

NO FORMAL ACTIONS ARE TAKEN IN A WORK SESSION

5:30 P.M. - WORK MEETING - MULTI-PURPOSE ROOM

CALL TO ORDER

COUNCIL BUSINESS

1. Calendar
 - Apr 17-19 ULCT Mid-Year Conference - St. George
 - Apr 26 - Arbor Day
 - Apr 27 - 100th Annual Spring Salon Opens, 7:00 p.m. - 9:30 p.m. Springville Museum of Art
 - May 07 - Works Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.
2. **REVIEW OF THE 7:00 P.M. REGULAR MEETING AGENDA ITEMS**
 - a) Invocation - Councilmember Wright
 - b) Pledge of Allegiance - Councilmember Smith
 - c) Consent Agenda
 4. Approval of the minutes for the March 12, 2024 work meeting
 5. Approval of the Mayor's reappointment of Amy Root, Michael Johnson, and Amanda McClellan to the Library Board.
3. **WORK MEETING DISCUSSIONS/PRESENTATIONS**
 - a) Discussion of a UAMPS prepaid energy agreement - Jason Miller, Power Director

MAYOR, COUNCIL, AND ADMINISTRATIVE REPORTS

ADJOURNMENT

CLOSED SESSION, IF NEEDED - TO BE ANNOUNCED IN MOTION

The Springville City Council may temporarily recess the meeting and convene in a closed session as provided by UCA 52-4-205.

7:00 P.M. REGULAR COUNCIL MEETING - CITY COUNCIL ROOM

CALL TO ORDER

INVOCATION

PLEDGE

APPROVAL OF THE MEETING'S AGENDA

MAYOR'S COMMENTS

CEREMONIAL

1. Arbor Day Proclamation recognizing April 26, 2024, as Arbor Day - Stacey Child, Parks and Recreation Director
2. Recognition of the recent CERT graduates - Lance Haight, Public Safety Director
3. Utah Parks and Recreation Association presentation to the Springville Parks and Recreation Department as the Department of the Year

PUBLIC COMMENT - Audience members may bring any item, not on the agenda to the Mayor and Council's attention. Please complete and submit a "Request to Speak" form. Comments will be limited to two or three minutes, at the discretion of the mayor. State Law prohibits the Council from acting on items that do not appear on the agenda.

CONSENT AGENDA - The Consent Agenda consists of items previously discussed or that are administrative actions where no additional discussion is needed. When approved, the recommendations in the staff reports become the action of the Council. The agenda provides an opportunity for public comment. If after the public comment, the Council removes an item from the consent agenda for discussion, the item will keep its agenda number. It will be added to the regular agenda for discussion unless placed otherwise by the Council.

4. Approval of the minutes for the March 12, 2024 work meeting
5. Approval of the Mayor's reappointment of Amy Root, Michael Johnson, and Amanda McClellan to the Library Board.

REGULAR AGENDA

6. Consideration of an amendment to the Official Zone Map to apply the Materials Processing and Storage to parcels #26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street, Springville, Utah - Josh Yost, Community Development Director
7. Consideration of an Ordinance and zone text amendment to Springville City Code 14-5-113 Water Facilities to change the requirements for utility improvements in small subdivisions- Carla Wiese, Planner II
8. Consideration of approving the Municipal Wastewater Planning Program Survey (MWPP) - Jake Nostrom, Assistant Public Works Director

9. Consideration of a Resolution authorizing Springville City to agree to allow Utah Associated Municipal Power Systems (UAMPS) to participate in a prepaid energy agreement being undertaken in agreement with Southeast Energy Authority (SEA) - Jason Miller, Power Director

MAYOR, COUNCIL, AND ADMINISTRATIVE REPORTS

ADJOURNMENT - CLOSED SESSION, IF NEEDED - TO BE ANNOUNCED IN MOTION

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CERTIFICATE OF POSTING - THIS AGENDA IS SUBJECT TO CHANGE WITH A MINIMUM OF 24-HOURS NOTICE - POSTED 04/12/2024

In compliance with the Americans with Disabilities Act, the city will make reasonable accommodations to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Recorder at (801) 489-2700 at least three business days prior to the meeting.

Meetings of the Springville City Council may be conducted by electronic means pursuant to Utah Code Annotated Section 52-4-207. In such circumstances, contact will be established and maintained by telephone or other electronic means and the meeting will be conducted pursuant to Springville City Municipal Code 2-4-102(4) regarding electronic meetings.

s/s - Kim Crane, MMC, City Recorder



- Whereas,* in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and
- Whereas,* the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and
- Whereas,* Arbor Day is now observed throughout the nation and the world, and
- Whereas,* trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife, and
- Whereas,* trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products, and
- Whereas,* trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and
- Whereas,* trees, wherever they are planted, are a source of joy and spiritual renewal,

*Now, Therefore, I, Matt Packard, Mayor of the City of Springville, do hereby proclaim
April 26, 2024 as*

Arbor Day

In the City of Springville, I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

Further, I urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Dated this 16th day of April, 2024

Matt Packard, Mayor

Attest:

Kim Crane, City Recorder

2 MINUTES OF THE WORK/STUDY MEETING OF THE SPRINGVILLE CITY COUNCIL HELD ON
TUESDAY, March 12, 2024, AT 5:30 P.M. AT THE CIVIC CENTER, 110 SOUTH MAIN STREET,
SPRINGVILLE, UTAH.

4 Presiding and Conducting: Mayor Matt Packard

Elected Officials in Attendance:

6 Craig Jensen
Logan Millsap
8 Mike Snelson
Jake Smith
10 Mindi Wright

City Staff in Attendance: City Administrator Troy Fitzgerald, Assistant City Administrator/City Attorney John Penrod, Assistant City Administrator/Finance Director Bruce Riddle, City Recorder Kim Crane, Deputy Recorder Jennifer Grigg, Administration Director Patrick Monney, Community Development Director Josh Yost, Engineering and Internal Services Director Scott Sensenbaugher, Library Director Dan Mickelson, Museum of Art Director Emily Larsen, Power Director Jason Miller, Public Safety Director Lance Haight, and Assistant Public Works Director Jake Nostrom,

CALL TO ORDER

18 Mayor Packard welcomed everyone and called the meeting to order at 5:32 p.m.

COUNCIL BUSINESS

20 1. Calendar

- Mar 19 - Work Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.
- Apr 02 - Work Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.
- Apr 09 - Work Study Meeting 5:30 p.m.

24 2. MAYOR, COUNCIL, AND ADMINISTRATIVE REPORTS

a) Utility Board Update - Cl. Jensen/Cl. Millsap

26 Councilmember Millsap said the Dry Creek Transfer Station is rebranding from SUVSWD (South Utah Valley Solid Waste District) to NEXA. He toured and reported that this new transfer station is deluxe; the coolest on the continent. There is a ribbon cutting on Thursday, April 25, 2024, including an open house for the public.

30 He continued reporting from the Utility Board meetings that SUVPS (Southern Utah Valley Power Systems) needs \$40 million in upgrades to infrastructure from the member cities. Mayor Packard asked if SUVPS has been postponing this maintenance. Councilmember Millsap said the upgrades are due to growth in Salem and Payson. Mayor Packard clarified that SUVPS is adding to its capacity to serve the member cities. Councilmember Millsap said SUVPS will be reorganized so costs are more equitably distributed among member cities.

36 He continued by saying the Stormwater Master Plan Draft shows impact fees quadrupling from \$600 to possibly \$2400. Assistant Director Nostrom said those estimates are close and there is an

38 update tomorrow. Councilmember Millsap emphasized Springville is far behind neighboring cities when
40 it comes to impact fees. He said the bids for rehabilitating Burt Springs are back and he introduced our
42 new Power Director Jason Miller. Mayor Packard asked why we don't evaluate impact fees annually.
44 Councilmember Jensen said other departments updated impact fees two years ago despite pushback
46 from the local home builders association. Attorney Penrod added park impact fees were updated last
year. Mayor Packard asked to schedule impact fee analyses yearly. Councilmember Millsap agreed
adding the city should avoid big fee increases. Administrator Fitzgerald said most departments
completed drafts last summer and increases are on everyone's calendar. Mayor Packard said he will
continue to pound that drum.

b) Public Works

48 Assistant Public Works Director Nostrom, who oversees water, sewer, and stormwater, began
his presentation on the Springville drinking and secondary water systems. He reported that our water
50 sources include surface water, from Strawberry Reservoir providing flood irrigation and pressurized
irrigation that flows to Bartholomew Pond and the irrigation ditches. The city pulls water from Hobble
52 Creek before using Strawberry Reservoir water. Springville City has drilled and draws from seven deep
wells to provide plenty of drinking water therefore no wholesale water purchasing is necessary.
54 Councilmember Snelson clarified these wells are sources of drinking water and Hobble Creek and
Strawberry are sources for irrigation.

56 Assistant Director Nostrom continued by explaining the 400 South Well #2 is about 500 feet
deep and offered tours of any pumphouse. Councilmember Wright clarified that his staff monitors the
58 water level of all the wells. Councilmember Smith asked if the system is gravity-fed. Assistant Director
Nostrom said the whole system is gravity-fed except for pumps used to pump back into the system or
60 tanks. Because of the altitude change, there is no need for pumps to pressurize the drinking water
system. Administrator Fitzgerald explained the history of Konold Springs, a tunnel hand-dug by
62 pioneers. Assistant Director Nostrom offered a tour. Councilmember Millsap asked about public interest
in impact fees and utilities. Councilmember Wright said it should be protected. Mayor Packard
64 suggested a podcast explaining water infrastructure because Springville is in really good shape
waterwise.

66 Assistant Director Nostrom moved on to Bartholomew Canyon where the largest most
productive culinary springs are along with a large newly refurbished tank. Councilmember Smith asked
68 about Springville City's right to water in Bartholomew Canyon. Assistant Director Nostrom answered
the city has rights to more than 1000 acre-feet of water, some of which is sold back to the canyon
70 property owners. He then explained Spring Creek Canyon Spring and those tanks. Councilmember
Snelson clarified most water percolates into the ground in Spring Creek Canyon. Assistant Director
72 Nostrom said the pump house at Burt Spring and tank at Bartholomew Park are being upgraded.

He moved on to list the six wells around town and described what a typical pump house looks
74 like. The 400 South #2 well is the newest and best-producing well. He showed the water provided to
Hobble Creek Canyon users, the water production per water source, and 15.4 million gallons stored in
76 the tanks. Councilmember Smith asked about water treatment and Assistant Director Nostrom said the
newest well is subject to newer standards and therefore is chlorinated.

78 Councilmember Wright asked if Springville City uses all the water. Assistant Director Nostrom
said we use the most efficient sources first and some water is turned back into the creek.
80 Councilmember Smith asked about build-out in the Westfields and 1600 South. Assistant Director
Nostrom answered we would build another tank and add more sources before build-out. Director
82 Monney clarified that developed property takes less water than high-yield agriculture, especially corn.

84 Assistant Director Nostrom concluded by showing a tour inside Lower Spring Creek tank #3, and
describing pressure reducing the pressure to 50 to 110 psi throughout the system. He detailed
operational costs, capacity, costs for capital projects, and revenue. Springville City has over 200 miles
86 of water line.

88 Councilmember Millsap asked if our water system is earthquake-resilient. Assistant Director
Nostrom answered we are not well protected. Aged lines will see substantial breaks. The modern tank
is more resilient. Mayor Packard added it is set right on the fault. Assistant Director Nostrom agreed
90 saying there would be substantial damage.

c) Internal Services

92 Director Sensanbaugher introduced himself, stated his priorities and said today he has worked
for Springville City for one month. He is listening, learning, and accessing the culture of Springville City.
94 He is meeting with directors and getting to know the staff. Internals Services is responsible for IT, fleet,
central shop, facilities maintenance, and development engineering. He considers Springville City
96 coworkers his customers since he will not interact with the public very much. He is focused on learning
the way Springville operates its budget and working to fill vacancies in his new department including a
98 facilities manager, GIS Administrator, and an engineer.

100 He said that he and Administrator Fitzgerald are working on strategic planning and creating a
facilities plan setting aside money to use the right way as Springville City grows—a long-term vision. He
wants to instill in his staff his strong belief in a service culture. He asked the City Council as the
102 governing body, what their concerns are and said if it is important to you, it is important to me.

104 Councilmember Jensen asked about the 400 South complex versus buying land in the
Whitehead Utility Center area. He asked if Public Works has a long-term plan to move west and the
central shop does not need to be on 400 South. He asked if that is Director Sensanbaugher's bailiwick.
106 Administrator Fitzgerald said City Engineer Wilson is leading a team with representatives from each
department conducting high-level facilities need analysis. He listed the Oakridge Building, the old
108 seminary building, as possible additions for expanding departments. Even a new Public Works building
is estimated to cost more than 40 million dollars. The responsibility and cost to maintain additional
110 buildings falls squarely on Director Sensanbaugher.

112 Councilmember Wright asked about Director Sensanbaugher's assessment of IT. Director
Sensanbaugher said he met with John Gleave and is reviewing that budget. It seems robust and he
sees things he likes but frankly, he is a civil engineer, not an IT specialist. He sees needs in strategic
114 planning and is gaining a better understanding of who uses what software including work order systems.
There is always room to improve. Councilmember Wright said Google Docs is not robust or safe for a
116 large enterprise. Mayor Packard said Councilmember Wright is a good source and gifted and giving in
that area. Director Sensanbaugher said it would take him a while to create a strategic plan. Director
118 Miller agreed that a software called *Teams* is a great tool for any organization and next year the entire
city will upgrade to Microsoft Office 365.

120 d) Power

122 Director Miller introduced himself as the new Power Director and reported there are currently 28
employees in his department. There are two divisions, Distribution and Generation in two buildings, the
Whitehead Utility Center (1986) and the Electrical Operations Building which is just under 10 years old.
124 Springville is a member of the Utah Associated Municipal Power Systems (UAMPS) from which we
collectively derive most of our power purchases and the Southern Utah Valley Power Systems (SUVPS)
126 which provides distribution for southern Utah county. Councilmember Snelson asked about employees.

128 Director Miller listed Mike Poole as the Generation Superintendent who works with six mechanics and
Brandon Graham as the Distribution Superintendent who works with eight linemen.

130 He moved on to a detailed explanation of resource allocation including the Colorado River
Storage Project (CRSP), Nebo, Whitehead Power Plant (WHPP), market purchases, Horse Butte
132 Wind, Photovoltaic Wind, Olmstead Provo River, and Red Mesa Solar. Nebo Power Station provides
the largest portion. He will come to the City Council with proposals to guide the power resource mixture.
134 The key is the blended cost from all the resources (currently \$63.13 plus additional cost for
distribution.) Revenue is up 5.73% in almost every category from FY2023 to FY2024 because
Springville City raised the price per kWh by about 10% including residential.

136 Councilmember Wright asked if rates increase annually. Director Miller said the council decides
and Mayor Packard said it can increase annually if the council decides. Director Miller said demand
138 decreased slightly because the rate increased. Councilmember Millsap suggested small annual
increases. Councilmember Snelson asked about interruptible power. Director Miller said it is only Claire
140 Anderson's foundry and that can be turned off. Nestle is the only large commercial and they use about
20% of the power of the entire city. Councilmember Wright asked why businesses in the small
142 commercial tier pay more than those in the large commercial tier. Director Miller answered Nestle buys
at almost a wholesale price because the city has less overhead. Administrator Fitzgerald said Nestle
144 has a contractual requirement to carry 90% of their power load factor consistently 24 hours a day seven
days a week so they can buy baseload power versus peak load power. Director Riddle said residential
146 power customers have huge up and down spikes and a power load of only 20-25% of peak but the city
must have power available just in case. That degree of residential inconsistency means Springville must
148 purchase power at the much higher peak load prices.

150 Director Miller Continued by saying the Nebo Plant is 40 years old and needs major upgrades.
He reviewed the replacement of the vintage engines with three new engines for 11.6 million dollars.
152 The staff of the Power Department is talented and did much of the work in-house with completion
scheduled for June of 2024 coming in under cost plus ceiling. Councilmember Snelson asked about the
chimneys. Director Miller said they will be stainless steel and look nicer. Councilmember Smith asked
154 about selling the vintage engines. Administrator Fitzgerald said valuable parts were salvaged and
Director Miller said some parts were sold as scrap and anything else will become a public art installation.

156 e) Administration

158 Director Monney started his presentation with a handout of the organization chart for the
Administration Department which listed Troy Fitzgerald as the City Administrator, Patrick Monney,
Director of Administrative Services, Kim Crane, City Recorder, Jennifer Grigg, Deputy Recorder, and
160 Jack Urquhart is the Analyst/ Social Media Manager. In addition, four part-time office assistants man
Administrative Services, an HR Generalist and Analyst run Human Resources, and courts consist of a
162 judge, a court clerk supervisor, a full-time court clerk, and three part-time court clerks. He continued by
detailing the duties, accolades, and accomplishments of each FTE (Full-time Equivalent).

164 City Recorder Kim Crane is a Certified Master Municipal Clerk, Certified State Municipal Clerk,
and was elected to the Board of Utah Municipal Clerks. Social media has 12,267 Facebook followers
166 and 5,298 Instagram followers. The Art City Scape Podcasts have been downloaded 1,724 times.
2,837 passports were processed in 2023. 283 employment applications were processed. 2879 cases
168 were filed in the Springville Justice Court.

170 He concluded by listing some goals for the Administration Department including a mini gallery
in the Civic Center, updating the employee handbook processes and procedural manual including
digitizing the onboarding process. Administrative Services staff is working toward training and

172 certification in notarizing and fingerprinting and passport hours are extended to 7:00 p.m. on the first
174 and third Tuesdays of the month. Court clerks are working toward certification including online training
and a conference. Most hearings are virtual which is very efficient and cost-saving.

ADJOURNMENT

176 Motion: Councilmember Jensen moved to adjourn to a closed meeting at 6:53 p.m. to discuss property
and at the end adjourn the work session. Councilmember Smith seconded the motion.

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ROLL CALL AYE

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Craig Jensen
Logan Millsap
Mike Snelson
Jake Smith
Mindi Wright

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186 The motion Passed Unanimously; 5-0

CLOSED SESSION, IF NEEDED - TO BE ANNOUNCED IN MOTION

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The Springville City Council may temporarily recess the work/study meeting and convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by UCA 52-4-205.

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This document constitutes the official minutes for the Springville City Council Work/Study Meeting held on Tuesday, March 12, 2024. I, Jennifer Grigg, do hereby certify that I am the duly appointed, qualified, and acting Deputy Recorder for Springville City, of Utah County, State of Utah. I do hereby certify that the foregoing minutes represent a true and accurate, and complete record of this meeting held on Tuesday, March 12, 2024.

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DATE APPROVED: _____

Jennifer Grigg
Deputy Recorder

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SPRINGVILLE CITY CORPORATION
 110 South Main Springville, Utah 84663
 Tel: (801) 489-2700
 Fax: (801) 491-7894

Boards and Commissions Application for Volunteer Position

Name Root Amy S
Last First Middle

Present Address: [Redacted] Springville, UT 84663
Street City State Zip

Phone Number: Day: [Redacted] Evenings: same

Email Address: [Redacted]

Positions Interested In: Library Board re-up

Currently Employed? yes If so, where? Nebra School District

Generally, what education do you have: WofU (sorority Inter-chapter Rep),
WVU (honor society), & BYU

Interests: hiking, backpacking, reading, travel, service, & family time!

Skills/Background: Fundraising, TV & radio experience, public speaking,
script & grant writing, ads & articles.

Days or Times Not Available: M-F 8am - 3pm & Wednesday evenings

If related to anyone employed by Springville City, please state their name and department: n/a

I do hereby certify that all statements and representations made herein are accurate and correct to the best of my knowledge. I do hereby authorize Springville City to investigate and confirm any and all statements made herein. I do hereby release Springville City, its elected officials, officers and employees from any liability relating to and regarding my application at Springville City.

Signature: [Signature] Date: 3/29/24

Date 4/2/24 Councilmember (Recommendation) [Signature] Board/Commission
 Date _____ Director (Approval) _____



SPRINGVILLE CITY CORPORATION
 110 South Main Springville, Utah 84663
 Tel: (801) 489-2700
 Fax: (801) 491-7894

Boards and Commissions Application for Volunteer Position

Name Johnson Michael L
Last First Middle

Present Address: [Redacted] Springville Ut 84663
Street City State Zip

Phone Number: Day: [Redacted] Evenings: _____

Email Address: [Redacted]

Positions Interested In: Library Board

Currently Employed? Yes If so, where? Springville High School

Generally, what education do you have: MS in Psychology

Interests: Reading, Boardgames, outdoors

Skills/Background: Proficient in Spanish, work closely with teens focusing on their well being, current Library Board member

Days or Times Not Available: 7-3 weekdays

If related to anyone employed by Springville City, please state their name and department: Rebecca Johnson, Commissioner in the Recreation Department.

I do hereby certify that all statements and representations made herein are accurate and correct to the best of my knowledge. I do hereby authorize Springville City to investigate and confirm any and all statements made herein. I do hereby release Springville City, its elected officials, officers and employees from any liability relating to and regarding my application at Springville City.

Signature: [Signature] Date: 27 Mar 2024

Date 3/27/24 Councilmember (Recommendation) _____ Board/Commission _____
 Date _____ Director (Approval) _____



SPRINGVILLE CITY CORPORATION
 110 South Main Springville, Utah 84663
 Tel: (801) 489-2700
 Fax: (801) 491-7894

Boards and Commissions Application for Volunteer Position

Name McClellan Amanda
Last First Middle

Present Address: [Redacted] Springvill UT 84663
Street City State Zip

Phone Number: Day: [Redacted] Evenings: same

Email Address: [Redacted]

Positions Interested In: Library board member

Currently Employed? Yes If so, where? Central Utah Water Conservancy Dist.

Generally, what education do you have: _____
High School diploma, Records management and privacy related certifications through national and international organizations

Interests: Reading, biking, spending time with my family

Skills/Background: I am very good at paying attention to detail. I am dedicated and have loved serving the community
in this position for the past 3 years

Days or Times Not Available: I work full time but have a flexible work schedule

If related to anyone employed by Springville City, please state their name and department: N/Z

I do hereby certify that all statements and representations made herein are accurate and correct to the best of my knowledge. I do hereby authorize Springville City to investigate and confirm any and all statements made herein. I do hereby release Springville City, its elected officials, officers and employees from any liability relating to and regarding my application at Springville City.

Signature: Amanda McClellan Date: April 6, 2024

Date 4/8/24 Councilmember (Recommendation) _____ Board/Commission _____
 Date _____ Director (Approval) _____



STAFF REPORT

DATE: April 12, 2024

TO: Honorable Mayor and City Council

FROM: Josh Yost, Community Development Director

SUBJECT: Western Paving Inc. requests an amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street.

Recommended Motion:

Move to deny Western Paving Inc.'s requested amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street.

Executive Summary:

The request seeks to expand the Materials Processing and Storage Overlay Zone to include parcels totaling 13.6 acres behind the existing Western Paving operation at 2021 South State Street in Springville. The Planning Commission Staff report outlines key issues, including compliance with city code and the Dry Creek Community Plan. Despite the initial approval of an 8.08-acre overlay in 2020, the staff recommends denying the expansion request as it contradicts the Dry Creek Community Plan's vision for a mixed-use commercial/retail center and residential development in the area, in addition to specific zoning regulations prohibiting material recycling activities near residences.

The Dry Creek Community Plan sets the framework for the future development of Springville's southern areas, emphasizing mixed-use centers and residential zones. While the proposed amendment aligns with the current use of the parcel to the east city's zoning regulations, it diverges significantly from the plan's recommendations. The expansion would compromise the envisioned town center and residential areas by introducing incompatible industrial activities, undermining the city council's long-term vision for the region. Considering these factors, the staff recommended to the Planning



Commission to recommend denial of the amendment to uphold the integrity of the Dry Creek Community Plan and ensure the coherent development of Springville's southern corridor.

The Planning Commission first considered the item on March 12, 2024. Commissioner Parker's motion to continue directed staff to study the feasibility of balancing the city's goals with the current zoning request. The City legal department explored the possibility of temporary zoning but advised against it due to potential legal complications and the absence of established mechanisms, recommending denial as the safest course of action. This advice was reinforced by outside legal counsel, emphasizing the lack of precedent for temporary zoning and the risks it poses to future decision-making processes.

Additionally, staff reviewed a previous request by Kevin and Terry Larsen for a similar zone map amendment adjacent to Western Paving, which was denied to maintain the area's development options until the city's Dry Creek Community Plan process was completed. Terry Larsen's recent inquiry regarding the potential expansion of the overlay underscores the need for consistency in decision-making. At the second hearing on March 26, staff recommended applying the same rationale for denial to both requests, emphasizing the importance of equitable treatment and adherence to established planning principles in guiding future developments in the area.

Focus of Action:

- Does the proposed request meet the requirements of the Springville City Code, particularly 11-7-1, Amendments to the Title and Zone Map?
- Does the proposed zone map amendment further the purposes of the Dry Creek Community Plan

Discussion:

The Planning Commission opened the public hearing on the item during both the March 12, and March 26 meeting. The following is a summary of the applicants presentation, public comments and Planning Commission discussion, the full minutes of both meetings are attached, and the recordings of both meetings are available on YouTube at https://www.youtube.com/watch?v=V70HKGRvJ_w and <https://www.youtube.com/live/qQwSwOIMCEY?si=htMZJWq8lw3O6d7b>.



Applicant Presentation:

The applicant's presentation began with Ben Shepherd, the Vice President of Western Paving, highlighting the company's longstanding presence in Springville and its significant contribution to the local economy, employing over 200 people. He emphasized the importance of the Dry Creek Property's growth and expressed the company's willingness to foster positive relationships with neighbors while stressing the benefits of recycling materials for local projects.

Brent Sumsion followed with a detailed overview of Western Paving Inc.'s infrastructure and development capabilities, emphasizing the need for additional acreage to expand the business and meet growing demands. He showcased recent improvements and investments made by the company, including underground utilities and barrier fencing, underscoring Western Paving's commitment to compliance and community enhancement.

Other speakers, including Dan Sumsion and Scott Sumsion, raised concerns about communication regarding the Dry Creek Community Plan and emphasized Western Paving's efforts to operate in accordance with city standards. They highlighted challenges posed to residential development by wetlands on the property and urged consideration of the company's significant contributions to the local economy and job market. The presentation underscored the importance of supporting established businesses and recognizing the value they bring to the community.

Public Hearing:

During the public hearing, several individuals shared their perspectives on the proposed zoning overlay and its potential impact on the community. Tim Parker, a longtime resident, expressed concerns about violations of zoning laws by Western Paving Inc. (WPI), including stockpile height and material storage regulations. He highlighted issues related to dust emissions and buffer zone violations, urging the commission to consider these factors before making a decision.

Phil Hansen, another resident, emphasized health and property devaluation concerns associated with the proposed overlay. He called for a thorough examination of the potential impact on air quality, particularly regarding silica dust, and urged a cautious approach to decision-making to ensure the well-being of residents and property values.



Several other speakers, including Skip Dunn, George Bird, and Terry Larson, offered varied perspectives on the issue. Dunn expressed support for Western Paving's operations and stressed the importance of finding positive solutions for coexistence. Bird highlighted the significant investments made by WPI in the community and advocated for embracing existing businesses. Larson, while supportive of WPI, also called for careful consideration of the Dry Creek Community Plan and its implications for future development.

Calvin Crandall, an adjoining landowner to WPI, shared his perspective on the proposed zoning overlay. He acknowledged being aware of the Dry Creek Community Plan and expressed a level of comfort with Western Paving Inc.'s operations. Crandall noted that while there might be concerns about potential future conflicts as development progresses, he felt that current conditions were acceptable. He raised questions about the appropriateness of denying WPI's expansion if it fits within existing zoning regulations, suggesting that adjustments could be made to accommodate both the company's needs and community interests. Crandall also proposed potential modifications to transitions to provide a more substantial buffer between industrial and residential areas, emphasizing the importance of finding a balance between economic development and community well-being.

Commission Discussion:

During the commission discussion on March 12, various viewpoints emerged regarding Western Paving's request for a zone map amendment. Commissioner Parker highlighted the potential benefits of relocating the crusher, emphasizing the decreased visibility from SR 51 and reduced impact on nearby properties. Director Yost provided insight into ongoing development plans and the significance of aligning zoning decisions with the city's broader goals. Concerns were raised about the compatibility of the proposed amendment with the Dry Creek Community Plan, particularly concerning residential areas and future development plans.

Commissioner Baker expressed reservations about the long-term implications of approving the overlay, particularly in light of the city council's approved plan and potential conflicts with residential zones. Commissioner Calder underscored the need for consistency in decision-making and voiced concerns about the risks of changing established plans. Despite differing opinions, the commission ultimately recommended



continuing the review process, highlighting the importance of maintaining the integrity of the Dry Creek development while also considering the needs of Western Paving.

During the commission discussion on March 26, Chair Ellingson emphasized the need for a decisive recommendation regarding the zoning request, expressing reluctance to prolong the matter further. Commissioner Nelson sought clarification on the communication of the Dry Creek Community Plan, prompting Director Yost to outline the outreach efforts and public engagement undertaken. Concerns were raised about fairness, precedent, and the implications for existing practices on the property, with Commissioner Farrer highlighting the importance of supporting local businesses amid economic challenges. Commissioner Baker advocated adherence to the established plan, emphasizing the need for comprehensive evaluation rather than temporary fixes. At the same time, Commissioner Calder underscored the importance of upholding the integrity of the planning process regardless of individual circumstances.

Ultimately, Commissioner Nelson moved to recommend denial of the zoning amendment, citing alignment with the master plan and the importance of maintaining consistency with established planning objectives. He also explained that this “motion is made with the master plan in mind, and if the City Council decides that we need to reconsider the plan after hearing the same things we have heard, this can be discussed further at a later date.” Commissioner Baker seconded the motion. The motion passed 4:1.

- Commissioner Ellingson Yes
- Commissioner Nelson Yes
- Commissioner Baker Yes
- Commissioner Calder Yes
- Commissioner Farrer No

Alternatives:

- Approve the requested Zone Map Amendment
- Continue the requested Zone Map Amendment



Attachments:

1. March 12, 2024 Planning Commission Staff Report
2. March 12, 2024 Planning Commission Minutes
3. March 26, 2024 Planning Commission Memo
4. March 26, 2024 Planning Commission Minutes



Attachment 1: March 12, 2024 Planning Commission Staff Report

February 8, 2024

TO: Planning Commission Members

FROM: Laura Thompson, Planner II
Josh Yost, Community Development Director

RE: **Western Paving Inc. requests an amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street.**

Petitioner: Western Paving, Inc.
Riley Thorpe

Summary of Issues

- Does the proposed request meet the requirements of the Springville City Code, particularly 11-7-1, Amendments to the Title and Zone Map?
- Does it maintain the intent of the Dry Creek Community Plan?

Background

The Materials Processing and Storage Overlay Zone was approved on February 18, 2020, to be applied to the front 8.08 acres of the Western Paving property at 2120 South State Street.

The current request is to expand the overlay to 13.60 acres west of the existing site.

Discussion

The Materials Processing and Storage Overlay Regulations include the following location requirements.



1. The MPS Overlay Zone may only be applied to the LIM Zone located east of 950 West, South of 1600 South, and West of SR 51.
 2. The procedure for applying the MPS Overlay Zone to the property shall be the same procedure for amending the zoning map outlined in 11-7-102.
 3. Each parcel within the MPS Overlay Zone shall have frontage on and direct access to a major arterial road.
- The subject property is located west of the approved at 2120 South State Street, within the area described in requirement one (1) above.
 - The applicant has applied for a zone map amendment per requirement two (2) above.
 - The subject property has no frontage or direct access to a major arterial road.

Dry Creek Community Plan

The 1600 South corridor and southern areas of Springville City are the next logical progression for development, filling in the space between Springville and Spanish Fork. Two areas were studied as part of the plan, including the 1600 South (Primary Study Area) Corridor and the remaining undeveloped property (Secondary Study Area) south of the corridor extending to the City boundary.

The Secondary Study Area includes the subject properties and designates the subject property as a Town Center Place Type intended for use in (likely new) activity centers. This place type allows for a range of building types, served by one or more transit modes and typically focused on civic and commercial uses with residential edges.

Generally, the vision for the Secondary Study Area anticipates a mixed-use commercial/retail center near the city's south edge. Surrounding the commercial retail center will be suburban housing, although higher in density than the current general plan (adopted 2011). The specific land use districts in the area of the subject property are Commercial - Village Mixed, Housing - Medium High, Housing - Medium, and Housing - Medium Low.

The proposed zone map amendment does not align with the recommendations of the Dry Creek Community Plan, which constitutes the City Council's policy regarding the future vision for this area. The proposed materials storage and processing use is incompatible with the planned Town Center Place Type and the land use districts recommended in the area, both by its general character and by the specific requirements of the zone, which prohibits material recycling activities within 1,000 feet of a residence. Expanding the existing overlay onto over 13 additional acres would compromise the City Council's vision for the Dry Creek Community Area.

Staff Recommendation

Staff finds that the proposed Zone Map Amendment does not maintain the intent of the Dry Creek Community Plan. Staff recommends denial of the requested amendment to the official zone map.

Recommended Motion

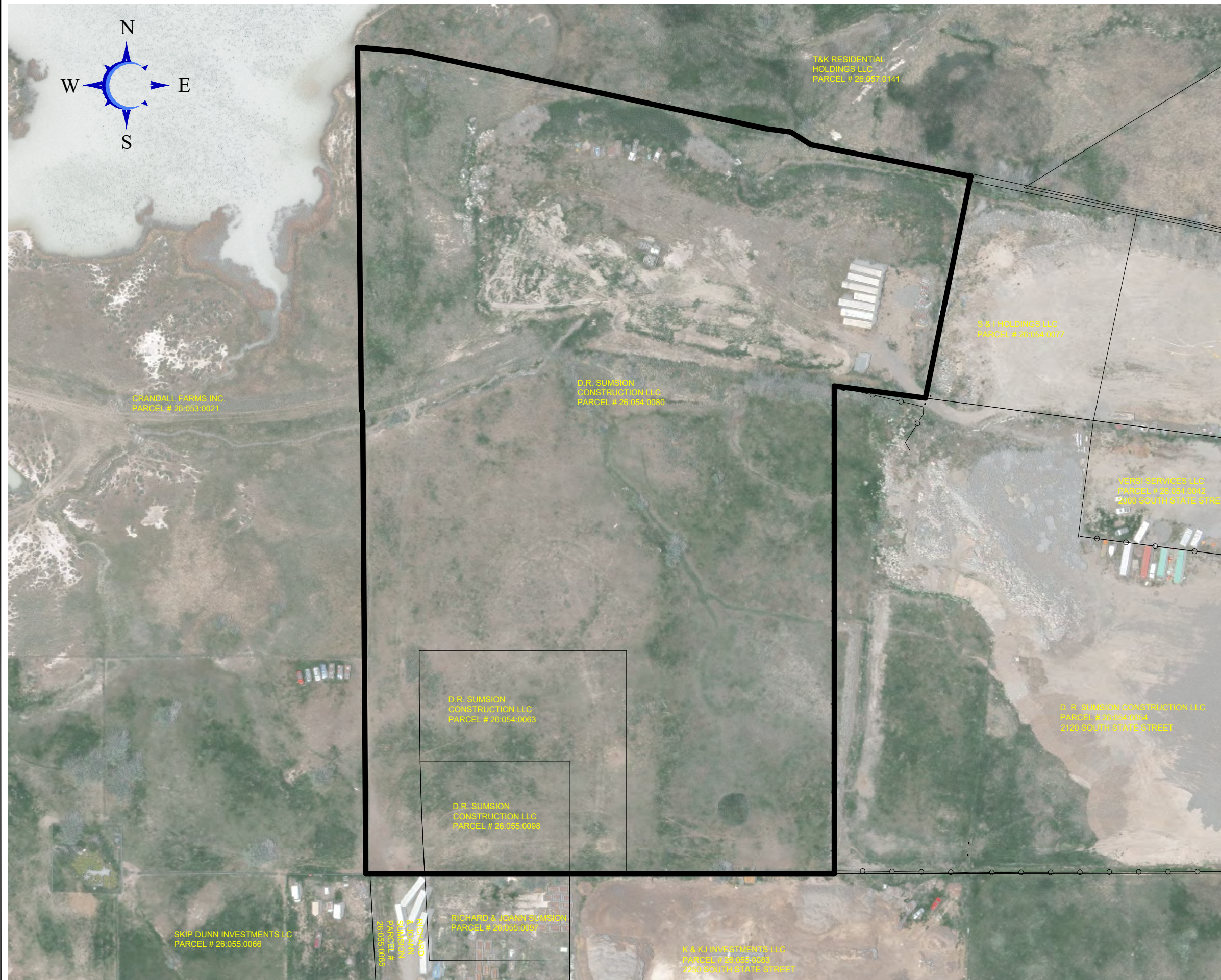
Move to recommend denial of Western Paving Inc.'s requested amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street.

Attachments

1. Application Materials
2. Excerpts from the Dry Creek Community Plan

Attachment 1: Application Materials

VICINITY MAP
D. R. SUMSION CONSTRUCTION LLC



P: (801) 616-6848
F: (801) 704-9384
surveydanpls@gmail.com
563 North Rees Ave.
Spanish Fork, UT 84660

DRAWN: DEK	PROJECT # VA321	SCALES	
DESIGNER: DEK	DATE: 12/15/2023	HORIZ: 1"=60'	
REVIEWED: DEK			

PROJECT NAME:	
D. R. SUMSION CONSTRUCTION LLC	
PROJECT LOCATION:	
2120 SOUTH STATE STREET SPRINGVILLE, UT 84663	
SHEET TITLE:	SHEET
VICINITY MAP	1 of 1

Attachment 2: Excerpts from the Dry Creek Community Plan



Primary & Secondary Area Regulating Plan



- Mixed Use Lifestyle
- Commercial - Retail/Mall
- Commercial - Village Mixed
- Housing - Medium High
- Housing - Medium
- Housing - Medium Low
- Town Center Place Type
- Boulevard Comm. Place Type
- Roadways

Regulating Plan

The most common tool for mapping a form-based code is a “regulating plan.” A regulating plan is a general land use district map combined with an open space plan and transportation plan (see Chapters 8 and 9).

The regulating plan is implemented ultimately by a Form- Based Code, which is generally outlined in this document. Each street, block, or parcel within the study areas must comply with the illustrated standards in the recommended Form-Based Code.

For Springville City, this plan recommends significant changes to the land use types and current parcel descriptions before development can occur. Small scale parcelization for individual building lots (whether residential or commercial) has not yet occurred in the study areas, thus the regulating plans are somewhat schematic in nature.



Regulating Plan

The Regulating Plan, for both the Primary and Secondary Study Areas demonstrates how land uses will be organized so the overall vision of the area is realized.

Land Use Districts, derived from the Preferred Scenario Plan, are laid out with a logical road network. Within the following tables (Page 59) a general overall summary of the units that may be expected by each land use type is provided.

This applies to the Primary Study Area only. These land use types are based on the existing land use type definitions in the City General Plan and Code.

When migrating from Euclidean Zoning currently in place to the Form-Based Code, land uses will be instead referred to as districts. Districts will allow a basket of uses within them, as noted on the adjacent table.

The Regulating Plan, as described further at the end of this Chapter, indicated a proposed rationalization of the boundary with Spanish Fork.

Springville City will support the right of existing uses to continue even as surrounding land uses change. The city will support property owners with agricultural operations when they are faced with complaints from new neighbors.

Transitions from existing residential neighborhoods to new development will respect the character and setbacks of existing development and provide adequate buffering, especially at common property lines. New Parks and open spaces will be located to be accessible to existing neighborhoods and new development.

Uses	Districts					
	Commercial/Retail Strip Mall	Com. - Village/Mixed-Use	Residential - Medium High	Residential - Medium	Residential - Medium Low	Mixed Use - Lifestyle
LEGEND:						
	Permitted					
	Permitted in Upper Stories Only					
	Permitted with Development Standards					
	Requires a Conditional Use Permit					
Residential & Lodging						
Residential						
Hotel & Inn						
Residential Care						
Civic						
Assembly						
Transit Station						
Hospital & Clinic						
Library/Museum/Post Office (no distribution)						
Police & Fire						
School						
Retail						
Neighborhood Retail						
General Retail						
Outdoor Sales Lot						
Service						
Neighborhood Service						
General Service						
Vehicle Service						
Office & Industrial						
Office						
Craftsman Industrial						
Infrastructure						
Parking Lot						
Parking Structure						
Utility & Infrastructure						
Open Space						
Accessory Uses						
Home Occupation						
Outdoor Storage of Goods						
Parking Lot						
Parking Structure						



Attachment 2: March 12, 2024 Planning Commission Minutes

IN ATTENDANCE

Commissioners Present: Chair Karen Ellingson, Genevieve Baker, Rod Parker, Ann Anderson, Ralph Calder and Brett Nelson

Commissioners Excused: Michael Farrer

City Staff: Josh Yost, Community Development Director
Chris Creer, Assistant City Attorney
Heather Goins, Executive Assistant

City Council: Jake Smith

CALL TO ORDER

Vice Chair Baker called the meeting to order at 7:03 p.m.

APPROVAL OF THE AGENDA

Commissioner Nelson moved to approve the agenda as written. Commissioner Calder seconded the motion. The vote to approve the agenda was unanimous.

APPROVAL OF THE MINUTES

February 13, 2024

Commissioner Anderson moved to approve the February 13, 2024 meeting minutes. Commissioner Calder seconded the motion. The vote to approve the meeting minutes was unanimous.

CONSENT AGENDA

No Items

ADMINISTRATIVE SESSION

No Items

LEGISLATIVE SESSION:

- 1) *Western Paving Inc. requests an amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street.*

Josh Yost, Community Development Director, presented. He showed the area in question for this item.

- 1- Does the request meet the requirements of the Materials Processing and Storage overlay, and
- 2- Does the request comply with the Dry Creek Community Plan which is the adopted plan for the area.

He said he is not addressing whether the existing site is in compliance with adopted operating regulations, if the neighbors are being impacted by the existing use and if the existing use of the company itself good or bad generally. He recognized these are legitimate questions. The perspective of Staff the questions of whether it complies with the requirements of the zone and it complies with the plan are the first questions. If the Planning Commission wants to analyze changing the plan to accommodate this use, then that is where the conversation of the use on its own merits would come into play.

Commissioner Nelson asked why he is not addressing the first questions. Director Yost said it is because we don't have purview here. This is a zoning enforcement issue. Staff perspective is we don't need to discuss whether it is good or bad or impacting until we decide whether it meets the plan or not.

Commissioner Nelson asked if we have no data on that. Director Yost said the Storm Water Protection Coordinator said on 1 or 2 random site visits they were in compliance. We have not gathered substantial data on this nor have we done as good of a job as we could have in monitoring and verifying compliance. Commissioner Calder added that is mostly State regulated. Director Yost agreed.

5:34 This is an objective question as to whether this meets the plan. There is no inherent agenda or opinion on behalf of staff as to the operation itself or the operators of the business.

He gave a history using aerial photos of the property starting in 1993. It starts out as mostly green field. In the past decade, the operations have expanded. In 2019 the MPS overlay was amended. Operation have expanded to the rear of the property in 2023. That additional property is not zoned for materials processing and storage, so the applicant requested a zone map amendment to apply the MPS overlay. The decisions we make will have impacts.

As we view the Dry Creek Plan as a future plan, it comes quickly. The purpose of planning is to prepare for an updated future in terms of the MPS Overlay.

MSPO adopted in Dec 2019
Zone Map Amended Feb 2020

It was specifically implemented to accommodate a non-permitted use that was already occurring. The applicant then expanded their use as we see in the aerials. The additional property is not zoned for MPS and so the applicant requested a zone map amendment to apply the MPSO.

Does the property meet the requirements for the MPSO.

9:13 The MSPO can only be applied within LIM zone east of 950 W, south of 1600 S and west of SR 51. From a staff perspective, we should remove the MPSO ordinance from the code for reasons you will see later.

The procedure for applying the zone overlay is the same as amending the zoning map. Each parcel shall have frontage on and direct access to a major arterial road. In its current condition it does not comply with the Dry Creek Plan.

Does it comply with the DC Community Plan?
The plan is adopted policy and vision of the CC.

The future map of the DCAP. (A=Area) The property includes a lot of future land use districts.

DCCP designated subject property as Town Center Place Type
Allows for a range of uses like a village center core that tapers into residential and the land use district civic uses.

Applies the following land use districts
Housing: Medium-High, Medium and Medium-Low

Commissioner Nelson asked what the current zoning is. Director Yost said it is LIM. He explained there isn't a LIM or HIM use in this proposed area plan. Office warehouse and manufacturing in closed buildings is not allowed. There is no provision in the plan to permit the requested rezone.

10:30 Does the request comply with the Dry Creek Community Plan? The plan is the adopted policy and vision of the City Council.
Not included in the general place types
Not permitted within any land use district
Incompatible with the proposed plan generally.

Alternatives

If interested in accommodating the request, we would have to change the DCCP. The risks are it negatively impacting public trust to make a change in this newly adopted plan so quickly. Also, to private investment of those who are planning to improve their property with the plan.

Staff recommends denial as it doesn't meet the new plan.

16:12 Commissioner Nelson asked about the MSPO removed. Director Yost said we are not doing that tonight. We aren't changing zoning currently. Commissioner Nelson asked if the city can come in and change the zone. Director Yost said zones change all the time, but we can't change the use. Commissioner Nelson said they can continue to do the business they are doing now as a grandfathered use. Director Yost said yes, we can't take away their land use right to use their property in a way that has been approved.

17:59 Vice Chair Baker invited the applicant to speak. Ben Shepherd Vice President of Western Paving spoke. He said that was hard to hear. They have 200 employees. Springville has been our home for business. More than 50 employees are Springville residents. He lives in Mapleton but spends his money at Reams, etc. It's important for the Dry Creek Property to grow, it's valuable. As for us not being compliant with our neighbors, we are willing to have a friendship. He talked about recycling of materials,

and with the interchange project happening, there will be a lot of concrete and asphalt and we will use the aggregate in projects here and all around the area. He wants this to be approved. This is a key to business for us. It was interesting seeing the maps. It looked like improvement and growth.

21:35 Brent Sumsion

He did the proposal for the overlay and his son owns the facility. Western Paving Inc has a lot of infrastructure, development capability, utility adjustments, concrete carbon gutter, slip forming, demolition and volumetric concrete mixing. A lot of that is used to repair the freeway. They added underground electrical. As part of the required improvements, they added the barrier fence and landscaping adjacent to SR 51. They built a shop and office that is a \$3 million improvement and expansion. He showed some photos of the current site. The water table is extremely high on the property. They dug a test hole. The ground water is within inches of the ground's surface. Western Paving needs this additional 14 acres for the enlargement of the business. The nearest facility is in Payson and they charge more money. WPI provides competitive products and services. They provide 200 high paying jobs with insurance and retirement benefits.

Karen arrived at 7:30 p.m.

They pay sales tax on revenues from the material and product sales that help support the city revenues. The additional overlay area enables WPI to move stockpiling further from out of sight of the neighbors and traveling public, which diminishes the noise.

Mr. Sumsion feels industrial zoning is the highest and best use of this land because the heavy clay soil and high-water table is not conducive to residential construction. To build residences, they will need to bring in a lot of topsoil. We are always looking for industrial land in Utah and Salt Lake County. It costs 1.5 million an acre in Salt Lake County. In Utah County, land is .5 billion an acre. Increases the property value and gives property taxes to the city. There are benefits to the city. Western Paving is an asset to the community and he feels the City should support their need for additional property.

Commissioner Nelson moved to open the Public Hearing. Commissioner Parker seconded. The public hearing was opened at 7:37 p.m.

34:30 Tim Parker

2310 S State

Has been a resident for 34 years. He is glad to speak for his household. In past meetings in 2020 he presented a signed petition of 50 signatures in opposition to the MPS operations to the City Council. Since those efforts were met with lack of attention. He feels they would still be opposed to these requests. The Dry Creek Plan is already approved by the City Council. There have been changes in City Council and the Planning Commission. He is bringing this to their attention. MPS codes demands stockpiles cannot exceed 20 feet in height. This is violated almost from the beginning of the approval. The material restrictions have been abused as well. Stored material must not emit dust, dirt, etc. This is an impossible feat. In windy events, it blows into his back yard. There is dust all over their campers. A private street sweeper is sent out. It is grossly inadequate. The silica dust plan needed to be addressed. OSHA's list is long, but it is a carcinogen and can cause tuberculosis. Storage of the finished product said it had to be moved 1000 feet, John Penrod said it can be 600 feet but can be moved back

to 1000 feet if there is a violation. He wants that to happen as he feels they have not met that requirement. His observation of buffer violations using SAT images, Chair Ellingson interrupted and said we can't make action on anything about the use. He said OK. Every inch of the property is filled with crushed concrete. He has many pictures and videos of this. It is on the North side of his property. Area now falls under the DCP and there is no sewer. We want to make this commercial area as is planned. The water table, his house has been the 100 years. WPI covered a spring that has been there forever and dug in wetlands.

Phil Hansen
2325 S State

South of WP on the East side. He is here tonight to find out some details. Mr. Yost was helpful with his comments. He opposed the zoning overlay 3 years ago. He is not here to cause any harm or damage to the Sumsion's. They are good people and he doesn't want them to see any hardship on their business. He doesn't want his property to be devalued. He has health concerns and property devaluation. He has a layman's knowledge of crushing. He hauled from the crusher as a child. The silica is definitely a consideration for health. The older people that aren't here are from that area. He doesn't want to see their business not grow. But the Chamber of Commerce should visit the plant. Water usage. When seen, then we can make an unbiased opinion of the business. The dust that comes up at night, He has photos of dust clouds coming from there. He doesn't want his and his neighbors property. He'd like more clarification on the overlay ordinance. What is the dust doing to the farm animals? The crushed concrete is a great way to recycle it. He would like a happy result for everyone. This shouldn't be a rushed decision. He would like to submit some of his concerns.

Daniel Sumsion
2120 S State

Western Paving was established by his grandfather in 1964. He has been glad to take over in the last 20 years. There are many projects that he is proud of. We love being in this town. We are happy to do show and tell for any that would love to come down and show our operation. There is very little dust and noise coming from it. The law and ordinance is 600 feet from a residence. It is 1000 ft without a business license and 600 feet with a business license and we have one. More out of sight out of mind. Please come see how we run. This is an asset to the DC Community. A lot of materials are coming from Grantsville Ut and are getting more expensive.

Commissioner Calder asked if they have a dust plan with the state. He said yes. The city and the state does the air quality inspections. We recently built a track out that rivals any he had ever seen. At the request of the Springville Waste Water manager, we built a nice track out. Commissioner Anderson asked before the dirt was moved, it was on top of the hill closer to the road. It is off a shelf. Ann just wanted to make sure it was originally off the highway. He said we have zoning to operate there. We put water in everything. The ponds are used for irrigation. We love our neighbors over there. Commissioner Calder asked if it is wetlands. We have documentation that it isn't. Commissioner Baker asked if there are contingency plans if there are homes are there. He imagines there is a day that we are not welcome and we will look at it then.

Commissioner Parker said that there was an operation in Portland that was in the center of homes and you couldn't hear it operating from their backyards. We are on the UDOT

procurement plan, one of 4. We are one of 2 contractors that can show up on I-15 and have lanes open at 5 am. The public doesn't notice it happens. Being further away makes it more difficult.

Scott Sumsion
1833 E 200 S

He asked why the city supports green waste recycling. He feels it is obvious that the leaders have deemed that a valuable resource. It is valuable to the community. It doesn't come without some issues. It is a significant cost to the city and doesn't bring in a lot of money. With City roads around, you can economically get it recycled and re-used. He did some checking and the green waste is 1000 feet from residences. Not something we can speak to. We feel like with the development of the Dry Creek community, will the city respect the same 1000 feet buffer zone from our established zoning, with ongoing development. If the City is confident, we can be a good neighbor. As has been noted the 2 residential recycling can co-exist peacefully.

Commissioner Baker moved to close the Public Hearing. Commissioner Anderson seconded. The public hearing was closed at 8:08 p.m.

Commissioner Parker said it is more conducive to where the crusher has been moved and there is sound barrier put in, with or without the ordinance change. It is more out of sight from the public. Rick has a property and water runs freely. There is agriculture next to it with a couple of cows. If this is allowed to be changed, the problem will take care of itself down the road. By the time we get homes and businesses in there. Commissioner Nelson asked how far out these plans will come about. Director Yost said he met with a developer and architect planner that is working with the property owner to the West and are waiting for the plan to be adopted so we can get the zoning on board. It is as imminent as getting the zoning on the ground and construction can advance. Commissioner Parker said they are putting in the new interchange. It will be in 2027 now. Nicklecade has come down and they are working on the frontage road alignments.

Commissioner Baker said regardless of if it is good or bad, her concern is how it will affect the City Council's approved plan. Any overlay we approve would be able to stay there. In moving it down the hill, it moves away from residences and SR 51 but it is moving it into the plan map. Medium high housing, housing medium and med-low. That is people having houses right up next to that. Thinking of Ironton and the quarry and there are signs saying this is happening. This isn't the vision for the area when the City Council approved.

Commissioner Anderson said this is the best use for that property. She used to own a home by the railroad tracks and she knew that there would be train noise. Like that example, those that choose to live there will know what they are choosing to live by.

Commissioner Nelson asked if the requirement is 1000 feet or 600 feet. Director Yost said it is 600 with a business license. Zoning code says 1000 feet without a business license.

Chair Ellingson asked if the buffer zone is OK when there are homes there. Commissioner Baker said they wouldn't be able to build a home within the 600 ft.

Commissioner Calder said we have made a commitment to the landowners. What we are doing is putting something into a plan that was already approved. We have changed our minds and you have purchased the property. That is his concern. He likes to see business thrive. When we change the plan, is the liability for that. Mr. Chris Creer, sitting in for Attorney John Penrod, said there is always liability. They can make the argument.

Commissioner Parker said that is a valid point, the other side is they already have a permit. Having it sit higher will cause more of a problem. Commissioner Calder said it was lower before. Commissioner Nelson said it wasn't utilized for this. Commissioner Calder said he knows. The concrete chunks that we hauled in and buried. Commissioner Parker said where it is now, is where they have been crushing.

Chair Ellingson asked the Commissioners: Is it better or not better to fulfill this request? Commissioner Parker said they are looking at a business. They can move it back up on top where the wind can get to it easier. Commissioner Baker said there is nothing stopping them to work below and expand up on top. Allowing the overlay allows them to work anywhere. There is also the issue of frontage. They will have to move things up through the upper portion. Commissioner Calder says if it is moved off the hill, the hill could be built up again. Recycled concrete is valuable and is an asset to the city and the state. His concern is opening the overlay up to where we have committed to others.

They talked about what the overlay does to the property.

Chair Ellingson said there are good arguments either way. The trust in our community and a plan is what is important to her.

1:22:11 Commissioner Nelson said 4 years ago the City Council approved the overlay for the 8 acres and since a lot of money has been invested to make it look nice. He feels they have been good corporate citizens and appreciates that they make it look nice. His question if the interchange is finished in 2027 and Director Yost has been meeting with people, is there a way we could grant a temporary fix so they can continue since they have invested and for now continue business. There could be some trigger points where they would need to dial back.

Director Yost argues that if I am looking to develop my property that is adjacent, and the City changed the zoning on the property to a heavy industrial use, that would affect my calculus in deciding whether and how I wanted to develop adjacent to that property and whether I was willing so continue to rely on the City's plan to make further capital investments. 1:24:55 Commissioner Nelson said so the risk is trust. Director Yost said it is one business owner to continue to operate, they had no backing to expand the business and now a plan has been adopted that would reasonably believe the City Council would rule against it. We want them to be successful in their business. But as far as having a temp use, it is not applicable. They are either 45 or 90 days and they are never for a use that is done in the zone. It is a legal right. We can't think of any way to say hey, now you are done and we are going to push you back. The person running the business at the time wasn't inclined to apply, and once a land use right is given. We don't intend to take away their right to operate there.

Director Yost said we would not take the additional acres. He would like to have the zone taken away. Should have taken the available zones that would have conflicted with the Dry Creek plan. He has no animosity toward this business.

Commissioner Baker said this zone becomes solely to their business. Commissioner Nelson asked what is North. Director Yost said it is a hodgepodge.

Commissioner Parker said he understands all the comments. They already have the 8 acres, and the crushing operation will continue. It won't change much moving it to 13 acres. Commissioner Nelson asked what the lower part would be used for.

The owner said parking trucks and cows on it, like before. Commissioner Nelson asked if storage would be allowed there. Director Yost said no. MPS are unique to the overlay. Commissioner Calder said nothing on there now is on permitted property. He said they are. The zoning officer said we are not in compliance. He had a meeting with John Penrod. It sparks the conversation of moving it off the hill. He is in support of Dry Creek master development. But no one came to communicate any of this to us. We have put our life savings into this business. There is a road that goes through our property. We were here in 2007 and that was before the Dry Creek Plan.

1:35:44 Chair Ellingson asked where there is a plan, a road goes through. What process does the city do in that instance. Director Yost this particular road wouldn't be built by the city. Because of our desire to work with property owners, we don't use eminent domain.

Director Yost said we have funding that we have been delaying for the 1200 W road. The Railroad crossing needs to be closed before we can do that.

Commissioner Anderson is looking at someone who has put their life savings into it and is better off there than closer to the highway.

Commissioner Nelson said you have talked to Chris Creer about a temporary fix. It is tough to see us take their opportunity out.

Director Yost understands but we are not taking anyone's opportunity. Commissioner Nelson from a hearts and minds perspective, it is a compelling argument. But if I had a business, I would want the zoning to be in place before investing in it. John Penrod said we would have to bring in outside Council to spend time and work on something. If there is an inclination to accommodate the request, then we need to modify the plan and do the due diligence.

Commissioner Baker asked if this would be continued.

Director Yost said you can continue it, or make a recommendation that the City Council deny it, or make a recommendation to approve the requested zone map amendment with direction to Council you want it as a temporary use. If you continue the item, we want some clear direction to staff of what you want done before bringing it back.

1:42:16 Chair Ellingson asked if they would have to wait a certain time period before bringing the request back. Director Yost said yes. 1:50:46 11-7-103(2) It is one year

unless the Planning and Zoning Review Committee finds that there has been a substantial change in the circumstances or sufficient new evidence as submitted by the applicant in writing since the denial of the previous application to merit consideration within the one-year time period.

Chair Ellingson said we have 3 options: recommend approval, recommend denial, or continue.

Commissioner Parker moved to table the item to do a work session to work with them. Commissioner Nelson said without direction of the Commission until a meeting with staff, that we can come to an agreement that makes sense.

Director Yost said that is different than the motion that was just made. Commissioner Parker said the intent is to keep the integrity of the City and the zoning ordinance intact and keep their operations working. Both parties are happy.

Commissioner Parker withdrew his motion.

1:54:22 Commissioner Parker moved to recommend continuing the review of the zoning change for Western Paving Concrete and have a working session with staff in order for us be able to help the city maintain the Integrity of the Dry Creek development and also to allow Western Paving to expand their business and continue to operate on their existing property. Commissioner Calder seconded.

Nelson aye
Calder aye
Baker nay
Ellingson aye
Parker aye
Anderson aye

Director Yost said to continue it to the 26th. And not push it off any more.

Commissioner Calder asked if they could modify their request. Director Yost said they can modify the request but wouldn't accomplish what you are stating. They would have to amend the business license code or the zoning regulations to add additional regulations. Commissioner Calder wondered if it was better to withdraw the application. Director Yost said that is their prerogative. Some have done that as they have never gone to Council.

Commissioner Baker wants to know the info on those who were denied and why. Director Yost said he would get all the relative information.

With nothing further to discuss, Commissioner Anderson moved to adjourn the meeting. Commissioner Nelson seconded the motion. Chair Ellingson adjourned the meeting at 9:04 p.m.



Attachment 3: March 26, 2024 Planning Commission Memo



TO: Springville Planning Commission

FROM: Josh Yost, Community Development Director

DATE: March 25, 2024

SUBJECT: Western Paving Zone Map Amendment

On March 12, 2024, the Planning Commission considered Western Paving's request for a zone map amendment to apply the Materials Processing and Storage Overlay to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street. After the discussion, the commission passed the following motion by Commissioner Parker.

Move to continue the review of the zoning change for Western Paving and have a working session with staff in order for us to be able to help the city maintain the integrity of the Dry Creek development and also to allow Western Paving their business and continue to operate on their existing property.

This memo addresses the direction given in the motion. To begin, the primary question is what we want the future of this area to look like. Do we want to follow the Dry Creek Community Plan or allow more heavy industrial growth? After research and discussion, our team believes meeting both goals mentioned in the motion is nearly impossible. If we want to stick to the Dry Creek Community Plan as it is now, we can't approve Western Paving's request. However, if we want to approve their request, we need to change the Dry Creek Community Plan.

Legal Counsel

The Planning Commission asked staff to investigate the legality of approving the zone map amendment on a temporary basis or with specific criteria to terminate the use. The city attorney reviewed the issue and concluded there is nothing theoretically stopping Springville from coming up with a temporary zoning solution. However, neither the city attorney nor anyone else on staff has ever seen it done, and it is very messy practically. We would be vesting several acres in a use that is not easy to undo. Trying to grant the zoning amendment temporarily and keep the plan unaltered will likely result in future litigation between the developer, the city, and other property owners.

After coming to this conclusion, the Community Development Director and City Attorney discussed the issue with the outside legal counsel, who specializes in land use, for a second opinion. Outside legal counsel came to these conclusions.



- Denial is the safest path forward. If we don't want this here in the future, don't allow it now.
- Counsel has never seen a limited duration zone.
- No regular legislative mechanism exists for approving a zone map amendment on a temporary basis. At the same time, nothing necessarily prohibits a temporary zone, but it is muddled with legal issues.

If the Planning Commission wants to recommend a temporary zone against counsel advice while still wanting to implement a future plan that does not include the temporary zone, the City could employ a novel mechanism such as the following:

- The zoning code could be amended to require the use to stop when residential use encroaches within a determined distance.
- A set time or trigger-based sunset provision could be adopted as part of a development agreement.

Either of these options would invite legal challenges now and in the future. It also presents risks to future elected officials by deferring the ultimate decision. When the applicant, a future business owner of the property, or surrounding property owners come forward asking the city to or not to enforce the provisions of the zoning ordinance or a development agreement that requires the use to cease, how will the City respond? It is relevant that the original rezone and the current request resulted from the applicant operating in violation of the City Code and then coming to ask for consideration after being confronted by City officials.

Other Applications

In April 2020, Mr. Kevin Larsen requested a Zone Map Amendment to apply the Materials Processing and Storage (MPS) Overlay to the property at 1838 South State Street, currently in the Light Industrial Manufacturing (LIM) Zone. This property directly abuts the northern boundary of the proposed Western Paving expansion property. The Planning Commission heard this item on April 13, 2021. The staff recommendations were as follows:

Based on this direction and a recent discussion with the council about the risk of incompatible land uses being established in this area prior to the completion of the plan, staff asserts that applying the MPS Overlay to the subject property would hinder the orderly development of the city. No zone changes that would permit a more intensive industrial use in the area should be approved in order to preserve all future land use options that may arise out of the planning process for the subject property and surrounding planning area. As this item requires legislative approval, staff recommends that the Planning Commission forward to the City





Council a recommendation of denial and that the City Council exercise its legislative discretion to deny this application.

The entire staff report is attached for background. Today, I received an email from Terry Larsen, a representative of the previous applicant. He wrote:

It has been brought to my attention that the city of Springville is considering allowing Western Paving to expand the overlay on their property, which allows them to dump, crush, recycle and sell old concrete and asphalt on their property. It was my understanding that when T&k Property's applied for the expansion of the overlay to include a portion of our property that the city was unwilling to expand the overlay due to the unknown zoning changes that could possibly be coming into play with the new 1600 South Freeway offramp.

If the city has now decided to allow the expansion of the overlay for whatever the reason please let me know so we can get the overlay expanded to cover a portion of our property as well.

Staff cannot see any significant differences between Western Paving's new request and the previous one by Mr. Larsen. Staff recommends treating both requests equally, using the similar rationale for denial described in the reports for both cases.





Attachment 4: March 26, 2024 Planning Commission Minutes

IN ATTENDANCE

Commissioners Present: Chair Karen Ellingson, Genevieve Baker, Michael Farrer, Ralph Calder and Brett Nelson

Commissioners Excused: Ann Anderson, Rod Parker

City Staff: Josh Yost, Community Development Director
Chris Creer, Assistant City Attorney
Carla Wiese, Planner II/Economic Development Specialist
Heather Goins, Executive Assistant

City Council: Jake Smith

CALL TO ORDER

Chair Ellingson called the meeting to order at 7:01 p.m.

APPROVAL OF THE AGENDA

Commissioner Nelson moved to approve the agenda as written. Commissioner Farrer seconded the motion. The vote to approve the agenda was unanimous.

APPROVAL OF THE MINUTES

March 12, 2024

Commissioner Farrer moved to approve the March 12, 2024 meeting minutes. Commissioner Calder seconded the motion. The vote to approve the meeting minutes was unanimous.

CONSENT AGENDA

No items

ADMINISTRATIVE SESSION

1) Discussion of options to address the Western Paving's request, continued from the March 12th meeting.

1:39 Josh Yost, Community Development Director, presented. Earlier, he sent the Commissioners a memo that summarizes the points of discussion for tonight. There are two questions that came from the last meeting 1- Does the request meet the requirements of the MPS overlay? The answer was no. One issue is the property doesn't have enough frontage and 2- Does it comply with or is it in harmony with the Dry Creek Community Plan? And the consensus was the Commissioners and Staff generally feel that it doesn't comply with the plan.

At the last meeting, the motion to continue was to find a way to do both: grant zoning on a temporary basis AND allow Westen Paving to expand their business and continue operating on their existing property. The latter is not in question.

The fundamental question is what we want the future of the area to look like. We follow the Dry Creek Community Plan as is and deny the request or approve the request and change the plan to allow more heavy industrial growth in the area. Staff and Administration believe meeting both goals is nearly impossible. If we want the Dry Creek Community Plan to have more industrial area, we need to change the plan first.

4:28 There were internal discussions about temporary zoning. There is no theoretical or reason in the State Land Use Development and Management Act that says why we couldn't, but no one on staff has seen it done. We concluded that it is messy, risky and very hard to undo vesting in land uses, even if we intend from the outset to make it temporary. We spent time with our outside legal counsel and their conclusions were that denial is the safest path forward and if we don't want this here in the future, meaning the additional 13 acres, don't allow it. They have never seen a limited duration zone and they don't see any regular or kind of standard mechanism that has been used before to do this. There is nothing that necessarily prohibits doing it, but it is muddled with legal issues. Denial is the safest path forward, if we don't want this here now, don't allow it now.

5:47 We could amend the zoning code to require the use to stop when residential use encroaches within a determined distance. Or set a time or trigger based sunset provision as part of a development agreement.

6:43 Commissioner Nelson confirmed that outside council has advised against this. Director Yost said yes.

6:56 We have evaluated the options and doing either of these would permit expansion of current business and send conflicting signals to other property owners. It invites legal challenges and presents risks to future elected officials. We asked how we will respond to future requests. This matter came up because the original rezone and the overlay were initiated because the applicant was violating by operating their business in violation of Springville City code. They came in after the fact and asked for consideration to accommodate their operation.

8:19 What about the plan? We can re-evaluate if the Planning Commission wants to look at keeping Western Paving and go through a rigorous process by doing a better job of outreach and engagement and do an economic analysis to determine the economic impact to the city. We would want to do some fiscal impact analysis to determine economic impact for different land uses. We did this in the beginning. We didn't compare that against a baseline or current scenario. We can look at the land uses again. We could change to heavy industrial or similar use on SR-51. We could spend money to improve the street, making it more inviting.

10:26 In terms of the plan, we could divide the planning area that has more frontage on 1600 S and area that is related to SR-51 and use the former interurban rail line

corridor as a divider line and change the future land use to that area as industrial use.

11:16 We were asked at the last meeting about other applications we had in this area. Three years ago, we had an application for a property North of Western Paving to apply the MPSO. On April 13, 2021, Staff and the Commission recommended denial to Council for the same rationale as the Western Paving recommendation as was noted in the memo he sent out. We were just starting a plan and we didn't want to limit our future options or preclude future planning decisions by expanding the use or implementing a heavy use in the area which may have been out of character with what the plan might recommend.

Director Yost apologized that the memo didn't come sooner before the meeting, but he has been working on it. There may have been some misunderstanding to the intent. He had Heather add a potential action item on the agenda tonight to provide the Commission the opportunity to take a vote, if desired, tonight. We are not pushing for a vote tonight, just kept the door open.

Commissioners discussed briefly and decided to move the item to a public hearing.

LEGISLATIVE SESSION:

- 2) Western Paving Inc. requests an amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street. -Josh Yost
jyost@springville.org 801-489-2705***

Chair Ellingson asked for a motion to open the public hearing. Commissioner Farrer moved to open the public hearing. Commissioner Calder seconded. The public hearing was opened at 7:18 p.m.

16:34 Dan Sumsion 2120 S State

Mr. Sumsion said they did the zoning the right way years ago and did a lot to meet city standards, which cost a lot of money. This is where we want the forever home of Western Paving and its employees. Officer Willardson came out in January to double check on our zoning. We assured him we were good. We met with John Penrod; he was aware of the direction we were going and said to proceed. This is what started this whole thing. Then we get to the overlay. As far as we can tell, we have looked and there has been no communication with the Dry Creek Community Plan with us. Our major denial is based on the future of the Dry Creek Community Plan, that we just became aware of. It has become very concerning. We were withheld a chance to have part in that design. We feel that we may be forced out. I would like to go back and have more say. The Commissioners said last meeting, let's go back and see if we can have a peaceful resolution for both the city and us. Today he was told, 'In no world does this work.' That was hard to take. This is disturbing. Over the year, the business owners have been red tagged for things that were not in compliance. Yet the city was doing the same things: stockpiling concrete and asphalt while our gates were being locked. The city owns property near I-15 where they have a month-to-month lease with a customer.

They crush. It is ok for the city, but it isn't OK for us. It is a 'do as we say, not as we do' mentality.

24:42 Scott Sumsion 1833 E 200 S

Scott is an employee at Western Paving. In the last meeting, he asked if the city will abide by the same code and ordinance with the overlay. The times he has asked that, the city staff and employees have drawn a blank. He feels that if it is good for us, it is good for the city. And if that is the case, the primary argument against allowing our adjustment to the overlay is it will carve out additional area from the new Dry Creek Community Plan. He proposes that if the city abides by what we must. There will have to be a change in the Dry Creek Plan because it is already closer than 600 feet. Another point is it is characterized that we are expanding. But as an employee, we are trying to move the recycling back and down the hill, so it is away from neighbors. The area we are using is just 250 feet. The other point disallowing this is we will have to keep the operation up on the hill and it will be more visible to the area.

28:02 Brent Sumsion 316 S Aspen Drive Mapleton. Utah

He spoke with a certified wetlands scientist, Ron Kass, a Springville resident. He is very knowledgeable. He spoke about the conditions of the WPI property. Ron referred him to a Fish and Wildlife survey map, showing certified wetlands from the Army Corp of Engineers. It heavily impacts this subdivision in this area. If you are familiar with Army Corp of Engineers restrictions, it makes it complicated to build structures and change the wetlands without a permit. No earthwork can be done beforehand, and it requires mitigation. It is complicated and expensive. This land is heavily impacted with wetlands. This is a reminder that Western Paving is a viable thriving enterprise and provides services here, in the county and in the state. And provides over 200 well-paying jobs with medical and retirement benefits. Provides sales tax to the city as well. Industrial property is some of the most valuable property and it is hard to find. Property taxes are large. We are benefiting from property taxes and revenues. You have a viable thriving business already here and to replace that is not easy. Retail businesses are struggling. Commissioner Rod Parker said he can attest to that. That needs to be considered.

34:54 Tim Parker 2310 S State

Mr. Parker is the nearest neighbor to WPI. He believes the best predictor of future behavior is current behavior. They were granted the only MPSO operation in the city. It was granted by the Planning Commission, and it appears they are choosing to ignore zoning laws once again by developing a new track of land that is not permitted to be operated on by WPI. They have been operating there for at least a year. He believes they have violated the operations by processing and storing concrete exceeding the allowed amount and operating well within the 600 feet buffer zone they were graciously given. It is in the City Code that silica, a known carcinogen, must not exit the property boundaries. He can say with certainty that whenever there is a high wind event, this occurs. They made significant changes in their already approved site plan and could do so again. There is no definition of a residence in city code. It is understood that his residence extends to his property lines. I expect that I can use my yard. He believes you should not approve this request as it violates city code. He feels WPI has violated that trust in the past. This body should abide by their decision. He asked what commercial housing or commercial development will locate near a concrete crushing plant. Western Paving's current land use won't be impacted.

39:51 George Bird 869 N 800 E

He is a citizen and a contractor. He worked on some big projects in the state, the data center and was a project manager and the airport. He was the contractor on Western Paving's new building. They put a large investment into their property and made their home into Springville. Springville has other projects they are building. If the State came in and said there was going to be a prison next to the new high school, that would be a slap in the face to that development. Western Paving has just invested their whole home into an area that was designed for what they are going. It is underhanded to knock them out. Springville has the chance to embrace what they already have in the city. That is his vote.

43:11 Skip Dunn Orem Utah

Mr. Dunn has 10 acres along Western Paving's property. There is a long history of people moving dirt in that area. He hasn't been contacted about the Dry Creek Community Plan. He had intentions to build commercial buildings there. He hadn't come to look for permits yet because he wasn't ready. He wants to keep everything positive down there where we can all live together. Nobody likes to see that we produce, but they use it every day as they drive on the roads and fix their water lines. This City is growing, and everyone uses their products. He is very impressed with WPI and what they have done. He hasn't seen anything down there that isn't a positive move. For every problem, there is a solution, let's find one.

45:57 Terry Larson 1800 S Hwy 51

We applied at the same time Dan applied for the overlay and we were denied. We have no problem with what Dan is doing. He would like the overlay to expand to our land if they are allowed to have it. He is aware of the Dry Creek Community Plan and wasn't aware that what he is seeing now is set in cement. He isn't into rewriting the world or changing what Springville City thinks is going to work for them, but he thinks we ought to take a good look at what we are doing down there. He asked to not just do things without taking everybody into consideration. He supports Dan and what he is doing. We about his property and would like the overlay extended to our piece.

48:18 Spencer Peterson Demon Diesel 2050 S State

Mr. Peterson is Dan's next-door neighbor. He hasn't seen any dust. He was made aware of the Dry Creek Community Plan recently. At first, he was OK with them building the freeway and making his property more valuable. He rented a building for 10 years and then paid full market value on appreciated market. You put all this money into something, and then you hear the city wants to do the Dry Creek Community Plan. What bothers him is he can stay but not expand. He has employees that he oversees. He feels handcuffed not being able to expand his business, because the zoning will be residential. We are sitting ducks until this happens. This is not difficult. Just leave the industrial pieces and use the Dry Creek Community Plan. There is a road proposed right through my building. That doesn't make me happy. The path forward he sees is to readjust the Dry Creek development.

52:35 Mont Jensen 2250 S SR-51

Mr. Jensen's business is South of Sumsion's and North of Mr. Parker. He has not seen dust. He has no problem with what Dan is doing. None of us in the area have been made aware of the Dry Creek Community Plan. We didn't get notified and we are upset and up in arms. He bought this property in 2016 with the intention because it was LIM he could run his business from it. That is why he purchased it. No one gave us the chance

to give input into the Dry Creek thing until now. He had problems with overlays and he had a previous business that processed materials. He is not in compliance but is working on it. He will look into the overlay. He put his life and all he had into this property. And it feels like it is being taken away from him and hasn't asked our opinion.

55:18 Calvin Crandall 1034 S Main

He is adjoining landowner to the West of WPI. He was aware of the Dry Creek Community Plan. He was involved to an extent on 1600 S and moving South. His property moves to the East. He forgot what Dan was doing in terms of material handling. His land is agriculturally based, and he is OK with WPI. Will the future push Dan out, maybe. It was mentioned earlier that you could put some conditions on this, you are precluding someone from using their property. Is this LIM, and if it fits, I don't know how you can deny WPI from expanding. Either make it fit or deny it. He wished Commissioner Parker was here as he had a development in Oregon and he knows what this is like. I don't have a problem as it stands. It may be an issue in the future as development comes in, but maybe not. We will cross the bridge when we get there. He visited with several people in the last few days and suggested some adjustments on the transitions to provide more of a buffer rather than just housing.

1:00:29 Dan publicly thanked Mr. Crandall. He has the most to gain and most to lose, so we appreciate his kindness. He has been doing this 21 years and the future scares him. He appreciates the property owners standing up. Everyone that stood up said the future plan is to be village mixed. He doesn't know what that means for a bunch of LIM ground. We bought it in 2007. We want to be here; we love this town. We want to be good stewards of this community and would like your help with that.

Commissioner Calder moved to close the Public Hearing. Commissioner Nelson seconded. The public hearing was closed at 8:04 p.m.

Chair Ellingson said the options are to continue, recommend approval or denial. She didn't think anyone was particularly thrilled with the idea of continuing the item again. Commissioner Nelson asked Director Yost to tell where the Dry Creek Community Plan information was communicated. Director Yost said we reached out to property owners in the area and residents. We had participation from people in the neighborhoods to the North of 1600 S and we had a couple of people come from the South end of 51 and we had several different business owners. Representatives of WPI were there. They may not have had the opportunity to engage in the process as much as they would have liked. There was a charette in August of 2020. We are never perfect, and we can do better, but we felt that we did a good job. This has spanned a lot of years, and we may have property owners here today that weren't property owners in the beginning. We never want to come into a meeting where somebody feels like they haven't had the opportunity to participate in a process that affects them and their property and their livelihood. Commissioner Calder asked if all of those meetings are public record. Director Yost said yes.

1:06:20 Commissioner Nelson said whatever the outcome of this evening's recommendation, we need to make sure it is fair across the board. Three things come into play: 1- precedent, 2- strategy with the Dry Creek Community Plan and 3- disallow people from making a request for change when they are already practicing that change on the property. We need to decide those.

1:07:21 Chair Ellingson said there were comments about the buffer zone. She asked Attorney Creer how that works. He said it would be hard to take the buffer away when you have already given it. We would stick with the 600 feet buffer. We can look across the State and see if different answers come from that, but we haven't looked into that. Chair Ellingson asked if it would be advisable for the city to look at adjusting the code if no other use comes in, to say if there's a use it's in place and it has a buffer that no other use will encroach on that buffer. Attorney Creer said to be consistent.

1:08:45 Director Yost said coming to the nuisance question, do you have an answer for that one. Attorney Creer said it hasn't come up yet, but we need to be consistent and come up with answers sooner rather than later.

1:09:33 Commissioner Farrer said he thinks we need to have an opposing view from what was said previously from one of the Commissioners. His concern is the property owners, like Crandall's, and if this would cause him problems. He has been thinking it should be denied. But tonight, he feels more comfortable that we need this business in Springville. Retail businesses are dying on the vine. With a viable business and for us to turn against them, it doesn't make a lot of sense. The city is slow in their projects. He asked what is going to hamper this if WPI is allowed to do this. He is not concerned about it and thinks it should be allowed.

1:13:35 Commissioner Baker respectfully disagrees. Just because we may not be here then, doesn't mean it doesn't matter. There was a lot that went into the Dry Creek Community Plan. If it were reconsidered, that would be up to the City Council. At the advice from Council, that if it is something that Springville decides they want to re-look at and change, or if they don't want it to be there. Creating temporary zoning is not how zoning is created to work. Instead of making small allowances for one person, it should be re-evaluated. In this case, giving a halfway option is risky. It gets murky later. If we grant the overlay, it then carries on from perpetuity. This is Western Paving's home for the foreseeable future. The zoning we put in place is also for the future. She recommends they deny the overlay application in lieu of giving the City Council the option, they can do the opposite of what we recommend. And if the Council re-looks at the plan and makes the change, there is a 1-year moratorium from reapplying again. Right now, it doesn't fit with the plan. It is kind of capricious to make these concessions for one applicant and not for another for the same reason.

1:18:47 Commissioner Farrer feels it is already murky. He asked about the 1000 or 600 feet and was told with a business license it is 600 feet. And saying we shouldn't make a change for one person and not for another, we do it all the time. Commissioner Baker disagrees. Commissioner Farrer said if we need to make this change here, and a neighbor needs it, we should adjust the plan.

Commissioner Nelson thanked the people for coming out. This plan has been approved by the City Council, if the council looks at this, that is the only way he could in good conscience make a change without looking at the whole plan. Commissioner Baker said that is the proper course. Instead of making decisions on one person, code, plan, etc., if it isn't working, if we make changes, we want to fix the code not just put Band-Aids on things. It is best if we do make a change in the code or the plan if the Council feels that is the best. Commissioner Nelson agrees.

Commissioner Farrer feels if we deny the overlay, we are then approving the plan.

1:22:47 Commissioner Calder said he takes the candidate out of the equation. He has empathy for them. They have put a lot of money into their project. They count on something happening for their business. But there was a decision that was denied to another applicant. We are not the Chamber of Commerce to help people have their businesses succeed. He wants that to happen as he has his own business. We are living in a different place than he grew up in. He thinks we need to look at the integrity of the council and what people are going to be able to count on in the future. As a business grows, it needs more land. And that is why we have overlays and zoning. And once the freeway interchange is done, land will be very expensive. They need to be able to count on how things are working. We have to have integrity and take out the candidate, otherwise it creates bias. Whether the business is successful or not should not be considered. I am not saying we don't affect families; I'm saying that we have to consider this on the merits of what the zoning is.

1:27:30 Commissioner Nelson agrees but takes into account the business. But that is part of our job. We are making decisions and affecting families in the community. Commissioner Calder said he isn't saying we don't affect families; we affect the zoning. Commissioner Nelson wants to make sure our citizens are treated fairly and the city as well. Chair Ellingson said it is important to take into account the plans and why they are in place. If it doesn't comply with the plan in place, should the plan be changed. Is the plan what we want or is it not quite doing what we had envisioned. Rather than pushing it from the other direction, we are making zoning changes that conflict with the plan in place. She agrees with Genevieve and asks is this plan not just our vision but the vision the community has for the way that the community wants to develop. The City Council needs to be a part of that process.

1:30:08 Commissioner Nelson moved to recommend denial of the Western Paving Inc.'s requested amendment of the Official Zone Map to apply the Materials Processing and Storage to parcels 26:054:0080, 26:054:0063, and 26:055:0098, consisting of 13.6 acres, located to the rear of the existing Western Paving operation at 2021 South State Street. This recommendation is made with the master plan in mind. If the City Council decides that we need to reconsider the plan after hearing the same things we have heard, this can be discussed further at a later date.

Commissioner Baker seconded. The vote to approve the Legislative Session item(s) was as follows: Commissioner Farrer votes nay so that can make the master plan be changed. Commissioners Ellingson, Baker, Calder and Nelson voted aye.

Chair Ellingson thanked those from coming out. It helps us to hear from those who are affected by these decisions. We are glad you are here.

Director Yost recognized Commissioners Farrer, Ellingson and Parker for their service on the Planning Commission in all the years they served, as this is their last meeting.

With nothing further to discuss, Commissioner Farrer moved to adjourn the meeting. Commissioner Baker seconded the motion. Chair Ellingson adjourned the meeting at 8:35 p.m.



STAFF REPORT

DATE: April 12, 2024

TO: Honorable Mayor and City Council

FROM: Carla Wiese, Planner/Econ Dev Specialist

SUBJECT: REQUEST TO AMEND SPRINGVILLE CITY CODE 14-5-113 WATER FACILITIES TO CHANGE THE REQUIREMENTS FOR UTILITY IMPROVEMENTS IN SMALL SUBDIVISIONS

Recommended Motion:

Motion to approve the recommended ordinance text amendment.

Summary of Issues/Focus of Action

This action focuses on amending the requirements in Title 14 to allow for the subdivision of infill lots without requiring water infrastructure to be brought up to current standards when certain conditions are met that do not adversely impact public safety and/or level of service.

Background:

Carla Amor, petitioner, is seeking to divide her lot located at 85 S 800 E, Parcel 23:046:0122. Title 14 requires the developer to upgrade the infrastructure that will be directly serving the subdivision to meet current standards; in this instance, it would require Ms. Amor to upgrade the existing four-inch water line to an eight-inch line to comply with 14-5-113(1) Culinary Delivery System which states: "Both off-site and on-site water mains of not less than eight inches (8") in diameter shall be installed so that each lot may be served therefrom." Ms. Amor stated that the requirement would be prohibitory to developing the lot, which she does not intend to sell but rather will be building a home for her son's family.

Discussion:

Springville's requirement of an eight-inch line is in line with requirements of Utah Administrative Rule R309-550-5(4) Water Main Design, Minimum Water Main Size, which states: "For water mains not connected to fire hydrants, the minimum line size



shall be 4 inches in diameter. Minimum water main size, serving a fire hydrant lateral, shall be 8 inches in diameter unless a hydraulic analysis indicates that required flow and pressures can be maintained by 6-inch lines.” The City’s Water Master Plan identifies that the water line will be upsized to eight inches in approximately three years.

The amendment proposed by Ms. Amor was broad, and the City Engineer felt that it would allow too much leeway in the code. Therefore, the City Engineer proposed an alternate amendment that is narrower in scope. This amendment would continue to require developers to upgrade water infrastructure to meet current engineering specifications but would still allow for small infill development in similar circumstances,

The Planning Commission heard this issue in a public hearing on April 9, 2024; no members of the public were present to comment. Members of the Commission questioned whether the proposed amendment from the City Engineer had been evaluated to ensure that it would be sufficient to meet the petitioner's needs. The City Engineer, planning staff, and the petitioner met to discuss the alternate language and crafted the language specifically for this situation with consideration of a wider application throughout the city. The Planning Commission unanimously voted to recommend the adoption of the alternative amendment as proposed by the City Engineer (Exhibit B).

Alternatives:

1. Deny the amendment.

Carla Wiese
Planner/Econ Dev Specialist

Exhibit A- Proposed Amendment
Exhibit B- Utah Administrative Rule 309-550-5(4)
Exhibit C- Planning Commission Staff Report

DRAFT

City Engineer Proposed Amendment to City Code

14-5-113 Water Facilities.

The applicant will be responsible to participate in the creation of a safe water supply for the subdivision and the delivery of water to all habitable buildings and each lot in the subdivision for domestic use and fire suppression. All improvements, whether on-site or off-site, which provide direct benefit to the subdivision shall be constructed and paid for by the developer. All transfer and conveyance of water rights shall be consistent with all applicable Springville City ordinances and resolutions.

- (1) Culinary Delivery System. Both off-site and on-site water mains of not less than eight inches (8") in diameter shall be installed so that each lot may be served therefrom.
 - a. The requirement for a new eight inch (8") minimum water main to be constructed is not required if the following existing conditions are satisfied:
 - i. Subdivision is an infill property with no more than two (2).
 - ii. All frontage and utility improvements are complete and existing, and no additional street frontage infrastructure improvements are required, with the exception of new water and sewer services.
 - iii. The existing water main available for water service connections is a minimum four inches (4") as required by Utah Administrative Rule 309-550-5 Water Main Design.
 - iv. No additional fire suppression improvements are required such as fire lines or fire hydrants and a fire flow deficiency does not exist to cover the new lots.

(2) Pressurized Irrigation System. Water distribution lines for a pressurized irrigation system shall be installed as required by the City. The location, size, and design of these facilities shall be in accordance with the City's secondary irrigation plans and standards or as directed by the City Engineer. The City Engineer, in consultation with the subdivider and with the approval of the City Council, may determine that these water lines should not be installed at the time or the other subdivision improvements. In such cases, the City may accept a cash payment, in the amount estimated by the City Engineer to equal the cost of installation of the pressurized secondary water distribution mains and services to the subdivision. The cash payment for these improvements shall be held in a restricted account for the sole purpose of installing secondary water lines and services in the future. Said subdivision and platted lots will not be assessed any fees in the future for the installation of said mains or services, but may pay such other connection or other applicable fees as the City Council may elect to assess or charge prior to the receipt of service from the City's pressurized secondary irrigation system.

(3) Water Rights Conveyance.

(a) For single and multi-family residential subdivisions, a developer must convey to the City water rights as required under Section 11-6-124. This conveyance must be completed before the subdivision may be recorded or the commencement of subdivision infrastructure improvements, whichever is to occur first.

(b) Pursuant to Section 11-6-124, water for nonresidential subdivisions shall be tendered at the time a building permit is issued or change of use occurs.

(4) All required culverts and drainage ways shall be installed as required by the City. All pressurized irrigation facilities and systems shall be installed as required by the City and meet the location, sizing and design requirements of the pressurized irrigation master plan or as directed by the City Engineer.

(5) The Planning Commission shall not approve any preliminary plat for any subdivision, including a minor subdivision, until and unless the subdivider has submitted to the Planning Commission a drawing showing the location of all underground drain lines within the subdivision or in any street on which the subdivision may front or impact in any way. Such drainage shall be signed by the underground drainage district, company, companies, person or persons having the authority and right, recorded or prescriptive, to use such underground drains.

Signature by the underground drain users, district, company, companies, person or persons shall certify that the drawing is a true and accurate representation of the location of all such underground drain lines. Before approval of the preliminary plat, the Planning Commission shall also require the subdivider to submit a signed statement from the underground drainage district, company, companies, person, persons having the right, recorded or prescriptive, to use such underground drains will adequately provide for the continued use and integrity of the underground drain. The underground drain user, district, company, companies, person, persons or Planning Commission shall require that any or all of such underground drains be removed and replaced as a condition of approval of a preliminary plat.

(Adopted by Ord. No. 1-03, amended by 6-03; Ord. No. 04-2014 § 2, 02/18/2014)

R309. Environmental Quality, Drinking Water.

R309-550. Facility Design and Operation: Transmission and Distribution Pipelines.

R309-550-1. Purpose.

The purpose of this rule is to provide specific requirements for the design and installation of transmission and distribution pipelines which deliver drinking water to facilities of public drinking water systems or to consumers. It is intended to be applied in conjunction with rules R309-500 through R309-550. Collectively, these rules govern the design, construction, operation, and maintenance of public drinking water system facilities. These rules are intended to assure that facilities are reliably capable of supplying water in adequate quantities, consistently meeting applicable drinking water quality requirements, and not posing a threat to general public health.

R309-550-2. Authority.

This rule is promulgated by the Drinking Water Board as authorized by Title 19, Environmental Quality Code, Chapter 4, Safe Drinking Water Act, Subsection 104(1)(a)(ii) of the Utah Code and in accordance with Title 63G, Chapter 3 of the same, known as the Administrative Rulemaking Act.

R309-550-3. Definitions.

Definitions for certain terms used in this rule are given in R309-110 but may be further clarified herein.

R309-550-4. General.

Transmission and distribution pipelines shall be designed, constructed and operated to convey adequate quantities of water at ample pressure, while maintaining water quality.

R309-550-5. Water Main Design.

(1) Distribution System Pressure.

(a) The distribution system shall be designed to maintain minimum pressures as required in R309-105-9 at points of connection, under all conditions of flow.

(b) When static pressure exceeds 150 psi in new distribution water lines, pressure reducing devices shall be provided on mains in the distribution system where service connections exist.

(2) Design Flow Rates.

Flow rates used when designing or analyzing distribution systems shall meet the minimum requirements in R309-510.

(3) Hydraulic Analysis.

(a) All water mains shall be sized following a hydraulic analysis based on flow demands and pressure requirements.

(b) Where improvements will upgrade more than 50% of an existing distribution system, or where a new distribution system is proposed, a hydraulic analysis of the entire system shall be prepared and submitted for review prior to plan approval.

(c) Some projects require a hydraulic model. The Division may require submission of a hydraulic modeling report and/or certification, as outlined in R309-511, prior to plan approval.

(4) Minimum Water Main Size.

For water mains not connected to fire hydrants, the minimum line size shall be 4 inches in diameter, unless they serve picnic sites, parks, semi-developed camps, primitive camps, or roadway rest-stops. Minimum water main size, serving a fire hydrant lateral, shall be 8 inches in diameter unless a hydraulic analysis indicates that required flow and pressures can be maintained by 6-inch lines.

(5) Fire Protection.

When a public water system is required to provide water for fire flow by the local fire code official, or if the system has installed fire hydrants on existing distribution mains for that purpose:

(a) The design of the distribution system shall be consistent with the fire flow requirements as determined by the local fire code official.

(b) The location of fire hydrants shall be consistent with the requirements of the State-adopted fire code and as determined by the local fire code official.

(c) The pipe network design shall permit fire flows to be met at representative locations while minimum pressures, as required in R309-105-9, are maintained at all times and at all points in the distribution system.

(d) Fire hydrant laterals shall be a minimum of 6 inches in diameter.

(6) Geologic Considerations.

The character of the soil through which water mains are to be laid shall be considered. Special design and burial techniques shall be employed for Community Water Systems in areas of geologic hazard (e.g., slide zones, fault zones, river crossings, etc.)

(7) Dead Ends.

(a) To provide increased reliability of service and reduce head loss, dead ends shall be minimized by making appropriate tie-ins whenever practical.

(b) Where dead-end mains occur, they shall be provided with a fire hydrant if flow and pressure are sufficient, or with an approved flushing hydrant or blow-off for flushing purposes. Flushing devices shall be sized to provide flows that will give a velocity of at least 2.5 fps in the water main being flushed. No flushing device shall be directly connected to a sewer.

(8) Isolation Valves.

Sufficient number of valves shall be provided on water mains so that inconvenience and sanitary hazards will be minimized during repairs. Valves shall be located at not more than 500 foot intervals in commercial districts and at not more than one block or



**PLANNING COMMISSION
STAFF REPORT**

Agenda Item #3
April 9, 2024

March 18, 2024

TO: Planning Commission Members

FROM: Carla Wiese, Planner II/Econ Dev Spec

RE: **Carla Amor requests an amendment to Springville City Code 14-5-113 Water Facilities to change the requirements for utility improvements in small subdivisions.**

Petitioner: Carla Amor

Summary of Issues

- Does the proposed request meet the requirements of the Springville City Code, particularly 14-5-113 Water Facilities?
- Does it maintain the intent of adopted engineering specifications while not impeding future level of service?

Background

Carla Amor owns the property at 85 S 800 E, Parcel 23:046:0122. Ms. Amor applied to subdivide the parcel to build a home for her son. The application moved through the Development Review Committee process, and engineering advised that to meet the requirements of Springville City Code 14-5-113 Water Facilities, “all improvements, whether on-site or off-site, which provides direct benefit to the subdivision shall be constructed and paid for by the developer.” The code further states in 14-5-113(1) Culinary Delivery System, “Both off-site and on-site water mains of not less than eight inches (8”) in diameter shall be installed so that each lot may be served therefrom.” Under the current code, the existing four-inch (4”) water would need to be brought up to the eight-inch (8”) standard. Ms. Amor stated that the requirement would be prohibitory to subdividing the lot and requested the zone text amendment after meeting with the City Engineer.

Discussion

The requirement for an eight-inch water main stems from the requirements of Utah Administrative Rule R309-550-5(4) Water Main Design, Minimum Water Main Size, which states, “For water mains not connected to fire hydrants, the minimum line size shall be 4 inches in diameter. Minimum water main size, serving a fire hydrant lateral, shall be 8 inches in diameter unless a hydraulic analysis indicates that required flow and pressures can be maintained by 6-inch lines.” Developers of new subdivisions are required to bring infrastructure up to current specifications; the existing water main that serves the newly created lot is four inches (4”) and, under existing Springville code, would need to be brought up to the current eight-inch (8”) minimum standard. Springville requires the larger 8” water line to accommodate

both culinary and fire suppression water flow in the same line; typically, a 4-inch line for culinary and a 6-inch line for fire suppression is sufficient but when culinary and fire suppression are in the same, an 8-inch line is required to accommodate the flow.

The City Engineer has determined that the existing 4-inch line will be sufficient to provide the added culinary water flow. There will not be additional fire suppression flow added to the water main.

Staff finds that the proposed amendment, as submitted by the applicant, is too broad and the intent of the Springville City Code, which is to ensure that infrastructure is improved in a manner that will serve new construction and provide for the safety of the community may not be served if the broad language is adopted.

"14-5-113 Water Facilities The applicant will be responsible to participate in the creation of a safe water supply for the subdivision, if more than three lots, and the delivery of water to all habitable buildings and each lot in the subdivision for domestic use and fire suppression. All improvements, whether on-site or off-site, which provide direct benefit to the subdivision shall be constructed and paid for by the developer, if subdivision consists of more than three lots. All transfer and conveyance of water rights shall be consistent with all applicable Springville City ordinances and resolutions. The following applies to subdivisions of more than three lots.

- (1) Culinary Delivery System. Both off-site and on-site water mains of not less than eight inches (8") in diameter shall be installed so that each lot may be served therefrom."

Springville City Engineer has proposed alternate language that is narrower in scope, meets the needs of the applicant, and maintains the intent of the specifications for future development. Staff support adopting the alternate text amendment as submitted by the city engineer.

"14-5-113 Water Facilities. The applicant will be responsible to participate in the creation of a safe water supply for the subdivision and the delivery of water to all habitable buildings and each lot in the subdivision for domestic use and fire suppression. All improvements, whether on-site or off-site, which provide direct benefit to the subdivision shall be constructed and paid for by the developer. All transfer and conveyance of water rights shall be consistent with all applicable Springville City ordinances and resolutions.

- (1) Culinary Delivery System. Both off-site and on-site water mains of not less than eight inches (8") in diameter shall be installed so that each lot may be served therefrom.

a. The requirement for a new eight-inch (8") minimum water main to be constructed is not required if the following existing conditions are satisfied:

i. Subdivision is an infill property with no more than two (2) lots.

ii. All frontage and utility improvements are complete and existing, and no additional street frontage infrastructure improvements are required except for new water and sewer services.

iii. The existing water main available for water service connections is a minimum of four inches (4") as required by Utah Administrative Rule 309-550-5 Water Main Design.

iv. No additional fire suppression improvements are required, such as fire lines or fire hydrants, and a fire flow deficiency does not exist to cover the new lots.

The development of infill lots for residential uses is consistent with the goals of providing attainable housing and maintaining and strengthening residential neighborhoods.

Staff Recommendation

Staff recommends the adoption of the alternate text amendment as submitted by the city engineer.

Recommended Motion

Move to recommend adoption of the amendment to Springville City Code Title 14 Chapter 5 Article 1 Section 113 as presented by the city engineer.

Attachments

1. Applicant Proposed Amendment
2. City Engineer Alternate Amendment
3. Utah Administrative Rule 309-550-5(4)

ORDINANCE NO. ____-2024

AN ORDINANCE AMENDING SPRINGVILLE CITY CODE 14-5-113 WATER FACILITIES TO CHANGE THE REQUIREMENTS FOR UTILITY IMPROVEMENTS IN SMALL SUBDIVISIONS.

WHEREAS the Springville City Subdivision Code establishes standards and regulations for the subdivision of land within Springville City; and

WHEREAS the Springville City Engineer establishes and enforces standards and specifications for infrastructure development within the guidelines of acceptable engineering best practices; and

WHEREAS the Springville City Engineer has reviewed the request of the petitioner and developed alternative language that is narrower in scope; and

WHEREAS the Planning Commission conducted a public hearing on April 9, 2024, reviewed the proposed amendments, and has recommended the adoption of the amendment, as drafted by the City Engineer; and

WHEREAS approving the proposed alternate amendment would allow for subdivision of the petitioner's lot while maintaining the ability of the city to require upgrades to infrastructure;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Springville, Utah, that:

Section 1: Title 14 Article 5 Chapter 113 Water Facilities be amended to allow for the infill development of no more than two lots when the following conditions are met:

- All frontage and utility improvements are complete and existing, and no additional street frontage infrastructure improvements are required except for new water and sewer services.
- The existing water main available for water service connections is a minimum of four inches (4") as required by Utah Administrative Rule 309-550-5 Water Main Design.
- No additional fire suppression improvements are required, such as fire lines or fire hydrants, and a fire flow deficiency does not exist to cover the new lots.

Section 2: The provisions of this ordinance will not apply to any proposed subdivision that does not meet all of the requirements listed in this ordinance.

Section 3: The exceptions granted in this ordinance apply only to water facilities and not to any other infrastructure improvements required in Title 14 (Exhibit A).

Section 4: This ordinance shall become effective upon adoption by the Springville City Council and publication as required by law.

ADOPTED by the City Council of Springville, Utah, on the 16th day of April, 2024.

Matt Packard, Mayor

ATTEST:

Kim Crane, City Recorder

EXHIBIT A

“14-5-113 Water Facilities. The applicant will be responsible to participate in the creation of a safe water supply for the subdivision and the delivery of water to all habitable buildings and each lot in the subdivision for domestic use and fire suppression. All improvements, whether on-site or off-site, which provide direct benefit to the subdivision shall be constructed and paid for by the developer. All transfer and conveyance of water rights shall be consistent with all applicable Springville City ordinances and resolutions.

(1) Culinary Delivery System. Both off-site and on-site water mains of not less than eight inches (8") in diameter shall be installed so that each lot may be served therefrom.

a. The requirement for a new eight-inch (8") minimum water main to be constructed is not required if the following existing conditions are satisfied:

i. Subdivision is an infill property with no more than two (2) lots.

ii. All frontage and utility improvements are complete and existing, and no additional street frontage infrastructure improvements are required except for new water and sewer services.

iii. The existing water main available for water service connections is a minimum of four inches (4") as required by Utah Administrative Rule 309-550-5 Water Main Design.

iv. No additional fire suppression improvements are required, such as fire lines or fire hydrants, and a fire flow deficiency does not exist to cover the new lots.



STAFF REPORT

DATE: April 11, 2024
TO: Honorable Mayor and City Council
FROM: Bradley D. Stapley, Director of Public Works
SUBJECT: 2023 MUNICIPAL WASTEWATER PLANNING PROGRAM ANNUAL REPORT

Recommended Motion:

Move to adopt resolution _____, which approves Springville City’s Municipal Wastewater Planning Report for 2023.

Executive Summary:

The Municipal Wastewater Planning Program is a program established by the State of Utah Department of Environmental Quality to assist cities in evaluating their wastewater collection system and treatment facilities, their financial planning for current and future needs, and to assess their preparedness for future development potential.

The purpose of the Municipal Wastewater Planning Annual Report is to allow Springville City to identify and solve potential problems in the Wastewater Collections System and the Wastewater Treatment Plant before they become serious and costly.

Focus of Action:

The Municipal Wastewater Planning Program (MWPP) uses an annual survey to assist owners of municipal sewerage systems and wastewater treatment works in evaluating and summarizing the technical, operational, and financial conditions of and requirements for these facilities.

The purpose of MWPP is to help communities understand these business operations better and to help identify and resolve potential problem areas before they become serious and costly.



The Utah Department of Environmental Quality Division of Water Quality requires that the Municipal Wastewater Planning Program report be adopted by City Council Annually.

Background:

At the beginning of each year, the Division of Water Quality distributes the MWPP survey to over 200 municipalities and districts. These utilities compile the necessary financial, operations, performance, and compliance information requested from the previous year and report their completed surveys to their governing council or board and to the Division.

The Utah Department of Environmental Quality Division of Water Quality requires POTW's (Public Owned Treatment Works) to fill out the Municipal Wastewater Planning Program survey to assist owner of municipal sewerage systems and wastewater treatment works in evaluating and summarizing the technical, operational, and financial conditions of and requirements for these facilities.

At the end of each year, the Division of Water Quality distributes the MWPP survey to over 200 municipalities and districts. These utilities compile the necessary financial, operations, performance, and compliance information requested and report their completed surveys to their governing council or board and the Division.

The Division uses the results from the MWPP in its permitting and assistance programs, including:

- Utah Sewer Management Program Annual Report
- Utah Wastewater Operator Certification Program
- Wastewater Financial Assistance Program
- Water Quality Board Financial Sustainability Assessments
- Financial Needs Report to EPA and Congress

Participation in the MWPP survey is mandatory for all Utilities that own or operate a sanitary sewerage system.



Discussion:

The report (Exhibit A) is a self-assessment report developed by the Department of Environmental Quality. It includes, but is not limited to the following sections and subsections:

- **Financial Evaluation**
 - I. General Questions
 - II. Operating Revenues and Reserves
 - III. Capital Improvements, Revenues and Reserves
 - IV. Fiscal Sustainability Review
- **Collection System**
 - I. System Description
 - II. Discharges
 - III. New Development
 - IV. Operator Certification
 - V. Facility Maintenance
 - VI. Sewer System Management Plan Evaluation
 - VII. Narrative Evaluation

Springville MWPP Summary:

Financial Evaluation - Wastewater collection and treatment revenues are maintained in separate dedicated enterprise accounts, with over 95% of anticipated wastewater rate revenues being collected on an annual basis.

Recent State-wide mandates on stricter treatment plant effluent standards (notably Phosphorus removal) have significantly increased treatment plant operations costs.

Inflation over recent years has also significantly increased Operation & Maintenance costs, as well as Repair & Replacement costs associated capital improvement construction costs. These significant cost increases are straining the City's wastewater rate structure.

Draft Wastewater Collection System and Wastewater Treatment Plant Master Plans are nearing completion, with up-to-date information on existing deficiencies, near and long-term capital projects, and anticipated future growth.



As such, Public Works will be initiating an in-depth rate study in the Fiscal 2024-25 budget year to appropriately craft a wastewater rate structure that will meet the City's current and future financial needs.

Collection System & Treatment Plant - These sections of the MWWP include both the wastewater collection system and the wastewater treatment plant. The City fully meets State of Utah Administrative Rule requirements, requiring chief operators be certified as Direct Responsible Charge. Additionally, the City also employs system operators with grade certifications appropriate for their job positions as required by the State.

A recent internal audit of wastewater collection system pipeline maintenance indicated that some sewer pipelines have not been TV inspected in the past five years. These pipelines have now been incorporated into a five (5) year rotation.

A draft Wastewater Treatment Plant Master Plan and associated Capital Facilities Plan is nearing completion, with up-to-date information on existing deficiencies, near and long-term capital projects, and anticipated future growth system requirements. City staff will be reviewing recommendations and crafting appropriate timely projects to continue meeting State requirements.

Fiscal Impact:

No expenditures, however the possibility of grant and loan assistance is increased by participating in this program.

BRADLEY D. STAPLEY

Public Works Director
bstapley@springville.org
801.489.2711
springville.org



2024 MWPP Survey Questions

This document is provided to assist in gathering the appropriate responses for the survey.

The following questions are populated into a spreadsheet. Each question is numbered by the letter of the column that it falls in. If it so happens that you need to change a response to a question after submitting the form call Harry Campbell at 385-501-9583, identify your facility, report the question label (B, C, D, etc. in front of the question), and provide the correct response.

B. Email jnostrom@springville.org (email of facility contact)

Section 1. General Information

C. Name of Facility? Springville City WRF

D. What is the name of the person responsible for this organization? Bradley D Stapley

E. What is the title of the person responsible for this organization? Public Works Director

F. What is the email Address for the person responsible for this organization? bstapley@springville.org

G. What is the phone number for the person responsible for this organization? 801-489-2711

H. Facility Location? Please provide either Longitude and Latitude, address, or a written description of the location (with area or point). 40.1766908, -111.6199297 500 West 700 North Springville, Ut 84663

Federal Facility Section

I. Are you a federal facility? A federal facility is a military base, a national park, a facility associated with the forest service, etc. No

“If Yes” you will go to the Collection Section

“If No” you will go to the Financial Section

Financial Evaluation Section

J. This form is completed by [name]? Bradley D Stapley

Part I General Questions - Please answer the following questions regarding GENERAL QUESTIONS.

K. Are sewer revenues maintained in a dedicated purpose enterprise/district account? Yes

L. Are you collecting 95% or more of your anticipated sewer revenue? Yes

M. Are Debt Service Reserve Fund requirements being met? Yes

N. Where are sewer revenues maintained? Combined Sewer Collections and Waste Water treatment Utilities Funds

O. What was the average annual User Charge for 2023? If there is more than one rate divide the total municipal yearly User Charge collected, by the total number of connections. \$405.96

P. Do you have a water and/or sewer customer assistance program (CAP)? Yes

Part II: OPERATING REVENUES AND RESERVES - Please answer the following questions regarding OPERATING REVENUES AND RESERVES.

Q. Are property taxes or other assessments applied to the sewer systems? No

R. Revenue from these taxes = N/A

S. Are sewer revenues sufficient to cover operations & maintenance costs, and repair & replacement costs (OM&R) at this time? Yes

T. Are projected sewer revenues sufficient to cover operation, maintenance, and repair (OM&R) costs for the next five years? Yes

U. Does the sewer system have sufficient staff to provide proper OM&R? Yes

V. Has a repair and replacement sinking fund been established for the sewer system? No

W. Is the repair & replacement sinking fund sufficient to meet anticipated needs? N/A

Part III: Capital Improvements, Revenues and Reserves. - Please answer the following questions regarding Capital Improvements, Revenues and Reserves.

X. Are sewer revenues sufficient to cover all costs of current capital improvements projects? Yes

Y. Has a Capital Improvements Reserve Fund been established to provide for anticipated capital improvement projects? Yes

Z. Are projected Capital Improvements Reserve Funds sufficient for the next five years? No

AA. Are projected Capital Improvements Reserve Funds sufficient for the next ten years? No

AB. Are projected Capital Improvements Reserve Funds sufficient for the next twenty years? No

Part IV: FISCAL SUSTAINABILITY REVIEW - Please answer the following questions regarding FISCAL SUSTAINABILITY REVIEW.

AC. Have you completed a rate study within the last five years? Yes

AD. Do you charge Impact fees? Yes

AE. Impact Fee (if not a flat fee, use average of all collected fees) = \$1716.00

AF. Have you completed an impact fee study in accordance with UCA 11-36a-3 within the last five years? Yes

AG. Do you maintain a Plan of Operations? Yes

AH. Have you updated your Capital Facility Plan within the last five years? Yes

AI. In what year was the Capital Facility Plan last updated? 2023

AJ. Do you use an Asset Management system for your sewer systems? Yes

AK. Do you know the total replacement cost of your sewer system capital assets? No

AL. Replacement Cost = _____

AM. Do you fund sewer system capital improvements annually with sewer revenues at 2% or more of the total replacement cost? N/A

AN. What is the sewer/treatment system annual asset renewal cost as a percentage of its total replacement cost? N/A

AO. Describe the Asset Management System. Check all that apply

Spreadsheet

GIS

Accounting Software

Specialized Software

AP. Please answer the following: - 2023 Capital Assets Cumulative Depreciation?
\$43,836,892

AQ. Please answer the following: - 2023 Capital Assets Book Value? Book Value = total cost - accumulated depreciation \$20,349,538

Part V: PROJECTED CAPITAL INVESTMENT COSTS - Please answer the following questions regarding PROJECTED CAPITAL INVESTMENT COSTS.

AR. Cost of projected capital improvements - Please enter a valid numerical value. - 2023? \$2,920,073

AS. Cost of projected capital improvements - Please enter a valid numerical value. - 2024 through 2028? \$22,969,000

AT. Cost of projected capital improvements - Please enter a valid numerical value. - 2029 through 2033? \$25,757,398

AU. Cost of projected capital improvements - Please enter a valid numerical value. - 2034 through 2038? \$21,658,103

AV. Cost of projected capital improvements - Please enter a valid numerical value. - 2039 through 2043? \$9,159,068

AW. Purpose of Capital Improvements - 2023? Check all that apply.

Replace/Restore

New Technology

Increased Capacity

AX. Purpose of projected Capital Improvements - 2024 through 2028? - Check all that apply.

Replace/Restore

- X New Technology
- X Increased Capacity

AY. Purpose of projected Capital Improvements - 2029 through 2033 Check all that apply.?

- X Replace/Restore
- X New Technology
- X Increased Capacity

AZ. Purpose of projected Capital Improvements - 2034 through 2038? - Check all that apply.

- X Replace/Restore
- X New Technology
- X Increased Capacity

BA. Purpose of projected Capital Improvements from 2039 through 2043? - Check all that apply.

- X Replace/Restore
- X New Technology
- X Increased Capacity

BB. To the best of my knowledge, the Financial Evaluation section is completed and accurate. True

Note: This questionnaire has been compiled for your benefit to assist you in evaluating the technical and financial needs of your wastewater systems. If you received financial assistance from the Water Quality Board, annual submittal of this report is a condition of the assistance. Please answer questions as accurately as possible to give you the best evaluation of your facility. If you need assistance please send an email to wqinfodata@utah.gov and we will contact you as soon as possible. You may also visit our Frequently Asked Questions page.

BC. Do you have a collection system? Yes

The answer to this question is obvious in most cases, but for clarification, some wastewater systems consist of only wastewater collections (answer Yes). Some wastewater systems do not have a collection system but receive wastewater from separate collection system jurisdictions (answer No). Some wastewater systems have treatment and collections and consider their entire system as one entity (answer Yes). Some wastewater systems have treatment and collections, but consider their collections a separate entity from treatment (answer No). If you have treatment but have an independent collection system and you answered "No," you must enter your collection system separately as an independent response to the survey. Yes

"If Yes" you will go to the Collection Section

"If No" you will go to a choice of which Treatment section

Collection System - The collection of wastewaters in a system of pipes and possibly pump stations that deliver wastewater to a treatment system that may or may not be independent of the treatment system.

BD. This form is completed by [name]? - The person completing this form may receive Continuing Education Units (CEUs). Bradley D Stapley

Part I: SYSTEM DESCRIPTION - Please answer the following questions regarding SYSTEM DESCRIPTION.

BE. What is the largest diameter pipe in the collection system? - Please enter the diameter in inches. 36"

BF. What is the average depth of the collection system? - Please enter the depth in feet. 10'

BG. What is the total length of sewer pipe in the collection system? - Please enter the length in miles. 148.9

BH. How many lift/pump stations are there in the collection system? 11

BI. What is the largest capacity lift/pump station in the collection system? - Please enter the design capacity in gpm. 1400

BJ. Do seasonal daily peak flows exceed the average peak daily flow by 100 percent or more? No

BK. What year was your collection system first constructed (approximately)? 1935

BL. In what year was the largest diameter sewer pipe in the collection system constructed, replaced or renewed? If more than one, cite the oldest. 1955

Part II: DISCHARGES - Please answer the following questions regarding DISCHARGES.

BM. How many days last year was there a sewage bypass, overflow or basement flooding in the system due to rain or snowmelt? 0

BN. How many days last year was there a sewage bypass, overflow or basement flooding due to equipment failure (except plugged laterals)? 0

Sanitary Sewer Overflow (SSO)

Class 1 - a Significant SSO means a SSO backup that is not caused by a private lateral obstruction or problem that:

- a) affects more than five private structures;
- b) affects one or more public, commercial or industrial structure(s);
- c) may result in a public health risk to the general public;
- d) has a spill volume that exceeds 5,000 gallons, excluding those in single private structures; or
- e) discharges to Waters of the State.

Class 2 - a Non-Significant SSO means a SSO or backup that is not caused by a private lateral obstruction or problem that does not meet the Class 1 SSO criteria

BO. What is the number of Class 1 SSOs in Calendar year 2023? 1

BP. What is the number of Class 2 SSOs in Calendar year 2023? 0

BQ. Please indicate what caused the SSO(s) in the previous question.

Cracked pressure line.

BR. Please specify whether the SSOs were caused by contract or tributary community, etc.

Part III: NEW DEVELOPMENT - Please answer the following questions regarding NEW DEVELOPMENT.

BS. Did an industry or other development enter the community or expand production in the past two years, such that flow or wastewater loadings to the sewerage system increased by 10% or more? No

BT. Are new developments (industrial, commercial, or residential) anticipated in the next 2 - 3 years that will increase flow or BOD5 loadings to the sewerage system by 25% or more? No

BU. What is the number of new commercial/industrial connections in 2023? 7

BV. What is the number of new residential sewer connections added in 2023? 49

BW. How many equivalent residential connections are served? 12,182

Part IV: OPERATOR CERTIFICATION - Please answer the following questions regarding OPERATOR CERTIFICATION.

BX. How many collection system operators do you employ? 3

BY. What is the approximate population served? 37,000

BZ. State of Utah Administrative Rules require all public system chief operators considered to be in Direct Responsible Charge (DRC) to be appropriately certified at no less than the Facility's Grade. List the designated Chief Operator/DRC for the Collection System by: First and Last Name, Grade, and email. Grades: Grade I, Grade II, Grade III, and Grade IV.

Terrance Harris, Grade IV, tharris@springville.org

CA. Please list all other Collection System operators with DRC responsibilities in the field, by name and certification grade. Please separate names and certification grade for each operator by commas. Grades: Grade I, Grade II, Grade III, and Grade IV.

Jacob Nostrom, Grade IV

CB. Please list all other Collection System operators by name and certification grade. Please separate names and certification grades for each operator by commas. Grades: Grade I, Grade II, Grade III, and Grade IV.

Brayden Nielson, Grade I

Riley Jeffers, Grade I

Bradley Jacobson, Grade II

CC. Is/are your collection DRC operator(s) currently certified at the appropriate grade for this facility?
Yes

Part V: FACILITY MAINTENANCE - Please answer the following questions regarding FACILITY MAINTENANCE.

CD. Have you implemented a preventative maintenance program for your collection system? Yes

CE. Have you updated the collection system operations and maintenance manual within the past 5 years? No

CF. Do you have a written emergency response plan for sewer systems? Yes

CG. Do you have a written safety plan for sewer systems? Yes

CH. Is the entire collections system TV inspected at least every 5 years? No

CI. Is at least 85% of the collections system mapped in GIS? Yes

Part VI: SSMP EVALUATION - Please answer the following questions regarding SSMP EVALUATION.

CJ. Have you completed a Sewer System Management Plan (SSMP)? Yes

CK. Has the SSMP been adopted by the permittee's governing body at a public meeting? Yes

CL. Has the completed SSMP been public noticed? yes

If "yes" then the question below.

CM. Date of Public Notice? December 11, 2014

If "no" then the question below.

CN. When will the SSMP be public noticed? _____

CO. During the annual assessment of the SSMP, were any adjustments needed based on the performance of the plan? No

CP. What adjustments were made to the SSMP (i.e. line cleaning, CCTV inspections, manhole inspections, and/or SSO events)? _____

CQ. During 2023, was any part of the SSMP audited as part of the five-year audit? No

CR. If yes, what part of the SSMP was audited and were changes made to the SSMP as a result of the audit?

CS. Have you completed a System Evaluation and Capacity Assurance Plan (SECAP) as defined by the Utah Sewer Management Plan? Yes

Part VII: NARRATIVE EVALUATION - Please answer the following questions regarding NARRATIVE EVALUATION.

CT. Describe the physical condition of the sewerage system: (lift stations, etc. included)

We have different age of concrete pipe and newer PVC pipes. We have sections of concrete pipe with root intrusions that we treat and have trenchless rehabilitation program to lie pipes with root problems.

CU. What sewerage system capital improvements does the utility need to implement in the next 10 years?

Up sizing lines and lift stations to accommodate growth.

CV. What sewerage system problems, other than plugging, have you had over the last year?

H2S, deteriorating concrete pipes and manholes.

CW. Is your utility currently preparing or updating its capital facilities plan? Yes

CX. Does the municipality/district pay for the continuing education expenses of operators?

- 100%
- Partially
- Does not pay

CY. Is there a written policy regarding continued education and training for wastewater operators? No

CZ. Do you have any additional comments?

DA. To the best of my knowledge, the Collections System section is completed and accurate. True

Note: This questionnaire has been compiled for your benefit to assist you in evaluating the technical and financial needs of your wastewater systems. If you received financial assistance from the Water Quality Board, annual submittal of this report is a condition of the assistance. Please answer questions as accurately as possible to give you the best evaluation of your facility. If you need assistance, please send an email to wqinfodata@utah.gov and we will contact you as soon as possible. You may also visit our Frequently Asked Questions page.

You have either just completed or just bypassed questions about a Collection System. This section (the questions below) determines the next set of questions that you will be presented based on the choice you make for treatment.

DB. What kind of wastewater treatment do you have in your wastewater treatment system?

If you have treatment, you must choose from Mechanical Plant, Discharging Lagoon, or Non-Discharging Lagoon. If you don't have treatment then choose "No Treatment." Choose only one answer.

- Mechanical Plant
 - Discharging Lagoon
 - Non-Discharging Lagoon
 - No Treatment of Wastewater
-

Mechanical Plant

DC. Form completed by [name]? - The person completing this form may receive Continuing Education Units (CEUs). Thad Monsen

DD. What is the design basis or rated capacity for average daily flow in MGD? 6.6 mgd

DE. What is the design basis or rated capacity for average daily BOD loading in lb/day?
22,300

DF. What is the design basis or rated capacity for average daily TSS loading in lb/day? 365

DG. What was the 2023 average daily flow in MGD? 4.07

DH. What was the 2023 average daily loading for BOD in lb/day? 11,132

DI. What was the 2023 average daily loading for TSS in lb/day? 4,630

DJ. What is the percent of capacity used by the 2023 average daily flow? 60%

DK. What is the percent of capacity used by the 2023 average daily BOD load? 49%

DL. What is the percent of capacity used by the 2023 average daily TSS? 51%

Part II: EFFLUENT INFORMATION - Please answer the following questions regarding EFFLUENT INFORMATION.

DM. How many Notices of Violations (NOVs) did you receive for this facility in 2023? 3

DN. How many days in the past year was there a bypass or overflow of wastewater at the facility due to high flows? 0

Part III: FACILITY AGE - Please answer the following questions regarding FACILITY AGE.

DO. In what year was your HEADWORKS evaluated? 2022

DP. In what year was your HEADWORKS most recently constructed, upgraded, or renewed? 1999

DQ. What is the age of your HEADWORKS? 24 years

DR. In what year was your PRIMARY TREATMENT evaluated? 2008

DS. In what year was your PRIMARY TREATMENT constructed, upgraded or renewed? 1997

DT. What is the age of your PRIMARY TREATMENT? 26 years

DU. In what year was your SECONDARY TREATMENT evaluated? 2008

DV. In what year was your SECONDARY TREATMENT constructed, upgraded or renewed? 2009

DW. What is the age of your SECONDARY TREATMENT? 14 years

DX. In what year was your TERTIARY TREATMENT evaluated? 2022

DY. In what year was your TERTIARY TREATMENT constructed, upgraded or renewed? 1985

DZ. What is the age of your TERTIARY TREATMENT? 38 years

EA. In what year was your SOLIDS HANDLING evaluated? 2008

EB. In what year was your SOLIDS HANDLING constructed, upgraded or renewed? 2009

EC. What is the age of your SOLIDS HANDLING? 14 years

ED. In what year was your DISINFECTION evaluated? 2019

EE. In what year was your DISINFECTION constructed, upgraded or renewed? 2019

EF. What is the age of your DISINFECTION? 4 years

EG. In what year was your LAND APPLICATION/DISPOSAL evaluated? N/A

EH. In what year was your LAND APPLICATION/DISPOSAL constructed, upgraded or renewed? N/A

EI. What is the age of your LAND APPLICATION/DISPOSAL? N/A

Part IV: DISCHARGES - Please answer the following questions regarding DISCHARGES.

EJ. How many days in the last year was there a bypass or overflow of wastewater at the facility due to equipment failure? 0

Part V: BIOSOLIDS HANDLING - Please answer the following questions regarding BIOSOLIDS HANDLING.

EK. Biosolids disposal (check all that apply)

Landfill

Land Application

Give Away/Other Distribution - Composting

Part VI: NEW DEVELOPMENT - Please answer the following questions regarding NEW DEVELOPMENT.

EL. Number of new commercial/industrial connections in the last year? 7

EM. Number of new residential sewer connections added in the last year? 49

EN. Equivalent residential connections served? 12,182

Part VII: OPERATOR CERTIFICATION

EO. How many treatment system operators do you employ? 4

EP. State of Utah Administrative Rules require all public system chief operators considered to be in Direct Responsible Charge (DRC) to be appropriately certified at no less than the Facility's Grade. List the designated Chief Operator/DRC for the Treatment System by: First and Last Name, Grade, and email.

Grades: Grade I, Grade II, Grade III, and Grade IV.

Thad Mosen, Grade IV tmosen@springville.org

EQ. Please list all other wastewater treatment system operators with DRC responsibilities in the field, by name and certification grade. Please separate names and certification grade for each operator by commas.

Grades: Grade I, Grade II, Grade III, and Grade IV.

Jacob Nostrom, Grade IV

ER. Please list all other wastewater treatment operators by name and certification grade. Please separate names and certification grades for each operator by commas.

Grades: Grade I, Grade II, Grade III, and Grade IV.

Warren Gavin, Grade I

Dave Vernon, grade II

ES. Is/are your DRC operator(s) currently certified at the appropriate grade for this facility? Yes

Part VIII: FACILITY MAINTENANCE - Please answer the following questions regarding FACILITY MAINTENANCE.

ET. Have you implemented a written preventative maintenance program for your treatment system? Yes

EU. Have you updated the treatment system operations and maintenance manual within the past 5 years? No

EV. Please identify (below) the types of treatment equipment and processes installed at your facility.

Indicate as many as you need.

- Screens
- Grit Removal
- Primary Clarifier
- Imhoff Tanks
- Fixed Film Reactor
- Activated Sludge
- Aerobic Suspended Growth Variations
- Anaerobic Suspended Growth Variations
- Physical-Chemical Systems for Organic Removal w/o Secondary Treatment
- Physical-Chemical Systems for Organic Removal Following Secondary Treatment
- Membrane Filtration
- Suspended-Growth Nitrification and Denitrification
- Air Stripping
- Phosphorus Removal - Chemical

- Phosphorus Removal - Biological
- Ion Exchange
- Reverse Osmosis
- Media Filtration
- X Dissolved Air Flotation
- Micro Screens
- Chlorine Disinfection
- X UV Disinfection
- Effluent Use/Reuse

EW. To the best of my knowledge, the Mechanical Plant section is completed and accurate. True

Note: This questionnaire has been compiled for your benefit to assist you in evaluating the technical and financial needs of your wastewater systems. If you received financial assistance from the Water Quality Board, annual submittal of this report is a condition of the assistance. Please answer questions as accurately as possible to give you the best evaluation of your facility. If you need assistance please send an email to wqinfodata@utah.gov and we will contact you as soon as possible. You may also visit our Frequently Asked Questions page.

Discharging Lagoon

EX. This form is completed by [name]? The person completing this form may receive Continuing Education Units (CEUs). _____

Part I: Influent Information - Please answer the following questions regarding INFLUENT into your lagoon.

EY. What is the design basis or rated capacity for average daily flow in MGD? _____

EZ. What is the design basis or rated capacity for average daily BOD loading in lb/day?

FA. What is the design basis or rated capacity for average daily TSS loading in lb/day?

FB. What was the 2023 average daily flow in MGD? _____

FC. What was the 2023 average daily loading for BOD in lb/day? _____

FD. What was the 2023 average daily loading for TSS in lb/day? _____

FE. What is the percent of capacity used by the 2023 average daily flow? _____

FF. What is the percent of capacity used by the 2023 average daily BOD load? _____

FG. What is the percent of capacity used by the 2023 average daily TSS? _____

Part II: EFFLUENT INFORMATION. - Please answer the following questions regarding EFFLUENT.

FH. How many notices of violation (NOV)s did you receive for this facility in 2023?

Part III: DISCHARGES - Please answer the following questions regarding DISCHARGES.

FI. How many days in the past year was there a bypass or overflow of wastewater at the facility due to high flows? _____

FJ. How many days in the past year was there a bypass or overflow of wastewater at the facility due to equipment failure? _____

Part IV: FACILITY AGE - Please answer the following questions about FACILITY AGE. If your plant does not have the treatment unit please enter N/A.

FK. In what year was your HEADWORKS evaluated? _____

FL. In what year was your HEADWORKS most recently constructed, upgraded, or renewed?

FM. What is the age of your HEADWORKS? _____

FN. In what year was your LAGOON evaluated? _____

FO. In what year was your LAGOONS (including aeration) most recently constructed, upgraded, or renewed? _____

FP. What is the age of your LAGOONS (including aeration)? _____

FQ. In what year was your DISINFECTION SYSTEM evaluated? _____

FR. In what year was your DISINFECTION SYSTEM most recently constructed, upgraded, or renewed?

FS. What is the age of your DISINFECTION SYSTEM? _____

FT. In what year was your LAND APPLICATION/DISPOSAL evaluated? _____

FU. In what year was your LAND APPLICATION/DISPOSAL most recently constructed, upgraded, or renewed? _____

FV. What is the age of your LAND APPLICATION/DISPOSAL? _____

Part V: NEW DEVELOPMENT - Please answer the following questions regarding NEW DEVELOPMENT.

FW. How many commercial/industrial connections were added in 2023? _____

FX. How many residential sewer connections were added in 2023? _____

FY. How many equivalent residential connections did you serve in 2023? _____

Part VI: OPERATOR CERTIFICATION - Please answer the following questions regarding OPERATOR CERTIFICATION

FZ. How many treatment operators do you employ? _____

GA. Utah administrative rules require all public system chief operators with Direct Responsible Charge (DRC) to be appropriately certified at no less than the facility's grade. Please list the designated Chief Operator/DRC for the Wastewater Treatment system below. Please give their first and last name, grade level, and email address. Grades: Grade I, Grade II, Grade III, and Grade IV. _____

GB. Please list all other Wastewater Treatment system operators with DRC responsibilities in the field, by name and certification grade. Please separate names and certification grade for each operator by commas. Grades: Grade I, Grade II, Grade III, and Grade IV. _____

GC. Please list all other Wastewater Treatment operators by name and certification grade. Please separate names and certification grades for each operator by commas.

Grades: Grade I, Grade II, Grade III, and Grade IV. Include operators with no certification. _____

GD. Is/are all your DRC operators currently certified at the appropriate grade level for this facility? Yes No

Part VII: FACILITY MAINTENANCE - Please answer the following questions regarding FACILITY MAINTENANCE.

GE. Have you implemented a preventative maintenance program for your treatment system? Yes No

GF. Have you updated the treatment system operations and maintenance manual within the past five years? Yes No

GG. Identify the types of treatment units at your facility.

- Screening
- Grit Removal
- Lagoon Variations
- Phosphorous Treatments
- Chlorine Disinfection
- UV Disinfection
- Land Application/Disposal

GH. To the best of my knowledge I certify the discharging lagoon portion of the MWPP survey to be correct and accurate. True False

Note: This questionnaire has been compiled for your benefit to assist you in evaluating the technical and financial needs of your wastewater systems. If you received financial assistance from the Water Quality Board, annual submittal of this report is a condition of the assistance. Please answer questions as accurately as possible to give you the best evaluation of your facility. If you need assistance please send an email to wqinfodata@utah.gov and we will contact you as soon as possible. You may also visit our Frequently Asked Questions page.

Non-Discharging Lagoon

GI. This form is completed by [name]? The person completing this form may receive Continuing Education Units (CEUs). _____

Part I: INFLUENT INFORMATION - Please answer the following questions regarding INFLUENT into your lagoon.

GJ. What is the design basis or rated capacity for average daily flow in MGD? _____

GK. What is the design basis or rated capacity for average daily BOD loading in lb/day?

GL. What is the design basis or rated capacity for average daily TSS loading in lb/day?

GM. What was the 2023 average daily flow in MGD? _____

GN. What was the 2023 average daily loading for BOD in lb/day? _____

GO. What was the 2023 average daily loading for TSS in lb/day? _____

GP. What was the percent capacity used by the 2023 average daily flow? _____

GQ. What was the percent capacity used by the 2023 daily average BOD? _____

GR. What was the percent capacity used by the 2023 daily average TSS? _____

Part II: FACILITY AGE - Please answer the following questions about FACILITY AGE. If your plant does not have the treatment unit please enter N/A.

GS. In what year was your HEADWORKS most recently evaluated? _____

GT. In what year was your HEADWORKS most recently constructed, upgraded, or renewed?

GU. What is the age of your HEADWORKS? _____

GV. In what year was your LAGOONS (including aeration) evaluated? _____

GW. In what year was your LAGOONS (including aeration) most recently constructed, upgraded, or renewed? _____

GX. What is the age of your LAGOONS (including aeration)? _____

GY. In what year was your DISINFECTION SYSTEM evaluated? _____

GZ. In what year was your DISINFECTION SYSTEM evaluated? _____

HA. What is the age of your DISINFECTION SYSTEM? _____

HB. In what year was your LAND APPLICATION/DISPOSAL evaluated? _____

HC. In what year was your LAND APPLICATION/DISPOSAL most recently constructed, upgraded, or renewed? _____

HD. What is the age of your LAND APPLICATION/DISPOSAL? _____

Part III: DISCHARGES - Please answer the following questions regarding DISCHARGES.

HE. How many days in the past year was there a bypass or overflow of wastewater at the facility due to high flows? _____

HF. How many days in the past year was there a bypass or overflow of wastewater at the facility due to equipment failure? _____

Part IV: NEW DEVELOPMENT - Please answer the following questions regarding NEW DEVELOPMENT.

HG. How many commercial/industrial connections were added in 2023? _____

HH. How many residential sewer connections were added in 2023? _____

HI. How many equivalent residential connections did you serve in 2023? _____

Part V: OPERATOR CERTIFICATION - Please answer the following question regarding OPERATOR CERTIFICATION.

HJ. How many treatment operators do you employ? _____

HK. Utah administrative rules require all public system chief operators with Direct Responsible Charge (DRC) to be appropriately certified at no less than the facility's grade. Please list the designated Chief Operator/DRC for the wastewater treatment system below. Please give their first and last name, grade level, and email address. Grades: Grade I, Grade II, Grade III, and Grade IV. _____

HL. Please list all other wastewater treatment system operators with DRC responsibilities in the field, by name and certification grade. Please separate names and certification grade for each operator by commas. Grades: Grade I, Grade II, Grade III, and Grade IV. _____

HM. Please list all other wastewater treatment operators by name and certification grade. Please separate names and certification grades for each operator by commas. Grades: Grade I, Grade II, Grade III, and Grade IV. Include operators that are not certified. _____

HN. Is/are all your DRC operators currently certified at the appropriate grade level for this facility? Yes No

Part VI: FACILITY MAINTENANCE - Please answer the following questions regarding FACILITY MAINTENANCE.

HO. Have you implemented a preventative maintenance program for your treatment system? Yes No

HP. Have you updated the treatment system operations and maintenance manual within the past five years? Yes No

HQ. To the best of my knowledge I certify the non-discharging lagoon portion of the MWPP survey to be correct and accurate. True False

Note: This questionnaire has been compiled for your benefit to assist you in evaluating the technical and financial needs of your wastewater systems. If you received financial assistance from the Water Quality Board, annual submittal of this report is a condition of the assistance. Please answer questions as accurately as possible to give you the best evaluation of your facility. If you need assistance please send an email to wqinfodata@utah.gov and we will contact you as soon as possible. You may also visit our [Frequently Asked Questions page](#).

Adopt & Sign

HR. I have reviewed this report and to the best of my knowledge the information provided in this report is correct. True

HS. Has this been adopted by the City Council or District Board? Yes

“If No”

HT. What date will it be presented to the City Council or District Board? April 16, 2024

“If Yes”

HU. What date was this adopted by City Council or District Board? Anticipated April 16, 2024



STAFF REPORT

DATE: April 11, 2024

TO: Honorable Mayor and City Council

FROM: Jason Miller, Power Director

SUBJECT: FIRM PROJECT ENERGY PREPAY AGREEMENT

Recommended Motion:

A resolution authorizing Springville City to agree to allow Utah Associated Municipal Power Systems (UAMPS) to participate in a prepaid energy agreement being undertaken in agreement with Southeast Energy Authority (SEA). The motion is to approve execution of the Qualified Use Certificate, which is required in conjunction with the Commodity Supply Contract.

Executive Summary:

A similar prepayment arrangement for the Payson Power Project natural gas supply was approved and completed Fall 2023.

Springville is a member of UAMPS and participates in the Red Mesa and Steele Solar 1B (anticipated May 2024) in conjunction with the organization. UAMPS has, or will have, Power Supply Agreements (PSA) in place for both projects. Utilizing a Limited Assignment Agreement (LAA, attached), UAMPS will direct 80% of the power purchased from the projects to SEA. In turn, SEA will sell UAMPS (Springville) the power assigned it through the LAA at a discounted price under a Supply Contract.

Southeast Energy Authority anticipates issuing bonds to finance the prepayment for power supplied to UAMPS under the Supply Contract. The interest generated through these Prepay Bonds will qualify for a tax exemption. This arrangement is anticipated to yield 8% savings versus UAMPS (Springville) purchasing power directly from the projects via the traditional PSA structure.

Requested Action:

Approve completion of the Qualified Use Certificate, giving UAMPS permission to advance in the process of securing the Limited Assignment Agreement and Supply Contract with SEA.



Background:

UAMPS and other municipalities will have Power Purchase Agreements (PPAs) in place for both the Red Mesa and Steele Solar 1B Projects. SEA will finance prepayment for power through the Prepay Bonds, which will be exempt from federal taxation. The Prepay Bonds **will not be** a debt or obligation of either UAMPS or Springville. The anticipated tax savings will be shared through contractual agreements to ultimately decrease the cost to UAMPS (Springville) of power purchased through these projects.

To qualify for the tax exemption, Springville (and all UAMPS participants in the Firm Project) the City must execute a Qualified Use Certificate which mandates:

- 1) Springville must have a municipal power system which supplies retail customers.
- 2) Springville must distribute all the electricity purchased through the Supply Contract in a “Qualified Use”.
 - a. Means the sale of electricity to retail customers located within the “electricity service area” of a municipal utility pursuant to generally applicable and uniformly applied rate schedules or tariffs.
- 3) In each of the five calendar years preceding 2024, the amount of electricity sold to retail customers in the Participant’s electricity service area (must have) equaled or exceeded the amount of electricity attributable to its entitlement share under the Firm PSA.

Springville has project entitlements in Red Mesa and Steele Solar 1B as follows:

- 1) Red Mesa = 3 MW or 4.55% of the project
- 2) Steele Solar 1B = 2.3 MW or 5.75% of the project

The City must utilize 80% of these entitlements for qualified uses, or in providing electricity to retail customers.

Potential Risks:

There are potential risks associated with this financial transaction:

- Default by SEA
- Loss of tax exemption due to legal or logistical failures
- Failure to meet “Qualified Use” requirements (Springville)

Contractual language provides for exit from the agreement under multiple circumstances. In addition, electricity secured under this contract (5.3 MW x 80%) represents a minor portion of total electricity sales in Springville and is easily covered by current residential consumption. Therefore, these risks are mitigated by deal structure and current electricity consumption trends in the City.



Alternatives:

The alternative would be to forego entering into the agreement and losing the 8% discount provided through the proposed arrangement. Springville would remain entitled to electricity through the PSA associated with each project.

Fiscal Impact:

There will be no direct fiscal impact from signing the Qualified Use Certificate. Savings on purchased electricity will be realized over the life of the agreement.

Jason Miller
Power Director

Attachments:

Firm Project Resolution for Prepaid Energy
Firm Project Participants Tax Certificate and Agreement
Power Supply Agreement Draft

A RESOLUTION AUTHORIZING PARTICIPATION IN A PREPAID COMMODITY SUPPLY PROJECT BEING UNDERTAKEN BY SOUTHEAST ENERGY AUTHORITY, A COOPERATIVE DISTRICT; APPROVING THE FORMS OF A POWER SUPPLY CONTRACT AND A LIMITED ASSIGNMENT AGREEMENT; DELEGATING AUTHORITY TO APPROVE THE FINAL TERMS OF THE POWER SUPPLY CONTRACT, THE LIMITED ASSIGNMENT AGREEMENT AND RELATED AGREEMENTS; AND RELATED MATTERS.

*** *** ***

WHEREAS, Utah Associated Municipal Power Systems (“UAMPS”) has previously established the Firm Power Supply Project (the “*Firm Project*”) and has from time to time entered into various power purchase agreements for supplies of electricity for sale to those members of UAMPS (the “*Firm Participants*”) that have entered into the Master Firm Power Supply Agreement with UAMPS and the Transaction Schedules thereto relating to such supplies of electricity (the “*Firm Agreement*”);

WHEREAS, such power purchase agreements include: (a) the Second Amended and Restated Solar Power Purchase Agreement (the “*Red Mesa PPA*”) between UAMPS and NTUA Generation – Utah, LLC; (b) the Second Amended and Restated Solar Power Purchase Agreement (the “*Steel Solar 1A PPA*”) between UAMPS and Steel Solar, LLC; and (c) the Second Amended and Restated Solar Power Purchase Agreement (the “*Steel Solar 1B PPA*”) and, together with the Red Mesa PPA and the Steel Solar 1A PPA, the “*Assigned PPAs*”) between UAMPS and Steel Solar, LLC;

WHEREAS, UAMPS has been examining the benefits of participating in a prepaid energy transaction to achieve discounts on the contract prices of its purchased natural gas and electricity,

and the Payson Power Project has previously determined to participate in the prepaid energy transaction described below;

WHEREAS, Southeast Energy Authority, a Cooperative District (“*SEA*”) has been organized under the laws of the State of Alabama as joint action agency to undertake and finance transactions for the acquisition of supplies of natural gas and electricity for municipal utilities and joint action agencies throughout the United States, and is now undertaking an additional project for the acquisition of supplies of natural gas and electricity to be delivered over a term of approximately thirty years through a prepayment transaction (the “*Prepay Project*”) with a special purpose entity (“*Prepay LLC*”) organized by J. Aron & Company LLC (“*J. Aron*”);

WHEREAS, pursuant to separate Limited Assignment Agreements (the “*Limited Assignment Agreements*”) among UAMPS, J. Aron and each of the sellers under the Assigned PPAs, and a Power Supply Contract (the “*Power Supply Contract*”) between UAMPS and SEA, UAMPS will assign to J. Aron the right to receive quantities of electricity to be delivered under each of the Assigned PPAs, J. Aron will deliver such electricity to Prepay LLC, which will, in turn, deliver such electricity to SEA for sale to UAMPS at discount to the contract price payable under each of the Assigned PPAs;

WHEREAS, in the event that any of the Assigned PPAs expires or is terminated while the Prepay Project is in effect, UAMPS will have the option under the Power Supply Contract to (a) assign replacement power purchase agreements entered into through the Firm Power Project so as to enable the participants in the Firm Power Project to purchase discounted electricity from the

Prepay Project or (b) assign power purchase agreements from another UAMPS project or projects to enable the participants in those projects to receive the benefits of the Prepay Project;

WHEREAS, SEA will finance the Prepay Project by the issuance of its Commodity Supply Revenue Bonds (the "*Prepay Bonds*"), with the intention that the interest on the Prepay Bonds will be exempt from federal income taxation under the Internal Revenue Code of 1986, as amended;

WHEREAS, while the Prepay Bonds will not be a debt or an obligation of UAMPS or the Firm Participants, it will be necessary (a) for UAMPS to agree that the electricity purchased from the Prepay Project will be used in compliance with the "Qualifying Use Requirements" (such term and other capitalized terms used herein without definition having the meanings set forth in the Power Supply Contract), (b) for the Firm Participants to agree that, for so long as electricity is purchased from the Prepay Project, such electricity generated will be used in compliance with the Qualifying Use Requirements, and (c) for UAMPS to provide certain disclosure information and annual continuing disclosure information to enable SEA to comply with the municipal securities rules of the Securities and Exchange Commission;

WHEREAS, the Board has now determined that it is necessary, desirable and in the best interests of UAMPS and the Firm Participants to authorize UAMPS' participation in the Prepay Project, to approve the Power Supply Contract and the initial Limited Assignment Agreements, and all other actions necessary in connection therewith; and

WHEREAS, the Project Management Committee for the Firm Power Project has recommended that the Board of Directors adopt and approve this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS, AS FOLLOWS:

Section 1. Approval of Power Supply Contract and Limited Assignment Agreements; Subsequent Assignments. The Power Supply Contract, in substantially the form attached hereto as *Exhibit A*, and the Limited Assignment Agreements, in substantially the form attached to the Power Supply Contract, are hereby authorized and approved, *provided that* UAMPS shall realize an overall discount from the contract prices under the Assigned PPAs of at least 8.00% during the Initial Reset Period.

Section 2. Qualifying Use and Disclosure Requirements. (a) UAMPS shall agree in the Power Supply Contract, including in its Federal Tax Certificate attached thereto, that all of the electricity purchased by it from the Prepay Project will be used in compliance with the Qualifying Use Requirements. UAMPS is hereby authorized to (i) execute and deliver the Federal Tax Certificate, (ii) take all actions on its part as shall be necessary to cause such electricity to be used in compliance with the Qualifying Use Requirements and (iii) take all remedial actions on its part as shall be necessary to cure any use of such electricity that does not comply with the Qualifying Use Requirements.

(b) Each of the Firm Participants that participates in an Assigned PPA under a Transaction Schedule to the Firm Agreement (a "*Participating Firm Participant*") shall execute and deliver a Qualified Use Certificate, in substantially the form attached hereto as *Exhibit B*, that includes (i) its agreement that all of the electricity that it purchases from the Firm Power Project will be used in compliance with the Qualifying Use Requirements, (ii) certain information with

respect to its retail sales of electricity to customers located in its electricity service area for the five prior calendar years and (iii) certain additional agreements on its part intended to support the tax-exempt status of interest on the Prepay Bonds. Any Participating Firm Participant that does not or is unable to execute and deliver such a Qualified Use Certificate shall not receive any of the discounts resulting from the participation of the Firm Project in the Prepay Project.

(c) UAMPS shall provide such information with respect to itself, the Firm Power Project and the Participating Firm Participants as may be reasonably requested by SEA for use in SEA's Official Statement with respect to the Prepay Bonds. UAMPS shall provide such continuing disclosure information with respect to itself, the Firm Power Project and the Participating Firm Participants as is required under the Power Supply Contract. The Participating Firm Participants agree to cooperate with UAMPS with respect to such disclosure and continuing disclosure information and to provide such information as may be reasonably requested by UAMPS.

Section 3. Authorized Officers. Any of the Chairman, Chief Executive Officer or the Chief Financial Officer (each, an "*Authorized Officer*") is hereby authorized to execute and deliver the Power Supply Contract and the Limited Assignment Agreements on behalf of UAMPS, and the Secretary or Assistant Secretary is hereby authorized to attest such execution and to countersign, and to affix the corporate seal of UAMPS to the Power Supply Contract and the Limited Assignment Agreements. Each of the Authorized Officers is hereby delegated authority to approve such changes to the Power Supply Contract and the Limited Assignment Agreements as are necessary to complete the forms thereof, together with any minor or non-substantive

changes. The Project Management Committee for the Firm Power Project is hereby delegated authority to approve any other or further changes to the Power Supply Contract and the forms of the Limited Assignment Agreements.

Section 4. Other Actions With Respect to the Power Supply Contract and the Limited Assignment Agreements. The officers and employees of UAMPS shall take all action necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated hereby and shall take all action necessary in conformity with the Act in connection with the Power Supply Contract and the Limited Assignment Agreements including, without limitation, the execution and delivery of any closing certificates, tax certificates and other documents required to be delivered in connection with the Power Supply Contract and the Limited Assignment Agreements. UAMPS may engage the services of legal counsel for the purpose of providing any legal opinions as may be required under the Power Supply Contract.

Section 5. Severability. If any section, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this resolution.

Section 6. Effective Date. This resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the Board of Directors of the Utah Associated Municipal Power Systems, this 20th day of March, 2024.

UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS

By _____
Chairman

[SEAL]

ATTEST:

Assistant Secretary

EXHIBIT A

[POWER SUPPLY CONTRACT]

EXHIBIT B

[QUALIFIED USE CERTIFICATE]

TAX CERTIFICATE AND AGREEMENT

This Tax Certificate and Agreement is executed in connection with the Commodity Supply Contract (the “*Supply Contract*”) between Southeast Energy Authority, a Cooperative District (“*SEA*”) and Utah Associated Municipal Power Systems (“*UAMPS*”).

WHEREAS, _____ (the “*Participant*”) is a member of UAMPS and has entered into the Master Firm Power Supply Agreement dated as of _____, and [describe Red Mesa, Steel Solar 1A and Steel Solar 1B transaction schedules as applicable] (the “*Firm PSA*”) with UAMPS;

WHEREAS, the Participant understands that UAMPS has entered into the Supply Contract to obtain a supply of electricity at a discounted price for sale to the Participant in accordance with its Entitlement Share under (and as such term is defined in) the Firm PSA;

WHEREAS, the Participant further understands that SEA will issue bonds to finance a prepayment for the electricity that it sells to UAMPS under the Supply Contract (the “*Prepay Bonds*”) with the intention that the interest on the Prepay Bonds will qualify for tax exemption under Section 103 of the Internal Revenue Code of 1986, as amended (the “*Code*”); and

WHEREAS, the Participant acknowledges that its use of the electricity it purchases from its Entitlement Share under the Firm PSA is subject to certain restrictions that are necessary to establish and maintain the tax-exempt status of interest on the Prepay Bonds;

ACCORDINGLY AND IN FURTHERANCE OF THE FOREGOING, THE PARTICIPANT HEREBY CERTIFIES AND AGREES AS FOLLOWS:

1. The Participant is a political subdivision of the State of _____,¹ and owns and operates a municipal utility system that provides electricity service to retail customers located in an established service area (the “*System*”).

2. The Participant will (a) use all of the electricity it acquires from its Entitlement Share under the Firm PSA in a Qualified Use (as defined below), (b) not take any action (or make any allocation) that is inconsistent with the Qualified Use of such electricity, (c) not take or omit to take any action with respect to such electricity, its Entitlement Share or its System which could adversely affect the tax-exempt or tax-advantaged status of interest on the Prepay Bonds or any refunding bonds issued by SEA, (d) take, and pay the costs of, such remedial actions as may be necessary to maintain the tax-exempt or tax-advantaged status of interest on the Prepay Bonds or any refunding bonds in the event of its failure to use such electricity in a Qualified Use, and (e) act in accordance with such reasonable written instructions as may be provided by SEA (through UAMPS) from time to time in order to maintain the tax exempt or tax-advantaged status of the Prepay Bonds.

¹ Utah for all Participants, except California for Fallon, LMUD and TDPUD.

3. “*Qualified Use*” means the sale of electricity to retail customers located within the “electricity service area” of a municipal utility pursuant to generally applicable and uniformly applied rate schedules or tariffs; *provided* that: (a) “Qualified Use” shall not include any sale of electricity that gives rise to “private business use” or a “private loan” within the meaning of Section 141 of the Code; and (b) “Qualified Use” shall include such additional uses of electricity as may be approved by SEA (through UAMPS) with a favorable opinion of bond counsel. For purposes of this definition: (i) “electricity service area” has the meaning assigned to such term in U.S. Treasury Regulation Section 1.148-1(e)(2)(iii); and (ii) a “municipal utility” is a state or local government unit that owns and operates an electric distribution utility.

4. In each of the five calendar years preceding 2024, the amount of electricity sold to retail customers in the Participant’s electricity service area has equaled or exceeded the amount of electricity attributable to its Entitlement Share under the Firm PSA (excluding the amount of electricity that the Participant was obligated to take under a long term agreement that was either (i) purchased pursuant to a long term prepaid agreement using the proceeds of tax-exempt or tax-advantaged obligations, or (ii) generated from gas that a person is obligated to take under a long term agreement that was purchased pursuant to a long term prepaid agreement using the proceeds of tax-exempt or tax-advantaged obligations), and it anticipates this to be the case in 2024.

5. The Participant expects to make the required payments under the Firm PSA solely from the current revenues of the System.

Dated: _____, 2024.

[NAME OF PARTICIPANT]

By: _____
[Name]
[Title]

POWER SUPPLY CONTRACT

between

SOUTHEAST ENERGY AUTHORITY, A COOPERATIVE DISTRICT

and

UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS

Dated as of [____], 2024

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POWER SUPPLY CONTRACT

This Power Supply Contract (this “Agreement”) is made and entered into as of [____], 2024 (the “Execution Date”), by and between Southeast Energy Authority, a Cooperative District, a capital improvement cooperative district organized pursuant to Section 11-99B-1, *et seq.*, *Alabama Code* (“Issuer”) and Utah Associated Municipal Power Systems, a [____] (“Purchaser”).

WITNESSETH:

WHEREAS, Issuer has planned and developed a project to acquire long-term Gas supplies from Aron Energy Prepay [] LLC (“Prepay LLC”) pursuant to a Prepaid Energy Sales Agreement (as amended, restated, supplemented or otherwise modified from time to time, the “Prepaid Agreement”) to meet a portion of the Product supply requirements of Purchaser through the Commodity Project; and

WHEREAS, Issuer will finance the prepayment under the Prepaid Agreement, and the other costs of, the Commodity Project by issuing the Bonds; and

WHEREAS, as a condition precedent to the effectiveness of the Parties’ obligations under this Agreement, Issuer shall have entered into the Prepaid Agreement and shall have issued the Bonds.

NOW, THEREFORE, in consideration of the premises and mutual covenants set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Issuer and Purchaser (the “Parties” hereto; each is a “Party”) agree as follows:

ARTICLE I.

DEFINITIONS

Section 1.1 Defined Terms. The following terms, when used in this Agreement (including the preamble or recitals to this Agreement) and identified by the capitalization of the first letter thereof, have the respective meanings set forth below, unless the context otherwise requires:

“Administrative Fee” means the amount per Commodity Unit specified in Exhibit H.

“Affiliate” means, with respect to either Party, any entity which is a direct or indirect parent or subsidiary of such Party or which directly or indirectly (i) owns or controls such Party, (ii) is owned or controlled by such Party, or (iii) is under common ownership or control with

such Party. For purposes of this definition, “control” of an entity means the power, directly or indirectly, either to (a) vote 50% or more of the securities having ordinary voting power for the election of directors or Persons performing similar functions or (b) direct or cause the direction of the management and policies, whether by contract or otherwise.

“Agreement” has the meaning specified in the preamble and shall include exhibits, recitals and attachments referenced herein and attached hereto.

“Alternate Delivery Point” has the meaning specified in Section 5.1(a).

“Annual Refund” means the annual refund, if any, to be provided to Purchaser and calculated pursuant to the procedures specified in Section 3.2(e).

“APC Contract Price” has the meaning specified in Exhibit J.

“APC Party” has the meaning specified in Exhibit J.

“Applicable Project” has the meaning specified in Exhibit J.

“Applicable Market Operator” means [_____].

“Applicable Tariff” means [_____].

“Assignable Power Contract” has the meaning specified in Section 6.1.

“Assigned Delivery Point” means, with respect to any Assigned Energy, the Assigned Delivery Point as set forth in the applicable Assignment Schedule for such Assigned Energy.

“Assigned Discounted Product” means, for any Month, the lesser of (i) the total quantity of Assigned Product delivered hereunder in such Month and (ii) the aggregate Assigned Prepay Quantities for such Month.

“Assigned Energy” means any Energy to be delivered to J. Aron or any successor thereto pursuant to any Assigned Rights and Obligations.

“Assigned PAYGO Product” means, for any Month, the amount, if any, by which the total quantity of Assigned Product delivered under an Assigned PPA exceeds the Assigned Prepay Quantity for such Assigned PPA for such Month.

“Assigned PPA” means any power purchase agreement that is assigned pursuant to an Assignment Agreement in accordance with the terms of this Agreement.

“Assigned Prepay Quantity” has the meaning specified in Exhibit J.

“Assigned Prepay Value” means, for any Month and each Assignment Schedule, the Assigned Prepay Quantity for such Month multiplied by the applicable APC Contract Price.

“Assigned Product” means Assigned Energy and any other Product included on an Assignment Schedule, subject to the limitations for such other Product set forth in Exhibit J.

“Assigned Quantity” means, with respect to each Month during an Assignment Period, the quantity of Assigned Energy delivered in connection with the Assigned Product during such Month.

“Assigned Rights and Obligations” has the meaning specified in Section 6.1.

“Assignment Agreement” means, for any Assigned Rights and Obligations, an agreement among Purchaser, J. Aron and the APC Party, approved by Issuer, in the form attached hereto as Annex II to Exhibit J (with such changes thereto as may be mutually agreed upon by Purchaser, J. Aron, the APC Party, and Issuer, each in its sole discretion).

“Assignment Period” for any Assigned Rights and Obligations has the meaning specified in the applicable Assignment Agreement.

“Assignment Schedule” has the meaning specified in Exhibit J.

“Available Discount Percentage” has the meaning specified in the Re-Pricing Agreement. For the avoidance of doubt, the “Available Discount Percentage” under the Re-Pricing Agreement includes the Monthly Discount Percentage, as well as additional discounting expected to be made available through the Annual Refund.

“Base Delivery Point” has the meaning specified in Section 5.1(a).

“Base Product” means Firm (LD) Energy delivered to the Base Delivery Point.

“Base Quantity” means, with respect to each Delivery Hour during the Delivery Period, the Base Unadjusted Quantity for such Delivery Hour less the Base Quantity Reduction for such Delivery Hour, each as set forth on Exhibit A-1, as Exhibit A-1 may be revised pursuant to Article VI.

“Base Quantity Reduction” means, with respect to each Delivery Hour during the Delivery Period, the “Base Quantity Reduction” of Base Product (in MWh) set forth for such Delivery Hour on Exhibit A-1, as Exhibit A-1 may be revised pursuant to Article VI.

“Base Unadjusted Quantity” means, with respect to each Delivery Hour during the Delivery Period, the “Base Unadjusted Quantity” (in MWh) set forth for such Delivery Hour on Exhibit A-1.

“Billing Statement” has the meaning specified in **Error! Reference source not found.**

“Bond Closing Date” means the date on which Bonds are first issued pursuant to the Bond Indenture.

“Bond Indenture” means (i) the Trust Indenture to be entered into prior to the commencement of the Delivery Period between Issuer and the Trustee, and (ii) any trust indenture entered into in connection with the commencement of any Interest Rate Period after the initial Interest Rate Period between Issuer and the Trustee containing substantially the same terms as the indenture described in clause (i) and which is intended to replace the indenture described in clause (i) as of the commencement of such Interest Rate Period.

“Bonds” means the bonds issued pursuant to the Bond Indenture.

“Business Day” means any day other than (i) a Saturday or Sunday, (ii) a Federal Reserve Bank Holiday, (iii) any other day on which commercial banks generally in either New York, New York or the State of [____] are authorized or required by Law to close, or (iv) any day excluded from “Business Day” as therein defined, pursuant to the Bond Indenture.

“Calculation Agent” has the meaning specified in the Re-Pricing Agreement.

“Claiming Party” has the meaning specified in Section 11.1.

“Claims” means all claims or actions, threatened or filed, that directly or indirectly relate to the indemnities provided herein, and the resulting losses, damages, expenses, attorneys’ fees, experts’ fees, and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

“Code” means the Internal Revenue Code of 1986, as amended.

“Commercially Reasonable” or “Commercially Reasonable Efforts” means, with respect to any purchase or sale or other action required to be made, attempted or taken by a Party under this Agreement, such efforts as a reasonably prudent Person would undertake for the protection of its own interest under the conditions affecting such purchase or sale or other action, including without limitation, the amount of notice of the need to take such action, the duration and type of the purchase or sale or other action, the competitive environment in which such purchase or sale or other action occurs, and the risk to the Party required to take such action.

“Commodity” means Gas or Energy and, to the extent included on an Assignment Schedule, any Product related to Energy.

[“Commodity Project” has the meaning specified in the Bond Indenture.]

“Commodity Unit” means one (1) MMBtu with respect to Gas and [____] MWhs with respect to Energy. **[NOTE: To be determined based on the relative fixed prices of gas and power as determined upon pricing the Bonds.]**

“Commodity Reference Price” means either (i) the Day-Ahead Market Price, or (ii) the Real-Time Market Price, as applicable.

“Contract Price” means (i) with respect to the Base Product and any Delivery Hour, (A) the Day-Ahead Market Price for such Delivery Hour at the Base Delivery Point less (B) the

product of the Prepay Fixed Price multiplied by the Monthly Discount Percentage, (ii) with respect to Assigned Discounted Product, (A) the applicable APC Contract Price(s) multiplied by (B) the result of 100% less the Monthly Discount Percentage, and (iii) with respect to Assigned PAYGO Product, the APC Contract Price(s).

“CPT” means Central Daylight Saving Time when such time is applicable and otherwise means Central Standard Time.

“Day” means each period of 24 consecutive Hours commencing at the Hour ending at 01:00 (LPT) through the Hour ending at 24:00 (LPT).

“Day-Ahead Market Price” has the meaning specified on Exhibit A-1 for each Delivery Point.

“Default Rate” means, as of any date of determination, the lesser of (a) the sum of (i) the rate of interest per annum quoted in The Wall Street Journal (Eastern Edition) under the “Money Rates” section as the “Prime Rate” for such date of determination, plus (ii) one percent per annum, or (b) if a lower maximum rate is imposed by applicable Law, such maximum lawful rate.

“Delivery Hour” has the meaning specified in Exhibit A-1.

“Delivery Period” has the meaning specified in Exhibit H.

“Delivery Point” means the Base Delivery Point or an Assigned Delivery Point, as applicable.

“Electricity Sale and Service Agreement” has the meaning specified in the Prepaid Agreement.

“Energy” means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

“Execution Date” has the meaning specified in the preamble.

“Federal Tax Certificate” means the executed Federal Tax Certificate delivered by Purchaser in the form attached as Exhibit D.

“FERC” means the Federal Energy Regulatory Commission or any successor thereto.

“Firm (LD)” means, with respect to the obligation to deliver Energy, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance of such obligation is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article IV.

“Firm Power Project” shall mean the UAMPS project governed by the Master Firm Power Supply Agreement.

“Force Majeure” means an event or circumstance which prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the date this Agreement was executed, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided; provided that, for the avoidance of doubt, the declaration of “Force Majeure” by an APC Party under a PPA (as defined in an Assignment Agreement) shall constitute Force Majeure hereunder. Force Majeure shall include, provided the criteria in the first sentence are met, riot, insurrection, war, labor dispute, natural disaster, vandalism, terrorism, sabotage. Force Majeure shall not be based on (i) the loss of Purchaser’s markets; (ii) Purchaser’s inability economically to use or resell the Product purchased hereunder; (iii) the delay, loss or failure of Issuer’s supply except if such loss or failure results from curtailment by a Transmission Provider; or (iv) Issuer’s ability to sell the Product at a higher price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (x) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the applicable Delivery Point and (y) such curtailment is due to “force majeure” or “uncontrollable force” or a similar term as defined under the Transmission Provider’s tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. Force Majeure invoked by Prepay LLC under the Prepaid Agreement shall constitute Force Majeure in respect of Issuer hereunder to the extent the conditions set forth above have been satisfied with respect to Prepay LLC. Notwithstanding the foregoing or anything to the contrary herein, to the extent that an Assignment Agreement is terminated early, such termination shall constitute Force Majeure with respect to Issuer hereunder until the end of the first Month following the Month in which such early termination occurs.

“Government Agency” means the United States of America, any state thereof, any municipality, or any local jurisdiction, or any political subdivision of any of the foregoing, including, but not limited to, courts, administrative bodies, departments, commissions, boards, bureaus, agencies, or instrumentalities.

“Hour” means the 60-minute period commencing at 00:00 (LPT) on first Day of the Delivery Period and ending at 01:00 (LPT) on the first Day of the Delivery Period, and each 60-minute interval thereafter.

“Initial Assigned Rights and Obligations” means the Assigned Rights and Obligations set forth in Exhibit A-2 hereto as of the date hereof.

“Initial Reset Period” has the meaning specified in Exhibit H.

“Interest Rate Period” has the meaning specified in the Bond Indenture.

“Issuer” has the meaning specified in the preamble.

“Issuer Default” has the meaning specified in Section 17.1.

“J. Aron” means J. Aron & Company LLC, a New York limited liability company, or any Affiliate of J. Aron who agrees to take assignment from Purchaser of a power purchase agreement consistent with the terms of this Agreement.

“Law” means any statute, law, rule or regulation or any judicial or administrative interpretation thereof, including any court order, having the effect of the foregoing enacted, promulgated, or issued by a Government Agency whether in effect as of the Execution Date or at any time in the future.

“LPT” means the local prevailing time then in effect in the State of [Utah].

“Mandatory Purchase Date” has the meaning specified in the Bond Indenture.

“Minimum Discount Percentage” has the meaning specified in Exhibit H.

“Month” means a period beginning on the first Day of a calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.

“Monthly Discount Percentage” has the meaning specified in Exhibit H.

“Municipal Utility” means any Person that (i) is a “governmental person” as defined in the implementing regulations under Section 141 of the Code and any successor provision, (ii) owns either or both a gas distribution utility or an electric distribution utility (or provides natural gas or electricity at wholesale to, or that is sold to entities that provide natural gas or electricity at wholesale to, governmental Persons that own such utilities), and (iii) agrees in writing to use the gas or electricity purchased by it (or cause such gas or electricity to be used) for a qualifying use as defined in U.S. Treas. Reg. § 1.148-1(e)(2)(iii).

“MWh” means megawatt-hour.

“Non-Priority Commodities” means any Commodities that are not Priority Commodities.

“Participating Member Agreements” has the meaning specified in Section 14.8.

“Participating Members” means Purchaser’s municipal utility members identified in Exhibit K to which Purchaser will resell the Energy that is purchased and sold pursuant to this Agreement.

“Party” has the meaning specified in the preamble.

“Person” means any individual, corporation, partnership, joint venture, trust, unincorporated organization, or Government Agency.

“Potential Remarketing Event” has the meaning specified in Section 3.3(b).

“PPA Assignment Agreement” means, for any Assigned Rights and Obligations, an agreement between Purchaser, J. Aron and the APC Party in the form attached hereto as Attachment 2 to Exhibit K (with such changes as may be mutually agreed upon by Issuer, Purchaser, J. Aron and the APC Party, each in its sole discretion).

“Prepaid Agreement” has the meaning specified in the recitals.

“Prepay Fixed Price” means \$[____]/MWh, which is the fixed price under the Buyer Swap (as defined in the Prepaid Agreement).

“Prepay LLC” has the meaning specified in the recitals.

“Primary Delivery Point” has the meaning specified in Section 5.1(a).

“Priority Commodities” means the Base Quantity and Assigned Products to be purchased by Purchaser under this Agreement, together with Commodities that (i) Purchaser is obligated to take under a long-term agreement, which Commodities either have been purchased (or, with respect to Gas, has been produced from Gas reserves in the ground which reserves were purchased) by Purchaser or a joint action agency using the proceeds of bonds, notes, or other obligations, the interest on which is excluded from income for federal income tax purposes pursuant to a long-term prepaid gas purchase agreement, or (ii) with respect to Energy, is generated using capacity that was constructed using the proceeds of bonds, notes, or other obligations, the interest on which is excluded from income for federal income tax purposes (provided that, for the avoidance of doubt, Priority Commodities shall not include Energy that is generated using capacity that was wholly or partially financed through the monetization of renewable tax credits, whether such monetization is accomplished through a tax equity investment or otherwise).

“Product” means Energy and, to the extent included on an Assignment Schedule, associated RECs or other products related to the foregoing; *provided* that the inclusion of any Product on an Assignment Schedule is subject to the limitation set forth in Exhibit J.

“Project Administration Assigned Energy Charge” means the result determined by the following formula:

$$R = (BQR \times PAF) / APQ$$

Where

$$R =$$

$$BQR = \text{Base Quantity Reduction (in MWh) for any relevant Month}$$

PAF = [\$0.0x]/MWh [NOTE: This will be the amount specified in clause (i)(b) of the definition of Project Administration Fee for Base Energy.]

APQ = Assigned Prepay Quantity (in MWh) for any relevant Month

“Project Administration Fee” means (i) the product of (a) the quantity of MWhs of Base Energy delivered to Purchaser for any Month during the Delivery Period, multiplied by (b) [\$0.0x]/MWh; and (ii) the product of (a) the quantity of MWhs of Assigned Prepay Quantities delivered to Purchaser for any Month during the Delivery Period, multiplied by (b) the Project Administration Assigned Energy Charge.

“Purchaser” has the meaning specified in the preamble.

“Purchaser Default” has the meaning specified in Section 17.2.

“Qualifying Use Requirements” means, with respect to any Product delivered under this Agreement, such Product is used (i) for a “qualifying use” as defined in U.S. Treas. Reg. § 1.148-1(e)(2)(iii), (ii) in a manner that will not result in any “private business use” within the meaning of Section 141 of the Code, and (iii) in a manner that is consistent with the Federal Tax Certificate attached as Exhibit D.

“Red Mesa PPA Project” shall mean the project within the Firm Power Project specific to participants that have entered into the Red Mesa PPA Project.

“Re-Pricing Agreement” means the Re-Pricing Agreement, dated as of the Bond Closing Date (as defined in the Prepaid Agreement), by and between Prepay LLC and Issuer.

“Real-Time Market Price” has the meaning specified on Exhibit A-1 for each Delivery Point.

“Remarketing Election” means an election by Purchaser made pursuant to a valid Remarketing Election Notice (other than a Voided Remarketing Election Notice) under Section 3.3 hereof, to not take any Gas hereunder or to receive any Annual Refund attributable to the applicable Reset Period.

“Remarketing Election Deadline” means, for any Reset Period, the last date and time by which Purchaser may provide a Remarketing Election Notice, which shall be 4:00 p.m. CPT on the 10th day of the Month (or, if such day is not a Business Day, the next succeeding Business Day) prior to the first delivery Month of a Reset Period with respect to which a Potential Remarketing Event has occurred.

“Remarketing Election Notice” has the meaning specified in Section 3.3(b).

“Replacement Assigned Rights and Obligations” means any Assigned Rights and Obligations other than the Initial Assigned Rights and Obligations.

“Replacement Price” means, with respect to any Shortfall Quantity of Base Quantities, the price at which Purchaser, acting in a Commercially Reasonable manner, purchases at the applicable Delivery Point Replacement Product for such Shortfall Quantity, plus (i) costs reasonably incurred by Purchaser in purchasing Replacement Product, and (ii) additional transmission charges, if any, reasonably incurred by Purchaser to the applicable Delivery Point, or at Purchaser’s option, the market price at the Delivery Point for such Product not delivered as determined by Purchaser in a Commercially Reasonable manner. The Replacement Price for any Shortfall Quantity shall not include any administrative or other internal costs incurred by Purchaser and shall be limited to a price that is Commercially Reasonable with respect to the timing and manner of purchase. In no event shall the Replacement Price include any penalties, ratcheted demand or similar charges, nor shall Purchaser be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Issuer’s liability.

“Replacement Product” means any Energy purchased by Purchaser to replace any Shortfall Quantity at the Delivery Point where such Shortfall Quantity occurred; provided that such Energy is purchased for delivery in the Delivery Hour to which such Shortfall Quantity relates.

“Reset Period” means each “Reset Period” under the Re-Pricing Agreement.

“Reset Period Notice” has the meaning specified in Section 3.3(a).

“Revenues” means all revenues and income received by purchaser under the Participating Member Agreements governing the Red Mesa PPA Project, Steel Solar 1A PPA Project, Steel Solar 1B PPA Project, and only to the extent such related PPAs.

“Schedule”, “Scheduled” or “Scheduling” means the actions of Issuer, Purchaser and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered during any given portion of the Delivery Period at a specified Delivery Point.

“Shortfall Quantity” has the meaning specified in Section 4.1(a).

“Steel Solar 1A PPA Project” shall mean the project within the Firm Power Project specific to participants that have entered into the Steel Solar 1A PPA Project, which will be created by the Firm Power Project Participants before the Steel Solar 1A PPA

“Steel Solar 1B PPA Project” shall mean the project within the Firm Power Project specific to participants that have entered into the Steel Solar 1A PPA Project, which will be created by the Firm Power Project Participants before the Steel Solar 1A PPA

“Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Issuer or Purchaser to or from the Delivery Point.

“Trustee” means Regions Bank, and its successors as trustee under the Bond Indenture.

“UAMPS Custodial Agreement” means that certain Custodial Agreement, dated as of the Bond Closing Date, by and among Purchaser, Issuer, J. Aron, Prepay LLC and the UAMPS Custodian.

“UAMPS Custodian” means [____], a [____].

“Utility Revenues” means all charges received for, and all other income and receipts derived by Purchaser from, the operation of Purchaser’s utility system, or arising from Purchaser’s utility system. **[NOTE: Subject to review and input from UAMPS.]**

“Voided Remarketing Election Notice” has the meaning specified in Section 3.3(b).

Section 1.2 Definitions; Interpretation. References to “Articles,” “Sections,” “Schedules” and “Exhibits” shall be to Articles, Sections, Schedules and Exhibits, as the case may be, of this Agreement unless otherwise specifically provided. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect. Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference. The use herein of the word “include” or “including”, when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest scope of such general statement, term or matter. Except where expressly provided otherwise, any reference herein to any agreement or document includes all amendments, supplements or restatements to and of such agreement or document as may occur from time to time in accordance with its terms and the terms hereof, and any reference to a party to any such agreement includes all successors and assigns of such party thereunder permitted by the terms hereof and thereof.

ARTICLE II.

DELIVERY PERIOD; NATURE OF COMMODITY PROJECT; CONDITION PRECEDENT

Section 2.1 Delivery Period. Subject to Section 2.3, delivery of Product by Issuer to Purchaser shall commence at the beginning of the Delivery Period and, except for any Reset Period for which a Remarketing Election Notice is in effect as provided in Section 3.3(b), shall continue throughout the Delivery Period.

Section 2.2 Nature of Commodity Project. Purchaser acknowledges and agrees that Issuer will meet its obligations to provide Product to Purchaser under this Agreement exclusively through its purchase of Product from Prepay LLC pursuant to the Prepaid Agreement and that Issuer is financing its purchase of such supplies through the issuance of the Bonds.

Section 2.3 Condition Precedent. Notwithstanding anything to the contrary herein, commencement of deliveries and the rights and obligations of Issuer and Purchaser hereunder are subject to the condition precedent that Issuer shall have entered into the Prepaid Agreement and shall have issued the Bonds.

Section 2.4 Pledge of this Agreement. Purchaser acknowledges and agrees that Issuer will pledge its right, title and interest under this Agreement and the revenues to be received under this Agreement to secure Issuer's obligations under the Bond Indenture.

ARTICLE III.

SALE AND PURCHASE; PRICING

Section 3.1 Sale and Purchase of Product. Issuer shall sell and deliver or cause to be delivered to Purchaser, and Purchaser shall purchase and receive from Issuer, the applicable Product in the quantities and at the times and subject to the terms and conditions set forth in this Agreement. The quantities of Product to be sold and purchased and delivered and received pursuant to the terms and conditions set forth in this Agreement shall be equal to (a) the Base Quantity, if any, for each Delivery Hour and (b) the Assigned Quantity delivered to J. Aron in each Month of the Delivery Period pursuant to the Assignment Agreements.

Section 3.2 Payments.

(a) For each Month for which an Assignment Period is in effect at the start of such Month:

(i) Purchaser shall pay Issuer the Contract Price multiplied by the Assigned Prepay Quantities actually delivered for such Month; and

(ii) Pursuant to the terms of the UAMPS Custodial Agreement, Purchaser shall owe a separate UAMPS Gross Payment (as defined in the UAMPS Custodial Agreement) for each Assigned PPA consistent with the terms of the UAMPS Custodial Agreement, and, upon satisfying its obligations under the UAMPS Custodial Agreement in respect of such amount (after taking into consideration any PPA Seller Payment Obligation (as such term is defined in the UAMPS Custodial Agreement) credited to Purchaser in respect thereof), any portion of such amount attributable to Assigned PAYGO Product shall be deemed to be paid by Purchaser to the applicable APC Party on behalf of J. Aron and shall satisfy the obligations of the respective parties under each of the Electricity Sale and Service Agreement, the Prepaid Agreement, this Agreement and the applicable Assignment Agreement for such Assigned PAYGO Product.

(b) To the extent that Base Quantities are delivered hereunder in any Month, Purchaser shall pay Issuer the Contract Price multiplied by the Base Quantities actually delivered.

(c) The Contract Price for Assigned Energy is inclusive of any amounts due in respect of other Assigned Products.

(d) Issuer shall bill and Purchaser shall pay the Project Administration Fee each Month, as part of the Billing Statement described in Article XIV.

(e) During the term of this Agreement, promptly following completion of the annual audit of Issuer's financial statements at the end of each fiscal year (currently the twelve-month period ending [____]), Issuer shall compare its revenues (as determined in accordance with the Bond Indenture) and expenses under the Commodity Project for that fiscal year. For purposes of such annual comparison, Issuer's expenses shall include: (a) its expenses incurred in obtaining Commodity supply under the Commodity Project; (b) its administrative, legal, and accounting expenses directly incurred in connection with or properly allocable to the Commodity Project, including the administration of this Agreement and all other contracts for the sale of Gas obtained under the Commodity Project; (c) debt service on the Bonds, including payments under any interest rate swap or hedge agreement; (d) any replenishment of draws made upon any working capital fund associated with the Commodity Project; (e) any deposits required to be made by Issuer into any debt service reserve or other reserve or contingency fund or funds established with respect to the Bonds; (f) any fees or other amounts due to any provider of credit support for the Bonds; (g) payments under any commodity price swap or hedge agreement entered into in connection with the Commodity Project; and (h) any other similar costs and expenses. If this annual comparison demonstrates that such revenues exceeded such expenses during the applicable fiscal year and there are amounts on deposit in the fund established by the Bond Indenture available for such purpose, then Issuer shall make refunds to Purchaser and the other Project Participants in the amount available after making allowances for any necessary and appropriate reserves and contingencies (as provided in the foregoing clause (e)), including but not limited to amounts deemed reasonably necessary by Issuer to fund any working capital reserve and to reserve or account for unfunded liabilities, including future sinking fund or other principal amortization of the Bonds. The amount available for refund shall be allocated among and paid annually to Purchaser and the other Project Participants in proportion to their respective purchases for such fiscal year. As of the Execution Date, the projected Annual Refund for the Initial Period is [\$0.0x] per Commodity Unit.

Section 3.3 Reset Period Remarketing.

(a) Reset Period Notice. For each Reset Period, Issuer shall provide to Purchaser, at least ten (10) days prior to the Remarketing Election Deadline, formal written notice setting forth (i) the duration of such Reset Period, (ii) the estimated [Available Discount Percentage] for such Reset Period, and (iii) the applicable Remarketing Election Deadline (a "Reset Period Notice"). Issuer may thereafter update such notice at any time prior to the Remarketing Election Deadline and may extend the Remarketing Election Deadline in its sole discretion in any such update.

(b) Remarketing Election. If the Reset Period Notice (or any update thereto) indicates that the Available Discount Percentage in such notice is not at least equal to the Minimum Discount Percentage for that Reset Period, then: (i) a "Potential Remarketing Event" shall be

deemed to exist, and (ii) Purchaser may, not later than the Remarketing Election Deadline, issue a written notice in the form attached hereto as Exhibit C (a “Remarketing Election Notice”) to Issuer, Prepay LLC and the Trustee electing for all of Purchaser’s Gas that would otherwise be delivered hereunder to be remarketed during the applicable Reset Period; *provided*, however, if the actual Available Discount Percentage, as finally determined under the Re-Pricing Agreement, is equal to or greater than the Minimum Discount Percentage, then Issuer may, in its sole discretion, elect by written notice to Purchaser to treat such Remarketing Election Notice as void (a “Voided Remarketing Election Notice”). If Purchaser makes a valid Remarketing Election, then Purchaser shall have no rights or obligations to take any Gas hereunder or to receive any Annual Refund attributable to the applicable Reset Period.

(c) Final Determination of Available Discount Percentage. The Parties acknowledge and agree that the final Available Discount Percentage for any Reset Period following the Initial Reset Period will be determined on the applicable [Re-Pricing Date (as defined in the Re-Pricing Agreement)], and that such Available Discount Percentage may differ from the estimate or estimates of such Available Discount Percentage provided to Purchaser prior to the applicable Remarketing Election Deadline; *provided* that the Available Discount Percentage for any Reset Period will not be less than the lesser of (i) the last estimated [Available Discount Percentage] set forth in the Reset Period Notice (or any update thereof) sent by Issuer, and (ii) the Minimum Discount Percentage applicable to such Reset Period.

(d) Resumption of Deliveries. Notwithstanding the issuance of any Remarketing Election Notice for a Reset Period, Purchaser will remain obligated to purchase the Contract Quantities hereunder for each subsequent Reset Period, unless Purchaser issues a new valid Remarketing Election Notice (other than a Voided Remarketing Election Notice) for any such Reset Period in accordance with Section 3.3(b).

(e) Reduction of Contract Quantity. The Parties recognize and agree that the Contract Quantity may be reduced in a Reset Period pursuant to the re-pricing methodology described in the Re-Pricing Agreement if necessary to achieve a successful remarketing of the Bonds. The Parties agree further that if, pursuant to the Re-Pricing Agreement, Issuer and the Calculation Agent (as defined therein) determine in connection with the establishment of any new Reset Period that: (i) such Reset Period will be the final Reset Period and (ii) such Reset Period will end prior to the end of the original Delivery Period, then (A) Issuer will notify Purchaser, (B) the Delivery Period will be deemed to be modified so that it ends at the end of such Reset Period, and (C) the Contract Quantity for the last Month in such Reset Period may be reduced as provided in the Re-Pricing Agreement.

ARTICLE IV.

FAILURE TO SCHEDULE PRODUCT

Section 4.1 Issuer’s Failure to Schedule Base Quantity (Not Due to Force Majeure).

(a) Shortfall Quantity. If, for any Delivery Hour during the Delivery Period, Issuer breaches its obligation to Schedule or deliver all or any portion of the Base Quantity, after

giving effect to reductions for Assigned Energy at any Delivery Point pursuant to the terms of this Agreement, then the portion of the Base Quantity that Issuer failed to Schedule or deliver shall be a “Shortfall Quantity”.

(b) Issuer Cover Damage Payments. To the extent Purchaser actually purchases Replacement Product with respect to any Shortfall Quantity, then Issuer shall pay to Purchaser the result determined by the following formula:

$$P = Q \times (RP - CP + AF)$$

Where:

P = The amount payable by Issuer under this Section 4.1(b);

Q = The quantity of Replacement Product purchased;

RP = The Replacement Price;

CP = The Contract Price that would have applied to such Product; and

AF = The Administrative Fee.

(c) Purchaser Obligation to Mitigate. Purchaser shall exercise Commercially Reasonable Efforts to mitigate Issuer’s damages paid by Issuer hereunder.

Section 4.2 Purchaser’s Failure to Schedule or Take Base Quantities (Not Due to Force Majeure). If, for any Delivery Hour during the Delivery Period, Purchaser breaches its obligation to Schedule or take all or any portion of the Base Quantity at any Delivery Point pursuant to the terms of this Agreement, then Purchaser shall remain obligated to pay Issuer the Contract Price for such Base Quantity. Issuer shall credit to Purchaser’s account any net revenues Issuer may receive from Prepay LLC under the Prepaid Agreement in connection with the ultimate sale of any such Product by Prepay LLC to Municipal Utilities or, if necessary, other purchasers, up to the Contract Price.

Section 4.3 Failure to Deliver or Take Due to Force Majeure. If with respect to all or any portion of Base Quantities or Assigned Prepay Quantities:

(a) Purchaser fails to take or fails to deliver all or any portion of the such quantities at any Delivery Point pursuant to the terms of this Agreement; and

(b) such failure is due to Force Majeure claimed by either Party,

then the Parties shall have no payment obligations with respect to such quantities hereunder.

Section 4.4 Assigned Product. Notwithstanding anything herein to the contrary, neither Purchaser nor Issuer shall have any liability or other obligation to one another for any failure to Schedule, take, or deliver Assigned Product.

Section 4.5 Sole Remedies. Except with respect to the termination of this Agreement pursuant to Article XVII, the remedies set forth in this Article IV shall be each Party's sole and exclusive remedies for any failure by the other Party to Schedule, deliver or take Product, as applicable, pursuant to this Agreement.

ARTICLE V.

DELIVERY POINTS; SCHEDULING

Section 5.1 Delivery Points.

(a) Base Delivery Points. All Base Product delivered under this Agreement shall be Scheduled for delivery and receipt at (i) the Delivery Point set forth in Exhibit A-1 (the "Primary Delivery Point") or (ii) any other point (an "Alternate Delivery Point") that has been mutually agreed by Issuer, Purchaser and Prepay LLC (the Primary Delivery Point or, to the extent specified, any Alternate Delivery Point being the "Base Delivery Point").

(b) Alternate Base Market Prices. The Day-Ahead Market Price and Real-Time Market Price for each Alternate Delivery Point, as applicable, shall be the price mutually agreed and identified by the Parties, or if no such price is identified for such Alternate Delivery Point, the Day-Ahead Market Price and Real-Time Market Price, as applicable, specified on Exhibit A-1 for the Primary Delivery Point from which quantities are being shifted to such Alternate Delivery Point.

(c) Assigned Energy Delivery Points. Assigned Energy delivered under this Agreement shall be Scheduled for delivery and receipt at the applicable Assigned Delivery Point specified in the applicable Assignment Schedule. All other Assigned Product shall be delivered consistent with the terms of the applicable Assignment Agreement

Section 5.2 Transmission and Scheduling. Energy. Issuer shall arrange and be responsible for transmission service of the Hourly Quantity to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to deliver Energy to the Delivery Point. Purchaser shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive Energy at the Delivery Point.

Section 5.3 Title and Risk of Loss. Title to and risk of loss of the Product delivered under this Agreement shall pass from Issuer to Purchaser at the applicable Delivery Point. The transfer of title and risk of loss for all Assigned Product shall be in accordance with the applicable Assignment Agreement. Subject to Section 18.1, each Party shall indemnify, defend and hold harmless the other Party from and against any Claims made by a third party arising from or out of any event, circumstance, act or incident related to the Product delivered hereunder first occurring

or existing during the period when control and title to Base Product or Assigned Product is vested in the indemnifying Party as provided in this Section; provided that, notwithstanding the foregoing, (a) Issuer shall have no obligations to indemnify, defend or hold harmless Purchaser for any such Claims relating to replacement costs, cover damages or similar liabilities that are payable to any Person because of Purchaser's failure to deliver any Product to such Person and (b) no obligation to indemnify, defend or hold harmless shall supplant or control the provisions of this Agreement relating to Force Majeure. Notwithstanding anything to the contrary herein, no Party shall have any obligations to indemnify, defend or hold harmless the other Party in respect of any Claims relating to any Assigned Product.

Section 5.4 Communications Protocol. With respect to the Scheduling and delivery of Base Quantities, Issuer and Purchaser shall comply with the communications protocol set forth in Exhibit G. Scheduling and transmission of Assigned Energy shall be in accordance with the applicable Assignment Agreement pursuant to which the Project Participant shall act as scheduling agent for each of J. Aron, Prepay LLC and Issuer.

Section 5.5 Deliveries within Applicable Market or another Balancing Authority. The Parties acknowledge that Energy delivered by Issuer at a Delivery Point within the Applicable Market Area's market or another Balancing Authority will be delivered in accordance with the Applicable Tariff and rules of the Balancing Authority as applicable. Scheduling such Energy in accordance with the requirements of the applicable Product into the applicable Balancing Authority shall constitute delivery of such Product to Purchaser hereunder, provided that any associated renewable energy credits and other Assigned Product are also delivered to Purchaser with the terms of any applicable Assignment Agreement.

Section 5.6 Assigned Products. Notwithstanding anything to the contrary herein, Issuer shall have no liability under this Article V with respect to any Assigned Products.

ARTICLE VI.

ASSIGNMENT OF POWER PURCHASE AGREEMENTS

Section 6.1 PPA Assignments. Purchaser may assign and J. Aron may agree to assume a portion of Purchaser's rights and obligations under a power purchase agreement consistent with the terms set forth in Exhibit J.

Section 6.2 Adjustments to Base Quantity in Connection with PPA Assignments. In connection with the execution of an Assignment Agreement, Issuer shall revise (a) Exhibit A-1 to reflect appropriate Base Quantity Reductions and (b) Exhibit A-2 to reflect the Assigned Monthly Quantity associated therewith consistent with the terms of Exhibit J; provided that such Base Quantity Reductions shall be reversed consistent with the terms of Exhibit J in connection with the termination of any Assignment Period except for an Assignment Period that terminates contemporaneously with this Agreement.

ARTICLE VII.

USE OF PRODUCT

Section 7.1 Tax Exempt Status of the Bonds. Purchaser acknowledges that the Bonds will be issued with the intention that the interest thereon will be exempt from federal taxes under Section 103 of the Code. Accordingly, Purchaser agrees that it will (a) provide such information with respect to itself and its Participating Members as may be requested by Issuer in order to establish the tax-exempt status of the Bonds, and (b) act in accordance with such written instructions as Issuer may provide from time to time in order to maintain the tax-exempt status of the Bonds. Purchaser further agrees that it will not at any time take any action, or fail to take any action, that, if taken or omitted, respectively, would adversely affect the tax-exempt status of the Bonds.

Section 7.2 Priority Commodities. Purchaser agrees to purchase and receive the Products to be delivered under this Agreement (a) in priority over and in preference to all other Commodities available to Purchaser that are not Priority Commodities; and (b) on at least a pari passu and non-discriminatory basis with other Priority Commodities.

Section 7.3 Assistance with Sales to Third Parties. If (a) a quantity of Assigned Product less than the Assigned Prepay Quantity is delivered hereunder in any Month during an Assignment Period for any reason other than Force Majeure or (b) notwithstanding Purchaser's compliance with Section 7.1, Purchaser does not require all or any portion of the Assigned Prepay Quantity to meet its requirements for Energy that it is obligated to purchase under this Agreement as a result of (i) insufficient demand by Purchaser's retail customers or (ii) a change in Law, Purchaser may, with reasonable notice issued in the form of a remarketing notice in accordance with Exhibit G, request (and, in the case of clause (a), shall be deemed to request) that Prepay LLC, as permitted by the Prepaid Agreement, sell such portion of such Base Quantities or Assigned Product (I) to another Municipal Utility, or (II) if necessary, to another purchaser. Any remarketing notice issued under clause (b)(ii) above shall constitute a Structural Remarketing Notice (as defined in the Prepaid Agreement) and shall be subject to the requirements set forth in the Prepaid Agreement. Purchaser shall remain obligated to pay Issuer the Contract Price plus the Project Administration Fee for any portion of the Contract Quantity for which it requests remarketing pursuant to the foregoing sentence; provided that, if Issuer succeeds in arranging such a sale by Prepay LLC, Issuer shall credit against the amount owed by Purchaser for such Contract Quantities the amount received by Issuer from Prepay LLC for such sales less all directly incurred costs or expenses, including but not limited to remarketing administrative charges paid to Prepay LLC under the Prepaid Agreement, but in no event shall the amount of such credit be more than the Contract Price.

Section 7.4 Qualifying Use. Without limiting Purchaser's other obligations under this Article VII, Purchaser agrees that, subject to Section 7.5, it will use all of the Product purchased under this Agreement in compliance with the Qualifying Use Requirements. Purchaser agrees that it will provide such additional information, records and certificates as Issuer may reasonably request to confirm Purchaser's compliance with this Section 7.4.

Section 7.5 Remediation.

(a) The Parties acknowledge that Purchaser may at times inadvertently remarket Products received hereunder in a manner that does not comply with Qualifying Use Requirements due to daily and hourly fluctuations in Purchaser's Product needs. To the extent Purchaser does so, Purchaser shall (a) exercise Commercially Reasonable Efforts to use any Disqualified Sale Proceeds of such remarketing to purchase Products (other than Priority Commodities) that Purchaser then uses in compliance with the Qualifying Use Requirements and (b) reserve funds in an amount equal to any Disqualified Sale Proceeds until such Disqualified Sale Proceeds are remediated or transferred to the Trustee pursuant to Section 7.6(b) below.

(b) To the extent that all or any portion of Assigned Quantities or Base Quantities are remarketed under Section 7.3 or Section 7.5(a), as applicable, and any such remarketing results in a Ledger Entry (as defined in the Prepaid Agreement), Purchaser agrees that it shall (i) exercise Commercially Reasonable Efforts to use an amount equivalent to the remarketing proceeds associated with any such Ledger Entry to purchase Non-Priority Commodities and use such Non-Priority Commodities in compliance with the Qualifying Use Requirements in order to remediate such Ledger Entries; and (ii) apply its purchases of Non-Priority Commodities to remediate any such proceeds under the Prepaid Agreement prior to remediating such proceeds under any other contract that provides for the purchase of Priority Commodities. To track compliance with Purchaser's obligations under this Section 7.5(b), Purchaser shall deliver a remediation certificate to Issuer and Prepay LLC by the tenth day of the Month subsequent to any relevant Non-Priority Commodities purchases; provided that the Parties acknowledge and agree that any purchases of Assigned PAYGO Products (commencing with purchases of Assigned PAYGO Products in the Month in which any such Ledger Entry occurs) shall be applied to remediate any such Ledger Entries and no remediation certificate shall be required with respect to purchases of Assigned PAYGO Products. For Ledger Entries remediated under this Section 7.5(b) that have not otherwise been remediated by Prepay LLC pursuant to the remarketing provisions of the Prepaid Agreement, Issuer shall pay Purchaser any portion of the Monthly Discount Percentage associated with such Ledger Entries that is available under the Bond Indenture on or before the last Business Day of the Month in which Purchaser provides a certificate under this Section 7.5(b) evidencing such remediation.

Section 7.6 Remediation; Ledger Entries; Redemption.

(a) Remediation. To track compliance with the requirements of Section 7.5(a), Purchaser will provide a quarterly report to Issuer (delivered not later than the 15th day of each April, July, October and January until the end of the Delivery Period) showing the following: the total quantity of proceeds from sales of Products received hereunder that (i) were sold by Purchaser to any Person in a transaction that does not comply with the Qualifying Use Requirements and (ii) have not been remediated by Purchaser by applying such proceeds to purchase Products that are used in compliance with the Qualifying Use Requirements (the quantities of Product producing such proceeds, "Disqualified Sale Units" and such proceeds received, "Disqualified Sale Proceeds").

(b) Ledger Entries. Issuer shall report such unremediated Disqualified Sale Proceeds and the associated Disqualified Sale Units to Prepay LLC for addition to the remarketing ledgers maintained by Prepay LLC under the Prepaid Agreement, with the ledger entries to be dated as of the end of the first month of the relevant quarter.

(c) Transfers to Trustee. Purchaser shall transfer (to the extent such unremediated Disqualified Sales Proceeds and associated Disqualified Sale Units remain reflected on the remarketing ledger described under Section 7.6(b) at the time such transfer is required by this Section 7.6(c)) any such unremediated Disqualified Sale Proceeds and any other required funds (i.e., all additional funds necessary for redemption of the Bonds referred to in this Section 7.6(c)) to the Trustee at least 95 days prior to the second anniversary of the date on which such unremediated Disqualified Sale Proceeds and the associated Disqualified Sale Units were first reflected on the remarketing ledgers in accordance with Section 7.6(b), with such funds to be deposited in the Debt Service Account (as defined in the Bond Indenture) and applied to the redemption of Bonds as directed by Issuer and approved by Special Tax Counsel (as defined in the Bond Indenture) as preserving the tax-exempt status of the Bonds.

ARTICLE VIII.

REPRESENTATIONS AND WARRANTIES; ADDITIONAL COVENANTS

Section 8.1 Representations and Warranties. As a material inducement to entering into this Agreement, each Party, with respect to itself, hereby represents and warrants to the other Party as of the Execution Date as follows:

(a) For Issuer as the representing Party, Issuer is a public corporation organized under the Laws of the State of Alabama pursuant to Section 11-99B-1, *et seq.*, *Alabama Code*;

(b) For Purchaser as the representing Party, Purchaser is a [____] duly organized and validly existing under the laws of the State of [____];

(c) it has all requisite power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Agreement;

(d) there is no litigation, action, suit, proceeding or investigation pending or, to the best of such Party's knowledge, threatened, before or by any Government Agency, which could reasonably be expected to materially and adversely affect the performance by such Party of its obligations under this Agreement or that questions the validity, binding effect or enforceability hereof, any action taken or to be taken by such Party pursuant hereto, or any of the transactions contemplated hereby;

(e) the execution, delivery and performance of this Agreement by such Party have been duly authorized by all necessary action on the part of such Party and do not require any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party;

(f) this Agreement has been duly executed and delivered on behalf of such Party by an appropriate officer or authorized Person of such Party and constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights generally and by general principles of equity;

(g) the execution, delivery and performance of this Agreement by such Party shall not violate any provision of any Law, decree or other legal or regulatory determination applicable to it;

(h) the execution, delivery and performance by such Party of this Agreement, and the consummation of the transactions contemplated hereby, including the incurrence by such Party of its financial obligations under this Agreement, shall not result in any violation of any term of any material contract or agreement applicable to it, or any of its charter or bylaws or of any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, Law or ordinance applicable to it or any of its properties or to any obligations incurred by it or by which it or any of its properties or obligations are bound or affected, or of any determination or award of any arbitrator applicable to it, and shall not conflict with, or cause a breach of, or default under, any such term or result in the creation of any lien upon any of its properties or assets, except with respect to Issuer, the lien of the Bond Indenture;

(i) to the best of the knowledge and belief of such Party, no consent, approval, order or authorization of, or registration, declaration or filing with, or giving of notice to, obtaining of any license or permit from, or taking of any other action with respect to, any Government Agency is required in connection with the valid authorization, execution, delivery and performance by such Party of this Agreement or the consummation of any of the transactions contemplated hereby other than those that have been obtained; and

(j) it enters this Agreement as a bona-fide, arm's-length transaction involving the mutual exchange of consideration and, once executed by both Parties, considers this Agreement a legally enforceable contract.

Section 8.2 Warranty of Title. Issuer warrants that it will deliver to Purchaser (a) all Base Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any Person arising prior to the Delivery Point, and (b) all Assigned Product free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any Person that are imposed on such Assigned Product solely as a result of Issuer's or Prepay LLC's actions.

Section 8.3 Disclaimer of Warranties. EXCEPT FOR THE WARRANTIES EXPRESSLY MADE BY ISSUER IN THIS Article VIII, ISSUER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

Section 8.4 Continuing Disclosure. Purchaser agrees to provide to Issuer: (a) such financial and operating information as may be requested by Issuer, including Purchaser's most

recent audited financial statements, for use in Issuer's offering documents for the Bonds; and (b) annual updates to such information and statements to enable Issuer to comply with its undertakings to enable the underwriters of the offerings of the Bonds to comply with the continuing disclosure provisions of Rule 15(c)2-12 of the United States Securities and Exchange Commission. Failure by Purchaser to comply with its agreement to provide such annual updates shall not be a default under this Agreement, but any such failure shall entitle Issuer or an owner of the Bonds to take such actions and to initiate such proceedings as may be necessary and appropriate to cause Purchaser to comply with such agreement, including without limitation the remedies of mandamus and specific performance.

ARTICLE IX.

TAXES

Issuer shall (i) be responsible for all ad valorem, excise, severance, production and other taxes assessed with respect to Product (other than any Assigned Product) delivered pursuant to this Agreement arising prior to the applicable Delivery Point and (ii) indemnify Purchaser and its Affiliates for any such taxes paid by Purchaser or its Affiliates. Purchaser shall (i) be responsible for all taxes with respect to Product received pursuant to this Agreement assessed at or from the applicable Delivery Point, and (ii) indemnify Issuer and its Affiliates for any such taxes paid by Issuer or its Affiliates. Nothing shall obligate or cause a Party to pay or be liable for any tax for which it is exempt under Law.

ARTICLE X.

JURISDICTION; WAIVER OF JURY TRIAL

Section 10.1 Consent to Jurisdiction. ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST EITHER PARTY ARISING OUT OF OR RELATING HERETO SHALL BE BROUGHT EXCLUSIVELY IN (A) THE COURTS OF THE STATE OF NEW YORK LOCATED IN THE BOROUGH OF MANHATTAN, (B) THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA FOR THE SOUTHERN DISTRICT OF NEW YORK OR (C) THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA IN ANY OTHER STATE. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH Article XVI; AND AGREES THAT SERVICE AS PROVIDED ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT.

Section 10.2 Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING UNDER THIS AGREEMENT. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-

ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS Section 10.2 AND EXECUTED BY EACH OF THE PARTIES), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY A COURT.

ARTICLE XI.

FORCE MAJEURE

Section 11.1 Applicability of Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Agreement and such Party (the “Claiming Party”) gives notice and details of the Force Majeure to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations with respect to this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. For the duration of the Claiming Party’s non-performance (and only for such period), the non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

Section 11.2 Settlement of Labor Disputes. Notwithstanding anything to the contrary herein, the Parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance, and the failure of a Party to settle such strikes, lockouts or other industrial disturbances shall not prevent the existence of Force Majeure or of reasonable dispatch to remedy the same.

ARTICLE XII.

GOVERNMENTAL RULES AND REGULATIONS

Section 12.1 Compliance with Laws. This Agreement shall be subject to all present and future Laws of any Government Agency having jurisdiction over this Agreement or the transactions to be undertaken hereunder, and neither Party has knowingly undertaken or will

knowingly undertake or knowingly cause to be undertaken any activity that would conflict with such Laws; provided, however, that nothing herein shall be construed to restrict or limit either Party's right to object to or contest any such Law, or its application to this Agreement or the transactions undertaken hereunder, and neither acquiescence therein or compliance therewith for any period of time shall be construed as a waiver of such right.

Section 12.2 Contests. Excluding all matters involving a contractual dispute between the Parties, no Party shall contest, cause to be contested or in any way actively support the contest of the equity, fairness, reasonableness or lawfulness of any terms or conditions set forth or established pursuant to this Agreement, as those terms or conditions may be at issue before any Government Agency in any proceeding, if the successful result of such contest would be to preclude or excuse the performance by either Party of this Agreement or any provision hereunder.

Section 12.3 Defense of Agreement. Excluding all matters involving a contractual dispute between the Parties, each Party shall hereafter exercise Commercially Reasonable Efforts to defend and support this Agreement before any Government Agency in any proceeding, if the substance, validity or enforceability of all or any part of this Agreement is hereafter directly challenged or if any proposed changes in regulatory practices or procedures would have the effect of making this Agreement invalid or unenforceable or would subject either Party to any greater or different regulation or jurisdiction that materially affects the rights or obligations of the Parties under this Agreement.

ARTICLE XIII.

ASSIGNMENT

The terms and provisions of this Agreement shall extend to and be binding upon the Parties and their respective successors, assigns, and legal representatives; *provided*, however, that, subject to Section 18.14, neither Party may assign this Agreement or its rights and interests, in whole or in part, under this Agreement without the prior written consent of the other Party; *provided* furthermore that, for the avoidance of doubt, any applicable Assignment Agreement shall terminate concurrent with the assignment of this Agreement. Prior to assigning this Agreement, Purchaser shall deliver to Issuer written confirmation from each Rating Agency (as defined in the Bond Indenture) then rating the Bonds, *provided* that such agency has rated and continues to rate the Bonds, that the assignment will not result in a reduction, qualification, or withdrawal of the then-current ratings assigned by such Rating Agency to the Bonds. Whenever an assignment or a transfer of a Party's interest in this Agreement is requested to be made with the written consent of the other Party, the assigning or transferring Party's assignee or transferee shall expressly assume, in writing, the duties and obligations under this Agreement of the assigning or transferring Party. Upon the agreement of a Party to any such assignment or transfer, the assigning or transferring Party shall furnish or cause to be furnished to the other Party a true and correct copy of such assignment or transfer and assumption of duties and obligations

ARTICLE XIV.

PAYMENTS

Section 14.1 Monthly Statements.

(a) Purchaser's Statements. No later than the 5th day of each Month during the Delivery Period (excluding the first Month of the Delivery Period) and the first Month following the end of the Delivery Period, Purchaser shall deliver to Issuer a statement (a "Purchaser's Statement") listing (i) in respect of any Replacement Product, the quantity and Replacement Price applicable to such purchase, and (ii) any other amounts due to Purchaser in connection with this Agreement with respect to prior Months.

(b) Billing Statements. No later than the 10th day of each Month during the Delivery Period (excluding the first Month of the Delivery Period) and the first Month following the end of the Delivery Period (the "Billing Date"), Issuer shall deliver a statement (a "Billing Statement") to Purchaser indicating (i) the total amount due to Issuer for Product delivered in the prior Month, (ii) any other amounts due to Issuer or Purchaser in connection with this Agreement with respect to the prior Months, and (iii) the net amount due to Issuer or Purchaser. If the actual quantity delivered is not known by the Billing Date, Issuer may provisionally prepare a Billing Statement based on Issuer's best available knowledge of the quantity of Product delivered for such Month. The invoiced quantity and amounts paid thereon (with interest calculated on the amount overpaid or underpaid by Purchaser at the Default Rate) will then be adjusted on the following Month's Billing Statement, as actual delivery information becomes available based on the actual quantity delivered. **[NOTE: Parties to confirm whether any updates to invoicing mechanics are needed based on invoice timing for potential Assigned PPAs.]**

(c) Supporting Documentation. Upon request by either Party, the other Party shall deliver such supporting documentation of the foregoing as such requesting Party may reasonably request.

Section 14.2 Payments.

(a) Payments Due. If the Billing Statement indicates an amount due from Purchaser, then Purchaser shall remit such amount to the Trustee for the benefit of Issuer by wire transfer (pursuant to the Trustee's instructions), in immediately available funds, on or before the 20th day of the Month following the most recent Month to which such Billing Statement relates, or if such day is not a Business Day, the preceding Business Day. If the Billing Statement indicates an amount due from Issuer, then Issuer shall remit such amount to Purchaser by wire transfer (pursuant to Purchaser's instructions), in immediately available funds, on or before the 28th day of the Month following the most recent Month to which such Billing Statement relates, or if such day is not a Business Day, the following Business Day.

(b) No Duty to Estimate. If Purchaser fails to issue a Purchaser's Statement with respect to any Month, Issuer shall not be required to estimate any amounts due to Purchaser for such Month, provided that Purchaser may include any such amount on subsequent Purchaser's Statements issued within the next sixty (60) days. The sixty (60)-day deadline in this subsection (b) replaces the two (2) year deadline in Section 14.5 with respect to any claim by any non-delivering Party of inaccuracy in any estimated invoice issued or payment made pursuant to this subsection (b).

Section 14.3 Payment of Disputed Amounts; Index Price.

(a) Disputes. If Purchaser disputes any amounts included in Issuer's Billing Statement, Purchaser shall (a) (except in the case of manifest error) nonetheless calculate the Billing Statement based on the amounts included in the Purchaser's Statement and (b) pay any amount required by the Billing Statement in accordance with Section 14.2 without regard to any right of set-off, counterclaim, recoupment or other defenses to payment that Purchaser may have; *provided*, however, that Purchaser shall have the right, after payment, to dispute any amounts included in a Billing Statement or otherwise used to calculate payments due under this Agreement pursuant to Section 14.5. If Issuer disputes any amounts included in the Purchaser's Statement, Issuer may withhold payment to the extent of the disputed amount; *provided*, however, that interest shall be due at the Default Rate for any withheld amount later found to have been properly due.

(b) Corrections. If a value published for any rate or index used or to be used in this Agreement is subsequently corrected and the correction is published or announced by the Person responsible for that publication or announcement within 30 days after the original publication or announcement, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If, not later than 30 days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount shall, not later than three Business Days after the effectiveness of that notice, pay, subject to any other applicable provisions of this Agreement, to the other Party that amount, together with interest on that amount at the Default Rate for the period from and including the day on which a payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

Section 14.4 Late Payment. If Purchaser fails to remit the full amount payable within one Business Day of when due, interest on the unpaid portion shall accrue from the date due until the date of payment at the Default Rate.

Section 14.5 Audit; Adjustments.

(a) Right to Audit. A Party shall have the right, at its own expense, upon reasonable notice to the other Party and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other Party to the extent reasonably necessary, but only to such extent, to verify the accuracy of any statement, charge, payment, or computation made under this Agreement. This right to examine, audit, and obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Agreement.

(b) Deadline for Objections. Each Purchaser's Statement and each Billing Statement shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such Purchaser's Statement or Billing Statement is objected to in writing, with adequate explanation and/or documentation, within two (2) years after the applicable Month of Product delivery.

(c) Payment of Adjustments. All retroactive adjustments shall be paid in full by the Party owing payment within 30 days of notice and substantiation of such inaccuracy. If the Parties are unable to agree upon any retroactive adjustments requested by either Party within the time period specified in Section 14.5(b), then either Party may pursue any remedies available with respect to such adjustments at law or in equity. Retroactive adjustments for payments made based on an incorrect Purchaser's Statement or Billing Statement shall bear interest at the Default Rate from the date such payment was made.

Section 14.6 Netting; No Set-Off. The Parties shall net all amounts due and owing, including any past due amounts (which, for the avoidance of doubt, shall include any accrued interest), arising under this Agreement such that the Party owing the greater amount shall make a single payment of the net amount to the other Party in accordance with this Article XIV. Notwithstanding the foregoing, no Party shall be entitled to net any amounts that are in dispute, and payment for all amounts set forth in a Billing Statement provided to Purchaser shall be made without set-off or counterclaim of any kind.

Section 14.7 Source of Purchaser's Payments. Purchaser covenants and agrees to make payments due hereunder from UAMPS Revenues, and only from such UAMPS Revenues, as an operating expense of the Red Mesa PPA Project, Steel Solar 1A PPA Project, and Steel Solar 1B PPA Project and as a first charge (together with other operating expenses) of the respective project, but only to the extent of such project's participation under the applicable PPA Assignment Agreement.

Section 14.8 Participating Members. Purchaser further covenants and agrees: (a) that it shall sell all of the Energy it acquires under this Agreement to the Participating Members under its [Power Sales Agreements] with each Participating Member (such agreements, the "Participating Member Agreements"); (b) that it shall charge and collect amounts under the Participating Member Agreements so as to provide revenues sufficient, together with other available moneys, to enable Purchaser to pay to Issuer all amounts payable under this Agreement and to pay all other amounts payable from its operating revenues and to maintain any required reserves; (c) that it shall observe and perform its obligations under the Participating Member Agreements and will enforce the obligations of the Participating Members thereunder; and (d) that it will not create or agree to any lien or prior charge on the amounts that it collects from the Participating Members that will be used to make its payments under this Agreement. To the extent that any Participating Member's failure to pay under its Participating Member Agreement results in a failure to pay by Purchaser under this Agreement, Purchaser shall promptly (i) notify Issuer of such failure to pay by the relevant Participating Member and (ii) assign the related Participating Member's receivables to Issuer.

Section 14.9 Financial Responsibility. When reasonable grounds for insecurity of payments due under this Agreement arise, Issuer may demand, and Purchaser shall provide within 48 hours but at least one Business Day if demanded, adequate assurance of performance. Reasonable grounds include but are not limited to the occurrence of an insolvency or liquidation proceeding with respect to Purchaser or the downgrading of Purchaser's credit rating, if any, to a level below investment grade, or such facts and circumstances which would constitute reasonable grounds for insecurity under applicable Law. Adequate assurance shall mean sufficient security in

the form and for a term reasonably specified by Issuer, including but not limited to a standby irrevocable letter of credit, a prepayment, a deposit to an escrow account, or a performance bond or guaranty by a creditworthy entity. The Parties agree that in the event Purchaser fails to provide such adequate assurance as demanded, Issuer shall have the right to suspend its performance under this Agreement, including the making of deliveries of Products to Purchaser, on one (1) day's written notice and shall not be obligated to restore such performance until the later of (i) the first day of the Month after such demand has been satisfied, and (ii) the completion of the term of deliveries to any replacement sales customer to which Prepay LLC has remarketed the Products on behalf of Issuer.

ARTICLE XV.

[RESERVED]

ARTICLE XVI.

NOTICES

Any notice, demand, statement, or request required or authorized by this Agreement to be given by one Party to the other Party (or to any third party) shall be in writing and shall either be sent by email transmission, courier, or personal delivery (including overnight delivery service) to each of the notice recipients and addresses specified in Exhibit B for the receiving Party. Any such notice, demand, or request shall be deemed to be given (i) when delivered by email transmission, or (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service). Each Party shall have the right, upon 10 days' prior written notice to the other Party, to change its list of notice recipients and addresses in Exhibit B. The Parties may mutually agree in writing at any time to deliver notices, demands or requests through alternate or additional methods, such as electronic mail. Notwithstanding the foregoing, either Party may at any time notify the other that any notice, demand, statement, or request to it must be provided by email transmission for a specified period of time or until further notice, and any communications delivered by means other than email transmission during the specified period of time shall be ineffective.

ARTICLE XVII.

DEFAULT; REMEDIES; TERMINATION

Section 17.1 Issuer Default. Each of the following events shall constitute an "Issuer Default" under this Agreement:

(a) any representation or warranty made by Issuer in this Agreement proves to have been incorrect in any material respect when made; or

(b) Issuer fails to perform, observe or comply with any covenant, agreement or term contained in this Agreement, and such failure continues for more than thirty (30) days

following the earlier of (i) receipt by Issuer of notice thereof or (ii) an officer of Issuer becoming aware of such default.

Section 17.2 Purchaser Default. Each of the following events shall constitute a “Purchaser Default” under this Agreement:

(a) Purchaser fails to pay when due any amounts owed to Issuer pursuant to this Agreement and such failure continues for one (1) Business Day following the earlier of (i) receipt by Purchaser of notice thereof or (ii) an officer of Purchaser becoming aware of such default;

(b) Purchaser (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency Law or other similar Law affecting creditors’ rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days of the institution or presentation thereof; (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its of assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty (30) days thereafter; (viii) causes or is subject to any event with respect to it which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) through (vii); or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts;

(c) any representation or warranty made by Purchaser in this Agreement proves to have been incorrect in any material respect when made;

(d) Purchaser fails to perform, observe or comply with any other covenant, agreement or term contained in this Agreement, and such failure continues for more than thirty (30) days following the earlier of (i) receipt by Purchaser of notice thereof or (ii) an officer of Purchaser becoming aware of such default; or

Section 17.3 Remedies Upon Default.

(a) Termination. If at any time an Issuer Default or a Purchaser Default has occurred and is continuing, then the non-defaulting Party may do any or all of the following (i) by notice to the defaulting Party specifying the relevant Issuer Default or Purchaser Default, as

applicable, terminate this Agreement effective as of a day not earlier than the day such notice is deemed given under Article XVI and/or (ii) declare all amounts due to the non-defaulting Party under this Agreement or any part thereof immediately due and payable, and the same shall thereupon become immediately due and payable, without notice, demand, presentment, notice of dishonor, notice of intent to demand, protest or other formalities of any kind, all of which are hereby expressly waived by the defaulting Party; *provided*, however, this Agreement shall automatically terminate and all amounts due to the non-defaulting Party hereunder shall immediately become due and payable as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition that upon the occurrence of a Purchaser Default specified in Section 17.2(b)(iv) or, to the extent analogous thereto, Section 17.2(b)(viii). In addition, during the existence of an Issuer Default or a Purchaser Default, as applicable, the non-defaulting Party may exercise all other rights and remedies available to it at Law or in equity, including without limitation mandamus, injunction and action for specific performance, to enforce any covenant, agreement or term of this Agreement. **[NOTE: Parties to discuss impact of default by some but not all Participating Members, including how this impacts UAMPS' existing supply arrangements.]**

(b) Additional Remedies. In addition to the remedies set forth in Section 17.3(a) (and without limiting any other provisions of this Agreement), during the existence of any Purchaser Default, Issuer may suspend its performance hereunder and discontinue the supply of all or any portion of the Product otherwise to be delivered to Purchaser by it under this Agreement. If Issuer exercises its right to suspend performance under this Section 17.3(b), Purchaser shall remain fully liable for payment of all amounts in default and shall not be relieved of any of its payment obligations under this Agreement. Deliveries of Product may only be reinstated, at a time to be determined by Issuer, upon (i) payment in full by Purchaser of all amounts then due and payable under this Agreement and (ii) payment in advance by Purchaser at the beginning of each Month of amounts estimated by Issuer to be due to Issuer for the future delivery of Product under this Agreement for such Month. Issuer may continue to require payment in advance from Purchaser after the reinstatement of Issuer's supply services under this Agreement for such period of time as Issuer in its sole discretion may determine is appropriate. In addition, and without limiting any other provisions of or remedies available under this Agreement, if Purchaser fails to accept from Issuer any Product tendered for delivery under this Agreement, Issuer shall have the right to sell such Product to third parties on any terms that Issuer, in its sole discretion, determines are appropriate.

(c) Effect of Early Termination. As of the effectiveness of any termination date in accordance with clause (i) of Section 17.3(a), (i) the Delivery Period shall end, (ii) the obligation of Issuer to make any further sales and deliveries of Product to Purchaser under this Agreement shall terminate, and (iii) the obligation of Purchaser to purchase and receive deliveries of Product from Issuer under this Agreement will terminate; provided that the foregoing provisions shall not relieve the breaching party from liability for any such breach(es). Neither this Agreement nor the Delivery Period may be terminated for any reason except as specified in this Article XVII. Without prejudice to any payment obligation in respect of periods prior to termination, no payments will be due from either Party in respect of periods occurring after the effective termination date of this Agreement.

Section 17.4 Termination of Prepaid Agreement. Purchaser acknowledges and agrees that (i) in the event of a permanent termination of Product deliveries under the Prepaid Agreement for any reason prior to the end of the Delivery Period, this Agreement shall terminate on the effective date of early termination of the Prepaid Agreement (which date shall be the last date upon which deliveries are required thereunder, subject to all winding up arrangements), (ii) Issuer's obligation to deliver Product under this Agreement shall terminate upon the termination of deliveries of Product to Issuer under the Prepaid Agreement and (iii) Purchaser shall exercise its right to terminate any Assignment Agreements in effect. Issuer shall provide notice to Purchaser of any permanent termination of Product deliveries under the Prepaid Agreement. The Parties recognize and agree that, in the event that the Prepaid Agreement terminates because of a [Failed Remarketing (as defined in the Bond Indenture)] of the Bonds that occurs in the first Month of a Reset Period, Issuer shall deliver Product under this Agreement for the remainder of such first Month, and, notwithstanding anything in this Agreement to the contrary, no Monthly Discount Percentage or Annual Refunds shall be associated with such deliveries and the Contract Price shall be adjusted accordingly.

Section 17.5 Limitation on Damages. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS HEREIN PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING WITHOUT LIMITATION THE NEGLIGENCE OF EITHER PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID UNDER THIS AGREEMENT ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. IN DETERMINING THE APPROPRIATE MEASURE OF DAMAGES THAT WOULD MAKE THE PARTIES WHOLE, THE PARTIES HAVE THOROUGHLY CONSIDERED, INTER ALIA, THE UNCERTAINTY OF FLUCTUATIONS IN PRODUCT PRICES, THE ABILITY AND INTENTION OF THE PARTIES TO HEDGE SUCH FLUCTUATIONS, THE BARGAINED-FOR ALLOCATION OF RISK, THE KNOWLEDGE, SOPHISTICATION AND EQUAL BARGAINING POWER OF THE PARTIES, THE ARMS-LENGTH NATURE OF THE NEGOTIATIONS, THE SPECIAL CIRCUMSTANCES OF THIS TRANSACTION, THE ACCOUNTING AND TAX TREATMENT OF THE TRANSACTION BY THE PARTIES, AND THE ENTERING INTO OF

OTHER TRANSACTIONS IN RELIANCE ON THE ENFORCEABILITY OF THE LIQUIDATED DAMAGES PROVISIONS CONTAINED HEREIN.

ARTICLE XVIII. MISCELLANEOUS

Section 18.1 Indemnification Procedure. With respect to each indemnification included in this Agreement, the indemnity is given to the fullest extent permitted by applicable Law and the following provisions shall be applicable. The indemnified Party shall promptly notify the indemnifying Party in writing of any Claim and the indemnifying Party shall have the right to assume its investigation and defense, including employment of counsel, and shall be obligated to pay related court costs, attorneys' fees and experts' fees and to post any appeals bonds; *provided*, however, that the indemnified Party shall have the right to employ at its expense separate counsel and participate in the defense of any Claim. The indemnifying Party shall not be liable for any settlement of a Claim without its express written consent thereto. In order to prevent double recovery, the indemnified Party shall reimburse the indemnifying Party for payments or costs incurred in respect of an indemnity with the proceeds of any judgment, insurance, bond, surety or other recovery made by the indemnified Party with respect to a covered event.

Section 18.2 Deliveries. Contemporaneously with this Agreement (unless otherwise specified),

(a) each Party shall deliver to the other Party evidence reasonably satisfactory to it of (i) such Party's authority to execute, deliver and perform its obligations under this Agreement and (ii) the appropriate individuals who are authorized to sign this Agreement on behalf of such Party;

(b) as of the date hereof, Purchaser shall deliver to Issuer a fully executed Federal Tax Certificate in the form attached hereto as Exhibit D;

(c) on the Bond Closing Date, Purchaser shall deliver to Issuer an opinion of counsel to Purchaser in the form attached hereto as Exhibit E;

(d) on the Bond Closing Date, Issuer shall deliver to Purchaser an opinion of counsel to Issuer in the form attached hereto as Exhibit F; and

(e) on the Bond Closing Date, Purchaser shall deliver to Issuer a Closing Certificate in substantially the form set forth hereto as Exhibit I.

Section 18.3 Entirety; Amendments. This Agreement, including the exhibits and attachments hereto, constitutes the entire agreement between the Parties and supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those expressed herein. Except for any matters that, in accordance with the express provisions of this Agreement, may be resolved by oral agreement between the Parties, no

amendment, modification, supplement or change hereto shall be enforceable unless reduced to writing and executed by both Parties.

Section 18.4 Governing Law. THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES UNDER THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO ANY CONFLICTS OF LAW PRINCIPLE THAT WOULD DIRECT THE APPLICATION OF ANOTHER JURISDICTION'S LAW; *PROVIDED*, HOWEVER, THAT THE AUTHORITY OF THE PARTIES TO ENTER INTO AND PERFORM THEIR RESPECTIVE OBLIGATIONS UNDER THIS AGREEMENT SHALL BE DETERMINED IN ACCORDANCE WITH THE LAWS OF THEIR STATES OF FORMATION.

Section 18.5 Non-Waiver. No waiver of any breach of any of the terms of this Agreement shall be effective unless such waiver is in writing and signed by the Party against whom such waiver is claimed. No waiver of any breach or breaches shall be deemed a waiver of any other subsequent breach.

Section 18.6 Severability. If any provision of this Agreement, or the application thereof, shall for any reason be invalid or unenforceable, then to the extent of such invalidity or unenforceability, the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent permissible under applicable Law, so long as the economic and legal substance of the transactions contemplated hereby is not affected in any materially adverse manner as to either Party.

Section 18.7 Exhibits. Any and all Exhibits and attachments referenced in this Agreement are hereby incorporated herein by reference and shall be deemed to be an integral part hereof.

Section 18.8 Winding Up Arrangements. All indemnity and confidentiality obligations, audit rights, and other provisions specifically providing for survival shall survive the expiration or termination of this Agreement. The expiration or termination of this Agreement shall not relieve either Party of (a) any unfulfilled obligation or undischarged liability of such Party on the date of such termination or (b) the consequences of any breach or default of any warranty or covenant contained in this Agreement. All obligations and liabilities described in the preceding sentence of this Section 18.8, and applicable provisions of this Agreement creating or relating to such obligations and liabilities, shall survive such expiration or termination.

Section 18.9 Relationship of Parties. The Parties shall not be deemed to be in a relationship of partners or joint venturers by virtue of this Agreement, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Agreement is intended to secure and provide for the services of each Party as an independent contractor.

Section 18.10 Immunity. Each Party represents and covenants to and agrees with the other Party that it is not entitled to and shall not assert the defense of sovereign immunity or governmental immunity with respect to its contractual obligations or any contractual Claims under this Agreement, and each hereby waives any such defense of sovereign or governmental immunity for contractual obligations or claims to the full extent permitted by Law.

Section 18.11 Rates and Indices. If the source of any publication used to determine the index or other price used in the Contract Price should cease to publish the relevant prices or should cease to be published entirely, an alternative index or other price will be used based on the determinations made by Issuer and Prepay LLC under [Section 18.11 of the Prepaid Agreement]. Issuer shall provide Purchaser the opportunity to provide its recommendations and other input to Issuer for Issuer's use in the process for selecting such alternative index or other price under [Section 18.11 of the Prepaid Agreement].

Section 18.12 Limitation of Liability. The obligations of Issuer under this Agreement are special and limited obligations payable solely from the revenues, income and funds of its Commodity Project that are pledged pursuant to the Bond Indenture.

Section 18.13 Counterparts. This Agreement may be executed and acknowledged in multiple counterparts and by the Parties in separate counterparts, each of which shall be an original and all of which shall be and constitute one and the same instrument.

Section 18.14 Third Party Beneficiaries; Rights of Trustee.

(a) Purchaser acknowledges and agrees that (i) Issuer will pledge and assign its rights, title and interest in this Agreement and the amounts payable by Purchaser under this Agreement to secure Issuer's obligations under the Bond Indenture, (ii) the Trustee shall be a third-party beneficiary of this Agreement with the right to enforce Issuer's rights and Purchaser's obligations under this Agreement, (iii) Prepay LLC and J. Aron shall be third-party beneficiaries of this Agreement with the right to enforce the provisions of Article VI, Section 14.7, Section 14.8, this Section 18.14, Exhibit G and Exhibit J of this Agreement, (iv) the Trustee or any receiver appointed under the Bond Indenture shall have the right to perform all obligations of Issuer under this Agreement, and (v) in the event of any Purchaser Default under Section 17.2(a), (A) Prepay LLC may, to the extent provided for in, and in accordance with, the Receivables Purchase Exhibit to the Prepaid Agreement, take assignment from Issuer of receivables owed by Purchaser to Issuer under this Agreement, and Prepay LLC or any third party transferee who purchases and takes assignment of such receivables from Prepay LLC shall thereafter have all rights of collection with respect to such receivables (provided that, if at any time an insurance provider agrees to insure Purchaser's payment obligations hereunder, then such insurance provider shall have the same rights under this Section 18.14(a) as Prepay LLC), and (B) if such receivables are not so assigned, the Swap Counterparty or Swap Counterparties (as defined in the Bond Indenture) shall have the right to pursue collection of such receivables to the extent any non-payment by Issuer to any Swap Counterparty was caused by Purchaser's payment default. Pursuant to the terms of the Bond Indenture, Issuer has irrevocably appointed the Trustee as its agent to issue notices and, as directed under the Bond Indenture, to take any other actions that Issuer is required or permitted to take under this Agreement. Purchaser may rely on notices or other actions taken by Issuer or the Trustee

and Purchaser has the right to exclusively rely on any notices delivered by the Trustee, regardless of any conflicting notices that it may receive from Issuer.

(b) Purchaser covenants and agrees that each Participating Member shall deliver a closing certificate addressed to Purchaser and Issuer on or prior to the Bond Closing Date, which provides, among other things, as follows: “[Buyer] acknowledges and agrees that, in the event that Buyer fails to pay any amounts when due hereunder, [Seller] shall be entitled to transfer the receivables owed by Buyer under this Agreement to Southeast Energy Authority, a Cooperative District (“SEA”), and, following any such transfer to SEA, SEA or any third party transferee takes assignment of such receivables from SEA shall thereafter have all rights of collection with respect to such receivables”.

Section 18.15 Waiver of Defenses. Each Party waives all rights to set-off, counterclaim, recoupment and any other defenses that might otherwise be available to it with regard to its obligations pursuant to the terms of this Agreement.

Section 18.16 Rate Changes.

(a) Standard of Review. Absent the agreement of the Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in Section 18.16(b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the “public interest” application of the “just and reasonable” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008).

(b) Waiver. In addition, and notwithstanding Section 18.16(a), to the fullest extent permitted by applicable Law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under Section 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable Law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable Law or market conditions that may occur. In the event it were to be determined that applicable Law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this Section 18.16(b) shall not apply, *provided* that, consistent with Section 18.16(a), neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in Section 18.16(a).

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

[Separate Signature Page(s) Attached]

DRAFT

SOUTHEAST ENERGY AUTHORITY, A COOPERATIVE DISTRICT

By: _____
Name: _____
Title: _____

DRAFT

UTAH ASSOCIATED MUNICIPAL POWER
SYSTEMS

By: _____
Name: _____
Title: _____

DRAFT

EXHIBIT A-1
BASE QUANTITIES; BASE DELIVERY POINTS; COMMODITY REFERENCE PRICES

[To be attached.]

DRAFT

**EXHIBIT A-2
INITIAL ASSIGNED RIGHTS AND OBLIGATIONS**

[To be attached.]

DRAFT

EXHIBIT B

NOTICES

IF TO ISSUER: Southeast Energy Authority
715 Dr. MLK Jr Expressway
Andalusia, AL 36420
Fax: 334-428-2895
brian.gilliland@southeastgas.com

Scheduling: Director of Gas Management
Brian Gilliland
715 Dr. MLK Jr Expressway
Andalusia, AL 36420
Fax: 334-428-2895
brian.gilliland@southeastgas.com

Invoicing: SEGAS
P.O. Box 819
125 Main Street
Trussville, AL 35173
Fax: 205 688-1038
cjmaronge@segasonline.com

Payments: Regions Bank
1900 5th Avenue North, 26th Floor
Birmingham, Alabama 35203
Attention: Corporate Trust
Email: elizabeth.carpenter@regions.com

Statements: Director of Finance & Administration
Southeast Energy Authority
715 Dr. MLK Jr Expressway
Andalusia, AL 36420
Fax: (334) 428-2873
Lori.Messick@southeastgas.com

General Notices: President & CEO
Southeast Energy Authority
715 Dr. MLK Jr Expressway
Andalusia, AL 36420
Fax: (334) 222-3285
greg.henderson@seagd.com

IF TO PURCHASER: []
[]
[]
[]

DRAFT

EXHIBIT C

REMARKETING ELECTION NOTICE

Southeast Energy Authority, a Cooperative District
715 Dr. MLK Jr Expressway
Andalusia, AL 36420

Aron Energy Prepay [] LLC
c/o J. Aron & Company LLC
200 West Street
New York, NY 10282

Regions Bank
1900 5th Avenue North, 26th Floor
Birmingham, Alabama 35203

To the Addressees:

The undersigned, duly authorized representative of Utah Associated Municipal Power Systems (the “Purchaser”), is providing this notice (the “Remarketing Election Notice”) pursuant to the Power Supply Contract, dated as of [], 2024 (the “Supply Contract”), between Southeast Energy Authority, a Cooperative District and Purchaser. Capitalized terms used herein shall have the meanings set forth in the Supply Contract.

Pursuant to [Section 3.3(b)] of the Supply Contract, the Purchaser has elected to have its Base Quantity, for each Hour of the Reset Period commencing _____ and extending to and including _____, remarketed beginning as of the commencement of such Reset Period. The resumption of deliveries of Base Quantities in any future Reset Period shall be in accordance with [Section 3.3(d)] of the Supply Contract.

Given this [] day of [], 20[].

UTAH ASSOCIATED MUNICIPAL
POWER SYSTEMS

By: _____
Printed Name:
Title:

EXHIBIT D

FORM OF FEDERAL TAX CERTIFICATE¹

This Federal Tax Certificate is executed in connection with the Power Supply Contract dated as of [____], 2024 (the “Supply Contract”), by and between the Southeast Energy Authority, a Cooperative District (“Issuer”) and Utah Associated Municipal Power Systems, a [____] (“Purchaser”). Capitalized terms used and not otherwise defined herein shall have the meanings given to them in the Supply Contract, in the Tax Certificate and Agreement, or in the Bond Indenture.

WHEREAS Purchaser acknowledges that Issuer is issuing the Bonds to fund the prepayment price under the Prepaid Agreement; and

WHEREAS the Bonds are intended to qualify for tax exemption under Section 103 of the Internal Revenue Code of 1986, as amended; and

WHEREAS Purchaser’s use of Energy acquired pursuant to the Power Supply Contract and certain funds and accounts of Purchaser will affect the Bonds’ qualification for such tax exemption.

NOW, THEREFORE, PURCHASER HEREBY CERTIFIES AS FOLLOWS:

1. Purchaser is a [____].
2. Except as provided in Sections 7.3 and 7.5 of the Supply Contract, Purchaser will resell all of the Energy acquired pursuant to the Supply Contract to its retail Energy customers within its service area, with retail sales in all cases being made pursuant to regularly established and generally applicable tariffs or under authorized requirements contracts. For purposes of the foregoing sentence, the term “service area” means (x) the area throughout which Purchaser provided power transmission or distribution service at all times during the 5-year period ending on December 31, 2022, and from then until the date of issuance of the Bonds (the “Closing Date”), and (y) any area recognized as the service area of Purchaser under state or federal law.
3. The annual average amount during the testing period of Energy purchased (other than for resale) by customers of Purchaser who are located within the service area of Purchaser is [____] MWh. The maximum annual amount of Energy in any year being acquired pursuant to the Supply Contract is [____] MWh. The annual average amount of Energy which Purchaser otherwise has a right to acquire as of the Closing Date (including rights to capacity to generate

¹ NTD: Subject to review and comment by tax counsel.

electricity, whether owned, leased or otherwise contracted for) is [_____] MWh. The sum of (a) the maximum amount of Energy in any year being acquired pursuant to the Supply Contract, and (b) the amount of Energy that Purchaser otherwise has a right to acquire (including rights to capacity to generate electricity, whether owned, leased or otherwise contracted for) in the year described in the foregoing clause (a), is [_____] MWh. Accordingly, the amount of Energy to be acquired under the Supply Contract by Purchaser, supplemented by the amount of Energy otherwise available to Purchaser as of the Closing Date, during any year does not exceed [___]% of the annual average amount during the testing period of Energy purchased (other than for resale) by customers of Purchaser who are located within the service area of Purchaser. For purposes of this paragraph 3, the term “testing period” means the 5 calendar years ending December 31, 2022, and the term “service area” means (x) the area throughout which Purchaser provided power transmission or distribution service at all times during the testing period, (y) any area within a county contiguous to the area described in (x) in which retail customers of Purchaser are located if such area is not also served by another utility providing power services, and (z) any area recognized as the service area of Purchaser under state or federal law.

Purchaser expects to pay for Energy acquired pursuant to the Supply Contract solely from funds derived from its power distribution operations. Purchaser expects to use current net revenues of its to pay for current Energy acquisitions. Neither the Purchaser nor any person who is a related party to the Purchaser will hold any funds or accounts in which monies are invested and which are reasonably expected to be used to pay for Energy acquired more than one year after such monies are set aside. No portion of the proceeds of the Bonds will be used directly or indirectly to replace funds of Purchaser or any persons who are related Persons to Purchaser that are or were intended to be used for the purpose for which the Bonds were issued.

_____, 2024

By: _____

[Name]

[Title]

EXHIBIT E

FORM OF OPINION OF COUNSEL TO PURCHASER

Southeast Energy Authority, a Cooperative District
Andalusia, AL

Aron Energy Prepay [] LLC
New York, NY

Goldman Sachs & Co. LLC
New York, NY

Regions Bank, as trustee
Birmingham, AL

[Swap Counterparty]
[], []

[Swap Counterparty]
[], [][]

Re: Power Supply Contract between Utah Associated Municipal Power Systems and Southeast Energy Authority, a Cooperative District dated as of [], 2024

Ladies and Gentlemen:

We are Counsel to Utah Associated Municipal Power Systems (“Purchaser”). Purchaser is a Purchaser in the Commodity Project undertaken by Southeast Energy Authority, a Cooperative District (“Issuer”). We are furnishing this opinion to you in connection with the Power Supply Contract between Issuer and Purchaser dated as of [], 2024 (the “Supply Contract”).

Unless otherwise specified herein, all terms used but not defined in this opinion shall have the same meaning as is ascribed to them in the Supply Contract.

In connection with this opinion, we have examined originals or copies, certified or otherwise identified to our satisfaction, of the following:

(a) The Constitution and laws of the State of [] (the “State”) including, as applicable, acts, ordinances, certificates, articles, charters, bylaws, and agreements pursuant to which Purchaser was created and by which it is governed;

(b) Resolution No. [], duly adopted by Purchaser on [] (the “Resolution”) and certified as true and correct by certificate and seal, authorizing Purchaser to execute and deliver the Supply Contract;

(c) A copy of the Supply Contract executed by Purchaser; and

(d) All outstanding instruments relating to bonds, notes, or other indebtedness of or relating to Purchaser and Purchaser's municipal utility system.

We have also examined and relied upon originals or copies, certified or otherwise authenticated to our satisfaction, of such records, documents, certificates, and other instruments, and made such investigations of law, as in our judgment we have deemed necessary or appropriate to enable us to render the opinions expressed below.

Based upon the foregoing, we are of the opinion that:

1. Purchaser is a [____] of the State, duly organized and validly existing under the laws of the State, and has the power and authority to own its properties, to carry on its business as now being conducted, and to enter into and to perform its obligations under the Agreement.

2. The execution, delivery, and performance by Purchaser of the Supply Contract have been duly authorized by the governing body of Purchaser and do not and will not require, subsequent to the execution of the Supply Contract by Purchaser, any consent or approval of the governing body or any officers of Purchaser.

3. The Supply Contract is the legal, valid, and binding obligation of Purchaser, enforceable in accordance with its terms, except as such enforceability may be subject to (i) the exercise of judicial discretion in accordance with general principles of equity and (ii) bankruptcy, insolvency, reorganization, moratorium, and other similar laws affecting creditors' rights heretofore or hereafter enacted, to the extent constitutionally applicable.

4. No approval, consent or authorization of any governmental or public agency, authority, commission or person, or, to our knowledge, of any holder of any outstanding bonds or other indebtedness of Purchaser, is required with respect to the execution, delivery and performance by Purchaser of the Supply Contract or Purchaser's participation in the transactions contemplated thereby other than those approvals, consents and/or authorizations that have already been obtained.

5. The authorization, execution and delivery of the Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, (i) any instrument relating to the organization, existence or operation of Purchaser, (ii) any ruling, regulation, ordinance, judgment, order or decree to which Purchaser (or any of its officers in their respective capacities as such) is subject or (iii) any provision of the laws of the State relating to Purchaser and its affairs, and (b) to our knowledge will not result in, or require the creation or imposition of, any lien on any of the properties or revenues of Purchaser pursuant to any of the foregoing.

6. Purchaser is not in breach of or default under any applicable constitutional provision or any law or administrative regulation of the State or the United States or any applicable judgment or decree or, to our knowledge, any loan or other agreement, resolution, indenture, bond, note, resolution, agreement or other instrument to which Purchaser is a party or to which Purchaser or any of its property or assets is otherwise subject, and to our knowledge no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument.

7. Payments to be made by Purchaser under the Supply Contract shall constitute operating expenses of Purchaser's utility system payable solely from the revenues and other available funds of Purchaser's utility system as a cost of purchased electricity. The application of the revenues and other available funds of Purchaser's utility system to make such payments is not subject to any prior lien, encumbrance or other restriction.

8. As of the date of this opinion, to the best of our knowledge after due inquiry, there is no pending or threatened action or proceeding at law or in equity or by any court, government agency, public board or body affecting or questioning the existence of Purchaser or the titles of its officers to their respective offices or affecting or questioning the legality, validity, or enforceability of this Supply Contract nor to our knowledge is there any basis therefor.

This opinion is rendered solely for the use and benefit of the addressees listed above in connection with the Supply Contract and may not be relied upon other than in connection with the transactions contemplated by the Supply Contract, or by any other person or entity for any purpose whatsoever, nor may this opinion be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity, without the prior written consent of the undersigned.

Very truly yours,

EXHIBIT F

FORM OF OPINION OF COUNSEL TO ISSUER

[____], 2024

Utah Associated Municipal Power Systems
[____], [____][____]

Aron Energy Prepay [____] LLC
New York, NY

Goldman Sachs & Co. LLC
New York, NY

[*insert name of trustee*], as trustee
[____], [____][____]

[Swap Counterparty 1]
[____], [____][____]

[Swap Counterparty 2]
[____], [____][____]

Re: Power Supply Contract between Utah Associated Municipal Power Systems and Southeast Energy Authority, a Cooperative District dated as of [____], 2024 (the “Power Supply Contract”)

We have acted as counsel to the Southeast Energy Authority, a Cooperative District (the “Issuer”) in connection with its execution of the Power Supply Contract. This opinion is rendered pursuant to Section 18.2(d) of the Power Supply Contract. Capitalized terms used and not defined in this opinion shall have the same meanings assigned to them in the Power Supply Contract.

In our capacity as counsel to the Issuer, we have examined the following:

- (a) A certified copy of the Certificate of Incorporation of the Issuer;
- (b) A certified copy of the By-Laws of the Issuer;
- (c) A Certificate of Existence for the Issuer issued by the [____] Secretary of State;

(d) A certified copy of the Resolution adopted by the Board of Directors of the Issuer on [] as supplemented by [] (the “Resolution”), authorizing the execution and delivery of the Power Supply Agreement;

(f) An executed counterpart of each of the Power Supply Contract;

In rendering this opinion, we have examined a copy such records and other documents as we have deemed necessary and relevant for purposes of this opinion. In our examination, we have assumed the genuineness of all signatures, the authenticity of all documents submitted to us as originals, and the conformity of all original documents submitted to us as copies.

As to factual matters, we have relied solely upon the documents described above, the representations and warranties of the Issuer contained in the Power Supply Contract, other agreements and certificates delivered in connection with the Commodity Project, the certificate of incorporation of the Issuer, as amended, and various certificates and other documents furnished to us by Issuer’s officers and its Board of Directors. In basing the opinions set forth in this letter on “our knowledge,” the words “our knowledge” signify that, in the course of our representation, no facts have come to the attention of the individual signing this opinion that would give us actual knowledge or actual notice that any such opinions or other matters are not accurate. Except as otherwise stated in this opinion, we have undertaken no investigation or verification of such matters.

We are of the opinion that:

1. The Issuer is a public corporation organized under the Laws of the State of Alabama pursuant to Section 11-99B-1, *et seq.*, *Alabama Code* (the “Act”), and, and has full legal right, power and authority under the Act to (a) adopt the Resolution, (b) enter into, execute and deliver the Power Supply Contract, and (c) carry out and consummate the transactions contemplated by the Power Supply Contract, and the Issuer has complied, and will at the Closing be in compliance in all respects, with the terms of the Act and the Power Supply Contract as they pertain to such transactions.

2. By all necessary official action, the Issuer has duly authorized all necessary action to be taken by it for (a) the adoption of the Resolution, (b) the approval, execution and delivery of, and the performance by the Issuer of the obligations on its part, contained in the Power Supply Contract, and (c) the consummation by it of all other transactions contemplated by the Power Supply Contract.

3. The Resolution was duly and validly adopted by the Issuer and all other proceedings pertinent to the validity and enforceability of the Power Supply Contract have been duly and validly adopted or undertaken in compliance with all applicable procedural requirements of the Issuer and in compliance with the Constitution and laws of the State, including the Act, and the Resolution is in full force and effect and has not been amended.

4. The Power Supply Contract has been duly authorized, executed and delivered by the Issuer, and constitutes a legal, valid and binding obligation of the Issuer

enforceable against the Issuer in accordance with its terms, except to the extent limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws and equitable principles of general application relating to or affecting the enforcement of creditors' rights.

5. All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Issuer of its obligations under the Power Supply Contract have been obtained.

6. To our knowledge, after due inquiry of representatives of the Issuer, there is no legislation, action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to our knowledge, threatened against the Issuer, affecting the existence of the Issuer or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the execution and delivery of the Power Supply Contract or in any way contesting or affecting the validity or enforceability of the Power Supply Contract.

7. The execution and delivery of the Power Supply Contract and compliance by the Issuer with the provisions thereof, under the circumstances contemplated herein and therein, will not conflict with or constitute on the part of the Issuer a material breach of or a default under any agreement or instrument to which the Issuer is a party, or violate any existing law, administrative regulation, court order, or consent decree to which the Issuer is subject.

Notwithstanding anything to the contrary contained above, the foregoing opinion is expressly made subject to the following exceptions, qualifications, and assumptions:

(i) We express no opinion with respect to the validity or enforceability of any provisions of the Power Supply Contract or any other documents that may be read to require the Issuer to indemnify any party or waive trial by jury.

(ii) We express no opinion as to the enforceability of provisions waiving, directly or indirectly, expressly or impliedly, defenses to obligations or rights granted by law, where such waivers are prohibited by law or are against public policy.

(iii) We except from our opinion any provisions contained in any document which purport to prevent any party from raising an affirmative defense thereto, such as estoppel, illegality, etc., if such affirmative defense arises or is asserted to have arisen out of any action by any party which has not been brought to our attention, or which purports to prevent any party from raising a claim of fraud.

(iv) We except from our opinion any provisions contained in any of the documents which could be construed as waiving service of process or any applicable statute of limitations defense or which establish any rights to specific performance.

(v) Our opinion as to enforceability is limited by standards of good faith, fair dealing, materiality, and reasonableness that may be applied by a court to the exercise of certain rights and remedies; limitations based on statutes or on public policy limiting a person's right to waive the benefit of statutory provisions or of a common law right; and limitations releasing a party from or indemnifying a party against liability for its own wrongful or negligent act when such release or indemnification is contrary to public policy.

(vi) Our opinion is limited to the matters stated herein and no opinion may be inferred or implied beyond the matters expressly stated herein. The opinions expressed in this letter are given solely for your use and benefit in connection with the transactions referred to herein and no other person may use or rely on this opinion letter, nor may it be used or relied upon in any other transaction which is not related to transactions referred to herein, without our prior express written consent. This opinion is provided to you as a legal opinion only and not as a warranty or guarantee with respect to the matter described herein or in the documents referred to herein.

(vii) We bring to your attention the fact that we are admitted to the bar of the State of [_____] and the opinions herein are limited to the laws of the State of [_____] and the federal laws of the United States of America. We express no opinion as to the enforceability, under the laws of the State of [_____] or any other State, of any choice of law provisions contained in the Power Supply Contract, nor, assuming such provisions would be enforceable under the choice of law principles of the State of [_____] or any other State, do we state any opinion as to the enforceability of the Power Supply Contract under the internal laws of any other State. Notwithstanding the foregoing, you have requested us to review the Power Supply Contract and provide you with the opinions set forth herein assuming, solely for purposes of these opinions, that the internal laws of the State of [_____] would govern the Power Supply Contract. If the Power Supply Contract were to be governed under the internal laws of the State of [_____] , our opinions would be as set forth herein. We note that if a court of competent jurisdiction determines the Power Supply Contract to be unenforceable under the laws of any other State, then the Power Supply Contract may not be enforced by [_____] courts under the applicable [_____] conflict of law provisions.

(viii) Our opinion is rendered as of the date hereof and we assume no obligation to advise you of changes in law or fact (or to the effect thereof on the opinions expressed herein) that hereafter may come to our attention.

(ix) The scope of this opinion is limited to those issues and parties specifically considered herein and no further or more expansive opinion is implied or should be inferred from any opinion expressed herein. On such basis, any variation or difference in the facts upon which this opinion is based might affect our conclusions in an adverse manner and make them inaccurate.

Sincerely,

EXHIBIT G

COMMUNICATIONS PROTOCOL FOR BASE QUANTITIES

This Exhibit G (“Communications Protocol”) addresses the Scheduling of Base Quantities to be delivered and received at the Base Delivery Point. It is intended to be attached to both the Prepaid Agreement and the Power Supply Contract, each as defined below.

1. ADDITIONAL DEFINED TERMS

In addition to the terms defined in Article I of this Agreement, the following terms used in this Communications Protocol shall have the following meanings:

- 1.1. “Agreement” means (i) when this Communications Protocol is attached to the Prepaid Agreement, the Prepaid Agreement and (ii) when this Communications Protocol is attached to the Power Supply Contract, the Power Supply Contract.
- 1.2. “Delivery Scheduling Entity” means Prepay LLC or a Person designated by Prepay LLC, as set forth in Attachment 4 hereto or in a subsequent written notice to Issuer and the Project Participant.
- 1.3. “Issuer” means Southeast Energy Authority, a Cooperative District, a public corporation organized under the Laws of the State of Alabama pursuant to Section 11-99B-1, *et seq.*, *Alabama Code*.
- 1.4. “Operational Nomination” has the meaning specified in Section 4.1.1.
- 1.5. “Prepaid Agreement” means that certain Prepaid Energy Sales Agreement dated as of [____], 2024 by and between Prepay LLC and Issuer that is specified as relating to the Power Supply Contract with Project Participant.
- 1.6. “Power Supply Contract” means that certain Power Supply Contract dated as of [____], 2024 by and between Issuer and Project Participant.
- 1.7. “Prepay LLC” means Aron Energy Prepay [__] LLC, a Delaware limited liability company.
- 1.8. “Project Participant” means Utah Associated Municipal Power Systems, a [____].
- 1.9. “Receipt Scheduling Entity” for any Delivery Point means the Project Participant, unless the Power Supply Contract has been suspended or terminated, in which case the Receipt Scheduling Entity will be Issuer or a Person designated by Issuer for such Delivery Point in accordance with this Communications Protocol.
- 1.10. “Relevant Contract” means the Prepaid Agreement and the Power Supply Contract.

- 1.11. “Relevant Party” means Issuer, Prepay LLC or the Project Participant.
- 1.12. “Relevant Third Party” means any Person that is (i) a Transmission Provider that will or is intended to transport Product to be delivered or received under the Agreement, (ii) an independent system operator or control area that coordinates the Scheduling of Product at the Base Delivery Point, (iii) Scheduling receipt of Product by Issuer or for the account of Issuer to the extent such Product has been delivered to Issuer or for the account of Issuer under the Prepaid Agreement, and (iv) delivering Product to Issuer or for the account of Issuer to the extent such Product is intended to be re-delivered ultimately to the Project Participant or for the account of the Project Participant under the Power Supply Contract.
- 1.13. “Scheduling Entities” means the Receipt Scheduling Entity and the Delivery Scheduling Entity.

2. AGREEMENTS OF RELEVANT PARTIES

Each Relevant Party that is a party to Relevant Contract to which this Communications Protocol is attached acknowledges that this Communications Protocol sets forth certain obligations that may be delegated to other Relevant Parties that are not parties to such Relevant Contracts. In connection therewith:

- 2.1 ***Reliance on Scheduling Entity.*** Each Relevant Party shall be entitled to rely exclusively on any communications or directions given by a Delivery Scheduling Entity or Receipt Scheduling Entity, in each case to the extent such communications are permitted hereunder.
- 2.2 ***Performance of Communications Protocol.*** Each Relevant Party to a Relevant Contract shall cause its counterparty to each other Relevant Contract to comply with the provisions of this Communications Protocol as the provisions apply to such counterparty to the extent required to perform the obligations of the Relevant Party under the Relevant Contract.
- 2.3 ***Third Party Beneficiaries.*** To the extent this Communications Protocol purports to give any Relevant Party (a “Beneficiary”) rights vis-à-vis any other Relevant Party (a “Burdened Party”) with whom such Beneficiary does not have privity under a Relevant Contract, such Beneficiary shall be deemed to be a third party beneficiary of each Relevant Contract to which the Burdened Party is a party to the extent necessary or convenient to enforce the obligations of the Burdened Party under this Communications Protocol.
- 2.4 ***Amendment of Relevant Contracts.*** No Relevant Party shall amend, waive or otherwise modify any provision of any Relevant Contract to which it is a party without the consent of each other Relevant Party whose rights or obligations would

be materially and adversely affected by such amendment, waiver or modification as it relates to this Communications Protocol.

- 2.5 ***Amendment of Communications Protocol.*** No Relevant Party shall amend any provision of this Communications Protocol in a Relevant Contract without the consent of each other Relevant Party.
- 2.6 ***Waiver of Communications Protocol.*** No Relevant Party shall waive any provision of this Communications Protocol in a Relevant Contract without the consent of each other Relevant Party whose rights or obligations would be materially and adversely affected by such waiver.

3 DESIGNATION AND REPLACEMENT OF SCHEDULING ENTITIES

- 3.1 ***Designation of Delivery Scheduling Entity.*** Prepay LLC may designate a new Delivery Scheduling Entity upon thirty (30) days written notice to Issuer substantially in the form of Attachment 4. Any Scheduling Entity designated in accordance with this Section 3.1 shall commence service at the beginning of a Month, unless mutually agreed in writing between Prepay LLC and Issuer.
- 3.2 ***Assumption by Receipt Scheduling Entity.*** If any Delivery Scheduling Entity (other than Prepay LLC) persistently fails to perform its obligations as contemplated under this Communications Protocol, the Receipt Scheduling Entity may, by notice to Prepay LLC, require that Prepay LLC deal directly with the Receipt Scheduling Entity until a new Delivery Scheduling Entity is designated in accordance with this Section 3.1.
- 3.3 ***Scheduling Coordinator.*** Project Participant shall designate a scheduling coordinator for the purposes of accepting Base Product delivery at the Base Delivery Point through the scheduling of ISTs.

4 INFORMATION EXCHANGE AND COMMUNICATION BETWEEN ISSUER AND PREPAY LLC

- 4.1 ***Communication of Operational Nomination Details.***
 - 4.1.1 Not later than three Days prior to each Day during which Base Product is required to be delivered under the Agreement, the Receipt Scheduling Entity for such Delivery Point may deliver an operational nomination in writing (the “Operational Nomination”) indicating any inability of a Project Participant to receive all of its Base Quantities during such Day, which Operational Nomination shall be without prejudice to any party’s rights under the Relevant Contracts for failure to receive Base Quantities. If no changes to Base Quantities are so submitted, the Operational Nomination

shall be deemed to nominate the full Base Quantities required to be delivered on a Day.

- 4.1.2 Not later than three Days prior to each Day during which Base Product is required to be delivered under the Agreement, the Delivery Scheduling Entity for such Delivery Point may revise the Operational Nomination to indicate any inability of Prepay LLC to deliver all Base Quantities during such Day, which revised Operational Nomination shall be without prejudice to any party's rights under the Relevant Contracts for failure to deliver Base Quantities.

4.2 *Event-specific Communications.*

- 4.2.1 Remarketing Notices issued by Issuer under the Prepaid Agreement shall be substantially in the form of Attachment 2 hereto. Any such notices to remarket must be delivered directly to Prepay LLC and the Delivery Scheduling Entity.
- 4.2.2 Each Scheduling Entity shall notify Prepay LLC, Issuer and the Project Participant as soon as practicable in the event of: (i) any deficiencies in Scheduling related to such Scheduling Entity; (ii) any deficiencies in Scheduling related to the other such Scheduling Entity; and (iii) any issues with Relevant Third Parties that that would reasonably be expected to create issues related to Product Scheduling under the Relevant Contract.

5 ACCESS AND INFORMATION

5.1 ***Verification of Product Scheduled.*** In addition to the delivery of and access to the records and data required pursuant to the Agreement, each Relevant Party agrees to provide relevant records from itself and other Relevant Third Parties necessary to document and verify Product Scheduled within and after the Month as needed to facilitate the Relevant Contracts.

5.2 ***View Rights.*** To the extent requested by a Delivery Scheduling Entity or Prepay LLC, the Receipt Scheduling Entities will use Commercially Reasonable Efforts to cooperate with the Delivery Scheduling Entity and Prepay LLC to ensure that Delivery Scheduling Entity and Prepay LLC has sufficient agency view rights from each such Scheduling Entity to allow Prepay LLC to view Base Product Scheduling at the Base Delivery Point.

6 NOTICES

Any notice, demand, request or other communication required or authorized by this Communications Protocol to be given by one Relevant Party to another Relevant Party shall be in writing, except as otherwise expressly provided herein. It shall either be

sent by facsimile (with receipt confirmed by telephone and electronic transmittal receipt), courier, or personally delivered (including overnight delivery service) to the representative of the other Relevant Party designated in Attachment 1 hereto. Any such notice, demand, or request shall be deemed to be given (i) when sent by facsimile confirmed by telephone and electronic transmittal receipt or (ii) when actually received if delivered by courier or personal delivery (including overnight delivery service). Each Relevant Party shall have the right, upon written notice to the other Relevant Parties, to change its address at any time, and to designate that copies of all such notices be directed to another Person at another address.

7 NO IMPACT ON CONTRACTUAL OBLIGATIONS

Except as expressly set forth herein or in an applicable Relevant Contract, nothing in this Communications Protocol nor any Relevant Party's actions or inactions hereunder shall have any impact on any Relevant Party's rights or obligations under the Relevant Contracts.

8 ATTACHMENTS

Attachment 1 - Key Personnel

Attachment 2 - Remarketing Notice Form

Attachment 3 - Designation of Alternate Base Delivery Points Form

Attachment 4 - Designation of Scheduling Entities Form

Attachment 1

Key Personnel

Prepay LLC Marketing Personnel:

Kenan Arkan
Sales and Trading
Telephone: (212) 357-2542
gs-prepay-notices@gs.com

Prepay LLC Scheduling Personnel:

Scheduling Team
Email: ficc-jaron-natgasops@ny.email.gs.com
Direct Phone: (212) 902-8148
Fax: 212.493.9847

Carly Norlander
ICE Chat: cnorlander1
Email: ficc-jaron-natgasops@ny.email.gs.com
Direct Phone: (403) 233-9299
Fax: (212) 493-9847

Other Prepay LLC Personnel:

Eric Hudson
Telephone: (212) 855-0880
ficc-struct-sett@gs.com

Patricia Hazel
Telephone: (212) 855-0880
ficc-struct-sett@gs.com

Andres E. Aguila
Telephone: (212) 855-6008
Fax: (212) 291-2124
andres.aguila@gs.com

Issuer Personnel:

[]

Project Participant Personnel:

[]

Attachment 2

Remarketing Notice Form

Date: [_____]

To: Prepay LLC Scheduling

From: Project Participant Scheduling

This notice is being delivered pursuant to that certain Prepaid Energy Sales Agreement (the “Prepaid Agreement”) dated as of [_____], 2024 by and between Aron Energy Prepay [] LLC (“Prepay LLC”) and Southeast Energy Authority, a Cooperative District, a public corporation organized under the Laws of the State of Alabama pursuant to Section 11-99B-1, *et seq.*, *Alabama Code* (“Issuer”) and relates to the Power Supply Contract (the “Power Supply Contract”) dated as of [_____], 2024 by and between Issuer and Utah Associated Municipal Power Systems (“Project Participant”). Capitalized terms not defined herein are defined in the Prepaid Agreement.

Check the box to indicate type of Remarketing Notice (*The numbers of the Primary (“P”) and Alternate (“A”) Delivery Points below correspond to those same Primary Delivery Points and Alternate Delivery Points set forth in Exhibit A-1 of the Agreement, or as may be designated by the Parties from time to time*):

Monthly Remarketing Notice:

Month(s) for which remarketing is requested: _____, 20__ through _____, 20__.

Pursuant to Section 3(b) of Exhibit C of the Power Supply Contract, Project Participant requests that Prepay LLC remarket in such Month(s) the following Base Quantities of Product required to be delivered at the following Delivery Points:

Delivery Point (P/A, #)	MWh/ Hour for each Hour in the Month

Daily Remarketing Notice:

Hours for which remarketing is requested: _____, 20__ through
_____, 20__.

Pursuant to Section 3(c) of Exhibit C of the Power Supply Contract, Project Participant requests that Prepay LLC remarket for such Hours the following Base Quantities of Product required to be delivered at the following Delivery Point:

Delivery Point (P/A, #)	MWh/Hour

Submitted by Project Participant:
UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS

By: _____
Name:
Title:

Attachment 3

Designation of Alternate Base Delivery Points Form

This designation is delivered pursuant to that certain Prepaid Energy Sales Agreement (the “Prepaid Agreement”) dated as of [____], 2024 by and between Aron Energy Prepay [] LLC (“Prepay LLC”) and Southeast Energy Authority, a Cooperative District, a public corporation organized under the Laws of the State of Alabama pursuant to Section 11-99B-1, *et seq.*, *Alabama Code* (“Issuer”) and the Power Supply Contract (the “Power Supply Contract”) dated as of [____], 2024 by and between Issuer and Utah Associated Municipal Power Systems (“Project Participant”). Capitalized terms not defined herein are defined in the Prepaid Agreement and the Power Supply Contract. [Project Participant and/or Issuer] hereby proposes the following Alternate Delivery Points for deliveries of Energy that would otherwise be made at the specified Primary Delivery Point:

ALTERNATE DELIVERY POINT	PRIMARY DELIVERY POINT AFFECTED	COMMODITY REFERENCE PRICE PRICING POINT	ADDITIONAL RESTRICTIONS
1			[e.g.
2			Vol. Limit:
3			Time Limit:]
(etc.)			

Unless otherwise agreed among Prepay LLC, Issuer and Project Participant, an Alternate Delivery Point shall utilize the same Commodity Reference Price as the Primary Delivery Point it replaces or otherwise affects. Project Participant is not required to agree or accept this designation (or any change to the Commodity Reference Price) if it is being submitted by Issuer pursuant to the Prepaid Agreement only.

AGREED AND ACCEPTED BY PREPAY LLC:	(if required) AGREED TO AND ACCEPTED BY PROJECT PARTICIPANT:	(if required) AGREED TO AND ACCEPTED BY ISSUER:
By: Name: Title:	By: Name: Title:	By: Name: Title:

Attachment 4

Designation of Scheduling Entities Form

This designation is being delivered pursuant to that certain Prepaid Energy Sales Agreement (the “Prepaid Agreement”) dated as of [____], 2024 by and between Aron Energy Prepay [] LLC (“Prepay LLC”) and Southeast Energy Authority, a Cooperative District, a public corporation organized under the Laws of the State of Alabama pursuant to Section 11-99B-1, *et seq.*, *Alabama Code* (“Issuer”) and relates to the Power Supply Contract (the “Power Supply Contract”) dated as of [____], 2024 by and between Issuer and Utah Associated Municipal Power Systems (“Project Participant”). Capitalized terms not defined herein are defined in the Prepaid Agreement and Power Supply Contract.

[If delivered by Project Participant:

Receipt Scheduling Entity:

Delivery Point: _____

Effective Date(s) of Service of Receipt Scheduling Entity (full Months only):
_____, _____ to _____, _____, if applicable

Notice Information for Receipt Scheduling Entity:

Name: _____
Attention: _____
Address: _____

Telephone: _____
Fax: _____]

[If delivered by Prepay LLC:

Delivery Scheduling Entity:

Delivery Point: _____

Effective Date(s) of Service of Delivery Scheduling Entity (full Months only):
_____, _____ to _____, _____, if applicable

Notice Information for Delivery Scheduling Entity:

Name: _____

Attention: _____
Address: _____
Telephone: _____
Fax: _____
Submitted by: _____

[Project Participant or Prepay LLC]

By: _____
Name: _____
Title: _____

EXHIBIT H

PRICING AND OTHER TERMS

Administrative Fee:	\$_[____]/Commodity Unit
Delivery Period:	The period beginning on and including [____] and ending at the end of the Day before [____]; provided that the Delivery Period shall end immediately upon termination of deliveries of Product under the Prepaid Agreement pursuant to Article XVII thereof or early termination of this Agreement pursuant to <u>Article XVII</u> hereof.
Initial Reset Period:	The period beginning at the beginning of the Day on [____] and ending at the end of the last Day of the Month preceding the last Month of the Initial Interest Rate Period (as defined in the Bond Indenture).
Minimum Discount Percentage:	An Available Discount Percentage as determined under the Re-Pricing Agreement of [____]%.
Monthly Discount Percentage:	For each Month of the Initial Reset Period, [____]%, and for each Month of any other Reset Period, the percentage determined by the Calculation Agent as defined in and pursuant to the Re-Pricing Agreement, exclusive of any Annual Refund.

EXHIBIT I
FORM OF CLOSING CERTIFICATE

CLOSING CERTIFICATE OF PURCHASER

_____, 2024

Re: Southeast Energy Authority, a Cooperative District
[Clean Commodity Project Revenue Bonds]

The undersigned _____ of Utah Associated Municipal Power Systems (“*Purchaser*”) hereby certifies as follows in connection with the Power Supply Contract dated as of _____, 2024 (the “*Agreement*”) between the Purchaser and Southeast Energy Authority, a Cooperative District (“*Issuer*”) and the issuance and sale by Issuer of the above-referenced bonds (the “*Bonds*”) (capitalized terms used and not defined herein shall have the meanings given to them in the Agreement):

1. Purchaser is a [_____] (the “*State*”), and has the corporate power and authority to enter into and perform its obligations under the Agreement.

2. By all necessary official action on its part, Purchaser has duly authorized and approved the execution and delivery of, and the performance by Purchaser of the obligations on its part contained in, the Agreement, and such authorization and approval has not been amended, supplemented, rescinded or modified in any respect since the date thereof.

3. The Agreement constitutes the legal, valid and binding obligation of Purchaser.

4. The authorization, execution and delivery of the Agreement and compliance with the provisions on Purchaser's part contained therein (a) will not conflict with or constitute a breach of or default under (i) any instrument relating to the organization, existence or operation of Purchaser, (ii) any ruling, regulation, ordinance, judgment, order or decree to which Purchaser (or any of its officers in their respective capacities as such) is subject, or (iii) any provision of the laws of the State relating to Purchaser and its affairs, and (b) will not result in, or require the creation or imposition of, any lien on any of the properties or revenues of Purchaser pursuant to any of the foregoing.

5. Purchaser is not in breach of or default under any applicable constitutional provision, law or administrative regulation of the State or the United States or any applicable

judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which Purchaser is a party or to which Purchaser or any of its property or assets are subject, and no event has occurred and is continuing which constitutes, or with the passage of time or the giving of notice, or both, would constitute, a default or event of default by Purchaser under any of the foregoing.

6. Payments to be made by Purchaser under the Agreement shall constitute operating expenses of Purchaser's power supply system payable solely from the revenues and other available funds of Purchaser's power supply system as a cost of purchased electricity.

7. No litigation, proceeding or tax challenge is pending or, to its knowledge, threatened, against Purchaser in any court or administrative body which would (a) contest the right of the officials of Purchaser to hold and exercise their respective positions, (b) contest the due organization and valid existence of Purchaser, (c) contest the validity, due authorization and execution of the Agreement, or (d) attempt to limit, enjoin or otherwise restrict or prevent Purchaser from executing, delivering and performing the Agreement, nor to the knowledge of Purchaser is there any basis therefor.

8. All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter which are required for the due authorization of, which would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by Purchaser of its obligations under the Agreement have been duly obtained.

9. The representations and warranties of Purchaser contained in the Agreement were true, complete and correct on and as of the date thereof and are true, complete and correct on and as of the date hereof.

10. The statements and information with respect to Purchaser contained in the Preliminary Official Statement dated [____], 2024 and the Official Statement dated [____], 2024 with respect to the Bonds, including Appendix A thereto (together, the "*Official Statement*"), fairly and accurately describe and summarize the financial and operating position of Purchaser for the periods shown therein, and such statements and information did not as of the respective dates of the Official Statement and do not as of the date hereof contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make such statements and information, in the light of the circumstances under which they were made, not misleading.

11. To Purchaser's knowledge, no event affecting Purchaser has occurred since the date of the Official Statement which should be disclosed therein in order to make the statements and information with respect to Purchaser contained therein, in light of the circumstances under which they were made, not misleading in any material respect.

IN WITNESS WHEREOF the undersigned has executed this Certificate on and as of the date first written above.

UTAH ASSOCIATED MUNICIPAL POWER
SYSTEMS

By _____

Name:

Title:

EXHIBIT J

ASSIGNMENT OF ASSIGNABLE POWER CONTRACTS

1. **General Requirements.** Assigned Rights and Obligations under an Assignable Power Contract may only be assigned under this Exhibit J if the following requirements are satisfied or waived by J. Aron and Issuer:
 - 1.1. The seller under such Assignable Power Contract (the “APC Party”) either (i) has a long-term senior unsecured credit rating that is “Baa3” or higher from Moody’s Investor’s Service, Inc. (or any successor to its credit rating service operation), “BBB-” or higher from Standard & Poor’s Global Ratings (or any successor to its credit rating service operation) or “BBB-” or higher from Fitch Ratings, Inc. (or any successor to its credit rating service operation), (ii) provides credit support that is reasonably satisfactory to J. Aron or (iii) otherwise provides evidence of its creditworthiness that is reasonably satisfactory to J. Aron (which, for the avoidance of doubt, may include credit support provided by such APC Party to Purchaser).
 - 1.2. The APC Party satisfies J. Aron’s internal requirements as they relate to “know your customer” rules, policies and procedures, anti-money laundering rules and regulations, Dodd-Frank Act, Commodity Exchange Act, Patriot Act and similar rules, regulations, requirements and corresponding policies.
 - 1.3. The APC Party is organized in the United States and in a jurisdiction that does not present adverse tax consequences to J. Aron or Issuer in connection with such proposed assignment.
 - 1.4. J. Aron, Purchaser, and Issuer have agreed on and executed an Assignment Schedule for such assignment.
 - 1.5. J. Aron, Purchaser, Issuer, and the applicable APC Party have agreed on and executed an Assignment Agreement for such assignment.
 - 1.6. The contract price (in \$/MWh) payable by Purchaser under the applicable Assignable Power Contract (the “APC Contract Price”) is a fixed price unless Issuer, Purchaser and J. Aron agree, each in their sole discretion, to appropriate changes to the relevant documents to accommodate a floating APC Contract Price. For purposes of this Exhibit H, a “fixed price” shall be deemed to include any price that is fixed but for a periodic escalation, whether pre-determined or by reference to a price index, provided that the Base Quantity Reductions required to reflect any index-based escalation shall be made promptly following the time that such index is available.
 - 1.7. If the Assignable Power Contract is unit-contingent or for an as-generated Product, then:
 - 1.7.1. J. Aron has determined with a high degree of certainty that the Applicable Project will be able to generate the Assigned Prepay Value in each Month during the proposed Assignment Period.
 - 1.7.2. The Applicable Project (as defined below) has generated the Assigned Prepay Value (as defined below) in each Month since commencing commercial operation.

2. **Proposed Assignment.** Purchaser may propose an assignment of Assigned Rights and Obligations under Article VI of the Power Supply Contract by delivering the following items to Issuer and to J. Aron:
 - 2.1. A written notice of the proposed assignment signed by Purchaser.
 - 2.2. A true and complete copy of the Assignable Power Contract under which such Assigned Rights and Obligations would arise.
 - 2.3. Evidence reasonably satisfactory to Issuer and J. Aron that all authorizations, consents, approvals, licenses, rulings, permits, exemptions, variances, orders, judgments, decrees, declarations of or regulations by any Government Agency necessary in connection with the transactions contemplated by the Assignable Power Contract and the assignment of the Assignable Power Contract to J. Aron have been obtained and are in full force and effect. Such evidence may be provided by a closing certificate with appropriate back-up materials.
 - 2.4. Such additional information as Issuer and J. Aron may reasonably request regarding the Assignable Power Contract and the APC Party.
 - 2.5. If the Assignable Power Contract is unit-contingent or for an as-generated Product, then:
 - 2.5.1. A description and information of the applicable project to which the Assignable Power Contract applies (the "Applicable Project"), including but not limited to information on the location, interconnection(s), and operating and compliance history of Applicable Project.
 - 2.5.2. Either (i) a report from a nationally recognized consultant in the energy industry that is reasonably acceptable to Issuer and J. Aron showing the "P99" forecasted generation ("P99 Generation") and "P50" forecasted generation ("P50 Generation") of the Applicable Project for the entire Assignment Period, as the terms P99 and P50 are commonly used in the renewable energy industry or (ii) monthly historical generation and meteorological data of the Applicable Project dating back to the commercial operation date.

Following Issuer's and J. Aron's receipt of such information, Purchaser and Issuer will and J. Aron has agreed in the Electricity Sale and Service Agreement to (i) negotiate in good faith with one another and exercise Commercially Reasonable Efforts to agree upon an Assignment Schedule, with the initial draft of such Assignment Schedule to be developed by J. Aron, and (ii) negotiate in good faith with one another and the APC Party regarding an Assignment Agreement, in each case related to the proposed assignment. If such Assignment Schedule and Assignment Agreement are agreed to by the representative parties thereto, the applicable parties will execute such Assignment Agreement and Assignment Schedule to be effective upon the assignment of the Assigned Rights and Obligations from Purchaser to J. Aron pursuant to the Assignment Agreement. J. Aron will act in good faith in considering proposed assignments that meet the criteria set forth in this Exhibit F, in accordance with the provisions set forth in the Electricity Sale and Service Agreement. For the avoidance of doubt, Purchaser acknowledges that J. Aron will not be required to execute any Assignment Agreement or Assignment Schedule, or otherwise accept any Assigned Rights and Obligations unless the APC Party (i) satisfies J. Aron's internal requirements as they relate to "know your customer" rules, policies and procedures, anti-money laundering rules and regulations, Dodd-Frank Act,

Commodity Exchange Act, Patriot Act and similar rules, regulations, requirements and corresponding policies, (ii) is organized in the United States, and (iii) satisfies all other requirements in Section 1 of this Exhibit F.

3. **Assignment Schedule.** In connection with each assignment, an “Assignment Schedule” will be prepared in the form attached hereto as Annex I (with such changes as agreed by the Parties in their sole discretion), must be executed by Purchaser, Issuer and J. Aron, and must include each of the following:
 - 3.1. The term of such Assigned Rights and Obligations (an “Assignment Period”) shall have the meaning specified in each applicable Assignment Agreement and shall (i) end not later than (a) the end of the delivery period under the Assignable Power Contract and (b) the end of the Delivery Period under this Agreement, (ii) not commence any earlier than sixty (60) days after Purchaser’s original notice under Section 2.1 above, and (iii) have a primary term that is not less than 18 Months in duration (provided, for the avoidance of doubt, the primary term references the term of the applicable Assignment Period and not the term of the Assignable Power Contract).
 - 3.2. If the Assignable Power Contract is unit-contingent or for an as-generated product, then a description of the Applicable Project.
 - 3.3. The “Assigned Prepay Quantity” means, for each Month of an Assignment Period and each Assignment Agreement, a quantity of Energy agreed upon by J. Aron, Issuer and Purchaser, which Assigned Prepay Quantity, if the Assignable Power Contract is unit contingent or for an as-generated Product, shall not exceed an amount that J. Aron has determined with a high degree of certainty that the Applicable Project will be able to generate in each Month during the Assignment Period; provided that the Assigned Prepay Quantity for each Month may not exceed the limit expressed in the proviso to Section 3.4 below. For the avoidance of doubt, the Assigned Rights and Obligations will include all of Purchaser’s rights to receive Energy under the Assignable Power Contract even if such rights to receive Energy may exceed the Assigned Prepay Quantity.
 - 3.4. An updated Exhibit A-1 to the Power Supply Contract reflecting a reduction in Base Quantity for each Hour during an Assignment Period after giving effect to the Assignment Schedule (each, a “Base Quantity Reduction”), which Base Quantity Reduction for each Hour will equal (i) the Assigned Prepay Quantity for such Hour, multiplied by (ii) the result of (A) the APC Contract Price applicable for such Hour, divided by (B) the ***[NOTE: To list the result of the following formula as determined at pricing: Front End Fixed Price + (Active Swap Fee – Standby Swap Fee).]***; provided that if the Base Quantity Reduction for any Hour would result in a Base Quantity of less than zero, then the Assigned Prepay Quantity for such Hour will be reduced to the closest whole MWh such that the Base Quantity is not reduced below zero.
 - 3.5. The APC Contract Price, which as set forth in Section 1.6 above must be a fixed price unless Issuer, Purchaser and J. Aron agree to appropriate changes to the relevant documents to accommodate a floating APC Contract Price.
 - 3.6. The Assigned Delivery Point for all Assigned Energy.

3.7. The Assigned Product included in the Assigned Rights and Obligations, which Assigned Product may not include any Product other than (a) Energy, (b) associated RECs, and (c) other product included within the sale of Energy and not separately delivered from Energy, provided that the APC Contract Price must be inclusive of any amounts due in respect of all Assigned Product, provided furthermore that Assigned Product may not in any case include capacity.

ASSIGNMENT SCHEDULE

Assigned Product: [_____]

Assigned Delivery Point: [_____]

Assigned Prepay Quantity: As set forth in Appendix 2; provided that (i) all Assigned Products shall be delivered pursuant to the Limited Assignment Agreement during the Assignment Period as provided in Appendix 1 and (ii) the Assigned Prepay Quantity is defined for the convenience of PPA Buyer and J. Aron and shall have no impact on the obligations of the Parties under the Limited Assignment Agreement.

APC Contract Price: \$[_____] /MWh

Assignment Period: [_____]

FORM OF LIMITED ASSIGNMENT AGREEMENT

NOTE: Purchaser may include the form included in this Annex II as an exhibit to any PPA executed by Purchaser and include the following or similar language in the PPA: “[Seller] agrees that [Buyer] may assign a portion of its rights and obligations under this Agreement to J. Aron & Company LLC (“J. Aron”) at any time upon not less than [] days’ notice by delivering a written request for such assignment, which request must include a proposed assignment agreement in the form attached hereto as [Exhibit], with the blanks in such form completed in [Buyer’s] sole discretion. Provided that [Buyer] delivers a proposed assignment agreement complying with the previous sentence, [Seller] agrees to (i) comply with J. Aron’s reasonable requests for know-your-customer and similar account opening information and documentation with respect to [Seller], including but not limited to information related to forecasted generation, credit rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (ii) promptly execute such assignment agreement and implement such assignment as contemplated thereby, subject only to the countersignature of J. Aron and Company, LLC and [Buyer].”

LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [], by and among [], a [] (“**PPA Seller**”), Utah Associated Municipal Power Systems, a [] (“**PPA Buyer**”), and J. Aron & Company LLC, a New York limited liability company (“**J. Aron**”), and relates to that certain power purchase agreement (the “**PPA**”) between PPA Buyer and PPA Seller as described on Appendix 1. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and J. Aron (the “**Parties**” hereto; each is a “**Party**”) agree as follows:

1. Limited Assignment and Delegation.

- (a) PPA Buyer hereby assigns, transfers and conveys to J. Aron all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the products described on Appendix 1 (the “**Assigned Products**”) during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section on Appendix 1 (the “**Assigned Product Rights**”). All Assigned Products shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.
- (b) PPA Buyer hereby delegates to J. Aron the obligation to pay for all Assigned Products that are actually delivered to J. Aron pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Products; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a

single consolidated invoice during the Assignment Period (with a copy to J. Aron consistent with Section 10 hereof). To the extent J. Aron fails to pay the Delivered Product Payment Obligation by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it shall have the option to make such payment and that it will be an Event of Default pursuant to Section [] if PPA Buyer does not make such payment within five (5) Business Days of receiving Notice of such non-payment from PPA Seller, in which case PPA Buyer will exercise its reimbursement claim pursuant to Section 6.5 of the Power Supply Contract, dated as of [], by and between PPA Buyer and Southeast Energy Authority, a Cooperative District (the “Power Supply Contract”).

- (c) J. Aron hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above.
- (d) All scheduling of Assigned Products and other communications related to the PPA shall take place pursuant to the terms of the PPA; provided that (i) title to Assigned Product will pass from PPA Seller to J. Aron upon delivery by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to J. Aron of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Seller will provide copies to J. Aron of annual forecasts of Energy and monthly forecasts of available capacity and Energy provided pursuant to Section [] of the PPA; (iv) PPA Seller will provide copies to J. Aron of all invoices and supporting data provided to PPA Buyer pursuant to Section [], provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice, including pursuant to Section [], will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to J. Aron; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to J. Aron of any other information reasonably requested by J. Aron relating to Assigned Products.
- (e) PPA Seller acknowledges that (i) J. Aron intends to immediately transfer title to any Assigned Products received from PPA Seller through one or more intermediaries such that all Assigned Products will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products (“PPA Buyer Receivables”) may be transferred to J. Aron. To the extent any such PPA Buyer Receivables are transferred to J. Aron, J. Aron may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation. Thereafter, PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer.
- (f) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between J. Aron and PPA Buyer and has no impact on PPA Seller’s rights and obligations under the PPA.

2. Assignment Early Termination.

- (a) The Assignment Period may be terminated early upon the occurrence of any of the following:
- (1) delivery of a written notice of termination specifying a termination date by either J. Aron or PPA Buyer to each of the other Parties;
 - (2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of J. Aron and PPA Buyer following J. Aron's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by J. Aron within five (5) business days following receipt by J. Aron and PPA Buyer of written notice;
 - (3) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to J. Aron; or
 - (4) delivery of a written notice by J. Aron if any of the events described in in the definition of Bankrupt in the PPA occurs with respect to PPA Seller.
- (b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause 2(a)(1) or 2(a)(2) above. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the early termination of the Assignment Period, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period
- (c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Representations and Warranties. The PPA Seller and the PPA Buyer represent and warrant to J. Aron that (a) the PPA is in full force and effect; (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder; and (c) all of its obligations under the PPA required to be performed on or before the Assignment Period Start Date have been fulfilled.

4. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article [] of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify J. Aron of any updates to such notice information,

including any updates provided by PPA Seller to PPA Buyer. Notices to J. Aron shall be provided to the following address, as such address may be updated by J. Aron from time to time by notice to the other Parties:

J. Aron & Company LLC
200 West Street
New York, New York 10282-2198
Email: gs-prepay-notices@gs.com

5. Miscellaneous. Section [] (Buyer’s Representations and Warranties), Article [] (Confidential Information), Sections [] (Severability), [] (Counterparts), [] (Amendments), [] (No Agency, Partnership, Joint Venture or Lease), [] (Mobile-Sierra), [] (Electronic Delivery), Section [] (Binding Effect) and [] (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

6. U.S. Resolution Stay Provisions. The Parties hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol (“ISDA U.S. Stay Protocol”), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Agreement, and for the purposes of such incorporation, (i) J. Aron shall be deemed to be a Regulated Entity, (ii) each of PPA Buyer and PPA Seller shall be deemed to be an Adhering Party, and (iii) this Agreement shall be deemed a Protocol Covered Agreement. In the event of any inconsistencies between this Agreement and the ISDA U.S. Stay Protocol, the ISDA U.S. Stay Protocol will prevail.

7. Governing Law, Jurisdiction, Waiver of Jury Trial.

- (a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction’s laws.
- (b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of (i) the courts of the State of New York located in the Borough of Manhattan and (ii) the federal courts of the United States of America for the Southern District of New York.
- (c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

[PPA SELLER]

By: _____

Name: _____

Title: _____

UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS

By: _____

Name: _____

Title: _____

J. ARON & COMPANY LLC

By: _____

Name:

Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

SOUTHEAST ENERGY AUTHORITY, A COOPERATIVE DISTRICT

By: _____

Name:

Title:

Appendix 1

Assigned Rights and Obligations

PPA: “PPA” means that certain Power Purchase and Sale Agreement dated [____], by and between PPA Buyer and [____], as amended from time to time.

“**Assignment Period**” means the period beginning on [_____] and extending until [_____] provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

Assigned Product: “Assigned Products” include [____].

Further Information: PPA Seller shall continue to transfer the [certificates] associated with all Renewable Energy Credits corresponding to all Facility Energy under the PPA pursuant to Section [__] of the PPA, provided that the transferee of such [certificates] may be changed from time to time in accordance with the written instructions of both J. Aron and PPA Buyer upon twenty (20) Business Days’ notice, which change shall be effective as of the first day of the next calendar month, unless otherwise agreed. All Assigned Product delivered by PPA Seller to J. Aron shall be a sale made at wholesale, with J. Aron reselling all such Assigned Product.

Appendix 2

Assigned Prepay Quantity

[NOTE: To be set forth in a monthly volume schedule.]

Appendix 3
Assigned PPA
[To be attached.]

EXHIBIT K
PARTICIPATING MEMBERS

[To come.]