



HURRICANE CITY UTAH

City Council

*David Hirschi
Kevin Thomas
Clark Fawcett
Drew Ellerman
Joseph Prete*

Mayor

City Manager

Nanette Billings Kaden DeMille

Hurricane City Council Special Meeting Agenda

April 17, 2024

4:00 PM

City Council Chambers 147 N 870 W, Hurricane

Notice is hereby given that the City Council will hold a Special **Online** Meeting with an anchor location in the City Council Chambers 147 N 870 W, Hurricane, UT. [Meeting Link on Webex](#) Meeting number: 2630 456 5376 Meeting password: HCcouncil Join from a video or application Dial 26304565376@cityofhurricane.webex.com. You can also dial 173.243.2.68 and enter your meeting number. Join by phone +1-415-655-0001 US Toll Access code:26304565376.

4:00 p.m. - Call to Order

Agenda Summary

NEW BUSINESS

1. Consideration and possible approval of a **professional services contract for the Storm Drain Master Plan** - Arthur LeBaron
2. Consideration and possible approval of **Resolution 2024-19 Authorizing a tax certificate and agreement for UAMPS Steel Solar 1A** - Scott Hughes
3. Consideration and possible approval of **Resolution 2024-21 Designating 1100 West as a historic livestock trail extending south from Frog Hollow Wash to the City limits**
4. Closed Meeting held pursuant to Utah Code section 52-4-205, upon request

Adjournment

I hereby certify that the above notice was posted to the city website, (www.cityofhurricane.com) posted to the state public notice website, and at the following locations:

1. City office – 147 North 870 West, Hurricane, UT
2. The Post Office – 1075 West 100 North, Hurricane, UT
3. The library – 36 South 300 West, Hurricane, UT

_____ for the City Recorder

Agenda Summary for Hurricane City Council April 17, 2024

4:00 p.m. Call to Order

New Business

1. Hurricane City has budgeted funds to develop a new Storm Drain Masterplan. The project was advertised and the City received 3 statements of qualifications, from which JUB Engineers was selected. I have worked with JUB to develop a workplan and associated fee to complete the work for \$225,000. I have discussed this with Kaden and Paige and we are in a good position financially to fund this project, since it will straddle two budget years. The project will include responding to the State of Utah's recent mandate of Hurricane City's status as an MS4 community.

I have submitted the contract to Dayton for his review and comment.

The proposed scope and fee have been successfully negotiated. If this contract is approved we will have the masterplan ready for approval in April, 2025.

It is recommended that the City approve the contract with JUB Engineers. – Arthur LeBaron

2. The IRS Code and US Treasury Regulations allow for tax-exempt bonds to be issued to finance prepayments for energy and/or fuel used for the generation of energy. This resolution would authorize Hurricane City, in conjunction with UAMPS and other participating members, to assign a portion of our Steel Solar 1A Power Purchase Agreement into a prepay agreement with J. Aron and SEA (Southeast Energy Authority). It also authorizes Scott Hughes or Brian Anderson “to execute and deliver the Tax Certificate and Agreement” to UAMPS, and “to approve such changes to the Tax Certificate and Agreement as are necessary to complete the form thereof, together with any minor or non-substantive changes”. The result of the designed transaction is a substantial discount on the price of the energy. Hurricane City, together with the other participants, will have the ability to assign other fuel or energy projects into the prepay agreement for the next thirty years and receive some level of discount (depending on the current market conditions), or terminate the agreement if the discount is not satisfactory. - Scott Hughes
3. Mayor Billings and City staff have continued to work with Kelby Iverson to meet his terms and conditions to sell property to the City along the 1100 West corridor. One of Mr. Iverson’s conditions is that the City designate by resolution 1100 West between his property and his open range on the south end of the City as a historic livestock trail. Mr. Iverson and his family have historically driven cattle between their corrals near the Equestrian Park and the BLM range land south of the City. The Hurricane City Ordinances currently regulate driving herds of livestock on City streets as follows: Sec. 7-1-7. - Driving animals on streets.

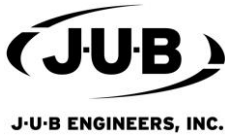
- Permission required. Every person, prior to driving any herd of sheep or band of horses, cattle or other animals upon any public street or highway, shall be required to notify the Police Department.
- Designated streets. No person shall drive livestock through the City upon streets not designated for that purpose, except upon permission and according to the direction of the Chief of Police.

The proposed resolution requested by Mr. Iverson would designate this section of 1100 West as a street where livestock could be driven upon notification to the Police Department.

Recommendation:

The City Attorney and City Engineer have no objection to designating the route consistent with historical uses. It is recommended that a motion approving the resolution state that the execution of the resolution is contingent on Mr. Iverson executing the currently drafted purchase contract for the property along 1100 West. - Dayton Hall

4. Closed Meeting if needed.



**J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES**

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: Hurricane City Storm Drain Master Plan Update

CLIENT: Hurricane City

J-U-B PROJECT NUMBER: 53-24-001

CLIENT PROJECT NUMBER: Click or tap here to enter text.

ATTACHMENT TO:

AGREEMENT DATED: 4/8/204; or

AUTHORIZATION FOR CONTRACT AMENDMENT #X; DATED: Click or tap to enter a date.

The referenced Agreement for Professional Services executed between J-U-B ENGINEERS, Inc. (J-U-B) and the CLIENT is amended and supplemented to include the following provisions regarding the Scope of Services, Basis of Fee, and/or Schedule:

PART 1 - PROJECT UNDERSTANDING

J-U-B's understanding of this project's history and CLIENT's general intent and scope of the project are described as follows:

Hurricane City would like J-U-B to help guide them in updating their Storm Drain Master Plan including updating the city's storm drain model. The City was recently notified by the State of Utah that they would now be included in Municipal Separate Storm Sewer System (MS4) permit and regulatory requirements.

J-U-B will coordinate with Hurricane City to create an storm water management plan for the city to incorporate to meet the MS4 requirements.

PART 2 - SCOPE OF SERVICES BY J-U-B

J-U-B's Services under this Agreement are limited to the following tasks. Any other items necessary to plan and implement the project, including but not limited to those specifically listed in PART 3, are the responsibility of CLIENT.

A. Task 001: Project Management

1. Set up project into J-U-B's financial and record keeping systems for document retention and project controls.
2. Coordinate quality assurance / quality control (QA/QC) processes.
3. Communicate and coordinate J-U-B team activities with kickoff and progress meetings as required.
4. Communicate and coordinate subconsultant activities under J-U-B, if necessary.
5. Regularly monitor project status, budget and schedule.
6. During periods of project activity, provide a regular report to CLIENT on project status, budget and schedule.
7. Provide a monthly invoice including budget status.
8. Provide ongoing document handling and filing.

B. Task 010: Meetings

1. Prepare for and lead the kickoff virtual meeting with up to two J-U-B Personnel in person.
2. Prepare for and lead 25%, 50%, 90%, and 100% progress meeting with city staff.
3. Engage in intermediate communication as needed.

C. Task 020: Public Involvement

1. Project Team Coordination
2. Stakeholder Identification
 - a. Identify up to 20 stakeholders
3. Stakeholder Outreach
 - a. Prepare for and attend up to two (2) public open house meetings
 - b. Prepare for and attend one stakeholder meeting
 - c. Media outreach posted on Hurricane City social media page channels, newspaper, and city website
 - d. Documentation

D. Task 030: Data Collection and Review

1. Data Review
 - a. Review of existing city Master Plan documents.
 - b. Meet with City personnel to discuss current concerns within the storm drain system
 - c. Review existing storm drain GIS data.
 - d. Perform a data gap analysis.
2. Data Collection
 - a. Perform site visits to collect invert depth information (Assumed 60 Manholes).
 - b. Compile survey data into GIS

E. Task 040: Develop Hydrologic and Hydraulic Models

1. Hydrologic Model Setup
 - a. Perform SWMM model setup.
 - b. Refine subcatchment delineation to further define drainage basins. We will use the latest subcatchment delineation and update them based on updated lidar information.
 - c. Verify subcatchment delineation with City Staff
 - d. Determine subcatchment characteristics including discharge node, area, length, NRCS curve number, and depression storage.
2. Hydraulic Model Setup
 - a. Develop pipe network based on GIS data. Pipe network will include main trunk lines required to track runoff from all subcatchments to outfalls. Smaller development piping will not be included in the model.
 - b. Update rim elevations using lidar data and invert elevations from invert dips for pipe slopes
 - c. Perform model calibration using feedback from the City staff to verify model flooding with historic flooding. No flow monitoring will be completed for calibration.
 - d. Analyze system up to two design storms (10 year and 100 Year)

F. Task 050: Develop/Enhance City Storm Drain Policies & Standards

1. MS4 Roadmap.
 - a. Roadmap will include dates and tasks to be completed to become compliant with the State of Utah MS4 program.
2. SWMP
 - a. Meeting with city staff in creating a five year plan to improve storm water quality release with goals in the six program areas.
3. Ordinance Review and Revision
 - a. Review current City ordinance and recommend revision to meet MS4 requirements.
4. Impervious Area Study
 - a. Delineate imperious areas of all industrial and commercial area with the City Boundary and a sample of residential areas.
5. Infiltration Feasibility Map

- a. Determine and create a map of the areas within the City Boundary that is feasible for infiltration without compromising the soil structure.

G. Task 060: Analyze Models & Capital Improvement Plan (CIP)

1. Capital Improvement Plan
 - a. Identify system deficiencies
 - b. Prioritize projects with city staff
 - c. Prepare opinion of probable cost
 - d. Determine capacity usage (existing & future)
2. IFFP, IFA, and Storm Drain Utility Fee Study
 - a. IFFP
 - i. Incorporate assumption from Storm Drain Master Plan
 - (a) Growth rate projects
 - (b) Capital Projects
 - (c) Excess capacity
 - b. IFA
 - i. Incorporate assumptions from IFFP
 - (a) Growth projections
 - (b) LOS
 - (c) Future Capital projects
 - ii. Proportinate share
 - (a) Existing
 - (b) Future growth
 - iii. Credits
 - (a) Outstanding bonds
 - (b) New facilities
 - c. Storm Drain Utility Fee Study
 - i. Identify existing level of service (LOS)
 - ii. Proposed level of service
 - iii. Identify excess capacity for future growth
 - iv. Identify demand on existing infrastructure
 - v. Identify the means the local political subdivision will meet future growth demands
 - vi. Consideration of all potential revenues sources to finance impacts of the system improvements

H. Task 070: Prepare Project Report

1. Prepared figures and tables
2. Compile Storm Drain Master Plan Report

I. Assumptions

1. J-U-B to collect dips on critical modeling features and use available LiDAR for rim elevations
2. City to provide meeting locations for in-person stakeholder meetings and public open house
3. Public involvement is not included in the SWMP

PART 3 - CLIENT-PROVIDED WORK AND ADDITIONAL SERVICES

- A. CLIENT-Provided Work** - CLIENT is responsible for completing, or authorizing others to complete, all tasks not specifically included above in PART 2 that may be required for the project including, but not limited to:

1. City staff to be available to meet with J-U-B team.

2. Provide feedback in a timely manner

B. Additional Services - CLIENT reserves the right to add future tasks for subsequent phases or related work to the scope of services upon mutual agreement of scope, additional fees, and schedule. These future tasks, to be added by amendment at a later date as Additional Services, may include:

1. Construction Submittal Process Review
2. Storm Water Utility Rate Review (what other communities are charging)
3. Employee Training
4. Existing Facility Assessment
5. High Priority Industrial Area Assessment
6. Low Impact Development Manual

PART 4 - BASIS OF FEE AND SCHEDULE OF SERVICES

A. CLIENT shall pay J-U-B for the identified Services in PART 2 as follows:

1. For Lump Sum fees:
 - a. The portion of the Lump Sum amount billed for J-U-B's services will be based upon J-U-B's estimate of the percentage of the total services actually completed during the billing period.
2. For Time and Materials fees:
 - a. For all services performed on the project, Client shall pay J-U-B an amount equal to the cumulative hours charged to the Project by each class of J-U-B's personnel times J-U-B's standard billing rates.
 - b. Client shall pay J-U-B for J-U-B's Consultants' charges times a multiplier of 1.1
3. J-U-B may alter the distribution of compensation between individual tasks to be consistent with services actually rendered while not exceeding the total project amount.

B. Period of Services

1. If the planned period of service for the Tasks identified above extend more than one year, J-U-B's billing rates and/or fees for remaining Tasks may be increased to account for direct labor cost, rate table adjustments, or other inflationary increases. If that occurs, an adjustment to the billing rates and/or Fee will be computed based on remaining scope amount times the specific rate increase.
2. If the period of service for the Tasks identified above is extended beyond 6 months or if the Project has stop/start iterations, the compensation amount for J-U-B's services may be appropriately adjusted to account for salary adjustments, extended duration of project management and administrative services, and/or costs related to stop/start cycles including necessary monitoring and communication efforts during inactive periods.

C. CLIENT acknowledges that J-U-B's schedule commitments outlined in Part 4 are subject to the standard of care and J-U-B will not be responsible for delays beyond our direct control.

D. The following table summarizes the fees and anticipated schedule for the services identified in PART 2.

Task Number	Task Name	Fee Type	Amount	Anticipated Schedule
001	Project Management	Lump Sum	\$13,500	Concurrent with work progress
010	Meetings	Lump Sum	\$13,600	Concurrent with work progress
020	Public Involvement	Lump Sum	\$37,000	Draft for CLIENT review 5 month after executed contract, notice to proceed,

				and receipt of all required data
030	Data Collection and Review	Time and Materials (Ceiling Amount Shown)	\$24,600	Draft for CLIENT review 3 month after executed contract, notice to proceed, and receipt of all required data
040	Develop Hydrologic and Hydraulic Models	Lump Sum	\$27,500	Draft for CLIENT review 6 months after executed contract, notice to proceed, and receipt of all required data
050	Development/Enhance City Storm Drain Policies & Standards	Time and Materials (Ceiling Amount Shown)	\$67,300	Draft for CLIENT review 6 months after executed contract, notice to proceed, and receipt of all required data
060	Analyze Models and CIP	Lump Sum	\$28,000	Draft for CLIENT review 8 months after executed contract, notice to proceed, and receipt of all required data
070	Prepare Project Reports	Lump Sum	\$13,500	Draft for CLIENT review 11 months after executed contract, notice to proceed, and receipt of all required data
Total:			\$225,000	

E. Electronic deliverables provided to the CLIENT as part of the work described within this Attachment are subject to the provisions of J-U-B's "electronic document/data limited license" found at edocs.jub.com

For internal J-U-B use only:

PROJECT LOCATION (STATE): Utah

TYPE OF WORK: City

R&D: Yes

GROUP: Water/Wastewater

PROJECT DESCRIPTION(S):

1. Water Resource/Hydrology/Ground Water (W02)
2. Stormwater (S13)



J-U-B ENGINEERS, Inc. AGREEMENT FOR PROFESSIONAL SERVICES

J-U-B Project No.: 53-24-001
J-U-B Project Manager: Nathan Smith

This Agreement entered into and effective this April day of 8 2024, between Hurricane City, hereinafter referred to as the "CLIENT" and J-U-B ENGINEERS, Inc., an Idaho corporation, hereinafter referred to as "J-U-B".

WITNESSETH:

WHEREAS the CLIENT intends to: hire J-U-B Engineers to perform services to update Hurricane City Storm Drain Master Plan hereinafter referred to as the "Project". The Services to be performed by J-U-B are hereinafter referred to as the "Services."

NOW, THEREFORE, the CLIENT and J-U-B, in consideration of their mutual covenants herein, agree as set forth below:

CLIENT INFORMATION AND RESPONSIBILITIES

The CLIENT will provide to J-U-B all criteria and full information as to CLIENT's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and furnish copies of all design and construction standards, rules and laws which CLIENT or others will require to be included in the drawings and specifications, and upon which J-U-B can rely for completeness and accuracy.

The CLIENT will furnish to J-U-B all data, documents, and other items in CLIENT's possession, or reasonably obtainable by CLIENT, including, without limitation: 1) borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment; 2) appropriate professional interpretations of all of the foregoing; 3) environmental assessment and impact statements; 4) surveys of record, property descriptions, zoning, deeds and other land use restrictions, rules and laws; and 5) other special data or consultations, all of which J-U-B may use and rely upon in performing Services under this Agreement.

The CLIENT will obtain, arrange and pay for all advertisements for bids, permits and licenses, and similar fees and charges required by authorities, and provide all land, easements, rights-of-ways and access necessary for J-U-B's Services and the Project.

In addition, the CLIENT will furnish to J-U-B those items described in **Attachment 1**.

PROJECT REPRESENTATIVES

The CLIENT and J-U-B hereby designate their authorized representatives to act on their behalf with respect to the Services and responsibilities under this Agreement. The following designated representatives are authorized to receive notices, transmit information, and make decisions regarding the Project and Services on behalf of their respective parties, except as expressly limited herein. These representatives are not authorized to alter or modify the TERMS AND CONDITIONS of this Agreement.

For the CLIENT:

1.	Name	<u>Arthur LeBaron</u>	Work telephone	<u>435-635-2811 ext 113</u>
	Address	<u>147 North 870 West</u>	Home/cell phone	<u>435-632-3462</u>
		<u>Hurricane, Utah 84737</u>	FAX telephone	<u></u>
		<u></u>	E-mail address	<u>Arthur@hurricane.utah.gov</u>

For J-U-B:

1.	Name	<u>Nathan Smith</u>	Work telephone	<u>801-547-0393</u>
	Address	<u>466 N Kays Drive</u>	Cell phone	<u>435-760-7806</u>
		<u>Kaysville, Utah 84037</u>	FAX telephone	<u></u>
		<u></u>	E-mail address	<u>nsmith@jub.com</u>

In the event any changes are made to the authorized representatives or other information listed above, the CLIENT and J-U-B agree to furnish each other timely, written notice of such changes.

SERVICES TO BE PERFORMED BY J-U-B ("Services")

J-U-B will perform the Services described in **Attachment 1** in a manner consistent with the applicable standard of care. J-U-B's services shall be limited to those expressly set forth therein, and J-U-B shall have no other obligations, duties, or responsibilities for the Project except as provided in this Agreement.

SCHEDULE OF SERVICES TO BE PERFORMED

J-U-B will perform said Services in accordance with the schedule described in **Attachment 1** in a manner consistent with the applicable standard of care. This schedule shall be equitably adjusted as the Project progresses, allowing for changes in scope, character or size of the Project requested by the CLIENT or for delays or other causes beyond J-U-B's control.

BASIS OF FEE

The CLIENT will pay J-U-B for their Services and reimbursable expenses as described in **Attachment 1**. A ten percent administrative fee will be applied to sub-consultant invoices.

Other work that J-U-B performs in relation to the Project at the written request or acquiescence of the CLIENT, which are not defined as Services, shall be considered "Additional Services" and subject to the express terms and conditions of this Agreement. Unless otherwise agreed, the CLIENT will pay J-U-B for Additional Services on a time and materials basis. Resetting of survey and/or construction stakes shall constitute Additional Services.

File Folder Title: _____

Remarks: _____

The Notice to Proceed, by the CLIENT, verbal or written, or execution of the Agreement shall constitute acceptance of the terms of this Agreement. THE TERMS AND CONDITIONS ON PAGES 3 AND 4, INCLUDING RISK ALLOCATION, ARE PART OF THIS AGREEMENT. THE CLIENT AGREES TO SAID TERMS AND CONDITIONS FOR ALL SERVICES AND ADDITIONAL SERVICES. Special Provisions that modify these TERMS AND CONDITIONS, if any, are included in Attachment 2. All other modifications to these terms and conditions must be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written. These parties represent and acknowledge that they have authority to execute this Agreement.

CLIENT:
Hurricane City

NAME
147 North 870 West

STREET
Hurricane, Utah 84737

CITY / STATE / ZIP CODE

BY (Signature)

NAME / TITLE

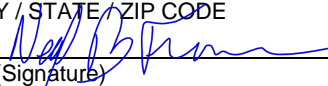
BY (Signature)

ADDITIONAL NAME / TITLE

J-U-B ENGINEERS, Inc.:
20 N Main Street STE 202

STREET
St. George, Ut 84770

CITY / STATE / ZIP CODE


 BY (Signature)
Neal Fraser

NAME / TITLE

Applicable Attachments or Exhibits to this Agreement are indicated as marked.

Attachment 1 – Scope of Services, Schedule, and Basis of Fee

Attachment 2 – Special Provisions

Standard Exhibit A – Construction Phase Services

REV: 4/23

DISTRIBUTION: Accounting; Project File; CLIENT

J-U-B ENGINEERS, Inc.

TERMS AND CONDITIONS

GENERAL

All J-U-B Services shall be covered by this Agreement. The Services will be performed in accordance with the care and skill ordinarily used by members of the subject profession practicing under like circumstances at the same time and in the same locality. **J-U-B MAKES NO WARRANTY EITHER EXPRESS OR IMPLIED ON BEHALF OF IT OR OTHERS.** Nothing herein shall create a fiduciary duty between the parties.

The CLIENT acknowledges and agrees that requirements governing the Project may be ambiguous and otherwise subject to various and possibly contradictory interpretations and J-U-B is, therefore, only responsible to use its reasonable professional efforts and judgment to interpret such requirements. Accordingly, CLIENT should prepare and plan for clarifications or modifications which may impact both the cost and schedule of the Project.

J-U-B shall not be responsible for acts or omissions of any other party involved in the Project, including but not limited to the following: the failure of CLIENT or a third party to follow J-U-B's recommendations; the means, methods, techniques, sequences or procedures of construction; safety programs and precautions selected by third parties; compliance by CLIENT or third parties with laws, rules, regulations, ordinances, codes, orders or authority; and delays caused by CLIENT or third parties. CLIENT, therefore, releases and shall indemnify, defend and hold J-U-B harmless from the acts, errors, or omissions of CLIENT or third parties involved in the Project.

J-U-B shall not be required to execute any documents, no matter by whom requested, that would result in J-U-B's having to certify, guarantee or warrant the existence of conditions. CLIENT acknowledges that subsurface conditions can vary widely between adjacent samples and test points, and therefore J-U-B makes no warranty or other representation regarding soil investigations and characterization of subsurface conditions for the Project.

Any sales tax or other tax on the Services rendered under this Agreement, additional costs due to changes in regulation, and fees for credit card payment transactions shall be paid by the CLIENT.

CLIENT grants J-U-B and its subsidiaries the unrestricted right to take, use, and publish images, or edited images, of the project site and workers for J-U-B's purposes including, but not limited to, website, intranet, and marketing. This right shall survive the termination of this Agreement.

REUSE OF DOCUMENTS

Documents that may be relied upon by CLIENT as instruments of service under this Agreement are limited to the printed copies (also known as hard copies) that are signed or sealed by J-U-B (including non-vector PDF facsimiles thereof). All printed materials or other communication or information ("Documents") that may be prepared or furnished by J-U-B pursuant to this Agreement are instruments of service with respect to the Project. J-U-B grants CLIENT a limited license to use the Documents on the Project subject to receipt by J-U-B of full payment for all Services related to preparation of the Documents.

Although CLIENT may make and retain copies of Documents for reference, J-U-B shall retain all common law, statutory and other reserved rights, including the copyright thereto, and the same shall not be reused on this Project or any other Project without J-U-B's prior written consent. Submission or distribution of Documents to meet regulatory or permitting requirements, or for similar purposes, in connection with the Project, including but not limited to distribution to contractors or subcontractors for the performance of their work, is not to be construed as publication adversely affecting the reserved rights of J-U-B.

Any reuse without written consent by J-U-B, or without verification or adoption by J-U-B for the specific purpose intended by the reuse, will be at CLIENT's sole risk and without liability or legal exposure to J-U-B. The CLIENT shall release, defend, indemnify, and hold J-U-B harmless from any claims, damages, actions or causes of action, losses, and expenses, including reasonable attorneys' and expert fees, arising out of or resulting from such reuse.

CONSTRUCTION PHASE SERVICES

It is understood and agreed that J-U-B does not have control over, and neither the professional activities of J-U-B nor the presence of J-U-B at the Project Site shall give, J-U-B control over contractor(s) work nor shall J-U-B have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by contractor(s), for safety precautions and programs incident to the work of the contractor(s) or for any failure of contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to contractor(s)

furnishing and performing their work or providing any health and safety precautions required by any regulatory agencies. Accordingly, J-U-B does not guarantee or warrant the performance of the construction contracts by contractor(s), nor assume responsibility of contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

The CLIENT agrees that the general contractor shall be solely responsible for jobsite safety, and CLIENT agrees that this intent shall be set forth in the CLIENT's contract with the general contractor. The CLIENT also agrees that the CLIENT, J-U-B, and J-U-B's subconsultants shall be indemnified by the general contractor in the event of general contractor's failure to assure jobsite safety and shall be made additional insureds under the general contractor's policies of general liability insurance.

If **Standard Exhibit A** – Construction Phase Services is attached, the additional terms contained therein apply to this Agreement.

OPINIONS OF COST AND PROJECT FINANCIAL INFORMATION

CLIENT understands that J-U-B has no control over the cost of labor, materials, equipment or services furnished by others, the contractor(s)' methods of determining prices, nor bidding or market conditions. J-U-B's opinions of probable Project costs and construction, if any, are to be made on the basis of J-U-B's experience, and represent J-U-B's best judgment as a professional engineer, familiar with the construction industry.

CLIENT understands and acknowledges that J-U-B cannot and does not guarantee that proposals, bids or actual Project or construction costs will not vary from opinions of probable cost prepared by J-U-B. J-U-B's Services to modify the Project to bring the construction costs within any limitation established by the CLIENT will be considered Additional Services and paid for as such by the CLIENT in accordance with the terms herein.

CLIENT agrees that J-U-B is not acting as a financial advisor to the CLIENT and does not owe CLIENT or any third party a fiduciary duty pursuant to Section 15B of the Exchange Act with respect to J-U-B's professional Services. J-U-B will not give advice or make specific recommendations regarding municipal securities or investments and is therefore exempt from registration with the SEC under the municipal advisors rule. CLIENT agrees to retain a registered financial municipal advisor as appropriate for Project financing and implementation.

TIMES OF PAYMENTS

J-U-B shall submit monthly statements for Services rendered and for expenses incurred, which statements are due on presentation. CLIENT shall make prompt monthly payments. If CLIENT fails to make any payment in full within thirty (30) days after receipt of J-U-B's statement, the amounts due J-U-B will accrue interest at the rate of 1% per month from said thirtieth day or at the maximum interest rate allowed by law, whichever is less.

If the CLIENT fails to make payments when due or otherwise is in breach of this Agreement, J-U-B may suspend performance of Services upon five (5) days' notice to the CLIENT. J-U-B shall have no liability whatsoever to the CLIENT for any costs or damages as a result of such suspension caused by any breach of the Agreement by the CLIENT. Upon cure of breach or payment in full by the CLIENT within thirty (30) days of the date breach occurred or payment is due, J-U-B shall resume Services under the Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension, plus any other reasonable time and expense necessary for J-U-B to resume performance. If the CLIENT fails to make payment as provided herein and cure any other breach of this Agreement within thirty (30) days after suspension of Services, such failure shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by J-U-B.

CLIENT shall promptly review J-U-B's invoices and shall notify J-U-B in writing of any dispute with said invoice, or portion thereof, within thirty (30) days of receipt. Failure to provide notice to J-U-B of any dispute as required herein shall constitute a waiver of any such dispute. CLIENT shall pay all undisputed portions of such invoice as required by this Agreement. Client shall not withhold any payment or portion thereof as an offset to any current or prospective claim.

TERMINATION

The obligation to provide further Services under the Agreement may be terminated by either party upon thirty (30) days' written notice. If this Agreement is terminated by either party, J-U-B will be paid for Services and Additional Services rendered and for expenses incurred. In addition to any other remedies at law or equity, if the Agreement is terminated by

the CLIENT for reasons other than J-U-B's material breach of this Agreement, or is terminated by J-U-B for CLIENT's material breach of this Agreement, J-U-B shall be paid a termination fee which shall include: the cost and expense J-U-B incurs in withdrawing its labor and resources from the Project, the costs and expense incurred by J-U-B to obtain and engage in a new Project with the labor and resources withdrawn from the Project, and the lost profit on the remainder of the work.

RISK ALLOCATION

In recognition and equitable allocation of relative risks and benefits of the Project, CLIENT limits the total aggregate liability of J-U-B and its employees and consultants, whether in tort or in contract, for any cause of action, as follows: 1) for insured liabilities, to the amount of insurance then available to fund any settlement, award, or verdict, or 2) if no such insurance coverage is held or available with respect to the cause of action, twenty five thousand dollars (\$25,000.00) or one hundred percent (100%) of the fee paid to J-U-B under this Agreement, whichever is less. J-U-B carries professional liability insurance and will provide a certificate of insurance at the request of the CLIENT. For purposes of this section, attorney fees, expert fees and other costs incurred by J-U-B, its employees, consultants, insurance carriers in the defense of such claim shall be included in calculating the total aggregate liability.

The CLIENT agrees that J-U-B is not responsible for damages arising directly or indirectly from any delays for causes beyond J-U-B's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; emergencies or acts of God; failure of any government agency or other third party to act in a timely manner; failure of performance by the CLIENT or the CLIENT's contractors or consultants; or discovery of any hazardous substance or differing site conditions. In addition, if the delays resulting from any such causes increase the cost or time required by J-U-B to perform its Services in an orderly and efficient manner, J-U-B shall be entitled to an equitable adjustment in schedule and compensation.

Notwithstanding any other provision contained within this Agreement, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverage held by either party to this Agreement. The CLIENT further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, or employee of J-U-B shall have personal liability under this Agreement, or for any matter in connection with the professional services provided in connection with the Project.

Neither CLIENT nor J-U-B shall be responsible for incidental, indirect, or consequential damages.

HAZARDOUS WASTE, ASBESTOS, AND TOXIC MATERIALS

The CLIENT agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless J-U-B, its officers, employees, successors, partners, heirs and assigns (collectively, J-U-B) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project location, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause of action, except for the sole negligence or willful misconduct of J-U-B.

RIGHT OF ENTRY

The CLIENT shall provide J-U-B adequate and timely access to all property reasonably necessary to the performance of J-U-B and its subconsultant's services. The CLIENT understands that use of testing or other equipment may unavoidably cause some damage, the correction of which, or compensation for, is expressly disclaimed by J-U-B. Any such costs incurred are CLIENT's sole responsibility.

MEDIATION BEFORE LITIGATION

Any and all disputes arising out of or related to the Agreement, except for the payment of J-U-B's fees, shall be submitted to nonbinding mediation before a mutually-acceptable mediator as a condition precedent to litigation or other binding adjudicative procedure unless the parties mutually agree otherwise. The CLIENT further agrees to include a similar mediation provision in all agreements with independent contractors, consultants, subcontractors, subconsultants, suppliers and fabricators on the Project, thereby providing for mediation as the primary method for dispute resolution among all the parties involved in the Project. In the event the parties are unable to agree on a mediator, said mediator shall be appointed by a court of competent jurisdiction or, if not possible, the American Arbitration Association. If a dispute relates to, or is the subject

of a lien arising out of J-U-B's Services, J-U-B or its subconsultants may proceed in accordance with applicable law to comply with the lien notice and filing deadlines prior to submission of the matter by mediation.

LIMITATION PERIODS

For statutes of limitation or repose purposes, any and all CLIENT claims shall be deemed to have accrued no later than the date of substantial completion of J-U-B's Services.

LEGAL FEES

For any action arising out of or relating to this Agreement, the Services, or the Project, each party shall bear its own attorneys fees and costs.

SURVIVAL

All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

EXTENT OF AGREEMENT

In entering into this Agreement, neither party has relied upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of the other party except for those expressly contained in this Agreement. CLIENT shall include a similar provision in its contracts with any contractor, subcontractor, or consultant stating that any such contractor, subcontractor, or consultant is not relying upon any statement, estimate, forecast, projection, representation, warranty, action, or agreement of J-U-B when entering into its agreement with CLIENT.

This Agreement represents the entire and integrated agreement between the CLIENT and J-U-B and supersedes all prior negotiations, representations or agreements, either written or oral. The Agreement may be amended only by written instrument signed by both CLIENT and J-U-B.

In the event any provision herein or portion thereof is invalid or unenforceable, the remaining provisions shall remain valid and enforceable. Waiver or a breach of any provision is not a waiver of a subsequent breach of the same of any other provision.

SUCCESSORS AND ASSIGNS

Neither party shall assign, sublet, or transfer any rights or interest (including, without limitation, moneys that are due or may become due) or claims under this Agreement without the prior, express, written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated in any written consent to an assignment, no assignment will release the assignor from any obligations under this Agreement.

No third party beneficiary rights are intended or created under this Agreement, nor does this Agreement create any cause of action in favor of any third party hereto. J-U-B's Services under this Agreement are being performed solely for the CLIENT's benefit, and no other party or entity shall have any claim against J-U-B because of this Agreement or the performance or nonperformance of Services hereunder. In the event of such third party claim, CLIENT agrees to indemnify and hold J-U-B harmless from the same. The CLIENT agrees to require a similar provision in all contracts with contractors, subcontractors, consultants, vendors and other entities involved in the Project to carry out the intent of this provision to make express to third parties that they are not third party beneficiaries.

CONTROLLING LAW, JURISDICTION, AND VENUE

This Agreement shall be interpreted and enforced in and according to the laws of the state in which the Project is primarily located. Venue of any dispute resolution process arising out of or related to this Agreement shall be in the state in which the Project is primarily located and subject to the exclusive jurisdiction of said state.

CYBER INSURANCE

CLIENT shall maintain and submit proof of Cyber-Liability insurance coverage with limits no less than \$2M to cover claims, damages, or costs resulting from or related to a cybersecurity incident involving CLIENT's systems that affects J-U-B including, but not limited to, costs incurred by J-U-B resulting from said incident. Whether or not covered by CLIENT's insurance, CLIENT shall indemnify, defend, and hold J-U-B harmless from any claims, damages, or costs related to any cybersecurity incident.



STAFF COMMENTS

Consideration and possible approval of **Resolution 2024-19 Authorizing a tax certificate and agreement for UAMPS Steel Solar 1A** - Scott Hughes

Discussion:

The IRS Code and US Treasury Regulations allow for **tax-exempt bonds** to be issued to finance **prepayments** for energy and/or fuel used for the generation of energy. This resolution would authorize Hurricane City, in conjunction with UAMPS and other participating members, to assign a portion of our Steel Solar 1A Power Purchase Agreement into a prepay agreement with J. Aron and SEA (Southeast Energy Authority). It also authorizes Scott Hughes or Brian Anderson "to execute and deliver the Tax Certificate and Agreement" to UAMPS, and "to approve such changes to the Tax Certificate and Agreement as are necessary to complete the form thereof, together with any minor or non-substantive changes". The result of the designed transaction is a substantial discount on the price of the energy. Hurricane City, together with the other participants, will have the ability to assign other fuel or energy projects into the prepay agreement for the next thirty years and receive some level of discount (depending on the current market conditions), or terminate the agreement if the discount is not satisfactory. - Scott Hughes

Findings:

Recommendation:

Attachments:

1. Prepay Transaction Firm Talking Points _ March 2024
2. PREPAY FLOWCHART
3. Resolution 2024-19 Authorizing a tax certificate and agreement for UAMPS Steel Solar 1A

**TALKING POINTS RE PREPAY TRANSACTION
FIRM POWER SUPPLY PROJECT**

March 2024

OVERVIEW

- The Internal Revenue Code and US Treasury Regulations ("Tax Code and Regulations") contain special provisions that allow tax-exempt bonds to be issued to finance prepayments for natural gas and electricity. The prepay transactions are structured to convert the difference between the issuer's lower (tax-exempt) cost of funds and the prepaid energy supplier's higher (taxable) cost of funds into a discounted price for prepaid energy.
 - The initial discount is expected to be at least 8.0% and will be determined before closing.
 - The amount of the discount will be reset periodically over the term of the prepay (every five to ten years) when the bonds are refinanced.
- UAMPS will assign existing gas or electricity purchase agreements into the prepay transaction and the discount will be applied to the contract prices under these agreements.
- The Tax Code and Regulations require that the prepaid (discounted) gas or electricity (including electricity that is generated using prepaid natural gas as fuel) be used by UAMPS members to serve retail customers in their municipal utility service areas. This is referred to as the "Qualifying Use" requirement.
- The date of closing has not yet been determined but will likely take place in Q2 2024.
- The term of the transaction is thirty years.

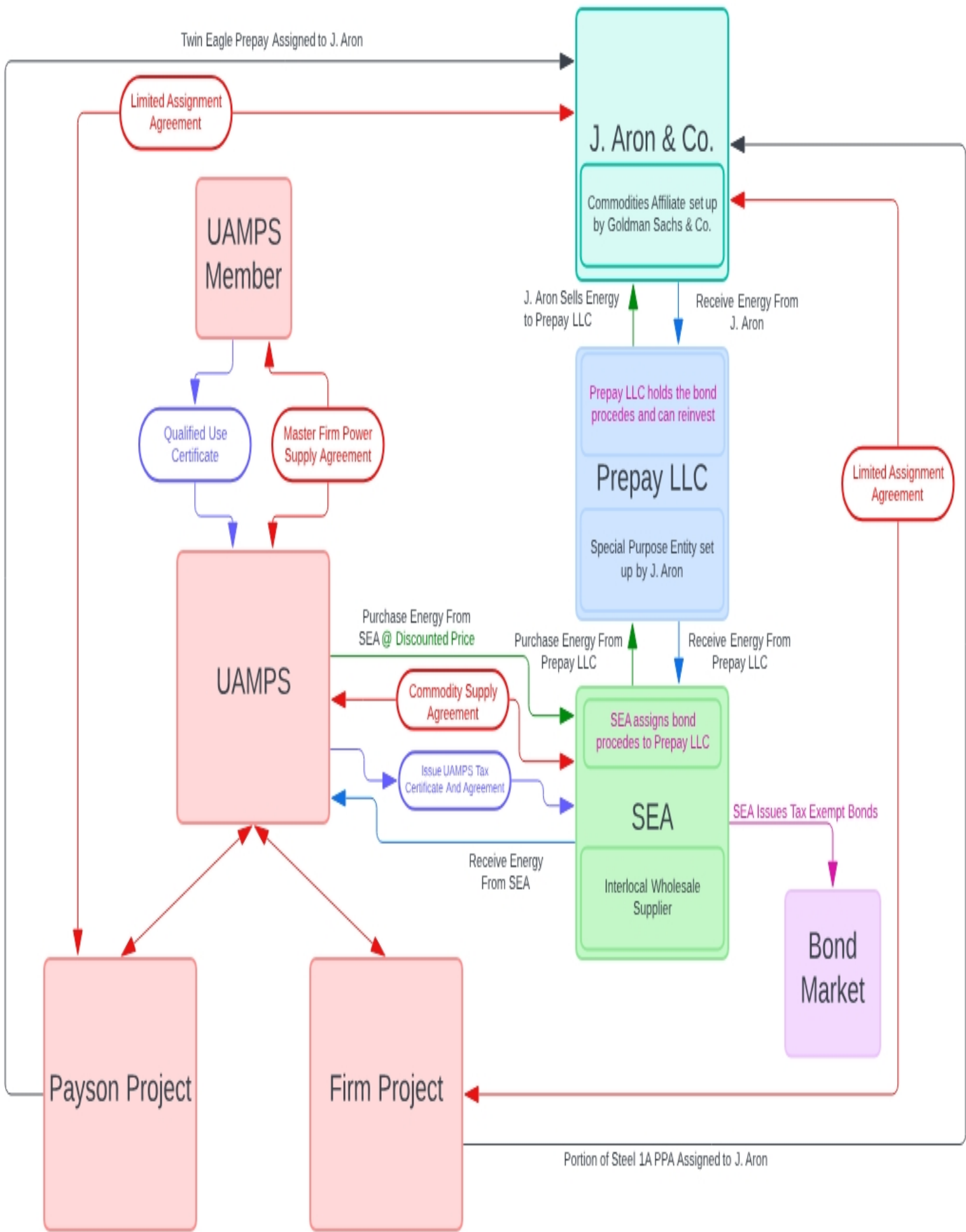
CONTRACT STRUCTURE

- Southeast Energy Authority ("SEA") will issue bonds for a 30-year prepayment for gas or electricity from a special purpose entity ("Prepay LLC") organized by J. Aron & Company, the commodities affiliate of Goldman Sachs & Co.
 - UAMPS has no obligation on the bonds issued by SEA.
- UAMPS will assign previously-executed gas purchase or power purchase agreement(s) to J. Aron through a Limited Assignment Agreement ("LAA").
 - The LAA does not require any changes to the existing purchase agreement, but will be consented to by the seller.
 - The LAA is designed to leave the seller indifferent to the prepay. All interactions between UAMPS and seller remain the same.
 - The amount of gas or electricity purchases assigned to J. Aron under the LAA establishes the monthly cashflows required over the 30-year term of the prepay.
- UAMPS has already received approval from the Nebo Project to assign a 5-year gas purchase made to fuel the Nebo Power Plant into the prepay.
- UAMPS also seeks to assign the Red Mesa Power Purchase Agreement (PPA) and Steel Solar 1A and 1B PPAs into the prepay. The Red Mesa PPA will receive the prepay discount at the outset, and the Steel Solar PPAs receive the prepay discount in a couple of years after they have an established operational track record.
- UAMPS is assigning less than the total amount of anticipated solar generation from each PPA to allow for flexibility in operations.

- The term of the PPAs is shorter than the term of the prepay (25 years, versus 30 years). For the last approximately five years of the prepay, UAMPS will assign other power purchase agreements into the prepay to support the required monthly cashflows and to continue to receive the discount from the prepay.
- The LAA provides J. Aron “flash title” to the assigned gas or electricity, which is then delivered to Prepay LLC, which is then delivered to SEA, which then delivers the gas or electricity to UAMPS.
 - o If the prepaid transaction terminates for any reason, the LAA also terminates and UAMPS and the seller are restored to their original positions.
- UAMPS will enter a “Commodity Supply Agreement” with SEA to purchase the gas or electricity from SEA at a discount.
- The bonds issued by SEA will need to be refinanced from time to time over the 30-year term of the prepay. When the bonds are refinanced, the discount available to UAMPS under the Commodity Supply Agreement will need to be reset.
 - o Changes in market conditions could lead to a lower (or higher) savings for UAMPS.
 - o The Commodity Supply Agreement will specify the minimum discount to be achieved for each reset period. If minimum is not achieved, UAMPS may choose not to take energy from the prepay project during the reset period.

QUALIFIED USE CERTIFICATE

- UAMPS has provided a resolution for the governing boards of the Firm Power Project Participants who have an Entitlement Share in the Red Mesa PPA and/or the Steel Solar 1A or 1B PPAs (“Participants”) to approve the form of a “Qualified Use Certificate” for the prepaid energy. **Please have the resolution approved, signed and returned to UAMPS by May 3, 2024.**
 - o **Complete the resolution by filling in the date it was adopted on page 2. Please do not make changes to these documents without contacting UAMPS.**
 - o **Do not complete or sign the generic form of the Qualified Use Certificate that’s attached to the resolution. We will send you a final, individualized Qualified Use Certificate a few weeks before the bond closing for execution.**
- The Qualified Use Certificate states that the electricity that the Participant receives from the prepay will be used to serve retail customers located in the established service territory of its electric utility system.
 - o If, during the term of the prepay, a Participant uses the prepaid electricity for a non-Qualified Use, it agrees that it will cooperate with UAMPS to remediate the non-Qualified Use through its other power purchases from UAMPS.
- The Participant must also confirm in the Qualified Use Certificate that the amount of its historic electricity sales to its retail customers equals or exceeds the amount of prepaid electricity attributable to its Entitlement Share under the applicable PPA.



A RESOLUTION AUTHORIZING A TAX CERTIFICATE AND AGREEMENT
FOR UAMPS' FIRM POWER SUPPLY PROJECT; AND RELATED
MATTERS.

*** *** ***

WHEREAS, Hurricane City, Utah (the "*Participant*") is a member of Utah Associated Municipal Power Systems ("*UAMPS*") and has previously entered into the Master Firm Power Supply Agreement with UAMPS that enables the parties to enter into firm transactions for the purchase and sale of electricity from specified power supply resources;

WHEREAS, pursuant to the Master Firm Power Supply Agreement (a) UAMPS has entered into the Second Amended and Restated Solar Power Purchase Agreement (the "*Steel Solar 1A PPA*") with Steel Solar, LLC and (b) the Participant has elected to participate in the Steel Solar 1A PPA pursuant to the Steel 1(A) Solar Project Firm Power Supply Agreement Second Amended and Restated Transaction Schedule (such Transaction Schedule and the Master Firm Power Supply Agreement are referred to collectively herein as the "*Firm PSA*") between the Participant and UAMPS;*

WHEREAS, the Participant understands that in order to provide a discounted price for a portion of the electricity sold to the Participant under the Firm PSA (such portion is referred to herein as the "*Prepaid Portion*"), UAMPS will participate in a prepayment transaction being undertaken by Southeast Energy Authority, a Cooperative District ("*SEA*") by (a) assigning its rights to a portion of the electricity to be delivered under the Steel Solar 1A PPA to the commodity supplier under the prepayment transaction and (b) entering into a Commodity Supply Contract (the "*Supply Contract*") with SEA under which it will purchase the assigned electricity from SEA at a price that reflects a discount from the contract price under the Steel Solar 1A PPA, and the savings from such discount will be applied by UAMPS for the benefit of the Participant and the other Participants in the Steel Solar 1A PPA;

WHEREAS, the Participant has been advised 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 Prepaid Portion of the electricity it purchases under the Firm PSA will be subject to certain restrictions that are necessary to establish and maintain the tax-exempt status of interest on the Prepay Bonds, and desires to adopt this resolution to authorize a Tax Certificate and Agreement that sets forth the Participant's agreement to comply with such restrictions;

* Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the Firm PSA and the Tax Certificate and Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF HURRICANE CITY, UTAH, AS FOLLOWS:

Section 1. Approval of Tax Certificate and Agreement. The Tax Certificate and Agreement, in substantially the form attached hereto as *Exhibit A*, is hereby authorized and approved.

Section 2. Authorized Officers; Final Changes and Dating. The Participant's Representative and Alternate Representative to UAMPS (the "*Authorized Officers*") are each hereby authorized to execute and deliver the Tax Certificate and Agreement and to deliver the same to UAMPS on behalf of the Participant. Each of the Authorized Officers is hereby delegated authority to approve such changes to the Tax Certificate and Agreement as are necessary to complete the form thereof, together with any minor or non-substantive changes, and his or her execution of the Tax Certificate and Agreement shall be conclusive evidence of such approval. The Authorized Officers shall deliver an executed and undated copy of the Tax Certificate and Agreement on or prior to the date requested by UAMPS, and UAMPS is hereby authorized to deliver the Tax Certificate and Agreement, dated the issue date of the Prepay Bonds, to SEA on behalf of the Participant.

Section 3. Other Actions With Respect to the Tax Certificate and Agreement. The Authorized Officers shall take all action necessary or reasonably required to carry out and give effect to the Tax Certificate and Agreement including adjusting the priority of the Participant's resources within the UAMPS Power Pool to ensure the Qualified Use of the electricity from the Participant's Entitlement Share in the Project.

Section 4. 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 5. Effective Date. This resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the Governing Body of Hurricane City, Utah, this day,

_____.

HURRICANE CITY, UTAH

By _____
Mayor

[SEAL]

ATTEST:

City Recorder

EXHIBIT A

[TAX CERTIFICATE AND AGREEMENT]

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*”)¹ with UAMPS pursuant to which the Participant has an Entitlement Share (as defined in the Firm PSA) in the energy, environmental attributes and other benefits received by UAMPS under the [describe Red Mesa, Steel Solar 1A and Steel Solar 1B PPAs as applicable] (the “*PPA*”)²;

WHEREAS, the Participant understands that in order to provide a discounted price for a portion of the electricity sold to the Participant under the Firm PSA (such portion is referred to below as the “*Prepaid Portion*”), UAMPS will participate in a prepayment transaction being undertaken by SEA by (a) assigning its rights to a portion of the electricity to be delivered under the PPA to the commodity supplier under the prepayment transaction and (b) entering into the Supply Contract under which it will purchase the assigned electricity from SEA at a discounted price for sale to the Participant under 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 Prepaid Portion of the electricity it purchases 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 _____,³ and owns and operates a municipal utility system that provides electricity service to retail customers located in an established service area (the “*System*”).

¹ For Participants in more than one transaction schedule, the term “Firm PSA” will apply separately to each transaction schedule.

² For Participants in more than one transaction schedule, the term “PPA” will apply separately to each Power Purchase Agreement.

³ Utah for all Participants, except California for TDPUD and Nevada for Fallon.

2. The Participant will (a) use all of the Prepaid Portion of the electricity it acquires 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 the Prepaid Portion of such electricity, (c) not take or omit to take any action with respect to the Prepaid Portion of 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.

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 the Prepaid Portion of the 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]



STAFF COMMENTS

Consideration and possible approval of **Resolution 2024-21 Designating 1100 West as a historic livestock trail extending south from Frog Hollow Wash to the City limits**

Discussion:

Mayor Billings and City staff have continued to work with Kelby Iverson to meet his terms and conditions to sell property to the City along the 1100 West corridor. One of Mr. Iverson's conditions is that the City designate by resolution 1100 West between his property and his open range on the south end of the City as a historic livestock trail. Mr. Iverson and his family have historically driven cattle between their corrals near the Equestrian Park and the BLM range land south of the City. The Hurricane City Ordinances currently regulate driving herds of livestock on City streets as follows:

Sec. 7-1-7. - Driving animals on streets.

- A. Permission required. Every person, prior to driving any herd of sheep or band of horses, cattle or other animals upon any public street or highway, shall be required to notify the Police Department.
- B. Designated streets. No person shall drive livestock through the City upon streets not designated for that purpose, except upon permission and according to the direction of the Chief of Police.

The proposed resolution requested by Mr. Iverson would designate this section of 1100 West as a street where livestock could be driven upon notification to the Police Department.

Recommendation:

The City Attorney and City Engineer have no objection to designating the route consistent with historical uses. It is recommended that a motion approving the resolution state that the execution of the resolution is contingent on Mr. Iverson executing the currently drafted purchase contract for the property along 1100 West. -Dayton Hall

Findings:

Recommendation:

Attachments:

1. Resolution 2024-21 Designating 1100 West as a historic livestock trail
2. Confidential Kelby Iverson-Contract

RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF HURRICANE, UTAH,
DESIGNATING 1100 WEST AS A HISTORIC LIVESTOCK TRAIL EXTENDING
SOUTH FROM FROG HOLLOW WASH TO THE CITY LIMITS**

WHEREAS, Hurricane City recognizes the historical significance of 1100 West as a traditional livestock trail within the community; and

WHEREAS, this trail has served as a vital route for livestock movement, connecting agricultural properties within the City to surrounding grazing areas; and

WHEREAS, the preservation of cultural heritage and historical landmarks is essential to maintaining the identity and character of Hurricane City; and

WHEREAS, designating 1100 West as a historic livestock trail will commemorate its importance in the development and heritage of the area,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Hurricane City that:

Section 1: The City hereby designates 1100 West as a historic livestock trail, extending south from Frog Hollow Wash to the southern boundary of the City, where livestock are permitted to be driven between pastures at various times of the year.

Section 2: The City Council encourages residents and visitors to respect and appreciate the historical value of 1100 West as they utilize and interact with the trail.

DATED this 17th day of April 2024

Nanette Billings, Mayor

Attest:

Cindy Beteag, Recorder

The foregoing Resolution was presented at a regular meeting of the Hurricane City Council held at the Hurricane City Office Building on the 17th day of April, 2024. Whereupon a motion to adopt and approve said Resolution was made by _____ and seconded by _____. A roll call vote was then taken with the following results:

	Yea	Nay	Abstain	Absent
David Hirschi	___	___	___	___
Kevin Thomas	___	___	___	___
Clark Fawcett	___	___	___	___
Drew Ellerman	___	___	___	___
Joseph Prete	___	___	___	___

Cindy Beteag