

FAIRFIELD TOWN, UTAH
TRANSPORTATION IMPACT FEE ENACTMENT ORDINANCE
May 10, 2018

ORDINANCE NO. 05-10-2018

AN ORDINANCE OF THE TOWN OF FAIRFIELD ADOPTING AN IMPACT FEE ANALYSIS AND IMPOSING IMPACT FEES, PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES, PROVIDING FOR APPEAL, ACCOUNTING, AND SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS

WHEREAS, The Town of Fairfield (the “**Town**”) is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the Town is authorized pursuant to the Impact Fees Act, Utah Code Ann. § 11-36-101 et seq. to adopt and impose impact fees as a condition of development approval; and

WHEREAS, the Town provided written notice of its intent to prepare an Impact Fee Facilities Plan pursuant to Utah Code Ann. §§ 11-36a-501; and

WHEREAS, the Town has caused an Impact Fee Facilities Plan (the “**Facilities Plan**”) to be prepared by Epic Engineering P.C., a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, Epic Engineering P.C. has certified its work on the Facilities Plan under Utah Code Ann. § 11-36-306(1); and

WHEREAS, the Town provided notice and held a public hearing prior to adopting the Facilities Plan in satisfaction of Utah Code Ann. § 11-36a-502; and

WHEREAS, the Town adopted the Facilities Plan by motion on May 10th, 2018; and

WHEREAS, prior to preparing the Impact Fee Analysis (the “**Impact Fee Analysis**”), the Town provided notice as set forth in Utah Code Ann. § 11-36a-503; and

WHEREAS, the Town has caused an Impact Fee Analysis to be prepared by Epic Engineering P.C., a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference; and

WHEREAS, Epic Engineering P.C. has certified its work on the Impact Fee Analysis under Utah Code Ann. § 11-36-306(2); and

WHEREAS, in accordance with Utah Code Ann. § 11-36a-504(1)(d)(i) and § 17B-1-111(1)(a)(ii), the Town made this Impact Fee Enactment Ordinance (the “**Ordinance**”) available to the public on or before April 29, 2018; and

WHEREAS, in accordance with Utah Code Ann. § 17B-1-111, the Town posted notice of the public hearing with respect to the proposed Ordinance in at least three public places within the Town on or before April 29, 2018; and

WHEREAS, in accordance with Utah Code Ann. § 17B-1-111, the Town published notice of such public hearing in a mailed postcard of general circulation in the Town; and

WHEREAS, in accordance with Utah Code Ann. § 11-36a-504(1)(d)(ii), the Town, having previously made this Ordinance available to the public, posted notice of its intent to adopt this Ordinance; and

WHEREAS, on or before April 29, 2018 a copy of the Impact Fee Analysis and a summary of the impact fee analysis prepared in accordance with Utah Code Ann. §11-36a-303 was available to the public; and

WHEREAS, the Town Council (the “**Council**”) recommended adoption of the Ordinance; and

WHEREAS, after careful consideration and review of the comments at the public hearing, the Council has determined that it is in the best interest of the health, safety, and welfare of the inhabitants of the Town to enact new impact fees.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Fairfield, as follows:

SECTION 1: FINDINGS.

The Council finds and determines as follows:

1.1. All required notices have been given and public hearings conducted as required by the Impact Fee Act with respect to the Facilities Plan, Impact Fee Analysis and this Ordinance.

1.2. Growth and development activities in the Town will create additional demands on its facilities. The capital facility improvement requirements which are analyzed in the Facilities Plan and the Impact Fee Analysis are the direct result of additional facility needs caused by future development activities. The persons responsible for growth and development activities should pay a proportionate share of the costs of the

recreational facilities needed to serve the growth and development activity.

1.3. Impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future, in comparison with the benefits already received and yet to be received.

1.4. In enacting and approving the Impact Fee Analysis and this Ordinance, the Town has taken into consideration, and in certain situations will consider on a case-by-case basis in the future, the future capital facilities and recreational needs of the Town, the capital financial needs of the Town which are the result of the Town's future facilities needs, the distribution of the burden of costs to different properties within the Town based on the use of facilities of the Town by such properties, the financial contribution of those properties and other properties similarly situated in the Town at the time of computation of the required fee and prior to the enactment of this Ordinance, all revenue sources available to the Town, and the impact on future facilities that will be required by growth and new development activities in the Town.

1.5. The provisions of this Ordinance shall be liberally construed in order to carry out the purpose and intent of the Town in establishing a program of impact fees in compliance with the Utah Impact Fees Act

1.6. This Ordinance, upon its effective date, shall replace all impact fees previously enacted by the Town as well as any rules, regulations, procedures or policies relating to such previously-enacted impact fees.

SECTION 2: DEFINITIONS.

2.1. Except as provided below, words and phrases that are defined in the Impact Fees Act shall have the same meaning in this Ordinance.

2.2. "Council" means the Town Council of the Town of Fairfield, Utah.

2.3. "Facilities Plan" means the plan prepared for the Town as required by Utah Code Ann. § 11-36a-301.

2.4. "Impact Fee Analysis" means the analysis prepared for the Town as required by Utah Code Ann. § 11-36a-303.

2.5. "Project Improvements" does not mean system improvements.

2.6. "Request for Information" means a written request submitted to the Town for information regarding the impact fee.

2.7. "Ordinance" means this Impact Fee Enactment Ordinance.

2.8. "Service Area" means all areas within the Town. A map of the Town boundaries is attached hereto as **Exhibit C**.

- 2.9. “Summary” means the summary of the Impact Fee Analysis.

SECTION 3: ADOPTION OF IMPACT FEES.

3.1. Impact Fee Analysis. The Council hereby approves and adopts the Impact Fee Analysis attached as **Exhibit B**.

3.2. Impact Fees. Impact fees are hereby imposed in the Service Area as a condition of any development activity that impacts public facilities in order to mitigate the impact of such development on public facilities. Impact fees shall be paid in cash or by check to the Town at the time of the building permit application to Utah County.

3.3. Impact Fee Schedule. The impact fees imposed are as set forth in the Impact Fee Schedule attached hereto as **Exhibit D** and incorporated herein by reference. Unless the Town is otherwise bound by a contractual requirement or the impact fees have been prepaid according to a prior agreement with the Town, the impact fee shall be determined from the impact fee schedule in effect at the time of payment.

3.4. Adjustments. The Town may adjust the impact fee imposed on a particular project or development at the time the impact fee is charged as necessary:

- (a) to respond to unusual circumstances in specific cases;
- (b) to respond to a request for a prompt and individualized impact fee review for the development activity of an agency of the State of Utah, a school district, or charter school;
- (c) to respond to a request for a prompt and individualized impact fee review for an offset or credit for a public facility for which an impact fee has been or will be collected;
- (d) to ensure that impact fees are imposed fairly; or
- (e) based upon studies and data submitted by a developer.

3.5. Credits and Reimbursements.

- (a) A developer may be allowed a credit against or proportionate reimbursement of impact fees if a developer:
 - (i) dedicates land for a system improvement;
 - (ii) builds and dedicates some or all of a system improvement;
or

- (c) dedicates a public facility that the Town and the developer agree will reduce the need for a system improvement.
- (b) A credit against impact fees shall be granted for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
 - (i) are system improvements, or
 - (ii) are dedicated to the public and offset the need for an identified system improvement.

3.6. Waiver for Public Purpose. The Town may, on a project-by-project basis, authorize exemptions or adjustments to the impact fee in effect for those projects the Town determines to be of such benefit to the community as a whole to justify the exemption or adjustment. Such projects may include low income housing.

3.7. Additional Fees and Costs. The impact fees imposed hereby are separate from and in addition to user fees and other charges lawfully imposed by the Town or by Utah County for new development, such as engineering and inspection fees, building permit fees, review fees, hookup fees, connection fees, fees for project improvements, and other fees and costs that may not be included as itemized component parts of any impact fee.

SECTION 4: IMPACT FEE ACCOUNTING.

4.1. Impact Fee Accounts. The Town shall establish a separate interest-bearing ledger account for each type of public facility for which an impact fee is collected and deposit impact fee receipts in the appropriate ledger account. Interest earned on each such account shall be retained in that account.

4.2. Reporting. At the end of each fiscal year, the Town shall prepare a report on each impact fee ledger account established as required herein generally showing the source and amount of all monies collected, earned, and received by the account and each expenditure from the account. The report shall also identify impact fee funds by the year in which they were received, the project from which the funds were collected, the capital projects for which the funds were budgeted, and the projected schedule for expenditure. The report shall be in a format approved by the State Auditor, certified by the Town's chief financial officer, and transmitted to the State Auditor annually.

4.3. Impact Fee Expenditures. The Town may expend impact fees only for system improvements identified in the Facilities Plan and for the specific public facility type for which the fee was collected.

4.4. Time of Expenditure. Impact fees collected are to be expended, dedicated

or encumbered for a permissible use within six years of receipt by the Town, unless the Board directs otherwise. For purposes of this calculation, first funds received shall be deemed to be the first funds expended.

4.5. Extension of Time. The Town may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing, before the expiration of the six year period, (i) an extraordinary and compelling reason why the fees should be held longer than six years; and (ii) an absolute date by which the fees will be expended.

4.6. Refunds. The Town shall refund any impact fees paid by a developer, plus interest actually earned, when (i) the developer does not proceed with the development activity and has filed a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted.

SECTION 5: APPEAL PROCEDURES.

5.1. Application. The appeal procedures set forth herein apply both to challenges to the legality of impact fees of the Town and to the interpretation and/or application of those fees.

5.2. Request for Information Concerning the Fee. Any person or entity required to pay or who has paid an impact fee under this Ordinance may file a written request for information concerning the fee (the “**Request for Information**”) with the Town. The Town will provide the person or entity with the Town's Impact Fee Analysis and other relevant information relating to the impact fee within fourteen (14) days after receipt of the written Request for Information.

5.3. Appeal to the Town after Payment of the Impact Fee; Statute of Limitations for Failure to File.

- (a) Any person or entity that has paid an impact fee under this Ordinance and wishes to challenge the impact fee shall file a notice of appeal with the Town that contains
 - (i) the appellant's name, mailing address and daytime phone number;
 - (ii) a copy of the written Request for Information and a brief summary of the grounds for appeal; and
 - (iii) the relief sought.
- (b) The notice of appeal shall be filed as provided below:

- (i) if the appellant is challenging compliance with the notice requirements of Title 11, Chapter 36 of the Utah Code Annotated (the Impact Fee Act) with respect to the imposition of the impact fee, the notice of appeal must be filed within thirty (30) days after payment of the impact fee;
- (ii) if the appellant is challenging compliance with other, non-notice, procedural requirements of Title 11, Chapter 36 of the Utah Code Annotated (the Impact Fee Act) with respect to the imposition of the impact fee, the notice of appeal must be filed within one hundred and eighty (180) days after payment of the impact fee; and
- (iii) if the appellant is challenging the impact fee, the notice of appeal must be filed within one year after payment of the impact fee.

5.4. Appeals to the Town. Any developer, landowner or affected party desiring to challenge the legality of any impact fee under this Ordinance shall appeal directly to the Town by filing a notice of appeal with the Town either prior to payment of the impact fee but within thirty (30) days of the decision or action to which the appeal relates or after payment of the impact fee and within the applicable time period set forth in Section 5.3 herein. If a notice of appeal is not filed with the Town within the applicable time period set forth above, the person or entity is barred from proceeding with an administrative appeal to the Town.

5.6. Hearing. An informal hearing will be held not sooner than five (5) days nor more than twenty-five (25) days after the written notice of appeal is filed. The Board shall sit as the hearing officer.

5.7. Decision. After the conclusion of the informal hearing, the hearing officer shall affirm, reverse, or take action with respect to the challenge or appeal as appropriate. The decision of the hearing officer will be issued within thirty (30) days after the date the written notice of appeal was filed. In light of the statutorily mandated time restriction, the Town shall not be required to provide more than three (3) working days' prior notice of the time, date, and location of the informal hearing and the inconvenience of the hearing to the challenging party shall not serve as a basis of appeal of the Town's final determination.

5.8. Denial Due to Passage of Time. Should the Town, for any reason, fail to issue a final decision on a written challenge to an impact fee, its calculation or application, within thirty (30) days after the filing of the notice of appeal, the challenge shall be deemed to have been denied and any affected party to the proceedings may seek appropriate judicial relief from such denial.

5.9. Judicial Review. Any party to the administrative action who is adversely affected by the Town's final decision may petition the district court for a review of the decision within thirty (30) days of the hearing officer's final decision. After having been served with a copy of the pleadings initiating the court review, the Town shall submit to the court the record of the proceedings before the Town, including minutes, and if available, a true and correct transcript of any proceedings.

SECTION 6: SEVERABILITY.

If any section, subsection, paragraph, clause, or phrase of this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are declared to be severable. In the event any section, subsection, paragraph, clause, or phrase of this Ordinance conflicts with the Utah Impact Fees Act, the relevant provision of the Utah Impact Fees Act shall control.

SECTION 7: EXHIBITS.

All exhibits to this Ordinance are hereby incorporated herein by reference and are made a part hereof as though fully set forth herein.

SECTION 8: EFFECTIVENESS.

This Ordinance shall become effective ninety (90) days after the adoption hereof.

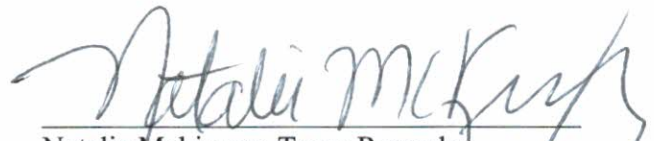
(Note) The Transportation Impact Fee Enactment Ordinance was **APPROVED AND ADOPTED JUNE 9, 2016**. Due to the document not being signed and dated the ordinance was subject to the re-approval process.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Fairfield, Utah, as **APPROVED AND ADOPTED** this 10th day of May, 2018.

FAIRFIELD TOWN COUNCIL
TOWN OF FAIRFIELD, UTAH


Brad Gurney, Mayor

ATTEST:


Natalie McKinney, Town Recorder

(SEAL)



Town of Fairfield

Transportation Impact Fee Enactment

ENACTMENT

Approved June 9, 2016

Effective Date:
September 7th, 2016

Geoffrey Ryan Taylor, P.E.
Project Engineer

EPIC ENGINEERING, P.C.
50 East 100 South
Heber, Utah 84032



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Town of Fairfield

TRANSPORTATION IMPACT FEE ENACTMENT

Executive Summary

This Transportation System Impact Fee Enactment is intended to provide detailed information on the existing roadway conditions in the Town of Fairfield and provide recommendations to accommodate the continued use of the roads as well as plan for future growth. Overall the roadways throughout the center of Town are in generally good condition, as you travel outside of the Town center the roads are in fair to poor condition. The most frequently noted problems can generally be corrected by adopting an operations and maintenance schedule along with some one time repairs.

Restoration of the existing roadway network to safe conditions will require a number of one time repairs. The estimated total for these onetime repairs is **\$3,905,300**. With the adoption of the Impact Fee the Total Impact Fee for a new residential equivalent will be **\$20,235.00**.

Introduction

Fairfield (Town) is located in the southwest corner of Cedar Valley at the western side of Utah County, approximately 50 miles southwest of Salt Lake City. The Town was incorporated in 2004. The Town currently occupies approximately 26.7 sq. miles and the population is estimated at 123.

Within the Town boundary there is approximately 1.34 miles of roadway that varies from two-lane paved roads to narrow unpaved roads of varying age and condition. The major roadways through the town, classified as minor collectors, consist of 1540 North, 1600 North, 1680 North, 18040 West, 17970 West, 17900 West and 17800 West. Some of the roadways appear to be recently paved while others have not been maintained for some time and require immediate repair.

Impact Fee Definition

The Town of Fairfield transportation impact fees are to be established in a manner consistent with Utah statutory guidelines and are to reflect the Towns Roadway Impact Fee Facility Plan. An impact fee within the State of Utah is defined as: “A payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public facilities.”

The Utah State Legislature established Senate Bill 4, effective 1 July 1995 concerning the methodology to be used in constructing impact fees. Since that time, the Impact Fees Act has been updated and is now embodied in Title 11, Chapter 36 of the Utah Code. The impact fee Act solidified local government’s authority to impose impact fees in their jurisdictions by regulating those fees within their individual boundaries. However, it also mandates procedural requirements for local governments to follow when establishing and collecting an impact fee. The latest changes were approved during the 2014 Legislative Session.

Basis of Transportation Impact Fee

The purpose of an impact fee is to equitably apportion the cost of constructing capital facilities required by new development, so that existing customers (residences) are not caused to subsidize the construction of the new infrastructure. The methodology is also intended to avoid overcharging new development, a situation which would result if there was a subsidy of existing customers.

This one-time charge is imposed on new development as a condition of service. The fee may also only be applied within the system for which it is collected (e.g. Culinary water impact fees cannot fund storm drain or street improvement projects). Not only can the fee fund new improvements to a system, but it can also be charged to recover costs incurred by that system. This is consistent with the statute in that new development benefits from already-existing

capacity paid for by existing customers. The impact fee calculation must consider several factors:

1. The expected future demand on the system and the requirements that the Town's facilities, existing and planned, must meet;
2. The value of the Town's existing facilities from which new development benefits;
3. The cost of improving those facilities to increase capacity for development whose demand will exceed the limits of existing facilities; and
4. Any contributions that existing customers and new development have already paid toward the construction and/or improvement of existing and planned facilities.

This analysis has taken into account the statutory guidelines for developing a funding mechanism that supports the Town's growth. The study results in an equitable impact fee on future development that will create an added demand on the existing facilities and that will require the Town to expand facilities in order to meet its future need.

Given the narrow nature of this study and uncertainty of future growth, several assumptions are necessarily made to determine appropriate impact fees:

1. Impact Fees are assessed to new connections assuming that each connection has the same impact on the Town's roadways.
2. In 2011, Mountainland Association of Governments (MAG) in conjunction with Fairfield Town developed a general plan that predicted a population growth rate of 4%. Actual population numbers from 2005, 2010 and 2015 show growth rates of 2.5% and 1% respectively. To ensure that the town will be prepared, a moderate growth rate of 4% was used for all future population projections.
3. The study period is fifty years with recommended projects being constructed over the same fifty year period.
4. Interest earned on collected impact fees will be accumulated and applied toward future impact fee facilities improvements. The interest earned will likely be offset by the interest paid for loans incurred so that impact fee facilities improvements can be constructed on the proposed timeline.

Summary of Impact Fee Process

- Town staff determined the need to update impact fees for the Transportation System to ensure funding for the upcoming system improvements.
- Town staff and consultant completed the Transportation Impact Fee Facilities Plan Update, including the following:
 - Determined magnitude and location of future growth.
 - Determined problem areas, repairs required and associated costs.
 - Calculated the appropriate fee for an equivalent residential connection.

- Generate written analysis.
- Evaluate impact fee verses Utah State Law.
- Generate Impact Fee Enactment and Summary.
- Town holds a public meeting for public comment on the Impact Fee Facilities Improvement Plan.
- Town holds a public meeting for public comment on the proposed Impact Fee Revision.
- Impact Fee revision is enacted.

Background

Fairfield is located at the base of the southeastern side of the Oquirrh Mountain Range in the Cedar Valley in Utah County. Within the Town boundary the topography slopes from the west to the east. The elevation high point of approximately 5,400 feet is in the northwest corner. The Town is at approximately 4,879 feet and the low point of approximately 4,830 feet is in the southeast area of the Town boundary. A map of the area is shown in Figure 1.

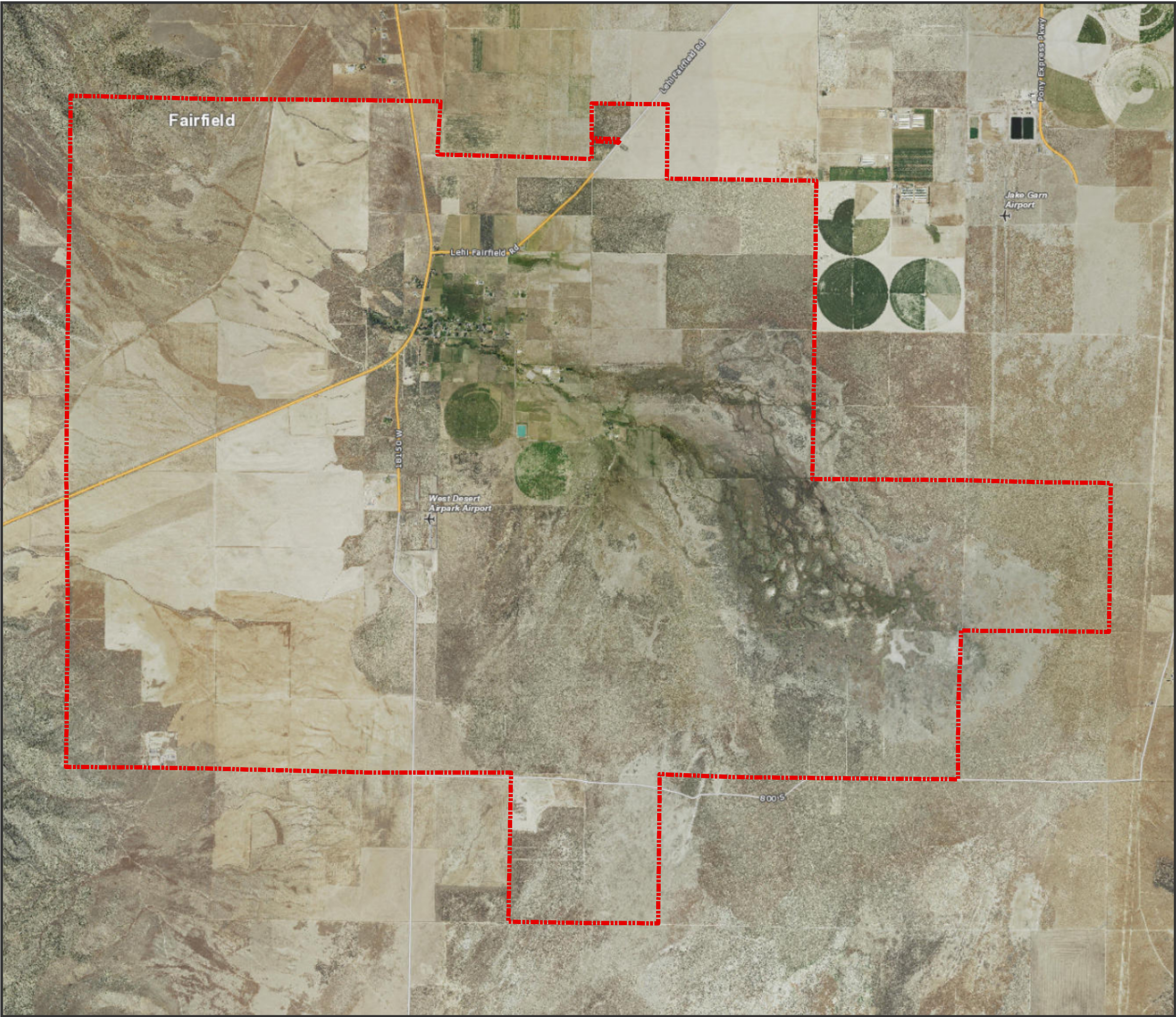
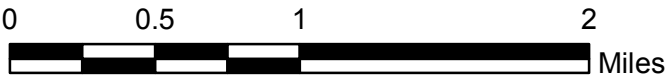


FIGURE 1
SITE MAP
FAIRFIELD, UTAH

APRIL 2016

 Fairfield Boundary



1"=80,000'

Population and Growth Projections

In total, the Town population is estimated to be at 123 residents. In 2011 Mountainland Association of Governments (MAG) in conjunction with Fairfield Town developed a general plan that predicted a growth rate of 4%. Actual population numbers from 2005, 2010 and 2015 show growth rates of 2.5% and 1% respectively. To ensure that the Town will be prepared, a moderate growth rate of 4% was used for all future population projections.

The growth within the Town boundaries is likely to increase by 2-4% each year after 2020. The projected population of the Town in the year 2065 is 733.

$$\text{Number of Future Connections} = 193$$

Existing Transportation System

The existing roadway system in town consists of roughly 1.34 miles of roadway that varies from two-lane paved roads to narrow unpaved roads of varying age and condition. 1540 North, 1600 North, 1680 North serve as the major east to west corridors with 18040 West, 17970 West, 17900 West and 17800 West serving as the major north to south corridors. 1680 North and 1540 North both connect to Utah State Route 73 (Cedar Valley Road) which is the main access to the Town. A map of the existing roadway system is shown in Figure 2.

In the spring of 2016, Epic Engineering surveyed all of the major roadways throughout the Town and noted the condition of each stretch of roadway. Overall, the existing asphalt surfaces within the Town center are generally in good condition. The roads within the Town Center consisting of 1540 N, 1600 N, 18040 W, 17970 W, 17900 W and 17800 W are in good condition but will require widening as the Town grows. The majority of the roadways outside of the Town center will require pavement reconstruction or grading and new pavement.

Road Signage




The Town does not currently have adequate signage for the existing roadways. To increase the safety of the roads and the level of service it is recommended that new signage be added to all intersections and existing roads as needed. **It is recommended that the Town install signage as needed for all existing and new roadway projects.**

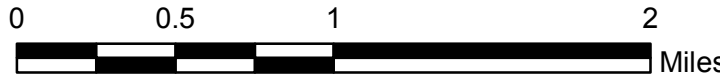
Roadways

The Town should implement several of the widening projects planned to accommodate the added traffic and maintain adequate level of service. **It is recommended that the Town construct the planned roadway projects.**

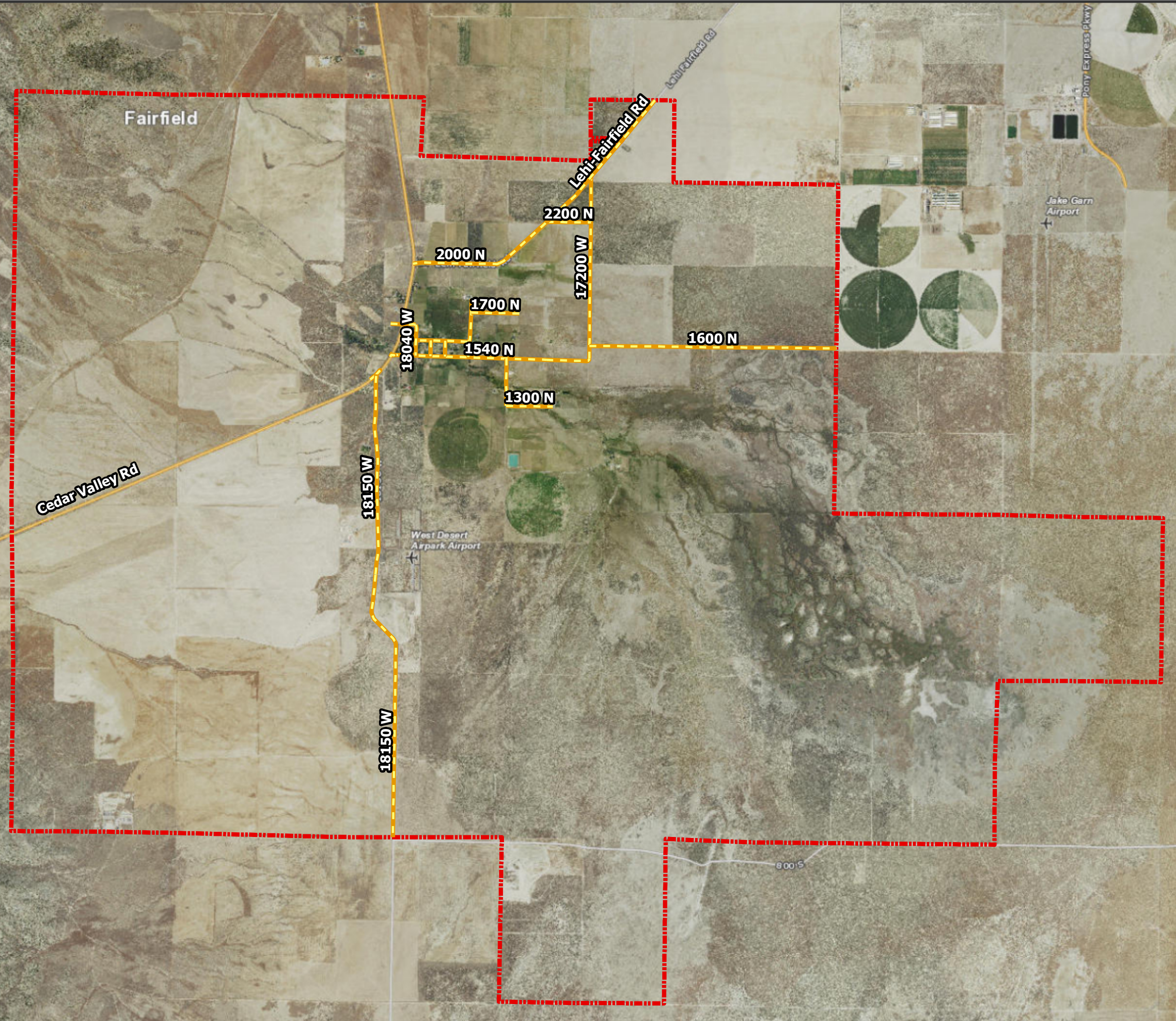
FIGURE 2
EXISTING ROADWAY MAP
FAIRFIELD, UTAH

APRIL 2016

-  Fairfield Boundary
-  Local Roadway
-  State Roadway



1"=80,000'



Improvement Costs Summary

Implementation of a regular maintenance plan is only effective if the condition of the existing roadway is acceptable. Many of the identified problems are a result of roadway deterioration that is too great to be corrected with simple maintenance procedures or is necessary for growth. Following is a list of the one-time construction projects recommended to restore the roadways to their intended level of service. Once completed, it will be necessary to ensure regular maintenance is performed on these roadways. The estimated one-time improvement costs are shown below.

TOTAL	\$3,905,300.00
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The improvement projects are projected to be completed by the year 2065. The collection of Impact Fees that will pay for these projects will be collected during the study period. Therefore, sufficient funds may not be available at the proposed construction date and the Town may need to issue a bond(s) or use other funding options to pay for the improvement projects and use the impact fee funds to service the debt as the funds are collected.

Impact Fee

Collected Fees

The Town does not currently collect Impact Fee's

Impact Fee Fund Balance

The Town does not have an existing balance

Impact Fee Calculation

The Impact Fee should be in a form that is flexible enough to be applied to several types of connections such as residential connections, apartments, parks or commercial property. The common quantity for all connections is the Residential Equivalent (RE). Accordingly, impact fees for the Town's Transportation System are based on residential equivalents.

Impact Fee Calculation(s)

The Impact Fee should be in a form that is flexible enough to be applied to several types of connections such as residential connections, apartments, Parks or commercial property. Because the Town of Fairfield is relatively small and consists mostly of single family residential connections this impact fee will be applied to all connections equally.

The general Impact Fee is calculated as follows:

$$\text{Impact Fee per RE} = \frac{\text{Cost of new capital facility improvements} - \text{Collected Fees}}{\text{Number of future RE connections}}$$

The numerator in this formula is the cost of Capital Improvements minus the amount of unassigned collected Impact Fees remaining in Town's accounts at the time of this analysis. At the present time the Town does not and has not collected impact fees so the "collected fees" portion of the calculation will be zero. The denominator is the number of future residential connections projected through buildout.

The value of the proposed capital facilities is \$3,905,300 and the current available Impact Fee balance is \$0.00. The number of new residential equivalents connecting through build-out is 193. Therefore, the calculated Service Area Impact Fee is

$$\text{Impact Fee per RE} = \frac{\$3,905,300 - \$0.00}{193} = \$20,234.72$$

The Transportation Impact Fee for all future residential connections is \$20,234.72 which will be rounded to **\$20,235.00** for ease of record keeping.

Transportation Impact Fee = \$20,235.00

Administration of Charges

The impact fees, when imposed, should be separately accounted from other Town revenues and impact fees, and restricted to Transportation capital improvement purposes. This should be performed in a manner which provides a clear audit trail, which can demonstrate that they were used only for capital purposes within the system for which they were collected.

Whenever a developer constructs system facilities which are included in the capital improvement project list, The Town of Fairfield should compensate that developer in one of two ways:

1. Through payment toward the portions of the project (such as oversizing) which provides general Town benefit and are included in the impact fee basis; or
2. Through issuance of impact fee credits for those project costs, which the developer(s) may use toward their impact fees. Such credits should have a finite life (e.g. five to ten years), be non-transferable, and be limited to the specific system for which issued (e.g. culinary water versus sanitary sewer).

The Town's compensation to the developer should be limited to the lesser of the developer's actual costs for the Town's share of the project, or the Town Engineer's cost estimate.

Review of Impact Fee Verses Utah State Code Requirements

As part of the Impact Fee Written Analysis a comparison of the impact fee with the Utah State Code was performed to show compliance with the ordinance.

Challenging Impact Fees

Any person or entity residing in or owning property within The Town of Fairfield service area may in accordance with the Utah Code file a challenge or declaratory judgment action challenging the validity of the Impact Fee. Such individuals or agencies desiring to do so shall follow the procedures outlined in the Utah Code.

Adjustment of Impact Fees

In accordance with Utah State Code Title 11, Chapter 36a, Section 11-36a-402, the Town has the right to adjust the standard impact fee at the time the fee is charged to respond to unusual circumstances in specific cases; or a request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and ensure that the impact fees are imposed fairly.

Special Project Impact Fee

As the Town develops from time to time a development unanticipated by the Town may require capital improvements in addition to those identified in the Impact Fee Facility Plan that may be needed exclusively for that development. In such cases, the Town will follow a process similar to this Impact Fee study to establish a Special Project Impact Fee for that development. Such Special Project Impact Fees will be assessed in addition to the System Impact Fee.

FAIRFIELD TOWN, UTAH
TRANSPORTATION IMPACT FEE ENACTMENT ORDINANCE
June 9, 2016

ORDINANCE NO. 2016-60916-2

AN ORDINANCE OF THE TOWN OF FAIRFIELD ADOPTING AN IMPACT FEE ANALYSIS AND IMPOSING IMPACT FEES, PROVIDING FOR THE CALCULATION AND COLLECTION OF SUCH FEES, PROVIDING FOR APPEAL, ACCOUNTING, AND SEVERABILITY OF THE SAME, AND OTHER RELATED MATTERS

WHEREAS, The Town of Fairfield (the “**Town**”) is a political subdivision of the State of Utah, authorized and organized under the provisions of Utah law; and

WHEREAS, the Town is authorized pursuant to the Impact Fees Act, Utah Code Ann. § 11-36-101 et seq. to adopt and impose impact fees as a condition of development approval; and

WHEREAS, the Town provided written notice of its intent to prepare an Impact Fee Facilities Plan pursuant to Utah Code Ann. §§ 11-36a-501; and

WHEREAS, the Town has caused an Impact Fee Facilities Plan (the “**Facilities Plan**”) to be prepared by Epic Engineering P.C., a copy of which is attached hereto as **Exhibit A** and incorporated herein by reference; and

WHEREAS, Epic Engineering P.C. has certified its work on the Facilities Plan under Utah Code Ann. § 11-36-306(1); and

WHEREAS, the Town provided notice and held a public hearing prior to adopting the Facilities Plan in satisfaction of Utah Code Ann. § 11-36a-502; and

WHEREAS, the Town adopted the Facilities Plan by motion on June 9th, 2016; and

WHEREAS, prior to preparing the Impact Fee Analysis (the “**Impact Fee Analysis**”), the Town provided notice as set forth in Utah Code Ann. § 11-36a-503; and

WHEREAS, the Town has caused an Impact Fee Analysis to be prepared by Epic Engineering P.C., a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference; and

WHEREAS, Epic Engineering P.C. has certified its work on the Impact Fee Analysis under Utah Code Ann. § 11-36-306(2); and

WHEREAS, in accordance with Utah Code Ann. § 11-36a-504(1)(d)(i) and § 17B-1-111(1)(a)(ii), the Town made this Impact Fee Enactment Ordinance (the “**Ordinance**”) available to the public on or before May 27, 2016; and

WHEREAS, in accordance with Utah Code Ann. § 17B-1-111, the Town posted notice of the public hearing with respect to the proposed Ordinance in at least three public places within the Town on or before May 27, 2016; and

WHEREAS, in accordance with Utah Code Ann. § 17B-1-111, the Town published notice of such public hearing in a newspaper of general circulation in the Town; and

WHEREAS, in accordance with Utah Code Ann. § 11-36a-504(1)(d)(ii), the Town, having previously made this Ordinance available to the public, posted notice of its intent to adopt this Ordinance; and

WHEREAS, on or before May 27, 2015 a copy of the Impact Fee Analysis and a summary of the impact fee analysis prepared in accordance with Utah Code Ann. §11-36a-303 was available to the public; and

WHEREAS, the Town Council (the “**Council**”) recommended adoption of the Ordinance; and

WHEREAS, after careful consideration and review of the comments at the public hearing, the Council has determined that it is in the best interest of the health, safety, and welfare of the inhabitants of the Town to enact new impact fees.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Fairfield, as follows:

SECTION 1: FINDINGS.

The Council finds and determines as follows:

1.1. All required notices have been given and public hearings conducted as required by the Impact Fee Act with respect to the Facilities Plan, Impact Fee Analysis and this Ordinance.

1.2. Growth and development activities in the Town will create additional demands on its facilities. The capital facility improvement requirements which are analyzed in the Facilities Plan and the Impact Fee Analysis are the direct result of additional facility needs caused by future development activities. The persons responsible for growth and development activities should pay a proportionate share of the costs of the recreational facilities needed to serve the growth and development activity.

1.3. Impact fees are necessary to achieve an equitable allocation of the costs borne in the past and to be borne in the future, in comparison with the benefits already received and yet to be received.

1.4. In enacting and approving the Impact Fee Analysis and this Ordinance, the Town has taken into consideration, and in certain situations will consider on a case-by-case basis in the future, the future capital facilities and recreational needs of the Town, the capital financial needs of the Town which are the result of the Town's future facilities needs, the distribution of the burden of costs to different properties within the Town based on the use of facilities of the Town by such properties, the financial contribution of those properties and other properties similarly situated in the Town at the time of computation of the required fee and prior to the enactment of this Ordinance, all revenue sources available to the Town, and the impact on future facilities that will be required by growth and new development activities in the Town.

1.5. The provisions of this Ordinance shall be liberally construed in order to carry out the purpose and intent of the Town in establishing a program of impact fees in compliance with the Utah Impact Fees Act

1.6. This Ordinance, upon its effective date, shall replace all impact fees previously enacted by the Town as well as any rules, regulations, procedures or policies relating to such previously-enacted impact fees.

SECTION 2: DEFINITIONS.

2.1. Except as provided below, words and phrases that are defined in the Impact Fees Act shall have the same meaning in this Ordinance.

2.2. "Council" means the Town Council of the Town of Fairfield, Utah.

2.3. "Facilities Plan" means the plan prepared for the Town as required by Utah Code Ann. § 11-36a-301.

2.4. "Impact Fee Analysis" means the analysis prepared for the Town as required by Utah Code Ann. § 11-36a-303.

2.5. "Project Improvements" does not mean system improvements.

2.6. "Request for Information" means a written request submitted to the Town for information regarding the impact fee.

2.7. "Ordinance" means this Impact Fee Enactment Ordinance.

2.8. "Service Area" means all areas within the Town. A map of the Town boundaries is attached hereto as **Exhibit C**.

2.9. "Summary" means the summary of the Impact Fee Analysis.

SECTION 3: ADOPTION OF IMPACT FEES.

3.1. Impact Fee Analysis. The Council hereby approves and adopts the Impact Fee Analysis attached as **Exhibit B**.

3.2. Impact Fees. Impact fees are hereby imposed in the Service Area as a condition of any development activity that impacts public facilities in order to mitigate the impact of such development on public facilities. Impact fees shall be paid in cash or by check to the Town at the time of the building permit application to Utah County.

3.3. Impact Fee Schedule. The impact fees imposed are as set forth in the Impact Fee Schedule attached hereto as **Exhibit D** and incorporated herein by reference. Unless the Town is otherwise bound by a contractual requirement or the impact fees have been prepaid according to a prior agreement with the Town, the impact fee shall be determined from the impact fee schedule in effect at the time of payment.

3.4. Adjustments. The Town may adjust the impact fee imposed on a particular project or development at the time the impact fee is charged as necessary:

- (a) to respond to unusual circumstances in specific cases;
- (b) to respond to a request for a prompt and individualized impact fee review for the development activity of an agency of the State of Utah, a school district, or charter school;
- (c) to respond to a request for a prompt and individualized impact fee review for an offset or credit for a public facility for which an impact fee has been or will be collected;
- (d) to ensure that impact fees are imposed fairly; or
- (e) based upon studies and data submitted by a developer.

3.5. Credits and Reimbursements.

- (a) A developer may be allowed a credit against or proportionate reimbursement of impact fees if a developer:
 - (i) dedicates land for a system improvement;

- (ii) builds and dedicates some or all of a system improvement; or
 - (c) dedicates a public facility that the Town and the developer agree will reduce the need for a system improvement.
- (b) A credit against impact fees shall be granted for any dedication of land for, improvement to, or new construction of, any system improvements provided by the developer if the facilities:
 - (i) are system improvements, or
 - (ii) are dedicated to the public and offset the need for an identified system improvement.

3.6. Waiver for Public Purpose. The Town may, on a project-by-project basis, authorize exemptions or adjustments to the impact fee in effect for those projects the Town determines to be of such benefit to the community as a whole to justify the exemption or adjustment. Such projects may include low income housing.

3.7. Additional Fees and Costs. The impact fees imposed hereby are separate from and in addition to user fees and other charges lawfully imposed by the Town or by Utah County for new development, such as engineering and inspection fees, building permit fees, review fees, hookup fees, connection fees, fees for project improvements, and other fees and costs that may not be included as itemized component parts of any impact fee.

SECTION 4: IMPACT FEE ACCOUNTING.

4.1. Impact Fee Accounts. The Town shall establish a separate interest-bearing ledger account for each type of public facility for which an impact fee is collected and deposit impact fee receipts in the appropriate ledger account. Interest earned on each such account shall be retained in that account.

4.2. Reporting. At the end of each fiscal year, the Town shall prepare a report on each impact fee ledger account established as required herein generally showing the source and amount of all monies collected, earned, and received by the account and each expenditure from the account. The report shall also identify impact fee funds by the year in which they were received, the project from which the funds were collected, the capital projects for which the funds were budgeted, and the projected schedule for expenditure. The report shall be in a format approved by the State Auditor, certified by the Town's chief financial officer, and transmitted to the State Auditor annually.

4.3. Impact Fee Expenditures. The Town may expend impact fees only for system improvements identified in the Facilities Plan and for the specific public facility type for which the fee was collected.

4.4. Time of Expenditure. Impact fees collected are to be expended, dedicated or encumbered for a permissible use within six years of receipt by the Town, unless the Board directs otherwise. For purposes of this calculation, first funds received shall be deemed to be the first funds expended.

4.5. Extension of Time. The Town may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing, before the expiration of the six year period, (i) an extraordinary and compelling reason why the fees should be held longer than six years; and (ii) an absolute date by which the fees will be expended.

4.6. Refunds. The Town shall refund any impact fees paid by a developer, plus interest actually earned, when (i) the developer does not proceed with the development activity and has filed a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted.

SECTION 5: APPEAL PROCEDURES.

5.1. Application. The appeal procedures set forth herein apply both to challenges to the legality of impact fees of the Town and to the interpretation and/or application of those fees.

5.2. Request for Information Concerning the Fee. Any person or entity required to pay or who has paid an impact fee under this Ordinance may file a written request for information concerning the fee (the “**Request for Information**”) with the Town. The Town will provide the person or entity with the Town's Impact Fee Analysis and other relevant information relating to the impact fee within fourteen (14) days after receipt of the written Request for Information.

5.3. Appeal to the Town after Payment of the Impact Fee; Statute of Limitations for Failure to File.

- (a) Any person or entity that has paid an impact fee under this Ordinance and wishes to challenge the impact fee shall file a notice of appeal with the Town that contains
 - (i) the appellant's name, mailing address and daytime phone number;

- (ii) a copy of the written Request for Information and a brief summary of the grounds for appeal; and
 - (iii) the relief sought.
- (b) The notice of appeal shall be filed as provided below:
 - (i) if the appellant is challenging compliance with the notice requirements of Title 11, Chapter 36 of the Utah Code Annotated (the Impact Fee Act) with respect to the imposition of the impact fee, the notice of appeal must be filed within thirty (30) days after payment of the impact fee;
 - (ii) if the appellant is challenging compliance with other, non-notice, procedural requirements of Title 11, Chapter 36 of the Utah Code Annotated (the Impact Fee Act) with respect to the imposition of the impact fee, the notice of appeal must be filed within one hundred and eighty (180) days after payment of the impact fee; and
 - (iii) if the appellant is challenging the impact fee, the notice of appeal must be filed within one year after payment of the impact fee.

5.4. Appeals to the Town. Any developer, landowner or affected party desiring to challenge the legality of any impact fee under this Ordinance shall appeal directly to the Town by filing a notice of appeal with the Town either prior to payment of the impact fee but within thirty (30) days of the decision or action to which the appeal relates or after payment of the impact fee and within the applicable time period set forth in Section 5.3 herein. If a notice of appeal is not filed with the Town within the applicable time period set forth above, the person or entity is barred from proceeding with an administrative appeal to the Town.

5.6. Hearing. An informal hearing will be held not sooner than five (5) days nor more than twenty-five (25) days after the written notice of appeal is filed. The Board shall sit as the hearing officer.

5.7. Decision. After the conclusion of the informal hearing, the hearing officer shall affirm, reverse, or take action with respect to the challenge or appeal as appropriate. The decision of the hearing officer will be issued within thirty (30) days after the date the written notice of appeal was filed. In light of the statutorily mandated time restriction, the Town shall not be required to provide more than three (3) working days' prior notice of the time, date, and location of the informal hearing and the inconvenience of the hearing to the challenging party shall not serve as a basis of appeal of the Town's final determination.

5.8. Denial Due to Passage of Time. Should the Town, for any reason, fail to issue a final decision on a written challenge to an impact fee, its calculation or application, within thirty (30) days after the filing of the notice of appeal, the challenge shall be deemed to have been denied and any affected party to the proceedings may seek appropriate judicial relief from such denial.

5.9. Judicial Review. Any party to the administrative action who is adversely affected by the Town's final decision may petition the district court for a review of the decision within thirty (30) days of the hearing officer's final decision. After having been served with a copy of the pleadings initiating the court review, the Town shall submit to the court the record of the proceedings before the Town, including minutes, and if available, a true and correct transcript of any proceedings.

SECTION 6: SEVERABILITY.

If any section, subsection, paragraph, clause, or phrase of this Ordinance shall be declared invalid for any reason, such decision shall not affect the remaining provisions of this Ordinance, which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are declared to be severable. In the event any section, subsection, paragraph, clause, or phrase of this Ordinance conflicts with the Utah Impact Fees Act, the relevant provision of the Utah Impact Fees Act shall control.

SECTION 7: EXHIBITS.

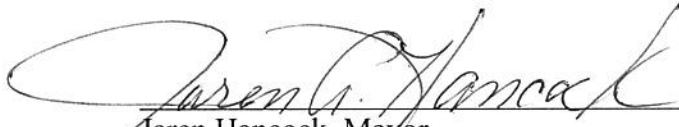
All exhibits to this Ordinance are hereby incorporated herein by reference and are made a part hereof as though fully set forth herein.

SECTION 8: EFFECTIVENESS.

This Ordinance shall become effective ninety (90) days after the adoption hereof.

NOW, THEREFORE, be it resolved by the Town Council of the Town of Fairfield, Utah, as **APPROVED AND ADOPTED** this 9th day of June, 2016.

FAIRFIELD TOWN COUNCIL
TOWN OF FAIRFIELD, UTAH


Jaren Hancock, Mayor

ATTEST:


Town Clerk

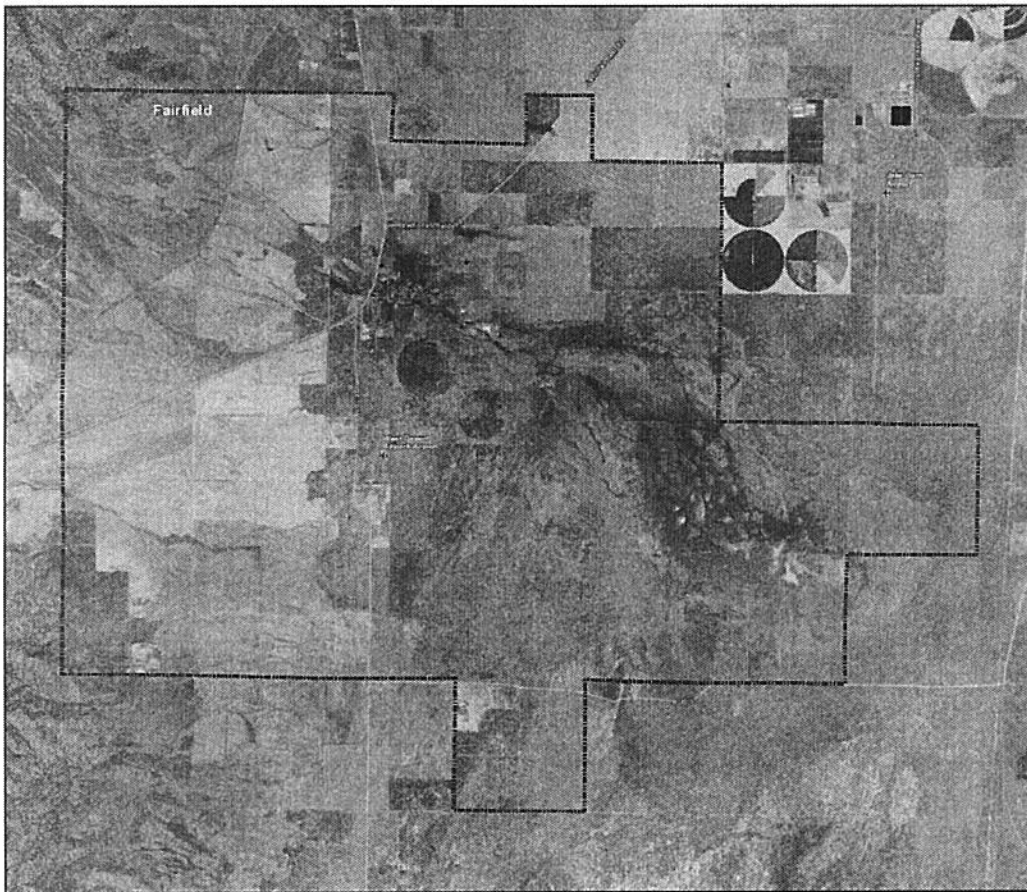
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Exhibit A: Impact Fee Facilities Plan

Exhibit B: Impact Fee Analysis

Exhibit C: Town Map



SOURCE: UTAH AGRC SERVICES

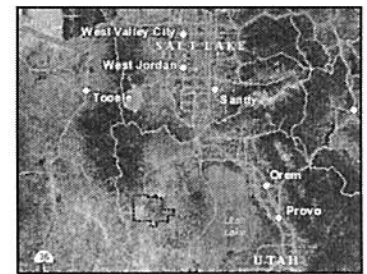
**FIGURE 1
SITE MAP
FAIRFIELD, UTAH**

APRIL 2016

 Fairfield Boundary



 Miles



1"=50,000'



Exhibit D: Impact Fee Schedule

Transportation Impact Fee = \$5,290.00