hereby adopts the recommendation to tie the portion of the full impact fee attributable to future system improvements to the PPI and adjust it yearly to account for changes in construction costs of future system improvements. The District will make the adjustment to the full impact fee annually on January 1, beginning January 1, 2019.

Section 5 IMPACT FEE ENACTMENT

1. Service Area. The service area for the Washington County Water Conservancy District 2017 Regional Impact Fee Facilities Plan and Analysis is any area within the Regional District Service Area shown in **Exhibit 1** that is served by a party to the Regional Water Service Agreement (RWSA) (2006). Thus, the impact fee will be assessed to new development served by the District's regional system, including new District retail customers and new customers of the District's municipal wholesale partners under the RWSA. See UCA §11-36a-402(1)(a).
2. Schedule of Impact Fees. The schedule of impact fees for residential, institutional and commercial development activity is included on page 19 of the 2017 Regional Impact Fee Facilities Plan and Analysis. The impact fees are imposed solely for water infrastructure system improvements for the District's regional water system. Pursuant to separate impact fee plans and enactments already enacted or to be enacted, additional impact fees related to the costs of retail distribution, transmission, storage, and supplemental source for the District's retail water system will be assessed to new development in addition to the impact fee enacted in this Resolution. These additional impact fees do not recover any portion of the costs or capacities included in the impact fee enacted in this Resolution.

The impact fee is calculated on the basis of one ERC which is served by a ¾-inch meter size or smaller. The schedule shows the ERCs calculated for each meter size starting with a ¾-inch meter size or smaller and the corresponding impact fee in 2017 dollars. See UCA § 11-36a-402(1)(b)(i).

3. Impact Fee Calculation Formula. See UCA § 11-36a-402(1)(b)(ii).
 - a. Full Impact Fee Calculation Formula. The IFA calculates the full impact fee permitted to be charged under the Impact Fees Act (full impact fee) to be \$17,071 (in 2017 dollars) per ERC.

To calculate the portion of the impact fee attributable to supply and transmission facilities (supply facilities), the cost of existing supply facilities with excess capacity is added to the cost of future facilities necessary to meet the demands of growth to determine the total cost of supply facilities. The total cost of supply facilities is then divided by the yield (in acre-feet) of the total supply facilities to determine the cost of supply facilities per acre-foot of yield. This cost per acre-foot is multiplied by the level of service (0.89 acre-feet per ERC) to determine the portion of the impact fee attributable to supply facilities for one ERC.

To calculate the portion of the impact fee attributable to treatment facilities, the cost of existing treatment facilities with excess capacity is added to the cost of future facilities necessary to meet the demands of growth to determine the total cost of treatment facilities. The total cost of treatment facilities is then divided by the capacity (in acre-feet) of the treatment facilities to determine the cost of treatment facilities per acre-foot of capacity. This cost per acre-foot is multiplied by the level of service (0.89 acre-feet per ERC) to determine the portion of the impact fee attributable to treatment facilities for one ERC.

The costs per ERC of supply facilities and treatment facilities are added together to determine the total impact fee for one ERC. This formula is demonstrated in Tables 14–16 of the IFA.

The Board hereby adopts this formula as the formula for calculating the full impact fee permitted to be charged under the Impact Fees Act, subject to:

- i. The Board’s adoption in Section 4, subsection 2;
- ii. The Board’s finding and enactment in Section 5, subsection 3(b) of the Resolution.

However, the Board is permitted to reduce the impact fee to be charged to an amount lower than the full impact fee.

- b. Reduced Impact Fee Calculation Formula. The Board finds that it is appropriate to charge 75% of the full impact fee to new development activity and supplement the remainder of the costs of system improvements attributable to new development activity with funds from other sources.

The Board intends to phase in increases to the impact fee until it reaches 75% of the full impact fee (adjusted annually pursuant to Section 4, subsection 2 of the Resolution), and correspondingly phase down the supplemental contributions from other sources until they reach 25% of the contribution toward the amount of the full impact fee. This requires a delayed implementation schedule for raising the reduced impact fee to 75% and decreasing the contributions from other sources to 25%.

The Board resolves that new development activity will be charged the reduced impact fee rather than the full impact fee and enacts the formula for determining the reduced impact fee for one ERC as follows:

- i. Beginning Reduced Impact Fee. Beginning January 1, 2018 and effective through the end of year 2018, the reduced impact fee will

be \$8,417, which is 49.30% of the full impact fee of \$17,071 per ERC.

- ii. Final Reduced Impact Fee. The reduced impact fee will be increased annually until it reaches 75% of the full impact fee. The reduced impact fee will not go beyond 75% of the full impact fee unless the Board adopts a subsequent Resolution enacting the full impact fee or a higher percentage for the reduced impact fee.
- iii. Supplement from Other Sources. The remainder of the costs of system improvements attributable to new development activity will be financed by other sources.
- iv. Delayed Implementation Schedule. To phase in raising the reduced impact fee to 75% of the full impact fee, the Board enacts a delayed implementation schedule as follows:
 - 1. Beginning January 1, 2019, and each year following on January 1, the amount of the reduced impact fee will increase annually at \$1,000 per year until the reduced impact fee reaches 75% of the full impact fee. (The full impact fee will be adjusted annually pursuant to Section 4, subsection 2 of this Resolution.)
 - 2. To keep the reduced impact fee at 75% of the full impact fee, once it reaches 75% of the full impact fee, the reduced impact fee will only be adjusted annually pursuant to Section 4, subsection 2 of this Resolution.
 - 3. For illustrative purposes, page 14 of the Appendix to the 2017 Regional Impact Fee Facilities Plan and Analysis demonstrates the delayed implementation of the increase in the reduced impact fee until it reaches 75% of the full impact fee, and the annual PPI adjustment thereafter to keep it at 75%.

4. Adjustments.

- a. The District may adjust the impact fee at the time it is charged to ensure that it is imposed fairly and to respond to:
 - i. unusual circumstances in specific cases, or
 - ii. 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.See UCA § 11-36a-402(1)(c).
- b. The District may adjust an impact fee to be imposed on a particular development that based on studies and data submitted by the developer. See UCA § 11-36a-402(1)(d).

5. Developer Credits.

- a. A developer, including a school district or charter school, is permitted to receive a credit against or proportionate reimbursement of an impact fee if the developer:
 - i. dedicates land for a system improvement;
 - ii. builds and dedicates some or all of a system improvement; or
 - iii. dedicates a public facility that the District and the developer agree will reduce the need for a system improvement.

See UCA § 11-36a-402(2).

- b. A developer will receive 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:
 - i. are system improvements; or
 - ii. are dedicated to the public and offset the need for an identified system improvement.

See § UCA 11-36a-402(3).

Section 6 ADOPTION OF RELATED POLICY AND PROCEDURE

1. Impact Fee Accounting. The District will follow the procedures set forth in Utah Code Annotated Section 11-36a-601.
2. Refunds. The District will follow the procedure for refunding impact fees paid by a developer, plus interest, as set forth in Utah Code Annotated Section 11-36a-603. An impact that would preclude a developer from a refund may include any impact reasonably identified by the District, including, but not limited to, the District 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.
3. Other Impact Fees. To the extent allowed by law, the Board may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, at the discretion of the Board, include, but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developers who assist in funding growth-related water facilities.
4. 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 District, and other fees and costs that may not be included as itemized component parts of the Impact Fee Schedule. In charging any such fees, the District recognizes that the

fees must be a reasonable charge for the service provided.

5. Fees Effective at Time of Payment. Unless the District is otherwise bound by a contractual requirement, the impact fee will be determined from the fee schedule in effect at the time of payment as set forth in Section 5, subsection 3(b).
6. Imposition of Additional Fee or Refund After Development. Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the District, 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 District will be entitled to charge the appropriate impact fee to the developer or other appropriate person covering the portion for which an impact fee was not previously paid.
7. Waiver for “Public Purpose”. The District Board may, on a project by project basis, authorize exceptions or adjustments to the then Impact Fee rate structure for those projects the District Board determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by tax-supported agencies, affordable housing projects, or facilities of a temporary nature. The District Board may elect to waive or adjust impact fees in consideration of economic benefits to be received from the developers’ activity. Applications for exceptions are to be filed with the District at the time the applicant first requests the extension of service to the applicant’s development or property.
8. Appeal Procedure. Any person or entity that has paid an impact fee pursuant to this Resolution may challenge the impact fee by filing: (i) an appeal to the District pursuant to paragraph a, b and c of this subsection; (ii) a request for arbitration as provided in Utah Code Annotated Section 11-36a-705; or (iii) an action in state district court as provided in Utah Code Annotated Section 11-36a-703(2)(c).
 - a. Application. Any person or entity that has paid an impact fee pursuant to this Resolution may challenge or appeal the impact fee by filing a written notice of appeal with the District within one year after the day on which the person or entity pays the impact fee.
 - b. Hearing. Upon receiving the written notice of appeal, the District will set a hearing date to consider the merits of the challenge or appeal. The person or entity challenging or appealing the fee may appear at the hearing and present any written or oral evidence deemed relevant to the challenge or appeal. Representatives of the District may also appear and present evidence to support the imposition of the fee.

- c. Decision. The hearing panel, which shall consist of the District Board or such other body as the Board designates, will hold a hearing and make a decision within 30 days after the date the hearing is held.

Section 7 MISCELLANEOUS

1. Severability. If any section, subsection, paragraph, clause or phrase of the Resolution shall be declared invalid for any reason, such decision shall not affect the remaining portions of the Resolution, which shall remain in full force and effect, and for this purpose, the provisions of the Resolution are declared to be severable.
2. Interpretation. The Resolution has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of Resolution shall not be affected by such division or by any heading contained herein.
3. Effective. This Resolution does not repeal, modify or affect any impact fee of the District not discussed herein. Pursuant to Utah Code Annotated Section 11-36a-401(2), the impact fee for the Regional District Service Area discussed herein shall become effective on January 1, 2018 (which is at least 90 days after the approval of the impact fee enactment). Until such time, the current impact fee for this service area shall remain in effect.

Dated this the 20th day of September, 2017.

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

Ed Bowler, Chairman

Attest:

Roberta McMullin, Secretary-Treasurer

Exhibit 1: Impact Fee Service Area

Exhibit 2: 2017 Regional Water Impact Fee Facilities Plan and
Analysis

Exhibit 3: Notice of Intent to Prepare Regional Water Impact Fee
Facilities Plan and Analysis

Exhibit 4: Notice of Intent to Adopt Regional Impact Fee Facilities Plan
and Analysis and Impact Fee Enactment
