

**RESOLUTION NO. 39-2005**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, PURSUANT TO BENSON CITY CODE SECTION 16-4-5, GRANTING WAL-MART STORES, INC., THE RIGHT TO AN INDIVIDUAL ASSESSMENT OF DEVELOPMENT IMPACT FEES FOR THE PROPOSED SUPERCENTER STORE TO BE LOCATED ON FOURTH STREET AND PRICKLY PEAR STREET, BENSON, ARIZONA.**

WHEREAS, the City of Benson has enacted Development Impact Fees for the purpose of ensuring the timely construction of off-site public capital improvements necessary to serve all new development by providing necessary financing for new facilities to be constructed by the City and providing for equitable means of cost sharing for existing City facilities serving new development; and,

WHEREAS, Development Impact Fees shall be paid by each new development, as described herein, in a manner which is proportional to the financial impact that the new development will have on existing and required off-site City capital infrastructure facilities; and,

WHEREAS, Wal-Mart Stores, Inc., having proposed the construction of a Wal-Mart Superstore to be located on Fourth Street and Prickly Pear Street in the City of Benson and Wal-Mart Stores, Inc., as a commercial developer, shall be assessed and is responsible for the payment of Development Impact Fees as a result of their impact on the City's infrastructure; and,

WHEREAS, the Code of the City of Benson, Section 16-4-5, permits that a developer who believes that the proposed development will create public service impacts substantially less than development impacts envisioned by the existing Development Impact Fee Schedule may request that the City Council perform an individual assessment of the impact of the proposed development; and,

WHEREAS, Tri-Core Engineering has prepared and submitted to the City Council, correspondence dated March 15, 2005, attached hereto as Exhibit "A", setting forth the necessary data to support Wal-Mart, Inc.'s, position that the proposed development will create public service impacts substantially less than development impacts envisioned by the existing Development Impact Fee Schedule.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Benson, Arizona, as follows:

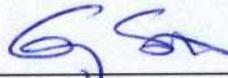
1. The Development Impact Fees of Wal-Mart Stores, Inc. will be individually audited for their water and wastewater usage;

...

2. The City of Benson shall audit Wal-Mart's wastewater generation and water consumption for the first twelve months of operation as a going business within the first twenty four (24) months of issuance of the certificate of occupancy and, if the City determines there is more usage than was estimated and collected according to Wal-Mart's calculations, the City will invoice Wal-Mart for the difference and Wal-Mart will be responsible for paying the amount due within 30 days after mailing by the City; and,

3. The request for individual assessment is hereby approved and the Development Impact Fees shall be remitted in connection with the tender of a building permit application which must be submitted within ninety (90) days from the date of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF BENSON,  
ARIZONA, this 24<sup>th</sup> day of October, 2005.



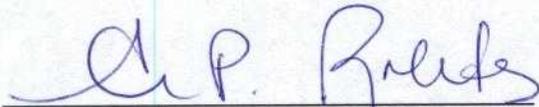
\_\_\_\_\_  
GEORGE SCOTT, MAYOR

ATTEST:



\_\_\_\_\_  
VICKI L. VIVIAN, INTERIM CITY CLERK

APPROVED AS TO FORM:



\_\_\_\_\_  
ANN P. ROBERTS, CITY ATTORNEY



**TRI-CORE**  
**ENGINEERING**

March 15, 2005

City of Benson  
Mr. Boyd Kraemer  
160 S. Huachucav St.  
P.O. Box 2223  
Benson, AZ 85602

**Re: Request for Individual Assessment of Development Impact Fees  
Wal-Mart Supercenter #3807 Benson, Arizona**

Dear Mr. Kraemer:

On behalf of our client, Wal-Mart Stores, Inc., we are requesting that the Benson City Council grant an Individual Assessment of Development Impact Fees for the proposed Supercenter in Benson. This request is pursuant to Section 16-4-5 of the municipal ordinance, which assesses a non-discriminatory DIF based on the understanding that actual impacts of a proposed development will be substantially less than impacts of developments envisioned by the existing DIF schedule.

Per the ordinance, one way of calculating the fees is based on a specified use category, size of structure and relative impact of the specified use category on public water and wastewater systems.

None of the use categories in the DIF schedule is specifically applicable to Wal-Mart's proposed development. The most similar category is "Shopping Centers". This use category assumes much higher water and wastewater demands than actual demands of a Wal-Mart development. A shopping center has multiple tenants with high water demands that impose higher wastewater loads.

This is substantiated by water consumption records of existing similar Wal-Mart developments, which demonstrate limited water and wastewater impacts despite the relatively large square footage for a single business.

The rationale of our request is to use Wal-Mart's design data on projected water consumption for the Benson Supercenter for calculating the DIF's. This design data is substantiated by many years of historic records and operational experience of Wal-Mart stores nationwide.

We compared the project design data with actual consumption records for two existing stores comparable to the proposed Benson Supercenter (please refer to Exhibit A, attached). The average of the two stores' records produces values similar to the project design data. Therefore, we propose to determine the DIF based on project design data as calculated in Exhibit A.

We understand that the City will audit Wal-Mart's water and wastewater generation for the first twelve months of operation and apply an assessment of the difference between the development impact fee amount paid and the amount based on actual usage as determined by the audit.

We also understand that offsets to the DIF may be applied in conjunction with Section 16-4-10 and the development agreement between Wal-Mart and the City of Benson.

Respectfully,  
**Tri-Core Engineering, LLC**



Talal K. Shahbander, P.E.  
*Principal Owner*

Attachments: Exhibit A

Cc: Kim Dimmett – City of Benson  
Molly Fagan – Wal-Mart Stores, Inc.

CITY OF BENSON  
Commercial Impact Fee Schedule

EXHIBIT- A

Date 03/16/05

Owner/Agent TRI-CORE ENGINEERING Phone 480-346-3200

Address: 7272 E Indian School Road, Scottsdale, AZ 85251 Unit/Space# #420

Mailing Address: (Same As Above)

Square Footage of Unit: 99,700

Anticipated Gallons Water Used per day: 6,000 GPD (Domestic & Irrigation)

Anticipated Gallons Wastewater Flow per day: 1,980 GPD (Domestic Water Demand)

1) Applicable Development Impact Fee:

Water: <u>Anticipated Gallons Water Usage per day</u> x \$3.38	<u>\$20,280</u>
Wastewater: <u>Anticipated Gallons Wastewater Flow per day</u> x \$3.66	<u>\$7,246.80</u>
Police/Fire: Total SF. X \$0.275	<u>\$27,417.50</u>
Administrative: Total SF. X \$0.10	<u>\$9,970</u>
Total:	<u>\$64,914.30</u>
Total Fees Due:	<u>\$64,914.30</u>
Date Paid:	<u>                    </u>

Completed by: TALAL SHAHBANDER

Owner/Agent Signature: *Talal R. Shahbander*

**ACTUAL CONSUMPTION RECORDS FOR TWO EXISTING STORES  
IN ARIZONA COMPARABLE TO THE PROPOSED BENSON SUPERCENTER**

(per email from Wal-Mart Design Manager (Molly Fagan) dated February 22, 2005 at 1:32 PM)

**Store #2051 Kingman, AZ 2004/Supercenter (98,358 SQ.FT.)  
Main Building & Irrigation**

Bill	From	Thru	Bill Period (days)	Bill Total (\$)	Water Usage (CCF)	Irrigation Usage (CCF)
12	10/12/2004	11/10/2004	29	\$432.50	225	0
11	9/14/2004	10/12/2004	28	\$546.50	234	94
10	8/16/2004	9/14/2004	29	\$701.53	222	286
9	7/15/2004	8/16/2004	32	\$1,084.25	262	556
8	6/11/2004	7/15/2004	34	\$497.94	287	0
7	5/12/2004	6/11/2004	30	\$432.83	246	0
6	4/15/2004	5/12/2004	27	\$396.10	226	0
5	3/12/2004	4/15/2004	34	\$466.40	266	0
4	2/12/2004	3/12/2004	29	\$374.04	214	0
3	1/14/2004	2/12/2004	29	\$365.02	206	0
2	12/12/2003	1/14/2004	33	\$445.44	253	0
1	11/10/2003	12/12/2003	32	\$430.31	229	28
<b>Total CCF</b>					<b>2870</b>	<b>964</b>

**Store #2778 Coolidge, AZ (107,356 SQ.FT.)  
Main Building & Irrigation**

Bill	From	Thru	Bill Period (days)	Water Usage (CCF)	Irrigation Usage (CCF)
12	12/17/2004	1/26/2005	40	126	98
11	9/20/2004	10/20/2004	30	154	11
10	8/18/2004	9/20/2004	33	140	323
9	7/20/2004	8/18/2004	29	132	59
8	6/17/2004	7/20/2004	33	138	46
7	5/19/2004	6/17/2004	29	149	48
6	4/19/2004	5/19/2004	30	164	133
5	3/17/2004	4/19/2004	33	121	39
4	2/19/2004	3/17/2004	27	144	61
3	1/20/2004	2/19/2004	30	176	70
2	12/18/2003	1/20/2004	33	131	62
1	11/20/2003	12/18/2003	28	131	23
<b>Total CCF</b>				<b>1706</b>	<b>973</b>

(Unit CCF = 100 Cubic Feet)

Using data on the previous page - Calculations showing average water usage for each store.

**Store #2051 Kingman, AZ 2004/Supercenter (98,358 SQ.FT.)**

	<u>ft<sup>3</sup> /yr</u>	<u>ft<sup>3</sup>/day</u>	<u>Gallons/day</u>
<b>Water Usage =</b>	287,000	797.20	5,964
<b>Irrigation Usage =</b>	96,400	267.78	2,003

**Store #2778 Coolidge, AZ (107,356 SQ.FT.)**

	<u>ft<sup>3</sup> /yr</u>	<u>ft<sup>3</sup>/day</u>	<u>Gallons/day</u>
<b>Water Usage =</b>	170,600	4.74	3,545
<b>Irrigation Usage =</b>	97,300	2.73	2,022

**Average of Two Stores**

	<u>GPD</u>
<b>Water Usage =</b>	4,755
<b>Irrigation Usage =</b>	2,013
<b>Total Water Usage =</b>	<b>6,767</b>

**WAL-MART PROTOTYPICAL UTILITY LOADS**

Prototype & Size	Water Fixture Units	Domestic Wtr Instantaneous Peak Flow (GPM)	Average Sewer Load -90% Dom (GPD)	Average Domestic Water Demand (GPD)	Average Irrigation Water Demand (GPD)	Minimum Residual Press. FRONT ENTRY (PSI)	Minimum Residual Press. REAR ENTRY (PSI)	Connected Gas Load (MBH)	Connected Electric Load (KVA)	Diversified Electric Load (KVA)
Sam's 135	310	115	2,610	2,900	5,700	N/A psi	44 psi	9,966	2,078	2,120
Supercenter 98	187	88	1,980	2,200	3,800	N/A psi	40 psi	5,485	1,448	1,369
Supercenter 107	295	109	1,980	2,200	3,800	N/A psi	37 psi	5,770	1,509	1,350
Supercenter 145	418	133	4,230	4,700	5,200	45 psi	43 psi	8,870	2,232	2,222
Supercenter 173	412	129	4,680	5,200	6,200	45 psi	42 psi	10,120	2,593	2,431
Supercenter 192	441	131	6,120	6,800	6,800	N/A psi	42 psi	11,642	2,555	2,257
Supercenter 195	424	129	6,120	6,800	7,400	N/A psi	41 psi	12,503	2,654	2,326
Supercenter 208	441	131	6,120	6,800	7,400	N/A psi	43 psi	12,785	2,710	2,396
WMM 39	190	88	2,160	2,400	4,400	N/A psi	30 psi	2,550	1,028	1,013
Wal-Mart 134	291	110	3,600	4,000	4,300	38 psi	39 psi	5,365	1,233	1,266
Wal-Mart 137	Note 1	Note 1	Note 1	Note 1	Note 1	N/A psi	Note 1	Note 1	Note 1	Note 1
Wal-Mart 139	Note 5	Note 5	Note 5	Note 5	Note 5	N/A psi	Note 5	Note 5	Note 5	Note 5

**TABLE INFORMATION:**

All data provided is averaged from several store's data. GAS and ELECTRICAL loads are for general guidance only -- do NOT use for specific project design. Water and sewer demand may be used for sewer design.

- 1) The 137 proto is designed to someday expand to a 208 supercenter. Therefore utilities should be sized for the 208.
- 2) Domestic Water Instantaneous Peak Flow is used only for sizing water piping in the store and should not be used to estimate water usage or sewer loading
- 3) Average Sewer Load is estimated at 90% of the Domestic Water Demand. This value represents an industry standard for estimating sewer load
- 4) The peak amounts for domestic load and irrigation load are not additive because irrigation water demand is reduced during winter months
- 5) The 139 proto is designed to someday expand to a 195 supercenter. Therefore utilities should be sized for the 195.

Last Updated: 10-09-2003 by Robert J. Matulis, P.E. (Registered in State of Kansas) @ Henderson Engineers, Inc

**STORE PERMITTING: WASTEWATER APPLICATION INFORMATION**

- 1) Oil Water Separator: Flow = 55 gallons/day (approx. 400 gallons per week); Concentration = 100 mg/L Oil and Grease
- 2) Photo Center Silver Recovery: Flow: 8 gallons/day; Concentration: 1 ppm or 1 mg/L (see note below)

Note: Silver Recovery - The concentration provided assumes discharges compliance point is at connection to silver recovery unit (i.e. this concentration does not include dilution of silver concentration by other store wastewater discharge). Wal-Mart is not considered a "significant user" since, by definition, a significant user is a facility discharging greater than or equal to 25,000 gallons/day or 5% of plant capacity. Wal-Mart is not considered an industrial source.

## 1. Impact Fees for Water and Sewer - All citations are to the City of Benson City Ordinance.

- 16-4-4 – Development Impact Fees Based on Fee Schedules.
  - A. Unless an applicant requests an individual assessment, as set forth herein, the Development Impact Fees applicable to any new or proposed development shall be calculated on the basis of the planned use and structure size and the relative impact of said development upon existing or required city public facilities.
  - B. Development Impact Fee schedules are hereinafter set forth to provide for the impact of any new development upon wastewater, water, parks, police and fire services, general government and cultural programs and any individual component of said Development Impact Fee schedule may be amended from time to time by the City Council.
  - C. For any category of use not specified in the applicable Development Impact Fee schedule, the City Manager shall apply the category of use which he deems most similar to the proposed use.
  
- 16-4-5 – Individual Assessment of Development Impact Fees. **If any person submitting an application for which payment of a Development Impact Fee is required believes the proposed development will create public service impacts substantially less than development envisioned by the existing Development Impact Fee schedule, such person may request that the City Council perform an individual assessment of the impact of the proposed development. A request for an individual assessment must be made prior to the application for a building permit and the City Council's written determination of individual assessment shall be binding in connection with a building permit application tendered, along with the prescribed fees within ninety days from the date of said individual assessment. The City Council may designate the City Manager as its agent for purposes of preparing a recommended individual assessment. (emphasis added)**
  
- 16-4-10 – Offsets to Development Impact Fees. The amount of any Development Impact Fees assessed pursuant to this regulation shall consider, among other things, the contribution made or to be made in the future by cash or taxes, fees or assessments, toward the capital costs of necessary public service covered by the Development Impact Fee. The Mayor and City Council, after considering the actual capital expense burden a specific new development will impose upon the municipality, including the pro rata share costs of existing capital assets benefiting the new development, may adjust any, or all, of the Development Impact Fees set forth herein accordingly.
  - A. Offsets are reductions from the Development Impact Fee which would otherwise be due from any new development and shall be subject to the following:
    - 1. An offset shall be applied against development fees otherwise due for qualifying improvements, as hereinabove defined, where such expenditures are actually directly undertaken, with prior written approval by the City Council, by a developer as a condition of development approval;

**2.** Offsets shall be allowable and payable only to offset Development Impact Fees otherwise due for the same category of improvements and shall not result in reimbursement from, nor constitute a liability for, the City Council;

**3.** Offsets shall be given only for the value of any construction or improvements or contribution or dedication of land or money by a developer, or its predecessor in title or interest, for qualifying improvements of the same category for which a Development Impact Fee is imposed.

- **16-4-14 – Development Impact Fee Calculations.** All Development Impact Fees (DIF) assessed under this regulation shall bear a rational relationship to the proportional share of the City's capital cost and benefit conferred on new development in order to ensure that the DIF's are non-discriminatory. Individual DIF components shall be calculated using the current capital investment of specific facilities, divided by the population being served, multiplied by the average number of household residents throughout the City or such other factor as is appropriate. Additionally, such relevant factors as water usage, wastewater volume and associated capital costs, shall be included.

**A. Wastewater Development Fee Schedule. ...\$3.66 per gal. per day.**

**3. Commercial Wastewater Development Impact Fee Calculations –** Commercial Wastewater Development Impact Fees shall be assessed on the basis of the wastewater reasonably anticipated to be generated by the specific development. **The City Manager shall estimate the anticipated wastewater flow using the water supply capability based on the meter size and historical data from similar facilities which need not be located within the City.** The City Manager, or his designated agent, shall audit each commercial development's wastewater generation for the first twelve months of operation as a going business concern...In the event the City's audit reveals an average daily wastewater generation in excess of one hundred five percent of the amount used to calculate the development impact fee paid at the time of issuance of the building permit, City shall assess the development's owner...and said assessment shall be the difference between the development impact fee amount previously paid and the amount which would have been paid had the initial development impact fee calculation been based on the usage determined by the audit...(emphasis added).

**B. Water Development Impact Fees.**

**1. ...\$3.38 per gallon per day...**

**2.c** Commercial water development fees shall be assessed on the basis of water reasonably anticipated to be used by the specific development during any peak usage days, measured in gallons and multiplied by the \$3.00 per gallon total capital cost of the water system, as described above. **The City Manager shall estimate the**

**anticipated water flow using the water supply capability based on the meter size and historical data from similar facilities which need not be located within the City.** The City Manager, or his designated agent, shall audit each commercial development's water usage for the first twelve months of operation as a going business concern...In the event the City's audit reveals an average daily water usage in excess of one hundred five percent of the amount used to calculate the Water Development Impact Fee paid at the time of issuance of the building permit, City shall assess the development's owner...and said assessment shall be the difference between the Water Development Impact Fee amount previously paid and the amount which would have been paid had the initial Water Development Impact Fee calculation been based on the usage determined by the audit...(emphasis added).