



PREPARED FOR:



PREPARED BY:



NORTH SALT LAKE CITY

STORM DRAIN IMPACT FEE ANALYSIS

MARCH 2023

NORTH SALT LAKE CITY STORM DRAIN IMPACT FEE ANALYSIS

March 2023



3/9/23

Prepared for:



Prepared by:



EXECUTIVE SUMMARY

INTRODUCTION

North Salt Lake City (City) has retained Bowen Collins & Associates (BC&A) to prepare an impact fee analysis (IFA) for its storm drain system based on a recently completed impact fee facility plan. An impact fee is a one-time fee, not a tax, imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure. The purpose of an IFA is to calculate the allowable impact fee that may be assessed to new development in accordance with Utah code.

WHY ASSESS AN IMPACT FEE?

As new users join a system, they add demands that must be satisfied through new facilities or use of excess capacity in existing facilities. Until all required projects are completed and new development is utilizing the full capacity of existing facilities, the City can assess an impact fee to recover its cost of latent capacity available to serve the future development. The general impact fee methodology divides the available capacity of existing and future capital projects between existing and future users based on their projected demands.

HOW ARE IMPACT FEES CALCULATED?

A fair impact fee is calculated by dividing the cost of existing and future facilities by the amount of new growth that will benefit from the unused capacity. Only the capacity that is needed to serve the projected growth within the next ten years is included in the fee. Costs used in the calculation of impact fees include:

- New facilities required to maintain (but not exceed) the proposed level of service identified in the IFFP; only those expected to be built within ten years are considered in the final calculations of the impact fee.
- Historic costs of existing facilities that will serve new development
- Cost of professional services for engineering, planning, and preparation of the impact fee facilities plan and impact fee analysis

Costs not used in the impact fee calculation

- Operational and maintenance costs
- Cost of facilities constructed beyond 10 years
- Cost of facilities funded by grants, developer contributions, or other funds which the City is not required to repay
- Cost of renovating or reconstructing facilities which do not provide new capacity or needed enhancement of services to serve future development

IMPACT FEE CALCULATION

Impact fees for this analysis were calculated by dividing the proportional cost of facilities required to service 10-year growth by the amount of growth expected over the next 10-years. This is done for each of the major components in the storm drain system. Calculated impact fees are

summarized in Table ES-1. For impact fee purposes the North Salt Lake storm drain system now includes only one service areas. However, there will be a reimbursement area that was previously represented as Service Area #2 that will have an additional surcharge.

**Table ES-1
Impact Fee Calculation**

Storm Drain System Components	Total Cost of Component	% Serving 10-Year Growth	Cost Serving 10-Year Growth	10-Year Acres Served	Cost per Acre
Existing Facilities	\$3,584,598.38	4.8%	\$173,378.40	200	\$866.89
10-Year Projects	\$5,622,559.41	7.9%	\$445,541.81	200	\$2,227.71
Impact Fee Studies	\$99,030.00	60%	\$59,418.00	200	\$297.09
Subtotal	\$9,306,187.79	-	\$678,338.21	-	\$3,391.69
Impact Fee					\$3,391.69

The impact fee is separate from any additional charges levied by the City for hookup costs or for other reasonable permit and application fees.

RECOMMENDED IMPACT FEE

The total calculated impact fee is summarized in Table ES-2. This is the legal maximum amount that may be charged as an impact fee. A lower amount may be adopted if desired, but a higher fee is not allowable under the requirements of Utah Code.

**Table ES-2
Recommended Per Acre Impact Fee**

Maximum Allowable Impact Fee (Per acre, by year)						
	2022	2023	2024	2025	2026	2027
All Properties						
Base Impact Fee (includes study costs)	\$3,391.69	\$3,391.69	\$3,391.69	\$3,391.69	\$3,391.69	\$3,391.69
User Fee Credit	\$1,163.26	\$1,073.38	\$988.23	\$907.56	\$831.12	\$758.71
Total Overall Fee	\$2,228.43	\$2,318.31	\$2,403.46	\$2,484.13	\$2,560.57	\$2,632.98
Properties in Service Area #2 Reimbursement Area						
Additional Reimbursement Cost	\$10,689.38	\$10,689.38	\$10,689.38	\$10,689.38	\$10,689.38	\$10,689.38
Total Overall Fee – Service Area #2	\$12,917.81	\$13,007.69	\$13,092.84	\$13,173.51	\$13,249.95	\$13,322.36

SECTION 1 INTRODUCTION

North Salt Lake City (City) has retained Bowen Collins & Associates (BC&A) to prepare an Impact Fee Analysis (IFA) for its storm drain system based on a recently completed impact fee facility plan. An impact fee is a one-time fee, not a tax, imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure. The purpose of an IFA is to calculate the allowable impact fee that may be assessed to new development in accordance with Utah code.

Requirements for the preparation of an IFA are outlined in Title 11, Chapter 36a of the Utah code (the Impact Fees Act). Under these requirements, an IFA shall accomplish the following for each facility:

1. Identify the impact of anticipated development activity on existing capacity and system improvements required to maintain the established level of service
2. Demonstrate how the impacts are reasonably related to anticipated development activity
3. Estimate the proportionate share of:
 - a. Costs of existing capacity that will be recouped
 - b. Costs of impacts on system improvements that are reasonably related to the new development activity
4. Identify how the impact fee was calculated
5. Consider the following additional issues
 - a. Manner of financing improvements
 - b. Dedication of system improvements
 - c. Extraordinary costs of servicing newly developed properties
 - d. Time-price differential

The following sections of this report have been organized to address each of these requirements.

SECTION 2
IMPACT ON SYSTEM (11-36a-304.1(a)(b))

Growth within the City’s service areas, and projections of storm water flows resulting from said growth is discussed in detail in the City’s Master Plan and Impact Fee Facilities Plan. Growth in developed acres projected for each service area (as identified and discussed in the Impact Fee Facilities Plan) is summarized in Table 2-1.

Table 2-1
Existing and Projected Developed Acreage

Development Type	North Salt Lake City
Existing Development (Acres)	3,791
10-Year Development (Acres)	200
Greater than 10-Year Development (Acres)	144
Total	4,135

As indicated in the table, projected growth for the 10-year planning window of this impact fee analysis is 200 acres. In order to maintain the established level of service, projected future growth will be met through a combination of available excess capacity in existing facilities and construction of additional capacity in new facilities.

SECTION 3

RELATION OF IMPACTS TO ANTICIPATED DEVELOPMENT

(11-36a-304.1(c))

To satisfy the requirements of state law, it is necessary to show that all impacts identified in the impact fee analysis are reasonably related to the anticipated development activity. This has been documented in detail in the City's storm drain Impact Fee Facilities Plan. In short, only that capacity directly associated with demand placed upon existing system facilities by future development has been identified as an impact of the development. The steps completed to identify the impacts of anticipated development are as follows.

1. **Existing Development** – The demand existing development places on the system was estimated based on GIS records and available aerial photography.
2. **Existing Capacity** – The capacities of existing facilities were calculated based on the level of service criteria established for each type of facility in the Impact Fee Facilities Plan.
3. **Existing Deficiencies** – Existing deficiencies in the system were looked for by comparing defined levels of service against calculated capacities. Where existing deficiencies existed, projects were identified to eliminate the deficiencies. Costs associated with existing deficiencies were not assigned to impacts of development.
4. **Future Development** - The demand future development will place on the system was estimated based on development projections as discussed in Section 2.
5. **Future Demand Use of Existing Capacity** – Whenever possible, excess capacity in existing facilities has been used to serve future demands. Where this occurs, the amount of capacity used by future growth has been calculated as described in detail in the Impact Fee Facilities Plan.
6. **Future Deficiencies** – Where excess capacity is inadequate to meet projected demands, future deficiencies in the system were identified using the same established level of service criteria used for existing demands.
7. **Recommended Improvements** – Needed system improvements were identified to meet demands associated with future development.

**SECTION 4
PROPORTIONATE SHARE ANALYSIS (11-36a-304(d))**

A comprehensive proportionate share analysis associated with anticipated future development and its impact on the system was completed as part of the Impact Fee Facilities Plan. A summary of that analysis is contained here with additional discussion of the costs of facilities impacted by growth.

EXCESS CAPACITY TO ACCOMMODATE FUTURE GROWTH

The portion of existing capacity used by existing and future development was analyzed in detail as part of the Impact Fee Facilities Plan. Based on the analysis, the calculated percentage of existing capacity in system facilities used by existing users, growth during the 10-year planning window, and growth beyond the 10-year planning window is summarized in Table 4-1.

**Table 4-1
Use of Existing Capacity**

	North Salt Lake City
Existing Development	91.7%
10-Year Growth	4.8%
Growth Beyond 10 years	3.5%
Total	100.0%

EXISTING SYSTEM INFRASTRUCTURE COSTS

To calculate the value of excess capacity in the existing system, BC&A first looked at the value of all existing facilities. North Salt Lake City has on record the actual construction costs of existing system level components of the City’s storm drain system since 2007, which totals \$3,584,598.38. These are actual costs and were obtained from the City.

It should be noted that the impact fee eligible cost identified above represent only a portion of the total system value. System costs not included in the total include facilities with a service life of less than 10 years, project level improvements serving single developments, and improvements not paid for by the City (e.g. projects funded through grants, developer dedications, etc.). In this study, public facility costs already incurred by the City will be included in the impact fee only to the extent that new growth will be served by the previously constructed improvements.

REIMBURSEMENT AGREEMENTS

There is an existing reimbursement agreement between the City and Eaglewood Village, Inc. A copy of the reimbursement agreement is included in Appendix A. The cost of the reimbursement is \$2,416,868, which includes both the construction cost and associated interest. Based on the agreement, the total developable area subject to the reimbursement agreement is 226.1 acres. The reimbursement service area is shown in the figure in Appendix B and is labeled as “Service Area #2”. The reimbursement will be added to the citywide impact fee as an impact fee surcharge for

those properties falling within the reimbursement service area. The total cost of the reimbursement is \$10,689.38/acre.

FUTURE IMPROVEMENTS

In addition to using available existing capacity, demand associated with projected future development will be met through the construction of additional capacity in new facilities. A primary focus of the Impact Fee Facilities Plan was the identification of projects required to serve new development. The results of the Impact Fee Facilities Plan are summarized in Table 4-2. Table 4-2 includes improvements for the City. Included in the table are the costs of each required project and the portion of costs associated with development.

**Table 4-2
Impact Fee Eligible Capital Projects**

Project ID	Project Expense - 2020 Dollars	10-Year Growth	Cost Attributable to 10-Year Growth
HD-01	\$ 379,659.75	0.0%	\$ -
HD-03	\$ 265,902.75	0.2%	\$ 624.23
HD-05	\$ 485,636.25	0.0%	\$ -
HD-06	\$ 249,075.00	37.7%	\$ 93,890.37
HD-07	\$ 478,258.13	44.7%	\$ 213,770.03
HD-08	\$ 89,100.00	5.2%	\$ 4,671.73
HD-09	\$ 310,873.50	3.7%	\$ 11,573.78
HD-10	\$ 258,142.50	0.0%	\$ -
HD-12	\$ 98,550.00	41.5%	\$ 40,883.29
CD-01	\$ 179,190.00	0.0%	\$ -
CD-02	\$ 758,025.00	0.0%	\$ -
CD-03	\$ 426,937.00	0.0%	\$ -
CD-04	\$ 493,278.08	0.8%	\$ 4,080.77
CD-08	\$ 196,920.00	5.3%	\$ 10,459.27
CD-05	\$ 249,842.50	6.7%	\$ 16,661.86
CD-06	\$ 281,503.50	0.0%	\$ -
CD-07	\$ 134,540.00	25.9%	\$ 34,798.22
CD-09	\$ 287,124.96	4.9%	\$ 14,128.26
Total	\$ 5,622,559.41	--	\$ 445,541.81

**SECTION 5
IMPACT FEE CALCULATION (11-36a-304.1(e))**

Using the information contained in the previous sections, impact fees can be calculated by dividing the proportional cost of facilities required to service 10-year growth by the amount of growth expected over the next 10-years. This is done for each of the major system components identified previously. Calculated impact fees for City are summarized in Table 5-1.

**Table 5-1
Impact Fee Calculation**

Storm Drain System Components	Total Cost of Component	% Serving 10-Year Growth	Cost Serving 10-Year Growth	10-Year Acres Served	Cost per Acre
Existing Facilities	\$3,584,598.38	4.8%	\$173,378.40	200	\$866.89
10-Year Projects	\$5,622,559.41	7.9%	\$445,541.81	200	\$2,227.71
Impact Fee Studies	\$99,030.00	60%	\$59,418.00	200	\$297.09
Subtotal	\$9,306,187.79	-	\$678,338.21	-	3,391.69
Impact Fee					\$3,391.69

The total impact fee per acre can be calculated by adding up the fee for each type of system component. The impact fee is separate from any additional charges levied by the City for hookup costs or for other reasonable permit and application fees. It is also independent of any additional required reimbursement for project level improvements as discussed previously.

BONDING INTEREST COSTS

North Salt Lake City does not have any bonds (either existing or planned in the future) that are eligible for reimbursement through impact fees. Correspondingly, no bonding costs are shown in the table.

IMPACT FEE STUDIES

Utah code allows for the cost of planning and engineering associated with impact fee calculations to be recovered as part of the impact fee. This study includes the actual costs of the master plan, IFFP and IFA as part of the reimbursable impact fee costs. Projected costs of future studies have not been included in this total. However, it is recommended that a comprehensive review of the impact fee study should be performed every three to five years.

CREDIT FOR USER CHARGES

Not all of the existing deficiencies identified in the plan can be paid for from existing cash reserves. As a result, the plan includes some bonding toward projects that have at least a portion of their costs that benefit existing users. In this situation, user fees will be used to pay for the bonds over their lifetime.

For projects where this is the case, future users will pay for their portion of capacity via impact

fees. They cannot also be expected to pay through user rates the portion of future bonds that will be used to build capacity or remedy deficiencies for existing users. This creates the need for a credit for future users. Calculation of this credit is summarized in Table 6. This table includes the following information:

- **Existing Paid Through User Fees** – This represents the total amount paid each year by the City toward the portion of past or future bonds used to cure existing deficiencies or increase the level of service for existing users. This results in an annual cost to existing users of \$340,732.80.
- **Cost Per Acre** – This column takes the total amount paid and divides it by the number of ERUs projected for each year. This represents the amount paid in each year by each ERU.
- **Present Value Cost per Acre** – This column takes into account the time value of money assuming a rate of return of 5 percent annually.
- **Total User Fee Credit** – At the bottom of the table, the present value costs for all future years are added together to develop the total user fee credit.

It will be noted that, because the user fee credit is the summation of user fees paid toward existing deficiencies in each year, a new user who joins the system in five or ten years will pay less in total user fees than someone who joins the system next year. Thus, the user fee credit will decrease over time. The appropriate user fee can be calculated by adding the present value cost for all years subsequent to a new user's connection to the system.

Table 6
Credit for User Fees Paid Toward Existing

Year	Developed Acres	Cost Per Acre	Present Value Cost Per Acre	Impact Fee
2022	3,791	\$89.88	\$89.88	\$2,228.43
2023	3,811	\$89.41	\$85.15	\$2,318.31
2024	3,831	\$88.94	\$80.67	\$2,403.46
2025	3,851	\$88.48	\$76.43	\$2,484.13
2026	3,871	\$88.02	\$72.42	\$2,560.57
2027	3,891	\$87.57	\$68.61	\$2,632.98
2028	3,911	\$87.12	\$65.01	\$2,701.60
2029	3,931	\$86.68	\$61.60	\$2,766.61
2030	3,951	\$86.24	\$58.37	\$2,828.21
2031	3,971	\$85.81	\$55.31	\$2,886.58
2032	3,991	\$85.38	\$52.41	\$2,941.89
2033	4,006	\$85.06	\$49.73	\$2,994.30
2034	4,020	\$84.76	\$47.20	\$3,044.03
2035	4,035	\$84.44	\$44.78	\$3,091.23
2036	4,049	\$84.15	\$42.50	\$3,136.01
2037	4,064	\$83.84	\$40.33	\$3,178.51
2038	4,078	\$83.55	\$38.28	\$3,218.84
2039	4,093	\$83.25	\$36.32	\$3,257.12
2040	4,107	\$82.96	\$34.47	\$3,293.44
2041	4,121	\$82.68	\$32.72	\$3,327.91
2042	4,135	\$82.40	\$31.06	\$3,360.63
Total		\$1,800.62	\$1,163.26	--

RECOMMENDED IMPACT FEE

The total calculated impact fee is summarized in Table 5-2. This is the legal maximum amount that may be charged as an impact fee. A lower amount may be adopted if desired, but a higher fee is not allowable under the requirements of Utah Code.

**Table 5-2
Recommended Per Acre Impact Fee**

Maximum Allowable Impact Fee (Per acre, by year)						
	2022	2023	2024	2025	2026	2027
All Properties						
Base Impact Fee (includes study costs)	\$3,391.69	\$3,391.69	\$3,391.69	\$3,391.69	\$3,391.69	\$3,391.69
User Fee Credit	\$1,163.26	\$1,073.38	\$988.23	\$907.56	\$831.12	\$758.71
Total Overall Fee	\$2,228.43	\$2,318.31	\$2,403.46	\$2,484.13	\$2,560.57	\$2,632.98
Properties in Service Area #2 Reimbursement Area						
Additional Reimbursement Cost	\$10,689.38	\$10,689.38	\$10,689.38	\$10,689.38	\$10,689.38	\$10,689.38
Total Overall Fee – Service Area #2	\$12,917.81	\$13,007.69	\$13,092.84	\$13,173.51	\$13,249.95	\$13,322.36

SECTION 6
ADDITIONAL CONSIDERATIONS (11-36a-304.2)

MANNER OF FINANCING (11-36a-304.2.(a)-(e))

As part of this Impact Fee Analysis, it is important to consider how each facility has been or will be paid for. Potential infrastructure funding includes a combination of different revenue sources.

User Charges

Because infrastructure must generally be built ahead of growth, there often arises situations in which projects must be funded ahead of expected impact fee revenues. In some cases, the solution to this issue will be bonding. In others, funds from existing user rate revenue will be loaned to the impact fee fund to complete initial construction of the project and will be reimbursed later as impact fees are received. Consideration of interfund loans should be considered in subsequent accounting of impact fee expenditures.

Special Assessments

Where special assessments exist, the impact fee calculation must take into account funds contributed. No special assessments exist for this analysis.

Bonds

As described in a previous section, the City does not have adequate cash reserves to pay for the existing portion of the deficiencies. A bond with an interest rate of 5% has been incorporated into the User Fee Credits. The City currently has no other eligible storm water bonds.

Impact Fee Fund Balance

The City does carry a current balance in its impact fee fund. In this analysis, the capacity associated with the development that paid these impact fees has been accounted for as part of existing system demand. As a result, it would be inappropriate to use any portion of the current balance towards projects benefiting future growth. It should be noted that the City does have an obligation under the law to spend or encumber these funds within a six year window of their collection. However, these expenditures will be independent of capacity associated with future growth and are correspondingly not shown as a source of financing for the impact fee eligible expenditures identified in this report.

General Taxes

If taxes are used to pay for infrastructure, they should be accounted for in the impact fee calculation. Specifically, any contribution made by property owners through taxes should be credited toward their available capacity in the system. In this case, no taxes are proposed for the construction of infrastructure.

Federal and State Grants and Donations

Impact fees cannot reimburse costs funded or expected to be funded through federal grants and other funds that the City has received for capital improvements without an obligation to repay. The City has no grants or donations for storm drain infrastructure that need to be included in this analysis. If grants become available for constructing facilities, impact fees will need to be recalculated and an appropriate credit given.

DEDICATION OF SYSTEM IMPROVEMENTS (11-36a-304.2(f))

Developer exactions may be considered in the inventory of current and future infrastructure. If a developer constructs facility or dedicates land, the value of the dedication is credited against that particular developer's impact fee liability.

If the recognized value of the credit is less than the development's impact fee liability, the developer will owe the balance of the liability to the City. If the recognized value of the improvements/land dedicated is more than the development's impact fee liability, the City must reimburse the difference to the developer.

It should be emphasized that the concept of impact fee credits pertains to system level improvements only. For project level improvement (i.e. projects not identified in the impact fee facility plan), developers will be responsible for the construction of the improvements without credit against the impact fee.

EXTRAORDINARY COSTS (11-36a-304.2(g))

The impact fee act indicates the analysis should include consideration of any extraordinary costs of servicing newly developed properties. In cases where one area of potential growth may cost significantly more to service than all other growth, a separate service area may be warranted. No areas with extraordinary costs have been identified as part of this analysis.

TIME-PRICE DIFFERENTIAL (11-36a-304.2.(h))

Utah code requires consideration of time-price differential in order to create fairness for amounts paid at different times. Per the requirements of the code, existing infrastructure value is based on actual historical costs.

NOTICING AND ADOPTION REQUIREMENTS (11-36A-504)

The Impact Fees Act requires that entities must publish a notice of intent to prepare or modify any IFA. Before the resulting impact fee can be adopted, the City must:

- Provide notice in accordance with Section 10-9a-205 of State Code. This includes reasonable notice of a public hearing published in a local newspaper at least 10 days before the actual hearing.
- A copy of the IFA and proposed impact fee enactment must be made available on the City's website or posted in each public library within the service area during the notice period for public review and inspection.
- Following the noticing period, a public hearing will be held, after which the IFA and impact fee enactment may be adopted, amended and adopted, or rejected.

SECTION 7
IMPACT FEE CERTIFICATION (11-36A-306.2)

This IFA has been prepared in accordance with Utah Code Title 11, Chapter 36a (the “Impact Fees Act”), which prescribes the laws pertaining to the imposition of impact fees in Utah. The accuracy of this report relies upon the planning, engineering, and other source data, which was provided by the City and their designees.

In accordance with Utah Code Annotated, 11-36a-306(2), Bowen Collins & Associates, makes the following certification:

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;
 - b. costs of 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; or
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the 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.

Kameron Ballentine

Dated: March 9, 2023



NORTH SALT LAKE ENGINEERING

10 East Center St.
North Salt Lake, Utah 84054
(801) 335-8700
(801) 335-8739 Fax

LEN ARAVE
Mayor

PAUL OTTOSON
City Engineer

December 1, 2011

Ben Lowe
Compass Development Group
13525 South Venicia Way
Draper, UT 84020

Dear Ben,

On November 16, 2010, the City of North Salt Lake ("City") entered into a Storm Drainage Impact Fee Credit and Reimbursement Agreement ("Reimbursement Agreement") with Eaglewood Village, Inc. The Reimbursement Agreement states:

"Upon completion and acceptance by the City Engineer of any portion of the capital improvements, the Company shall submit to the City invoices and supporting documentation for the costs of the capital improvements."

"The City Engineer shall either approve or disapprove the invoices submitted by the Company in a timely manner. Upon acceptance and approval of the invoices, the City Engineer shall authorize the City to use Exhibit A, either as is or amended as may be necessary, as the basis for the impact fee credits and impact fee reimbursements."

On September 1, 2011, Eaglewood Village, Inc. Provided the City with invoices for \$1,843,468 related to storm drainage improvements. This letter is to inform EVI that the invoices have been reviewed and accepted and that, as more fully described in the Reimbursement Agreement and Letter, EVI is entitled to its share of the reimbursements and or credits associated with the approved storm drainage invoices as described above subject to the terms of the Reimbursement Agreement. It should be noted, as stated in the Reimbursement Agreement, that North Salt Lake City has previously remitted to EVI a sum of \$870,000 for the purpose of reimbursement for the subject storm drainage improvements. Reimbursements will be remitted to EVI as impact fees are collected by the City per the Reimbursement Agreement and Letter. No further verification or invoices are required to evidence that storm drainage improvements in the amount of \$1,843,468 have been completed by EVI and accepted by the City.

Please let me know if you have any questions. I look forward to continuing to work with you on this project in the coming months and years.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Ottoson".

Paul Ottoson, P.E.
City Engineer

Y: engineering eng projects 08-001 Eaglewoodvillage sdreimbursement

CITY OF NORTH SALT LAKE

DAVIS COUNTY, UTAH

STORM DRAINAGE IMPACT FEE
CREDIT AND REIMBURSEMENT AGREEMENT

Agreement related to certain storm drainage improvements constructed by Eaglewood Village, Inc. within
City of North Salt Lake Service Area #2

THIS IMPACT FEE CREDIT AND REIMBURSEMENT AGREEMENT (the "Agreement") is made and entered into this the 16th day of November, 2010, by and between the City of North Salt Lake a duly created and organized municipality of the State of Utah (the "City") and Eaglewood Village, Inc. (the "Company") whose address is 13525 South Venicia Way, Draper, Utah 84020 for the purposes of setting forth the conditions, requirements and provisions related to the availability of the Company to be credited or reimbursed for costs related to the construction and dedication of storm drainage improvements within the City of North Salt Lake Storm Drainage Service Area #2. The City and the Company are also referred to herein, collectively, as the "Parties".

WHEREAS, the City completed a capital facilities plan and impact fee analysis for the purpose of identifying the specific capital improvements needed to serve development within service areas within the municipal boundaries of the City;

WHEREAS, the City adopted Ordinance No. 07-16 in August 2007, whereby the City imposed storm water impact fees as a condition of development approval within the North Salt Lake Storm Drainage Service Area #2 ("Service Area #2");

WHEREAS, the City has specifically identified several storm drainage capital improvements in its capital facilities plan and impact fee analysis for Service Area #2, a portion of which have or will be constructed by the City or the Company and are identified in Exhibit A which is incorporated into this Agreement by this reference;

WHEREAS, the Company, as of the date of this Agreement, has or will construct a part or all of the capital improvements identified in Exhibit A for purposes of providing adequate infrastructure to serve the Eaglewood Village Development Project (the "Project");

WHEREAS, the City, as of the date of this Agreement, has contributed \$870,000.00 to the storm drainage improvements identified in Exhibit A for purposes of providing adequate infrastructure to serve the needs of Service Area #2;

WHEREAS, the capital improvements constructed by the Company and the City and listed in Exhibit A are also specific capital facilities that were included in the City's capital facilities plan and impact fee analysis related to Service Area #2 and were the basis for Ordinance No. 07-16;

WHEREAS, the Parties desire to set forth this Agreement to govern the collection, credit and reimbursement of storm drainage impact fees within Service Area #2

NOW THEREFORE, in consideration of these premises, the mutual covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which both Parties acknowledge, the City and Company agree as follows:

ARTICLE I DEFINITIONS

A. Definitions

1. CAPITAL FACILITIES PLAN means a certain capital facilities plan prepared by Gilson Engineers, Inc. related to the City's storm water system and adopted by the City on August 21, 2007.
2. CAPITAL IMPROVEMENTS ELIGIBLE FOR CREDIT OR REIMBURSEMENT means the specific storm drainage improvements identified in Exhibit A.
3. CITY means the City of North Salt Lake, Davis County, Utah.
4. COMPANY means Eaglewood Village Inc. a corporation duly created and existing in the State of Utah.
5. EFFECTIVE DATE means the date of this Agreement as first referenced in the introductory paragraph of this Agreement.
6. IMPACT FEE ANALYSIS means the impact fee analysis adopted by the City in August 2007.
7. NOTICE means any formal notice or communication required or permitted to be given by one Party to another by this Agreement.
8. ORDINANCE NO. 07-16 means the City of North Salt Lake's Impact Fee Ordinance adopted the 21st day of August 2007, including any and all exhibits attached thereto.
9. SERVICE AREA #2 means a certain geographical area located within the municipal boundaries of the City and further identified in Exhibit B, a map of the City's storm drainage service area #2.
10. SERVICE UNIT means for purposes of storm water impact fees impervious surface area proportionally assignable to varying types of development uses and is the measurement used to determine the amount of the storm water impact fee.

B. Interpretation of Terms, and Incorporation of Exhibits.

Except where the context otherwise clearly requires, in this Agreement; words imparting the singular will include plural and vice versa;

1. All exhibits attached to this Agreement are incorporated by reference for all pertinent purposes as though fully copied and set forth at length; and
2. References to any document means that document as amended or as supplemented from time to time; and references to any party means that party, its successors and assigns.

ARTICLE II
COMPANY CONTRIBUTION AND CONSTRUCTION OF CAPITAL FACILITIES

A. Conveyance of Capital Facilities; Acceptance of City

1. Company has constructed and dedicated storm drainage system improvements as more fully described in Exhibit A.
2. The City Engineer shall review and accept any completed portion of the capital improvements constructed by the Company and shall verify the specific amounts and improvements identified in Exhibit A. The City further agrees that by virtue of the Company constructing any portion of the storm drainage capital improvements in Exhibit A and upon acceptance and review of the City Engineer, the Company shall be entitled to reimbursement and or credits related to storm drainage impact fees, as more fully described in Article III and Article IV below.

ARTICLE III
IMPACT FEE CREDITS

A. Application of Impact Fee Credits

1. If the Company or a related entity is the developer of certain property which is subject to the storm drainage impact fees within Service Area #2, the Company shall be entitled to impact fee credits in the amount equivalent to the proportionate amount of the storm water impact fee due at the time of building permit as expressed as a Service Unit.
2. The City and Company agree that the City may, from time to time, update, modify and revise the capital facilities plan and impact fee analysis within Service Area #2 for purposes of storm water impact fees and in order to adjust for actual costs incurred.
3. The City and Company agree that the amount of impact fee credits will be limited to the actual costs proportionally incurred by the Company.

B. Use of Impact Fee Credits

1. Impact fee credits are earned as development occurs within the Project. Unearned impact fee credits shall not be transferable and cannot be applied to other fees, converted to cash, or used on other developments within the City; however, impact fee credits shall be subject to any reimbursements received in Article IV herein and the overall benefit to the Company shall be limited to a total maximum of \$1,028,302 as set forth in Exhibit A, calculated as the value of both impact fee credits received in accordance to Article III and reimbursements received in accordance with Article IV. In no event shall the Company receive more than \$1,028,302 of impact fee credits and reimbursements, plus financing costs as more fully described in Article VI.
2. The Company may with the written consent of the City assign the Company's impact fee credits to an assignee or other related party but said assignment shall accrue to the maximum total credit or reimbursement amount identified in paragraph B (1) above.

ARTICLE IV
COMPANY'S IMPACT FEE REIMBURSEMENTS

A. Application of Impact Fee Reimbursements; Proportionality of Reimbursements

1. If the Company is not the developer of certain property which is subject to the storm drainage impact fees within Service Area #2, the Company shall be entitled to reimbursement from storm drainage impact fees collected within Service Area #2. The Company's storm drain reimbursement will be limited to the amount expended by the Company on storm drain improvements as described in Exhibit A.
2. The Company acknowledges that the City has participated in the construction of a portion of the storm drain improvements identified in the Capital Facilities Plan and Impact Fee Analysis and is therefore entitled to storm water impact fee reimbursements. The proportionate amount of City's contribution to the storm drain is also set forth in Exhibit A.
3. The Company shall be entitled to receive 54.2% of the storm water impact fees collected within Service Area #2. The storm water impact fee reimbursements for the Company are on parity with the storm water impact fee reimbursements of the City and shall be reimbursed to each party on a proportional basis.

B. Limits Regarding Impact Fee Reimbursements

1. The Company is entitled to a maximum reimbursement amount of \$1,028,302, which shall be computed by the combination of impact fee credits received in accordance to Article III herein and the impact fee reimbursements received in accordance to this section. In no event shall the Company receive more than \$1,028,302 of impact fee credits and impact fee reimbursements, plus financing costs as more fully described in Article VI.
2. The Company can use the impact fee reimbursements in any manner they determine reasonable and justified.

ARTICLE V
CITY'S IMPACT FEE REIMBURSEMENTS

A. City's Entitlement to Receive Impact Fee Reimbursements; Proportionality of Reimbursements

1. The City has contributed to the construction of certain storm drainage improvements identified in the Capital Facilities Plan and Impact Fee Analysis, a sub-set which is included in Exhibit A and is therefore entitled to reimbursement from the collection of storm water impact fees collected with Service Area #2.

2. The City shall be entitled to receive 45.8% of the storm water impact fees collected within Service Area #2. The impact fee reimbursements for the City are on parity with the impact fee reimbursements of the Company.

B. Limits Regarding Impact Fee Reimbursements

1. The City is entitled to a maximum reimbursement amount of \$ 870,000.00. In no event shall the City receive more than \$870,000.00 of impact fee reimbursements, plus financing costs as more fully described in Article VI.
2. The City can use the impact fee reimbursements in any manner they determine reasonable and justified.

**ARTICLE VI
FINANCING COSTS AND TIMING OF REIMBURSEMENTS**

The Company and City agree that the impact fee analysis and capital facilities plan for the storm water system within Service Area #2 includes a financing component in the justification of the impact fees. The Parties agree that the impact fee credits and impact fee reimbursements discussed in Article III, Article IV and Article V herein will include financing costs. The impact fee credits and reimbursements will include a financing component and will include 6% interest rate factor for purposes of reimbursements for the City and 6% interest rate factor for purposes of impact fee credits or reimbursements for the Company. Reimbursements for interest will only be paid to the City and the Company to the extent that impact fees are collected by the City.

The City shall provide Company with a quarterly reconciliation report showing: i) storm water impact fees collected within Service Area #2, ii) amount of reimbursement entitled to Company, iii) amount of reimbursement entitled to City, iv) amount of impact fee credits entitled to Company, and v) remaining balances for each party. Payment shall be made by the City to the Company on a quarterly basis in conjunction with providing the reconciliation. Impact Fee reimbursements from the City to the Company shall only be paid to the Company to the extent that impact fees are collected by the City.

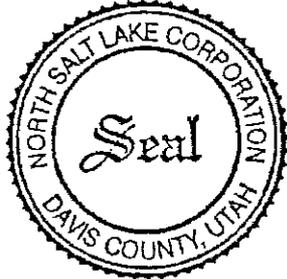
**ARTICLE VII
GENERAL PROVISIONS**

- A. Responsibilities of Company.** The Company shall construct the storm water capital improvements in accordance with all applicable City and State codes and regulations. Upon completion and acceptance by the City Engineer of any portion of the capital improvements, the Company shall submit to the City invoices and supporting documentation for the costs of the capital improvements.
- B. Responsibilities of the City.** The City Engineer shall either approve or disapprove the invoices submitted by the Company in a timely manner. Upon acceptance and approval of the invoices, the City Engineer shall authorize the City to use Exhibit A, either as is or amended as may be necessary, as the basis for impact fee credits and impact fee reimbursements.
- C. Warranty.** The Company agrees to provide a warranty in the City's favor for the repair and replacement of faulty work or materials for a period of one year following completion of the improvements and acceptance by the City.

- D.* Disputes. In the event of any dispute arising under this agreement, the injured party shall notify the injuring party of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations incurred herein so long as the injuring party commences to cure such injuring action within ten (10) days of service of such Notice and completes the cure within forty-five (45) days after the notification, or such longer period as may be necessary or agreed upon by both Parties to this Agreement.
- E.* Term of the Agreement. This Agreement shall remain in full force and effect until December 31, 2026.
- F.* Notice. Any notice, demand, request, consent, approval, or communication either party desires or is required to give to the other party or person shall be in writing and either served personally or sent by pre-paid, first-class mail to the address set forth below. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.
- To City: City of North Salt Lake
 20 South Highway 89
 PO Box
 North Salt Lake City, Utah 84054
 Attn: Community Development Director
- To Company: Eaglewood Village, Inc.
 13525 South Venicia Way
 Draper, Utah 84020
 Attn: Ben Lowe
- G.* Assignment of Agreement. Neither party may assign its obligations hereunder to any assignee without the knowledge and with written consent of the other party hereto which other party shall not unreasonably withhold consent. Assignment may be made only to an assignee willing, financially capable, and competent to carry out assignor's obligations.
- H.* Governing Law. This Agreement shall be governed by and interpreted with respect to the laws of the State of Utah.
- I.* Severability. If any covenant, agreement, or provision, or portion thereof, contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable and shall not be affected, and this Agreement shall remain valid.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.



CITY OF NORTH SALT LAKE

A handwritten signature in black ink, appearing to read "Len Arave", written over a horizontal line.

Mayor Len Arave

ATTEST:

A handwritten signature in black ink, appearing to read "Larae H. Dillingham", written over a horizontal line.
City Recorder

EAGLEWOOD VILLAGE INC.

A handwritten signature in black ink, appearing to read "B. J. [unclear]", written over a horizontal line.

By Its: Vice President

ATTEST:

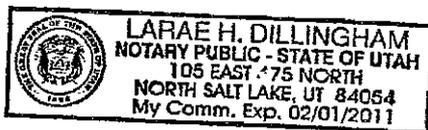
A handwritten signature in black ink, appearing to read "Larae H. Dillingham", written over a horizontal line.
By Its: Notary

EXHIBIT A
STORM DRAINAGE SYSTEM CAPITAL IMPROVEMENTS

Exhibit A

Improvements	Total Storm Drain Expenditures
STORM DRAIN	
<u>Storm Drain Piping and Structures</u>	
Mobilization	\$7,500
36" RCP	\$160,682
30" RCP	\$12,000
36" Flared End Section w/ Grate	\$4,600
30" Flared End Section w/ Grate	\$1,950
Outlet Control Structure	\$9,975
Outlet Control Structure	\$9,875
72" Manhole	\$37,465
Combo Box	\$115,011
Type II Inlet for 30"x15" deep	\$3,116
Rip Rap	\$6,000
Bedding Gravel	\$47,090
Shoring/Trench Box	\$5,700
Manhole Collars	\$5,400
<u>Phase 2 Storm Drain</u>	<u>\$26,262</u>
Total Storm Drain Piping and Structures	\$457,576
<u>Detention Ponds</u>	
Earthwork*	\$538,351
Lower Pond Landscaping	\$28,000
Concrete Paths/Waterways	\$37,814
Total Detention Pond Work	\$604,165
<u>UDOT Highway 89 Storm Drain Work</u>	
Highway 89 Storm Drain	\$34,982
Frontage Road Storm Drain	\$173,382
<u>Gas Line Crossing</u>	<u>\$108,082</u>
Total Highway 89 Work	\$366,446
Flood Intake Structures	\$44,150
<u>Soft Costs</u>	
SWPPP	\$7,058
Engineering (Including Surveying and Staking)	\$81,480
City/UDOT Review Fees	\$40,366
Insurance	\$4,957
General Conditions (3.5%)	\$86,649
Contractor Fee and General Conditions (4%)	\$52,916
Legal Fees	\$27,647
<u>Overhead (5%)</u>	<u>\$88,671</u>
TOTAL	\$389,744
Contingency	\$36,221
TOTAL	\$1,898,302

City of North Salt Lake Contribution	\$870,000	45.8%
Eaglewood Village, Inc Contribution	\$1,028,302	54.2%

EXHIBIT B
MAP OF SERVICE AREA #2

DRAPER, UTAH OFFICE
154 E 14075 S
DRAPER, UTAH 84020
PHONE: 801.495.2224

BOISE, IDAHO OFFICE
776 E RIVERSIDE DRIVE
SUITE 250
EAGLE, IDAHO 83616
PHONE: 208.939.9561

ST. GEORGE, UTAH OFFICE
20 NORTH MAIN
SUITE 107
ST.GEORGE, UTAH 84770
PHONE: 435.656.3299

OGDEN, UTAH OFFICE
2036 LINCOLN AVENUE
SUITE 104
OGDEN, UTAH 84401
PHONE: 801.495.2224



BOWEN COLLINS
& A S S O C I A T E S

WWW.BOWENCOLLINS.COM