

EMIGRATION IMPROVEMENT DISTRICT

**RESOLUTION ENACTING AMENDED
IMPACT FEE RULES AND REGULATIONS
GOVERNING THE IMPOSITION OF
IMPACT FEES AND APPEAL PROCEDURES
FOR THE REVIEW OF CONTESTED IMPACT FEES**

WHEREAS, the Emigration Improvement District is a special District authorized and organized under the provisions of Utah law and,

WHEREAS, the Emigration Improvement District imposed impact fees in 1999 to require that new growth pay a portion of the cost system improvement to provide facilities for new development and,

WHEREAS, the Board of Trustees of the District have caused a revised Capital Facilities Plan to be completed for the District to respond to requests for water service in additional areas of Emigration Canyon and,

WHEREAS, the Board of Trustees has caused an analysis of the proposed impact fees to be conducted as required by law.

NOW THEREFORE, the Board of Trustees of the Emigration Improvement District resolves as follows:

1. The revised Capital Facilities Plan which was heard and approved by the Board of Trustees of the District be and the same hereby is approved and adopted as the Capital Facilities Plan for future growth of the District until revised and amended.
2. The impact fee analysis presented to the Board of Trustees on the 7th day of March, 2002 at 7:00 p.m. is approved and incorporated by reference as though fully set forth herein.
3. Based on the revised Capital Facilities Plan and the impact fee analysis and on the requirements of Utah law, the Board of Trustees enacts the following Rules and Regulations which require the payment of impact fees as a condition of water service from the District.

RULES AND REGULATIONS ENACTING IMPACT FEES BY THE EMIGRATION IMPROVEMENT DISTRICT

PRELIMINARY FINDINGS

1. The Board of Trustees of the District finds that it is in the best interest of the District to review, modify amend and enact Rules and Regulations requiring the payment of impact fees as a condition for water service for service to the properties and facilities which may connect and be served by the Emigration Improvement District Water System.

2. These Rules and Regulations are based upon experience of the District, the revised Capital Facilities Plan of 2001 prepared by Carollo Engineers for service to new areas in the District which was adopted by the District Board of Trustees and the impact fee analysis for new impact fees which has been approved by the Board of Trustees after notice and public hearing as required by Utah law. The published notice for the public hearing on the District revised Capital Facilities Plan of 2001 is incorporated herein by reference and the published notice for the hearing on the enactment of these regulations is incorporated herein by reference as though fully set forth. The District finds that all required notices have been given and made and the District is entitled to adopt the impact fee Rules and Regulations set forth more specifically herein.

3. In the enactment of the 2001 Capital Facilities Plan, impact fee analysis and these Rules and Regulations, the District has taken into consideration, and in certain cases will consider on a case by case basis in the future, the future capital facilities needs of the District, the capital financial needs of the District which are the result of the future system improvements and facilities needs of the District, the distribution of the burden of costs to different properties within the District based on the use of the District system by such properties, the financial contribution of those properties and other properties similarly situated in the District at the time of computation of the required impact fee and prior to the enactment of these regulations, all revenue sources available to the District and the impact on future system improvements which will be required by new development activities in the four service areas in the District.

4. The Board of trustees finds that future development activities will cause additional water service improvements and the capital facility improvements which are analyzed in the impact fee analysis are the direct result of additional service improvements needs caused by development activities.

5. The District Board of Trustees finds that the impact fees which are required to be paid in the future under the Rules and Regulations adopted herein are necessary to achieve an equitable financial allocation between the costs paid by properties in the District in the past and the costs to be paid in the future, in comparison to the benefits received by properties connected to the District in the past, and those properties to be connected to the District system in the future as a result of development activity.

6. The Board of Trustees finds that it is logical and reasonable based on sound planning and engineering principles to designate and the Board therefor hereby designates the following four (4) Service Areas for water service within the District:

6.1 The Emigration Oaks Initial Phase comprised of the first one hundred fifty five (155) lots platted in the Emigration Oaks Subdivision plats 1-5, and the 2 building sites approved on the Steve Creamer property are designated as the Oaks Initial Phase Service Area consisting of a total of one hundred fifty seven (157) connections .

6.2 The Emigration Oaks Final Phase consisting of Plats 4A, 6 and 6A of the Emigration Oaks Subdivision consisting of sixty eight (68) connections is designated as the Oaks Final Phase Service Area.

6.3 The area depicted on Exhibit 1 which consists generally of the Young Oaks Subdivision and the Little Oaks Subdivision, other platted lots and an unplatted area of seven building sites(the Plumb and Creamer areas) is designated as the Young Oaks/Little Oaks Service Area consisting of a total of forty four (44) connections.

6.4 The area depicted on Exhibit 2 which is generally known as the Lower Burr Fork and Killyon Canyon area is designated as the Lower Burr Fork/Killyon Canyon Service Area which consists of a total of forty three (43) connections.

DEFINITIONS

7. The following definitions are applicable to the terms of the Rules and Regulations contained herein.

7.1 “Connection Applicant”: a person(s) or entity who applies for or is otherwise interested in making a physical connection to the Emigration Improvement District Water system.

7.2 “District”: the Emigration Improvement District

7.3 “Gross Impact Fee”: the initial impact fee calculated by the District

based on the application from the connection applicant.

7.4 “Impact Fee Agent”: an employee of the Emigration Improvement District authorized and designated by the General Manager and/or the Board of Trustees to evaluate connection applications and to calculate and determine the amount of impact fee required from a Connection Applicant.

7.5 “Impact Fee Regulations”: the regulations adopted by the District which state the uses and costs payable to the District for permission to connect to the District Water System.

7.6 “Inspection fees”: fees collected by the District for the inspection of service lines as required by the rules applicable to such fees.

7.7 “Net impact fee”: the impact fee calculated by the District after considering studies and data submitted by the Connection Applicant and making all adjustments required by the Rules and Regulations.

APPLICATION PROCEDURES AND COMPUTATION OF CONNECTION FEE

8. Each impact fee applicant shall make application in writing to the District for connection to the District water system on forms provided by the District. Each impact fee applicant shall state, define and characterize the nature of the use of the building proposed to be connected to the District system and provide the approved architectural plans which will be used for building permit application purposes for the structure to be connected to the District system and such further information as may be requested by the District which is reasonably necessary to determine the size and nature of the use of the building proposed for impact and to allow the District to verify the nature of the information presented by the impact fee applicant.

9. The District finds that four service areas should be designated in the Emigration Improvement District Water System as set forth more specifically in paragraph 6 above; Gross Impact Fees for each equivalent residential unit are imposed and required to be payable by new Connection Applicants in three of the service areas as follows:

9.1	Oaks Final Phase Service Area:	\$2,631.00
9.2	Young Oaks/Little Oaks Service Area:	\$6,200.00
9.3	Lower Burr Fork/Killyon Canyon Service Area	\$6,200.00

10. The plans and specifications submitted by the Connection Applicant may be used by the District for review by the District engineer to determine compliance with the design and construction specifications of the District.

11. The District Impact Fee Agent shall evaluate the building use, size and characteristics and shall calculate a Gross Impact Fee based on the information submitted by the Connection Applicant.

12. The Impact Fee Agent shall inform the Connection Applicant in writing of the Gross Impact Fee. The written notice of the Gross Impact Fee shall state that the District will consider information from the impact fee applicant which may reduce the Gross Impact Fee. The District will allow the impact applicant to submit information for consideration to reduce the Gross Impact Fee to determine the net impact fee as follows:

- 12.1 Studies and data concerning the water use burden imposed on the District system by the proposed connection and use;
- 12.2 Evidence of the payment of connection fees, taxes or service charges to the District by the past owners of the property to be connected
- 12.3 Property or facilities contributed by the Connection Applicant which are planned by the District in the 2001 Capital Facilities Plan together with relevant cost or economic data; and
- 12.4 Identify or describe in detail any other economic credit or matter which the Connection Applicant believes should be taken into consideration in the computation of the net impact fee.

All of the information described above shall be taken into consideration in the calculation of the final net impact fee to be charged by the District for connection to the water system.

13. Reductions in the Gross Impact Fee based on the information provided by the Connection Applicant, including studies and data submitted by the Connection Applicant concerning water use of the proposed connection, shall be based solely on verifiable economic data and, if applicable, specific use prediction data which is certain to assure the District that the water use is less than the use estimated by the District and

can be confirmed as represented by the Connection Applicant.

14. After considering studies and data, if any, submitted by the Connection Applicant the Impact Fee Agent shall calculate the net impact fee, inspection fees and other required fees and security deposits and inform the Connection Applicant in writing of each fee charged by the District prior to approving the connection application.

15. After the Connection Applicant receives the written final net fee computation, inspection fees and security deposit statement from the District, the Connection Applicant shall indicate in writing in the space provided whether or not the Connection Applicant concurs with the net impact fee computed by the District. If the Connection Applicant concurs with the net impact fee, the Connection Applicant shall pay the net impact fee, inspection fees and required security deposits and sign and deliver to the District the Emigration Improvement District Water Service Agreement at least five days prior to the physical connection by the Connection Applicant to the District system. In the event that the District finds that unusual circumstances require the enlargement or the reduction of the time between the payment of the fee and the physical connection of the proposed connection to the District system, the District may enlarge or reduce the time period required under these rules between the payment of the impact fee, inspection fees and security deposits and the physical approved connection to the District system.

APPEAL OF IMPACT FEE COMPUTATION

16. If the Connection Applicant does not concur with the net impact fee, and if the fee is contested by the Connection Applicant, the Connection Applicant shall notify the District and appeal the computation and imposition of the net impact fee to the board of trustees of the District. Appeal to the board of trustees shall be considered filed by the Connection Applicant when the Connection Applicant executes the Notice of Appeal and written request for a hearing and provides the date of execution of the Notice of Appeal on the form provided by the District.

The appeal shall be filed by the Connection Applicant shall include a written request to the Board of Trustees for a hearing as to the net impact fee computed by the District. A request for a hearing before the Board of Trustees shall be accompanied by all written data and information upon which the Connection Applicant will rely in the hearing before the Board of Trustees.

No later than twenty (20) days after the Notice of Appeal and the submission of data by the Connection Applicant, the Board of Trustees of the District shall hear the

appeal of the Connection Applicant. At the hearing, the Board shall admit and consider evidence presented by the Connection Applicant upon which the Connection Applicant may rely to show that the fee agent of the District failed to consider the evidence submitted by the Connection Applicant or mis-interpreted, mis-construed or mis-applied the impact fee Rules and Regulations enacted by the District or the law of the state of Utah.

No later than thirty (30) days after the date the Notice of Appeal of the net impact fee is filed with the Board of Trustees, the Board of Trustees shall decide the matter and advise the Connection Applicant in writing of its decision. The Board of Trustees may affirm the decision of the fee agent of the District, modify or re-compute the net impact fee, or submit the matter to the fee agent for re-computation of the net impact fee with such directions as the Board of Trustees find are appropriate under the circumstances to achieve compliance with the District Rules and Regulations and the provisions of Utah law.

17. No later than ten (10) days after receipt of the decision of the Board of Trustees by the Connection Applicant, the Connection Applicant shall advise the Board of Trustees that it either concurs with or accepts the decision of the Board of Trustees and will pay the net impact fee determined or to be computed under the directions of the Board of Trustees to the fee agent together with all inspection fees and security deposits or that the Connection Applicant intends to seek further review of the decision of the Board of Trustees. In the event the Connection Applicant desires to seek further review of the decision of the Board of Trustees, the Board of Trustees shall cause all documents, tape recordings, evidence and information relied upon by the Impact Fee Agent, the General Manager or the Board of Trustees to be collected and compiled as a record and designated as a record of the proceeding for purposes of further review.

DATED this _____ day of _____, 2002.

EMIGRATION IMPROVEMENT DISTRICT

ATTEST:

Chair

Clerk