

Central Davis Sewer District

Impact Fee/Policy Amendments

Inclusion of Service Area #2

Impact Fee Analysis and Impact Fee Policy Amendments

June 11, 2009

**Notice of Board Meeting and
Public Hearing for Impact Fee Policy Amendments**

Notice is hereby given that Central Davis Sewer District will hold a Board Meeting and public hearing for the purpose of reviewing and taking comments on the District's proposed Impact Fee Amendments on July 9, 2009 at 7:30 pm in the District's Office located at 2200 South Sunset Drive, Kaysville, Utah 84037. Anyone wishing to attend the hearing and offer public comments are invited to do so. Written public comments will be accepted and read into the record up to the time the hearing starts. The office is handicapped accessible and accommodation can be made in advance for anyone needing it by contacting the District at (801)466-8527.

Central Davis Sewer District

Impact Fee Analysis - Service Area #2

This analysis together with the West Farmington High Density Service Area #2 Capital Facility Plan Amendment will form the basis for the impact fee development for Service Area #2. This document will track the steps in developing the impact fee for Service Area #2 based on its proportionate share of costs.

Identification of Required Expenditures

Central Davis Sewer District (District) developed and approved a Capital Facility Plan (CFP) for the entire District in 1997. This plan provided for sufficient system capacity through build out based on the master plans of the cities existing at that time.

Subsequent to the CFP approval, development occurred generally in accordance with the plans land use assumptions. However, in 2008 Farmington City amending the zoning in an area of West Farmington to allow for high density residential development.

This area is shown on Attachment 1 and will be referred to in the remainder of this analysis as Service Area #2. The existing District facilities were evaluated and found to have insufficient capacity to serve the increased flows from Service Area #2. As such, a CFP Amendment was prepared and has been approved by the District Board. This plan identified specific costs necessary to serve Service Area #2. In addition, an appreciated-depreciated value was calculated for existing facilities being used in Service Area #2. The summary of the existing facilities is contained with this analysis as Attachment 2. Based on these evaluations, the following costs are identified as necessary to provide sewer service to Service Area #2 at standard levels of service:

New Capital Facilities (CFP Amendment)	\$6,571,000
Existing Infrastructure	<u>\$1,869,000</u>

Total Cost Impact \$8,440,000

Based on District analysis, 100% of the above costs are required to provide sewer service to new growth in Service Area #2. All of these costs are directly applicable to this service area. Should this area not develop as high density residential, these new facilities would not be required and existing facilities would remain with adequate capacity.

Consideration of Revenue Sources

Utah State Code Title 11-36-201(3) requires the District to consider all revenue sources available to pay for these facilities. As such, the following sources of funding are identified as available:

1. User Fees/Charges
2. Property Taxes
3. Impact Fees
4. Federal Grants or Subsidies

Since the existing facilities have all been upgraded in accordance with the CFP and these facilities have been funded through impact fees, it would be unfair to require existing residents to pay higher user fees to subsidize new growth in Service Area #2. Existing residents would receive no material benefit from additional sewer in this area, accordingly, user fees are excluded as a means of financing this development.

Property taxes are equally spread over all real property and use of it would form a subsidy to the new service area. The District has been continuously allowing the property tax rate to erode over the past 25 years so, that at build out, the District could elect to eliminate the property tax entirely and fund the service through user fees. As such property tax is eliminated as a funding source for these improvements.

The District has, from time to time, applied for federal grants, such as those available through the American Recovery Act, to meet District capital needs. The response to these applications has been poor and no grants have been received. The lack of obtaining grants is attributable to two factors. First, grants are rarely given to facilitate new development. New development is not considered a high priority. Second, the District median household income is much higher than the median income for the many other entities competing for the same grant funds. Most grants have a need component associated with the many requirements they impose. Finally, The District is in good financial shape, has a low current debt and existing user rates are only average for the State of Utah. EPA would allow grants only if user rates are greater than 1.4% of median household income. Current user rates are only 0.44% of the District's median income.

Based upon this revenue source analysis, The District has determined that impact fees are the appropriate means of financing the identified new development impacts.

Maximum Impact Fee Development

The District has projected the maximum number of dwelling units the area will serve to be 4,968 (see Appendix C of the CFP Amendment). The District has evaluated the possibility of staging construction for the new facilities needed for the area based on the split of residential versus commercial development that occurs. If more commercial development occurs, the sewer flows are expected to be less than if the area is developed with residential housing units only. Because uncertainty exists about the actual split between housing and commercial, staging of construction will allow the District to build only those new facilities that are needed based on the final flows. However, if 75% of the maximum residential flow occurs, then all proposed facilities will be needed. Because the District assumes the worst case scenario, the impact fee will be based on development of 75% of the proposed maximum flow. This would mean that the impact fee will assume the entire cost spread across 75% of the maximum

number of homes or 3,726 dwelling units or their equivalent. All of these units are assumed to be slightly smaller than the average home within the District. As such, commercial development will have an impact fee equal to these smaller dwelling units. If the 75% ratio is used, this would mean a dwelling unit would be equivalent to 15 fixture units based on the International Plumbing Code

The District has adopted a uniform impact fee in the past, and wishes to continue doing so. Given a total cost for the new and existing facilities of \$8,440,000 spread across 3,726 dwelling unit equivalents, the calculated maximum impact fee would be

\$2,265 per Dwelling Unit.

This impact fee is for each residential dwelling unit or for commercial development for each 15 fixture units or part thereof.

Certification

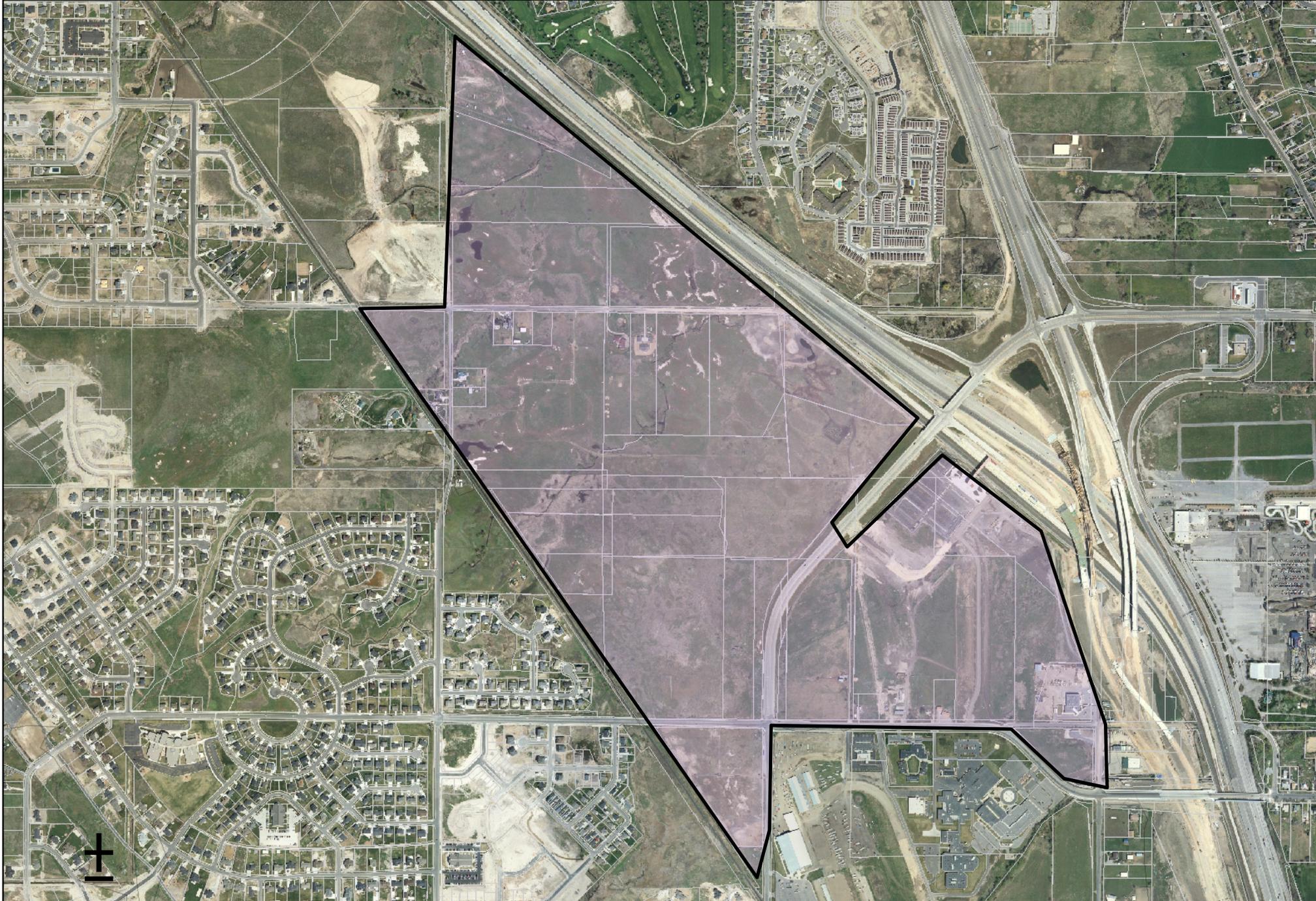
I certify that the attached impact fee analysis:

1. includes only the costs for qualifying public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. projected to be incurred or encumbered within six years after each impact fee is paid;
2. contains no cost for operation and maintenance of public facilities;
3. offsets costs with grants or other alternate sources of payment;
4. does not include costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; and
5. complies in each and every relevant respect with the Impact Fees Act."

June 11, 2009

Leland Myers, P.E.

Attachment 1 Service Area #2



**Attachment 2
Central Davis Sewer District
Service Area #2 Existing Infrastructure Estimate**

Item Name	Depreciated Value	ENR Appreciation Rate	Percent Applicable to Development	Appreciated Value for Development
Project 5 Oxidation Ditch & Solids Handling	\$ 1,030,914	1.786	35%	\$ 644,596
Project 6 Phase 2 Oxidation Ditch	\$ 1,479,235	1.458	35%	\$ 755,011
Project 6 Phase 4 Solids Handling	\$ 203,001	1.422	25%	\$ 72,184
2000/2001 Other Solids Handling	\$ 432,555	1.359	25%	\$ 146,928
Aeration Equipment for Additional Load	\$ 250,000	1.000	100%	\$ 250,000
Total Appreciated Depreciated Value Applicable to Service Area 2				\$ 1,868,720

Central Davis Sewer District

IMPACT FEE POLICY

1. Definitions.

- A. “Capital Facilities Plan” means the District’s Capital Facilities Plan adopted by Resolution of the Board of Trustees of the District, dated April 8, 1997 and the Capital Facility Plan Amendment adopted by Resolution on the Board of Trustees of the District, dated June 11, 2009, as the same shall be amended from time to time.
- B. “Development activity” means any construction or expansion of a building, structure, or use, any changes in the use of land that creates additional demand and need for public facilities.
- C. “District” means the Central Davis Sewer District, a political subdivision of the State of Utah.
- D. “Impact fee” means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of new development on public facilities.
- E. “Service Area” means a geographic area located in Davis County, Utah, and designated by the District on the basis of sound planning or engineering principles, in which a defined set of public facilities provides service to the area.
- F. “Specified Public Agency” means the State of Utah, a school district or a charter school.

2. Findings and Purpose.

The Board of Trustees hereby finds and determines:

- A. There is a need for public sewer collection and treatment facilities for new development which have been constructed or are to be constructed and are required to be consistent with the Capital Facilities Plan and to protect the public's health, safety and welfare.
- B. The rapid and continuing growth within the District necessitates the imposition and collection of impact fees pursuant to law that require development to pay its fair share of the cost of providing public sewer collection and treatment facilities occasioned by the demands and needs of the development projects at established service levels which are necessary to promote and preserve public health, safety and welfare.
- C. The Board of Trustees hereby adopts the Impact Fee Analysis for Service Area 1, dated May 8, 1997, prepared by Leland Myers, P.E., and Impact Fee Analysis for

Service Area 2, dated June 11, 2009 and prepared by Leland Myers, P.E., including the related backup detail which establishes the costs for providing public sewer facilities occasioned by development projects within the District and certain credits allowable against impact fees in the District.

- D. The impact fees established by this Resolution are based upon the costs which are generated through the need for new public sewer collection and treatment facilities and other capital acquisition costs required, incrementally, by new development within the District.
- F. The impact fees established by this Resolution do not exceed the reasonable cost of providing public sewer facilities occasioned by development projects within the District.

3. Service Area Established.

Service Area #1

Service Area #1 shall comprise the entire area of the District with the exclusion of property contained in Service Area #2.

Service Area #2

Service Area #2 is located in West Farmington and is comprised of that area which is more particularly described in Exhibit "1" attached hereto and by this reference made a part hereof. Service Area #2 includes mixed use areas where high density housing is allowed.

The District shall impose such restrictions and requirements on the providing of sewer services by the District outside of its legal boundaries as the Board of Trustees may deem expedient and appropriate on a case by case basis.

4. Impact Fees Levied.

The District's impact fees are hereby adopted as set forth in Exhibit "2" attached hereto and by this reference made a part hereof. The impact fees of the District have been calculated as set forth in the Impact Fee Analysis for Service Area #1 and the Impact Fee Analysis for Service Area #2 of the District. Unless the District is otherwise bound by a contractual requirement, the impact fees shall be determined from the District fee schedule in effect at the time of payment and shall not be determined at the time a request for an estimate is received by the District. The District does not guarantee that any quoted connection fee whether oral or in writing, will be in effect when the developer or prospective customer actually makes the impact fee payment. If a developer or prospective customer desires to receive the rate quoted by the District, payment must be made at that time.

In addition to the impact fees set forth in Exhibit "2" attached hereto, the District will charge all wastewater dischargers service charges and may levy property taxes on property located within the

District. In addition to basic service charges, additional service charges may be levied based upon high strength waste, pump systems, seasonal discharges, excess operation, maintenance and cleaning costs, power consumption and pretreatment equipment operation and other extraordinary maintenance costs in accordance with the District's rules and regulations.

5. Time of Collection.

Unless otherwise provided by the Board of Trustees, sewer connection fees shall be payable prior to the issuance of a building permit.

6. Use of Fees.

The impact fees shall be used solely to:

- A. Pay for the system improvements for sewage collection and/or treatment facilities to be constructed by the District;
- B. For reimbursing the District for the development's share of those capital improvements already constructed by the District;
- C. For reimbursing developers who have constructed system improvements where such facilities were beyond project improvements needed for the developer's project(s).
- D. For debt service incurred for sewer system facilities.

7. Adjustments and Credits.

The District may, upon a proper showing, adjust the impact fee at the time the fee is charged to:

- A. Respond to unusual circumstances in specific cases; and
- B. Ensure that the impact fees are imposed fairly; and
- C. Allow credits pursuant to the Impact Fee Policy of the District; and
- D. Adjust the amount of the fee based upon studies and data submitted by the developer which are approved by the District after review of the same; and
- E. Allow credits as approved by the District for dedication of land for, improvement to, or new construction of, public sewer facilities providing services to the District at large, provided such facilities are identified in the Capital Facilities Plan and are required by the District as a condition of approving the development activity. No credit shall be given for project improvements as defined in the Act.
- F. Any *ex gratia* payments made to the District by a developer in order to induce or entice the District to accelerate construction of future system improvements shall not be eligible for a developer credit.

8. Accounting, Expenditure and Refund.

The District shall account for, expend and refund impact fees in accordance with the provisions of the Act.

9. Impact Fee Challenges and Appeals.

- A. Any person or entity residing in or owning property within a service area, and any organization, association, or corporation representing the interests of persons or entities owning property within a service area, may file a declaratory judgment action challenging the validity of the fee.
- B. Any person or entity required to pay an impact fee imposed by the District who believes the fee does not meet the requirements of law may file a written request for information with the District as provided by law.
- C. Within fourteen (14) days after the receipt of the request for information, the District shall provide the person or entity with the written analysis required by the Act, the Capital Facilities Plan, and with any other relevant information relating to the impact fee.
- D. Within thirty (30) days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall:
 - 1. File a written appeal with the Board of Trustees by delivering a copy of such appeal to the District Manager setting forth in detail all grounds for the appeal and all facts relied upon by the appealing party with respect to the fees appealed. Upon receipt of appeal the Board of Trustees shall thereafter schedule a public hearing on the appeal at which time all interested persons will be given an opportunity to be heard. The Board shall schedule the appeal hearing and thereafter render its decision on the appeal no later than thirty (30) days after the challenge to the impact fee is filed. Any person or entity who has failed to comply with the administrative appeal remedies established by this section may not file or join an action challenging the validity of any impact fee.
 - 2. Within ninety (90) days of a decision upholding an impact fee by the District or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier, any party to the appeal that is adversely affected by the Board of Trustees' decision may petition the Second Judicial District Court in and for Davis County for review of the decision.
 - 3. In the event of a petition to the Second Judicial District Court, the District shall transmit to the reviewing Court the record of its proceedings including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

4. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for purposes of Subsection 3 above.
5. If there is a record:
 - i. The District Court's review is limited to the record provided by the District; and
 - ii. The District Court may not accept or consider any evidence outside the District's record unless that evidence was offered to the District and the Court determines that it was improperly excluded by the District.
6. If there is an inadequate record, the District Court may call witnesses and take evidence.
7. The District Court shall affirm the decision of the District if the decision is supported by substantial evidence in the record.
8. The judge may award reasonable attorneys' fees and costs to the prevailing party in any action brought under this Section.
9. In the alternative, any party to the appeal that is adversely affected by the Board of Trustees' decision may file a written request for arbitration with the District within the time limitations provided in the Act for the applicable type of challenge. If a person or entity files a written request for arbitration, an arbitrator or arbitration panel shall be selected and shall hold a hearing under the provisions of the Act. The person or entity filing the request for arbitration and the District shall equally share all costs of an arbitration proceeding under this sub-section.
10. In addition to the methods of challenging an impact fee provided herein above, a specified public agency may submit a request for mediation under the provisions of the Act at any time but no later than thirty (30) days after the impact fee is paid. Upon receipt of such a mediation request the District shall cooperate with the specified public agency and participate in the mediation process with that specified public agency.

Exhibit 1
Service Area #2

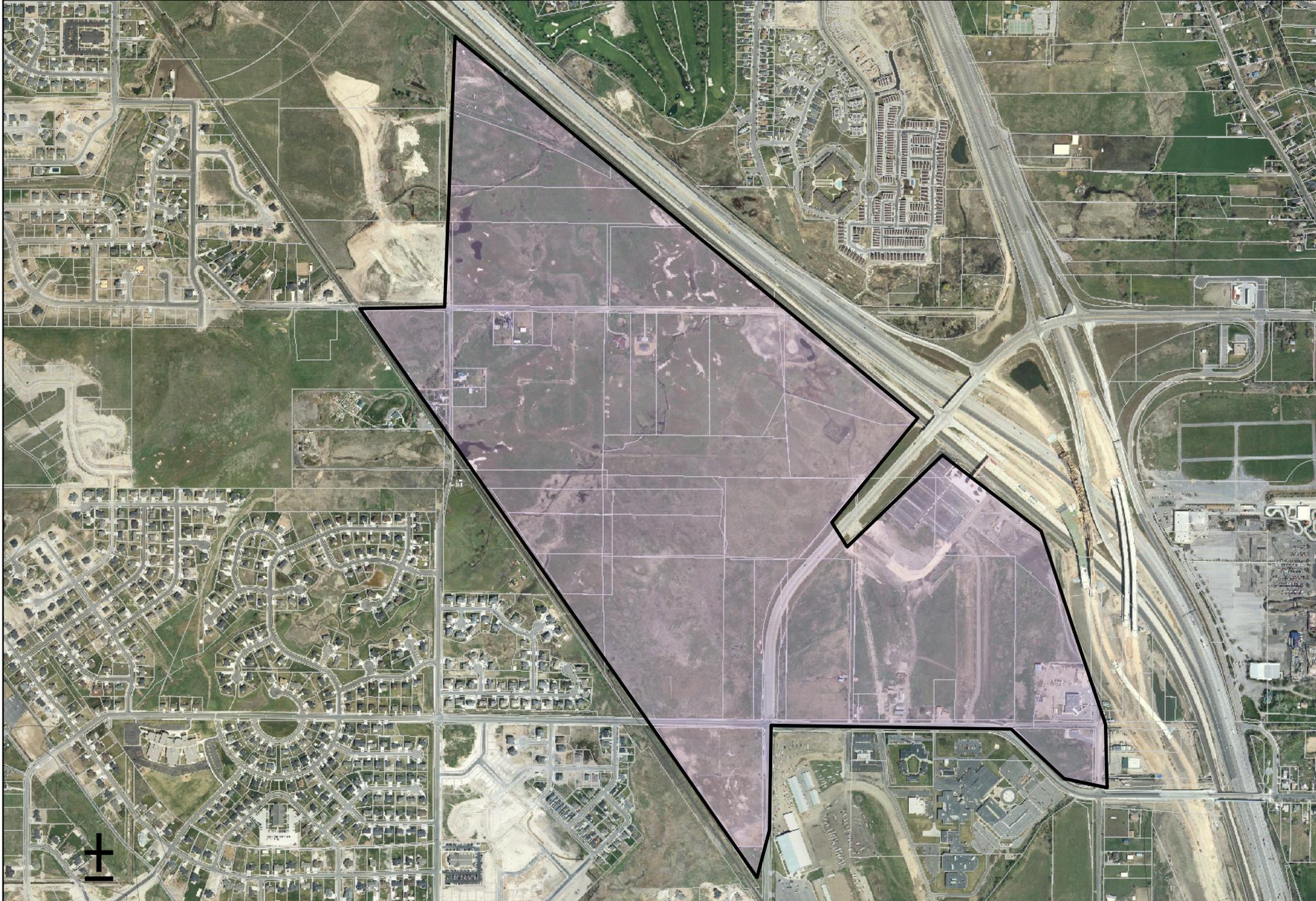


Exhibit 2

Central Davis Sewer District

Impact Fees:

Service Area #1

Residential Connection	\$1,700.00
Equivalent Residential Unit (ERU)	\$1,700.00

Each ERU is defined as 20 fixture units or part thereof as defined in the District's Cost Recovery System.

Service Area #2

Residential Dwelling Unit	\$2,200.00
Equivalent Dwelling Unit (EDU)	\$2,200.00

Each EDU is defined as 15 fixture units or part thereof as defined in the District's Cost Recovery System.

Generally, a residential connection is a stand-alone home on an individual lot or a condominium.

Generally, a residential dwelling unit is an apartment, townhouse, cluster home or other high density dwelling area.