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IN THE FIFTH JUDICIAL DISTRICT COURT IN AND FOR

WASHINGTON COUNTY STATE OF UTAH

WASHINGTON TOWNHOMES, LLC, et al. Plaintiffs, vs. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, et al. Defendants.	**JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AGREEMENT, NOTICE TO CLASS, AND PROPOSED DISTRIBUTION OF SETTLEMENT FUNDS** Case No. 130500465 PR Judge Jay T. Winward

RELIEF REQUESTED AND SUPPORTING GROUNDS

Pursuant to Rule 23(e) of the Utah Rules of Civil Procedure, Plaintiffs Washington Townhomes, LLC, et al. ("Plaintiffs") and Washington County Water Conservancy District ("Defendant") jointly move the Court for preliminary approval of the parties' Class Action Settlement Agreement ("Settlement Agreement") (attached hereto as Exhibit A), proposed

distribution of settlement funds, and proposed notice to the Plaintiff Class (attached hereto as Exhibit B). This motion is made on the grounds that the parties have arrived at a settlement they believe is fair, reasonable, and adequate. The parties accordingly ask the Court to enter the proposed Order of Preliminary Approval of Class Action Settlement submitted herewith and:

(1) grant preliminary approval of the Settlement Agreement;

(2) grant preliminary approval of, and make a preliminary finding that the proposed distribution of the settlement funds, including payment of the Class Administrator's and Class Counsel's attorney fees and costs, and distributions to Class Members is reasonable;

(3) order that the proposed notice be distributed to all Class Members identified by the Class Administrator within ten (10) days of the Court's order; and

(4) order that Class Members who wish to object to the proposed settlement must provide their objection to the Class Administrator in writing no later than June 6, 2026, five (5) calendar days prior to the June 11, 2026 hearing for final approval of the settlement and distribution of settlement proceeds.

BACKGROUND

WCWCD is a Utah special district organized for the purpose of acquiring, developing, treating, storing, and distributing culinary and secondary water within Washington County, Utah. On or about October 17, 2006, WCWCD adopted an impact fee resolution, assessing a fee on developers of new residential units within Washington County. Between August 23, 2012, and December 31, 2017, WCWCD assessed and collected impact fees from Plaintiffs. On August 23, 2013, Plaintiffs brought this suit, challenging the assessment of these impact fees. Following more than twelve years of litigation—including two interlocutory appeals, appointment and removal of a special master, numerous motions, and extensive fact and expert discovery—the parties have

negotiated and agreed to settlement of their dispute, the terms of which are memorialized in the Settlement Agreement.

ARGUMENT

I. Preliminary Approval of the Settlement Agreement is Appropriate.

"The compromise of complex ligation is encouraged by the courts and favored by public policy." 4 Newberg & Rubenstein, NEWBERG ON CLASS ACTIONS § 13:44 (internal quotation marks omitted). Utah Rule of Civil Procedure 23(e) further provides, among other things, that "[a] class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs."

The preliminary approval the parties seek by this motion requires only an "initial evaluation" of the fairness of the proposed settlement. *See* NEWBERG § 13:10 (discussing preliminary approval generally). Preliminary approval is routinely granted where the settlement is neither illegal nor collusive, and it falls "within the range of possible approval." *White v. NFL*, 836 F. Supp. 1458, 1466 (D. Minn. 1993); *see also* NEWBERG § 13:10; *see, e.g.*, Orders Granting Approval of Class Action Settlement, Proposed Distribution of Settlement Funds and Notice to Class, in Case Nos. 110401731 and 150400453, attached hereto as Exhibit D.

While Utah case law does not directly address the standards for preliminary approval, federal courts have developed procedural and substantive standards for the two-step process. Historically, courts reviewing a class action settlement for fairness, reasonableness, or adequacy consider the following:

> In assessing whether the settlement is fair, reasonable and adequate the trial court should consider: (1) whether the proposed settlement was fairly and honestly negotiated; (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt; (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive

> litigation; and (4) the judgment of the parties that the settlement is fair and reasonable.

Harper v. C.R. England, Inc., 2016 WL 7190560 at *3 (D. Utah, December 12, 2016) (quoting *Jones v. Nuclear Pharmacy, Inc.*, 741 F.2d 322, 324 (10th Cir. 1984)); *see also* NEWBERG §§ 13:14-13:15 (discussing procedural and substantive tests for preliminary approval).

Here, the proposed Settlement Agreement meets each of the foregoing factors and "falls within the range of possible approval." *White*, 836 F. Supp. at 1466. Preliminary approval is therefore appropriate.

a. The proposed settlement was fairly and honestly negotiated.

"The primary procedural factor courts have considered at preliminary approval is whether the agreement arose out of arms-length, non-collusive negotiations." NEWBERG § 13:14. "Where the proposed settlement is preceded by a lengthy period of adversarial litigation involving substantial discovery, a court is likely to conclude that the settlement negotiations occurred at arms-length." *Id.*

The Settlement Agreement was reached as a result of arms-length bargaining after more than twelve years of litigation. During the intervening years, the parties engaged in extensive fact and expert discovery including the production and review of hundreds of thousands of pages of documents, numerous depositions of fact witnesses, reports and depositions of eight expert witnesses, dispositive motions and various other motions, two interlocutory appeals, and extensive research regarding significant Utah and United States' constitutional questions, as well as Utah statutory law. Each side engaged multiple experts solely on the issue of damages. The parties also prepared extensively for a lengthy trial that was scheduled to begin soon after the parties reached a resolution. Consequently, the proposed settlement was not hastily procured but instead was reached only after all parties obtained a detailed understanding of the facts and law relating to this dispute.

Additionally, the settlement process itself involved extensive back-and-forth including two formal mediations and significant informal settlement discussions between counsel. *See* NEWBERG § 13:14 (identifying involvement of a third-party mediator as a potentially relevant factor). Further, all parties are represented by counsel, among whom are experienced and knowledgeable practitioners in the world of impact fees, land use, and special district litigation with significant negotiation, settlement, and trial experience. Moreover, Class Counsel has been involved in at least two prior class actions regarding impact fees.

Finally, the result itself strongly supports a preliminary finding of fairness to the Class. Plaintiffs, through this lawsuit, sought a refund of an alleged overcharge of impact fees collected between August 23, 2012 and December 31, 2017. WCWCD strongly disputed Plaintiffs' claims and pursued legal and factual defenses to both liability and damages over the course of years-long litigation. Notwithstanding their respective positions, given the dynamic and evolving Utah and United States precedent in the area of applicable constitutional standards for impact fees, the parties have agreed to a proposed settlement representing a fair compromise between the parties.

b. Questions of law and fact exist, making the outcome of the litigation uncertain.

Plaintiffs' lawsuit challenges the validity of WCWCD's impact fees assessed and collected between August 23, 2012 and December 31, 2017. Plaintiffs alleged that these impact fees violated the Utah Impact Fee Act and separately constituted an unlawful taking under the Utah and United States Constitutions. The Defendant advanced both legal and factual defenses. While Plaintiffs believe their claims are valid and the District maintains its own position, twelve years of litigation have demonstrated that there are significant questions of fact and law that make the outcome of the litigation uncertain.

i. The underlying law is evolving and has changed during the course of this litigation.

Among the factors courts historically considered when evaluating whether a proposed settlement would likely be deemed fair, reasonable, and adequate at final approval are the complexity of case. *See* NEWBERG § 13:15; *Jones*, 741 F.2d at 324.

Plaintiffs' claims implicate the Takings Clauses of the United States and Utah Constitutions and the Utah Impact Fee Act, all of which impose limits on the government's ability to require property owners to fund public infrastructure. The parties' differing interpretations and understanding of the relevant legal standards, which have evolved during the pendency of this case, increases the uncertainty and risk for all parties. Decisions by various courts also reinforce the fluid nature of applicable law in this case.

First, during the pendency of this case, the federal constitutional jurisprudence concerning impact fees has materially evolved. While the foundational principles of "rough proportionality" and "essential nexus" have long existed, *see Nollan v. California Coastal Com'n*, 483 U.S. 825 (1987), *Dolan v. City of Tigard*, 512 U.S. 374 (1994), courts have continued to refine their application, particularly with respect to legislatively adopted impact fees. *See, e.g.*, *Crossroads Grp., LLC v. City of Cleveland Heights, Ohio*, No. 1:23-CV-184, 2026 WL 233966, at *9 (N.D. Ohio Jan. 29, 2026) (identifying question left open by *Sheetz*); *Coal. for Fairness in SoHo & NoHo, Inc. v. City of New York*, No. 112, 2026 WL 88133, at *6 (N.Y. Jan. 13, 2026) (recognizing language from concurrence in *Sheetz*); *Homewood Assocs., Inc. v. Unified Gov't of Athens-Clarke Cnty.*, 323 Ga. 62, 922 S.E.2d 90, 99 (2025) (distinguishing *Sheetz* for fees based on a service); *Sheetz v. Cnty. of El Dorado*, 335 Cal. Rptr. 3d 316, 343 (Ct. App. 2025), reh'g denied (Aug. 18, 2025) (applying Justice Gorsuch's concurrence from *Sheetz* and concluding traffic fee was not unconstitutional taking).

At the outset of this case, there was meaningful uncertainty as to whether legislatively imposed impact fees were subject to the same constitutional scrutiny as *ad hoc*, permit-specific exactions. During the course of this litigation, that question has been resolved. In *Sheetz v. County of El Dorado*, 601 U.S. 267 (2024), the United States Supreme Court confirmed that the federal Takings Clause applies equally to legislative and administrative exactions and that impact fees must satisfy the *Nollan/Dolan* framework regardless of how they are imposed.

While this clarification strengthened Plaintiffs' federal takings theory, the *Sheetz* decision and the concurrences simultaneously raise new, unresolved questions about how to evaluate, within the *Nollan/Dolan* framework, the constitutionality of "the common government practice of imposing permit conditions, such as impact fees, on new developments through reasonable formulas or schedules," *Id.* at 284 (J. Kavanaugh, concurring). Depending on how courts ultimately go about applying the constitutional analysis to impact fees following *Sheetz*, the evaluation of takings liability may involve inherently fact-intensive and unpredictable inquiries about the impact of individual developments.

Similarly, Utah law governing impact fees has emphasized that constitutionality and statutory compliance are judged based on whether the fee was "roughly proportional" to the actual burden imposed by development. Utah courts have recognized that even well-intentioned impact fees may be unlawful if they require new development to bear costs that exceed its attributable share or do not bear an essential nexus. *Alpine Homes, Inc. v. City of W. Jordan*, 2017 UT 45, ¶¶ 25-29, 424 P.3d 95; *B.A.M. Dev., L.L.C. v. Salt Lake Cnty.*, 2008 UT 74, ¶ 13, 196 P.3d 601. At the same time, Utah precedent also recognizes that proportionality determinations are highly contextual and do not require mathematical precision, creating substantial litigation risk where competing expert methodologies are presented. *B.A.M. Dev., L.L.C. v. Salt Lake Cnty.*, 2012 UT 26, ¶ 19, 282 P.3d 41.

As discovery and expert analysis progressed, the parties were required to confront how evolving constitutional standards and statutory provisions would apply to a twenty-year-old impact fee analysis adopted in 2006 and implemented during the 2012–2017 class period. Trial preparation revealed that, even assuming Plaintiffs prevailed on core liability theories, the ultimate recovery would depend on how the Court resolved disputed questions concerning proportionality, level of service, cost allocation, and the treatment of later-developed data.

Additionally, Defendant faced material risk that the Court could conclude that charging class members for major infrastructure components (such as the Lake Powell Pipeline) failed constitutional and statutory proportionality requirements, as Plaintiffs contend. At trial, Plaintiffs would argue that construction on the pipeline has not begun and that the State would be responsible for the project's funding, while the Defendant maintains that it was reasonable and lawful to include the Lake Powell Pipeline in 2006.

Additionally, the parties disagreed as to the governing statutory provisions relevant to Plaintiffs' statutory claim. The Plaintiffs contend the version of the Act in effect when each impact fee was paid governs their claim for refunds, while Defendant's position is that the 2006 Act governs for all impact fees paid during the class period under the 2006 analysis. The difference in statutory requirements between the 2006 provisions and subsequent amendments could lead to a variety of different outcomes as to liability and damages.

In light of this evolving and multi-faceted legal framework, the inherent uncertainty surrounding its application to the complex factual record in this case, and the parties' unresolved disputes as to several key legal issues, some of which present questions of first impression, both sides faced substantial litigation risk. Resolving the settlement also avoids the potential for costly and lengthy appeals, which would further delay or jeopardize relief to the parties. For all these reasons, the settlement reflects a reasoned compromise in response to that uncertainty and provides

immediate, concrete relief that avoids the significant risk that continued litigation could result in a substantially diminished—or zero—recovery for the class.

ii. The facts and application of legal standards to the facts are highly disputed.

In addition to the evolving legal standards, this case presents sharply contested factual and legal issues that would require resolution through extensive expert testimony, technical evidence, credibility determinations, and argumentation at trial. The parties dispute nearly every material assumption underlying the 2006 Impact Fee, including projected water demand, the appropriate level of service, the valuation of existing system capacity, the allocation of costs between new development and existing users, and the inclusion of major capital projects in the impact fee calculation.

Central among these disputes is the inclusion of the Lake Powell Pipeline, which Plaintiffs maintain accounted for approximately eighty percent of the projected capital costs in the 2006 Impact Fee Analysis. Plaintiffs contend that the pipeline was neither necessary to serve class members nor lawfully chargeable to them, particularly given Plaintiffs' contention that the State assumed responsibility for the project prior to adoption of the fee and that no water has ever been delivered through the pipeline. Defendant maintains it was appropriate and reasonable to incorporate the Lake Powell Pipeline as a future capital facility in the Analysis, asserting that the state statute providing a loan mechanism for the project did not preclude its inclusion and that growth projections and the incurrence of planning costs justified inclusion of the project. Defendant also contends that removal of the Lake Powell Pipeline would not have decreased the impact fee as calculated by Plaintiffs' experts because removal of the project from the Analysis would have reduced the planned capacity and increased the relative cost of the remaining capital projects. Resolution of these issues would require the Court to weigh competing historical

evidence, statutory interpretation, and expert testimony regarding necessity, timing, proportional benefit, and relative cost of capital projects.

The parties also litigated the appropriate level of service. Plaintiffs intended to argue at trial that the 0.89 acre-feet per equivalent residential unit (ERU) level of service was inflated and unsupported by actual usage data, pointing to later-adopted standards and evidence of significantly lower consumption. The District's position, which this court upheld in 2015 and 2025, is that state drinking water regulations required the District to adhere to a source-sizing standard of .89 acre-feet per ERU and that setting the level of service at this standard was legal and reasonable as a matter of law.

Additional factual disputes implicating differing legal interpretations of the statute and constitutional standards include:

- whether debt service costs were properly included in the impact fee;
- whether depreciated replacement cost or book value should be used to value existing system capacity;
- whether existing deficiencies were unlawfully charged to new development; and
- whether alternative funding sources and other sources of revenue were adequately accounted for in 2006.

Each of these issues carries meaningful implications for Plaintiffs' theory of liability and depend on how the Court resolves conflicting testimony from engineers, economists, planners, and financial experts.

The disputed issues also present significant uncertainty as to the degree of damages, if Plaintiffs prevail. Plaintiffs' own damages models demonstrate that different, but, in their view, plausible, assumptions yield dramatically different outcomes, ranging from substantial class-wide recovery to a determination that any overcharge was minimal and constitutionally permissible.

Defendant stands by its original analysis, and the Defendant's experts contend that correcting alleged errors in Plaintiffs' models would materially increase the recalculated impact fee and reduce or eliminate damages altogether. As a result, even a liability finding would not definitively ensure a meaningful recovery for the class.

Given the age of the underlying impact fee analysis, the volume of technical evidence, and the uncertainty of whether retrospective proportionality determinations are required or feasible, the outcome of trial would depend heavily on how the Court resolved these disputed factual and legal questions. The settlement avoids the substantial risk inherent in that process and provides immediate, guaranteed relief to class members who would otherwise face the possibility of protracted litigation and an uncertain outcome.

c. The value of an immediate recovery outweighs the mere possibility of additional future relief through protracted and expensive litigation.

While considerable expense has already been incurred in this matter, the additional expense of a trial would also be significant. Moreover, two interlocutory appeals have occurred, and an appeal of a final judgment was almost a certainty. Given the amount at stake, and the amount of the settlement, the benefit of the agreed recovery to the Class under the Settlement Agreement is considerable. Pursuing further litigation may result in a larger recovery for Plaintiffs over and above the payment proposed by the Settlement Agreement. However, the amount could also be significantly lower, and the range of outcomes includes judgment in the Defendant's favor. And both parties face risks associated with an award of attorney fees and costs. In short, the value of this settlement outweighs the possibility of future relief.

d. The parties believe the settlement is fair and reasonable.

Based on the foregoing, the parties and their respective legal counsel recognize that there is risk and uncertainty with further litigation and submit that in light of that risk and uncertainty the Settlement Agreement is fair and reasonable to the Class Members.

II. The Proposed Distribution is Reasonable and Should be Preliminarily Approved.

The Class Administrator and the Class Counsel jointly seek preliminary approval of distribution of the settlement proceeds as follows: first, reimbursement of the reasonable out-of-pocket costs incurred by the Class Administrator and Class Counsel with interest at the statutory post-judgment rate of 5.51%; second, payment of Court-approved compensation for the services of the Class Administrator and Class Counsel; and third, distribution of the remaining settlement proceeds to eligible Class Members on a pro rata basis.

In administering the distribution, the Class Administrator will calculate each Class Member's pro rata share of the Net Settlement Award based on the number of qualifying impact fees paid during the class period. In certain transactions, an impact fee payment may be associated with both a grantor (such as a developer or builder) and the grantee (such as a subsequent purchaser). In those circumstances, the refund will be paid to the party that actually incurred the cost or burden of the fee and holds the strongest claim in law or equity to the refund. The Court will retain jurisdiction to resolve any disputes regarding entitlement to a refund.

This proposed distribution framework ensures that settlement funds are distributed equitably and provides an orderly mechanism for addressing any allocation issues that may arise in the distribution process.

a. Reimbursement of costs.

The Class Administrator and Class Counsel have incurred out-of-pocket costs to litigate this class action. These costs include but are not limited to costs for filing and service fees, notice fees, deposition costs, and expert witness costs.

These fees and costs are customarily paid from the settlement proceeds and should be reimbursed first from the settlement fund. Class administration fees and costs and expenses related to the Class administration should be assessed to the settlement fund apart from the attorneys' fees.

See, e.g., Tuten v. United Airlines, Inc., 41 F.Supp.3d 1003, 1009 (D. Colo. 2014) ("[A]n attorney who creates or preserves a common fund for the benefit of the class is entitled to receive reimbursement of all reasonable costs incurred.") (quotation omitted); *see also In re High-Tech Empl. Antitrust Litig.*, 2013 U.S. Dist. LEXIS 180530 *19 (N.D. Cal., Oct. 30, 2013) ("All costs incurred in disseminating Notice and administering the Settlement shall be paid from the Settlement Fund pursuant to the Settlement Agreement.").

As these costs will continue to accrue through the date of distribution, they cannot be fully calculated at this point. However, those costs are itemized in the Declaration of Craig Call, Class Administrator, the Declaration of Ben Hathaway, and the Declaration of Thomas K. Checketts. The Declarations of Mr. Call, Mr. Hathaway, and Mr. Checketts are attached as Exhibits E, F, and G, respectively. Costs incurred on behalf of the Class to date total $395,979.03 plus interest of $122,516.85 as of April 30, 2026, with a per diem interest charge of $59.77, which include filing and service fees, deposition expenses, legal research costs (Westlaw), copying costs for deposition and trial exhibits, expert witness fees (for Plaintiffs' four experts), and various other costs and expenses associated with litigating this matter for more than twelve years.

Mr. Call estimates that additional costs will be incurred in the amount of $60,000, to update the settlement website content, to print and mail the notices of settlement to class members, to receive and investigate claim forms, and ultimately to prepare necessary tax forms and checks for the distribution of the settlement proceeds.

b. The requested attorney fees are reasonable.[1]

Preliminary approval is further sought for the payment of reasonable attorney fees to the Class Administrator and Class Counsel from the settlement proceeds. The engagement agreement

[1] The District neither objects to nor takes a position on the reasonableness of Plaintiffs' attorney fees, but defers to the judgment of the Court on that issue. The District also takes no position on the costs, which are solely the representations of Plaintiffs.

with the Representative Plaintiffs provides for a contingency fee of 40% in the event the matter was appealed. That escalation provision reflects the significant risk of nonpayment, the extraordinary complexity of the claims, and the substantial additional time and resources required to litigate a case involving appellate proceedings. Those risks materialized here: this case was litigated for more than a decade, involved highly technical statutory and factual issues, and proceeded through two interlocutory appeals before resolution through the proposed Settlement Agreement. Accordingly, consistent with Utah and federal class-action fee principles, the Class Administrator and Class Counsel seek preliminary approval of a 40% fee from the settlement proceeds, following deduction of approved litigation costs.

It is well established that class counsel is entitled to a fee paid out of the common fund for the benefit of the Class. *See generally,* NEWBERG ON CLASS ACTIONS § 14:2 ("When the class action successfully recovers a fund for the benefit of a class, it is long settled that the attorneys who created that class recovery are entitled to be reimbursed from the common fund for their reasonable litigation expenses, including reasonable attorney's fees."); *Plumb v. State*, 809 P.2d 734, 738 (Utah 1990); *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478–79(1980). "Courts award attorneys' fees in common fund cases to avoid the unjust enrichment of those who benefit from the fund that is created by the litigation and who otherwise would bear none of the litigation costs." *Barker v. Utah Pub. Serv. Comm'n*, 970 P.2d 702, 708 (Utah 1998) (cleaned up).

In class action suits where a fund is recovered and fees are awarded from the fund, computing fees as a percentage of the common fund recovered is the proper approach. NEWBERG § 13:80 (stating that the percent-of-fund method has been the prevalent means of calculating the reasonable fee award in common fund cases). Courts have applauded the use of the percentage-of-recovery method "in cases involving a common fund, because it rewards counsel for success and penalizes counsel for waste or failure." *Serrano v. Sterling Testing Sys., Inc*., 711 F. Supp. 2d 402,

418 (E.D. Pa. 2010) (Pratter, J.) (citing *In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768, 821 (3d Cir. 1995)). The Tenth Circuit has suggested a preference for the percentage-of-the-fund method in common fund cases. *See Gottlieb v. Barry*, 43 F.3d at 483 (10th Cir. 1994) (citing *Uselton v. Com. Lovelace Motor Freight, Inc*., 9 F.3d 849, 853 (10th Cir.1993)).

Still, a court must determine whether the fee is reasonable. *Dixie State Bank v. Bracken*, 764 P.2d 985, 988-89 (Utah 1988). "[T]rial courts enjoy broad discretion in evaluating evidence to determine what constitutes a reasonable fee." *Id.* The Utah Supreme Court has provided four guidelines courts should consider when determining whether a requested fee amount is reasonable: (1) the amount of "legal work [that] was actually performed," (2) the amount "of the work performed [that] was reasonably necessary to adequately prosecute the matter," (3) whether the attorneys' billing rates are "consistent with the rates customarily charged in the locality for similar services," and (4) whether there "[a]re circumstances which require consideration of additional factors, including those listed in the Code of Professional Responsibility." *Id.* at 990. Among the "other" factors that might be considered, the Utah Supreme Court has highlighted "the relationship of the fee to the amount recovered, the novelty and difficulty of the issues involved, the overall result achieved[,] and the necessity of initiating a lawsuit to vindicate the rights" of claimants. *Id.* at 989 (quoting *Trayner v. Cushing*, 699 P.2d 856, 858 (Utah 1984)) (internal quotation marks omitted). Courts may also consider "the efficiency of the attorneys in presenting the case . . . and the expertise and experience of the attorneys involved." *Id.* (quoting *Cabrera v. Cottrell*, 694 P.2d 622, 625 (Utah 1983)). Consideration of the foregoing factors demonstrates the reasonableness of the fee in this case.

As detailed in the declarations of Mr. Call, Mr. Hathaway, and Mr. Checketts, Class Counsel devoted an extraordinary amount of time and resources to this litigation over the more

than twelve years it was pending. Counsel's efforts included extensive pre-suit investigation and case evaluation; preparation and prosecution of the complaint; substantial fact and expert discovery, including more than a dozen depositions and the review of hundreds of thousands of pages of documents; analysis of complex and technical water studies; extensive motion practice; two interlocutory appeals; and comprehensive trial preparation. The scope and duration of this work were substantial and required sustained commitment over many years.

This work was not duplicative or unnecessary. Rather, it was essential to developing the factual and legal record required to prosecute Plaintiffs' claims and to achieve the $17,000,000 settlement now before the Court. When considered together, the significant recovery obtained, the novelty and difficulty of the legal and technical issues presented, the length and risk of the litigation, and the skill, experience, and expertise of Class Counsel all weigh heavily in favor of finding the requested 40% fee reasonable. Notably, the requested fee also encompasses the Class Administrator's compensation (an expense that is often awarded in addition to attorney fees) further supporting the reasonableness of the total fee request under the circumstances of this case.

As reflected in the declarations submitted herewith, the attorneys' rates and contingent fee arrangement are consistent with the rates and fee structures customarily charged in Utah and in complex class action litigation generally at the time the services were rendered. Utah law has long recognized that contingency fee arrangements are "normal and routine," particularly in cases involving substantial risk, delayed recovery, and complex legal issues. *See Billings v. Union Bankers Ins. Co.*, 918 P.2d 461, 468 (Utah 1996) (recognizing that the customary arrangement in Utah is a one-third contingency fee, with higher percentages where a case proceeds to appeal). More recent authority confirms that Utah and federal courts do not impose rigid percentage caps but instead evaluate contingency fees under a case-specific reasonableness analysis. *See, e.g., Voulgaris v. Array Biopharma, Inc.*, 60 F.4th 1259, 1267–68 (10th Cir. 2023) (declining to adopt

a benchmark percentage and reiterating that "awards across a range of percentages may be reasonable" in complex class actions); *Lawrence v. First Fin. Inv. Fund V, LLC*, No. 2:18-cv-00107, 2022 WL 911357 (D. Utah 2022) (recognizing that courts have approved fee awards ranging up to 40% in appropriate common-fund cases). Under prevailing market practice, particularly for complex or high-risk litigation pursued through trial or appeal, class members would reasonably expect contingency fees in the range of approximately 30% to 50% of any recovery.[2] Courts have repeatedly found such percentages reasonable where, as here, the case involved significant complexity, extended duration, and meaningful litigation risk. *See In re Samsung Top-Load Washing Machine Mktg., Sales Practices & Prods. Liab. Litig.*, 997 F.3d 1077, 1086–87 (10th Cir. 2021).

The contingent fee arrangement incentivizes competent class counsel to take on class representation despite the risk of nonpayment. And for class members, it provides a vehicle for obtaining class counsel where any single class member would not have been able to procure representation on a contingent or fixed fee basis.

To be sure, in reviewing the customary fee, a court's determination of the "customary" fee is guided by "any prearranged contractual fee agreed to by the plaintiffs." *Anderson v. Merit Energy Co.*, 2009 U.S. Dist. LEXIS 100681 *10 (D. Colo. Oct. 20, 2009). Here, the named Plaintiffs entered into written contingency fee agreements with Class Counsel providing for a fee

[2] *See Bradshaw v. Hilco Receivables, LLC*., 10-0113-RDB, (D. Md.) (40%); *Veiga, et al., v. Suntrust Bank*, 09-2815-PGW, (D. Md.) (40%); *Baker v. Sunshine Fin. Grp., LLC*., 11-02028-PWG (D. Md.) (40%); *Tyeryar v. Main St. Acquisition Corp*., 11-00250-CCB (D. Md.) (40%); *Johnson v. Midland Funding, LLC*., 09-2391-ELH, (D. Md.) (39%); *Castillo v. Nagle & Zaller*, PC., 12-002338-WDQ, (D. Md.) (40%); *Cimarron Pipeline Const., Inc. v. Nat'l Council On Compensation Ins.*, 1993 WL 355466, at *2 (W.D.Okla. June 8, 1993)("Fees in the range of 30–40% of any amount recovered are common in complex and other cases taken on a contingent fee basis."); *Vaszlavik v. Storage Tech. Corp.*, 2000 WL 1268824 at *10 (D. Colo. March 9, 2000) ("A 30% common fund award is in the middle of the ordinary 20%–50% range and is presumptively reasonable.").

of 40% of the recovered common fund in the event of an appeal. The higher contingency reflects the additional time, risk, and expense associated with post-judgment and appellate proceedings. It is also significant that the named Plaintiffs are sophisticated consumers of legal services who knowingly agreed to these terms and determined that the fee arrangement was reasonable under the circumstances.

c. Distribution to Class Members.

Following payment of approved expenses, attorney fees, and administration costs, approximately $9,960,000 of the common fund will remain for distribution ("Net Settlement Award"). Based on current estimates, this will result in a refund of approximately $840 to $1,050 per impact fee paid to each participating Class Member, subject to adjustment based on the final number of eligible claims and fees approved by the Court.

Class Counsel and Class Administrator propose (and seek preliminary approval of) the following procedure for distribution of the Net Settlement Award, as set forth in greater detail in the proposed Order:

1) The Class Administrator will calculate each Class Member's pro rata share of the Net Settlement Award based on the number of qualifying impact fees paid during the class period.
2) The amount distributed to each claimant shall be based on the Class Member's pro rata share multiplied by the amount paid; by way of example, if the fund for class distribution totals $9,960,000 and the total number of fees paid is $69,667,256.46, which amount the parties stipulate and agree is the total fees paid by the Class Members, a pro rata share of 14.2964% shall be applied, so a Potential Class Member who paid $6,728.00 in qualifying impact fees would be entitled to a distribution of $961.87.

3) In order to receive a share of the Net Settlement Award, a Class Member will be required to submit a claim form prepared by the Class Administrator.
4) The Class Administrator will issue settlement payments directly to eligible Class Members by check mailed to the address provided by each Class Member.
5) Any settlement checks not negotiated within a specified period will be submitted to the State of Utah as unclaimed property.
6) Any refunds allocated for a specific impact fee payment not claimed within a specified period will be submitted to the State of Utah as unclaimed property.
7) The Class Administrator will maintain records of all distributions and provide a final accounting to the Court.

This proposed distribution method is fair, reasonable, and administratively efficient, and ensures that settlement funds are distributed directly to those Class Members who paid the challenged impact fees.

III. The Proposed Notice is Proper.

In addition to Court approval of any dismissal or compromise, Rule 23(e) of the Utah Rules of Civil Procedure requires that "notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs." The proposed notice and claim form attached as Exhibits B and C provide the best notice to Class Members practicable under the circumstances.

As set forth in the Declaration of Craig M. Call, notice of the class action has already been provided to Class Members at their last known address. Consistent with that prior notice process, the proposed notice of settlement will be mailed to each Class Member, excepting those who have already opted out, at their last known address, following the same process and parameters of the original class notice, as indicated in the proposed order. In addition, the Class Administrator will

update the class-action website, https://impactfeeclassaction.com/, to include the information contained in the notice attached hereto as Exhibit B.

The proposed notice will advise Class Members of the Court's preliminary approval of the Settlement Agreement and will clearly and concisely explain: (i) the material terms of the proposed settlement; (ii) the proposed allocation and distribution of settlement funds; (iii) the amounts sought for attorney fees, costs, and expenses; (iv) the identities of representative Plaintiffs and Class Counsel; (v) the procedures and deadlines for submitting objections; and (vi) the date and time of the final approval hearing. The notice will further direct Class Members to the class action website, where a copy of the Settlement Agreement, the Court's Order Granting Preliminary Approval, and additional information, will be made available.

Under the circumstances, the proposed notice process is reasonably calculated to apprise Class Members of the settlement and their rights and satisfies the requirements of Rule 23(e) and due process.

CONCLUSION

For the reasons set forth above, the parties respectfully request that the Court grant their Joint Motion for Preliminary Approval and preliminarily approve the Settlement Agreement, the proposed distribution of settlement funds, and the proposed notice to Class Members. A proposed order is submitted herewith.

DATED this 30th day of April 2026

KIRTON McCONKIE

By: */s/ Benson L. Hathaway, Jr.*
Benson L. Hathaway, Jr.
Adam D. Wahlquist
Jacob A. Green

CHECKETTS LAW

By: */s/ Thomas K. Checketts (with permission).*

Thomas K. Checketts

ANDERSON CALL & WILKINSON

By: */s/ Craig M. Call (with permission)*
Craig M. Call

Attorneys for Plaintiff Class

SPENCER FANE

By: *Scott C. Powers (with permission)*
Robert C. Keller
Scott C. Powers
Melinda Bowen

HOGGAN LEE HUTCHINSON

By: *Nathanael J. Mitchell (with permission)*
Nathanael J. Mitchell

Attorneys for Washington County Water Conservancy District

Exhibit A

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (the **"Settlement Agreement"**) is entered into as of _____**,** 2026, by and among (a) Plaintiffs WASHINGTON TOWNHOMES, LLC, a Utah Limited Liability Company; HOMES BY HARMONY, INC., a Utah Corporation; COTTON MEADOWS, LLC, a Utah Limited Liability Company; SALISBURY DEVELOPERS, INC., a Utah Corporation; SALISBURY DEVELOPMENT, LC, a Utah Limited Liability Company; IVORY SOUTHERN, LLC, a Utah Limited Liability Company and related entities; PERRY HOMES UTAH, INC., a Utah Corporation; and HENRY WALKER CONSTRUCTION OF SOUTHERN UTAH, LLC, a Utah Limited Liability Company (collectively, "Class Representatives"), individually and on behalf of the Class Members, as defined below (together referred to as the "Class") and (b) Defendant WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a Utah special service district ("WCWCD"). The Class and WCWCD are referred to collectively as the "Parties."

RECITALS

A. WCWCD is a Utah special service district organized for the purpose of acquiring, developing, treating, storing, and distributing culinary and secondary water within Washington County, Utah.

B. On August 23, 2013, Class Representatives commenced a civil action in the Fifth Judicial District Court for the State of Utah, Washington County, Case No. 130500465 (the "Action"), challenging the legality of certain water impact fees assessed and collected by WCWCD under resolutions adopted in 2006 and applicable during the Class Period defined below.

C. Class Representatives allege, among other things, that WCWCD's impact fees violated the Utah Impact Fees Act and constitutional principles, and seek restitution, interest, attorneys' fees, and other relief. WCWCD denies all allegations of wrongdoing or liability.

D. On November 13, 2020, the Court certified the Action as a class action pursuant to Utah Rule of Civil Procedure 23, and by its June 30, 2022, Order, identified the Class as individuals and entities that paid an impact fee to WCWCD for residential property during the Class Period, excluding those who timely opted out.

E. The Parties have engaged in extensive discovery, expert analysis, and motion practice, and have evaluated the risks, costs, and uncertainty of continued litigation.

F. Without admitting liability and in order to avoid further expense and uncertainty, the Parties have agreed to resolve all claims asserted or that could have been asserted in the Action, subject to Court approval, on the terms set forth below.

The definitions used in this Settlement Agreement include, but shall not be limited to, the following:

1. DEFINITIONS

"Action" means the above-identified litigation.

"Class" means all persons and entities included in the certified class.

"Class Administrator" means Craig M. Call and the law firm of Anderson Call & Wilkinson, P.C., previously appointed by the Court to, among other things, organize the provision of notice, process claims, and distribute funds to class members.

"**Class Counsel**" means the law firms of Anderson Call & Wilkinson, P.C., Kirton McConkie, PC, and Checketts Law.

"Class Member" means any member of the Class, as defined in the Order Identifying Class, Appointing Class Administrator and Approving Notice, *Washington Townhomes, LLC v. Washington County Water Conservancy District*, Case No. 130500465 (June 30, 2022).

"Class Period" means August 23, 2012, through December 31, 2017.

"Class Representatives" means Washington Townhomes, LLC, Homes by Harmony, Inc., Cotton Meadows, LLC, Salisbury Developers, Inc., Salisbury Development, LC, Ivory Southern, LLC, Perry Homes Utah, Inc., and Henry Walker Construction of Southern Utah, LLC.

"Court" means the Fifth Judicial District Court, Washington County, Utah.

"Effective Date" means the date on which the Court enters the Final Approval Order and the time for appeal has expired for an appeal by an objecting third party to the Final Approval Order or any appeal of an objecting third party to the Final Approval Order has been finally resolved. This Section shall not apply to an action to challenge, contest, interplead, or otherwise resolve the distribution of the Settlement Fund by the Class Administrator, or the appeal thereof, or to any appeal initiated by WCWCD.

"Final Approval Order" means the Court's order granting final approval of this Settlement Agreement. A copy of the contemplated proposed Final Approval Order is attached as **Exhibit A**.

"Released Claims" means all claims, known or unknown, arising out of or relating to the assessment, calculation, adoption, or collection of the challenged WCWCD impact fees together with but not limited to all claims, issues and defenses raised or which could have been raised in this suit, arising from the beginning of time through the Effective Date.

"WCWCD" means Washington County Water Conservancy District, a Utah special service district.

"WCWCD's Counsel" means the law firms of Spencer Fane and Hoggan Lee & Hutchinson.

2. SETTLEMENT CONSIDERATION

A. Settlement Payment. Within five (5) business days after the Effective Date, with telephonic voice verification from recipient of wiring instructions before sending, WCWCD shall wire the total settlement amount of SEVENTEEN MILLION DOLLARS ($17,000,000.00) ("Settlement Fund") to the trust account designated by the Class Administrator, to be distributed in accordance with Court orders. Following the wire, WCWCD's Counsel shall promptly provide written confirmation of the wire transfer to Class Administrator.

B. Use of Funds. The Settlement Fund shall be used to pay, in the following order: (i) reasonable litigation costs and expenses incurred or to be incurred by Class Counsel and the Class Administrator; (ii) attorney fees of Class Counsel and compensation to Class Administrator; (iii) distributions to eligible Class Members, as approved by the Class Administrator; and (iv) remittance in accordance with the Court's order. The Class Administrator shall distribute and use funds in a manner consistent with the procedures and requirements imposed by a Final Approval Order.

3. RELEASES

A. *General Release.* Upon the Effective Date, the Class fully and finally releases, forever discharges, and holds harmless WCWCD, as well as any and all of its agents, attorneys, employees, employers, insurers, successors, assigns, officials, staff, board members, and officers (collectively, "Releasees") from any and all claims and causes of action of whatever kind or nature which now exist or which may hereafter accrue because of, whether known or unknown, arising out of, resulting from, or in any way connected with WCWCD's 2006 Regional Water Capital Facilities Plan and Impact Fee Analysis, including but not limited to claims arising out of the payment of impact fees assessed pursuant to WCWCD's 2006 Regional Water Capital Facilities Plan and Impact Fee Analysis. Nothing in this Settlement Agreement will, or is intended to, obligate WCWCD to defend or litigate any claims related to a refund, which costs shall be borne by the Class.

B. *Class Representatives' Release*. In addition to the General Release, Class Representatives fully and finally release and forever discharge the Releasees from any and all claims and causes of action of whatever kind or nature which now exist or which may hereafter accrue because of, whether known or unknown, arising out of, resulting from, or in any way connected with WCWCD's assessment, collection, and/or calculation of impact fees through the Effective Date of the Settlement Agreement.

4. NO ADMISSION OF LIABILITY

This Settlement Agreement is a compromise of disputed claims. Neither the execution of this Settlement Agreement nor any term herein shall be construed as an admission of liability, fault, or wrongdoing by any Party, all of which are expressly denied.

5. DISMISSAL

Upon WCWCD's payment of the Settlement Fund, and following entry of the Final Approval Order, Plaintiffs' claims shall be dismissed with prejudice, with each side bearing its own costs and attorney fees except as expressly provided herein and set forth in the Final Approval Order. In no event shall the Class Representatives or any member of the Class assert a claim for costs or attorney fees from WCWCD not contemplated in the Final Approval Order.

6. COURT APPROVAL

The Parties shall jointly seek preliminary and final approval of this Settlement Agreement.

7. ENTIRE AGREEMENT

This Settlement Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior negotiations or agreements. No covenant, representation, or condition not expressed in this Settlement Agreement shall affect or be deemed to interpret, change, or restrict the express provisions of this Settlement Agreement. Any amendment must be in writing and approved by the Court.

8. MISCELLANEOUS

A. *Warranties.* The Class Representatives and WCWCD warrant and represent to the other that each has: (i) read this Settlement Agreement and understands its contents; (ii) executed this Settlement Agreement voluntarily, without coercion or duress of any kind, and upon the advice of counsel; (iii) not sold, assigned, granted, or transferred to any person, firm, or entity any interest in any claim, demand, chose in action, or cause of action covered by the terms of this Settlement Agreement; (iv) had the opportunity to consult with independent legal counsel with respect to the advisability of reaching this settlement and executing this Settlement Agreement; (v) made such investigation of the facts pertaining to this Settlement Agreement and of all the matters pertaining hereto as it deems necessary; and (v) not relied on any inducements, promises, or representations of the other, other than the terms and conditions specifically set forth in this Settlement Agreement;.

B. *Authorization*. The Parties, and each individual executing the Settlement Agreement on behalf of a Party, represent and warrant that they, and each of them, are fully authorized to enter into the terms and satisfy the conditions of the Settlement Agreement, and to execute and bind themselves to the same.

C. *Liens & Third-Party Claims*. The Class Representatives warrant that all outstanding liens, obligations, and third-party claims of any kind arising from or relating to the claims asserted in this litigation have been or will be satisfied with the Settlement Payment, and that the Class will be solely responsible for any such liens, obligations, or third-party claims. The Class Representatives agree to indemnify and hold harmless WCWCD against any such liens, obligations, third-party claims, and claims for attorney fees and costs relating to or arising out of the Settlement Agreement.

D. *Third Party Beneficiaries*. There are no intended third-party beneficiaries under this Agreement.

E. *Counterparts*. This Settlement Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument. Signatures sent by facsimile, electronically in PDF format, or otherwise shall be deemed to be originals.

F. *Waiver & Amendment*. No breach of any provisions herein can be waived or amended unless in writing and agreed to and signed by all the Parties and approved by the Court. Waiver of any one breach of any provision herein shall not be deemed to be a waiver of any other breach of the same provision or any other provision herein.

G. *Captions & Interpretations*. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision herein. No provision in this Agreement is to be interpreted for or against either Party because that Party or its representative drafted such provision.

H. *Successors, Assigns & Related Persons*. This Settlement Agreement shall be binding upon and inure to the benefit of not only the Parties but also their respective agents, servants, employees, officers, directors, shareholders, parents, subsidiaries, affiliates, members, managers, partners, predecessors, successors, elected officials, and assigns.

I. *Public Information.* The Parties understand and agree that all documents relating to this Settlement Agreement will be public documents, as provided in Utah Code section 63G-2-103 *et seq*.

J. *Severability*. If any term or provision of this Settlement Agreement, or the application thereof to any person or circumstance, is held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision hereof or the application of such term or provision to any other persons or circumstances. The remaining terms and provisions shall remain in full force and effect and shall be construed so as to best effectuate the parties' intent as reflected in this Settlement Agreement. To the extent permitted by applicable law, any such invalid, illegal, or unenforceable term or provision shall be deemed modified to the minimum extent necessary to render it valid, legal, and enforceable while preserving, to the fullest extent possible, the parties' original intent.

9. GOVERNING LAW AND CHOICE OF FORUM

This Settlement Agreement is made and entered into within and shall be governed by, construed, interpreted, and enforced in accordance with the laws of the State of Utah, without regard to the principles of conflicts of laws. Any action to enforce this Settlement Agreement shall be brought only in the Utah Fifth Judicial District Court.

10. CONTINUING JURISDICTION

The Court shall retain continuing and exclusive jurisdiction over the Parties to this Settlement Agreement, including the Class Representative(s) and all Class Members, for purposes of the administration, implementation, interpretation, and enforcement of this Settlement Agreement.

IN WITNESS HEREOF, the Parties hereby execute and cause this Settlement Agreement to be executed, by their duly authorized representatives, as of the date(s) indicated on the lines below.

[SIGNATURE PAGES TO FOLLOW]

PLAINTIFF CLASS

WASHINGTON TOWNHOMES, LLC

By: _____

Name: _____

Title: _____

Date: _____

HOMES BY HARMONY, INC.

By: _____

Name: _____

Title: _____

Date: _____

COTTON MEADOWS, LLC

By: _____

Name: _____

Title: _____

Date: _____

SALISBURY DEVELOPERS, INC.

By: _____

Name: _____

Title: _____

Date: _____

SALISBURY DEVELOPMENT, LC

By: _____

Name: _____

Title: _____

Date: _____

IVORY SOUTHERN, LLC

By: _____

Name: _____

Title: _____

Date: _____

PERRY HOMES UTAH, INC.

By: _____

Name: _____

Title: _____

Date: _____

HENRY WALKER CONSTRUCTION OF SOUTHERN UTAH, LLC

By: _____

Name: _____

Title: _____

Date: _____

CLASS ADMINISTRATOR

By: _____

Name: _____

Title: _____

Date: _____

CLASS COUNSEL (*approved as to form and content only*)

KIRTON McCONKIE

By: _____

Name: _____

Title: _____

Date: _____

ANDERSON CALL & WILKINSON

By: _____

Name: _____

Title: _____

Date: _____

CHECKETTS LAW

By: _____

Name: _____

Title: _____

Date: _____

DEFENDANT

WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

DEFENDANT'S COUNSEL (*approved as to form and content only*)

SPENCER FANE

By: _____

Name: _____

Title: _____

Date: _____

HOGGAN LEE HUTCHINSON

By: _____

Name: _____

Title: _____

Date: _____

IN-HOUSE COUNSEL FOR
WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

Name: _____

Date: _____

Exhibit A

Benson L. Hathaway, Jr. (Bar # 4219)
Adam D. Wahlquist (Bar # 12269)
Jacob A. Green (Bar # 15146)
KIRTON McCONKIE
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Layton, Utah 84040
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Attorneys for Plaintiff Class

IN THE FIFTH JUDICIAL DISTRICT COURT IN AND FOR

WASHINGTON COUNTY STATE OF UTAH

WASHINGTON TOWNHOMES, LLC, et al. Plaintiffs, vs. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, et al. Defendants.	**FINAL ORDER AND JUDGMENT GRANTING JOINT MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AGREEMENT, PROPOSED DISTRIBUTION OF SETTLEMENT FUNDS AND DISMISSING COMPLAINT WITH PREJUDICE** Case No. 130500465 PR

Having reviewed the parties' Joint Motion for Final Approval of Class Action Settlement Agreement and Proposed Distribution of Settlement Funds, and good cause appearing therefor, THE COURT HEREBY FINDS as follows:

1. The Class Administrator has given notice to the Class Members as required by the (DATE) Order Granting Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Notice to Class, and Proposed Distribution of Settlement Funds ("Preliminary Order");

2. No Class Member has objected to the Settlement Agreement as permitted under the Preliminary Order, and the deadline for any objection to the Settlement Agreement has expired;

3. The settlement is fair, reasonable, and adequate for the reasons set forth the parties' Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Notice to Class, and Proposed Distribution of Settlement Funds and Joint Motion for Final Approval of Class Action Settlement and Proposed Distribution of Settlement Funds ("Approval Motions");

4. The Class Administrator's and Class Counsels' fees and costs are reasonable for the reasons set forth in the Approval Motions; and

5. The proposed distribution of settlement proceeds is proper.

Accordingly, and for good cause appearing, THE COURT HEREBY ORDERS as follows:

1. Final approval of the Settlement Agreement is **GRANTED**.

2. Final approval is **GRANTED** for reimbursement of reasonable litigation costs and expenses incurred or to be incurred by Class Counsel and the Class Administrator in the amount of _____, as set forth in the Approval Motions and supporting declarations, subject to final approval.

3. Final approval is **GRANTED** for payment of attorney fees to Class Counsel and compensation to the Class Administrator in an amount of forty percent (40%) of the Settlement Fund, following deduction of Court-approved costs and expenses. The Court preliminarily finds that the requested fee structure is reasonable under the circumstances, subject to final approval.

4. Final approval is **GRANTED** for the proposed procedure governing distribution of the Net Settlement Award, defined as the portion of the Settlement Fund remaining after deduction of Court-approved attorney fees, costs, and expenses.

a. The Class Administrator shall calculate each Class Member's pro rata share of the Net Settlement Award based on the number of qualifying impact fees paid during the class period by that Class Member.

b. The amount distributed to each claimant shall be based on the Class Member's pro rata share multiplied by the amount paid; by way of example, if the fund for class distribution totals $9,960,000 and the total number of fees paid is $69,667,256.46, which amount the parties stipulate and agree is the total fees paid by the Class Members, a pro rata share of 14.2964% shall be applied, so a Potential Class Member who paid $6,728.00 in qualifying impact fees would be entitled to a distribution of $961.87.

c. After receiving claims forms from Class Members and verifying their eligibility to receive a portion of the Net Settlement Award, the Class Administrator shall issue settlement payments in the amount permitted by this Order directly to eligible Class Members by electronic means or check mailed to the address provided by the Class Member or otherwise reflected in the Class Administrator's records.

d. The Class Administrator shall ensure each qualifying impact fee be entitled to a single distribution, and there shall be no duplicative distributions for a qualifying impact fee, absent an agreement between claimants to the same fee.

e. In the event of a dispute between potential Class Members over whom will receive the distribution, the Class Administrator shall attempt to determine and

resolve the dispute in a fair and equitable manner consistent with the Order Identifying Class, Appointing Class Representative and Approving Notice (June 30, 2022); if the claimants do not agree on a resolution, the distribution shall be interplead into the Court for a determination of the appropriate party entitled to receive the distribution. The District shall not be required to participate or appear in litigation over the interplead funds, although it may elect to do so.

f. Any settlement checks that are not negotiated within 120 days shall be void and the corresponding funds shall be remitted to the State of Utah as unclaimed property, in accordance with applicable law.

g. Pursuant to Section 67-4a-201(10) of the Utah Code, any portion of the Net Settlement Award allocated to a specific impact fee payment that is not claimed within the approved claims period shall likewise be remitted to the State of Utah as unclaimed property.

h. The Class Administrator shall maintain records of all distributions and shall provide a final accounting to the Court following completion of the distribution process.

i. Neither Class Counsel nor the Class Administrator shall be liable for any errors of computations or errors in the distribution of the Settlement Payment.

5. Plaintiffs Complaint is dismissed with prejudice, with each party to pay its own attorney fees and costs.

6. This is in all regards the final order and judgment of the Court in the above-entitled matter pursuant to Rule 54 of the Utah Rules of Civil Procedure.

The Court's signature appears at the top of the first page of this Order.
---END OF DOCUMENT---

Approved as to form:

KIRTON McCONKIE

By: */s/ Benson L. Hathaway, Jr.*
Benson L. Hathaway, Jr.
Adam D. Wahlquist
Jacob A. Green

CHECKETTS LAW

By: */s/ Thomas K. Checketts (with permission).*
Thomas K. Checketts

ANDERSON CALL & WILKINSON

By: */s/ Craig M. Call (with permission)*
Craig M. Call

Attorneys for Plaintiff Class

SPENCER FANE

By:
Robert C. Keller
Scott C. Powers
Melinda Bowen

HOGGAN LEE HUTCHINSON

By:
Nathanael J. Mitchell

Jodi Richins
Attorneys for Washington County Water Conservancy District

Exhibit B

FIFTH JUDICIAL DISTRICT COURT, IN AND FOR WASHINGTON COUNTY, STATE OF UTAH

CASE NO. 130500465 PR
JUDGE JAY T. WINWARD

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
YOU MAY BE ENTITLED TO RECEIVE A MONETARY REFUND

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY.

The Fifth Judicial District Court authorized this Notice. The Court has not yet ruled on the merits of Plaintiffs' claims or Defendant's defenses. This is not a solicitation from a lawyer.

WHAT IS THIS NOTICE ABOUT?

This Notice is to inform you of a **proposed settlement** in a class action lawsuit involving **water impact fees charged by the Washington County Water Conservancy District ("WCWCD" or the "District")**.

If you paid a **residential water impact fee** to WCWCD **between August 23, 2012 and December 31, 2017**, you may be a member of the Settlement Class and may be entitled to receive a partial refund if the settlement is approved by the Court and you submit a valid claim.

WHAT IS THE LAWSUIT ABOUT?

The lawsuit alleges that WCWCD charged residential water impact fees during the class period that were **greater than permitted by law**, including the Utah Impact Fee Act and the United States and Utah Constitutions. Plaintiffs seek a refund of the difference between what was paid and what should have been charged.

WCWCD denies all allegations of wrongdoing and contends that the impact fees were lawfully imposed and properly calculated.

The Court has not decided who is right. Instead, the parties have agreed to resolve the dispute through a proposed settlement, subject to Court approval.

WHY DID I RECEIVE THIS NOTICE?

WCWCD's records indicate that you, or an entity with which you are associated, **paid a residential water impact fee** (or incurred the cost of such a fee) during the class period and **did not previously opt out of the class**. In some transactions involving developers and subsequent purchasers, the Court-approved settlement administration process will determine which party is entitled to receive any refund.

WHAT DOES THE SETTLEMENT PROVIDE?

Under the proposed settlement:

- WCWCD has agreed to pay **$17,000,000** into a settlement fund.

- The settlement fund will be used to pay:
    - Refunds to eligible class members,
    - Court-approved attorneys' fees and litigation costs,
    - Costs of notice and settlement administration.
- Class Counsel will apply to the Court for approval of attorneys' fees and costs. The attorneys' fees will not exceed 40% of the settlement fund after deducting approved costs.
- Any unclaimed funds will be handled in accordance with Utah law, including remittance to the Utah State Treasurer's Unclaimed Property Division, if required.
- Refunds will be distributed in accordance with a Court-approved allocation and administration process.

The estimated refund per residence for which an impact fee was paid is **approximately $840 to $1050**, though the actual amount may vary depending on the number of valid claims submitted and Court-approved deductions.

HOW CAN I RECEIVE A REFUND?

YOU MUST SUBMIT A VALID CLAIM FORM TO RECEIVE A PAYMENT.

If the Court grants final approval of the settlement, you will be required to submit a Claim Form before a deadline to be set by the Class Administrator. Claim Forms will be available:

- By mail from the Class Administrator, and/or
- On the settlement website: **https://impactfeeclassaction.com/**

After the Class Administrator reviews and approves your claim, any refund will be issued by check. The Class Administrator may request additional information if necessary to determine entitlement to a refund for a particular impact fee payment.

WHAT ARE MY OPTIONS?

1. SUBMIT A CLAIM

If you submit a valid Claim Form, and are determined to be the person who bore the financial burden of paying the impact fee, you may receive a refund if the settlement is approved.

2. DO NOTHING

If you do nothing:

- You will remain a Settlement Class Member;
- You will be **bound by the settlement**; and
- You will not receive a refund.

3. OBJECT TO THE SETTLEMENT

You may object to the settlement, the requested attorneys' fees, or other aspects of the settlement. To object, you must submit a written objection in accordance with the instructions on the settlement website by June 6, 2026.

4. ATTEND THE FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing on:

Date: June 11, 2026
Time: 9:30 a.m.
Location: Fifth Judicial District Court, Washington County, Utah, Judge Jay T. Winward's Courtroom, located at 206 W Tabernacle St, St. George, UT 84770.

At that hearing, the Court will consider whether to approve the settlement.

WHO REPRESENTS THE CLASS?

The Court has appointed the following law firms as Class Counsel:

- **Kirton McConkie**, Salt Lake City and St. George, Utah
- **Anderson Call & Wilkinson, P.C.**, Ogden, Utah
- **Checketts Law**, Layton, Utah

You may hire your own attorney at your own expense if you wish.

WHO IS THE CLASS ADMINISTRATOR?

The Court has appointed **Anderson Call & Wilkinson, P.C.** as the Class Administrator. The Class Administrator is responsible for providing notice, processing claims, and distributing refunds if the settlement is approved.

WHERE CAN I GET MORE INFORMATION?

For more information about the settlement, including access to important documents and Claim Forms, visit:

https://impactfeeclassaction.com/

Or contact the Class Administrator at:

Email: info@impactfeeclassaction.com
Phone: (386) 381-6178

Please include your Claim Number in all correspondence.

PLEASE DO NOT CONTACT THE COURT OR WCWCD DIRECTLY ABOUT THIS NOTICE.

DATED: _____

By Order of the Court
Fifth Judicial District Court
Washington County, Utah

Exhibit C

(ASSIGNED IMPACT FEE CONTROL NO.)

CLAIM FORM

WASHINGTON TOWNHOMES V. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT

(NOTE – the capitalized words in parentheses represent information that will be inserted into this form from a class member database prior to its being sent to the class member. Each form will include this information already – the class member will not need to provide it, but only to verify it.)

If you desire to assist the Class Administrator in making a claim, please complete and mail this form, to:

Class Action Administrator
Anderson Call & Wilkinson PC
PO Box 13295
Ogden, UT 84412

Property Owner/Payor: (NAME)

Property Parcel Number or Subdivision Name: (LEGAL DESCRIPTION)

Municipality: (CITY), Utah

The Class Administrator's records indicate that you may be associated with the payment of impact fee(s) in the amount of:

$(DOLLAR AMOUNT PAID)

If your name or property description as printed above is incorrect, please fill out any information which needs to be corrected below. The address you provide below will be the address we use to contact you with regard to any refund:

Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Email address: _____ Telephone Number: _____

I declare under criminal penalty of the law of Utah, that on or about (DATE) I paid or incurred the costs of an impact fee to the Washington County Water Conservancy District in the amount of approximately (AMOUNT). The impact fees were paid to develop property located at (PARCEL NO. AND SUBDIVISION). I certify that all information submitted in connection with this claim is true, accurate, correct and complete to the best of my knowledge and belief.

On behalf of myself and/or the entity named below, I agree to participate with other members of the class of persons listed as class action plaintiffs in the case of Washington Townhomes, LLC et al. v. Washington County Water Conservancy District, Fifth Judicial District Case No. 130500465.

I understand that any recovery by class members depends upon court approval of the proposed settlement. I understand further that the class's attorney fees will be paid as a percentage of the proposed settlement; and, that no fees or costs will be assessed against the refund except as approved in advance by the Court.

Company Name, if Applicable: _____

Signed: _____ Date: _____

Printed Name: _____ Title, if Applicable: _____

NOTARIZATION

(Class administrator may require for larger refund amounts)

STATE OF UTAH)
) ss.
County of _____)

On this _____ day of _____, 202__, before me, a notary public, personally appeared _____ and _____, who proved to me through satisfactory evidence of identification to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity.

_____
Notary Public

Printed Name: _____
Notary Public Number: _____
My Commission Expires: _____

Exhibit D

The Order of the Court is stated below:
Dated: September 21, 2017 10:04:55 PM **/s/** DEREK P PULLAN
District Court Judge

David M. Wahlquist (3349)
Benson L. Hathaway, Jr. (4219)
Thomas K. Checketts (9161)
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IN THE FOURTH DISTRICT COURT
IN AND FOR UTAH COUNTY, STATE OF UTAH

EDGE HOMES, LLC, a Utah limited liability company, et al. Plaintiffs, vs. TIMPANOGOS SPECIAL SERVICE DISTRICT, et. al. Defendants.	**ORDER APPROVING CLASS ACTION SETTLEMENT AND PROPOSED DISTRIBUTION OF SETTLEMENT FUNDS** Case No. 150400453 PR Judge Derek P. Pullan

Before the Court is Plaintiffs EDGE HOMES, LLC, a Utah limited liability company, et al. (collectively, "Plaintiffs") and Defendant TIMPANOGOS SPECIAL SERVICE DISTRICT's ("TSSD") Joint Motion for Approval of Class Action Settlement and Proposed Distribution of Settlement Funds (the "Motion"). By their Motion, the parties seek the Court's approval of the

parties' Class Action Settlement Agreement ("Settlement Agreement") and the proposed distribution of settlement funds pursuant to Utah Rule of Civil Procedure 23(e). Having considered all related submissions to the Court and argument from counsel for both parties, the Court enters the following findings, conclusions and order:

Notice to Class

The Class Administrator gave notice to the class of the Settlement Agreement and proposed distribution of settlement funds as required by the Court's August 3, 2017 Order Granting Notice to Class and the requirements of Rule 23(e) of the Utah Rules of Civil Procedure. No class member objected to the proposed Settlement Agreement or distribution of settlement proceeds. Nor has any class member appeared at the final approval hearing to object to the proposed Settlement Agreement or distribution of settlement proceeds.

Reasonableness of Settlement

Rule 23 of the Utah Rules of Civil Procedure provides that a class action shall not be dismissed or compromised without the approval of the Court. The purpose of the court approval is to protect class members from abuse and to ensure that any compromise is fair, reasonable and adequate.

In making this determination, federal courts have considered a variety of factors. Those factors generally fall into three categories: first, the point in the litigation at which the settlement is reached; second, the nature of the claims and the risks of litigation; and third, the nature of the settlement negotiations and the process by which the settlement was negotiated.

As to the first factor—the point in the litigation at which the settlement is reached—courts consider whether the settlement was reached early in the litigation when little was known

about the merits of the parties' respective claims or defenses, or later in the litigation following sufficient discovery.

As to the second factor—the nature of the claims and the risks of litigation—courts consider: the complexity of the claims; the likely duration of the litigation; whether or not there are serious questions of law and fact that make the ultimate outcome uncertain; whether the value of immediate recovery outweighs the mere possibility of future relief after protracted expensive litigation; the risks of establishing liability and damages; the risks of maintaining the class action through trial; and whether the amount of the settlement fund is reasonable in light of the best possible recovery considering all the attendant risks of the litigation.

Finally, with respect to the nature of the settlement negotiation and processes, courts consider: whether the negotiation occurred at arm's length; whether the proponents of the settlement are experienced in similar litigation; whether the proposed settlement was fairly and honestly reached; whether class members are permitted to opt out; whether the procedure for processing claims on the settlement fund are fair and reasonable; and finally, whether attorneys' fees are reasonable.

TSSD provides waste water collection and treatment. In March 2014, TSSD adopted an impact fee resolution assessing an impact fee of $2,563 per equivalent residential unit, called an "ERU". On July 2, 2014, TSSD revised the impact fee adopting a new fee of $2,475. An ERU is an estimate of the impact of the new single family home on TSSD's waste water collection and treatment system.

From March 2014 to the present, TSSD collected these impact fees from Plaintiffs. Plaintiffs paid the fees and brought suit challenging the impact fees. Specifically, Plaintiffs

sought to recover an overcharge calculated to be $15.5 Million Dollars. They sought a declaration of a proper fee going forward, a reduction in the percentage impact fee charged to multi-family units going forward, and finally, interest and attorneys' fees.

The settlement ultimately reached in this case addresses each element of relief Plaintiffs sought to obtain. It proposes the creation of a settlement fund to pay overcharges of $8.5 million, the enactment of an impact fee going forward at the rate of $1,708 per ERU, and a reduced charge to future multi-family development of 65% of one ERU.

Development exaction cases and impact fee cases are highly complex. For a period of time, there was substantial uncertainty regarding constitutional analysis regarding exaction cases. The United States Supreme Court cases of *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 107 S.Ct. 3141 97 L.Ed.2d 677 (1987) and *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994), in the view of commentators, created more questions than answers. Ultimately, the Utah legislature, in order to create greater certainty in this area, adopted Utah Code § 11-36a-101, et seq., the Utah Impact Fee Act (the "Act"). In many respects, that Act sought to codify the principles that were articulated in *Nollan* and *Dolan*, and created greater certainty for both municipalities and districts that were enacting impact fees as well as those who would be required to pay them. However, Utah case law in this area is evolving. There remain important unanswered questions regarding development exactions, and in this case the parties weighed that uncertainty in reaching a settlement. In this case, there were significant factual disagreements and disagreements among experts regarding the adequacy of TSSD's impact fee study and the methodology underlying that study. The Plaintiffs have engaged experts that would have testified that this study was flawed. TSSD had retained experts that would have

testified the impact fees under the study were appropriately calculated. In the Court's view, the parties have undertaken a very careful analysis of those legal and factual risks in the case in reaching this settlement.

In considering the first of the three factors—the point of litigation at which the settlement is reached—here the parties engaged in and completed extensive fact and expert discovery. The case settled on the eve of trial. This factor therefore clearly weighs in favor of Court approval of the settlement.

Considering the second factor, the Court finds that development exaction and impact fee cases are complex both factually and legally. This litigation would have resulted in a lengthy trial in the District Court and likely appeals both to the Court of Appeals and Utah Supreme Court. The parties would have incurred significant costs in litigating the appeals. Again, serious questions of law and fact made the ultimate outcome of the case for the parties uncertain, and the value of an immediate recovery to Plaintiffs' outweighed the mere possibility of future relief after protracted appeals. There were risks of establishing liability as well as damages. Further, the amount of the settlement is reasonable. The best possible recovery for Plaintiffs was $15.5 million. It was possible that less than that could have been recovered after trial, and the attendant risks of litigation were carefully assessed by the parties in reaching the settlement.

As to the third factor—the nature of the settlement negotiations and the process by which it was negotiated—these parties negotiated the settlement at arm's length. As indicated by counsel, settlement negotiations were undertaken over a period of several months. Offers and counteroffers were made. The parties ultimately reached an impasse in the months before trial. Then, on the eve of trial, there was additional movement. There is no indication other than that

the settlement was aggressively pursued by both parties and that they negotiated completely at arm's length. The parties are represented by skilled legal counsel with vast experience in the litigation of impact fee cases. This case is the second impact fee case related to TSSD's impact fees. The first case resulted in the impact fee being significantly reduced and the second case, this one, has had a similar outcome. Importantly, the first case was litigated for approximately six years and in many ways formed the factual and legal issues that would have been decided here.

The Court is persuaded that the settlement was fairly and honestly reached given the circumstances. Ultimately, class members were given the opportunity to object to the settlement and none have done so. Having carefully reviewed the proposed procedure for processing claims and determining the percentage of the settlement fund due each claimant, the Court is persuaded that the procedure is fair and reasonable.

Reasonableness of Attorneys' Fees

Turning to the attorneys' fees, the percentage of recovery method is the preferred method for calculating fees in cases involving a settlement fund like this one. A one-third fee is customary in class action settlements. Here, Plaintiffs' counsel seeks a one-third fee. In determining whether that is a reasonable fee, the Court considers the *Johnson*[1] factors: the time and labor required; the novelty and difficulty of the questions; the skill requisite to perform the legal service properly; the preclusion of other employment by the attorney due to acceptance of the case, the customary fee; whether the fee is fixed or contingent; time limitations imposed by

1 *Johnson v. Georgia Highway Express Inc.,* 488 F.2d 714 (5th Cir. 1974) (setting forth 12 factors to be considered in determining reasonable hourly rates and reasonable hours for an award of professional fees).

the client or the circumstances; the amount involved and the results obtained; the experience, reputation and ability of the attorneys; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases.

Here, significant time and labor were required to prosecute the Plaintiffs' claims. Impact fee cases present novel issues of law and fact and they are difficult to litigate. The calculation of impact fees itself is complex. Significant skill is required to perform legal services in connection with these cases. By taking on this case, Plaintiffs' counsel were unable to take other cases in order to prosecute Plaintiffs' claims successfully.

The customary fee in cases like this one is a 1/3 contingent fee. There were no time limitations imposed by the client or the circumstances. Indeed, the first case was litigated over a six-year period. This case took two years. The best-case recovery for Plaintiffs' in this case was $15.5 Million. The result obtained by the settlement is $8.5 Million, plus an agreed upon impact fee going forward for both single family residents and multi-family residents. That portion of the settlement, the fee going forward, perhaps benefits Plaintiffs who are home builders to a greater degree than those people who own a single home within the TSSD service area, but they too nevertheless benefit from that portion of the settlement.

Plaintiffs' counsel are highly experienced and have good reputations within the Bar. They have demonstrated ability as attorneys litigating in this field. The litigation of impact fee cases is often undesirable because any individual case does not usually have the value that would justify retaining an attorney to get a refund. So impact fee cases lend themselves to this type of class action litigation in order for these legal issues to be fairly presented. It appears that Plaintiffs' counsel has had a long professional relationship with the main Plaintiffs in the case.

The Court is not aware of any awards in similar cases.

Having considered each of the foregoing factors, the Court finds that a 1/3 fee in this case was reasonable using the percentage of fund method cross checked by a lodestar analysis. The total amount of fees sought is $2,833,333.00. The actual fees incurred, based on the hourly rate of counsel, are $446,306.13. As of the date that the fee affidavits were filed with the Court, that results in a lodestar multiplier of 6.35, which is within a general range that courts have found acceptable. Therefore, the lodestar cross-check confirms the reasonableness of the 1/3 contingency fee sought by Plaintiff's counsel.

Costs and Administration Expenses

The Class Administrator and Class Counsel have incurred out-of-pocket costs to litigate this class action. These costs include but are not limited to costs for filing and service fees, notice fees, deposition costs, and expert witness costs. These fees and costs are customarily paid from the settlement proceeds and should be reimbursed first from the settlement fund. Class Counsel and Class Administrator have sought to recover a total of $159,641.72 for costs and expenses that have been or will be incurred for the benefit of the class. However, the Court finds that the estimated additional 166 hours in attorney time for the Class Administrator contained in this figure—valued at $58,100—is already compensated in the 1/3 contingent fee. The Court therefore finds that a reduction of the amount sought for reimbursement of costs and expenses by $58,100 to $101,541.73 is fair and appropriate.

Accordingly,

IT IS HEREBY ORDERED as follows:

1. Approval of the Settlement Agreement is **GRANTED**. The Court finds that the proposed settlement is reasonable, fair and adequate.
2. Approval of the proposed reimbursement of costs and expenses that have been or will be incurred by the Class Administrator and Class Counsel in the amount of $101,541.73 is **GRANTED**.
3. Approval of payment of Class Counsel's attorneys' fees in the amount of one-third of the settlement proceeds for their services to the Class Members is **GRANTED**. The Court finds the requested fees to be reasonable for the reasons set forth above and for those set forth in the parties' joint motion and supporting affidavits.
4. Approval of the proposed distribution of the Net Settlement Award (i.e., the balance of the settlement proceeds after deducting approved costs, expenses and attorneys' fees) to Class Members is hereby **GRANTED**. The Class Administrator shall:
    a. Determine the amount of impact fees each Class Member paid;
    b. Determine the amount of impact fees that each Class Member would have paid had the fees been $1,708 per ERU or $1,110 for a multi-family unit;
    c. Determine the amount by which each Class Member was overcharged by subtracting from the amount the Class Member paid as set forth in a. above the amount the Class Member

would have paid under the fees set forth in b. above;

d. Determine the total amount of impact fees that all Class Members paid;

e. Determine the total amount of all impact fees that all Class Members would have paid had the fees been $1,708 per ERU or $1,110 for a multi-family unit;

f. Determine the total amount all Class Members were overcharged by subtracting from the total amount of all impact fees paid by all Class Members as determined in d. above the total impact fees all Class Members would have paid had the fees been as set forth in e. above;

g. Determine each Class Member's percentage share of the Net Settlement Award by dividing each Class Member's overcharge as determined in c. above by the total overcharge to all Class Members as determined in f. above; and then

h. Multiply each Class Member's percentage share by the Net Settlement Award. If any Class Member previously paid less than would have been paid under the calculation above, that Class Member will receive no refund.

Any payment checks returned as undeliverable or any payment checks which have not been cashed within ninety (90) days of the original mailing by Class Administrator shall no longer be valid. In the event the Class Members cannot be located through reasonable efforts or a portion

of Net Settlement Award is left unclaimed, such amounts will be remitted to the State Treasurer's unclaimed property fund for the benefit of the unlocated Class Members. Neither Class Counsel nor the Class Administrator shall be liable for any errors of computations or errors in the distribution of the Settlement Payment.

The Court's signature appears at the top of the first page of this Order.
---END OF DOCUMENT---

Approved as to form:

/s/ Todd J. Godfrey *(w/permission*
Todd J. Godfrey
Michael Z. Hayes
Hayes Godfrey Bell, P.C.
Attorneys for Defendant TSSD

/s/ David M. Wahlquist
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IN THE FOURTH DISTRICT COURT
IN AND FOR UTAH COUNTY, STATE OF UTAH

IVORY DEVELOPMENT, LLC, a Utah Limited Liability Company, et al., Plaintiffs, v. TIMPANOGOS SPECIAL SERVICE DISTRICT, and JOHN DOES 1-10. Defendants.	**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT, PROPOSED DISTRIBUTION OF SETTLEMENT FUNDS AND NOTICE TO CLASS** Case No: 110401731 Judge M. James Brady

Having reviewed the parties' Joint Motion for Preliminary Approval of Class Action Settlement, Proposed Distribution of Settlement Funds and Notice to Class, and good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

1. Preliminary approval of the Settlement Agreement is **GRANTED**. The Court preliminarily finds that the proposed settlement is reasonable, fair and adequate.
2. Preliminary approval of the proposed reimbursement of costs and expenses that have been or will be incurred by Class Members, Class Administrator and Class Counsel in the amount of $142,878.04 is **GRANTED**.
3. Preliminary approval of payment to Class Counsel attorneys' fees in the amount of one-third of the settlement proceeds for their services to the Class Members is **GRANTED**. The Court preliminarily finds the requested fees to be reasonable under the circumstances.
4. Preliminary approval of the proposed distribution of the Net Settlement Award (i.e., the balance of the settlement proceeds after deducting approved costs, expenses and attorneys' fees) to Class Members, is hereby **GRANTED**. It is contemplated that following final approval, the Class Administrator will determine the amount due each Class Member by:
    a. determining the amount of impact fees each Class Member paid;
    b. determining the total amount of impact fees paid by the Class Members as a whole;
    c. determining each Class Member's percentage share of the Net Settlement Award by dividing the impact fee(s) each Class Member paid by the total amount of impact fees paid by Class Members as a whole; and then
    d. multiplying each Class Member's percentage share by the Net

Settlement Award.

After receiving Claims Forms from Class Members and verifying their eligibility to receive a portion of the settlement proceeds, the Claims Administrator will issue a settlement check in the amount due to each Class Member along with an IRS form 1099-MISC. Any payment checks returned as undeliverable or any payment checks which have not been cashed within ninety (90) days of the original mailing by Class Administrator shall no longer be valid. In the event the Class Members cannot be located through reasonable efforts or a portion of Net Settlement Award is left unclaimed, such amounts will be remitted to the State Treasurer's unclaimed property fund. Neither Class Counsel nor the Class Administrator shall be liable for any errors of computations or errors in the distribution of the Settlement Payment.

5. Class Members who wish to object to the proposed settlement shall file their objection in writing by June 15, 2017, with a copy to Class Counsel and Defense Counsel. A written objection must make reference to this matter and state the objecting Class Member's full name, address and telephone number and that of his counsel, if any. All objections and any evidence the objecting Class Member wishes to introduce in support of the objections shall be submitted with the objection, including proof of membership in the settlement class, a statement as to whether the Class Member intends to appear at the Final Approval Hearing, either individually or through his counsel, and the Class Member's signature. Any Class Member who fails to comply with these conditions shall waive and forfeit any and all rights the Class Member may have to appear separately and/or to object, and shall be bound by all the terms of the Settlement and by all proceedings, orders,

and judgments in the Class Action.

6. Within five (5) days of this Order, the Notice in the form attached to the parties' Joint Motion shall be distributed to all Class Members, and the class action website, www.tssdcase.com, shall be updated to include the following:

    a. A link to a copy of the Settlement Agreement;

    b. A link to a copy of this Order;

    c. A link to information regarding each class member's right to object, which will include the following statement:

> Any Class Member may object to the proposed Settlement. Any objection shall be made no later than June 15, 2017, by mailing a written statement of the objection to the Court, with copies to Class Counsel and Defense Counsel. The address for the Court is: Hon. Judge M. James Brady, Utah County - Provo District Court, 125 North 100 West, Provo, UT 84601. The address for Class Counsel is: Craig M. Call, ANDERSON CALL & WILKINSON, P.C., 999 North Washington Blvd., Harrisville, UT 84404. The address for Defense Counsel is: Todd J. Godfrey, Hayes Godfrey Bell, P.C., 2118 East 3900 South, Suite 300, Salt Lake City, Utah 84124.
>
> A written objection must make reference to the case: Ivory Development, LLC v. TSSD, Case No: 110401731, and state the objecting Class Member's full name, address and telephone number and that of his counsel, if any. All objections and any evidence the objecting Class Member wishes to introduce in support of the objections shall be submitted with the objection, including, proof of membership in the settlement class, a statement as to whether the Class Member intends to appear at the June 19, 2017 Final Approval Hearing, either individually or through his counsel, and the Class Member's signature. Any Class Member who fails to comply with these conditions shall waive and forfeit any and all rights the Class Member may have to appear separately and/or to object, and shall be bound by all the terms of the Settlement and by all proceedings, orders, and judgments in the Class Action.

d. A link to a template Claim Form referenced in the Notice with instructions for completion and mailing to Class Administrator.

The Court's signature appears at the top of the first page of this Order.
---END OF DOCUMENT---

Approved as to form:

/s/ Todd J. Godfrey (with permission)
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Haynes Godfrey Bell, P.C.
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4843-1170-7207, v. 1

Exhibit E

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IN THE FIFTH JUDICIAL DISTRICT COURT IN AND FOR

WASHINGTON COUNTY STATE OF UTAH

WASHINGTON TOWNHOMES, LLC, et al. Plaintiffs, vs. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, et al. Defendants.	**DECLARATION OF ATTORNEYS' FEES AND COSTS OF CRAIG M. CALL** Case No. 130500465 PR Judge Jay T. Winward

I, Craig M. Call, declare as follows:

1. I am an attorney for Plaintiffs in this matter, have been practicing law in the state of Utah for over 49 years and believe I have a basis in that experience for knowing what reasonable hourly rates are for legal services in Utah, and what a reasonable time is for performing various types of legal services.

2. I have personal knowledge of the matters stated herein.

3. I make this declaration in support of the parties' Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Notice to Class, and Proposed Distribution of Settlement Funds, which seeks, among other things, a preliminary determination that the attorneys' fees and costs sought by Class Administrator and Class Counsel are reasonable.

4. As the appointed Class Administrator, Anderson Call & Wilkinson PC provided notice of the pending class action to approximately 2500 prospective Class Members in 2023 by first class mail to their last known address. Consistent with that prior notice process, if so directed by the court, notice of the proposed settlement will also be mailed to each of the same prospective Class Members, excepting those who have already opted out, at their last known address. In addition, the Class Administrator will update the class-action website, https://impactfeeclassaction.com/, to include the information contained in the notice attached to the Joint Motion as EXHIBIT B.

5. Class Administrator and Class Counsel also seek approval of payment of their fees from the settlement proceeds. Representative Plaintiffs have each executed a fee agreement with Class Counsel regarding the payment of attorneys' fees from any award or class action settlement. Pursuant to the terms of their engagement agreement with the Representative Plaintiffs, the Class Administrator and Class Counsel are entitled to recover forty percent (40%) of the settlement proceeds for their services to the Class. The Representative Plaintiffs collectively hold a substantial interest in the settlement proceeds.

6. As set forth in the parties' motion, Class Administrator and Class Counsel are entitled to payment of their fees from the common fund.

7. I have been a member of the Utah bar since 1976. My practice emphasis has focused on local government and real estate litigation before the state courts of Utah. I am, therefore, generally aware of the fee arrangements and billing rates for legal services in the

community, giving me a basis for assessing what rates and fees are reasonable under the circumstances of this case.

8. In my experience, a 40% contingency fee is customary and reasonable in the State of Utah where, as here, the representation involved all aspects of a proceeding before the trail court and, in addition, appellate proceedings with their attendant risks, delays in payment, and additional expense.

9. I have reviewed an accounting of the legal services rendered in this case for Plaintiffs by Anderson Call & Wilkinson PC and believe the services, the 40% fee sought therefor, and the costs are reasonable under the circumstances of this case. I further believe that the time spent on this matter was necessary to obtain the settlement that has been submitted to the Court for approval. I make this determination based on, among other things, the length of the dispute, the nature of the case, the risk involved, the filings and appearances in this action, and the two appeals.

10. As detailed in the parties' joint motion, and as is evident from the docket, this case has been pending since 2013, has involved the production and review of hundreds of thousands of pages of technical documentation, numerous depositions, expert reports and depositions, two interlocutory appeals, dispositive and other motions, and, simply put, complex and extensive litigation.

11. Anderson Call's fees from February of 2013 through April 20, 2026 included 1,646.45 hours and totaled $879,813.75 in fees. I believe that the time spent on this matter was necessary to obtain the settlement that has been submitted to the Court for approval. I make this determination based on, among other things, the length of the dispute, the nature of the case, the risk involved, and the filings in this action. Anderson Call has also incurred costs on behalf of Plaintiffs in this action in the amount of $217,911.12. Interest on the funds expended, calculated

at an annual rate of 5.51%, totals $61,037.45 as of April 30, 2026. Simple interest continues to accrue in the amount of $32.90 per day until the balance is paid.

12. I estimate that Anderson Call will incur additional costs of $60,000 to update the settlement website content, print and mail notices of settlement to class members, receive and investigate claim forms, and ultimately to prepare necessary forms and checks for the distribution of the settlement proceeds.

13. While irrelevant to the contingency fee arrangement with Plaintiffs, the normal hourly rates charged by Anderson Call attorneys for their services provided to this matter are reasonable given for the time period, location, and nature of the proceeding. In addition to my contributions to this litigation, attorney Jonathan Call provided substantial services to this litigation. Mr. Jonathan Call has been a member of the Utah bar since 2011. His practice has included extended service to local government as a city attorney as well as some years in private practice, including the years of his involvement in this matter, where he was engaged in civil practice and litigation involving administrative law and real estate.

14. I hereby affirm the reasonableness of the attorneys' work undertaken and the costs incurred by Anderson Call. I further affirm the reasonableness of the 40% fee Class Administrator and Class Counsel seek to recover from the settlement proceeds for their services. And as attorneys for Plaintiffs in this matter, we performed all matters necessary to obtain the settlement submitted to the Court for approval. The attorneys' fees and costs in conducting the activities set forth above are comparable to the fees of other attorneys of similar experience in the area for the legal services provided and are reasonable based upon the time and effort involved, and the complexity of the case.

Pursuant to Utah Code § 78B-18a-101, et seq., I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 20th day of April, 2026 at Salt Lake City, Utah.

ANDERSON CALL & WILKINSON, PC

By: */s/ Craig M. Call*
Craig M. Call

Exhibit F

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IN THE FIFTH JUDICIAL DISTRICT COURT IN AND FOR

WASHINGTON COUNTY, STATE OF UTAH

WASHINGTON TOWNHOMES, LLC, et al. Plaintiffs, vs. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, et al. Defendants.	**DECLARATION OF ATTORNEY FEES AND COSTS OF BENSON L. HATHAWAY, JR.** Case No. 130500465 PR Judge Jay T. Winward

I, Benson L. Hathaway, Jr., declare as follows:

1. I am an attorney for Plaintiffs in this matter, have been practicing law in the state of Utah for over 42 years, and believe I have a basis in that experience for knowing what reasonable hourly rates are for legal services in Utah, and what a reasonable time is for performing various types of legal services.

2. I have personal knowledge of the matters stated herein.

3. I make this declaration in support of the parties' Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Notice to Class, and Proposed Distribution of Settlement Funds, which seeks, among other things, a preliminary determination that the attorneys' fees and costs sought by Class Administrator and Class Counsel are reasonable.

4. Class Counsel seeks approval of payment of their fees from the settlement proceeds. Representative Plaintiffs have each executed a fee agreement with Class Counsel regarding the payment of attorneys' fees from any award or class action settlement. Pursuant to the terms of their engagement agreement with the Representative Plaintiffs, Class Counsel is entitled to recover forty percent (40%) of the settlement proceeds for their services to the Class. The Representative Plaintiffs collectively hold a substantial interest in the settlement proceeds.

5. As set forth in the parties' motion, Class Counsel is entitled to payment of their fees from the common fund.

6. I have been a member of the Utah bar since 1984. My practice emphasis has focused on commercial litigation before the state and federal courts of Utah. I am, therefore, generally aware of the fee arrangements and billing rates for legal services in the community, giving me a basis for assessing what rates and fees are reasonable under the circumstances of this case.

7. In my experience, a 40% contingency fee is customary and reasonable in the State of Utah where, as here, the representation involved all aspects of a proceeding before the trial court and appellate proceedings with their attendant risks, delays in payment, and additional expense.

8. I have reviewed an accounting of the legal services rendered in this case for Plaintiffs by Kirton McConkie and believe the services, the 40% fee sought therefor, and the costs are reasonable under the circumstances of this case. I further believe that the time spent on this matter was necessary to obtain the settlement that has been submitted to the Court for approval. I

make this determination based on, among other things, the length of the dispute, the nature of the case, the risk involved, the filings and appearances in this action, and the two appeals.

9. As detailed in the parties' joint motion, and shown in the docket, this case has been pending since 2013, has involved the production and review of hundreds of thousands of pages of technical documentation, numerous depositions, expert reports and depositions, two interlocutory appeals, dispositive and other motions, and, simply put, complex and extensive litigation.

10. Kirton McConkie has incurred litigation costs over the course of this matter that were necessary to investigate, prosecute, and resolve this case. These costs include, among other things, expert and consultant fees for four experts, deposition and transcript expenses, travel and lodging, legal research, filing and service fees, document management and reproduction costs, and other litigation-related expenses. In total, these costs amount to **$174,054.96**, all of which were reasonably and necessarily incurred in connection with this litigation. Interest on the funds expended, calculated at an annual rate of 5.51%, totals $60,924.98 as of April 20, 2026, with a per diem of $26.27 until entry of judgment. A summary of these costs by category is below. A more detailed accounting can be made available to the Court upon request.

Cost Category	**Amount ($)**
Expert & Consultant Fees	$121,000
Depositions & Transcripts	$25,000
Travel & Lodging	$3,700
Computer Legal Research	$3,000
Filing, Service & Messenger Fees	$500
Mediation / ADR	$2,200
Document Management / Litigation Support	$150
Postage & Delivery	$100
Witness Fees	$250
Photocopying & Document Reproduction	$18,000
Other Miscellaneous Costs	$1,154.96
Total Costs	**$174,054.96**

11. From the commencement of this action, including prelitigation efforts, through April 20, 2026, attorneys at Kirton McConkie billed a total of 3,741 hours and incurred fees totaling $1,546,853.90. A summary of these fees is provided below. A more detailed accounting can be made available to the Court upon request.

Name	Hours	Amount
BECKSTROM, RYAN R.	124.80	35,743.50
BRAMHALL, CHRISTOPHER E.	0.40	148.00
CHECKETTS, THOMAS K.	982.00	370,194.00
GREEN, JACOB A.	279.10	125,443.45
HATHAWAY, BENSON L.	1,091.80	500,592.15
WAHLQUIST, DAVID M.	400.80	168,009.00
STARR, JUSTIN W	19.80	8,159.80
BAUGH, SALINA	8.30	1,492.50
JOHNSON, WENDY	0.30	54.00
WAHLQUIST, ADAM D	833.70	337,017.50
	3,741.00	**1,546,853.90**

12. While the fee request is based on a contingency arrangement with Plaintiffs, the hourly rates and total fees charged by Kirton McConkie attorneys for their services provide a useful benchmark and are reasonable given the time period, location, and nature of the proceeding.

13. In addition to my contributions to this litigation, the following Kirton McConkie attorneys provided substantial services to this litigation:

a. Adam Wahlquist, who has practiced law in California since 2007 and has been a member of the Utah Bar since 2010. Prior to entering private practice, he clerked for the United States District Court for the District of Arizona. Mr. Wahlquist's practice focuses on complex commercial litigation in the state and federal courts of Utah, as well as significant commercial and international arbitration matters. He has also been substantially involved in the prosecution of prior impact fee class action litigation, including work related to class

certification, expert discovery, dispositive motion practice, and settlement proceedings.

b. David Wahlquist, who was a member of the Utah Bar from 1981 till his passing, and whose legal career was devoted to complex commercial litigation in the state and federal courts of Utah. Mr. Wahlquist was also involved with Class Counsel in prior impact fee class action litigation and brought that experience to this case. He played a substantial role in the prosecution of this matter from its inception and was actively involved in case strategy, motion practice, and early discovery until his untimely passing in November 2020.

c. Jacob Green, who has been a member of the Utah Bar since 2014 and whose practice focuses on complex commercial litigation in the state and federal courts of Utah. Mr. Green has significant experience in all phases of litigation. He has served as counsel in contested matters through trial and has played an integral role in managing and advancing the litigation in this case.

d. Thomas Checketts, who has been a member of the Utah bar since 2001, having previously practiced in Georgia. His practice emphasis has been in the areas of real property, regulatory takings and eminent domain law, including both transactions and litigation. During the pendency of this litigation, Mr. Checketts departed Kirton McConkie and will separately attest to the reasonableness of the fees he incurred since that date.

14. I hereby affirm the reasonableness of the attorneys' work and the costs detailed above. I further affirm the reasonableness of the 40% fee Class Counsel seeks to recover from the settlement proceeds for their services. And as attorneys for Plaintiffs in this matter, we performed all matters necessary to obtain the settlement submitted to the Court for approval. The attorneys'

fees and costs in conducting the activities set forth above are comparable to the fees of other attorneys of similar experience in the area for the legal services provided and are reasonable based upon the time and effort involved, and the complexity of the case.

Pursuant to Utah Code § 78B-18a-101, et seq., I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 20th day of April 2026 at Salt Lake City, Utah.

KIRTON McCONKIE

By: */s/ Benson L. Hathaway, Jr.*
Benson L. Hathaway, Jr.

Exhibit G

Benson L. Hathaway, Jr. (Bar # 4219)
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Attorneys for Plaintiff Class

IN THE FIFTH JUDICIAL DISTRICT COURT IN AND FOR

WASHINGTON COUNTY STATE OF UTAH

WASHINGTON TOWNHOMES, LLC, et al. Plaintiffs, vs. WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, et al. Defendants.	**DECLARATION OF ATTORNEY'S FEES AND COSTS OF THOMAS K. CHECKETTS** Case No. 130500465 PR Judge Jay T. Winward

I, Thomas K. Checketts, declare as follows:

1. I am an attorney for Plaintiffs in this matter. I have been practicing law for over 25 years and have been practicing law in the state of Utah for over 22 years and believe I have a basis in that experience for knowing what reasonable hourly rates are for legal services in Utah, and what a reasonable time is for performing various types of legal services.

2. I have personal knowledge of the matters stated herein.

3. I make this declaration in support of the parties' Joint Motion for Preliminary Approval of Class Action Settlement Agreement, Notice to Class, and Proposed Distribution of Settlement Funds, which seeks, among other things, a preliminary determination that the attorneys' fees and costs sought by Class Administrator and Class Counsel are reasonable.

4. Class Administrator and Class Counsel seek approval of payment of their fees from the settlement proceeds. Representative Plaintiffs have each executed a fee agreement with Class Counsel regarding the payment of attorneys' fees from any award or class action settlement. Pursuant to the terms of their engagement agreement with the Representative Plaintiffs, the Class Administrator and Class Counsel are entitled to recover forty percent of the settlement proceeds after deducting costs (and interest for costs) for their services to the Class. The Representative Plaintiffs consist of approximately one-fifth of the interest in the settlement proceeds.

5. As set forth in the parties' motion, Class Administrator and Class Counsel are entitled to payment of their fees from the common fund.

6. I have been a member of the Utah bar since 2003. My practice emphasis has focused on real estate, eminent domain and impact fees. I am, therefore, generally aware of the fee arrangements and billing rates for legal services in the community, giving me a basis for assessing what rates and fees are reasonable under the circumstances of this case.

7. In my experience, a forty percent contingency fee is normal and routine in the State of Utah. I understand that a forty percent contingency fee is also considered "customary" in Tenth Circuit class action settlements.

8. In addition, I have served as Class Counsel in two prior impact fee class action lawsuits where Class Counsel and Class Administrator were awarded a one-third contingency fee in a matter that did not include two appeals to the Utah Court of Appeals and the Utah Supreme Court, as has this case.

9. Until the end of February 2022, I practiced law at Kirton McConkie. I started Checketts Law on March 1, 2022. All of my fees prior to March 1, 2022 are accurately reflected in the records maintained by Kirton McConkie as attested to by Benson L. Hathaway, Jr.

10. From March 1, 2022, through April 20, 2026, Checketts Law billed 310.7 hours representing $155,350.00 in fees. I believe that the time spent on this matter was necessary to obtain the settlement that has been submitted to the Court for approval. I make this determination based on, among other things, the length of the dispute, the nature of the case, the risk involved, and the filings in this action. A detailed accounting of this time can be provided, if desired by the Court.

11. While irrelevant to the contingency fee arrangement with Plaintiffs, my hourly rate has been $500.00 per hour during the period that Checketts Law has been in existence. My hourly rate is reasonable given my experience and the nature of the work.

12. As detailed in the parties' joint motion, and as is evident from the docket, this case has been pending since 2013, has involved the production and review of hundreds of thousands of pages of technical documentation, numerous depositions, expert reports and depositions, two interlocutory appeals, dispositive and other motions, and, simply put, complex and extensive litigation.

13. Checketts Law has also incurred costs on behalf of Plaintiffs in this action from March 1, 2022, through April 20, 2026, in the amount of $4,012.95. Which consist of $819.20 for travel and mileage and $3,194 for expert and consultant fees. Interest on the funds expended, calculated at an annual rate of 5.51%, totals $285.72 as of April 20, 2026, with a per diem of $00.60 until entry of judgment. A detailed accounting of these expenses can be provided, if desired by the Court.

14. I hereby affirm the reasonableness of the attorneys' work and the costs. I further affirm the reasonableness of the forty percent fee Class Administrator and Class Counsel seek to recover from the settlement proceeds for their services. And as attorneys for Plaintiffs in this matter, we performed all matters necessary to obtain the settlement submitted to the Court for approval. The attorneys' fees and costs in conducting the activities set forth above are comparable to the fees of other attorneys of similar experience in the area for the legal services provided and are reasonable based upon the time and effort involved, and the complexity of the case.

Pursuant to Utah Code § 78B-18a-101, et seq., I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

Signed on the 20th day of April, 2026 at Layton, Utah.

KIRTON McCONKIE

By: */s/ Thomas K. Checketts*
Thomas K. Checketts