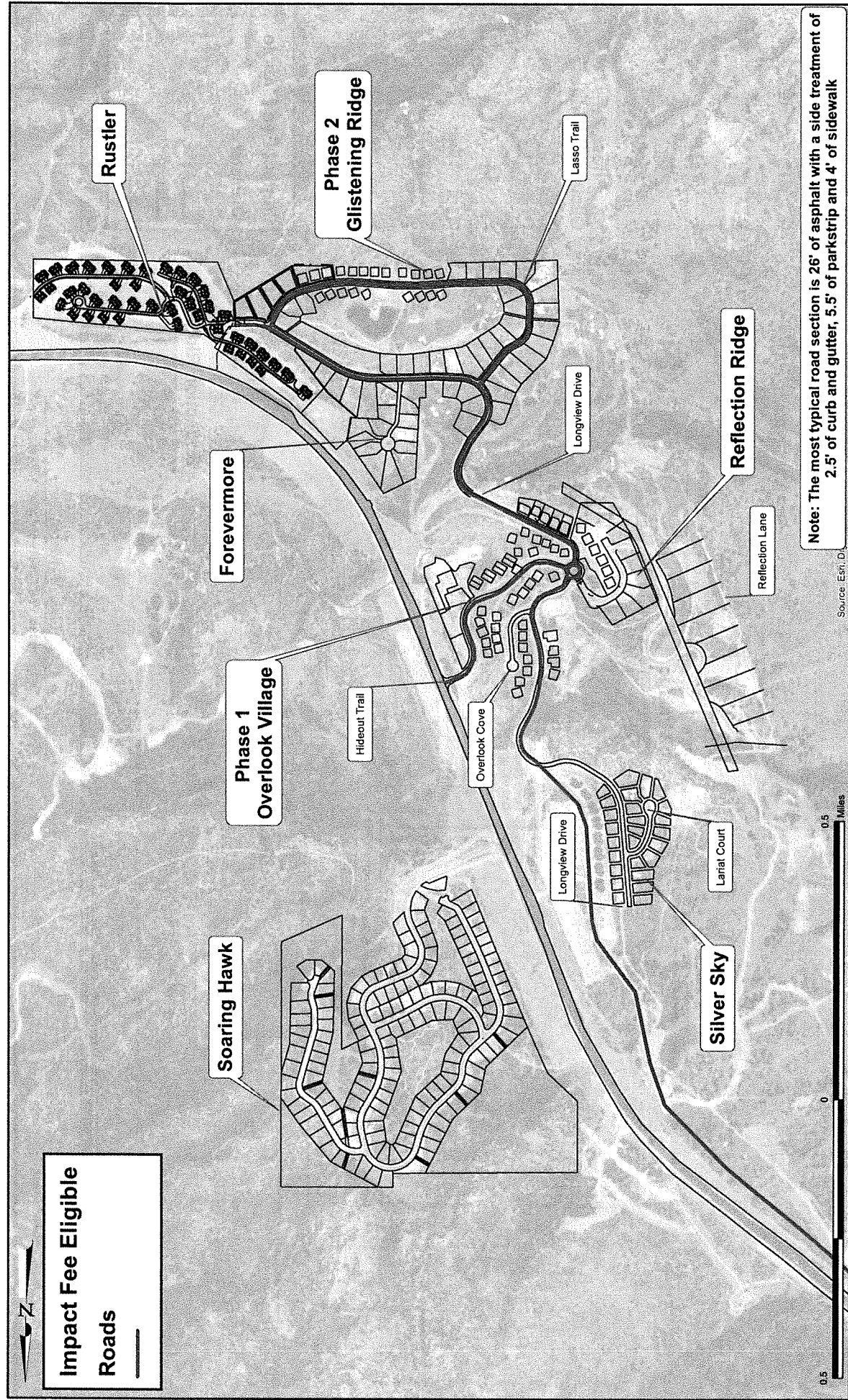




**Impact Fee Eligible
Roads**



Town of Hideout
Impact Fee Facilities - Roads

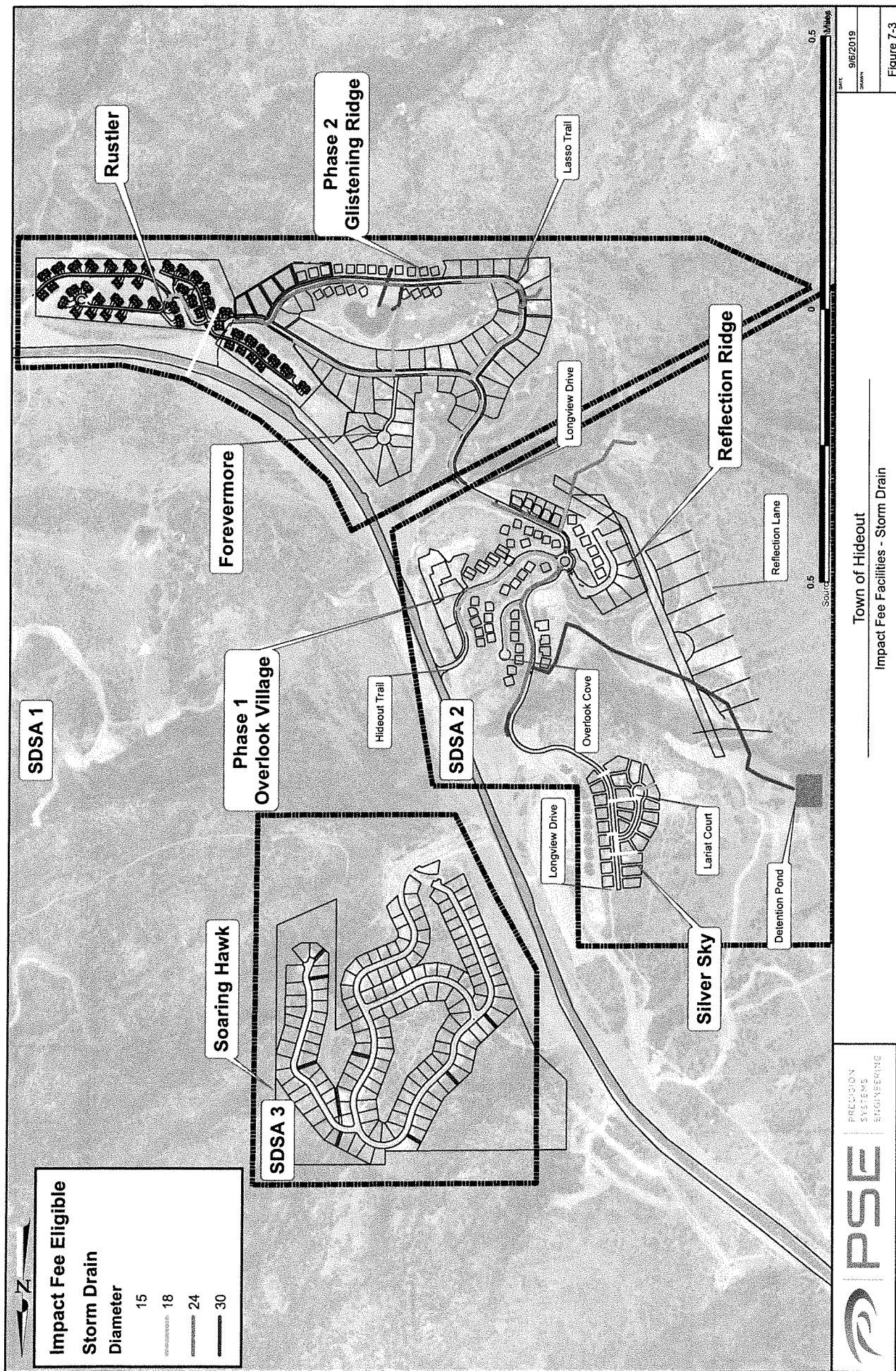
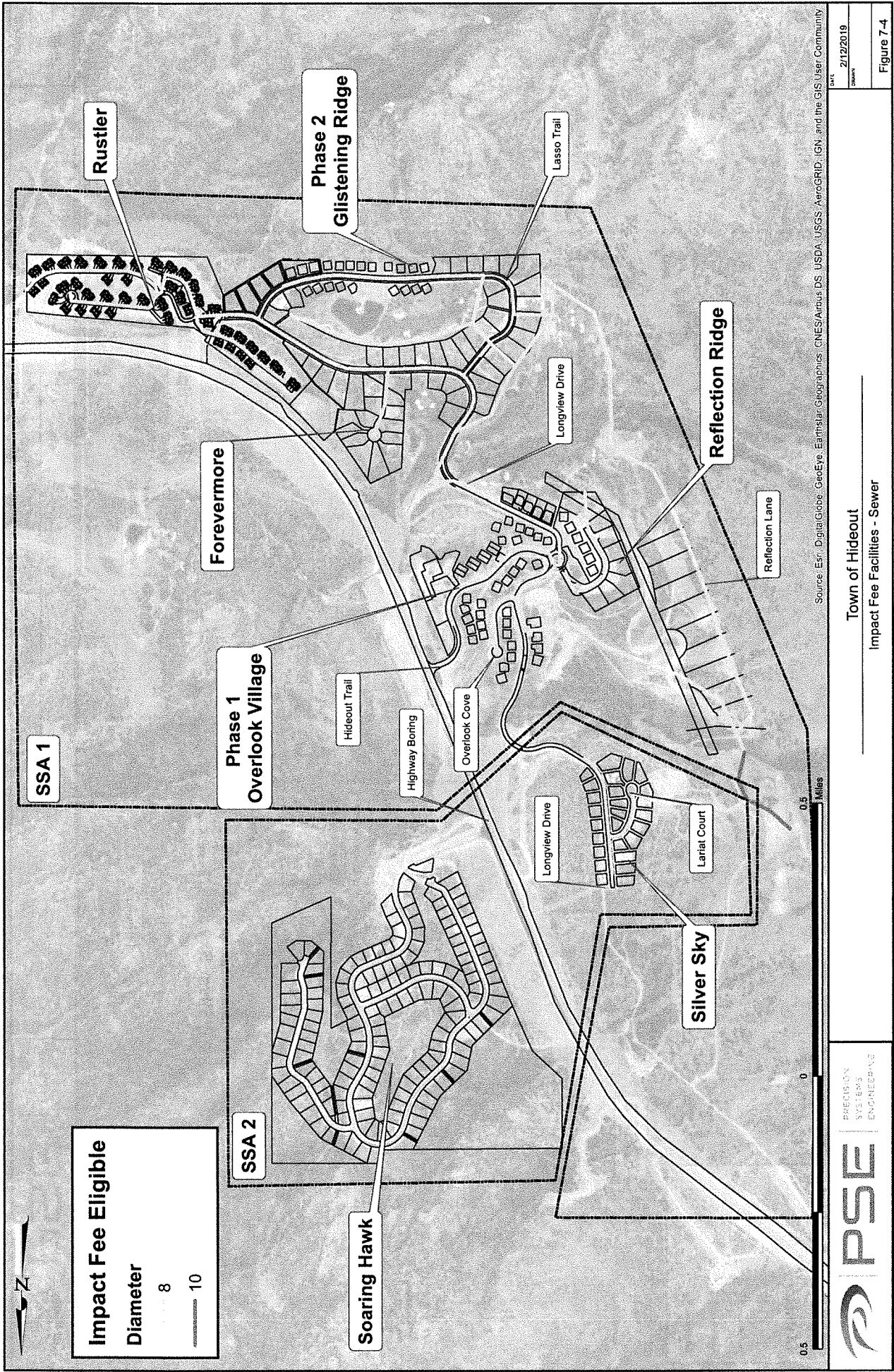


Figure 7-3



Town of Hideout
Impact Fee Facilities - Sewer

PSE
PRECISION
SYSTEMS
ENGINEERING

DATE
2/12/2019

DRAWN

CHAPTER 8 – IMPACT FEE ANALYSIS

The Town of Hideout was incorporated in 2008. After incorporation, the primary developer within the Town, Mustang Development, LLC (herein after referred to as the "Master Developer") built the improvements shown in Figures 3-1, 4-1, 5-1 and 6-1. Chapter 7 illustrates the cost of these improvements and which facilities are impact fee eligible according to Utah Title 11-36a. No other method of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants has been used by the Town to provide these existing public system improvements in the Town unless otherwise noted in Chapter 7.

The Town intends to use impact fees from new development that benefits directly from the system improvements the Master Developer has constructed to reimburse, in part, the expense incurred by the Master Developer in connection with construction of such improvements. These fees will be collected at the time of building permit in the amount approved by the Town, but no greater than the amount recommended in this impact fee analysis.

This study considers the cost of system improvements that were recently constructed to support growth into the foreseeable future. It does not contemplate, and removes from calculations, the portion of the improvements that are project costs specific to a subdivision and do not serve the Town as a whole.

It also defines a proportionate share of the impact fee eligible costs to all potential future lots that will use them and recommends impact fees for each element analyzed in this study. These fees will be needed to finance the existing level of service that has been created throughout the Town. It does not include any existing deficiencies.

Calculations for the impact fees are included in this chapter for each element. The calculations are estimates based on the best data available to us. For purposes of calculating the actual impact fee, we have rounded the estimated cost to the next greatest five-dollar (\$5) increment.

8.1 Financing Charges

Under Utah Code 11-36a-305, a municipality is entitled to include reasonable debt service charges in the calculation of an impact fee. Based on available data, we have determined that reasonable finance charges applicable to the cost of the eligible system improvement is seven and a half percent (7.5%) over twenty (20) years making uniform annual payments. Therefore, we will calculate the total financed estimate for each element using the following formula for simple interest:

$$\text{Total Cost} = \text{Principal} + (\text{Principal} / 2) \times (\text{rate} \times \text{years})$$

Over the life of a twenty-year repayment period the average principal balance will be half of the total principal amount. As such, interest calculations will show half of the infrastructure cost as the principal in the formula. The applicable financing charge for eligible system improvements is calculated separately for each element in the following sections.

8.2 Water Impact Fees

The impact fee eligible water system costs have been calculated for the separate service areas of WSA1 and WSA 2 at \$1,385,937 and \$0 respectively. These improvements are illustrated in Chapter 7.

WSA1

WSA1 will serve the entire Town excluding Soaring Hawk, Deer Mountain, Reflection Ridge, the future Golden Eagle, Ross Creek and Woolf. Golden Eagle will be responsible for constructing its own water system. As such, WSA1 will serve 1,682 units (2,264 – (148 + 71 + 15 + 9 + 316 + 18 + 5)).

WSA1 Impact Fee Calculation

The cost for the WSA1 system improvements is \$1,385,937. These projects will serve 1,682 ERC's. Considering twenty years of financing at 7.5%, the total WSA1 water impact fee will be:

$$\$1,385,937 + ((\$1,385,937 / 2) \times (0.075 \times 20)) = \$2,425,389.75$$

$$\$2,425,389.75 / 1,682 = \underline{\$1,441.97 \text{ per ERC (use \$1,445)}}$$

WSA2

WSA2 serves only Soaring Hawk. It will serve the 148 units located there. However, residents of Soaring Hawk pay a special assessment toward the repayment of the Local District bond which financed the water infrastructure in Soaring Hawk. As a result, the Soaring Hawk water infrastructure is not impact fee eligible. Therefore, the water impact fee for residents of WSA2 is \$0.

8.3 Transportation Impact Fees

The impact fee eligible transportation system costs have been calculated at \$6,744,149. These improvements are illustrated in Chapter 7 and their costs are calculated in the Appendix. They will serve the entire Town, although not all costs are included in the impact fee calculation. As a result, they will serve approximately 2,264 units. Therefore, the impact fee can be calculated as follows.

Impact Fee Calculation

The cost for the transportation system improvements is \$6,744,149. These projects will serve 2,264 ERC's. Considering twenty years of financing at 7.5%, the total transportation impact fee will be:

$$\$6,744,149 + ((\$6,744,149 / 2) \times (0.075 \times 20)) = \$11,802,260.80$$

$$\$11,802,260.80 / 2,264 = \underline{\$5,213.01 \text{ per ERC (use \$5,215)}}$$

8.4 Storm Drain Impact Fees

The impact fee eligible storm drain system costs have been calculated for the separate service areas of SDSA1, SDSA2 and SDSA3 at \$624,381, \$490,432 and \$0 respectively. These improvements are illustrated in Chapter 7.

SDSA1

SDSA1 will serve the Glistening Ridge (63 units), Rustler (88 units) and Forevermore (13 units) areas

SDSA1 Impact Fee Calculation

The cost for the SDSA1 system improvements is \$624,381. These projects will serve 164 ERC's. Considering twenty years of financing at 7.5%, the total SDSA1 storm drain impact fee will be:

$$\$624,381 + ((\$624,381 / 2) \times (0.075 \times 20)) = \$1,092,666.75$$

$$\$1,092,666.75 / 164 = \underline{\$6,662.60 \text{ per ERC (use \$6,665)}}$$

SDSA2

SDSA2 will serve the Overlook Village (47 units), Perch (92 units), Town Center (4 units), Silver Sky (26 units), Reflection Ridge (15 units), Reflection Lane (9 units), Venturi (2 units) and Plumb (4 units) areas

SDSA2 Impact Fee Calculation

The cost for the SDSA2 system improvements is \$490,432. These projects will serve 199 ERC's. Considering twenty years of financing at 7.5%, the total SDSA2 storm drain impact fee will be:

$$\$490,432 + ((\$490,432 / 2) \times (0.075 \times 20)) = \$858,256.00$$

$$\$858,256.00 / 199 = \underline{\$4,312.84 \text{ per ERC (use \$4,315)}}$$

SDSA3

SDSA3 will serve the Soaring Hawk (148 units) area. However, residents of Soaring Hawk pay a special assessment toward the repayment of the Local District bond which financed the storm drain infrastructure in Soaring Hawk. As a result, the Soaring Hawk storm drain infrastructure is not impact fee eligible. Therefore, the storm drain impact fee for residents of SDSA3 is \$0.

Golden Eagle, Deer Springs, future Shoreline phases, KLAIM, ADA, Salzman, Sunrise, Ross Creek Entrance and Woolf will be responsible for their own storm drain infrastructure. The Deer Mountain, Deer Waters and Van Dan Aker areas have their own storm drain systems and are not included in the storm drain allocation.

8.5 Sewer Impact Fees

The impact fee eligible sewer system costs have been calculated for two separate service areas SSA1 and 2 at \$138,551 and \$1,280,678, respectively. These

CHAPTER 8 – IMPACT FEE ANALYSIS

improvements are illustrated in Chapter 7 and their costs are calculated in the Appendix.

SSA1

SSA1 serves both Soaring Hawk (148 units), Silver Sky (26 units) and the future Woolf development (5 units). However, the cost of infrastructure in Soaring Hawk is being reimbursed by a special assessment charged by the Local District to Soaring Hawk residents, so only infrastructure in Silver Sky is eligible for impact fees.

Impact Fee Calculation

The cost for the impact eligible sewer system improvements is \$138,551. These projects will serve 179 ERC's. Considering twenty years of financing at 7.5%, the total SSA1 sewer impact fee will be:

$$\$138,551 + ((\$138,551 / 2) \times (0.075 \times 20)) = \$242,464.25$$

$$\$242,464.25 / 179 = \underline{\$1,354.55 \text{ per ERC (use \$1,355)}}$$

SSA2

SSA2 serves the remaining 1,685 units in Hideout except the future Ross Creek Entrance, KLAIM, Van Den Akker, Deer Springs and Deer Waters (2,264 units – 179 units – 18 units – 88 units – 35 units – 248 units – 11 units).

Impact Fee Calculation

The cost for the impact eligible sewer system improvements is \$1,280,678. These projects will serve 1,685 ERC's. Considering twenty years of financing at 7.5%, the total SSA2 sewer impact fee will be:

$$\$1,280,678 + ((\$1,280,678 / 2) \times (0.075 \times 20)) = \$2,241,186.50$$

$$\$2,241,186.50 / 1,685 = \underline{\$1,330.08 \text{ per ERC (use \$1,330)}}$$

8.6 Impact Fee Summary

The recommended impact fees can be summarized as illustrated below.

Element	Fee
Water	
WSA1	\$1,445
WSA2	\$0
Transportation	\$5,215
Storm Drain	
SDSA1	\$6,665
SDSA2	\$4,315
SDSA3	\$0
Sewer	
SSA1	\$1,355
SSA2	\$1,330

Appendix “A”

Data

Overlook Village
Cost Estimate (2006 dollars)

Figure A.1

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	12 - inch Ductile Iron Water Line Pipe	5,254	LF	\$31.00	\$162,874.00
	12 - inch PRV Station	2	Each	\$70,000.00	\$140,000.00
	Meter Stations	1	Each	\$20,000.00	\$20,000.00
	10 - inch Ductile Water Line	1,218	LF	\$22.00	\$26,796.00
	Subtotal				\$349,670.00
	Mobilization 6%				\$20,980.20
	Design Engineering 9%				\$31,470.30
	Construction Engineering 9%				\$31,470.30
	Water Total				\$433,590.80
Sanitary Sewer Improvements					
	8 inch HDPE (SDR 35) Sewer Pipe	6,489	LF	\$27.00	\$175,203.00
	4 ft. Diameter Sewer Manhole	13	Each	\$2,600.00	\$33,319.00
	Subtotal				\$208,522.00
	Mobilization 6%				\$12,511.32
	Design Engineering 9%				\$18,766.98
	Construction Engineering 9%				\$18,766.98
	Sewer Total				\$258,567.28
Storm Drain Improvements					
	18 inch ADS	1,976	LF	\$27.00	\$53,352.00
	24 inch ADS	1,681	LF	\$32.00	\$53,792.00
	30 inch ADS	3,869	LF	\$38.00	\$147,022.00
	4 ft. Diameter Storm Drain Manholes	8	Each	\$2,300.00	\$18,618.50
	5 ft. Diameter Storm Drain Manholes	8	Each	\$3,000.00	\$25,345.00
	Catch Basin	29	Each	\$1,500.00	\$43,630.00
	Subtotal				\$341,759.50
	Mobilization 6%				\$20,505.57
	Design Engineering 9%				\$30,758.36
	Construction Engineering 9%				\$30,758.36
	Storm Drain Total				\$423,781.78
Roadway Improvements					
	Curb and Gutter	12,538	LF	\$11.50	\$144,187.00
	Road Base installed	250,760	Sq. Ft.	\$0.70	\$175,532.00
	3 - inch Asphalt Bituminous Mix	162,994	Sq. Ft.	\$0.90	\$146,694.60
	Roadside Drainage Channels (Ditches)	2,000	LF	\$7.50	\$15,000.00
	4 foot Sidewalk	11,438	LF	\$12.50	\$142,975.00
	6 foot Sidewalk	1,100	LF	\$19.00	\$20,900.00
	Landscaping	1	LS	\$81,000.00	\$81,000.00
	Guardrail	1,500	LF	\$26.00	\$39,000.00
	Retaining Wall	51,500	SF	\$12.00	\$618,000.00
	Erosion Control	6	Acre	\$3,500.00	\$20,148.30
	Clearing and Grubbing	6	Acre	\$3,000.00	\$17,269.97
	Street Lights (at hydrants & intersections)	32	Each	\$3,600.00	\$115,200.00
	Irrigation	1	LS	\$51,000.00	\$51,000.00
	UDOT Entrance	1	LS	\$531,000.00	\$531,000.00
	Roadway Excavation	37,150	CY	\$8.00	\$297,197.04
	Subtotal				\$2,415,103.91
	Mobilization 6%				\$144,906.23
	Design Engineering 9%				\$217,359.35
	Construction Engineering 9%				\$217,359.35
	Roadway Total				\$2,994,728.85
	Construction Subtotal				\$4,110,668.71

Overlook Village - Roadway Project Improvements (Overlook Cove)

	Curb and Gutter	1,102	LF	\$11.50	\$12,673.00
	Road Base installed	22,040	Sq. Ft.	\$0.70	\$15,428.00
	3 - inch Asphalt Bituminous Mix	14,326	Sq. Ft.	\$0.90	\$12,893.40

	Roadside Drainage Channels (Ditches)	0	LF		\$7.50	\$0.00
	4 foot Sidewalk	1,102	LF		\$12.50	\$13,775.00
	6 foot Sidewalk	0	LF		\$19.00	\$0.00
	Landscaping	0	LS		\$81,000.00	\$0.00
	Guardrail	0	LF		\$26.00	\$0.00
	Retaining Wall	1,500	SF		\$12.00	\$18,000.00
	Erosion Control	1	Acre		\$3,500.00	\$1,770.89
	Clearing and Grubbing	1	Acre		\$3,000.00	\$1,517.91
	Street Lights (at hydrants & intersections)	1	Each		\$3,000.00	\$3,000.00
	Irrigation	0	LS		\$51,000.00	\$0.00
	Roadway Excavation	3,265	CY		\$8.00	\$26,121.48
					Subtotal	\$105,179.68
					Mobilization 6%	\$6,310.78
					Design Engineering 9%	\$9,466.17
					Construction Engineering 9%	\$9,466.17
					Roadway Project Total	\$130,422.80

Overlook Village - Storm Drain Project Improvements (Overlook Cove)

Subtotal	\$30,100.00
Mobilization 6%	\$1,806.00
Design Engineering 9%	\$2,709.00
Construction Engineering 9%	\$2,709.00
Storm Drain Project Total	\$37,324.00

Glistening Ridge
Cost Estimate (2009 dollars)

Figure A.2

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	8 - inch Ductile Iron Water Line Pipe	2,863	LF	\$30.00	\$85,890.00
	12 - inch Ductile Iron Water Line Pipe	3,197	LF	\$39.00	\$124,683.00
	12 inch PRV Station	1	Each	\$55,000.00	\$55,000.00
	12 inch Butterfly Valve	8	Each	\$1,600.00	\$12,800.00
	8 inch Butterfly Valve	8	Each	\$1,000.00	\$8,000.00
	Fire Hydrant Assembly	16	Each	\$3,100.00	\$49,600.00
	2 inch Washout with Drainline	2	Each	\$900.00	\$1,800.00
	2 inch Air-Vac Valve	2	Each	\$2,500.00	\$5,000.00
	Subtotal				\$342,773.00
	Mobilization 6%				\$20,566.38
	Design Engineering 9%				\$30,849.57
	Construction Engineering 9%				\$30,849.57
	Water Total				\$425,038.52
Sanitary Sewer Improvements					
	8 inch HDPE Sewer Pipe	10,574	LF	\$27.00	\$285,498.00
	4 ft. Diameter Sewer Manhole	28	Each	\$2,600.00	\$72,800.00
	5 ft. Diameter Sewer Manhole	3	Each	\$3,000.00	\$9,000.00
	Subtotal				\$367,298.00
	Mobilization 6%				\$22,037.88
	Design Engineering 9%				\$33,056.82
	Construction Engineering 9%				\$33,056.82
	Sewer Total				\$455,449.52
Storm Drain Improvements					
	18 - inch ADS Pipe	5,506	LF	\$27.00	\$148,662.00
	24 - inch ADS Pipe	4,026	LF	\$32.00	\$128,832.00
	30 - inch ADS Pipe	640	LF	\$35.00	\$22,400.00
	4 ft. Diameter Manholes	18	Each	\$2,300.00	\$41,139.33
	Detention Pond	1	Each	\$95,000.00	\$95,000.00
	Catch Basin	45	Each	\$1,500.00	\$67,500.00
	Subtotal				\$503,533.33
	Mobilization 6%				\$30,212.00
	Design Engineering 9%				\$45,318.00
	Construction Engineering 9%				\$45,318.00
	Storm Drain Total				\$624,381.33
Roadway Improvements					
	Curb and Gutter	13,586	LF	\$12.00	\$163,032.00
	Excavation for C&G	13,586	LF	\$6.50	\$88,309.00
	Road Base installed	271,720	Sq. Ft.	\$0.70	\$190,204.00
	3 - inch Asphalt Bituminous Mix	176,618	Sq. Ft.	\$0.90	\$158,956.20
	Roadside Drainage Channels	700	LF	\$7.50	\$5,250.00
	4-foot Sidewalk	11,516	LF	\$12.50	\$143,950.00
	10-foot Sidewalk	2,070	LF	\$27.50	\$56,925.00
	Golf Cart Tunnel	1	Each	\$75,000.00	\$75,000.00
	Street Lights	19	Each	\$3,800.00	\$72,200.00
	Landscape	1	LS	\$41,000.00	\$41,000.00
	Cut Slope	16,500	Sq. Ft.	\$20.00	\$330,000.00

	Clear and Grub	7	Acres	\$2,500.00	\$16,250.00
	Erosion Control	7	Acres	\$1,800.00	\$11,700.00
	Erosion Control Matting	101,840	Sq. Ft.	\$0.20	\$20,368.00
	Reseeding	101,840	Sq. Ft.	\$0.04	\$4,073.60
	Road Cuts and Fills	40,000	CY	\$3.75	\$150,000.00
	Guardrail	940	LF	\$25.50	\$23,970.00
	Subtotal				\$1,551,187.80
	Mobilization 6%				\$93,071.27
	Design Engineering 9%				\$139,606.90
	Construction Engineering 9%				\$139,606.90
	Roadway Total				\$1,923,472.87
	Construction Total				\$3,428,342.25

Glistening Ridge - Roadway Project Improvements (Lasso Trail)

	Curb and Gutter	13,586	LF	\$12.00	\$163,032.00
	Excavation for C&G	13,586	LF	\$6.50	\$88,309.00
	Road Base installed	271,720	Sq. Ft.	\$0.70	\$190,204.00
	3 - inch Asphalt Bituminous Mix	176,618	Sq. Ft.	\$0.90	\$158,956.20
	Roadside Drainage Channels	0	LF	\$7.50	\$0.00
	4-foot Sidewalk	0	LF	\$12.50	\$0.00
	10-foot Sidewalk	0	LF	\$27.50	\$0.00
	Golf Cart Tunnel	1	Each	\$75,000.00	\$75,000.00
	Street Lights	0	Each	\$3,800.00	\$0.00
	Landscape	1	LS	\$41,000.00	\$41,000.00
	Cut Slope	16,500	Sq. Ft.	\$20.00	\$330,000.00
	Clear and Grub	7	Acres	\$2,500.00	\$16,250.00
	Erosion Control	7	Acres	\$1,800.00	\$11,700.00
	Erosion Control Matting	101,840	Sq. Ft.	\$0.20	\$20,368.00
	Reseeding	101,840	Sq. Ft.	\$0.04	\$4,073.60
	Road Cuts and Fills	40,000	CY	\$3.75	\$150,000.00
	Guardrail	0	LF	\$25.50	\$0.00
	Subtotal				\$1,248,892.80
	Mobilization 6%				\$74,933.57
	Design Engineering 9%				\$112,400.35
	Construction Engineering 9%				\$112,400.35
	Roadway Project Total				\$1,548,627.07

Glistening Ridge - Storm Drain Project Improvements (Lasso Trail)

	24 Inch ADS	500	LF	\$32.00	\$16,000.00
	SD Catch Basin	24	LF	\$1,500.00	\$36,000.00
	4 ft. Diameter Storm Drain Manhole	3	LF	\$2,300.00	\$6,900.00
	Subtotal				\$58,900.00
	Mobilization 6%				\$3,534.00
	Design Engineering 9%				\$5,301.00
	Construction Engineering 9%				\$5,301.00
	Storm Drain Project Total				\$73,036.00

Reflection Ridge
Cost Estimate (2014 dollars)

Figure A.3

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	8 - inch Ductile Iron Water Line Pipe	10,012	LF	\$35.00	\$350,420.00
	8 inch Gate Valve	2	Each	\$1,800.00	\$3,600.00
	Fire Hydrant Assembly	3	Each	\$4,500.00	\$13,500.00
	2 inch Air-Vac Valve	1	Each	\$3,500.00	\$3,500.00
	Subtotal				\$371,020.00
	Mobilization 6%				\$22,261.20
	Design Engineering 9%				\$33,391.80
	Construction Engineering 9%				\$33,391.80
	Water Total				\$460,064.80
Sanitary Sewer Improvements					
	8 inch HDPE Sewer Pipe	7,841	LF	\$29.00	\$227,389.00
	10 inch HDPE Sewer Pipe	1,000	LF	\$33.00	\$33,000.00
	4 ft. Diameter Sewer Manhole	5	Each	\$3,000.00	\$15,000.00
	Subtotal				\$275,389.00
	Mobilization 6%				\$16,523.34
	Design Engineering 9%				\$24,785.01
	Construction Engineering 9%				\$24,785.01
	Sewer Total				\$341,482.36
Storm Drain Improvements					
	18 - inch ADS Pipe	984	LF	\$35.00	\$34,440.00
	24 - inch ADS Pipe		LF	\$38.00	\$0.00
	30 - inch ADS Pipe		LF	\$42.00	\$0.00
	4 ft. Diameter Manholes	4	Each	\$2,500.00	\$10,000.00
	Detention Pond		Each	\$100,000.00	\$0.00
	Catch Basin	10	Each	\$2,500.00	\$25,000.00
	Subtotal				\$69,440.00
	Mobilization 6%				\$4,166.40
	Design Engineering 9%				\$6,249.60
	Construction Engineering 9%				\$6,249.60
	Storm Drain Total				\$86,105.60
Roadway Improvements					
	Curb and Gutter	8,608	LF	\$11.00	\$94,688.00
	Excavation for C&G	8,608	LF	\$1.00	\$8,608.00
	Road Base installed	172,160	Sq. Ft.	\$1.00	\$172,160.00
	3 - inch Asphalt Bituminous Mix	111,904	Sq. Ft.	\$1.20	\$134,284.80
	Clear and Grub	4	Acres	\$2,500.00	\$9,880.62
	Erosion Control	4	Acres	\$1,800.00	\$7,114.05
	Roadway Excavation	6,376	CY	\$8.00	\$51,010.37
	Subtotal				\$477,745.84
	Mobilization 6%				\$28,664.75
	Design Engineering 9%				\$42,997.13
	Construction Engineering 9%				\$42,997.13
	Roadway Total				\$592,404.85
	Construction Total				\$1,480,057.61

Forevermore
Cost Estimate (2013 dollars)

Figure A.4

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	8 - inch Ductile Iron Water Line Pipe	664	LF	\$32.00	\$21,248.00
	8 inch Gate Valve	1	Each	\$1,500.00	\$1,500.00
	Fire Hydrant Assembly	1	Each	\$3,500.00	\$3,500.00
	2 inch Air-Vac Valve	1	Each	\$3,500.00	\$3,500.00
	Subtotal				\$29,748.00
	Mobilization 6%				\$1,784.88
	Design Engineering 9%				\$2,677.32
	Construction Engineering 9%				\$2,677.32
	Water Total				\$36,887.52
Sanitary Sewer Improvements					
	8 inch HDPE Sewer Pipe	654	LF	\$27.00	\$17,658.00
	4 ft. Diameter Sewer Manhole	3	Each	\$3,000.00	\$9,000.00
	Subtotal				\$26,658.00
	Mobilization 6%				\$1,599.48
	Design Engineering 9%				\$2,399.22
	Construction Engineering 9%				\$2,399.22
	Sewer Total				\$33,055.92
Storm Drain Improvements					
	18 - inch ADS Pipe		LF	\$33.00	\$0.00
	24 - inch ADS Pipe		LF	\$35.00	\$0.00
	30 - inch ADS Pipe		LF	\$40.00	\$0.00
	4 ft. Diameter Manholes		Each	\$2,500.00	\$0.00
	Detention Pond		Each	\$95,000.00	\$0.00
	Catch Basin		Each	\$2,500.00	\$0.00
	Subtotal				\$0.00
	Mobilization 6%				\$0.00
	Design Engineering 9%				\$0.00
	Construction Engineering 9%				\$0.00
	Storm Drain Total				\$0.00
Roadway Improvements					
	Curb and Gutter	1,716	LF	\$11.00	\$18,876.00
	Excavation for C&G	1,716	LF	\$1.00	\$1,716.00
	Road Base installed	34,320	Sq. Ft.	\$1.00	\$34,320.00
	3 - inch Asphalt Bituminous Mix	22,308	Sq. Ft.	\$1.20	\$26,769.60
	Clear and Grub	1	Acres	\$2,500.00	\$1,969.70
	Erosion Control	1	Acres	\$1,800.00	\$1,418.18
	Roadway Excavation	1,271	CY	\$8.00	\$10,168.89
	Subtotal				\$95,238.37
	Mobilization 6%				\$5,714.30
	Design Engineering 9%				\$8,571.45
	Construction Engineering 9%				\$8,571.45
	Roadway Total				\$118,095.58
	Construction Total				\$188,039.02

Silver Sky
Cost Estimate (2014 dollars)

Figure A.5

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	12 - inch Ductile Iron Water Line Pipe	2,484	LF	\$70.00	\$173,880.00
	8 - inch Ductile Iron Water Line Pipe	600	LF	\$42.00	\$25,200.00
	2" Air-Vac Station	3	Each	\$4,300.00	\$12,900.00
	Fire Hydrant	4	Each	\$5,000.00	\$20,000.00
					\$231,980.00
				Mobilization 6%	\$13,918.80
				Design Engineering 9%	\$20,878.20
				Construction Engineering 9%	\$20,878.20
				Water Total	\$287,655.20
Sanitary Sewer Improvements					
	8 inch HDPE (SDR 35) Sewer Pipe	2,121	LF	\$35.00	\$74,235.00
	4 ft. Diameter Sewer Manhole	8	Each	\$3,300.00	\$26,400.00
	5 ft. Diameter Sewer Manhole	3	Each	\$3,700.00	\$11,100.00
					\$111,735.00
				Mobilization 6%	\$6,704.10
				Design Engineering 9%	\$10,056.15
				Construction Engineering 9%	\$10,056.15
				Sewer Total	\$138,551.40
Storm Drain Improvements					
	15 inch ADS	988	LF	\$27.00	\$26,676.00
	18 inch ADS	158	LF	\$30.00	\$4,740.00
	4 ft. Diameter Drain Manholes	4	Each	\$3,300.00	\$12,903.00
	Catch Basin	19	Each	\$2,500.00	\$47,500.00
					\$91,819.00
				Mobilization 6%	\$5,509.14
				Design Engineering 9%	\$8,263.71
				Construction Engineering 9%	\$8,263.71
				Storm Drain Total	\$113,855.56
Roadway Improvements					
	Curb and Gutter	4,814	LF	\$14.00	\$67,396.00
	Road Base installed	96,280	Sq. Ft.	\$1.00	\$96,280.00
	3 - inch Asphalt Bituminous Mix	62,582	Sq. Ft.	\$1.40	\$87,614.80
	Guardrail	550	LF	\$42.00	\$23,100.00
	Retaining Wall	1,500	SF	\$20.00	\$30,000.00
	Rock Excavation	1	Acre	\$20,000.00	\$20,000.00
	Clearing and Grubbing	2	Acre	\$2,000.00	\$4,420.57
	Roadway Excavation	3,566	CY	\$8.00	\$28,527.41
					\$357,338.78
				Mobilization 6%	\$21,440.33
				Design Engineering 9%	\$32,160.49
				Construction Engineering 9%	\$32,160.49
				Roadway Total	\$443,100.08
				Construction Total	\$983,162.24

Silver Sky - Roadway Project Improvements (Lariat Court and partial Longview Dr)

	Curb and Gutter	3,400	LF	\$14.00	\$47,600.00
	Road Base installed	68,000	Sq. Ft.	\$1.00	\$68,000.00
	3 - inch Asphalt Bituminous Mix	44,200	Sq. Ft.	\$1.40	\$61,880.00
	Guardrail	0	LF	\$42.00	\$0.00
	Retaining Wall	0	SF	\$20.00	\$0.00

	Rock Excavation	0	Acre	\$20,000.00	\$0.00
	Clearing and Grubbing	2	Acre	\$2,000.00	\$3,122.13
	Roadway Excavation	2,519	CY	\$8.00	\$20,148.15
					\$200,750.28
				Mobilization 6%	\$12,045.02
				Design Engineering 9%	\$18,067.53
				Construction Engineering 9%	\$18,067.53
				Roadway Project Total	\$248,930.35

Silver Sky - Storm Drain Project Improvements (Lariat Court and partial Longview Dr)

	15 Inch ADS	988	Sq. Ft.	\$43.00	\$42,484.00
	18 Inch ADS	158	Sq. Ft.	\$47.00	\$7,426.00
	SD Catch Basin	11	Sq. Ft.	\$2,500.00	\$27,500.00
	4 ft. Diameter Storm Drain Manhole	0	Sq. Ft.	\$3,300.00	\$0.00
					\$77,410.00
				Mobilization 6%	\$4,644.60
				Design Engineering 9%	\$6,966.90
				Construction Engineering 9%	\$6,966.90
				Storm Drain Project Total	\$95,988.40

Rustler
Cost Estimate (2010 dollars)

Figure A.6

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	8 - inch Ductile Iron Water Line Pipe	4,449	LF	\$31.00	\$137,919.00
	12 - inch Ductile Iron Water Line Pipe	290	LF	\$40.00	\$11,600.00
	Fire Hydrant Assembly	4	Each	\$3,500.00	\$14,000.00
	Subtotal				\$163,519.00
	Mobilization 6%				\$9,811.14
	Design Engineering 9%				\$14,716.71
	Construction Engineering 9%				\$14,716.71
	Water Total				\$202,763.56
Sanitary Sewer Improvements					
	8 inch HDPE Sewer Pipe	4,625	LF	\$29.00	\$134,125.00
	4 ft. Diameter Sewer Manhole	8	Each	\$2,700.00	\$20,812.50
	Subtotal				\$154,937.50
	Mobilization 6%				\$9,296.25
	Design Engineering 9%				\$13,944.38
	Construction Engineering 9%				\$13,944.38
	Sewer Total				\$192,122.50
Storm Drain Improvements					
	15 - inch ADS Pipe	878	LF	\$27.00	\$23,706.00
	18 - inch ADS Pipe	441	LF	\$32.00	\$14,112.00
	4 ft. Diameter Manholes	4	Each	\$2,500.00	\$10,495.83
	Catch Basin	8	Each	\$1,700.00	\$14,274.33
	Subtotal				\$62,588.17
	Mobilization 6%				\$3,755.29
	Design Engineering 9%				\$5,632.94
	Construction Engineering 9%				\$5,632.94
	Storm Drain Total				\$77,609.33
Roadway Improvements					
	Curb and Gutter	11,394	LF	\$13.00	\$148,122.00
	Excavation for C&G	11,394	LF	\$7.00	\$79,758.00
	Road Base installed	227,880	Sq. Ft.	\$0.80	\$182,304.00
	3 - inch Asphalt Bituminous Mix	148,122	Sq. Ft.	\$1.00	\$148,122.00
	Clear and Grub	5	Acres	\$2,500.00	\$13,078.51
	Erosion Control	5	Acres	\$1,800.00	\$9,416.53
	Roadway Excavation	8,440	CY	\$8.50	\$71,740.00
	Subtotal				\$652,541.04
	Mobilization 6%				\$39,152.46
	Design Engineering 9%				\$58,728.69
	Construction Engineering 9%				\$58,728.69
	Roadway Total				\$809,150.89
	Construction Total				\$1,281,646.28

Soaring Hawk System Improvements
Cost Estimate (2014 dollars)

Figure A.7

No.	Item Description	Bid Quantity	Units	Unit Price	Total Amount
Culinary Water Improvements					
	8 - inch Ductile Iron Water Line Pipe	7,893	LF	\$32.00	\$252,576.00
	8 inch Gate Valves	8	Each	\$1,800.00	\$14,400.00
	Meter Stations	1	Each	\$50,000.00	\$50,000.00
					\$316,976.00
				Mobilization 6%	\$19,018.56
				Design Engineering 9%	\$28,527.84
				Construction Engineering 9%	\$28,527.84
				Water Total	\$393,050.24
Sanitary Sewer Improvements					
	8 inch HDPE (SDR 35) Sewer Pipe	8,673	LF	\$34.00	\$294,882.00
	4 ft. Diameter Sewer Manhole	40	Each	\$2,800.00	\$112,000.00
	5 ft. Diameter Sewer Manhole	8	Each	\$3,100.00	\$24,800.00
					\$431,682.00
				Mobilization 6%	\$25,900.92
				Design Engineering 9%	\$38,851.38
				Construction Engineering 9%	\$38,851.38
				Sewer Total	\$535,285.68
Storm Drain Improvements					
	15 inch ADS	1,400	LF	\$36.00	\$50,400.00
	18 inch ADS		LF	\$41.00	\$0.00
	30 inch ADS	200	LF	\$64.00	\$12,800.00
	36 inch ADS	300	LF	\$83.00	\$24,900.00
	6 ft. Diameter Manholes	2	Each	\$4,000.00	\$8,000.00
	Catch Basin	25	Each	\$2,500.00	\$62,500.00
					\$158,600.00
				Mobilization 6%	\$9,516.00
				Design Engineering 9%	\$14,274.00
				Construction Engineering 9%	\$14,274.00
				Storm Drain Total	\$196,664.00
Roadway Improvements					
	Curb and Gutter	21,522	LF	\$11.00	\$236,742.00
	Road Base installed	430,440	Sq. Ft.	\$0.80	\$344,352.00
	3 - inch Asphalt Bituminous Mix	279,786	Sq. Ft.	\$1.20	\$335,743.20
	Landscaping	1	LS	\$190,000.00	\$190,000.00
	Retaining Wall	3,000	SF	\$15.00	\$45,000.00
	Clearing and Grubbing	9	Acre	\$2,000.00	\$17,000.00
	UDOT Accel Lane	1	LS	\$575,000.00	\$575,000.00
	Roadway Excavation	155,000	CY	\$5.00	\$775,000.00
					\$2,518,837.20
				Mobilization 6%	\$151,130.23
				Design Engineering 9%	\$226,695.35
				Construction Engineering 9%	\$226,695.35
				Roadway Total	\$3,123,358.13
				Construction Total	\$4,248,358.05

Appendix “B”

Applicable State Codes

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 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; 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) "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.
- (8)
 - (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.
- (9) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.
- (10) "Impact fee facilities plan" means the plan required by Section 11-36a-301.
- (11) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.
- (12)
 - (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 53A-20-100.5.
- (13) "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.
- (14)
 - (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.
- (15) "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.
- (16) "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; or
 - (h) environmental mitigation as provided in Section 11-36a-205.
- (17)
 - (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.
- (18)
 - (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.
- (19)
 - (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.
- (20) "Specified public agency" means:
 - (a) the state;
 - (b) a school district; or
 - (c) a charter school.
- (21)
 - (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 363, 2014 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;
 - (iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or
 - (iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:
 - (A) generally accepted cost accounting practices; and
 - (B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
 - (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 53A-20-100.5.

Amended by Chapter 2, 2016 Special Session 3

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.

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

Enacted by Chapter 47, 2011 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;
 - 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; or
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and

3. complies in each and every relevant respect with the Impact Fees Act."
- (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;
 - 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; or
 - c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
 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 278, 2013 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 63F-1-701.
- (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.

Enacted by Chapter 47, 2011 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 63F-1-701.
- (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.

Enacted by Chapter 47, 2011 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 63F-1-701; 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, 2017 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; or
 - (B) 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 within the time specified in Subsection 11-36a-602(2), 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 190, 2017 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 was imposed by a local political subdivision 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 government entity had correctly calculated the impact fee; and
- (ii) in accordance with Section 13-43-206, a government entity 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 government entity within 30 days after the day on which the court issued the final ruling on the impact fee.
- (b) A government entity 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 government entity had correctly calculated the impact fee.
- (c) Subsection (4) may not be construed to create a new cause of action under land use law.
- (d) Subsection (3)(a) does not apply unless the resolution described in Subsection (3)(a) is final.

Enacted by Chapter 47, 2011 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; or
 - (c) 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.

Enacted by Chapter 47, 2011 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

