ORDINANCE 21-10

AN ORDINANCE OF SOUTH OGDEN CITY ADOPTING AN UPDATED STORM DRAIN CAPITAL FACILITIES PLAN AND IMPACT FEES ANALYSIS AND ENACTMENT OF NEW IMPACT FEES

SECTION I - RECITALS:

WHEREAS, South Ogden City ("City") is a municipal corporation duly organized and existing under the laws of Utah; and,

WHEREAS, the City Council finds that in conformance with Utah Code ("UC") §10-3-717, and UC §10-3-701, the governing body of the city may exercise all administrative and legislative powers by resolution or ordinance; and,

WHEREAS, the City Council finds that in conformance with ,and UCA §10-3-701, the governing body of the city may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and,

WHEREAS, the Utah Legislature has adopted the Utah Impact Fees Act which imposes various requirements upon South Ogden City concerning a Capital Facilities Plan and Impact Fees Analysis and implementation; and

WHEREAS, the City Council finds that in conformance with UCA 11-36a-301 et. seq., the City Council finds that impact fees imposed within the city must be in conformance with and as supported and justified in need and amount by the City' s Storm Drain Capital Facilities Plan and Impact Fee Analysis; and,

WHEREAS, the City Council finds that by adopting the City's Storm Drain Capital Facilities Plan and Impact Fee Analysis it in conformance with UCA 11-36a-402(a) and (b); and,

WHEREAS, the City Council finds that in conformance with UCA 11-36a-402(1)(c) and (d), the City is authorized to adjust the standard impact fee at the time the fee is charged to respond to unusual circumstances in specific cases; or a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and to ensure that the impact fees are imposed fairly; and that calculation of the amount of the impact fee to be imposed on a particular development may be adjusted based upon studies and data submitted by the developer; and,

WHEREAS, the City Council finds that in conformance with UCA 11-36a-402(2), a developer, including a school district or a charter school, may receive a credit against or proportionate reimbursement of an impact fee if the developer (a) dedicates land for a system improvement; (b) builds and dedicates some or all of a system improvement; or (c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement; and,

WHEREAS, the City Council finds that in conformance with UCA 11-36a-402(3)the City shall give 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 are (a) system improvements; or (b) dedicated to the public; and offset the need for an identified system improvement: and,

WHEREAS, the City Council finds that the City may not impose impact fees that exceed the highest fee justified by the impact fee analysis performed under UCA §l l-36a-40l(b); and,

WHEREAS, the City Council finds that the City has chosen, in conformance with UCA §11- 36a-301 to prepare and adopt an Independent Storm Drain Capital Facilities Plan and Impact Fee Analysis rather than including a capital facilities element in the City's general plan; and,

WHEREAS, the City has given public notice of the availability of the Storm Drain Impact Fee Study for public review and has taken public comment thereon at a duly noticed Public Hearing.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF SOUTH OGDEN CITY, UTAH as follows:

SECTION II - STORM DRAIN CAPITAL FACILITIES PLAN AND IMPACT FEE ANALYSIS ADOPTED:

1. That the attached **Storm Drain Capital Facilities Plan & Impact Fee Analysis**, set out as **Attachment "A"**, which is incorporated herein by this reference, be and hereby is adopted by South Ogden City as its current written Storm Drain Impact Fee Analysis and its current Storm Drain Capital Facilities Plan, provided however, that because the Plan is based on projections and assumptions, the City also incorporates a reasonable degree of flexibility into this Plan to modify, substitute, or add to the capital facilities identified in this Plan in response to variations from the projections and assumptions upon which this Plan is based.

2. That a Storm Drain Service Area, which area is described by the geographic boundary of the city of South Ogden, Utah, as constituted and as those boundaries may, from time to time, be lawfully modified, is hereby established.

SECTION III - STORM DRAIN IMPACT FEE ENACTED:

That based on, and in consideration of, the above-listed findings of the City Council and the data contained in the City's Storm Drain Capital Facilities Plan and Impact Fee Analysis, the City Council finds that the Consolidated Fee Schedule should be amended and the following Storm Drain Impact Fees enacted:

Storm Drain Impact	Total Fee
Single Family Residential	$~~1,500~~2,151.30 per Unit
Duplex Residential	$.~~65~~ 71 per ft^2 impervious area
Multiple Family Residential	$.~~65~~ 71 per ft^2 impervious area
Commercial	$.~~65~~ 71 per ft^2 impervious area
Industrial	N/A

SECTION IV - REPEALER OF CONFLICTING ENACTMENTS:

All orders, ordinances and resolutions regarding the changes enacted and adopted which have been adopted by the City, or parts, which conflict with this Ordinance, are, for such conflict, repealed, except this repeal shall not be construed to revive any act, order or resolution, or part, repealed.

SECTION V - PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any prior Ordinances and Resolutions, with their specific provisions, where not otherwise in conflict with this Ordinance, are reaffirmed and readopted.

SECTION VI - SAVINGS CLAUSE:

If any provision of this Ordinance shall be held or deemed or shall be invalid, inoperative or unenforceable such reason shall not render any other provision or provisions invalid, inoperative or unenforceable to any extent whatever, this Ordinance being deemed the separate independent and severable act of the City Council of South Ogden City.

SECTION VII - DATE OF EFFECT:

BE IT FURTHER ORDAINED that this Ordinance, and the adopted Storm Drain Capital Facilities Plan and Impact Fee Analysis, shall become effective 90 days after adoption as required by law.

DATED this 21st day of September, 2021.

SOUTH OGDEN, a municipal corporation

by: _____
Mayor Russell Porter

Attested and recorded:

_____
Leesa Kapetanov, CMC
City Recorder

ATTACHMENT "A"

ORDINANCE NO. 21-10

An Ordinance of South Ogden City Adopting an Updated Storm Drain Capital Facilities Plan and Impact Fees Analysis and Enactment of New Impact Fees

21 Sept 21

South Ogden City Corporation

Storm Drain Capital Facilities Plan & Impact Fee Analysis (Draft)

September 2021

WASATCH CIVIL
Consulting Engineering

SOUTH OGDEN CITY CORPORATION

Storm Drain Capital Facilities Plan & Impact Fee Analysis (Draft)

TABLE OF CONTENTS

SECTION 1

INTRODUCTION

BACKGROUND

South Ogden City owns and operates a system of storm drain facilities. Storm drain facilities collect and control runoff from rainfall and snowmelt. Typical storm drain facilities include gutters, channels, swales, catch basins, pipes, ponds, basins, manholes, and control structures. Proper design and operation of this system is requires planning and consideration of the impacts of land development. Urban development increases both the runoff flowrates and volumes. These impacts must be mitigated by using existing capacity within the existing facilities or by constructing new facilities to manage the runoff. It is critical that storm drain facilities be planned and designed to safely manage runoff, protect development, promote public safety, and minimize potential environmental impacts.

Initial planning for South Ogden City storm drain capital facilities began approximately twenty-five years ago with a Storm Drainage Master Plan by Jones and Associates. In 2002, Weber County initiated a study to map and model storm drain facilities within the County. Weber County also proposed design and analysis criteria that they recommended as a standards for all communities within the County. South Ogden City expanded that study to complete a capital facilities plan and that document has been updated periodically. This current study in an update of the 2013 Storm Drain Capital Facilities Plan (CFP).

A capital facilities plan is intended as a general guide rather than a specific design for future improvements. Design of future facilities will require more detailed engineering that is beyond the scope of this study. Some modifications to proposed future projects can be expected as detailed engineering is completed during project design.

PURPOSE

This study is intended to update the 2013 Storm Drain CFP and meet the current requirements, as given in Chapter 11-36a of the Utah Code, for a storm drain system impact fee. The overall goal of the capital facilities plan is to provide the City with planning information necessary for construct and operation of facilities that are efficient and effective for managing storm water. This study was also prepared to meet the requirements for an impact fee capital facilities plan. The specific determinations and analysis required for an calculating a permissible impact fee amount are given in Sections 6 and 7 of this study, although the entire report should be considered as a supporting document to the impact fee capital facilities plan and analysis.

The Storm Drain CFP defines areas where the existing storm drain system does not have sufficient capacity, identifies needed storm drain improvements, proposes projects to mitigate current drainage problems, and proposes storm drain facilities with sufficient capacity for future development. Planning future storm drain locations and pipe sizes are important to avoid costly replacement of undersized storm drain facilities.

SCOPE OF WORK

Capital Facilities Plan

1. Define the South Ogden City storm drain system and service area based upon existing storm drainage facilities and established drainage areas.
2. Develop a storm drainage system model and apply the storm drainage criteria for the evaluation and design of future storm drainage facilities.
3. Identify future storm drain capital facilities necessary to accommodate future development in the service area.
4. Prioritize construction of future capital facilities.
5. Identify costs for proposed storm drain system improvements.

Impact Fee Facilities Plan

1. Define service standards.
2. Determine which public improvements required by the capital facilities plan are necessary for the next 10 years.
3. Determine estimated costs for the 10-year projects.

Impact Fee Analysis

1. Evaluate the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development activity.
2. Calculate permissible impact fees.
3. Identify equitable analysis methods for future determination and assessment of impact fees.

DEFINITIONS

10-year storm - The storm event which has a 10% chance of being equaled or exceeded in any given year.

100-year storm - The storm event which has a 1% chance of being equaled or exceeded in any given year.

80th Percentile Storm - The 24-hour precipitation total that is exceeded by 20% of the rainfall events.

Initial storm drainage system - The drainage system which provides conveyance for the storm runoff from minor storm events. The initial drainage system should be designed to

reduce street maintenance, control nuisance flooding, help create an orderly urban system, and provide convenience to residents, while still meeting the criteria of the EPA's Storm Water Phase II mandate.

Low Impact Development - Storm water design systems and practices that mimic natural processes by promoting infiltration and reducing runoff.

Major storm drainage system - The drainage system which provides protection from flooding of homes during a major storm event.

Minor storm event - Storm event which is less than or equal to the 10-year storm.

Major storm event - Generally accepted as the 100-year storm. Typically homes should be protected from flooding in storm events up to a 100-year event.

Retention Basin - An impoundment structure designed to contain all of the runoff from a design storm event. Retention basins usually contain the runoff until it evaporates or infiltrates into the ground.

Detention Basin - An impoundment structure designed to reduce peak runoff flow rates by retaining a portion of the runoff during periods of peak flow and then releasing the runoff at lower flow rates.

Storm Frequency - A measure of the relative risk that the precipitation depth for a particular design storm will be equaled or exceeded in any given year. This risk is usually expressed in years. For example, a storm with a 100-year frequency will have a 1% chance of being equaled or exceeded in a given year.

Storm Duration - The length of time that defines the rainfall depth or intensity for a given frequency.

Design Rainstorm - A rainfall event, defined by storm frequency and storm duration, that is used to design drainage structures or conveyance systems.

HEC HMS - The Flood Hydrograph Package developed by the U.S. Army Corps of Engineers.

ABBREVIATIONS

ac-ft	acre-feet
CFP	capital facilities plan
cfs	cubic feet per second
EPA	United States Environmental Protection Agency
IFA	Impact fee analysis
IFFP	impact fee facilities plan
NOAA	National Oceanic and Atmospheric Administration
NPDES	Nation Pollutant Discharge Elimination System
NRCS	United States Natural Resource Conservation Service
MS4	Municipal Separate Storm Sewer System
SCS	United States Soil Conservation Service (now known as the *Natural Resource Conservation Service*)
SWMP	Storm Water Management Plan
UDOT	Utah Department of Transportation
yr	year

SECTION 2

SERVICE AREA AND STORM DRAIN SYSTEM

TOPOGRAPHY AND CLIMATE

South Ogden City is located in southeastern Weber County. The City covers an area of approximately 3.7 square miles and is almost completely developed. It is bounded on all sides by adjacent communities. To the east and south is Uintah Highlands, to the west is Washington Terrace and Riverdale, and to the north is Ogden City.

The topography in and around South Ogden City is typical of areas along the foothills of Weber County. The ground has a significant slope from east to west. Along with the general slope to the west, there are numerous localized areas that are steeper or flatter areas as well as drainages and ravines. Soils along the base of the mountains are typically well drained granular soils consisting of silts, sands and gravels. However in South Ogden, there area other areas that consist of finer grained clays and silts. On steeper slopes where course grained sediments are underlain by silts and clays, groundwater can become perched and springs can occur. Consequently, groundwater depth can vary depending on the subsurface soils and the topography.

POPULATION AND GROWTH

The South Ogden Area has experienced a slowing rate of growth rate over the past two decades. The 2010 Census reported a population of 16,532 and an average annual growth rate of 1.2% over the previous 10 years. The 2020 Census reported a population of 17,488 and an average annual rate of change of approximately 0.6% in the previous 10 years. The current population is estimated to be 17,580.

The growth rate for South Ogden City is relatively slow when compared to overall Weber County. Weber County's annual growth rate over the past 10-years is approximately 1.3%. The apparent reason for the slow growth rate in South Ogden City appears to be the lack to the vacant land available for new development. It is expected that population growth within the South Ogden City service area will continue at approximately the same rate as the City approaches build-out. Most of the anticipated growth will be "fill-in" developments and re-development, rather than large-scale development projects. For the purposes of this study, an annual growth rate of 0.58% will be used to estimate future service requirements. The City has projected a build-out population of 18,250. However, build-out populations and growth rates can vary greatly due to economic conditions and other factors. The population of the City is likely to increase beyond the projected buildout population as the result of redevelopment and the current trend toward multi-family housing projects. Projections for population growth are presented in Table 2-1.

TABLE 2-1
POPULATION PROJECTIONS FOR THE STUDY AREA

Year	Population
2021	17,580
2026	18,100
2031	18,620

SERVICE AREA

South Ogden City's storm drain service area is all of the area within the City's boundaries as shown on Exhibit 2-1. Planned land use within the service area is shown on Exhibit 2-2. South Ogden City's storm drain facilities also receive runoff from tributary areas outside the City boundaries, and the City's storm drains discharge to systems operated by other entities. Tributary areas and discharge areas outside the City's boundaries were considered in the analysis, but have not been included in the service area as it relates to impact fees. The defined service area should not rule out joint projects with neighboring cities for facilities outside South Ogden City.

DRAINAGE PATTERNS AND EXISTING FACILITIES

Service Area Basins

The service area has been divided into six drainage basins as determined by topography, storm drain layout, and the point of discharge. These basins are identified as Basins A - F, on Exhibit 3-1. A brief description of each basin is presented in Table 2-2.

Table 2-2. Drainage Basin Descriptions

Drainage Basin	Basin Description
A	Basin A is located in the southeasterly most corner of the City and consists of approximately 20 acres. It is made up of commercial developments that include on-site detention basins. This sub-basin discharges to the south into Uintah Highlands.

B	Basin B is located in the southeasterly portion of the City and consists of approximately 683 acres. It is made up of both commercial and residential areas. There are several on-site detention basins located within developments however, the majority of the detention in this sub-basin occurs in a series of regional detention basins. The largest of which is located in the South Ogden City Nature Park. Runoff discharged from the Nature Park detention basin then leaves the City and flows through unincorporated Weber County and then into the Weber River.
C	Basin C is the largest of the sub-basins and consists of 1,468 acres tributary to Burch Creek. Burch Creek is a perennial stream that originates in mountains east of the City. Burch Creek runs through the through the center of the City and is the dominant feature of the South Ogden City drainage topography. Basin C consists almost of entirely of residentially development. There are a number of small detention basins at various locations throughout the drainage area and one large regional detention basin located on Burch Creek at 4400 South. Burch Creek leaves South Ogden City near Riverdale Road. It then flows (mostly piped) through an area of Riverdale City, then the Union Pacific Railroad yards, and then discharges to the Weber River.
D	Basin D is located in the northeast corner of the City and consists of approximately 93 acres. It is made up of relatively older established residential areas and is generally not detained. This basin discharges to the north into Ogden City storm drain system.
E	Basin E is located along the north boundary of South Ogden City and consists of approximately 140 acres. This basin is a mix of commercial and residential development. Several small detention basin reduce flow rates from the commerical land use areas.
F	Basin F consists of approximately 2.8 acres and is located at the north end of the City between Sub-basins C and E. Runoff from this area flows westerly, where it enters Burch Creek. Burch Creek then flows into Riverdale City, across the Union Pacific Railroad yards, and eventually discharges to the Weber River. There is minimal detention in this sub-basin.

Tributary Areas Outside the Service Area

Burch Creek originates in the mountains east of the City and enters South Ogden City boundaries after crossing beneath Harrison Blvd. The tributary area upstream from South Ogden City is approximately 2,200 acres, with approximately 1,700 acres of National Forest Service property and 500 acres in Ogden City. With a large tributary area, projected and observed flows in Burch Creek are high and can have a significant impact on the storm drain system. In fact, Burch Creek functions as part of the overall storm drain system within South Ogden City.

An additional area of Ogden City, west of Harrison Blvd between 40th Street and 4975 South is tributary to the east side of South Ogden City. Runoff from this area enters the South Ogden storm drain system at several points. Peak flows from most this area are reduced by Ogden City detention basins.

Existing Storm Drain System

The existing storm drain system is generally in good condition. Local and regional detention basins appear to be providing adequate reduction of peak flows for most locations during major storm events. Most of the observed drainage problems are localized problems. Existing facilities are shown in Exhibit 2-3. Some problem areas have been observed and are discussed in the following sections.

DRAINAGE PROBLEMS

The service area has experienced several significant storm events in recent years. These events have included high runoff from the Burch Creek tributary area, and have resulted in localized drainage problems. Most of the significant recent storm events have thunderstorms with high intensity, short duration precipitation. These types of storms are typical for the Wasatch Front, although longer duration, wide-spread precipitation events can also occur. Thunderstorms most often result in localized drainage problems, rather than widespread flooding, and recent observations are consistent with that characteristic. Areas where storm drainage problems have been observed during recent storm events are described in Table 2-3.

Table 2-3. Existing Drainage Problem Areas

Problem No.	Location	Description
1	5775 West and Wasatch Drive	Storm drain pipe surcharges causing localized flooding in the intersection following storm events.
2	Willow Wood Lane and 5875 South	The lack of a storm drain system causes localized flooding during high runoff events and results in ice build up during the winter.
3	Glassman Way Between Chambers Street and Burch Creek	Storm drain pipe surcharges, lifts lids off manholes and causes localized flooding following storm events.
4	36th Street Between Jefferson Avenue and 675 East	Storm drain pipe surcharges, lifts lids off manholes and causes localized flooding following storm events.
5	40th Street and Washington Blvd.	Storm drain pipe surcharges resulting in localized flooding. Ongoing problem with sediment and debris in pipes.

6	43rd Street and Adams Avenue	Storm drain pipe surcharges causing localized flooding in the intersection following storm events.
7	42nd Street Between 675 East and Adams Ave.	Storm drain pipe surcharges causing localized flooding in the intersection following storm events.
8	5700 South Between 1050 East and the Racquet Club	During storm events, runoff water overtops the north side curb. Water causes localized flooding at the bottom of the hill near the Racquet Club.
9	Near Grant Ave and 38th Street	The existing detention pond is poorly graded and in need of repair
10	Ben Lomond Ave and 875 East	The lack of a storm drain results in excessive runoff in the roadway during storms
11	Madison Ave between 45th Street and Edgewood Drive	The lack of a storm drain system causes localized flooding during high runoff events and results in ice build up during the winter.
12	Near Washington Blvd. South of Crestwood Drive (1475 East)	Storm drain outlets on both side of the road are causing erosion and flooding problems.

Burch Creek at the Union Pacific Railroad Yards

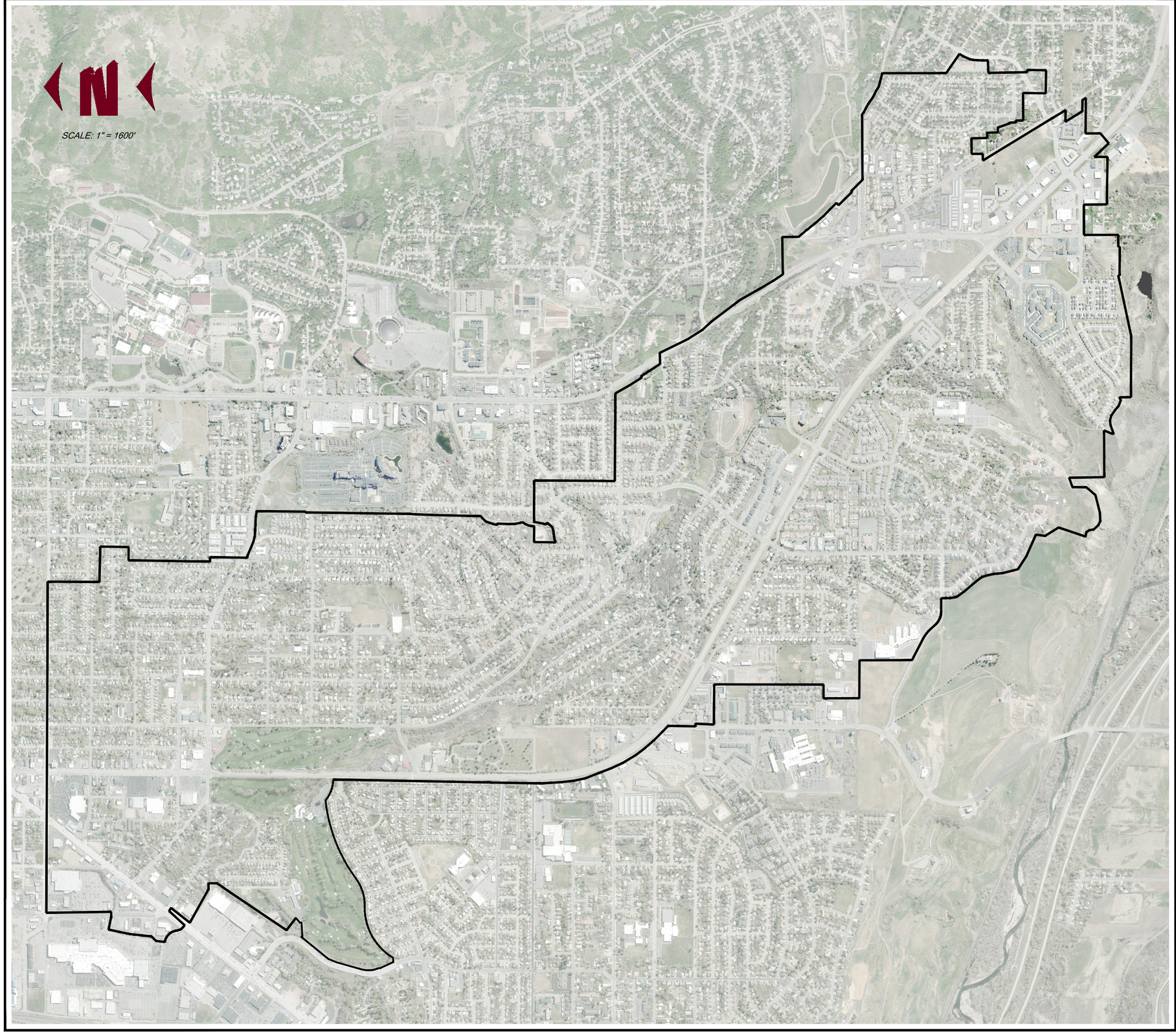
Ogden City has reported that the culverts that carry Burch Creek through the Union Pacific Railroad yards have not had sufficient capacity to convey runoff from several recent storm events. High flows have overtopped the culvert inlets and flowed into the Ogden City storm drain system. Although this drainage problem is outside of the South Ogden City limits, the local cities and Weber County have pursued potential solutions.

Modeling and analysis results confirm that the Burch Creek culverts at the Union Pacific Railroad yards are significantly undersized. The estimated combined design capacity of the Union Pacific culverts is approximately 130 cfs. Projected flows for the 10-year storm event are 230 cfs to 260 cfs, and projected flows for the 100-year storm event are 570 to 740 cfs. These results are reasonably consistent with the hydrologic analysis of the Burch Creek drainage by FEMA (FEMA, 2017, draft copy) which indicates flows of 180 cfs and 630 cfs for the 10-year and 100-year storms, respectively.

One potential solution that was analyzed was adjustment of the South Ogden City detention basin outlets. The model results demonstrated that adjustments to Glassman Park Detention Basin

had no significant impact on the peak downstream flows during major storm events. The much larger detention basin on Burch Creek at 4400 South was found to be more effective at reducing peak flow rates for shorter duration storms and also provides some benefit during longer duration storm events. The 4400 South detention basin was found to be currently operating effectively and there does not appear to be any opportunity to significantly reduce peak flows by adjusting the outlet.

It appears that the solution to this problem will expensive. Union Pacific's involvement and responsibilities for construction the costs have not been resolved. All stakeholders will need to work through a preferred solution and identify a funding source. Each city has historically been responsible for only the storm drain facilities within their own jurisdiction. However, due to the extent of the Burch Creek drainage through South Ogden City, the City may have interest in pursuing a joint solution to this problem. At the present time, the uncertainties associated with this problem makes a identification of a problem solution and cost impractical.



SOUTH OGDEN CITY CORPORATION STORM DRAIN CAPITAL FACILITIES PLAN & IMPACT FEE ANALYSIS

SOUTH OGDEN

LEGEND

SOUTH OGDEN CITY BOUNDARY

SERVICE AREA MAP

FIGURE 2-1

DESIGNED B.C.J. DATE SEPT. 16, 2021
DRAWN C.C.S. SCALE: 1"=1600'
CHECKED B.C.J.

WASATCH CIVIL
Consulting Engineering
5434 SOUTH FREEWAY PARK DRIVE
RIVERDALE, UTAH 84405 (801) 775-9191

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SCALE: 1" = 1600'

SOUTH OGDEN CITY CORPORATION STORM DRAIN CAPITAL FACILITIES PLAN & IMPACT FEE ANALYSIS

SOUTH OGDEN

LEGEND

- R-1-10
- R-1-8
- R-1-6
- R-2
- R-3
- R-3A
- O-1
- City Center Core
- City Center General
- Riverdale Road General
- 40th Street "General"
- Edge
- Neighborhood Commercial
- Gateway Core
- Gateway General
- Gateway Edge

FUTURE LAND USE

FIGURE 2-2

DESIGNED B.C.J. DATE SEPT. 14, 2021
DRAWN C.C.S. SCALE: 1"=1600'
CHECKED B.C.J.

WASATCH CIVIL Consulting Engineering
5434 SOUTH FREEWAY PARK DRIVE
RIVERDALE, UTAH 84405 (801) 775-9191

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SCALE: 1" = 1600'

SOUTH OGDEN CITY CORPORATION STORM DRAIN CAPITAL FACILITIES PLAN & IMPACT FEE ANALYSIS

SOUTH OGDEN

LEGEND

- SOUTH OGDEN CITY BOUNDARY
- STUDY AREA BOUNDARY
- EXISTING STORM DRAIN PIPE
- EXISTING DETENTION BASIN
- OUTLET CONTROL STRUCTURE
- EXISTING STORM DRAIN MANHOLE
- EXISTING INLET BOX / CATCH BASIN

EXISTING STORM DRAIN SYSTEM

FIGURE 2-3

DESIGNED B.C.J. DATE SEPT. 16, 2021
DRAWN C.C.S. SCALE 1"=1600'
CHECKED B.C.J.

WASATCH CIVIL
Consulting Engineering
5434 SOUTH FREEWAY PARK DRIVE
RIVERDALE, UTAH 84405 (801) 775-9191

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SECTION 3

STORM WATER HYDROLOGY & MODEL DEVELOPMENT

METHODOLOGY

The Army Corps of Engineer's *HEC-HMS Flood Hydrograph Package* was selected for development of a storm drainage model for South Ogden City. The HEC-HMS package has also been used by Weber County to model storm water flows across the County. Weber County has encouraged all government entities in the County to adopt a consistent storm drainage design methodology that will provide uniform flood protection and facilitate preparation of regional drainage plans.

The HEC-HMS model allows use of both the Soil Conservation Service (SCS) curve number and unit hydrograph methods for modeling natural or agricultural watersheds, and the kinematic wave modeling method for urban areas. The SCS curve number method was developed by the Natural Resource Conservation Service (NRCS), which was formerly known as the Soil Conservation Service. In this report, the methodology developed by the NRCS will be referred to as the SCS curve number method, and publications by the SCS prior to the name change will be referenced as SCS publications.

Various inputs and input sources used for the development of the HEC-HMS computer model for South Ogden City include:

- Soil Survey Mapping (NRCS website)
- South Ogden City Aerial Mapping, (South Ogden City, 2010)
- Weber County Aerial Maps (Weber County, 1998)
- Precipitation-Frequency Data/Maps, NOAA Atlas 14 (NOAA website)
- SCS Curve Number Selection Procedures as presented in *Urban Hydrology for Small Watersheds* (NRCS, 1986)
- Field Observation of Drainage Patterns
- *Urban Storm Drainage Criteria Manual* (DRCG, 1990)

The storm drainage model was developed for future land use conditions. Results from the model were then used to identify and complete a conceptual level design of future storm drainage facilities. Hydrologic criteria, drainage basins, and land use conditions used in the development of the storm drainage model are described below.

HYDROLOGIC CRITERIA

Development of the storm drainage model and identification of future improvements were accomplished using the hydrologic criteria recommended by Weber County. These criteria are presented in *Storm Drainage Hydrologic & Hydraulic Criteria Manual* (Hansen, Allen & Luce,

2002), herein after referred to as the Weber County Manual. The following discussion summarizes the hydrologic criteria from the Weber County Manual.

Drainage Design Frequency

Selecting the drainage design frequency is dependent upon dividing the storm drainage facilities into an initial storm drainage collection system and a major storm drainage collection system. The initial system and major system are described in the *Urban Storm Drainage Criteria Manual* (Urban Drainage and Flood Control District, Denver, Colorado, June 2001) as follows:

> "Every urban area has two separate and distinct drainage systems, whether or not they are actually planned for and designed. One is the initial system, and the other is the major system. To provide for an orderly urban growth, reduce costs to future generations, and obviate loss of life and major property damage, both systems must be planned and properly engineered."

The initial storm drainage system is the facilities which provide protection against regularly recurring damage from storm runoff. The components of the Initial drainage system include the street curb and gutter or drainage swales, storm drain systems, and the local detention basins. The initial system should be designed to safely convey the 10-year storm event without significantly restricting pedestrian or vehicle traffic. In streets with curb and gutter, the design standard is that the curb is not overtopped by runoff from the10-year storm event.

The major storm drainage system is the facilities that protect people and structures during a major storm. Major storm drainage facilities may include streets (including overtopping of the curb onto the lawn area), large conduits, open channels, and regional detention basins. The major system should generally be designed for the 100-year event with the objective of preventing significant damage to homes and buildings and to prevent loss of life. This does not mean that storm drains (which are considered part of the initial storm drainage system) should be designed for the 100-year event. It means that the combination of storm drains and channelized surface flow, which may include using part of the grassed frontage area of a home as part of a 100-year channel, should be designed to accommodate the 100-year event thereby preventing damage to homes. In the South Ogden City storm drain service area, the major storm drainage system includes streets, pipes, drainage channels, stream channels, ditches, and detention basins.

Design Storm

In designing a storm drainage system, it is important to determine the amount of rainfall that can be expected from a storm event and how the rainfall will be distributed through time. Critical runoff events from urban areas along the Wasatch Front are caused by cloudburst type storms which are typified by short periods of high intensity rainfall. The Weber County Manual presents a 3-hour synthetic storm distribution that incorporates the high intensity rainfall burst typical of Wasatch Front storms. The rainfall distribution presented in the Weber County Manual was used for this study. Design storm precipitation depths for this study were developed using the NOAA Atlas methodology as recommended in the Weber County Manual.

Table 3-1. Design Rainfall Depths For South Ogden City

Return Period (Yrs)	Precipitation (inches) for the Indicated Storm Duration				
	1 hr	2 hr	3hr	6hr	24hr
2	0.55	0.70	0.80	1.08	1.71
5	0.75	0.91	1.00	1.30	2.04
10	0.93	1.10	1.19	1.50	2.31
25	1.23	1.43	1.49	1.81	2.69
50	1.51	1.72	1.78	2.07	2.98
100	1.85	2.08	2.13	2.36	3.28

Design rainfall depths given in Tables 3-1 are from NOAA Atlas 14, Volume 1, Version 5, as obtained from the NOAA website. NOAA estimates rainfall depths for various return periods using statistical procedures and the best available rainfall records. In general, rainfall records in the western United States cover relatively short time periods. Therefore, rainfall depths estimated with statistical procedures become less certain for the longer return periods. Recently recorded storm events seem to indicate that rainfall amounts could be larger and occur more frequently than the rainfall depths estimated with the NOAA methodology. However, the rainfall depth estimates using the NOAA data and methodology are the most credible estimates currently available. It is recommended that the design rainfall depths be re-evaluated as better information and techniques become available in the future.

DRAINAGE BASINS

As previously stated, the service area has been divided into six drainage basins. Tributary areas outside the City boundaries also contribute runoff to City storm drain facilities. Drainage basins and tributary areas have been divided into reaches and subbasins according to topography, land use, and locations of storm drainage facilities. A reach is a group of subbasins that drain to a common point. The subbasins and reaches are represented, in Exhibit 3-1. Directional arrows indicate the general direction of the existing drainage slope. The area contained within each drainage subbasin varies with the existing ground topography.

SUBBASIN CHARACTERISTICS

Hydrologic characteristics necessary to calculate runoff volumes and flow rates from each subbasin include characteristics that are unique to each subbasin and characteristics that are associated with land use.

Hydrologic characteristics that are unique to each subbasin include subbasin area, soil types, channel lengths, and channel slopes. Subbasin area, channel lengths, and channel slopes were estimated using existing topographic mapping. Hydrologic soil groups were determined for each

subbasin using soil mapping and methodology developed by NRCS. NRCS has classified soils into four general hydrologic soil groups based upon the rate of infiltration. The four hydrologic soil groups in order of decreasing permeability and increasing runoff potential are groups A, B, C, and D. The appropriate classifications of soils in the Service Area were determined using the NRCS soil survey mapping (NRCS website) and criteria presented in the Urban Hydrology of Small Watersheds, TR-55 (NRCS, 1986). Soils in the South Ogden City area were found to be mostly groups A and C. The group A soils are located mostly on the upper bench area, east of Washington Blvd. The group C soils are located mostly at the southwest and northwestly areas of the City. Hydrologic soil groups were assigned to subbasins by identifying the predominant soil groups within the subbasin.

Hydrologic characteristics that tend to remain relatively consistent with land use include the percentage of impervious area and the initial overland flow paths and patterns. Using aerial photographs, these characteristics were estimated for typical lots and subbasins within each major zoning designation.

Generally, the most important hydrologic factor for determining runoff flow rates and volumes in an urban drainage basin is the amount of impervious area. Impervious area is usually expressed as a percentage of the total drainage area and can be further categorized as directly connected impervious area and unconnected impervious area. Directly contributing impervious areas are those areas which are directly connected to the storm drainage system. The directly contributing impervious area for a typical lot in the Service Area is assumed to include the front half of the home and garage, the driveway, and half of the street in front of the home (see typical lot computations in Appendix A). It is assumed that the front half of a home and the driveway do not flow over grassed areas prior to reaching the street. This is a conservative assumption because often a portion of the front of the home will drain to the lawn area rather than the driveway. Runoff from unconnected impervious areas must flow across a permeable area, usually grassed areas, before reaching the storm drainage system. Unconnected impervious area for a typical lot in the service area is assumed to include the back half of the home and garage, the patio, and storage shed. The percentage of impervious area increases with increasing housing density. Commercial and industrial areas also tend to have much higher percentages of impervious area.

Slope and lengths of overland drainage paths are important parameters for the kinematic wave modeling of urban areas. Generally, overland flow patterns for subbasins of similar land use do not vary significantly. Therefore, slopes and flow lengths were estimated for each zoning category by observing overland flow patterns at existing developments in the service area.

FUTURE LAND USE

As indicated previously, the relatively slow growth rate projected for the future for both commercial and residential development is largely due to the lack of vacant land available for new development. It is expected that growth within the service area will continue to slow as the City approaches build-out. It is anticipated that growth will mainly be due to ”fill-in” developments and redevelopment activity. Due to this condition, the current developed acreage and the future developed acreage are nearly the same. The future land use for the City is based on the current zoning map presented in Exhibit 2-2.

Although changes in population may not be a direct indicator of an increase in impervious area, it is a good indicator of and increase in residential development. Increases in impervious area due to commercial development can be accomplished in the service area using mapping and aerial photography.

Table 3-2. Future Land Use

Drainage Basin Gross Area (Acres)						
Future Land Use	**A**	**B**	**C**	**D**	**E**	**F**
Medium Density Residential (R-1-6 / R-1-8)	0	78	601	34	64	4
Low Density Residential (R-1-10)	0	122	139	0	49	0
Two family Residential (R-2)	0	100	104	42	6	55
Medium Density Multi Family (R-3 / R-4)	0	195	81	1	2	15
High Density Multi Family (R-5)	0	33	48	1	29	5
Commercial (C-1, C-2, C-3, CP-2)	20	28	59	2	2	185
Institutional (Schools, Churches, etc.)	0	0	33	0	0	7
City Parks/Open Space	0	45	270	0	0	3
Potential Tributary Lands Outside City Limits	0	0	175	0	0	0
Total Drainage Basin Acreage	20	601	1,310	79	152	274

FUTURE IMPERVIOUS AREAS

The volume of storm water runoff generated by a design storm event is directly related to the amount of impervious area constructed in relation to new development. The potential impervious areas are calculated by analyzing the subbasin characteristics and the future land use. Impervious area estimates include half of the fronting roadway based upon the minimum frontages required by current zoning ordinances, estimated driveways, roof areas, patios, outbuildings, barns, etc. that are representative of a typical lot area within each land use designation. Further detail related to the estimated impervious area in each subbasin has been tabulated and is shown in Appendix A.

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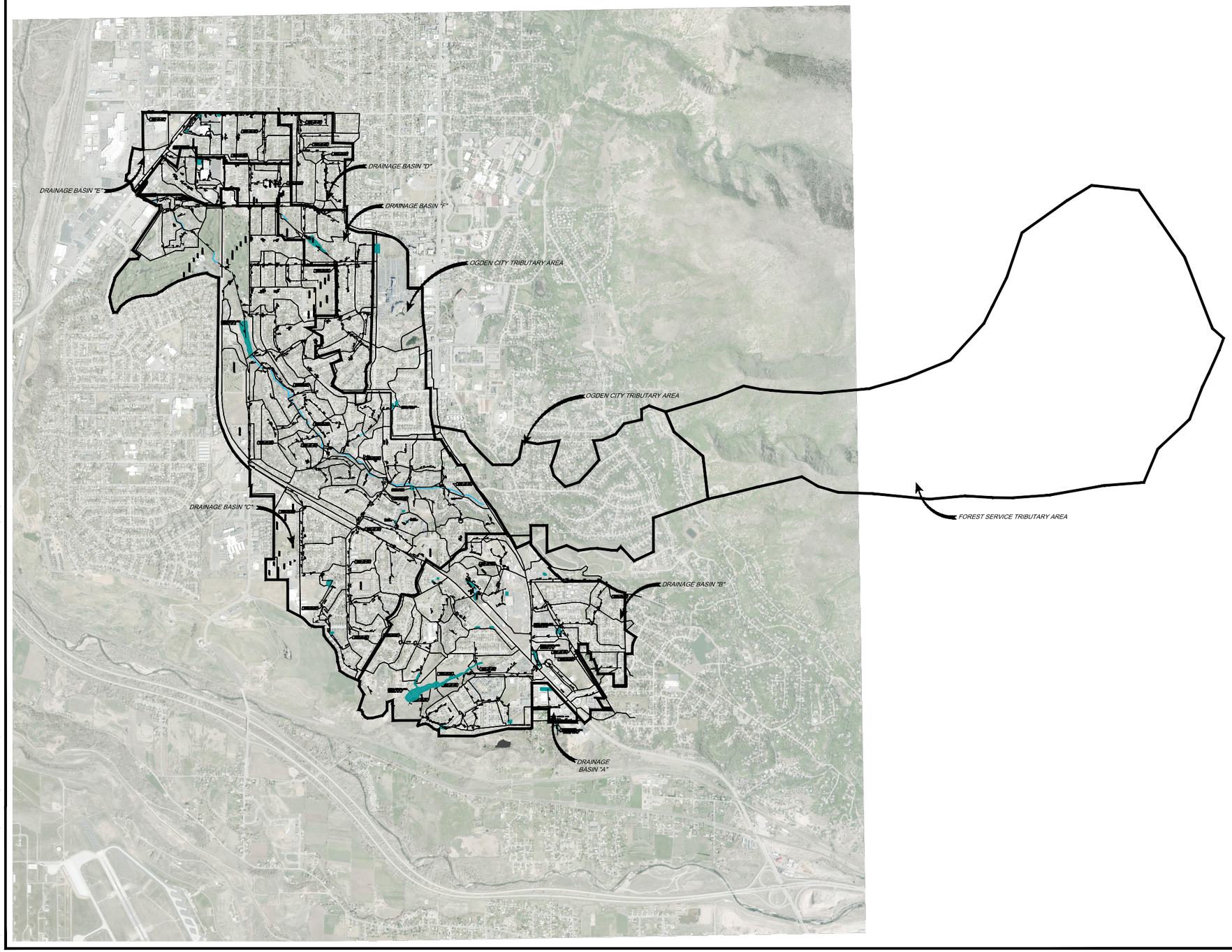
SCALE: 1" = 3000'



SOUTH OGDEN CITY CORPORATION STORM DRAIN CAPITAL FACILITIES PLAN & IMPACT FEE ANALYSIS

SOUTH OGDEN

LEGEND

- SOUTH OGDEN CITY BOUNDARY
- STUDY AREA BOUNDARY
- DRAINAGE BASIN BOUNDARY
- SUB-BASIN / REACH BOUNDARY
- 18" EXISTING STORM DRAIN PIPE
- EXISTING DETENTION BASIN
- OUTLET CONTROL STRUCTURE
- EXISTING STORM DRAIN MANHOLE
- EXISTING INLET BOX / CATCH BASIN

STORM DRAIN MODEL

FIGURE 3-1

DESIGNED B.C.J. DATE SEPT. 16, 2021
DRAWN C.C.S. SCALE: 1"=3000'
CHECKED B.C.J.

WASATCH CIVIL Consulting Engineering
5434 SOUTH FREEWAY PARK DRIVE
RIVERDALE, UTAH 84405 (801) 775-9191

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SECTION 4

CAPITAL FACILITIES PLAN

CAPITAL FACILITIES PLAN ELEMENTS

A conceptual level drainage plan was developed for each drainage basin based upon the following drainage plan elements:

- Conceptual designs of storm drainage improvements are based upon projected peak runoff flow rates from the 10-year storm event and the 100-year storm event

- Local and regional detention basins are used to reduce peak flows to historical runoff flowrates (or less) for major storm drainage facilities.

Design of Storm Drain Capital Projects

The *HEC- HMS Flood Hydrograph Package* was selected for development of a storm drainage model for the South Ogden City service area. The HEC-HMS model used the SCS curve number and unit hydrograph method for modeling storm drainage from mountain watersheds, and the kinematic wave method was used for modeling storm drainage from urban areas. The storm drainage model was developed using future projected land uses as presented in Figure 3-1, Future Land Use in accordance with the South Ogden City General Plan. Hydrologic characteristics for various land use categories are described in Section 5 of this report.

Evaluations of existing storm drainage facilities and conceptual design of future storm drain facilities were based on the 10-year, 3-hour storm event and the 100-year, 3-hour storm event. Runoff hydrographs were calculated for these design storms using the HEC-HMS model. The 10-year, 3-hour storm event was selected as the design storm for the initial storm drainage system, and the 100-year, 3-hour storm event was selected as the design storm for the major storm drainage system. Most storm drains were designed as a component of the initial storm drain system. The combination of storm drains and surface flow along roadways typically comprise the major storm drain system. Storm drains were considered the sole component of the major storm drain system at locations where storm drain locations did not correspond to roadways or other surface drainage facilities.

Stormwater Detention

Development increases runoff flow rates and therefore storm water detention basins are constructed to detain flows which exceed the downstream capacity of existing infrastructure. Rainstorms often produce short bursts of intense rainfall that cause runoff flow rates to increase dramatically for a short period. Properly designed detention basins mitigate the effects of short intense rainfall burst and high peak runoff by filling during periods of peak flow and then emptying as the runoff inflow rates decrease. Detention basins are usually designed so that they are empty a few hours after the rainfall event has ended.

Future storm drainage detention facilities can be local detention basins constructed by individual developers to serve their own developments, or regional detention basins constructed by the City to serve many developments within a region. The advantage of local detention basins is that they are funded and constructed entirely by developers. The disadvantage of local detention basins is that they are often small and more difficult to maintain. Local detention basins can become nuisances and eyesores without proper maintenance. Regional detention basins are typically better maintained than local detention basins because they are often designed as multiple use facilities. Regional detention basins can be used as neighborhood parks, sports fields, or similar recreational facilities. Multiple use of regional detention basins enhances their benefit to offset their associated maintenance liability and are perceived by the public as a benefit to their neighborhood.

The current South Ogden City storm drain system includes a mix of local and regional detention. Few opportunities are available for future regional detention, so it is anticipated that both commercial, and residential development will be required to construct local detention that will limit runoff to a maximum rate of 0.2 cfs per acre for the 100-year storm event. Existing regional detention will continue to benefit both existing and future development by controlling storm water flow as it leaves the service area. The need for local detention at each new development should be reviewed by the City Engineer on a case-by-case basis.

FUTURE CAPITAL PROJECTS

Table 4-1 provides descriptions of anticipated storm drainage capital projects within the Service Area. The projects are also presented on the Capital Facilities Plan, Figure 4-1. Detailed cost estimates covering the future recommended improvements for each drainage area are included in Appendix B. Construction costs were estimated using typical prices observed for recent projects in the South Ogden City and Weber County areas. Construction cost estimates include all labor and materials, plus a 20% contingency for engineering and unanticipated costs.

Table 4-1. Future Capital Projects

Project Identification	Description	Construction Cost Estimate
P-1	Replace the existing storm drain system on 40th Street between Adams Avenue and Washington Blvd. with a 24" diameter storm drain.	$269,658.00
P-2	Replace the existing storm drain system on 42nd street between Liberty Avenue and Adams Avenue and on Adams Avenue between 42nd Street and 4350 South with 30" and 36" diameter storm drain.	$957,720.00
P-3	Replace the existing storm drain system on 40th Street between Washington Blvd. and Burch Creek with 21" and 24" diameter storm drains.	$439,764.00
P-4	Replace the existing storm drain system on 675 east between Bel Mar Drive and 36th Street and on 36th Street between 675 East and Jefferson Avenue with 24" and 30" storm drains.	$394,290.00
P-5	Replace the existing storm drain system on Combe Rd between Woodshire Court and 5665 South with a 15" diameter storm drain.	$231,228.00
P-6	Recondition (install liner) the existing 18" diameter CMP storm drain on Burch Creek Hollow .	$173,280.00
P-7	Construct a 15" diameter storm drain pipe in Madison Avenue between Edgewood Drive and 4650 South Street.	$360,084.00
P-8	Replace the existing storm drain system on Porter Avenue between 36th Street and 37th Street and on 36th Street between Porter Avenue and Adams Avenue.	$340,764.00
P-9	Construct a 15" diameter storm drain pipe in 5700 East between 1050 East and the Racquet Club.	$163,920.00
P-10	Construct a 15"diameter storm drain on Village Way between Willow Wood Lane and 5775 South Street	$200,760.00

P-11	Construct a 15" diameter storm drain on Ben Lomond Ave from 875 East to Chambers Ave.	$271,170.00
P-12	Recondition and landscape an existing detention pond near Grant Ave and 38th Street	$64,800.00
	Total Project Cost	**$3,867,438.00**

SOUTH OGDEN CITY CORPORATION STORM DRAIN CAPITAL FACILITIES PLAN & IMPACT FEE ANALYSIS

SCALE: 1" = 800'

P-1
P-2
P-3
P-4
P-6
P-7
P-8
P-12

LEGEND

- SOUTH OGDEN CITY BOUNDARY
- PROPOSED PROJECT
- P- PROPOSED PROJECT NUMBER
- 12" EXISTING STORM DRAIN PIPE
- EXISTING DETENTION BASIN
- OUTLET CONTROL STRUCTURE
- EXISTING STORM DRAIN MANHOLE
- EXISTING INLET BOX / CATCH BASIN

CAPITAL FACILITIES PLAN PROJECT MAP

FIGURE 4-1

DESIGNED	B.C.J.	DATE	SEPT. 16, 2021
DRAWN	C.C.S.	SCALE	1"=800'
CHECKED	B.C.J.		

WASATCH CIVIL Consulting Engineering
5434 SOUTH FREEWAY PARK DRIVE
RIVERDALE, UTAH 84405 (801) 775-9191

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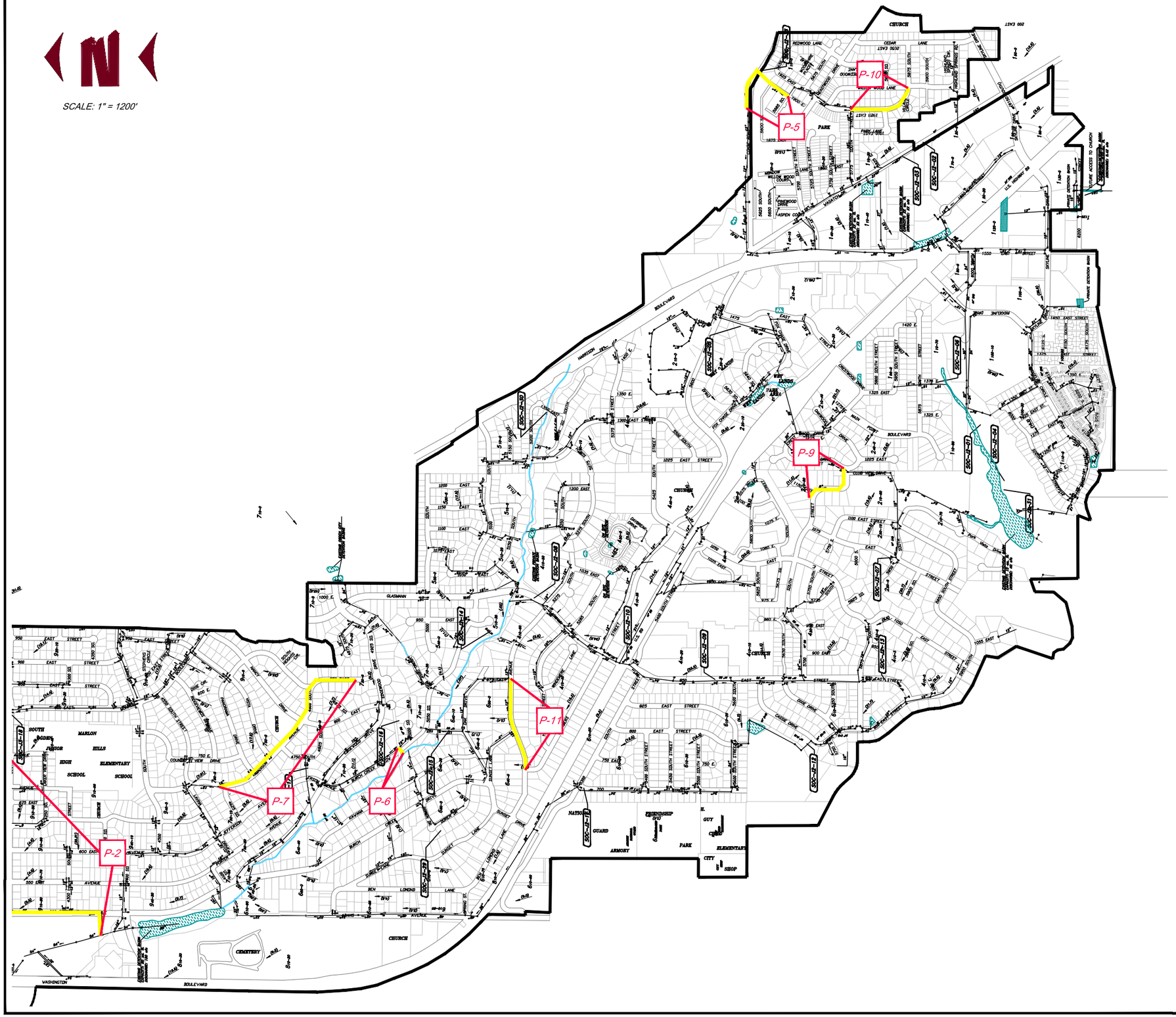
SCALE: 1" = 1200'



SOUTH OGDEN CITY CORPORATION STORM DRAIN CAPITAL FACILITIES PLAN & IMPACT FEE ANALYSIS

SOUTH OGDEN

LEGEND

- SOUTH OGDEN CITY BOUNDARY
- PROPOSED PROJECT
- P- : PROPOSED PROJECT NUMBER
- 12" : EXISTING STORM DRAIN PIPE
- EXISTING DETENTION BASIN
- OUTLET CONTROL STRUCTURE
- EXISTING STORM DRAIN MANHOLE
- EXISTING INLET BOX / CATCH BASIN

CAPITAL FACILITIES PLAN PROJECT MAP

FIGURE 4-2

DESIGNED B.C.J. DATE SEPT. 14, 2021
DRAWN C.C.S. SCALE 1"=1200'
CHECKED B.C.J.

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5434 SOUTH FREEWAY PARK DRIVE
RIVERDALE, UTAH 84405 (801) 775-9191

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SECTION 5

IMPLEMENTATION OF CAPITAL FACILITIES PLAN

ELEMENTS OF IMPLEMENTATION

In accordance with the recommendations of the Capital Facilities Plan, the proposed projects should now be designed, constructed, and maintained. The previous sections of the Capital Facilities Plan have established a planning base, discussed existing and future drainage needs, and defined proposed improvements to address existing and future storm drain problems. This section will discuss some of the considerations relative to implementing the Capital Facilities Plan. Included are discussions on:

- Implementation Responsibility
- Priorities for Proposed Capital Facilities
- Maintenance
- Funding Alternatives
- Compliance with Regulations
- Review of Proposed Developments
- Drainage Plan Updating

IMPLEMENTATION RESPONSIBILITY

A City's institutional responsibility for its citizens requires that some action be taken regarding the nuisance and damage associated with flooding. South Ogden City has the responsibility to plan, build, and maintain needed improvements and implement equitable charges for those improvements.

PRIORITIES FOR PROPOSED CAPITAL IMPROVEMENTS

Prioritization of projects is important to obtain the greatest benefit from available financial resources. The highest priority is given to those areas currently experiencing problems or where the potential consequences of not making improvements are the most severe. Assigning priorities is difficult because the need for many improvements depends upon future development patterns which are very difficult to predict. Project priorities have been tentatively proposed by the order in which the capital improvement projects are listed for each drainage basin. The lower the number the higher the priority for each basin.

MAINTENANCE

Proper maintenance of drainage facilities will preserve design capacities by reducing accumulations of sediments, weeds and debris. If drainage facilities are not adequately maintained, drainage facilities will not function as intended, and they will generally become a hazard and a

blight on the City's landscape. The construction of additional facilities in the future increases the maintenance burden. It is necessary that sufficient maintenance labor and equipment be made available to ensure proper function and community acceptance.

FUNDING ALTERNATIVES

Implementation of the storm drain capital facilities plan requires identification of the financing for construction and maintenance activities. Two principles should be considered when developing a funding strategy:

- All properties benefit from the drainage system
- All property owners should pay their fair share of the costs to construct and maintain the storm drainage system

There are several approaches available to fund the construction and maintenance of a storm drainage system. Available funding sources include the City's general fund, impact fees, a storm drainage utility charge, and funding from other entities.

General Fund

Some cities fund some or all of the storm drainage costs through the city's general fund. This approach is typically used to construct minor improvements and to maintain the existing system. Major improvements are usually funded through other means.

Impact Fees

South Ogden City currently assesses an impact fee to construct storm drain capital improvements. Impact fees accessed to new development must be based upon a proportionate fair share of the costs of the improvements made necessary by the development and must not exceed the cost of the improvements. An impact fee cannot be imposed to address existing deficiencies except where they are exacerbated by new development. Under impact fee regulations established by the State of Utah the following steps are required to adopt and expend impact fees:

1) Capital improvements to be financed with impact fees must be identified in a capital facilities plan and impact fee facilities plan. These improvements must be reasonably related to growth.
2) Impact fees must be calculated based on a proportionate share analysis. This means that impact fees charged to new development cannot exceed the proportionate share of the capital improvements necessitated by that development.
3) Impact fee funds must be expended or other otherwise encumbered within 6 years from the date they are collected.

An impact fee analysis related to the assessment of impact fees is presented in Section 7 of this document in accordance with the direction established by the Utah Impact Fee Act (Chapter 11-36a, Utah Code).

Storm Drain Utility

The City Council created and established the storm drain utility as part of the City's overall storm sewer system for planning, designing, constructing, maintaining, administering and operating the City's storm drain system. Essentially, the Storm Drain Utility permits the charge of a monthly fee to be commonly charged for maintenance, administration, and for needed capital improvements. These monthly fees are dependent on a formula which uses impervious area calculations to estimate the runoff expected from individual properties. Long-term debt financing is normally used to fund capital improvements with the indebtedness being repaid with a portion of the collected fees. In the event that capital improvements are constructed with Storm Drain Utility funds, impact fees may be used to reimburse Storm Drain Utility funds used to pay for those projects that facilitate new growth.

Funding from Other Entities

UDOT owns and maintains several highways within South Ogden City. These highways include Washington Boulevard, Harrison Boulevard and U.S. Highway 89. Discussions with UDOT are recommended to better define responsibilities, coordinate future storm drainage improvements, and seek UDOT's participation in funding the construction of new facilities. UDOT typically contributes to the funding of new facilities in proportion to the runoff generated on their roadways as compared to the total capacity of the storm drainage facility.

COMPLIANCE WITH FEDERAL, STATE AND LOCAL REQUIREMENTS

South Ogden City's storm drain system is regulated by the EPA and the State of Utah under the National Pollutant Discharge Elimination System (NPDES) permit process. The Utah Division of Water Quality administers the program and South Ogden City is allowed to discharge from the storm drain system to the waters of United States through a permit issued by the EPA to the State of Utah. South Ogden City's storm drain system is classified by the NPDES rules as a municipal separate storm sewer system (MS4). The NPDES MS4 permit requires permittees to develop and implement a comprehensive Storm Water Management Program (SWMP) that must include pollution prevention measures, best practices at City facilities, best practices at construction sites, inspections, monitoring, enforcement, and other appropriate measures to control the quality of storm water discharged to the storm drains and thence to waters of the United States.

South Ogden City has developed and implemented a comprehensive SWMP. The SWMP includes design requirements that are consistent with the design requirements outlined in the storm drain capital facilities plan. Additional SWMP requirements and their impact on development and construction of capital facilities are disscussed below.

Low Impact Development (LID)

LID refers to engineered systems, either structural or natural, that use or mimic natural processes to promote infiltration, evapotranspiration, and/or reuse of storm water as close to its source as possible to protect water quality and aquatic habitat. Development and redevelopment projects that disturb one acre or more, including projects less an one acre that are part of a larger common plan of development, are required to evaluate feasibility of LID and include LID features where practical.

The NPDES MS4 permit requirement for LID design is on-site retention of runoff from the 80th percentile storm event. The 80th percentile storm event is approximately 0.5 inches of precipitation. Compliance with this requirement is generally independent of the peak allowable flow restrictions because storm events that generate peak runoff flowrates are much larger storm events. The initial runoff that fills the runoff requirement generally has little impact on the detention requirements and downstream pipe capacity necessary for major storm events. Compliance with LID standards does not impact capital facilities design or the impact fee analysis.

Water Quality Impacts

The NPDES MS4 permit requires that all projects be evaluated for water quality impacts. Storm drain capital facilities projects will need to comply with this requirement. In general, the capital facilities projects are expected to have little impact on water quality beyond construction. However, the assessment should still be completed and any pollution concerns addressed by construction and post-construction best management practices.

Post-Construction Storm Water Management

The NPDES MS4 permit requirements post-construction management storm drain facilities. Completed capital improvements will require inspection and maintenance. Completed capital facilities projects should be added to inspection schedules and the maintenance requirements should be added the SWMP.

REVIEW OF PROPOSED DEVELOPMENTS

The City currently requires developers to submit drainage plans that demonstrate their compliance with Federal, State, and local regulations, as well as this storm drain capital facilities plan. City review of the developer's proposed drainage plans will help assure that proposed facilities are adequate for the long term needs of the development.

On-site drainage plans should include provisions for storm drainage collection and conveyance using the minor storm (10-year event) to design for nuisance flooding and the major storm (100-year event) to show that buildings are not impacted. The storm drain capital facilities plan was developed with the assumption that most commercial and residential development will provide on-site detention to limit the peak runoff rate to 0.2 cfs per acre for the 100-year storm event.

Detention facilities should be designed to prevent overtopping except through a properly designed spillway or identified emergency overflow.

UPDATING THE STORM DRAIN CAPITAL FACILITIES PLAN

The South Ogden Storm Drain Capital Facilities Plan is based upon many assumptions concerning development patterns and future land use. The information used for the storm drain capital facilities plan represents the City's best effort at this point in time to project the future development patterns and land use. However, planning is not a one time event, but rather an ongoing process. Storm drainage needs may change due to changing growth patterns, new regulatory requirements, the City's desire for a different level of service or amendments to the Future Land Use element of the General Plan. As the City undertakes certain planning amendments, this document should be reviewed and updated accordingly. Annual reviews of this document with general updates every 5 years are recommended.

SECTION 6

IMPACT FEE FACILITIES PLAN

DESCRIPTION

The Impact Fee Facilities Plan (IFFP) is included as part of this study. An IFFP is required by the Impact Fee Act and forms a basis for calculating an impact fee. The IFFP differs from the CFP in that the IFFP is concerned with a planning window that is more short term (6 to 10 years) while the CFP looks at a much longer term. The CFP is used for long term planning while the IFFP is used to calculate the impact fee. Both the IFFP and the CFP described herein represent the City's best effort at this point in time to project the need for new sewer facilities. However, facilities planning is not a one time event, but rather an ongoing process. Projected capital facilities may change in the future due to changing growth patterns, new regulatory requirements, or unanticipated needs. As the City prepares further planning, this document should be reviewed and updated accordingly.

EXISTING FACILITIES

Unless they are located within a private development, the existing storm drain system improvements within service area are owned by South Ogden City Corporation. The original system was not installed all at one time but has steadily increased in size as areas of the City have developed. Many storm drain pipes, manholes and catch basins were installed in order to serve individual residential developments. Many of the original trunk lines have remained largely unchanged since they were installed. Even though in more recent years, new growth within the service area has slowed, storm drain improvements will need to be planned and upgraded to accommodate the additional demands caused by growth.

SERVICE STANDARDS

The current standards for the storm drain system requires that runoff discharges from developed land are no higher than pre-developed levels. Due to variations in elevation, topography, soil permeability, vegetation, etc. Discharge rates are limited to 0.2 cfs/acre. In some cases, the flow is further restricted to 0.1 cfs/acre. This is accomplished through smaller private detention basins located inside of developments as well as larger regional detention basins that are maintained and operated by South Ogden City.

PROJECTED IMPACTS FROM NEW DEVELOPMENT

Expansion of the storm drain system has occurred in the past and will continue to be required as a direct impact from population growth and development. However, new development will also increase storm drain runoff. As development occurs, some existing facilities are expected to become inadequate and will need to be replaced or up-graded. It is anticipated that major capital facilities projects for the storm drain system will be constructed as indicated on Exhibits 4-1 and 4-2.

PROPOSED IMPROVEMENTS

Several improvements are necessary to help minimize future impact on existing storm drain facilities. The projects listed below are the ones the City anticipates will be required within the next 10 years.

Table 6 -1. 10-Year Projects

Project Identification	Description	Construction Cost Estimate
P-1	Replace the existing storm drain system on 40th Street between Adams Avenue and Washington Blvd. with a 24" diameter storm drain.	$269,658.00
P-2	Replace the existing storm drain system on 42nd Street between Liberty Avenue and Adams Avenue and on Adams Avenue between 42nd Street and 4350 South with 30" and 36" diameter storm drains.	$957,720.00
P-3	Replace the existing storm drain system on 40th Street between Washington Blvd. and Burch Creek with 21" and 24" diameter storm drains.	$439,764.00
P-4	Replace the existing storm drain system on 675 East Street between Bel Mar Drive and 36th Street and on 36th Street between 675 East and Jefferson Avenue with 24" and 30" storm drains.	$394,290.00
P-5	Replace an existing storm drain on Combe Road, Woodshire Court and 5665 South.	$248,508.00
P-6	Line an existing CMP storm drain between Burch Creek Hollow and the Burch Creek channel.	$173,280.00
	Total Project Cost	**$2,410,220.00**

Improvements and construction costs are identified to address existing and future storm drain requirements. Construction costs were estimated using typical prices observed for recent projects in South Ogden City and the Weber County areas and are presented in current dollars. Recent price and economic trends indicate that future costs are difficult to predict with certainty. Engineering cost estimates given in this study should be regarded as conceptual and appropriate for use as a planning guide. Only during final design can a definitive and more accurate estimate be expected.

Construction cost estimates include all labor and materials, plus a 20% contingency for engineering and unanticipated costs. Individual cost estimates are included in the Appendix B.

UPDATING THE STORM DRAIN IMPACT FEE FACILITIES PLAN

The information used for the capital facilities impact fee plan represents the City's best effort at this point in time to project the future development patterns and land use. However, planning is not a one time event, but rather an ongoing process. Storm drain flows and drainage patterns may change due to changing growth patterns, new regulatory requirements. As previously discussed, new growth in the service area is limited due to the lack of vacant land. The IFFP should be reviewed annually with the CFP. It is recommended that updates to the plan should be completed at a minimum interval of 5 years.

CERTIFICATION

I certify that the impact fee analysis presented herein includes only the costs of public facilities that are allowed under the Impact Fee Act, actually incurred, or projected to be incurred or encumbered within 6 years after the day on which each impact fee is paid. It does not include the following: (1) costs of operation and maintenance of the public facilities; (2) costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; (3) 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; (4) offsets costs with grants or other alternate sources of payment; and (5) complies in each and every relevant respect with the Impact Fee Act.

Brad C. Jensen P.E.

SECTION 7

IMPACT FEE ANALYSIS

DESCRIPTION

The purpose of the Impact Fee Analysis is to identify capital facilities improvements that are to be financed completely, or in part by impact fees and to calculate an appropriate impact fee amount. Development impact fees are a one-time charge on new development for the purpose of funding new or expanded public facilities necessitated by that development. In 1995, the Utah State Legislature passed the Impact Fee Act (Chapter 11-36a of the Utah Code Ann.). This act has been regularly updated and regulates how impact fees can be calculated, implemented, and challenged. Discussions in this document relating to impact fees are intended to provide the basis for planning and provide justification as required by the Impact Fees Act. A copy of the current Impact Fee Act is included with this study in Appendix C.

METHODOLOGY

As outlined in the Impact Fees Act, the following steps are taken to calculate the impact fee:

1. Identify the impact on the existing system required by the development activity

2. Demonstrate how those impacts on the system improvements are reasonably related to the new development activity

3. Estimate the proportionate share of the costs of impacts on system improvements that are reasonably related to the new development

4. Based on the above steps and the requirements of the Utah Code, Title 11, Chapter 36a, identify how the impact fee is calculated.

DETERMINATION OF EQUIVALENT BASIS FOR ANALYSIS

As discussed in previous sections, the most common equivalent base used of analysis, design and planning for future growth in a storm water system is square footage of impervious area (hard surface). Impervious area is estimated based on zoning density requirements and restrictions. The anticipated runoff from a typical square foot of impervious area located within the Service Area is then used to apportion the cost of future projects. Presented below are calculations that estimate the future additional impervious area as it is related to the increase in population.

Current Population (2021)	17,580 people
Population at 10 years (2031)	18,620 people
Population Increase	1,040 people

It is assumed that 30% of the population growth will be associated with single family homes, while 70% be associated with commercial (multi-family).

Assume single family has 3.5 people/home and multi family (residential) has 2.5 people/unit.

Estimate Impervious area for single family residential growth. Assume growth is all in the R-1-8 zone* and has 38% impervious area, (Appendix A).

1,040 people x 0.30 = 312 people

312 people ÷ 3.5 people/home = 89 homes

89 homes x 8,000 ft^2/home = 712,000 ft^2

712,000 ft^2 x 0.38 = 270,560 ft^2 of impervious area

* The R-1-8 zone will be used in this study as a typical single family residential development. This is due to the fact that nearly all of the single family development that will take place in the Service Area will be "fill-in" developments. It is expected that smaller lots represented by the R-1-8 zones will be typical of the "fill-in" developments.

Estimate impervious area for commercial / multi-family residential (20 units/acre). Assume impervious area has 80% impervious area, (Appendix A).

1,040 people x 0.70 = 728 people

728 people ÷ 2.5 people/unit = 291 units

291 units ÷ 20 units/acre = 14.55 acres

14.55 acre x 0.80 = 11.64 acres of impervious area

11.64 acres x 43,560 ft^2/acre = 507,038 ft^2 of impervious area

Total Impervious Area increase 270,560 ft^2 + 507,038 ft^2 = 777,598 ft^2

PROPORTIONATE SHARE ANALYSIS

It is important that both existing residents and future development pay their proportionate share of the costs for improvements to the sewer system. An impact fee calculated by proportionate share analysis is necessary to achieve an equitable sharing of costs. The amount of the impact fee is calculated by using a proportionate share analysis that considers only the costs of future capital improvements. The impact fee calculation contained in this document does not include recoupment of costs for the investment by current residents in existing facilities. Some recoupment amount may

be justified for existing system facilities. However, detailed studies would be required to provide justification for any potential recoupment fee. The approach detailed in this document gives a lower, but easily defendable, impact fee. The steps completed for the proportionate share analysis are outlined below.

1) **Estimate Costs for Future Capital Improvements** - As indicated in Table 6-1. The total estimated construction cost for all proposed improvements identified in the Impact Fee Facilities Plan is $ 2,699,400.00. However, not all of the costs are eligible to be funded from impact fees. Some improvements may be constructed by existing residents, by developers, by UDOT, by South Ogden City, and so on. Table 6-1, located at the end of these calculations, is a summary of each of the estimated cost of anticipated capital projects and a recommendation as to how much of the project cost should be funded from impact fees.

2) **Apportion Costs to the Projected Service Base** - There are two options available for assessing the impact fee that is proportionate and reasonably related to the costs outlined in the IFFP and in Table 7-1. Both options are presented as follows:

Method 1

Although a portion of the estimated cost of the proposed storm drain improvements are required due to projected growth, they will also serve existing residents. Since all residents of the City will share the benefit from the improvements the entire anticipated impervious area at 10 years from the date of this study is used as the service base.

Estimated total impervious area: 43,262,921 ft^2 (Appendix A)

Estimated Cost of Eligible Capital Facilities Projects = $ 554,060.80

Impact Fee = $ 554,060.80 / 43,262,921 ft^2 = $ 0.012 per ft^2

Using Method 1, The Impact fee is calculated by multiplying the impervious area of the proposed development by $ 0.024/ ft^2. Sample calculations as follows:

<u>Single Family Residential</u>

3,030 ft^2 Impervious Area* / Residence x $ 0.024 / ft^2 = Impact Fee

Example Calculation

3,030 ft^2 x $ 0.012 / ft^2 = $ 36.36

<u>Commercial / Multi-Family</u>

Square Footage of Impervious Area x $ 0.012 / ft^2 = Impact Fee

* 3030 ft^2 of impervious area is typical of a home in a R-1-8 zone (see Appendix A).

Method 2

Using this method, the estimated costs of eligible capital improvements are divided by the impervious area related to growth only. Using this fee, the individuals or activities who develop properties within the study area would pay for the growth related capital improvements.

Estimated increase in impervious area in 10 years: 826,459 ft^2 (Appendix A)

Estimated Cost of Eligible Capital Facilities Projects = $ 554,060.80

Impact Fee = $ 554,060.80 / 777,598 ft^2 = $ 0.71 per ft^2

Using Method 2, The Impact fee is calculated by multiplying the impervious area of the proposed development by $ 0.67 per ft^2. Sample calculations as follows:

Single Family Residential

3,030 ft^2 Impervious Area* / Residence x $ 0.71 per ft^2 = Impact Fee

Example Calculation:

3,030 ft^2 x $ 0.71 / ft^2 = $ 2,151.30

Commercial / Multi-Family

Square Footage of Impervious Area x $ 0.71 / ft^2 = Impact Fee

* 3030 ft^2 of Impervious Area is typical of a home in a R-1-8 zone (see Appendix A).

Table 7-1. Cost Allocation Summary

Project No.	Description	Existing System Upgrade	System Improvement (Impact Fee Eligible)	Total Estimated Project Cost
1	Replace the existing storm drain system on 40th Street between Orchard Avenue and Porter Avenue with 24" and 30" diameter storm drains and construct a detention pond and outlet control structure.	$215,726.40	$53,931.60	$269,658.00
2	Replace the existing storm drain system on 40th Street between Nordin Avenue and Orchard Avenue with 18" and 24" diameter storm drains.	$766,176.00	$191,544.00	$957,720.00
3	Replace the existing storm drain system on Glassman Way between Highway 89 and Burch Creek.	$293,411.20	$73,352.80	$366,764.00
4	Replace the existing storm drain system on 40th Street between Adams Avenue and Washington Blvd. with a 24" diameter storm drain.	$315,432.00	$78,858.00	$394,290.00
5	Replace the existing storm drain system on 42nd Street between Liberty Avenue and Adams Avenue and on Adams Avenue between 42nd Street and 4350 South with 30" and 36" diameter storm drains.	$198,806.40	$48,701.60	$248,508.00
6	Replace the existing storm drain system on 40th Street between Washington Blvd. and Burch Creek with 21" and 24" diameter storm drains.	$138,624.00	$34,656.00	$173,280.00
7	Replace the existing storm drain system on 675 east between Bel Mar Drive and 36th Street and on 36th Street between 675 East and Jefferson Avenue with 24" and 30" storm drain pipes..	$288,067.20	$72,016.80	$360,084.00
	Totals	**$2,216,243.20**	**$544,060.80**	**$2,770,304.00**

RECOMMENDED IMPACT FEE

As indicated above**, the maximum impact fee per ERU that could be imposed is $ 0.71 per ft^2. For a single family home this results in an impact fee of $ 2,151.30.** We recommend imposing the full amount. However, it should be understood that this is a recommendation only. The City Council can choose to adopt a lesser impact fee amount.

ADMINISTRATION OF IMPACT FEE FUNDS

When Impact fee funds are collected, they should be held in a separate account. Accounting records should provide a clear audit trail which can demonstrate that impact fee funds were used only for the capital improvements for which they were collected and must be utilized within the time required by the Impact Fee Act.

CERTIFICATION

I certify that the impact fee analysis presented herein includes only the costs of public facilities that are allowed under the Impact Fee Act, actually incurred, or projected to be incurred or encumbered within 6 years after the day on which each impact fee is paid. It does not include the following: (1) costs of operation and maintenance of the public facilities; (2) costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; (3) 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; (4) offsets costs with grants or other alternate sources of payment; and (5) complies in each and every relevant respect with the Impact Fee Act.

Brad C. Jensen P.E.

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APPENDIX A
SUB-BASIN IMPERVIOUS AREA

IMPERVIOUS AREA ESTIMATE

R-1-6 (Lot Size 6,000 ft^2)
R-2 Single
R-3 Single

Building*	35' x 24' =	810 ft^2
Driveway	18' x 30' =	540 ft^2
Sidewalk	4' x 80' =	240 ft^2
Fronting Road	80' x 17' =	1440 ft^2
	Total	3030 ft^2

* Connected impervious area only

Impervious Area percentage 3,030 ft^2/,6,000 ft^2 = 0.505 (use 50%)

R-1-8 (Lot Size 8,000 ft^2)

Building*	35' x 24' =	810 ft^2
Driveway	18' x 30' =	540 ft^2
Sidewalk	4' x 80' =	240 ft^2
Fronting Road	80' x 17' =	1440 ft^2
	Total	3030 ft^2

* Connected impervious area only

Impervious Area percentage 3,030 ft^2 / 8,000 ft^2 = 0.378 (use 38%)

R-1-10 (Lot Size 10,000 ft^2)

Building*	38' x 24' =	988 ft^2
Driveway	20' x 30' =	600 ft^2
Sidewalk	4' x 80' =	240 ft^2
Fronting Road	80' x 17' =	1440 ft^2
	Total	3268 ft^2

* Connected impervious area only

Impervious Area percentage 3,268 ft^2 / 10,000 ft^2 = 0.327 (use 33%)

R-2 Duplex

Building*	35' x 24' =	810 ft^2
Driveway	18' x 30' =	540 ft^2
Sidewalk	4' x 80' =	240 ft^2
Fronting Road	80' x 17' =	1440 ft^2
	Total	3030 ft^2

* Connected impervious area only

Impervious Area percentage 3,030 ft^2/ 8,500 ft^2 = 0.356 (use 36%)

Other percentages based on actual impervious area measurements

R-3 Duplex	**52%**	
R-4	**35%**	
R-5	**37%**	
R-3zc	**52%**	
Commercial	**C-1, C-2, C-3, CP-2**	**90%**
Institutional		**10%**
Parks / Open Space		**0%**

DRAINAGE BASIN A

Future Potential Land Use	Drainage Basin A Gross Area (Acres)	Directly & Indirectly Connected Impervious Areas	Total Impervious Area (Acres)
Medium Density Residential (R-1-6 / R-1-8)	0	45%	0.00
Low Density Residential (R-1-10)	0	32%	0.00
Two Family Residential (R-2)	0	35%	0.00
Medium Density Multiple Family Residential (R-3 / R-4)	0	42%	0.00
High Density Multiple Family (R-5)	0	37%	0.00
Total Residential Impervious Area (Acres)			**0.00**
Commercial and Planned Commercial (C-1, C-2, C-3, CP-2)	20	80%	16.00
Institutional (schools. Churches, government)	0	10%	0.00
City Parks / Open Space	0	0%	0.00
Potential Tributary Lands Outside City Limits	0	10%	0.00
Total Commercial, Open Space & Institutional Impervious Area (Acres)			**16.00**

DRAINAGE BASIN B

Future Potential Land Use	Drainage Basin B Gross Area (Acres)	Directly & Indirectly Connected Impervious Areas	Total Impervious Area (Acres)
Medium Density Residential (R-1-6 / R-1-8)	78	45%	35.10
Low Density Residential (R-1-10)	122	32%	39.04
Two Family Residential (R-2)	100	35%	35.00
Medium Density Multiple Family Residential (R-3 / R-4)	195	42%	81.90
High Density Multiple Family (R-5)	33	37%	12.21
Total Residential Impervious Area (Acres)			**201.35**
Commercial and Planned Commercial (C-1, C-2, C-3, CP-2)	28	80%	22.40
Institutional (schools. Churches, government)	0	10%	0.00
City Parks / Open Space	45	0%	0.00
Potential Tributary Lands Outside City Limits	0	10%	0.00
Total Commercial, Open Space & Institutional Impervious Area (Acres)			**22.40**

DRAINAGE BASIN C

Future Potential Land Use	Drainage Basin A Gross Area (Acres)	Directly & Indirectly Connected Impervious Areas	Total Impervious Area (Acres)
Medium Density Residential (R-1-6 / R-1-8)	601	45%	270.45
Low Density Residential (R-1-10)	139	32%	44.48
Two Family Residential (R-2)	104	35%	36.40
Medium Density Multiple Family Residential (R-3 / R-4)	81	42%	34.02
High Density Multiple Family (R-5)	48	37%	17.76
Total Residential Impervious Area (Acres)			**403.11**
Commercial and Planned Commercial (C-1, C-2, C-3, CP-2)	59	80%	47.20
Institutional (schools. Churches, government)	33	10%	3.30
City Parks / Open Space	70	0%	0.00
Potential Tributary Lands Outside City Limits	175	10%	17.50
Total Commercial, Open Space & Institutional Impervious Area (Acres)			**68.00**

DRAINAGE BASIN D

Future Potential Land Use	Drainage Basin D Gross Area (Acres)	Directly & Indirectly Connected Impervious Areas	Total Impervious Area (Acres)
Medium Density Residential (R-1-6 / R-1-8)	34.0	45%	15.30
Low Density Residential (R-1-10)	0.0	32%	0.00
Two Family Residential (R-2)	42.0	35%	14.70
Medium Density Multiple Family Residential (R-3 / R-4)	1.0	42%	0.42
High Density Multiple Family (R-5)	0.5	37%	0.19
Total Residential Impervious Area (Acres)			**30.61**
Commercial and Planned Commercial (C-1, C-2, C-3, CP-2)	1.5	80%	1.20
Institutional (schools. Churches, government)	0.0	10%	0.00
City Parks / Open Space	0.0	0%	0.00
Potential Tributary Lands Outside City Limits	0.0	10%	0.00
Total Commercial, Open Space & Institutional Impervious Area (Acres)			**1.20**

DRAINAGE BASIN E

Future Potential Land Use	Drainage Basin E Gross Area (Acres)	Directly & Indirectly Connected Impervious Areas	Total Impervious Area (Acres)
Medium Density Residential (R-1-6 / R-1-8)	64	45%	28.80
Low Density Residential (R-1-10)	0	32%	0.00
Two Family Residential (R-2)	49	35%	17.15
Medium Density Multiple Family Residential (R-3 / R-4)	6	42%	2.52
High Density Multiple Family (R-5)	2	37%	0.74
Total Residential Impervious Area (Acres)			**49.21**
Commercial and Planned Commercial (C-1, C-2, C-3, CP-2)	29	80%	23.20
Institutional (schools. Churches, government)	2	10%	0.20
City Parks / Open Space	0	0%	0.00
Potential Tributary Lands Outside City Limits	0	10%	0.00
Total Commercial, Open Space & Institutional Impervious Area (Acres)			**23.40**

DRAINAGE BASIN F

Future Potential Land Use	Drainage Basin F Gross Area (Acres)	Directly & Indirectly Connected Impervious Areas	Total Impervious Area (Acres)
Medium Density Residential (R-1-6 / R-1-8)	4	45%	1.80
Low Density Residential (R-1-10)	0	32%	0.00
Two Family Residential (R-2)	55	35%	19.25
Medium Density Multiple Family Residential (R-3 / R-4)	15	42%	6.30
High Density Multiple Family (R-5)	5	37%	1.85
Total Residential Impervious Area (Acres)			**29.20**
Commercial and Planned Commercial (C-1, C-2, C-3, CP-2)	185	80%	148.00
Institutional (schools. Churches, government)	7	10%	0.70
City Parks / Open Space	3	0%	0.00
Potential Tributary Lands Outside City Limits	0	10%	0.00
Total Commercial, Open Space & Institutional Impervious Area (Acres)			**148.70**

APPENDIX B
PROJECT COST ESTIMATES

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 1

Location: On 40th Street Between Adams Avenue and Washington Blvd.

Description: Replace Existing Storm Drain System with New 24" Diameter Storm Drain Pipe

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 21" Diameter RCP Storm Drain Pipe	800L.F.	$110.00	$88000.00
1	Furnish and Install 18" Diameter RCP Storm Drain Pipe	100L.F.	$100.00	$10000.00
2	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	2Each	$6500.00	$13000.00
3	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	2Each	$7100.00	$14200.00
4	Furnish and Install Inlet Box	8Each	$2550.00	$20400.00
5	Connect to Existing Storm Drain Pipe	2Each	$1320.00	$2640.00
6	Furnish and Install 3" Minus Granular Backfill:	1350Tons	$21.50	$29025.00
7	Furnish and Install Asphalt Trench Patch	275Tons	$110.00	$30250.00
8	Remove and Dispose of Existing Storm Drain Pipe and Catch Basins	800L.F.	$21.50	$17200.00
	Subtotal			**$224715.00**
	20% Contingency			**$44943.00**
	Total Construction Cost			**$269658.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 2

Location: On 42nd Street Between Liberty Avenue and Adams Avenue and on Adams Avenue Between 42nd Street and 4350 South

Description: Replace Existing Storm Drain System with 30" and 36" Diameter Storm Drain Pipes

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 27" Diameter RCP Storm Drain Pipe	450L.F.	$95.00	$42750.00
2	Furnish and Install 30" Diameter RCP Storm Drain Pipe	1100L.F.	$105.00	$115500.00
3	Furnish and Install 36" Diameter RCP Storm Drain Pipe	1850L.F.	$116.00	$214600.00
4	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	6Each	$5500.00	$33000.00
5	Furnish and Install 6' Diameter Manhole w/ Ring, Cover and Concrete Collar	5Each	$6100.00	$30500.00
6	Furnish and Install Inlet Box	24Each	$2450.00	$58800.00
7	Connect to Existing Storm Drain Pipe	10Each	$1220.00	$12200.00
8	Furnish and Install 3" Minus Granular Backfill:	8800Tons	$18.50	$162800.00
9	Furnish and Install Asphalt Trench Patch	625Tons	$110.00	$68750.00
10	Remove and Dispose of Existing Storm Drain Pipe and Catch Basins	3200L.F.	$18.50	$59200.00
	Subtotal			**$798100.00**
	20% Contingency			**$159620.00**
	Total Construction Cost			**$957720.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 3

Location: On 40th Street Between Washington Blvd. and Burch Creek

Description: Replace Existing Storm Drain System with New 24" Diameter Storm Drain Pipe

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 21" Diameter RCP Storm Drain Pipe	500L.F.	$100.00	$50000.00
2	Furnish and Install 24" Diameter RCP Storm Drain Pipe	900L.F.	$130.00	$117000.00
3	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	5Each	$5500.00	$27500.00
4	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	7Each	$6100.00	$42700.00
5	Furnish and Install Inlet Box	12Each	$2450.00	$29400.00
6	Connect to Existing Storm Drain Pipe	2Each	$1225.00	$2450.00
7	Furnish and Install 3" Minus Granular Backfill:	2400Tons	$18.40	$44160.00
8	Furnish and Install Asphalt Trench Patch	250Tons	$110.00	$27500.00
9	Remove and Dispose of Existing Storm Drain Pipe and Catch Basins	1400L.F.	$18.40	$25760.00
	Subtotal			**$366470.00**
	20% Contingency			**$73294.00**
	Total Construction Cost			**$439764.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 4

Location: On 675 East Between Bel Mar Drive and 36th Street and on 36th Steet Between 675 East and Jefferson Avenue

Description: Replace Existing Storm Drain System with New 24" and 30" Diameter Pipes

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 24" Diameter RCP Storm Drain Pipe	650L.F.	$130.00	$84500.00
2	Furnish and Install 30" Diameter RCP Storm Drain Pipe	600L.F.	$160.00	$96000.00
3	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$5500.00	$22000.00
4	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	3Each	$6100.00	$18300.00
5	Furnish and Install Inlet Box	8Each	$2450.00	$19600.00
6	Connect to Existing Storm Drain Pipe	2Each	$2100.00	$4200.00
7	Furnish and Install 3" Minus Granular Backfill:	2100Tons	$18.50	$38850.00
8	Furnish and Install Asphalt Trench Patch	200Tons	$110.00	$22000.00
9	Remove and Dispose of Existing Storm Drain Pipe and Catch Basins	1250L.F.	$18.50	$23125.00
	Subtotal			**$328575.00**
	20% Contingency			**$65715.00**
	Total Construction Cost			**$394290.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 5

Location: On Combe Road, Woodshire Court and 5665 South

Description: Replace Existing Storm Drain Pipe with a new 15" Diameter Storm Drain Pipe

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 15" Diameter RCP Storm Drain Pipe	1000L.F.	$80.00	$80000.00
2	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$5500.00	$22000.00
3	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$6100.00	$24400.00
4	Furnish and Install Inlet Box	8Each	$2550.00	$20400.00
5	Connect to Existing Storm Drain Pipe	2Each	$1320.00	$2640.00
6	Furnish and Install 3" Minus Granular Backfill:	1000Tons	$21.50	$21500.00
7	Furnish and Install Asphalt Trench Patch	100Tons	$110.00	$11000.00
8	Remove and Dispose of Existing Storm Drain Pipe and Catch Basins	500L.F.	$21.50	$10750.00
	Subtotal			**$192690.00**
	20% Contingency			**$38538.00**
	Total Construction Cost			**$231228.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 6

Location: On Burch Creek Hollow

Description: Recondition and Existing CMP Storm Drain

Item	Description	Quantity	Unit Price	Total
1	Line an existing 18" CMP	500L.F.	$250.00	$125000.00
2	Asphalt, Curb and Sidewalk Repair	1L.S.	$5000.00	$5000.00
3	Landscape and Sprinkler Repair	2400S.F.	$6.00	$14400.00
	Subtotal			**$144400.00**
	20% Contingency			**$28880.00**
	Total Construction Cost			**$173280.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 7

Location: On Madison Avenue Between Edgewood Drive and 4650 South Street

Description: Furnish and Install New 15" Storm Drain Pipe and Connect to Existing Storm Drain System on Madison Avenue

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 15" Diameter RCP Storm Drain Pipe	1675L.F.	$80.00	$134000.00
2	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$5500.00	$22000.00
3	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	5Each	$6100.00	$30500.00
4	Furnish and Install Inlet Box	18Each	$2450.00	$44100.00
5	Connect to Existing Storm Drain Pipe	1Each	$1220.00	$1220.00
6	Furnish and Install 3" Minus Granular Backfill	2200Tons	$18.50	$40700.00
7	Furnish and Install Asphalt Trench Patch	200Tons	$110.00	$22000.00
8	Remove and Dispose of Existing Pipe and Catch Basins	300L.F.	$18.50	$5550.00
	Subtotal			**$300070.00**
	20% Contingency			**$60014.00**
	Total Construction Cost			**$360084.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 8

Location: On Porter Avenue Between 36th Street and 37th Street and on 36th Street Between Porter Avenue and Adams Avenue

Description: Replace Existing Storm Drain System with New 18" and 21" Diameter Storm Drain Pipes

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 18" Diameter RCP Storm Drain Pipe	700L.F.	$90.00	$63000.00
2	Furnish and Install 21" Diameter RCP Storm Drain Pipe	500L.F.	$100.00	$50000.00
3	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	3Each	$5500.00	$16500.00
4	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	5Each	$6100.00	$30500.00
5	Furnish and Install Inlet Box	12Each	$2450.00	$29400.00
6	Connect to Existing Storm Drain Pipe	3Each	$1250.00	$3750.00
7	Furnish and Install 3" Minus Granular Backfill	2520Tons	$18.50	$46620.00
8	Furnish and Install Asphalt Trench Patch	200Tons	$110.00	$22000.00
9	Remove and Dispose of Existing Pipe and Inlet Boxes	1200L.F.	$18.50	$22200.00
	Subtotal			**$283970.00**
	20% Contingency			**$56794.00**
	Total Construction Cost			**$340764.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 9

Location: On 5700 East Between 1050 East and the Racquet Club

Description: Furnish and Install New 15" Storm Drain Connect to Existing Storm Drain and Divert Flow Down 45th Street

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 15" Diameter RCP Storm Drain Pipe	750L.F.	$80.00	$60000.00
2	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$5500.00	$22000.00
3	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	1Each	$6100.00	$6100.00
4	Furnish and Install Inlet Box	8Each	$2450.00	$19600.00
5	Connect to Existing Storm Drain Pipe	1Each	$1250.00	$1250.00
6	Furnish and Install 3" Minus Granular Backfill	900Tons	$18.50	$16650.00
7	Furnish and Install Asphalt Trench Patch	100Tons	$110.00	$11000.00
	Subtotal			**$136600.00**
	20% Contingency			**$27320.00**
	Total Construction Cost			**$163920.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 10

Location: On Village Way Between Willow Wood Lane and 5775 South Street

Description: Furnish and Install New 15" Diameter Storm Drain Pipe

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 15" Diameter RCP Storm Drain Pipe	850L.F.	$80.00	$68000.00
2	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$5500.00	$22000.00
3	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	1Each	$6100.00	$6100.00
4	Furnish and Install Inlet Box	12Each	$2450.00	$29400.00
5	Connect to Existing Storm Drain Pipe	1Each	$1250.00	$1250.00
6	Furnish and Install 3" Minus Granular Backfill:	1300Tons	$18.50	$24050.00
7	Furnish and Install Asphalt Trench Patch	150Tons	$110.00	$16500.00
	Subtotal			**$167300.00**
	20% Contingency			**$33460.00**
	Total Construction Cost			**$200760.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 11

Location: Ben Lomond Avenue From 875 East to Chambers Avenue

Description: Furnish and Install New 15" Diameter Storm Drain Pipe

Item	Description	Quantity	Unit Price	Total
1	Furnish and Install 15" Diameter RCP Storm Drain Pipe	1300L.F.	$80.00	$104000.00
2	Furnish and Install 4' Diameter Manhole w/ Ring, Cover and Concrete Collar	4Each	$5500.00	$22000.00
3	Furnish and Install 5' Diameter Manhole w/ Ring, Cover and Concrete Collar	3Each	$6100.00	$18300.00
4	Furnish and Install Inlet Box	12Each	$2450.00	$29400.00
5	Connect to Existing Storm Drain Pipe	2Each	$1250.00	$2500.00
6	Furnish and Install 3" Minus Granular Backfill:	1650Tons	$18.50	$30525.00
7	Furnish and Install Asphalt Trench Patch	175Tons	$110.00	$19250.00
	Subtotal			**$225975.00**
	20% Contingency			**$45195.00**
	Total Construction Cost			**$271170.00**

SOUTH OGDEN CITY CORPORATION

Cost Estimate

Project No. 12

Location: Neat Grant Avenue and 38th Street

Description: Recondition and Landscape an Existing Detention Pond

Item	Description	Quantity	Unit Price	Total
1	Remove Existing Cobble Rock	1L.S.	$8500.00	$8500.00
2	Regrade Pond Surface	4Each	$5500.00	$22000.00
3	Install new Landscaping	1L.S.	$20000.00	$20000.00
4	Reconstruct Outlet Structure	1L.S.	$3500.00	$3500.00
	Subtotal			**$54000.00**
	20% Contingency			**$10800.00**
	Total Construction Cost			**$64800.00**

APPENDIX C
IMPACT FEE ACT

Chapter 36a
Impact Fees Act

Part 1
General Provisions

11-36a-101 Title.

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

Enacted by Chapter 47, 2011 General Session

11-36a-102 Definitions.

As used in this chapter:

(1)

(a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or
(B) irrigation water; or
(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:
(i) to reserve or provide:
(A) sewer collection capacity; or
(B) treatment capacity; or
(ii) to provide sewer service for a development activity.
(5) "Enactment" means:
(a) a municipal ordinance, for a municipality;
(b) a county ordinance, for a county; and
(c) a governing board resolution, for a local district, special service district, or private entity.
(6) "Encumber" means:
(a) a pledge to retire a debt; or
(b) an allocation to a current purchase order or contract.
(7) "Expense for overhead" means a cost that a local political subdivision or private entity:
(a) incurs in connection with:
(i) developing an impact fee facilities plan;
(ii) developing an impact fee analysis; or
(iii) imposing an impact fee, including any related overhead expenses; and
(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.
(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.
(9)
(a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.
(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.
(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.
(13)
(a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.
(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.
(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:
(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or
(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and
(ii) is the only realistic source of water for the applicant's development.

(15)
(a) "Project improvements" means site improvements and facilities that are:
(i) planned and designed to provide service for development resulting from a development activity;
(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and
(iii) not identified or reimbursed as a system improvement.
(b) "Project improvements" does not mean system improvements.

(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:
(a) water rights and water supply, treatment, storage, and distribution facilities;
(b) wastewater collection and treatment facilities;
(c) storm water, drainage, and flood control facilities;
(d) municipal power facilities;
(e) roadway facilities;
(f) parks, recreation facilities, open space, and trails;
(g) public safety facilities;
(h) environmental mitigation as provided in Section 11-36a-205; or
(i) municipal natural gas facilities.

(18)
(a) "Public safety facility" means:
(i) a building constructed or leased to house police, fire, or other public safety entities; or
(ii) a fire suppression vehicle costing in excess of $500,000.
(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19)
(a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.
(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:
(i) are necessitated by the new development; and
(ii) are not funded by the state or federal government.
(c) "Roadway facilities" does not mean federal or state roadways.

(20)
(a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.
(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:
(a) the state;
(b) a school district; or

(c) a charter school.
(22)
(a) "System improvements" means:
(i) existing public facilities that are:
(A) identified in the impact fee analysis under Section 11-36a-304; and
(B) designed to provide services to service areas within the community at large; and
(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.
(b) "System improvements" does not mean project improvements.

Amended by Chapter 35, 2021 General Session

Part 2
Impact Fees

11-36a-201 Impact fees.
(1) A local political subdivision or private entity shall ensure that any imposed impact fees comply with the requirements of this chapter.
(2) A local political subdivision and private entity may establish impact fees only for those public facilities defined in Section 11-36a-102.
(3) Nothing in this chapter may be construed to repeal or otherwise eliminate an impact fee in effect on the effective date of this chapter that is pledged as a source of revenues to pay bonded indebtedness that was incurred before the effective date of this chapter.

Enacted by Chapter 47, 2011 General Session

11-36a-202 Prohibitions on impact fees.
(1) A local political subdivision or private entity may not:
(a) impose an impact fee to:
(i) cure deficiencies in a public facility serving existing development;
(ii) raise the established level of service of a public facility serving existing development; or
(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;
(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or
(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.
(2)
(a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:
(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;
(ii) on a school district or charter school for a park, recreation facility, open space, or trail;
(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and
(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;
(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:
(A) the Utah National Guard;
(B) the Utah Highway Patrol; or
(C) a state institution of higher education that has its own police force; or
(v) on development activity on the state fair park, as defined in Section 63H-6-102.
(b)
(i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:
(A) the school is intended to replace another school, whether on the same or a different parcel;
(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and
(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.
(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.
(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:
(i) the state's development causes an impact on the road facility; and
(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.
(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Amended by Chapter 35, 2021 General Session

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

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

(4) A private entity that assesses an impact fee under this chapter is subject to the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Enacted by Chapter 47, 2011 General Session

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

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

Enacted by Chapter 47, 2011 General Session

11-36a-205 Environmental mitigation impact fees.

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

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

Enacted by Chapter 47, 2011 General Session

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

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

Renumbered and Amended by Chapter 3, 2018 General Session

Part 3
Establishing an Impact Fee

11-36a-301 Impact fee facilities plan.

(1) Before imposing an impact fee, each local political subdivision or private entity shall, except as provided in Subsection (3), prepare an impact fee facilities plan to determine the public facilities required to serve development resulting from new development activity.

(2) A municipality or county need not prepare a separate impact fee facilities plan if the general plan required by Section 10-9a-401 or 17-27a-401, respectively, contains the elements required by Section 11-36a-302.

(3) A local political subdivision or a private entity with a population, or serving a population, of less than 5,000 as of the last federal census that charges impact fees of less than $250,000 annually need not comply with the impact fee facilities plan requirements of this part, but shall ensure that:

(a) the impact fees that the local political subdivision or private entity imposes are based upon a reasonable plan that otherwise complies with the common law and this chapter; and

(b) each applicable notice required by this chapter is given.

Amended by Chapter 200, 2013 General Session

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

(1)

(a) An impact fee facilities plan shall:

(i) identify the existing level of service;

(ii) subject to Subsection (1)(c), establish a proposed level of service;

(iii) identify any excess capacity to accommodate future growth at the proposed level of service;

(iv) identify demands placed upon existing public facilities by new development activity at the proposed level of service; and

(v) identify the means by which the political subdivision or private entity will meet those growth demands.

(b) A proposed level of service may diminish or equal the existing level of service.

(c) A proposed level of service may:

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

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

(2) In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

(a) grants;

(b) bonds;

(c) interfund loans;
(d) impact fees; and
(e) anticipated or accepted dedications of system improvements.
(3) A local political subdivision or private entity may only impose impact fees on development activities when the local political subdivision's or private entity's plan for financing system improvements establishes that impact fees are necessary to maintain a proposed level of service that complies with Subsection (1)(b) or (c).
(4)
(a) Subject to Subsection (4)(c), the impact fee facilities plan shall include a public facility for which an impact fee may be charged or required for a school district or charter school if the local political subdivision is aware of the planned location of the school district facility or charter school:
(i) through the planning process; or
(ii) after receiving a written request from a school district or charter school that the public facility be included in the impact fee facilities plan.
(b) If necessary, a local political subdivision or private entity shall amend the impact fee facilities plan to reflect a public facility described in Subsection (4)(a).
(c)
(i) In accordance with Subsections 10-9a-305(3) and 17-27a-305(3), a local political subdivision may not require a school district or charter school to participate in the cost of any roadway or sidewalk.
(ii) Notwithstanding Subsection (4)(c)(i), if a school district or charter school agrees to build a roadway or sidewalk, the roadway or sidewalk shall be included in the impact fee facilities plan if the local jurisdiction has an impact fee facilities plan for roads and sidewalks.

Amended by Chapter 200, 2013 General Session

11-36a-303 Impact fee analysis.
(1) Subject to the notice requirements of Section 11-36a-504, each local political subdivision or private entity intending to impose an impact fee shall prepare a written analysis of each impact fee.
(2) Each local political subdivision or private entity that prepares an impact fee analysis under Subsection (1) shall also prepare a summary of the impact fee analysis designed to be understood by a lay person.

Enacted by Chapter 47, 2011 General Session

11-36a-304 Impact fee analysis requirements.
(1) An impact fee analysis shall:
(a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;
(b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
(c) subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
(d) estimate the proportionate share of:
(i) the costs for existing capacity that will be recouped; and

(ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and

(e) based on the requirements of this chapter, identify how the impact fee was calculated.

(2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:

(a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;

(b) the cost of system improvements for each public facility;

(c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

(d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;

(e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;

(f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;

(g) extraordinary costs, if any, in servicing the newly developed properties; and

(h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Enacted by Chapter 47, 2011 General Session

11-36a-305 Calculating impact fees.

(1) In calculating an impact fee, a local political subdivision or private entity may include:

(a) the construction contract price;

(b) the cost of acquiring land, improvements, materials, and fixtures;

(c) for services provided for and directly related to the construction of the system improvements, the cost for planning and surveying, and engineering fees;

(d) for a political subdivision, debt service charges, if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes, or other obligations issued to finance the costs of the system improvements; and

(e) one or more expenses for overhead.

(2) In calculating an impact fee, each local political subdivision or private entity shall base amounts calculated under Subsection (1) on realistic estimates, and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Amended by Chapter 35, 2021 General Session

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

(1) An impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan that states the following:

"I certify that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; and

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

(2) An impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis which states as follows:

"I certify that the attached impact fee analysis:

1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities; or

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;

3. offsets costs with grants or other alternate sources of payment; and

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

Amended by Chapter 35, 2021 General Session

Part 4
Enactment of Impact Fees

11-36a-401 Impact fee enactment.

(1)

(a) A local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402.

(b) An impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysis.

(2) An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Enacted by Chapter 47, 2011 General Session

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

(1) A local political subdivision or private entity shall ensure, in addition to the requirements described in Subsections (2) and (3), that an impact fee enactment contains:

(a) a provision establishing one or more service areas within which the local political subdivision or private entity calculates and imposes impact fees for various land use categories;

(b)

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

(ii) the formula that the local political subdivision or private entity, as the case may be, will use to calculate each impact fee;

(c) a provision authorizing the local political subdivision or private entity, as the case may be, to adjust the standard impact fee at the time the fee is charged to:

(i) respond to:

(A) unusual circumstances in specific cases; or

(B) a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and

(ii) ensure that the impact fees are imposed fairly; and

(d) a provision governing calculation of the amount of the impact fee to be imposed on a particular development that permits adjustment of the amount of the impact fee based upon studies and data submitted by the developer.

(2) A local political subdivision or private entity shall ensure that an impact fee enactment allows a developer, including a school district or a charter school, to receive a credit against or proportionate reimbursement of an impact fee if the developer:

(a) dedicates land for a system improvement;

(b) builds and dedicates some or all of a system improvement; or

(c) dedicates a public facility that the local political subdivision or private entity and the developer agree will reduce the need for a system improvement.

(3) A local political subdivision or private entity shall include a provision in an impact fee enactment that requires a credit against impact fees for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:

(a) are system improvements; or

(b)

(i) are dedicated to the public; and

(ii) offset the need for an identified system improvement.

Enacted by Chapter 47, 2011 General Session

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

(1) A local political subdivision or private entity may include a provision in an impact fee enactment that:

(a) provides an impact fee exemption for:

(i) development activity attributable to:

(A) low income housing;

(B) the state;

(C) subject to Subsection (2), a school district; or

(D) subject to Subsection (2), a charter school; or

(ii) other development activity with a broad public purpose; and

(b) except for an exemption under Subsection (1)(a)(i)(A), establishes one or more sources of funds other than impact fees to pay for that development activity.

(2) An impact fee enactment that provides an impact fee exemption for development activity attributable to a school district or charter school shall allow either a school district or a charter school to qualify for the exemption on the same basis.

(3) An impact fee enactment that repeals or suspends the collection of impact fees is exempt from the notice requirements of Section 11-36a-504.

Enacted by Chapter 47, 2011 General Session

Part 5
Notice

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

(1) Before preparing or amending an impact fee facilities plan, a local political subdivision or private entity shall provide written notice of its intent to prepare or amend an impact fee facilities plan.

(2) A notice required under Subsection (1) shall:

(a) indicate that the local political subdivision or private entity intends to prepare or amend an impact fee facilities plan;

(b) describe or provide a map of the geographic area where the proposed impact fee facilities will be located; and

(c) subject to Subsection (3), be posted on the Utah Public Notice Website created under Section 63A-16-601.

(3) For a private entity required to post notice on the Utah Public Notice Website under Subsection (2)(c):

(a) the private entity shall give notice to the general purpose local government in which the private entity's private business office is located; and

(b) the general purpose local government described in Subsection (3)(a) shall post the notice on the Utah Public Notice Website.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 344, 2021 General Session

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

(1) If a local political subdivision chooses to prepare an independent impact fee facilities plan rather than include an impact fee facilities element in the general plan in accordance with Section 11-36a-301, the local political subdivision shall, before adopting or amending the impact fee facilities plan:

(a) give public notice, in accordance with Subsection (2), of the plan or amendment at least 10 days before the day on which the public hearing described in Subsection (1)(d) is scheduled;

(b) make a copy of the plan or amendment, together with a summary designed to be understood by a lay person, available to the public;

(c) place a copy of the plan or amendment and summary in each public library within the local political subdivision; and

(d) hold a public hearing to hear public comment on the plan or amendment.

(2) With respect to the public notice required under Subsection (1)(a):

(a) each municipality shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 10-9a-205 and 10-9a-801 and Subsection 10-9a-502(2);

(b) each county shall comply with the notice and hearing requirements of, and, except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Sections 17-27a-205 and 17-27a-801 and Subsection 17-27a-502(2); and

(c) each local district, special service district, and private entity shall comply with the notice and hearing requirements of, and receive the protections of, Section 17B-1-111.

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

Enacted by Chapter 47, 2011 General Session

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

(1) Before preparing or contracting to prepare an impact fee analysis, each local political subdivision or, subject to Subsection (2), private entity shall post a public notice on the Utah Public Notice Website created under Section 63A-16-601.

(2) For a private entity required to post notice on the Utah Public Notice Website under Subsection (1):

(a) the private entity shall give notice to the general purpose local government in which the private entity's primary business is located; and

(b) the general purpose local government described in Subsection (2)(a) shall post the notice on the Utah Public Notice Website.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 345, 2021 General Session

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

(1) Before adopting an impact fee enactment:

(a) a municipality legislative body shall:

(i) comply with the notice requirements of Section 10-9a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 10-9a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 10-9a-801 as if the impact fee were a land use regulation;

(b) a county legislative body shall:

(i) comply with the notice requirements of Section 17-27a-205 as if the impact fee enactment were a land use regulation;

(ii) hold a hearing in accordance with Section 17-27a-502 as if the impact fee enactment were a land use regulation; and

(iii) except as provided in Subsection 11-36a-701(3)(b)(ii), receive the protections of Section 17-27a-801 as if the impact fee were a land use regulation;

(c) a local district or special service district shall:

(i) comply with the notice and hearing requirements of Section 17B-1-111; and

(ii) receive the protections of Section 17B-1-111;

(d) a local political subdivision shall at least 10 days before the day on which a public hearing is scheduled in accordance with this section:

(i) make a copy of the impact fee enactment available to the public; and

(ii) post notice of the local political subdivision's intent to enact or modify the impact fee, specifying the type of impact fee being enacted or modified, on the Utah Public Notice Website created under Section 63A-16-601; and

(e) a local political subdivision shall submit a copy of the impact fee analysis and a copy of the summary of the impact fee analysis prepared in accordance with Section 11-36a-303 on its website or to each public library within the local political subdivision.

(2) Subsection (1)(a) or (b) may not be construed to require involvement by a planning commission in the impact fee enactment process.

Amended by Chapter 84, 2021 General Session
Amended by Chapter 345, 2021 General Session

Part 6
Impact Fee Proceeds

11-36a-601 Accounting of impact fees.

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

Amended by Chapter 394, 2017 General Session

11-36a-602 Expenditure of impact fees.

(1) A local political subdivision may expend impact fees only for a system improvement:
  (a) identified in the impact fee facilities plan; and
  (b) for the specific public facility type for which the fee was collected.
(2)
  (a) Except as provided in Subsection (2)(b), a local political subdivision shall expend or encumber an impact fee collected with respect to a lot:
    (i) for a permissible use; and
    (ii) within six years after the impact fee with respect to that lot is collected.
  (b) A local political subdivision may hold the fees for longer than six years if it identifies, in writing:

(i) an extraordinary and compelling reason why the fees should be held longer than six years; and
(ii) an absolute date by which the fees will be expended.

Amended by Chapter 190, 2017 General Session

11-36a-603 Refunds.

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

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

(i) In order to be considered as a claimant for an impact fee refund under this Subsection (2), a person, other than the original owner, shall submit a written notice of the person's valid legal claim to the impact fee refund.
(ii) A notice under Subsection (2)(d)(i) shall:
(A) explain the person's valid legal claim to the refund; and
(B) be submitted to the local political subdivision no later than 30 days after expiration of the time specified in Subsection 11-36a-602(2) for the impact fee that is the subject of the refund.
(e) A local political subdivision:
(i) may retain an unclaimed refund; and
(ii) shall expend any unclaimed refund on capital facilities identified in the current capital facilities plan for the type of public facility for which the impact fee was collected.

Amended by Chapter 215, 2018 General Session

Part 7
Challenges

11-36a-701 Impact fee challenge.
(1) A person or an entity residing in or owning property within a service area, or an organization, association, or a corporation representing the interests of persons or entities owning property within a service area, has standing to file a declaratory judgment action challenging the validity of an impact fee.
(2)
(a) A person or an entity required to pay an impact fee who believes the impact fee does not meet the requirements of law may file a written request for information with the local political subdivision who established the impact fee.
(b) Within two weeks after the receipt of the request for information under Subsection (2)(a), the local political subdivision shall provide the person or entity with the impact fee analysis, the impact fee facilities plan, and any other relevant information relating to the impact fee.
(3)
(a) Subject to the time limitations described in Section 11-36a-702 and procedures set forth in Section 11-36a-703, a person or an entity that has paid an impact fee that a local political subdivision imposed may challenge:
(i) if the impact fee enactment was adopted on or after July 1, 2000:
(A) subject to Subsection (3)(b)(i) and except as provided in Subsection (3)(b)(ii), whether the local political subdivision complied with the notice requirements of this chapter with respect to the imposition of the impact fee; and
(B) whether the local political subdivision complied with other procedural requirements of this chapter for imposing the impact fee; and
(ii) except as limited by Subsection (3)(c), the impact fee.
(b)
(i) The sole remedy for a challenge under Subsection (3)(a)(i)(A) is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.

(ii) The protections given to a municipality under Section 10-9a-801 and to a county under Section 17-27a-801 do not apply in a challenge under Subsection (3)(a)(i)(A).

(c) The sole remedy for a challenge under Subsection (3)(a)(ii) is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.

(4)

(a) Subject to Subsection (4)(d), if an impact fee that is the subject of an advisory opinion under Section 13-43-205 is listed as a cause of action in litigation, and that cause of action is litigated on the same facts and circumstances and is resolved consistent with the advisory opinion:

(i) the substantially prevailing party on that cause of action:

(A) may collect reasonable attorney fees and court costs pertaining to the development of that cause of action from the date of the delivery of the advisory opinion to the date of the court's resolution; and

(B) shall be refunded an impact fee held to be in violation of this chapter, based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee; and

(ii) in accordance with Section 13-43-206, a local political subdivision shall refund an impact fee held to be in violation of this chapter to the person who was in record title of the property on the day on which the impact fee for the property was paid if:

(A) the impact fee was paid on or after the day on which the advisory opinion on the impact fee was issued but before the day on which the final court ruling on the impact fee is issued; and

(B) the person described in Subsection (3)(a)(ii) requests the impact fee refund from the local political subdivision within 30 days after the day on which the court issued the final ruling on the impact fee.

(b) A local political subdivision subject to Subsection (3)(a)(ii) shall refund the impact fee based on the difference between the impact fee paid and what the impact fee should have been if the local political subdivision had correctly calculated the impact fee.

(c) This Subsection (4) may not be construed to create a new cause of action under land use law.

(d) Subsection (4)(a) does not apply unless the cause of action described in Subsection (4)(a) is resolved and final.

(5) Subject to the time limitations described in Section 11-36a-702 and procedures described in Section 11-36a-703, a claimant, as defined in Section 11-36a-603, may challenge whether a local political subdivision spent or encumbered an impact fee in accordance with Section 11-36a-602.

Amended by Chapter 215, 2018 General Session

11-36a-702 Time limitations.

(1) A person or an entity that initiates a challenge under Subsection 11-36a-701(3)(a) may not initiate that challenge unless it is initiated within:

(a) for a challenge under Subsection 11-36a-701(3)(a)(i)(A), 30 days after the day on which the person or entity pays the impact fee;

(b) for a challenge under Subsection 11-36a-701(3)(a)(i)(B), 180 days after the day on which the person or entity pays the impact fee;

(c) for a challenge under Subsection 11-36a-701(5):

(i) if the local political subdivision has spent or encumbered the impact fee, one year after the expiration of the time specified in Subsection 11-36a-602(2); or
(ii) if the local political subdivision has not yet spent or encumbered the impact fee, two years after the expiration of the time specified in Subsection 11-36a-602(2); or
(d) for a challenge under Subsection 11-36a-701(3)(a)(ii), one year after the day on which the person or entity pays the impact fee.
(2) The deadline to file an action in district court is tolled from the date that a challenge is filed using an administrative appeals procedure described in Section 11-36a-703 until 30 days after the day on which a final decision is rendered in the administrative appeals procedure.

Amended by Chapter 215, 2018 General Session

11-36a-703 Procedures for challenging an impact fee.
(1)
(a) A local political subdivision may establish, by ordinance or resolution, or a private entity may establish by prior written policy, an administrative appeals procedure to consider and decide a challenge to an impact fee.
(b) If the local political subdivision or private entity establishes an administrative appeals procedure, the local political subdivision shall ensure that the procedure includes a requirement that the local political subdivision make its decision no later than 30 days after the day on which the challenge to the impact fee is filed.
(2) A challenge under Subsection 11-36a-701(3)(a) is initiated by filing:
(a) if the local political subdivision or private entity has established an administrative appeals procedure under Subsection (1), the necessary document, under the administrative appeals procedure, for initiating the administrative appeal;
(b) a request for arbitration as provided in Section 11-36a-705; or
(c) an action in district court.
(3) The sole remedy for a successful challenge under Subsection 11-36a-701(1), which determines that an impact fee process was invalid, or an impact fee is in excess of the fee allowed under this act, is a declaration that, until the local political subdivision or private entity enacts a new impact fee study, from the date of the decision forward, the entity may charge an impact fee only as the court has determined would have been appropriate if it had been properly enacted.
(4) Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1) may not be construed as requiring a person or an entity to exhaust administrative remedies with the local political subdivision before filing an action in district court under Subsections (2), (3), 11-36a-701(3), and 11-36a-702(1).
(5) The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this section.
(6) This chapter may not be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Amended by Chapter 200, 2013 General Session

11-36a-704 Mediation.
(1) In addition to the methods of challenging an impact fee under Section 11-36a-701, a specified public agency may require a local political subdivision or private entity to participate in mediation of any applicable impact fee.
(2) To require mediation, the specified public agency shall submit a written request for mediation to the local political subdivision or private entity.

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

Enacted by Chapter 47, 2011 General Session

11-36a-705 Arbitration.
(1) A person or entity intending to challenge an impact fee under Section 11-36a-703 shall file a written request for arbitration with the local political subdivision within the time limitation described in Section 11-36a-702 for the applicable type of challenge.
(2) If a person or an entity files a written request for arbitration under Subsection (1), an arbitrator or arbitration panel shall be selected as follows:
(a) the local political subdivision and the person or entity filing the request may agree on a single arbitrator within 10 days after the day on which the request for arbitration is filed; or
(b) if a single arbitrator is not agreed to in accordance with Subsection (2)(a), an arbitration panel shall be created with the following members:
(i) each party shall select an arbitrator within 20 days after the date the request is filed; and
(ii) the arbitrators selected under Subsection (2)(b)(i) shall select a third arbitrator.
(3) The arbitration panel shall hold a hearing on the challenge no later than 30 days after the day on which:
(a) the single arbitrator is agreed on under Subsection (2)(a); or
(b) the two arbitrators are selected under Subsection (2)(b)(i).
(4) The arbitrator or arbitration panel shall issue a decision in writing no later than 10 days after the day on which the hearing described in Subsection (3) is completed.
(5) Except as provided in this section, each arbitration shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
(6) The parties may agree to:
(a) binding arbitration;
(b) formal, nonbinding arbitration; or
(c) informal, nonbinding arbitration.
(7) If the parties agree in writing to binding arbitration:
(a) the arbitration shall be binding;
(b) the decision of the arbitration panel shall be final;
(c) neither party may appeal the decision of the arbitration panel; and
(d) notwithstanding Subsection (10), the person or entity challenging the impact fee may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
(8)
(a) Except as provided in Subsection (8)(b), if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of Title 63G, Chapter 4, Administrative Procedures Act.
(b) For purposes of applying Title 63G, Chapter 4, Administrative Procedures Act, to a formal, nonbinding arbitration under this section, notwithstanding Section 63G-4-502, "agency" means a local political subdivision.
(9)

(a) An appeal from a decision in an informal, nonbinding arbitration may be filed with the district court in which the local political subdivision is located.
(b) An appeal under Subsection (9)(a) shall be filed within 30 days after the day on which the arbitration panel issues a decision under Subsection (4).
(c) The district court shall consider de novo each appeal filed under this Subsection (9).
(d) Notwithstanding Subsection (10), a person or entity that files an appeal under this Subsection (9) may not also challenge the impact fee under Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).

(10)
(a) Except as provided in Subsections (7)(d) and (9)(d), this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in Subsection 11-36a-701(1) or Subsection 11-36a-703(2)(a) or (2)(c).
(b) The filing of a written request for arbitration within the required time in accordance with Subsection (1) tolls all time limitations under Section 11-36a-702 until the day on which the arbitration panel issues a decision.

(11) The person or entity filing a request for arbitration and the local political subdivision shall equally share all costs of an arbitration proceeding under this section.

Enacted by Chapter 47, 2011 General Session