

1. What are the options for the Council to consider that staff is presenting?

1.

2.

3.

2. What is the option not considered:

3. What are impact fees and why are they assessed?

4. What are system improvements?

5. What are system expansions?

6. What are project specific improvements, and does it matter if they are "on-site" Vs. "off-site."

7. What happens if they are waived in Hildale? Is that required by state law?

8. What happens if they are waived in TOCC? Is that required by state law?

10. What is the water systems current demand?

11. What is the water systems current capacity?

12. What are the components that make up "capacity," in a water system?

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

14. For the given development (26 lots), what is the estimated cost for the water impact fee waivers?

15. What is the estimated cost for the for the impact fee waivers after the water system is at capacity?

16. For the entire property the developer owns (301 lots), what is the estimated cost for the water impact fee waivers if they were granted in the future?

17. What is the estimated impact fee when in order to meet the demand of:

- 879 ERUs: _____
- 903 ERUs: _____
- 1180 ERUs: _____
- 1481 ERUs: _____

18. What is the economic benefit of new growth?

19. Why do Cities and Developers engage in development agreements on occasion rather than just following the Cities' ordinances?

20. What impact does agreeing to waive impact fees have on Hildale City's Insurance?

21. What impact does agreeing to waive impact fees have on Hildale City's risk of illegal discrimination?

22. What impact does agreeing to waive impact fees have on our large partners?

UEP _____

TOCC _____

South Zion Estates Development

On November 13th, 2019, Hildale City considered and agreed to wave impact fees for South Zion Estates as part of a development agreement that will likely add 26 new equivalent residential units (ERUs) to the water system that is shared with the Town of Colorado City (TOCC).

The amount of property the developer owns, as outlined in the development agreement, is substantially more than the amount of the current development. Based on the current zoning of the property the developer owns, as expressed in the development agreement, future developments could approximately add an additional 275 ERUs.

This analysis will consider the impact of waiving the 26 impact fees that the City has agreed to waive and will additionally consider the possibility of agreeing to, in future development agreements, the prospect of agreeing to waive impact fees for the rest of the developers property. Additionally, it will look at possible funding strategies for waived impact fees.

Estimated Need for Imposing Impact Fees

At the heart of an agreement to waive future water impact fees, is the question of whether the water system can handle the growth of the development and future developments without the need to expand the water system. Or, more succinctly put, what is the current systems capacity?

If there is capacity for development, then there will be no need for expansions as a result of the development or increased demand on the water system.

Water Impact Fees

Water impact fees are, and impact fees in general, are a tool available to local governments to ensure that the cost of capital facilities necessary to support future growth are not transferred on to existing residents/customers.

System improvements Vs. System Expansions

System Improvements:

System Improvements are capital expenditures to improve the quality, replace existing systems, or maintain existing systems.

If a system needs to be improved, replaced, or maintained for qualitative reasons, the associated costs cannot and should not be paid with revenues from assessed and collected impact fees. This would be the exact opposite problem, where future customers would be paying for system improvements enjoyed by the existing customer/resident.

System Expansion:

System expansions are those quantitative upgrades to the system that increase the overall capacity of the system. A treatment upgrade that increase the quality of the water is a system improvement; whereas a treatment upgrade that increase the amount of water the system can process is and expansion.

Most residents support municipalities use of impact fees because they ensure that there is not an unequitable cost shift from new customer/residents to old customers/residents. The State of Utah has protections in place to ensure that impact fees are not used for system improvements.

Capacity

Although the water systems demand is often loosely discussed as a percentage of capacity, what truly makes up the systems capacity is a result of a chain of factors and systems. In order to best understand the potential need for systems expansions, one must be familiar with the various links in that chain. The water systems capacity can be thought of as a chain with the following links:

1. Water Resource Availability
2. Source
3. Water Rights
4. Treatment
5. Storage

Additionally, the chain of capacity continues for the customer (see below); however these are not discussed as the benefit of these links are only enjoyed by the specific site they serve and are therefore not considered as part of the “system.”

6. Site specific storage
7. Pressure
8. Piping

As with all chains, the system is only as strong as its weakest link. Or put differently, the overall capacity of the water system is limited by the smallest of the factors listed above. For example, even if the system had the ability to produce 2,000 GPM, if the City only had water rights for 1,000 GPM, then the overall capacity would be 1,000 GPM. Capacity planning, as recommended by the State of Utah, is planned based around peak day demand (i.e. the maximum demand day of the year).

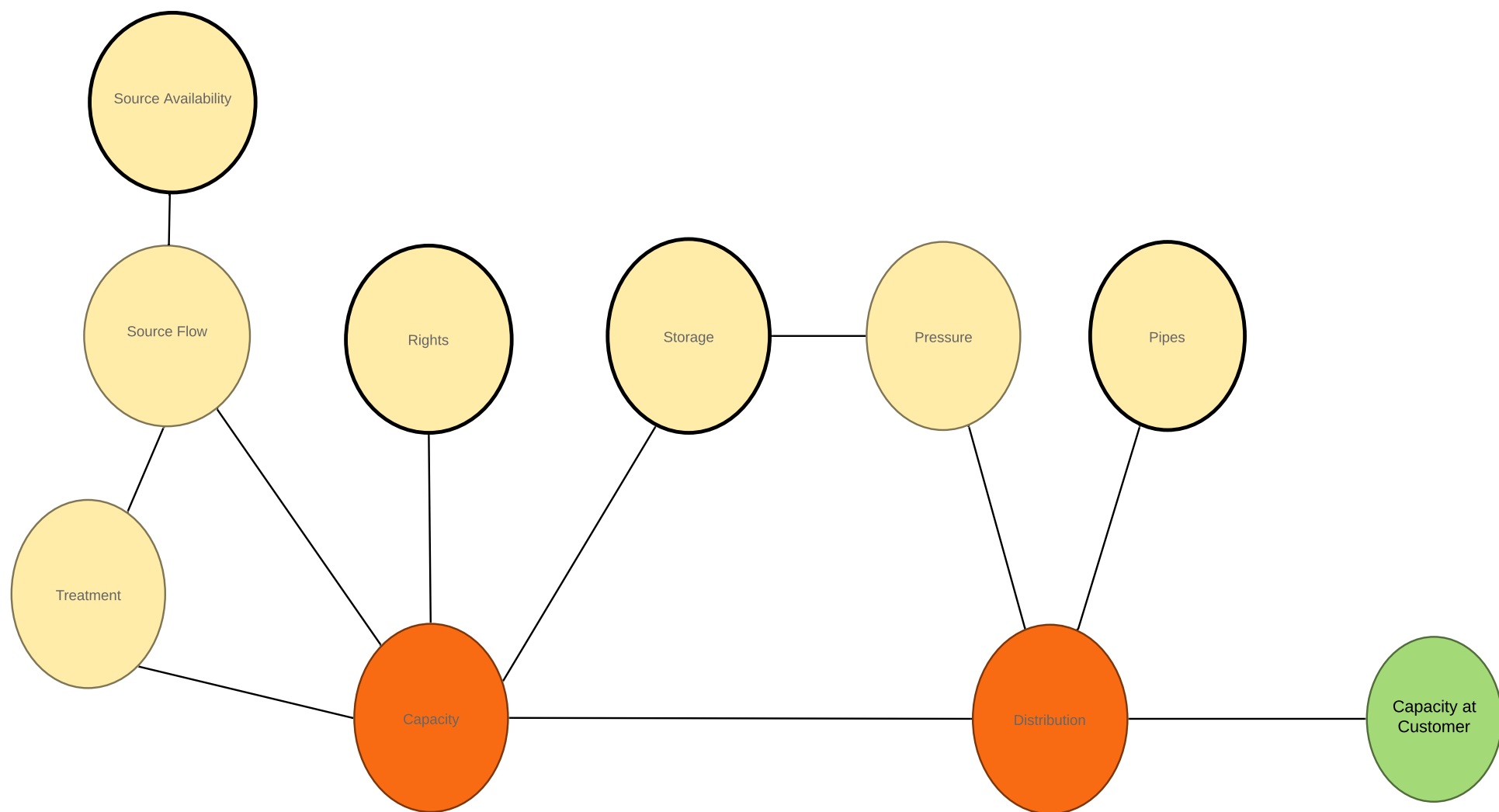
Current Capacity

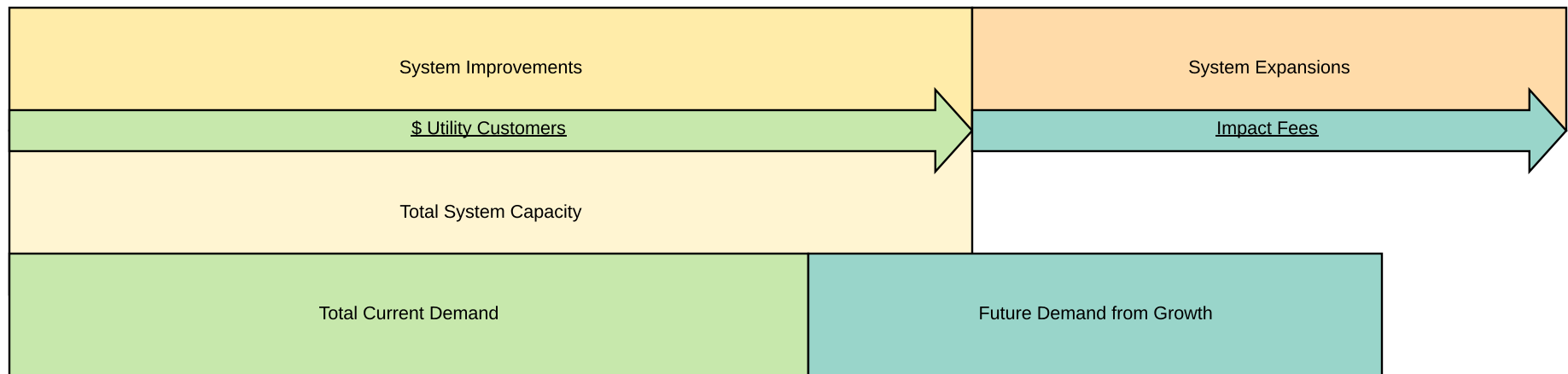
The system wide demand for the water system can generally be described as being at 80% of current capacity. Current peak day demand is 1,728,000.00 while current capacity is 2,160,000. In 2016, and the preceding years, the population of the communities dipped substantially lowering the demand on the system to approximately 50%-60%. With fewer customers sharing the fixed costs for a system that could handle twice the demand at the time, Hildale City and TOCC decided to reduce the assessed impact fee down to \$0. The decision was made by the Cities at the recommendation of the Joint Utility Board to reduce the impact fee to rather than to eliminate it as a recognition that should demand push toward capacity, impact fees will likely be necessary.

Projected Capital Improvement/Expansion Projects

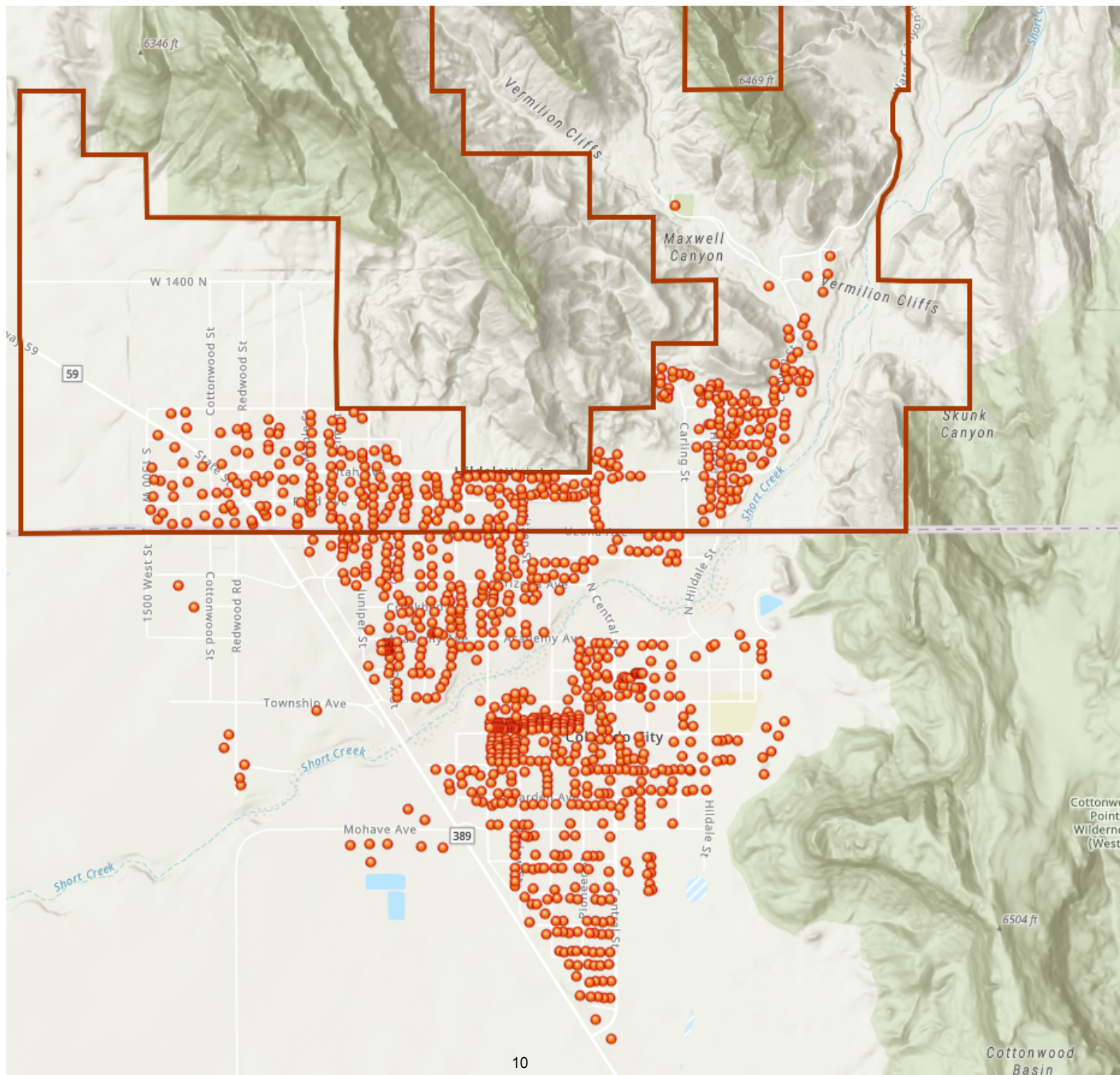
It is first important to understand that the capital projects for improvement, expansion, or both to the water system will likely be multi-million dollar projects and be the result of intense studying and planning over a long period of time. Cost and project estimates at this stage are extremely speculative. However

The water system needs system improvements to address the quality of water. As aforementioned, system improvements to address the quality of water should not be paid for with impact fee revenue.





	Current ERUs	Current & SZE Development ERUs	Current & all SZE Property ERUs	Current & all SZE Property ERUs & = growth in TOCC
Hildale	309	333	610	610
TOCC	570	570	570	871
Total ERUs	879	903	1180	1481
Required System Improvements	\$ -	\$ -	\$ 17,539,826.47	\$ 17,539,826.47
Required System Improvements (Free Water Rights)	\$ -	\$ -	\$ 5,621,182.41	\$ 5,621,182.41
Required System Expansion	\$ -	\$ -	\$ 7,676,073.52	\$ 9,776,073.52
Required System Expansions (Free Water Rights)	\$ -	\$ -	\$ 1,913,135.59	\$ 4,013,135.59
Estimated Necessary Impact Fee (Free WR or Trtmt Opt)	\$ -	\$ -	\$ 6,906.63	\$ 6,666.34
Estimated Value of Waiver	\$ -	\$0-\$179,572	\$ 1,899,322.34	N/A
*The value is zero if it is waived while below capacity; however, if it is waived after the system expansions then it is worth more.				

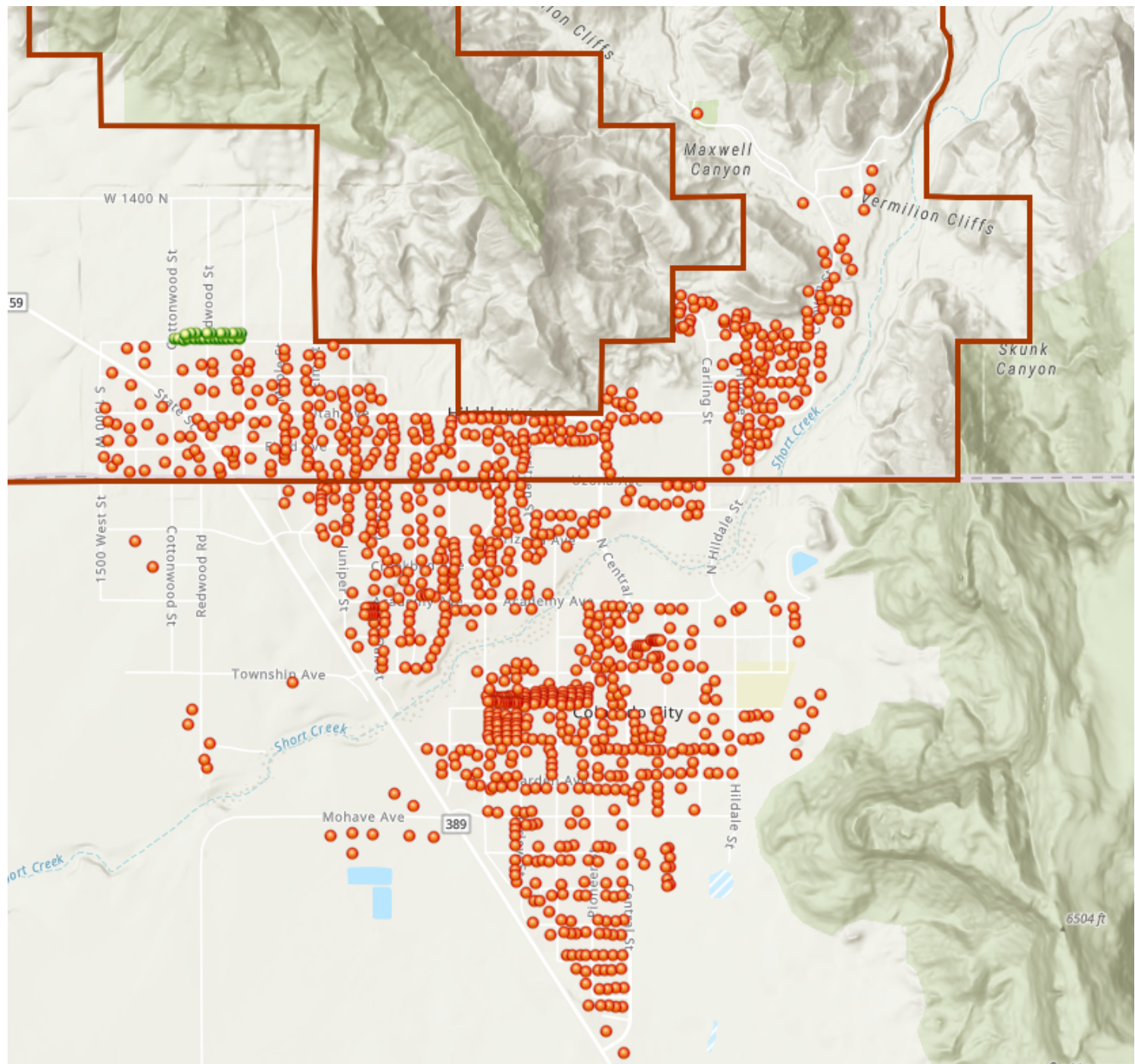


Current (ERUs 879; Hildale 309 and TOCC 570)

	Peak Day Demand		Capacity		Estimated Availability	
	Water	% of Current Capacity	Water	% of Current Capacity	Water	% of Current Capacity
Peak Day Source (gal/day)						
AZ	1,120,546	55%	2,044,800	100%	924,254	45%
UT	607,454	527%	115,200	100%	(492,254)	-427%
Total Peak Day Source	1,728,000	80%	2,160,000	100%	432,000	20%
Gal/day per connection	1,966	80%	2,457	100%	491	20%
Treatment (GPM)	1,200	80%	1,500	100%	300	20%
Water Rights						
AZ	-	0%	-	0%	-	0%
UT	84	28%	300	100%	216	72%
Total Water Rights	84	28%	300		216	
Storage (Gallons)						
Under 5110 Feet	1,728,000	70%	2,460,000	100%	732,000	30%
Higher than 5110 Feet	-	0%	-	0%	-	0%
Total Storage	1,728,000	70%	2,460,000	100%	732,000	30%

Current (ERUs 879; Hildale 309 and TOCC 570)

Estimated Cost of Improvements	Estimated Cost of Expansion	Project Name	Project Cost	Red	Below Capacity
				Blue	Improvements/Expansions Made
\$ -	\$ -		\$ -	Green	Impact Fee Eligible
\$ -	\$ -		\$ -		
\$ -	\$ -		\$ -		
\$ -	\$ -		\$ -		
\$ -	\$ -		\$ -		
\$ -	\$ -		\$ -		
\$ -	\$ -		\$ -		
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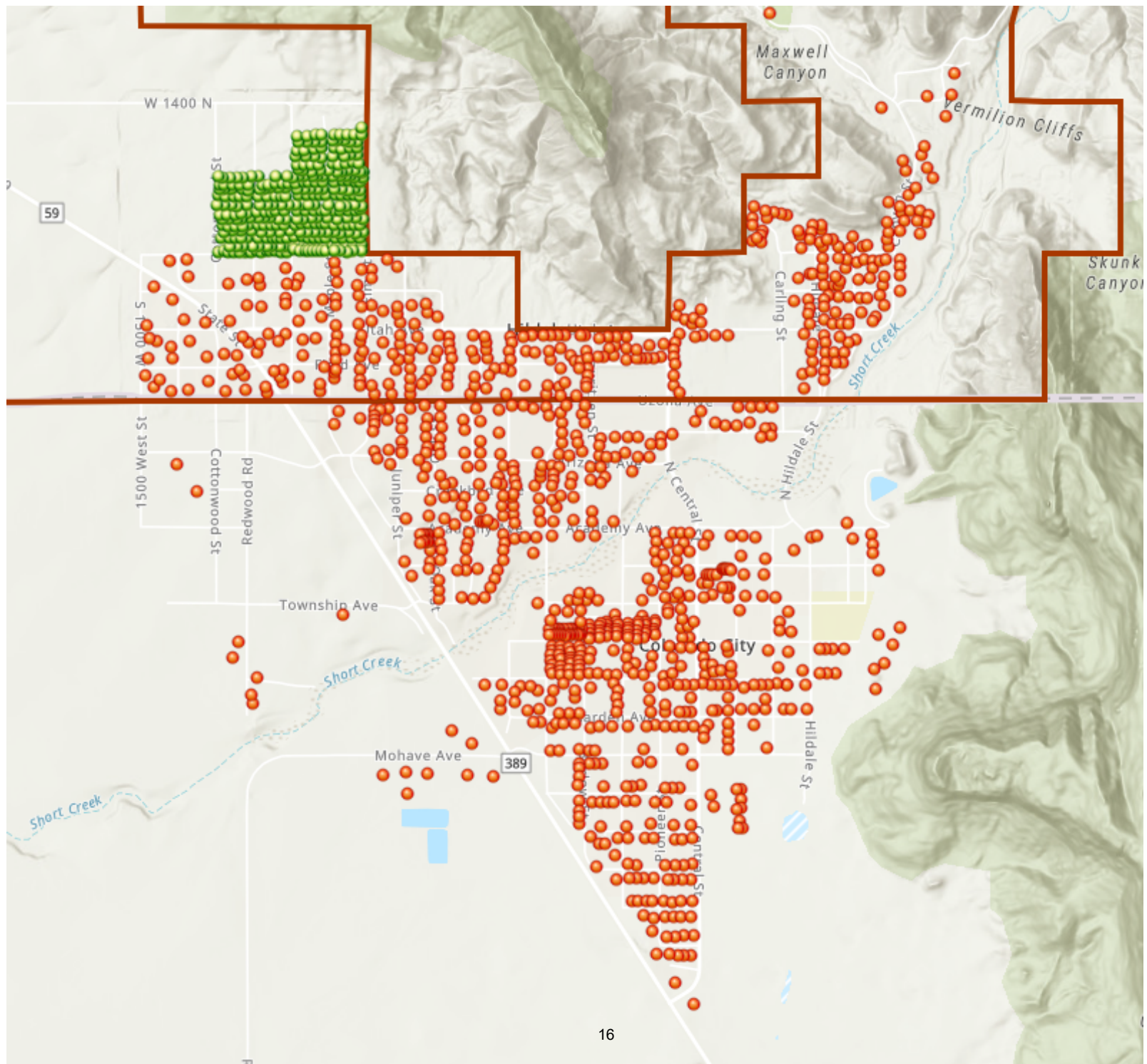


Current and SZE Development (ERUs 903; Hildale 333 and TOCC 570)

	Peak Day Demand		Capacity		Estimated Availability	
	Water	% of Current Capacity	Water	% of Current Capacity	Water	% of Current Capacity
Peak Day Source (gal/day)						
AZ	1,120,546	55%	2,044,800	100%	924,254	45%
UT	654,635	568%	115,200	100%	(539,435)	-468%
Total Peak Day Source	1,775,181	82%	2,160,000	100%	384,819	18%
Gal/day per connection	1,966	80%	2,457	100%	491	20%
Treatment (GPM)	1,200	80%	1,500	100%	300	20%
Water Rights						
AZ	-	0%	-	0%	-	
UT	84	28%	300	100%	216	72%
Total Water Rights	84	28%	300		216	72%
Storage (Gallons)						
Under 5110 Feet	1,775,298	72%	2,460,000	100%	684,702	28%
Higher than 5110 Feet	-	0%	-	0%	-	
Total Storage	1,775,298	72%	2,460,000	100%	684,702	28%

Current and SZE Development (ERUs 903; Hildale 333 and TOCC 570)

Estimated Cost of Improvements	Estimated Cost of Expansion	Project Name	Project Cost
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
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\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -



Current and all future developments (ERUs 1180; Hildale 610 and TOCC 570)

	Peak Day Demand		Capacity		Estimated Availability	
	Water	% of Current Capacity	Water	% of Current Capacity	Water	% of Current Capacity
Peak Day Source (gal/day)						
AZ	1,120,546	55%	2,044,800	100%	924,254	45%
UT	1,199,260	1041%	115,200	100%	(1,084,060)	-941%
Total Peak Day Source	2,319,806	107%	2,160,000	100%	(159,806)	-7%
Gal/day per connection	1,966	80%	2,457	100%	491	20%
Treatment (GPM)	1,200	80%	1,500	100%	300	20%
Water Rights						
AZ	-	0%	-	0%	-	
UT	84	28%	300	100%	216	72%
Total Water Rights	84	28%	300		216.00	72%
Storage (Gallons)						
Under 5110 Feet	1,728,114	70%	2,460,000	100%	731,886	30%
Higher than 5110 Feet	591,766	0%	-	0%	(591,766)	
Total Storage	2,319,880	94%	2,460,000	100%	140,120	6%

Current and all future developments (ERUs 1180; Hildale 610 and TOCC 570)

Estimated Cost of Improvements	Estimated Cost of Expansion	Project Name	Project Cost
\$ -	\$ -		
\$ -	\$ -		
\$ -	\$ -		
\$ 5,586,864.41	\$ 1,913,135.59	Water Canyon Wells Project	\$ 7,500,000.00
\$ -	\$ -		
\$ -	\$ -		
\$ -	\$ -		
\$ -	\$ -		
\$ -	\$ -		
\$ 11,918,644.07	\$ 4,081,355.93	Utah Water Rights	\$ 16,000,000.00
\$ -	\$ -		
\$ -	\$ -		
\$ -	\$ -		
\$ 34,318.00	\$ 1,681,582.00	Sand Hill Tank (500,000 Gals)	\$ 1,715,900.00

Current, all developments and equal growth in TOCC (ERUs 1481; Hildale 610 and TOCC 871)

	Peak Day Demand		Capacity		Estimated Availability	
	Water	% of Projected Capacity	Water	% of Projected Capacity	Water	% of Projected Capacity
Peak Day Source (gal/day)						
AZ	1,712,386	198%	864,000	100%	(848,386)	-98%
UT	1,199,260	46%	2,592,000	100%	1,392,740	54%
Total Peak Day Source	2,911,646	84%	3,456,000	100%	544,354	16%
Gal/day per connection	1,966	67%	2,929	100%	963	33%
Treatment (GPM)	1,200	80%	1,500	100%	300	20%
Water Rights (ACR/FT)						
AZ	-	0%	-	0%	-	0%
UT	2,500	100%	2,500	100%	-	0%
Total Water Rights	2,500	100%	2,500		-	
Storage (Gallons)						
Under 5110 Feet	2,319,880	94%	2,460,000	100%	140,120	6%
Higher than 5110 Feet	591,766	0%	500,000	0%	(91,766)	0%
Total Storage	2,911,646	98%	2,960,000	100%	48,354	2%

Current, all developments and equal growth in TOCC (ERUs 1481; Hildale 610 and TOCC 871)

Estimated Cost of Improvements	Estimated Cost of Expansion	Project Name	Project Cost
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
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\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ -		\$ -
\$ -	\$ 2,100,000.00	Saddle Tank (800,000 Gals)	\$ 2,100,000.00
\$ -	\$ -		\$ -



TOWN OF COLORADO CITY

P. O. Box 70 * Colorado City, Arizona 86021

Phone & TDD: 928-875-2646 * Fax: 928-875-2778

February 19, 2020

John Barlow, City Manager
Hildale City
P.O. Box 840490
Hildale, UT 84784-0490

Dear John,

This letter outlines the Town of Colorado City's position regarding the impact fee waiver that was granted to South Zion Estates by the Hildale City Council.

First I want to say we are grateful for the cooperative working relationship that Hildale and Colorado City have maintained in many areas in the past, and we look forward to a continued spirit of teamwork as we work together to provide services to the residents in the valley. I will not opine in this letter on any legal or ethical implications of the waiver as that is a discussion to be had with legal counsel and/or qualified consultants.

When the Hildale City Council approved the development agreement with South Zion Estates they granted a waiver on future impact fees for the South Zion Estates. We appreciate Hildale's anxiousness to accommodate growth and development, but we have some concerns about the funding resources needed in the long-term future, most of which are unknown at this time, and are generally identified and quantified as a product of long-term planning.

I have discussed the concerns of this waiver with Mayor Allred and we want to ensure that the municipalities are providing the best possible services to our constituents at the most economical cost. In the event that impact fees are raised or enacted in the future, we would expect Hildale to develop a funding mechanism to cover Hildale's rightful share of the cost of capital facilities that would normally be provided by those impact fees. The Town of Colorado City is not in a position to implement any additional fees for its residents to cover any shortfalls that Hildale may experience due to waivers granted by Hildale.

We trust that the Hildale City Council and management staff will have adequate foresight to place the burden of capital improvements where they rightfully belong and we feel that it would be unwise for all the residents to shoulder an increase in monthly user rates so a developer can increase its profit margin.

We look forward to working together to utilize the professional knowledge of staff and legal counsel in analyzing the long-term effects of granting requests for concessions or waivers on various developments that will arise from time to time. We understand that it is virtually impossible to please all parties in all cases; however, with a strong moral compass and thoroughly studied improvement plans, including funding mechanisms, the best good can be done for all the residents.

We look forward to continuing a good working relationship between the communities.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vance Barlow". The signature is fluid and cursive, with the first name "Vance" and last name "Barlow" clearly distinguishable.

Vance Barlow, CPM. MMC
Town Manager
Town of Colorado City

**A RESOLUTION OF THE HILDALE CITY COUNCIL SUSPENDING
DEVELOPMENT IMPACT FEE WAIVERS**

WHEREAS, the City of Hildale is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah Law, and is authorized pursuant to the Municipal Land Use Development and Management Act, Utah Code Annotated, Title 10, Chapter 9a to enter into development agreements that the City considers necessary or appropriate for the use and development of land;

WHEREAS, the City intends through development agreements to provide for residents' health, safety, and welfare, and to promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses;

WHEREAS, the City has enacted development impact fees in accordance with Utah law, for the purpose of requiring new development to pay its proportionate share of the costs incurred by the city that are associated with providing necessary public services to new development;

WHEREAS, on February 6, 2019, the City Council adopted Resolution No. 2019-02-001, which reduced water development impact fees in Hildale City to \$0, for the stated purpose of encouraging new development;

WHEREAS, Section 55-10(b) of the Hildale City Code provides developers of master planned developments a 24-month amnesty period from any development impact fee increases, beginning on the date that the first building permit is issued;

WHEREAS, on November 13, 2019, the City Council voted to approve a development agreement waiving collection of any development impact fees – except sewer impact fees – for a period of fifteen years after signing the agreement;

WHEREAS, because of the potentially major fiscal impact to the City of waiving development impact fees, the City Council intends to be judicious in how and when such waivers will be granted;

WHEREAS, the City Council is committed not to unlawfully discriminate against any person in the provision of municipal services or in contracts, and intends to decide any future requests for impact fee waivers without discrimination; and

WHEREAS, before granting any further requests for impact fee waivers, the City Council wishes to draft an appropriate policy to delineate the criteria it will use when evaluating such requests.

NOW THEREFORE, be it resolved by the Mayor and City Council of Hildale City, Utah as follows:

Section 1. The City Council hereby declares its intent to prepare a policy governing the circumstances in which Hildale City will grant requests to waive its development impact fees.

Section 2. If Hildale City receives a request to waive development impact fees prior to adopting the policy envisioned in Section 1 hereof, the City Council shall forbear making any decision on the request until said policy has been prepared and adopted.

Section 3. This Resolution shall become effective immediately after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF HILDALE CITY, UTAH, ON THIS ____ DAY OF _____ BY THE FOLLOWING VOTE:

		YES	NO	ABSTAIN	ABSENT
Lawrence Barlow	Council Member				
Stacy Seay	Council Member				
JVar Dutson	Council Member				
Maha Layton	Council Member				
Jared Nicol	Council Member				

Donia Jessop, Mayor

ATTEST:

Vincen Barlow, City Recorder

**A RESOLUTION OF THE HILDALE CITY COUNCIL INTERPRETING THE SCOPE
OF A DEVELOPMENT AGREEMENT WITH SOUTH ZION ESTATES, LLC**

WHEREAS, the City of Hildale is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah Law, and is authorized pursuant to the Municipal Land Use Development and Management Act, Utah Code Annotated, Title 10, Chapter 9a to enter into development agreements that the City considers necessary or appropriate for the use and development of land;

WHEREAS, the City intends through development agreements to provide for residents' health, safety, and welfare, and to promote the prosperity, peace and good order, comfort, convenience, and aesthetics of the City and its present and future inhabitants and businesses;

WHEREAS, on November 13, 2019, the City Council voted to approve a development agreement with South Zion Estates, LLC (the "Development Agreement");

WHEREAS, although the City did negotiate some of the essential terms of the Development Agreement, the great majority of its language was drafted and proposed by South Zion Estates;

WHEREAS, the Development Agreement refers to the "Property," which is described as comprising 91 lots in Short Creek Subdivisions #13 and #14, containing approximately 91 acres in the northwest of Hildale (*see* Development Agreement, p. 1 ¶ B);

WHEREAS, the Development Agreement refers to the "Project," described as a "single-family Planned Unit Development to be known as the South Zion Estates Subdivision," specifically that which has been "submitted [to] and reviewed by the City pursuant to the requirements of the Hildale City Code and related protocols and policies and other applicable zoning, engineering, fire safety and building requirements," resulting in a "Concept Plan" to be attached to the Development Agreement (*see* Development Agreement, p. 1 ¶ C);

WHEREAS, the Development Agreement states that the parties' intent was to "allow Developer to make improvements to the Property and develop the Project in accordance with the Concept Plan" (*see* Development Agreement, p. 1 ¶ C);

WHEREAS, the Development Agreement refers predominantly to the "Project," including that the Development Agreement "will govern the City and the Developer with respect to development of the Project" (*see* Development Agreement, p. 2 § 1.1), that South Zion Estates "shall have the vested right to develop and construct the Project" (*see* Development Agreement, p. 3 § 1.5), and that South Zion Estates will construct "construct those public streets, culinary

water, natural gas, sanitary sewer, and storm water improvements...necessary to provide access and utilities to the Project” (see Development Agreement, p. 4 § 2.1.3);

WHEREAS, the development applications that South Zion Estates has submitted to the City as of the effective date of this Resolution have been limited to lots 52-55 and 60-63 of Short Creek Subdivision #13, including an application to rezone those lots into a Planned Development Overlay, and an application for preliminary plat to amend that portion of Subdivision #13 to vacate the lots and re-subdivide the land into 25 lots and adjacent roads (the “Development Applications”);

WHEREAS, the City has reviewed the Development Applications pursuant to the requirements of the Hildale City Code and related protocols and policies and other applicable zoning, engineering, fire safety and building requirements, and has approved those applications;

WHEREAS, the Concept Plan attached to the Development Agreement accepted by the City Council on November 13, 2019 depicted only the portion of South Zion Estates’ Property that was included in the Development Applications;

WHEREAS, certain members of the public, partners in intergovernmental agreements with the City, and other stakeholders have exhibited misunderstandings as to the scope of the Development Agreement – to wit, that the Development Agreement applies to the entire Property described therein, and not to the Project as it has been approved so far; and

WHEREAS, the City Council desires now to clarify its intent and understanding of the scope of the Development Agreement, for the sake of utmost clarity;

NOW THEREFORE, be it resolved by the Mayor and City Council of Hildale City, Utah as follows:

Section 1. The City Council hereby declares its interpretation that the term “Project” as it is used throughout the South Zion Estates Development Agreement refers only to the portions of Short Creek Subdivision #13 described, depicted and referred to in the Development Applications received and reviewed by the City, and more specifically those portions depicted on the document entitled “Overall Site Plan” attached to the agreement accepted by the City Council on November 13, 2019.

Section 2. Any future development of the remainder of South Zion Estates’ Property in Short Creek Subdivisions #13 and #14 outside the Project area covered by the November 13, 2019 Development Agreement will be subject to the land use regulations, policies, and development standards then in force, unless and until modified by a future development agreement applicable to such development.

Section 3. This Resolution shall become effective immediately after adoption.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF HILDALE CITY, UTAH, ON
THIS ____ DAY OF _____ BY THE FOLLOWING VOTE:**

		YES	NO	ABSTAIN	ABSENT
Lawrence Barlow	Council Member				
Stacy Seay	Council Member				
JVar Dutson	Council Member				
Maha Layton	Council Member				
Jared Nicol	Council Member				

Donia Jessop, Mayor

ATTEST:

Vincen Barlow, City Recorder