

COMMISSION MEETING

PACKET

DATE:

November 12, 2024

NOTICE AND AGENDA OF A MEETING OF THE KANE COUNTY COMMISSION

PUBLIC NOTICE IS HEREBY GIVEN that the Commissioners of Kane County, State of Utah, will hold a **Commission Meeting** in the Commission Chambers at the Kane County Courthouse, 76 N. Main Street, Kanab, Utah on **Tuesday, November 12, 2024** at the hour of **2:00 P.M.**

*The Commission Chair, in her discretion, may accept public comment on any listed agenda item unless more notice is required by the Open and Public Meetings Act.

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CALL MEETING TO ORDER
WELCOME
INVOCATION
PLEDGE OF ALLEGIANCE

PUBLIC COMMENT:

CONSENT AGENDA:

Check Edit Report:
Approval of: Commission Meeting Minutes for October 22, 2024

REGULAR SESSION:

- 1. Public Hearing Regarding the Appointment of Johnny Roundy as a Trustee to the 401K Board of Trustees**
- 2. Kane County Resolution No. R 2024-35 a Resolution Appointing Johnny Roundy as a Trustee to the 401K Board of Trustees/Commissioner Heaton**
- 3. Recognition of Isis Smith for Her Years of Service on the 401K Committee/Full Commission**
- 4. SITLA Recommendations: Glen Canyon Solar A, LLC-Shannon McBride/Commissioner Heaton**
- 5. FY 24-25 Rural County Grant Program Contract with Governor's Office of Economic Opportunity/Commissioner Meyeres**

- 6. Discuss/Vote on Whether to Submit a Grant Application for FLAP (Federal Land Access Program) Funding/Commissioner Meyeres**
- 7. Discuss/Vote on Pursuing Federal Grant Funding Opportunities for Transportation Within Zion, Once Zion Closes to Oversized Vehicle Through-Traffic Mid 2026/Commissioner Meyeres**
- 8. Discussion/Approval of ALC Amicus Brief Support/Commissioner Heaton**
- 9. Transfer of Funds from Expenditure Lines to Cover Payroll Expenses/Commission Kubeja**
 - A. Justice Court**
 - B. Assessor's Office**
- 10. Kane County Ordinance No. O 2024-14 an Ordinance Revising Kane County Land Use Ordinance Chapter 21 Subdivision to Become Compliant with Utah Code 17-27a-604.1/Commissioner Heaton**
- 11. Kane County Ordinance No. O 2024-30 an Ordinance Establishing Rules of Order and Procedure for the Kane County Redevelopment Agency/Full Commission**
- 12. Kane County Interlocal Agreement for Fire Mitigation Projects/Full Commission**
- 13. Kane County-Orderville Interlocal Agreement for the North Event Center/Commissioner Heaton**
- 14. Authorization to File Additional Quiet Title Action Regarding Kane County RS2477 Roads Including the Sand Dunes Road and Other Sand Dunes Area Roads/Full Commission**
- 15. Review of Legislative Issues/Full Commission**
- 16. Commissioner Report on Assignments/Full Commission**

Closed Session:

- Discussing an individual's character, professional competence, or physical or mental health.
- Strategy sessions to discuss collective bargaining, pending or reasonably imminent litigation, or the purchase, exchange lease or sale of real property.
- Discussions regarding security personnel, devices or systems.
- Investigative proceedings regarding allegations of criminal misconduct.

NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS:

In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Chameill Lamb at (435) 644-2458. Agenda items may be accelerated or taken out of order without notice as the Administration deems appropriate. All items to be placed on the agenda must be submitted to the Clerk's office by noon Thursday, prior to the meeting.

CONSENT AGENDA

Approval of:

Commission Meeting Minutes for October 22, 2024

**MINUTES
OF THE KANE COUNTY
BOARD OF COMMISSIONERS' MEETING
October 22, 2024
IN THE KANE COUNTY COMMISSION CHAMBERS,
76 NORTH MAIN, KANAB, UTAH**

Present: Chair Patty Kubeja, Commissioner Celeste Meyeres, Commissioner Wade Heaton, Attorney Van Dyke, Sheriff Tracy Glover, Clerk/Auditor Chameill Lamb, Deputy Clerk/Auditor Candice Brown

Also Present: Keiren Chatterley, Judge Johnson, Rhonda Gant, Bert Harris

CALL MEETING TO ORDER: Commissioner Kubeja

WELCOME: Commissioner Kubeja

INVOCATION: Commissioner Meyeres

PLEDGE OF ALLEGIANCE: Judge Gary Johnson

PUBLIC COMMENT:

Russell Beesley lives next to the Kanab Center and is curious and concerned about what will happen with the hill and all the dirt when we have monsoon rains. He is also concerned that a silt fence hasn't been put up while they are doing the construction project.

CONSENT AGENDA:

Check Edit Report:

Motion to approve the Consent Agenda as presented and written made by Commissioner Meyeres and motion carried with all Commissioners present voting in favor.

REGULAR SESSION:

- 1. Presentation from the Kane Education Foundation/Commissioner Kubeja**

Calli Kelly with the Kane Education Foundation came and gave their yearly update on what they have been doing throughout the year.

2. Report on the 2023 Financial Audit/Commissioner Heaton

Rick Roberts and Gabe Miller presented the 2023 financial audit results. He said that in their opinion, the accompanying financial statements present fairly, in all materials respects, the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of Kane County, as of December 31, 2023, and the respective changes in the financial position and, where applicable, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

3. Approval of the Intergovernmental Agreement for Mutual Aid in Law Enforcement/Commissioner Kubeja

Sheriff Glover said that they started working on this Interlocal Governmental Agreement a couple years ago and it is now ready for the Commission to sign off on it.

Motion to approve the Intergovernmental Agreement for Mutual Aid in Law Enforcement as presented made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Kubeja-aye
Commissioner Meyeres-aye
Commissioner Heaton-aye

4. 2025 Tentative Budget Adoption-Chameill Lamb/Commissioner Heaton

Chameill presented the 2025 tentative budget saying that this is not the final budget. There will be a lot of changes to come forward.

Motion to adopt the 2025 Tentative Budget as presented by Clerk/Auditor Chameill Lamb made by Commissioner Heaton and motion carried with all Commissioners present voted in favor.

Commissioner Kubeja-aye
Commissioner Meyeres-aye
Commissioner Heaton-aye

5. Approval of Fraud Risk Assessment/Commissioner Heaton

Chameill stated that there has been no changes to the Fraud Risk Assessment from last year.

Motion to approve the 2024 Fraud Risk Assessment as presented by Clerk/Auditor Chameill Lamb made by Commissioner Kubeja and motion carried with all Commissioners present voting in favor.

Commissioner Kubeja-aye
Commissioner Meyeres-aye
Commissioner Heaton-aye

6. Discuss/Action on Kane County Special Service District Interlocal Agreement for Administrative Billing Services/Commissioner Kubeja

Keiren stated that right now we don't have any Interlocal Agreement with any of our special service districts. The Interlocal Agreement would help create a mechanism that would allow the treasurer to be the billing and collecting agent on their behalf. She feels it would be beneficial for the special service districts as well as the county.

Motion to approve the Interlocal Agreement for Administrative Billing Services between Kane County and the Special Service Districts in the county made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

Commissioner Kubeja-aye
Commissioner Meyeres-aye
Commissioner Heaton-aye

7. Review of Legislative Issues/Full Commission

Commissioner Meyeres said that legislative managers are going to put heads together in the next few weeks and come forward with a plan on the best way to secure state funding for the Coral Pink Sand Dunes road without stepping on UDOT's toes and following the legislative auditor's recommendations. She also mentioned that there are various interested parties in asking the legislature to re-examine some of the election policies.

Commissioner Heaton stated that there will be a bill this coming legislative session that addresses the requirements around TRT/TRCC and how it can be spent.

8. Commissioner Report on Assignments/Full Commission

Commissioner Heaton mentioned that he and Bert met with Alton Coal regarding a realignment of a road between Alton and the coal mine.

Commissioner Meyeres said that Kelly Stowell was able to secure the Community Development Block Grant that is used in order to fund about \$200K of local economic infrastructure and development projects annually.

Motion to go into closed session for the reason of pending or reasonably imminent litigation with the county road supervisor, government affairs, county attorney, and sheriff to stay made by Commissioner Meyeres and motion carried with all Commissioners present voting in favor.

Motion to adjourn made by Commissioner Heaton and motion carried with all Commissioners present voting in favor.

WHERE UPON MEETING WAS ADJOURNED

Patty Kubeja Chair

Chameill Lamb Clerk/Auditor

AGENDA

ITEMS

ITEM # 1

**Public Hearing Regarding the Appointment of Johnny
Roundy as a Trustee to the 401K Board of Trustees**

ITEM # 2

**Kane County Resolution No. R 2024-35 a Resolution
Appointing Johnny Roundy as a Trustee to the 401K
Board of Trustees**

KANE COUNTY RESOLUTION NO. R 2024 – 35

**A RESOLUTION APPOINTING JOHNNY ROUNDY AS A TRUSTEE TO
THE 401K BOARD OF TRUSTEES**

WHEREAS there is a vacancy on Kane County 401K Board of Trustees due to the resignation of Isis Smith; and

WHEREAS the Kane County Board of Commissioners (“Commission”) has complied with the internal county policies required for this board position including taking public comment; and

WHEREAS, the Commission desires to appoint Johnny Roundy as a Trustee to the Kane County 401K Board of Trustees;

**NOW THEREFORE BE IT HEREBY RESOLVED BY THE KANE COUNTY BOARD OF
COMMISSIONERS, IN AND FOR KANE COUNTY, STATE OF UTAH, AS FOLLOWS:**

1. Johnny Roundy is appointed to serve as a Trustee on the Kane County 401K Board of Trustees.
2. This appointment is to fill the vacancy due to the resignation of Isis Smith.

ADOPTED this 12th day of November, 2024.

Patty Kubeja, Chair
Board of Commissioners
Kane County

ATTEST:

CHAMEILL LAMB
Kane County Clerk

Commissioner Heaton voted
Commissioner Kubeja voted
Commissioner Meyeres voted

ITEM # 3

**Recognition of Isis Smith for Her Years of Service on the
401K Committee**

ITEM # 4

SITLA Recommendations: Glen Canyon Solar A, LLC

working in the vicinity, or injurious to the property or improvements in the vicinity.

2. That the use will not be detrimental to the health, safety or general welfare of persons residing or storage facility.

The first recommendations and application as found in Exhibit 5 SITLA Lease Agreement recommends found herein are additional recommendations for the addition of the battery [Exhibit C] will remain in effect and will be coordinated with Kane County. The [Exhibit C] will remain in effect and will be coordinated with Kane County. The [Exhibit C] will remain in effect and will be coordinated with Kane County. The [Exhibit C] will remain in effect and will be coordinated with Kane County.

1. That the proposed use is necessary or desirable and will contribute to the general well-being of the community.

2. That the use will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to the property or improvements in the vicinity.

The Kane County Commissioners have reviewed the amended application for recommendations on SITLA owned property for a solar power plant. The Kane County Commissioners held a regular scheduled meeting to consider the application and having had an opportunity to fully consider the matter, the Commission hereby makes the following findings:

FINDINGS OF THE KANE COUNTY COMMISSIONERS

Exhibit "8"	The original KC recommendations
Exhibit "7"	Feasibility Letters
Exhibit "6"	Site Plan
Exhibit "5"	SITLA Lease Agreement
Exhibit "4"	Parcel Map
Exhibit "3"	Legal Description
Exhibit "2"	Project Description and Information for which recommendations are requested
Exhibit "1"	Application for recommendations

ATTACHMENTS

Name of Applicant
Glen Canyon Solar A, LLC

Date of Application (attached)
November 4, 2024

KANE COUNTY FOR THE AMENDED SITLA RECOMMENDATIONS

APPLICATION FOR AES

3. The Facts and Findings for this report are found in “Exhibit 2” Project Description and Information.

1.0 PROJECT OVERVIEW The proposed Glen Canyon Solar A Project (the Project) is a 95-Megawatt (MW) photovoltaic (PV) solar energy facility and 95 MW, 4-hour duration AC-coupled Battery Energy Storage System (BESS), located in Kane County, Utah. The Project will generate renewable solar electricity at a competitive cost with minimal environmental impacts. The Project is being developed by AES Clean Energy Development LLC (AES) and is anticipated to begin construction in 2025 and be fully operational by the end of 2026. The project consists of 1560 acres with only 700 acres of the Project site being developed for the project, with the remainder being set aside as vacant land.

The construction timeline for the Project is anticipated to last 8 to 10 months.

The “Project” is in compliance with Kane County Land Use Ordinance 9-15A-(1-7) Conditional and Temporary Uses; and 9-24-(1-5) Solar Power Plants; and the 9-9-27-(1-4) Escalante Region Multiple Use/Multiple Functions Grazing Zone.

Kane County Land Use Ordinance Chapter 24 Compliance: Chapter 24, Solar Power Plants, of the Kane County Land Use Ordinance establishes minimum requirements and regulations for the placement, construction and modification of solar power plants. The proposed Project complies with all applicable measures codified in Chapter 24 of the Kane County Land Use Ordinance.

4. AES is in compliance with the Kane County General Plan and Kane County Land Use Ordinance provisions. That the proposed use is in harmony with the intent of the General Plan and the zone in which it is located

3.0 PROJECT OBJECTIVES The Project would benefit Kane County and the State of Utah by:

- Meeting the increasing demand for electricity generated from clean, renewable technology;
- Diversifying the State’s energy portfolio;
- Reducing greenhouse gas emissions;
- Creating jobs within the State;
- Stimulating the local economy during construction and operation of the Project; and
- Increasing tax revenue for Kane County.

The Project’s planning objective is to minimize impacts to the environment and local community by:

- Using existing electrical distribution facilities, right-of-way’s, roads, and other existing infrastructure where possible to minimize the need for new electrical support facilities;
- Minimizing impacts to threatened or endangered species or their habitats, wetlands and waters of the United States, cultural resources, and sensitive land uses;
- Minimizing visual and aesthetic impacts through construction of a low-profile solar PV facility; and
- Constructing, operating and maintaining the Project in compliance with local, state and federal regulations including, but not limited to, Kane County Chapter 24 regulations and Utah Code § 17C-4-103.

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5. **2.0 PROJECT DESCRIPTION** The Project will employ PV modules that convert sunlight directly into electrical energy without the use of heat transfer fluid or cooling water. The Project will include onsite switchgear, communication lines, and generation-tie (gen-tie) lines. The Project would have a generating capacity of up to 95 MWs alternating current (AC) and interconnect via a new switching station to the existing PacifiCorp 230-kilovolt (kV) transmission line that traverses the Project site.

The PV modules convert sunlight striking the modules into low-voltage direct current (DC) power, which is subsequently transformed into AC power through an inverter. The PV modules are made of a semiconductor material through which electrons flow to convert light (photons) to electricity (voltage). The Project would generate emission-free electricity and offset approximately 194,888 metric tons of carbon dioxide equivalent per year.

The BESS is included with the project to allow energy to be stored and utilized during hours when the PV modules are not producing energy.

The BESS can provide opportunities to alleviate transmission related constraints, however is evaluated on a case-by-case basis.

The additional storage of batteries has been added since the 2021 Recommendations as specified in this section.

The Project would be comprised of the following elements:

- PV modules
- Module mounting system
- Balance of system and electrical boxes (e.g., combiner boxes, electrical disconnects)
- Electrical inverters and transformers
- Electrical AC collection system, including switchgear
- Data monitoring equipment
- Transmission and generation-tie lines
- Switching Station
- Access roads and security fencing
- Operations and Maintenance Facility
- **Battery Energy Storage System (occupying up to 10 acres of land)**
- **Battery Power Control Systems** A series of PV module arrays would be mounted on racking systems supported by a pile-driven foundation design. The racking system, will be a tracker PV array configuration oriented to maximize the amount of incident solar radiation absorbed over the course of the year.

Electrical connections from a series of PV arrays would be channeled to combiner boxes located throughout the solar field. Electrical current would be collected and combined prior to feeding the inverters. The solar field would be laid out in a common PV block design to allow for adequate clearance or access roads and adequate access for maintenance.

Each inverter will be fully enclosed, pad mounted and stand approximately 95 inches in height. The inverters would be consolidated in areas to minimize cable routing, trenching, and minimal electrical losses. The AC output from the inverters would be routed through an AC collection system and consolidated within system switchgear. The final output from the solar power plant would be processed through a transformer to

match the interconnection voltage. Electrical safety and protection systems would be provided to meet utility and regulatory codes and standards.

6. 2.1 Photovoltaic Modules The actual total number of PV modules would depend on the selected technology, optimization evaluation, and detailed design. The market conditions, economic considerations, and environmental factors would be taken into account during the detailed design process. The following PV module technologies or equivalent are planned to be incorporated into the solar power plant:

- PV thin-film technology
- PV crystalline silicon technology
- Tracking module configuration

The modules would rotate from east to west over the course of the day. Modules would be nonreflective and highly absorptive. During construction, the PV modules would be delivered to the Project location to support the installation schedule.

The PV modules are sited north of U.S. Highway 89. PV modules are composed of non-reflective material, and it is not anticipated that glare will impact traffic along U.S. Highway 89. A glint glare analysis was conducted by a third-party contractor and results indicate that potential glare would not be expected to impact drivers along U.S. Highway 89 (Appendix A). No other sensitive receptors were identified in the vicinity of the Project.

7. 2.2 Battery Energy Storage System (BESS) The BESS would be connected to PacifiCorp's transmission system using an AC-coupled system. The energy storage system would be connected to a bidirectional power control system to convert DC energy stored in the batteries to AC, charging and discharging the batteries as directed by PacifiCorp. The system would consist of several steel enclosures, similar to shipping containers, that would house the batteries. Battery enclosures protect the battery modules from the elements and unauthorized personnel. The enclosures are unoccupied and monitored remotely, accessed externally and only during periodic maintenance activities. The power control system in the energy storage system would be controlled by a central plant controller. A distributed battery management system would monitor the batteries' voltages, currents, and temperatures to maintain stable operations.

AES implements a multitude of risk management layers in system designs: the battery management system maintains nominal operations and separates a battery string from hazards when necessary, and site supervisory control and data acquisition (SCADA) systems identify hazardous conditions and can automatically stop the system and alert response personnel. Nonbattery fires that may result in battery fire are addressed by the same measures as non-battery sites (defensive posturing and material-specific suppression). If a thermal runaway event of battery fire were to take place, the enclosures planned for the Project site would release fire suppressant in large concentrations directly into the initiating cell, removing heat and preventing thermal runaway throughout the enclosure. The AES energy storage solution integrates battery modules inside steel containers that are equipped with fire-rated insulation and several redundant layers of hazard controls, including passive and active measures that both inhibit and suppress hazardous conditions, when necessary. The UL 9540 certification addresses safety and requires UL 9540a test results to be available for review. The 9540a tests of this system indicate adequate prevention of thermal runaway. The AES energy storage system will achieve UL 9540 certification prior to site commercial operation.

The Project will be designed to be classified as a remote location, as defined in National Fire Protection Agency (NFPA) 855. Each battery enclosure includes a fire detection, alarm, and notification system, with photoelectric smoke and thermal detection. Detection of smoke or heat would trigger remote alarms to the AES's Renewable Operations Control Center and activate audible/visual alarms on the exterior of the battery energy storage containers. All systems would be maintained by a certified company. AES would inspect the BESS for damage prior to installation and during routine maintenance and operations. Damaged systems would be handled in accordance with manufacturers' specifications. Damaged or spent batteries would be removed from the site and disposed of or recycled in accordance with federal and state laws. All systems would comply with the latest NFPA requirements and would be maintained by a certified company. Battery modules and enclosures serve as secondary and tertiary containment in the unlikely event that unanticipated leaks occur. Each battery cell contains very little liquid electrolyte that is largely contained in the cell layers. AES BESS modules currently include cells with rigid metal casing that resist damage and include relief vents to resist overpressure events. These are then covered by rigid module materials, installed into steel racks, then surrounded by steel enclosures rated for transport over sea and over land. AES plants include additional protections such as setbacks and traffic bollards to avoid accidental collision with heavy machinery. The BESS area will be designed to include code-compliant barriers and perimeter fencing to avoid inadvertent exposure. AES has been coordinating with the local fire district in Big Water, that would be responding in the unlikely event of a fire. AES has also provided this fire district with funding for their general fund.

8. **5.3 Battery Energy Storage System Installation** After rough grading is completed, construction of the BESS would begin. The contractor would install foundations, perform finish grading, and provide final rock cover at the end of BESS construction. Concrete foundations would be necessary for particular pieces of equipment. Heavy foundations and equipment pads would be constructed using trenching machines, compactors, concrete trucks and pumpers, vibrators, forklifts, boom trucks, and large cranes. Similar to site grading, appropriate dust abatement measures would be followed. Level concrete foundations would be placed next to as many inverters as are needed to achieve the required battery energy storage power capacity. The battery enclosures would be delivered, mounted, and grounded directly to the foundations. The batteries would then be connected to the inverters by installing cables for DC power and communication. Inverters would be connected to medium-voltage transformers. Underground conductors would be installed to connect the batteries and inverters to the control house inside the substation. Medium-voltage conductors from the transformers would be connected to the substation medium-voltage busbar. Auxiliary power would be connected to both inverters and battery enclosures. AES will ensure that all safety requirements are met, and that the battery supplier will follow all safety requirements and maintain national safety certifications.

9. Kane County Ordinance (KCC 9-7-3) as stated below:

SECTION:

[**9-7C-1:** Purpose](#)

[**9-7C-2:** Jurisdiction](#)

[**9-7C-3:** State Land Development](#)

[**9-7C-4:** State Land That Becomes Private Land](#)

9-7C-1: PURPOSE:

The purpose of this article is to:

- A. Establish a process that complies with Utah Code 17-27a-304 and 305;
- B. Clarify the Land Use Administrator's role in enforcing the Land Use Ordinance on State Lands; and
- C. Clarify the application of land use regulation on land that is transferred from the State to a private party. (Ord. O-2019-23, 11-12-2019)

9-7C-2: JURISDICTION:

Kane County does not have jurisdiction regarding land use regulations on any land owned by the State of Utah, including any land owned or administered by the Utah School and Institutional Trust Lands Administration (SITLA) (See Utah Code 17-27a-304). Kane County does not assert any jurisdiction over SITLA lands regarding land use regulations while the land is owned by SITLA. No land use related permits, including but not limited to, conditional use permits, will be issued to property owned by the State of Utah or SITLA. Kane County has jurisdiction over state lands regarding all other laws of general application including but not limited to: the traffic and criminal code of the State of Utah and local traffic and criminal ordinances, State and local laws regarding nuisance abatement, and State and local building codes. Nothing in this chapter shall be construed to limit the valid jurisdiction that Kane County holds over State of Utah lands regarding regulations or laws other than land use regulations. (Ord. O-2019-23, 11-12-2019)

9-7C-3: STATE LAND DEVELOPMENT:

- A. Notwithstanding the lack of jurisdiction regarding land use regulations, SITLA, or any other agency of the State, is required to submit a development plan and schedule to the Land Use Authority prior to developing land (See Utah Code 17-267a-305). The Land Use Authority is required to respond with reasonable promptness.
- B. As of 2019, when SITLA has a lessee/permittee or potential lessee/permittee ("Lessee"), in order to comply with section 305, SITLA requires the lessee to apply for a conditional use permit, whether one is required or not, and even though a conditional use permit would not be legally valid on the state-owned land. As a matter of policy, Kane County treats this requirement from SITLA as a request for the county to review the project and provide recommendations to SITLA on how the potential project should be regulated. The county will also use this opportunity to provide the information as anticipated by Utah Code 17-27a-305(8).

C. When the State or any agency of the State submits a development plan and schedule to the county, or when a lessee of SITLA lands applies for a conditional use permit or submits a development plan and schedule on behalf of the State or any agency of the State, the county will process the request as follows:

1. The County Commissioner who is assigned to the Land Use Authority shall review the proposed development and in consultation with the Land Use Administrator shall determine the process under which the county will issue recommendations to SITLA for the proposed development. The County Commissioner may: i) request that the development be reviewed by the Land Use Authority to develop recommendations before the issue is presented to the County Commission; ii) delegate authority to the Land Use Authority to issue the recommendations; or iii) present the matter directly to the County Commission to issue recommendations. The county shall act with reasonable promptness to issue the recommendations.

2. Report On The Proposed Development:

- a. The Land Use Administrator shall prepare a report that evaluates the proposed development prior to submitting it to the Land Use Authority or County Commission as set forth above.

- b. The size, volume, scope, and extent of the report shall be completed at the discretion of the Land Use Administrator, but at a minimum the report shall address the elements listed under Utah Code 17-27a-305(8)(ii), namely:

- (1) Compliance with applicable land use ordinances;
- (2) The demand for public facilities caused by the proposed development;

- (3) The amount of any applicable fee;
- (4) Any credit against an impact fee; and
- (5) The potential for waiving an impact fee.

c. For purposes of determining "compliance with applicable land use ordinances," the Land Use Administrator may review any of the requirements of Title 9 in developing the report. For land owned by SITLA, the Land Use Administrator shall specifically review the requirements of land that is zoned commercial (C-2). For land owned by other agencies of the State, the Land Use Administrator shall review the requirements of the zone or zones of similarly situated land near the proposed development. Nothing in this section shall be construed as an attempt to impose a zone on any state-owned land as prohibited by Utah Code 63A-5-206(6).

d. The Land Use Administrator may exercise discretion to consult with experts such as engineers, relevant industry experts, or other professionals and may conduct any relevant studies deemed necessary to fully evaluate the proposed project. Nothing in this section shall be determined to require the consultation with any expert or to conduct any study regarding the proposed project.

e. In any event, the Land Use Administrator shall act with reasonable promptness.

3. Any recommendations that are developed and approved under this section shall be completely discretionary, shall be considered a legislative action not an administrative action, shall not be subject to appeal to the Appeal Authority, and shall not be subject to any other requirements of Title 9.

4. After the recommendations are approved, the Land Use Administrator shall forward the recommendations to the State and/or SITLA. In the event that there is a lessee, the Land Use Administrator shall request that the recommendations be formalized in a lease agreement or other legally binding document between the lessee of the proposed project and the State and/or SITLA.

5. In the event that there is a lessee, if the State and/or SITLA approves the recommendations, the Land Use Administrator is authorized to: i) monitor the project for compliance with the recommendations; ii) notify the State and/or SITLA of any failure on the part of the lessee to comply with the recommendations; and iii) provide any assistance to SITLA necessary to bring the lessee into compliance with the recommendations.

(Ord. O-2019-23, 11-12-2019)

9-7C-4: STATE LAND THAT BECOMES PRIVATE LAND:

In the event that any State-owned land, including SITLA administered land, is transferred to private ownership, the following shall apply:

A. All sections of the Kane County Land Use Ordinance shall apply immediately to the private parcel, limited only by the exceptions of Chapter 12 Nonconforming Uses and Noncomplying Structures.

B. Any recommendations issued to and accepted by SITLA under this Chapter 7C shall become legally binding conditions on the parcel as if a conditional use permit had been required and had been duly issued at the time the recommendations were issued, whether or not a conditional use permit was or is required. (Ord. O-2019-23, 11-12-2019)

10. 9.0 EMERGENCY RESPONSE AES will develop a Project and equipment specific Emergency Response Plan (ERP) that will be submitted to Kane County, the Big Water Fire Department, and SITLA. The ERP will provide information and instruction to guide first responders in preparing for and safely responding to an accident, fire, or other emergency associated with the Project.

AES always develops ERPs in collaboration with the local fire departments and emergency response personnel, in accordance with the NFPA safety standards. As part of this emergency management preparation, Big Water Fire and EMS personnel are trained on the equipment and emergency response

protocols. It is expected that the ERP will be reviewed, both internally and with local first responders, and updated annually. The ERP will be developed and released closer to completion of Project construction, as changes often occur to a project throughout the design stage.

The ERP is not intended to address specific circumstances and cannot address every potential scenario. Rather, the ERP is intended as a guide based on laws, ordinances, regulatory standards, and best practices. In the event of an emergency, on-scene judgement by qualified professionals will be utilized in conjunction with the ERP. At a minimum, the ERP will include the following components to provide Kane County, SITLA, and first responders with the best available information to properly address an emergency event:

- Site Location
 - Address and GPS coordinates
- Site Overview
 - Primary site access
 - How to gain entry to the site
 - Site map and enclosure layouts
 - Enclosure access (BESS)
- Public Safety Staging and First Responder Areas
- Emergency Response Considerations
 - Fire
 - Deflagration and Explosion
 - Electric Shock
 - Arc Flash
 - Chemical Release
- Hazard and Risk Evaluation
 - Potential Site-specific Hazards
 - Safety Data Sheets (SDS)
 - Site Signage
 - Defensive Approach
 - Managing the Incident ◦ Safe Stand-off Distances
 - Personal Protective Equipment (PPE)

Working in conjunction with a Subject Matter Expert (SME) AES is committed to safety and will work with Big Water Fire to ensure firefighting equipment is suitable for electrical fires, provide knox-box access codes to the Project site, and provide training to first responders, as necessary.

11. SITLA Lease Agreement Compliance: AES has entered into lease agreements with SITLA (Special Use Lease Agreement No. 13 SECOND AMENDED AND RESTATED RENEWABLE ENERGY LEASE AGREEMENT NO. 13 (F/K/A/ SULA 1793-A) (Solar) for the purpose of constructing, operating, and maintaining a commercial solar electric generating facility, together with transmission lines and ancillary facilities at the Project Site (refer to Exhibit 5). As stated in the lease agreements, AES will adhere to all mutual promises and covenants contained in the lease agreements.

RECOMMENDATIONS FOR THE SOLAR POWER PLANT

The following recommendations are for 700 acres, 95-Megawatt (MW) solar power plant.

Based on the application submitted and based on the forgoing findings of fact, the Commission hereby recommends the following recommendations listed herein. In the event that any of the recommendations of this permit are not followed, the Commission reserves the right to meet with AES and SITLA, in whole or in part, pertaining to the recommendations granted herein.

1. The applicant must obey all state, local and federal laws in regard to use of the land on which these recommendations are outlined. This includes compliance with all local ordinances, zoning ordinances, rules, regulations or other local laws.

RECOMMENDATIONS: Kane County Land Use Ordinance Chapter 24 Compliance: The minimum requirements and regulations for the placement, construction and modification of solar power plants are established in Chapter 24. The proposed Project shall comply with all applicable measures codified in Chapter 24 of the Kane County Land Use Ordinance.

2. The applicant agrees to appear, when summoned in writing, at any meeting held by the Kane County Commissioners or Land Use Administrator to address or answer any questions regarding the recommendations herein, including but not limited to holder's compliance or non-compliance with the recommendations of the permit. The applicant further agrees to make written response regarding compliance or non-compliance when requested by the Kane County Commission.

RECOMMENDATIONS: AES anticipates close collaboration with Kane County during the permitting process to identify and manage any environmental conditions specific to the Project. Through the permitting process, AES will implement all required measures and BMPs as determined by Kane County and responsible agencies.

The applicant shall allow members of the Kane County Commissioners, and the Kane County Land Use Administrator and the Kane County Building Inspector, and their designated agents to inspect the premises during the course of construction, and thereafter, to ensure that the applicant is complying with the recommendations granted herein.

3. The applicant is allowed to construct and maintain the facilities, structures, and/or landscaping outlined in the site map which is attached hereto as Exhibit "4" and is hereby approved as part of the recommendations. The applicant is not allowed to construct any additional facilities, structures, and/or landscaping unless said additions are approved by the Kane County Commissioners as part of the recommendations.

RECOMMENDATIONS: If construction does not start in two years AES will need to resubmit another recommendation application to update the Commissioners on the project.

4. The applicant shall maintain all property and facilities used under these recommendations in good condition and repair and shall not allow their activities to cause or create a circumstance which causes or

creates disturbance to persons or properties in the area surrounding the property which is the subject of these recommendations.

5.1 Site Preparation Construction: of the Project would begin with initial clearing and grading (if required) of the staging areas. Access to the Project site would be improved to appropriate construction standards. The staging areas would include temporary construction trailers, worker parking, truck loading and unloading facilities, and an area for assembly. Road corridors would be surveyed, cleared, and graded to bring equipment, materials, and workers to the areas under construction. Buried electrical lines, PV array locations, and the locations of other facilities may be flagged and staked to guide construction activities. BMPs for stormwater and erosion control would be employed during site preparation, and water truck refilling stations (if required) will be established for dust control.

5.5 Screening and Landscaping: Due to the remote nature of the Project facility, additional screening of the Project is not anticipated. Moreover, the arid climate in southern Utah precludes feasibility of maintaining trees and/or vegetation that would be capable of screening the Project site. Use of low-profile PV panels will minimize visual impacts.

5.6 Dust Fugitive: Dust may be generated during site preparation and construction activities, including land clearing and grading for the Project. Dust is not expected to be a concern during operations. To minimize airborne dust, AES will employ standard dust abatement practices as well as obtain all necessary permits associated with fugitive dust. Additionally, traffic speeds for vehicles associated with the Project on unpaved roads will be kept to speeds no greater than 25 miles per hour to minimize generation of fugitive dust.

RECOMMENDATIONS: All grading activities for the project will minimize dust by limiting access roads where appropriate throughout the construction and operation of the facility. Air Quality regulations will also need to be adhered to, especially with the construction site so close to Highway 89 and surrounding subdivisions.

Fugitive Dust Control Plan: The Utah Department of Environmental Quality regulates fugitive dust emissions via Rule R307-309, requiring development of a Fugitive Dust Control Plan (R307-309-6). AES will develop and submit a Fugitive Dust Control Plan to the Utah Division of Air Quality prior to the start of construction. AES will closely monitor fugitive dust at the Project Site, ensure that all construction activities comply with R307-309, and adhere to the measures outlined in the approved Fugitive Dust Control Plan.

Water contracts for water hauling need to be established.

Before any construction begins a building, permit shall be obtained from the Kane County Building Department.

5. 2.2 Battery Energy Storage System (BESS) The BESS would be connected to PacifiCorp's transmission system using an AC-coupled system. The energy storage system would be connected to a bidirectional power control system to convert DC energy stored in the batteries to AC, charging and discharging the batteries as directed by PacifiCorp. This system would be interconnected at the 230-kV generation-tie line (gen-tie), same as the solar portion of the project. The system would consist of several

steel enclosures, similar to shipping containers, that would house the batteries. Battery enclosures protect the battery modules from the elements and unauthorized personnel. The enclosures are unoccupied and monitored remotely, accessed externally and only during periodic maintenance activities. The power control system in the energy storage system would be controlled by a central plant controller. A distributed battery management system would monitor the batteries' voltages, currents, and temperatures to maintain stable operations.

AES implements a multitude of risk management layers in system designs: the battery management system maintains nominal operations and separates a battery string from hazards when necessary, and site supervisory control and data acquisition (SCADA) systems identify hazardous conditions and can automatically stop the system and alert response personnel. Nonbattery fires that may result in battery fire are addressed by the same measures as non-battery sites (defensive posturing and material-specific suppression). If a thermal runaway event of battery fire were to take place, the enclosures planned for the Project site would release fire suppressant in large concentrations directly into the initiating cell, removing heat and preventing thermal runaway throughout the enclosure. The AES energy storage solution integrates battery modules inside steel containers that are equipped with fire-rated insulation and several redundant layers of hazard controls, including passive and active measures that both inhibit and suppress hazardous conditions, when necessary. The UL 9540 certification addresses safety and requires UL 9540a test results to be available for review. The 9540a tests of this system indicate adequate prevention of thermal runaway. The AES energy storage system will achieve UL 9540 certification prior to site commercial operation.

The Project will be designed to be classified as a remote location, as defined in National Fire Protection Agency (NFPA) 855. Each battery enclosure includes a fire detection, alarm, and notification system, with photoelectric smoke and thermal detection. Detection of smoke or heat would trigger remote alarms to the AES's Renewable Operations Control Center and activate audible/visual alarms on the exterior of the battery energy storage containers. All systems would be maintained by a certified company. AES would inspect the BESS for damage prior to installation and during routine maintenance and operations. Damaged systems would be handled in accordance with manufacturers' specifications. Damaged or spent batteries would be removed from the site and disposed of or recycled in accordance with federal and state laws. All systems would comply with the latest NFPA requirements and would be maintained by a certified company. Battery modules and enclosures serve as secondary and tertiary containment in the unlikely event that unanticipated leaks occur. Each battery cell contains very little liquid electrolyte that is largely contained in the cell layers. AES BESS modules currently include cells with rigid metal casing that resist damage and include relief vents to resist overpressure events. These are then covered by rigid module materials, installed into steel racks, then surrounded by steel enclosures rated for transport over sea and over land.

AES plants include additional protections such as setbacks and traffic bollards to avoid accidental collision with heavy machinery. The BESS area will be designed to include code-compliant barriers and perimeter fencing to avoid inadvertent exposure.

RECOMMENDATIONS: AES is coordinating with the local fire district, in Big Water, that would be responding in the unlikely event of a fire. AES has also provided this fire district with funding for their general fund. Submit a contract for fire suppression to SITLA and Kane County.

A feasibility letter for Fire and EMS Services that specifically lists the battery storage system for emergency response needs to be provided.

A hazardous Materials Emergency Response, Containment and Remediation Plan should be submitted prior to installation of any Hazardous material.

It is strongly recommended that the Reclamation Plan and Financial Guarantee be provided prior to start of construction of the physical facilities, and not 15 years after the start of the Operational Phase (SITLA Lease 5.2 (c)). The Samsung information on the batteries list a 15-year replacement life span.

A feasibility for water needs to be provided.

A feasibility letter needs to be provided by qualified personnel/company to maintain the high voltage systems which would require an on-call response representative to live within an hour and 20 minutes.

6. 4.0 POINT OF INTERCONNECTION The Project proposes to interconnect to the existing PacifiCorp 230-kV transmission line that traverses the Project Site, and interconnects to the existing Glen Canyon Substation, located approximately 16 miles to the southeast, near Lake Powell. The solar facility would connect to an on-site project substation via multiple 34-kV underground or overhead gen-tie lines. A single span of overhead 230-kV gen-tie lines will interconnect the project substation to a newly constructed switching station at the Point of Interconnection (POI) to the existing PacifiCorp 230-kV transmission line.

RECOMMENDATIONS: Proof of Interconnection agreements must be submitted to the County before the building permit will be granted. The Applicant shall obtain the necessary road encroachment permits for the utility crossings and other improvements to be located within County Road rights-of-way. All electrical interconnection or distribution lines shall comply with all applicable codes and standard commercial large scale utility requirements.

“PV” systems must be approved for interconnection by the serving utility before operations can begin. (Ord. 2013-5, 8-12-2013, eff. 8-27-2013)

7. 5.0 Project Construction: 5.1 Site Preparation: The following Best Management Practices (BMPs) will be applied as stated in the Site Preparation paragraph: worker's facilities, roads and erosion control will be employed during site preparation and water truck refilling stations (if required) for Air Quality compliance through the Department of Air Quality for dust control. All the sites are very close to Highway 89, which has a lot of tourist traffic, and safety needs to be of utmost importance. This final BMP is required for Grading Activities.

RECOMMENDATIONS: The disturbed, unpaved portions of the developed project site must have some type of ground cover to prevent the blowing of excess dust and dirt. Fugitive dust impacts from the project site shall be closely monitored during construction, and dust control methods shall be utilized as necessary to minimize fugitive dust from the project site.

The land has already been cleared for over a year and was not reseeded or mitigated for dust or the ranchers that have a grazing lease for the area. Tumble weeds have plagued the landscape for the past year.

RECOMMENDATIONS: AES anticipates close collaboration with Kane County and SITLA during the permitting process to identify and manage any environmental conditions specific to the Project. Through the permitting process, AES will implement all required measures and BMPs as determined by Kane County, SITLA, and other responsible agencies.

A Storm Water Pollution Protection Plan needs to be provided for the construction and on-going maintenance of the project (i.e regular clearing of the solar panels)

8. **5.0 PROJECT CONSTRUCTION** Project construction would consist of three major phases: (1) site preparation; (2) PV system and BESS installation; and (3) testing. AES is committed to implementing Best Management Practices (BMPs) during all construction phases of the Project. BMPs for stormwater and erosion control would be prepared and approved prior to the start of construction. An estimated Project development schedule is provided in

Table 1. Table 1. Project Development Schedule (estimated).

County Building Permit Approval Q2 2025

Interconnection Agreement Q4 2024

RECOMMENDATIONS: All required permits shall be in place before a building permit will be approved. AES will coordinate with the Land Use Administrator to ensure BMP and recommendations are being adhered to throughout the process to ensure safety and health of the Kane County citizens are being met with the construction of this project.

Both SITLA and Kane County recommend that the Reclamation Plan and Financial Guarantee be provided prior to start of construction of the physical facilities, in contrast to AES's 15 years after the start of the Operational Phase (SITLA Lease 5.2 (c)). The Samsung information on the batteries list a 15-year replacement life span. The Intermediate Reclamation (SITLA Lease 5.2 (d)) requirement should be included.

9. **5.3-Construction Workers, Hours, and Equipment:** Hours of construction will follow Kane County regulations. If weekend or night hours are required on an "as-needed basis", an AES representative will contact Kane County Land Use Administrator to have RECOMMENDATIONS amended. Kane County Land Use Administrator is the contact for public complaints for hours of operations; any change in the normal business hours will require contacting the Land Use Administrator. (Kane County Land Use Ordinance 9-15A-2-E-5)

5.4 Construction Workers, Hours, and Equipment Construction activities are expected to be completed in approximately 10 to 12 months. The onsite workforce will consist of laborers, various skilled trades, supervisory personnel, support personnel, and construction management personnel. Construction will generally occur during daylight hours, Monday through Friday. Weekend and non-daylight work hours may be necessary to make up schedule deficiencies, or to complete critical construction activities. Construction activities will be conducted consistent with Kane County regulations regarding hours of construction.

RECOMMENDATIONS: Waste Certification shall apply. Portable outhouses may be utilized

during construction. Any on-site source of potable water or sewage treatment must be approved by the Utah Department of Health or DEQ, as applicable. Once construction is complete portable bathrooms are not acceptable and permanent facilities needs to be implemented.

10. To ensure the safety of all employees working on the Project during construction, AES will develop and implement an Emergency Response Plan for the Project in accordance with Code of Federal Regulation 1910.38 established by the Occupational Safety and Health Administration (OSHA). Key personnel will be designated to train all employees working on the Project, and will be responsible for administering emergency and shutdown procedures in the event of an emergency. Emergency and shutdown procedures will be clearly displayed in all construction trailers, along with contact information for emergency services and treatment facilities.

RECOMMENDATIONS: 5.8- Emergency and Shutdown Procedures: Key personnel designated to train all employees working on the Project will need to contact local emergency agency staff and inform them of the emergency shutdown procedures including who needs to be contacted in the case of an emergency.

AES contact information for all Emergency trained personnel for should be submitted to the Kane County Sheriff's Office for contact purposes. A contract for emergency services needs to be in place before construction can begin. Safety measures for any battery spills or disposal shall be in place.

11. **FIRE MITIGATION: Wildland Fire Protection:** The project shall comply with the defensible space requirements of the Utah Wildland-Urban Interface Code throughout construction and operation of the facility. Ongoing maintenance must be provided to ensure removal of grass, weeds, and other flammable materials from the defensible space area. Any vegetation control at the site shall use materials and methods that ensure protection of the groundwater. Know-Box rapid entry systems or other approved substitutes shall be required for each entrance gate and coordinated with the Kane County Fire Marshal. The Applicant shall offer to facilitate training for the appropriate fire departments(s) with training relating to the specific hazards of the Solar Power Plant (e.g., transformer fires, batteries, shock hazards). A fire barrier shall be 30 ft. around building containing the batteries.

RECOMMENDATIONS: Water Supply: Prior to initiation of construction, AES will create and/or obtain a source for water that will be kept and used on-site to mitigate dust control. Additionally, a water tank will be constructed on the Project Site to supply water to emergency service providers and regularly maintained with the guidance of the Kane County Fire Warden.

12. **Transportation: 5.7 Traffic** AES contracted Horrocks Engineers to perform a traffic impact study to evaluate potential impacts of increased traffic during Project construction (Horrocks 2022; Appendix B). Based on the results of this study, Project location, and road access, it was determined that construction would generate approximately 426 new external daily trips with 200 trips during the morning (AM) peak traffic period and 200 trips during the afternoon (PM) peak traffic period. The study concluded that AES should work with UDOT to make access modifications to Highway 89. Addition of an access lane from Highway 89 was completed in 2023 with UDOT's approval.

RECOMMENDATIONS: The Kane County Land Use Authority requires all county, state and federal permits be obtained and complied with. No building permit will be issued until all required

permits are obtained. Utah Department of Transportation encroachment and access permits will be required to move forward on this project with any grading or building permits, due to the limited access off Highway 89. Construction traffic will access the Project Site via U.S. Highway 89. This highway experiences high levels of tourist traffic throughout the year due to its close proximity to Lake Powell and the Grand Canyon.

The above requirements are found in Kane County Land Use Ordinance 9-15A-2-20.

20. Requiring turn lane improvements at street intersections when:

- a. An unsafe condition would be created by the development without the improvements; or
- b. The projected increase in traffic generated by the new or expanded use will lower the level of service;

21. Providing for emergency access.

13. **Hazardous Materials:** Construction of the Project will involve small quantities of commonly used hazardous materials, such as fuels and oils, to operate construction equipment. The use, storage, and disposal of hazardous materials and wastes will be governed according to regulations established by OSHA and the Utah Department of Environmental Control, Division of Waste Management and Radiation Control. This regulatory structure ensures that safety measures and precautions are implemented, thereby reducing potential impacts associated with an accidental spill or release of hazardous materials. AES will prepare and implement an Emergency Response Plan for the Project that outlines safety procedures in the event of an accidental spill or release of hazardous materials. Key personnel will be designated to train all employees working on the Project, and will be responsible for administering safety procedures in the event of an accidental spill or release of hazardous materials. Safety procedures will be clearly displayed in all construction trailers, along with contact information for emergency services and treatment facilities.

RECOMMENDATIONS: The ERP will be developed and released closer to completion of Project construction, as changes often occur to a project throughout the design stage. The ERP is not intended to address specific circumstances and cannot address every potential scenario. Rather, the ERP is intended as a guide based on laws, ordinances, regulatory standards, and best practices. In the event of an emergency, on-scene judgement by qualified professionals will be utilized in conjunction with the ERP.

Prior to construction and issuance of a building permit, AES will conduct a Phase I Environmental Site Assessment (ESA) to determine the potential for existing hazardous materials at the Project Site. In the event existing hazardous materials are discovered at the Project Site, AES will work with SITLA to ensure full cleanup and proper disposal of hazardous materials in accordance with federal and State regulations.

14. **Waste and Recycling:** Construction waste will be generated from installation of the solar arrays and related facilities. Construction waste is expected to consist of mostly recyclable materials such as cardboard, steel, and electrical wiring. AES's Engineering, Procurement, and Construction (EPC) contractor will be responsible for construction of the Project will disassemble and recycle shipping containers and solar panel packaging to minimize solid waste impacts. The EPC contractor will contract with a waste and recycling service provider to ensure all waste generated from construction of the Project is disposed of in accordance with federal and State regulations. Methods of waste disposal and recycling will be coordinated with the Kane County Land Use Authority. The EPC contractor will store, collect, and dispose of solid waste in such

a manner as to prevent fire and health hazards, rodent harborage, insect breeding, accidents, and odor in accordance with Kane County solid waste rules and protocol. The EPC contractor will ensure that no littering of the Project Site or neighboring properties will occur during construction, or the life of the project.

RECOMMENDATIONS: The Arizona Strip Landfill Corporation Feasibility letter only includes construction waste. A feasibility letter needs to be provided for battery and solar panel recycling and/or disposal.

15. **Appendix A Glint-Glare Study:** The 50-foot setback utilizes existing vegetation and topography to shield views from traffic along U.S. Highway 89. No habitable structures are located within the immediate vicinity of the Project Site. Views will not be impacted as a result of the Project. Exhibit 2

RECOMMENDATIONS: Due to the Glint and Glare Harad Analysis a max array height of 6 feet is to be maintained for the project. Lake Powell is one of the most visited Lakes in America and has high tourist traffic. No glint or glare should trespass onto Highway 89 a Scenic Byway.

The system needs to be constructed with solar panels with lightly textured dark glass with anti-reflection coating.

The Glint and Glare Hara Analysis (Page 7, last paragraph) states that, “The analysis did show the potential for moderate impacts from glint and glare, “flare with a low potential for temporary after image”, on motorists along a portion of U.S. Route 89 from array area 2 during certain times of the day and year. ‘

- a. “The potential for glare on U.S. Route 89 is greatest in the evening hours between 7 to 8 p.m. during summer months (May to August)”

16. **Security:** The Project will be monitored by security staff during operations. An appropriate security fence with warning signs will be placed around the perimeter of the Project and all electrical equipment will be locked. AES will coordinate with the Kane County Fire Marshall to install an approved, electronically controlled security access gate at the Project Site. The Project will include inward facing, low level security lighting and cameras at ingress and egress points.

RECOMMENDATIONS: The Sheriff will be notified and given any codes or keys for access to the site to assist with any emergency that may occur during the life of the project.

17. **Local, State and Federal Permits:** A solar power plant shall be required to obtain all necessary permits from the Utah Department of Environmental Quality, including the Utah Division of Air Quality and the Utah Division of Water Quality, and the federal permits along with applicable permits required by Kane County and local utility companies affecting the power grid.

***Below are excerpts from the SITLA Lease agreement: The mitigation procedures and conditions will be adhered to with the SITLA/The AES Corporation lease.**

The lease agreement contains all bonding and maintenance approaches that are in compliance with Kane County procedures for reclamation, maintenance and good condition(s) facilities practices. AES will decommission and remove the system and its components at the end of the life of the Project. The Project site could then be converted to other uses in accordance with applicable land use regulation in effect at the time. All decommissioning and restoration activities will adhere to the requirements of the appropriate governing authorities and will be in accordance with all applicable federal, state and Kane County regulations. As per decommissioning requirements and construction bonding requirements the SITLA lease agreement in 5.2 Operations Phase construction bonding-at Lessee's expense, such a payment, performance, completion bonds or other form of surety upon Lessor's reasonable request from time to time. At Lessor's election bonds or other security posted with third party may be deemed sufficient.

The mitigation procedures will be adhered to through the SITLA/The AES Corporation Group lease agreement. SITLA will regulate and monitor these measures.

EXHIBIT 5 SITLA LEASE AGREEMENT

2.0 AMENDMENT OF ORIGINAL LEASE

2.1 The parties hereby amend and restate the Original Lease in its entirety by the terms of this Amended and Restated Lease. (Page 6)

3.4 Limitation on Storage. Notwithstanding any other provision of the /amended and Restate Lease, Lessee may not install any facilities on the Property to store solar energy generated from either the Property or from any other properties until the parties have negotiation a commercially reasonable payment for the storage of solar energy. On SITLA's request, Lessee shall provide SITLA with all information necessary for SITLA to determine the economic impact of solar energy storage on the Project and the Property so that the parties may negotiate in good faith for a fair and reasonable storage payment. (Page 6)

RECOMMENDATIONS: The storage of solar energy with the battery facility needs to be negotiated in the lease.

5.1 Development Phase.

(b) Conditions for Groundbreaking. Lessee may not conduct the Groundbreaking until the following conditions are met:

(i) Plan of Development. As soon as possible, but no later than the first anniversary of the Effective Date, Lessee shall deliver for SITLA's approval a preliminary Site Plan and any other site-specific information that Lessee has at the time to help SITLA

evaluate the impact of the Project on the Property. No later than 60 days prior to Groundbreaking, Lessee shall submit for SITLA's approval, which approval SITLA may not unreasonably deny, a plan of development (the "**Plan of Development**"), including a final Site Plan, a construction and phasing plan, a copy of a conditional use permit from the local jurisdiction or evidence that the Project meets the requirements the local jurisdiction would impose as part of a conditional use permit, and all other information reasonably necessary for SITLA to review the Project and its impact to the Property. SITLA shall review the Plan of Development and approve or request reasonable modifications within 30 days of receipt. SITLA's failure to respond with the 30-day review period will be deemed an approval. If Lessee disagrees with the requested modifications, the parties shall attempt to resolve the dispute in good faith for 30 days. If the parties cannot resolve the dispute within 30 days, the Plan of Development is deemed disapproved. Lessee may not materially modify the Plan of Development without SITLA's consent, which consent SITLA may not unreasonably withhold. (Page 9)

- (ii) **Power Purchase Agreement.** Lessee shall enter into one or more power purchase agreements for the transmission and sale of power generated by the Improvements prior to Groundbreaking and provide SITLA with evidence of such agreement.

RECOMMENDATION: Power Purchase agreement as well as the interconnection agreement should be in place before building permits are approved.

5.2 Operations Phase.

(c) Reclamation Plan. On or before the 15th anniversary of Commencement of Operations, Lessee shall deliver to SITLA a plan for reclamation of the Property (the "**Reclamation Plan**") conducted by an independent qualified engineer with at least 10- years' experience. The Reclamation Plan must include: (1) a detailed plan to remove all Improvements and reclaim the Property as required by Section 5.3(c) (*Reclamation Obligations*); (2) an estimate of time required to complete all reclamation activities; and an estimate of the costs to remove the Improvements and reclaim the Property, including costs to dispose of or recycle the Improvements. SITLA shall review the Reclamation Plan and approve or request reasonable modifications within 30 days of receipt. SITLA's failure to respond within the 30-day review period will be deemed an approval. If Lessee disagrees with any requested modifications, the parties shall attempt to resolve the dispute in good faith for 30 days. If the parties cannot resolve the dispute within 30 days, then SITLA may hire an independent qualified engineer with at least 10- years' experience to create a secondary reclamation plan. If the reclamation cost-estimate in the reclamation plan obtained by SITLA is higher by 10% or greater than the cost- estimate obtained by Lessee, Lessee shall pay SITLA's reasonable costs in obtaining the second

reclamation plan. Lessee shall update the Reclamation Plan five years prior to the end of the Operations Phase or on reasonable request of SITLA. Lessee may not make material modifications to the Reclamation Plan without SITLA's consent, which consent SITLA may not unreasonably withhold. (Page 10)

(e) Financial Guaranty.

(i) **Financial Guaranty Required.** On approval of a Reclamation Plan by SITLA, Lessee shall execute and file with SITLA a good and sufficient Financial Guaranty acceptable to SITLA to: (a) guarantee Lessee's performance of all covenants and obligations under this Amended and Restated Lease, except that SITLA may not require a Financial Guaranty to include Lessee's obligation to pay rent in excess of the Minimum Rent, whichever is greater, for one year; (b) ensure compensation for damage, if any, to the surface estate and any surface improvements; and (c) ensure reclamation of the Property, as set forth in the Reclamation Plan. Lessee shall update the Financial Guaranty when it updates the Reclamation Plan and as otherwise required by SITLA in its reasonable discretion. (Page 13)

RECOMMENDATIONS: Financial guaranty shall be in place before a building permit is issued.

2.1. **Noxious Weeds.** Lessee shall use commercially reasonable efforts to ensure that all equipment, vehicles, and materials are free of noxious weeds and noxious weed seeds prior to entering the Property or other Trust Lands. Lessee shall monitor the Property for the growth of noxious weeds and take reasonable measures to eradicate noxious weeds from the Property. If Lessee fails to take reasonable measures to eradicate noxious weeds from the Property, as reasonably determined by SITLA, SITLA may take action to eradicate the noxious weeds after 30 days' Notice to Lessee and Lessee shall promptly pay SITLA's reasonably incurred and documented costs to eradicate the noxious weeds from the Property.

RECOMMENDATIONS: All noxious weeds should be cleared from the area. The grazing lease should be protected as far as keeping noxious weeds and tumbleweeds from overgrowth.

10.2. **Governmental Approvals.** Lessee shall obtain all Governmental Approvals required by any Governmental Authorities under Applicable Law. Prior to requesting any Governmental Approvals of Lessee's Plan of Development, Lessee shall first comply with Section 5.1(b)(i) (*Plan of Development*). On Lessee's request, SITLA shall reasonably cooperate with Lessee to obtain any necessary Governmental Approvals. Lessee shall provide SITLA with copies of all Governmental Approvals received with respect to the

Project. SITLA is not obligated to incur out-of-pocket expenses in assisting Lessee in obtaining Governmental Approvals.

10.3. **Land Use Conditions.** Lessee shall comply with the Kane County Recommendations, attached as *Exhibit C*, in their entirety. Failure to comply with these recommendations is a material breach of this Amended and Restated Lease.

10.4. **Section 10.6 Restrictions on Hazardous Substances; Remedial Work.**

- (a) **Hazardous Substances on the Property.** Lessee may not cause or permit any Hazardous Substance to be brought, kept, or used in or about the Property by Lessee except in commercial quantities not in violation of Applicable Law and similar to those quantities usually kept on similar property by others in the same business or profession. Lessee shall store, use, and dispose of such materials in compliance with all Applicable Law.
- (b) **Remedial Work.** If the presence of any Hazardous Substance on, in or under the Property caused or permitted by Lessee results in any contamination of the Property in violation of Applicable Environmental Law, or any other property, Lessee shall promptly complete all Remedial Work that is necessary to return the affected area to the condition existing prior to the introduction of any such Hazardous Substance. Lessee shall obtain all necessary licenses, manifests, permits and approvals to perform the Remedial Work. Lessee shall promptly perform all Remedial Work and the disposal of all waste generated by the Remedial Work in accordance with Applicable Law.
- (c) **Notice to SITLA of Release.** Lessee shall immediately notify SITLA of: (i) all spills or releases of any Hazardous Substance affecting the Property in violation of Applicable Environmental Law; (ii) all failures to comply with Applicable Law; (iii) all inspections of the Property by, or any correspondence, orders, citations, or notifications from any Governmental Authorities; (iv) all regulatory orders or fines or all Remedial Work or other response or interim cleanup actions taken by or proposed to be taken by any Governmental Authorities or third parties concerning the Property; and

Hazardous Materials- shall be complied with. Lessee shall not cause or permit any Hazardous substance (as hereinafter defined) to be brought, kept or used in or about the Premises by Lessee its officers, directors, owners, agents, employees, sublessees, assignees, contractors, subcontractors,

invitees, or concessionaires except in Commercial quantities not in violation of applicable Environmental law (as defined below) and similar to those quantities usually kept on similar premises by others in the same business or profession. AES, its officers, directors, owners, agents, employees, shall store, use and dispose of such materials in compliance with all applicable federal, state and local laws, including, without limitation, applicable Environmental law. If the presence of any hazardous substance on, in or under the premises cause or permitted by AES its employees results in any contamination of the premises the lessee shall promptly take all actions, at its sole expense, as are necessary to return the affected area to the condition existing prior to the introduction of any such hazardous substance (as defined below), including, without limitation, any investigation or monitoring of site condition or any clean up, remediation, response, removal, encapsulation, containment or restoration work required because of the presence of any such hazardous substance on, in or under the premises or any release or suspected release or threat of release of any such hazardous substance in the air, soil, surface water or ground water.

I 0.9. Wildfire. Lessee shall at all times take reasonable precautions to prevent wildfires from starting or spreading on the Property and shall comply with Applicable Laws with respect to fire prevention and control. If Lessee or its employees, contractors, or licensees cause a wildfire that necessitates suppression action, Lessee shall reimburse the State of Utah and local fire authorities for the costs of any necessary fire suppression activities incurred as a result of the wildfire.

10.10. Fill Materials and Waste. Lessee may not allow any deposit of ballast, refuse, garbage, waste matter, chemical, biological or other wastes, hydrocarbons, any other pollutants, or other matter within or on the Property, except as approved in writing by SITLA. If Lessee fails to remove all non-approved fill material, wastes or materials described above from the Property, SITLA may at its option remove such materials and charge Lessee for the cost of removal and disposal.

AES shall obtain all necessary licenses, manifests, permits and approvals to perform the remedial work. "Hazardous Substance" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State in which the Premises are located, or the United States Government, including, without limitation, chemical or waste that is or shall be listed or defined as hazardous, toxic or dangerous under applicable Environment Law, any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state or local governmental authority pursuant to any environmental, health and safety or similar law, county, ordinance, rule, regulation, order or decree and which may or could pose a hazard to the health and safety of occupants or uses of the premise or any part thereof, any adjoining property or cause damage to the environment. The lease between AES and SITLA full terms and conditions will be enforced by SITLA and not Kane County. Kane County agrees with the "applicable Environmental Law" sections.

Kane County respectfully requests that the above recommendations be formalized in a written lease agreement or another legally binding document between the Applicant and SITLA.

Notice: In the event that any State-owned land, including SITLA administered land, is transferred to private ownership, the following shall apply: A. All sections of the Kane County Land Use Ordinance shall apply immediately to the private parcel, limited only by the exceptions of KCC Title 9 Chapter 12 Nonconforming Uses and Noncomplying Structures. B. Any recommendations as set forth herein, issued to and accepted by SITLA under KCC Title 9 Chapter 7C shall become legally binding conditions on the parcel as if a conditional use permit had been required and had been duly issued at the time the recommendations were issued, whether or not a conditional use permit was or is required.

***PLEASE NOTE:** Before building can begin all permits for state and federal regulations will need to be in place.

ITEM # 5

**FY 24-25 Rural County Grant Program Contract with
Governor's Office of Economic Opportunity**

ITEM # 6

Discuss/Vote on Whether to Submit a Grant Application
for FLAP (Federal Land Access Program) Funding

ITEM # 7

Discuss/Vote on Pursuing Federal Grant Funding
Opportunities for Transportation within Zion, Once Zion
Closes to Oversized Vehicle Through-Traffic Mid 2026

ITEM # 8

**Discussion/Approval of ALC Amicus Brief
Support**

ITEM # 9

Transfer of Funds from Expenditure Lines to Cover
Payroll Expenses

- A. Justice Court
- B. Assessor's Office

ITEM # 10

**Kane County Ordinance No. O 2024-14 an Ordinance
Revising Kane County Land Use Ordinance Chapter 21**

Subdivision to Become Compliant with Utah Code

17-27a-604.1

CHAPTER 21 SUBDIVISION REGULATIONS

ARTICLE A. GENERAL PROVISIONS

9-21A-5: DEFINITIONS:

//

Administrative Land Use Authority: The administrative land use authority in Kane County, Utah is the Land Use Administrator.

Kane County Infrastructure-Construction Design Standards: Subdivision and improvement design standard guidelines for Kane County.

//

ARTICLE B. SUBDIVISION CREATION AND ENFORCEMENT

9-21B-4: BUILDING PERMITS:

A

2. The Preliminary Plat and Kane County Infrastructure Design Standards Construction Plans shall be approved by the Administrative Land Use Authority and Kane County Engineer, respectively.

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4. The developer provides a "hold harmless" agreement, acceptable by Kane County, that the developer takes all liability in connection with the building of two (2) homes which may not be used or occupied for any reason prior to the completion and approval of the infrastructure and the developer shall: a) not seek to obtain a certificate of occupancy until the infrastructure is completed and approved by the Kane County Engineer; b) not sell, transfer or take a reservation on the property until the infrastructure is completed and approved by the Kane County Engineer; and c) will not hold Kane County liable for any costs or damages resulting in connection with the developer starting construction on the building regardless of the final outcome of the overall project. The Kane County Land Use Administrator and County Engineer have the authority to hold off signing a building permit if they have concerns for public safety or the safety of Kane County employees or equipment. If there are safety concerns Kane County staff must release a report to the developer stating the reasons why the permit cannot be obtained at the time of the request, and the Kane County Commission notified. (Ord. O-2017-11, 7-17-2017)

ARTICLE D. PRELIMINARY PLAT

SECTION:

9-21D-5: Administrative Land Use Authority Approval

9-21D-1: GENERAL REQUIREMENTS:

A complete application for preliminary plat review containing -all required materials as stated in 9-21D-2 for preliminary plat review shall be submitted to the Kane County Land Use Authority Administrator by the developer/subdivider or their authorized representative, a minimum of twenty-one (21) days prior to the Kane County Land Use Authority's meeting date at which the preliminary plat is to be reviewed. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21D-2: REQUIRED GENERAL SUBMISSION ITEMS; ADMINISTRATIVE:

Submittal Item:

Eng. Cty.

- Drawings comply with Utah Code 17-23-17
- (1) 24" X 36" & (2) 11" X 17" Copies of Preliminary Plat
- Digital copy of Preliminary Plat
- (1) Copy of on-lot disposal report
- Kane County/Developer Agreement
- Application for PUD Subdivision
- Location and vicinity map
- Conceptual Site Plat
- Draft Development Agreement (as applicable)
- Soils maps & reports
- Statement of taxes due
- Lender's Consent
- Signed proposed deed restrictions
- Summary statement
- Letters of feasibility
- Affidavit that applicant is the owner or holds power of attorney authorized by the owner, in writing to make application for the land proposed to be subdivided
- Articles of Incorporation (LLC, Partnership or Corp.)
- Title Report

[**Engineer's Cost Estimate**](#)

[**Electronic Version of plat \(PDF\)**](#)

Drawing Requirements:

[**Area map showing area + ½ mile**](#)

[**Traverse map of subdivision**](#)

[**Lot and Street Layout**](#)

[**Dimensions of all lots**](#)

[**Total acreage and legal description**](#)

[**Lots numbered consecutively- include PUD zoning label**](#)

[**Locations & names of existing & proposed easements**](#)

[**Existing & proposed street names**](#)

[**Drainage direction for existing & proposed streets**](#)

[**Drawn to scale not less than one inch equals fifty feet \(1" = 50'\), indicate the basis of bearings, true north point, name of subdivision, name of county, township, range, section and quarter section, block and lot number of the proposed subdivision, keyed to USGS survey monuments.**](#)

[**All fence lines**](#)

[**Heavily-wooded areas located**](#)

[**Site to be reserved or dedicated for open space**](#)

[**Dedicated Public Space**](#)

[**Signature blocks**](#)

Overall Site Plan Requirements:

[**Future Street layout for area not being subdivided**](#)

[**Water courses and proposed drainage systems**](#)

[**100 year flood boundaries**](#)

[**Existing buildings, easements or utilities within 200 feet**](#)

- Location and size of proposed utilities**
- Any other covenants, easements or restrictions**
- Location and spacing of proposed fire hydrants**
- Location of postal cluster box**

Summary Statement Proposal

- Total development area**
- Number of proposed dwelling units**
- Number of proposed multi-residential units**
- Total number of square feet in non-residential floor space**
- Amount of water per lot**
- Estimated gallons per day of sewage**
- Survey notes of perimeter survey**

Letters of feasibility, as applicable

- Water System SWPHD or UDEQ**
- Sewage Treatment from SWPHD or UDEQ**
- Telephone**
- Electrical**
- Solid Waste Disposal**
- Access from UDOT or Kane County**
- Addressing & Roads - Kane County GIS**
- Postmaster**
- Others (as applicable)**
- Acknowledge by signing below that you have reviewed the preliminary plat and all checklist items.**

Prepared by: _____ **Date:** _____

Professional Engineer Stamp, Signature, Date

Kane County Review by: _____ Date: _____

- Accepted for review. See attached review for comments and items to address.
- Incomplete application. Missing or deficient items noted below.

- A. One copy of application for subdivision and planned-unit development.
- B. Subdivisions and planned-unit development deposit. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)
- C. Agreement—subdivision and planned-unit development.
- D. Statement of taxes and assessments paid.
- E. Certificate of title insurance.
- F. Articles of incorporation (LLC, partnership or corporation).
- G. Notarized affidavit that applicant is the owner or authorized by the owner to make application for the proposed land to be subdivided.
- H. Signed proposed deed restrictions. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018)
- I. Development agreement draft (as applicable). (Ord. 2014-1, 1-27-2014, eff. 2-11-2014; amd. Ord. O-2016-4, 10-15-2018)
- J. Engineer's cost estimate.

- K. Soils and maps report. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018)
- L. Three (3) copies of on-lot disposal report. (Ord. 2014-1, 1-27-2014, eff. 2-11-2014; amd. Ord. O-2016-4, 10-15-2018)
- M. Letters of feasibility/will serve letters (as applicable):
 - 1. Water system (Southwest Utah Public Health Department, Utah Department of Environmental Quality or Kane County Water Conservancy District, etc.);
 - 2. Sewage treatment from Southwest Utah Public Health Department or Utah Department of Environmental Quality;
 - 3. Telephone;
 - 4. Garkane Energy;
 - 5. Solid waste disposal;
 - 6. Access—Utah Department of Transportation and/or Kane County. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018)
 - 7. United States Kanab Post Master for the location of mail delivery cluster boxes; (Ord. O-2018-2, 4-9-2018)
 - 8. Other (as requested). (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2016-4, 10-15-2018; Ord. O-2018-2, 4-9-2018)

9-21D-3: SUBMITTED DRAWING REQUIREMENTS:

- A. Three (3) copies of preliminary plat map (24 inches x 36 inches).
- B. The accuracy of location of alignments, boundaries and monuments shall be keyed to USGS monuments and certified by a registered land surveyor licensed to do such work in the State of Utah. The plat map shall be done in a professional manner with all of the requirements clearly shown. Poorly drawn, illegible or incomplete plat maps are sufficient cause for rejection.
- C. The plat map shall be drawn to a scale not less than one inch equals fifty feet (1" = 50'), if feasible, and shall indicate the basis of bearings, true north point, name of subdivision, name of county, township, range, section and quarter section, block and lot number of the proposed subdivision, keyed to USGS survey monuments.
- D. Location and vicinity map (on plat).
- E. Drawing requirements:
 - 1. Area map showing area plus one-half ($\frac{1}{2}$) mile;
 - 2. Traverse map of subdivision;
 - 3. Lot and street layout;
 - 4. Dimensions of all lots;

- 5. Total acreage and legal description;
- 6. Lots numbered consecutively;
- 7. Location and names of existing and proposed easements;
- 8. Existing and proposed street names;
- 9. Drainage direction for existing and proposed streets;
- 10. All fence lines;
- 11. Heavily weeded areas located;
- 12. Site to be reserved or dedicated for public use;
- 13. Sites listed to be used for nonsingle family dwellings;
- 14. Dedicated public space;
- 15. Signature blocks.

— F. Overall site plan requirements:

- 1. Future street layout for area not being subdivided (phased subdivisions and planned unit development);
- 2. Watercourses and proposed drainage systems;
- 3. 100-year flood boundaries;
- 4. Existing buildings, easements or utilities within two hundred feet (200');
- 5. Location and size of proposed utilities; (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)
- 6. Location and size of mail delivery collection box units or simply cluster box units. (Ord. O-2018-2, 4-9-2018)
- 7. Any other covenants, easements or restrictions. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2018-2, 4-9-2018)

— G. Summary statement (on plat):

- 1. Total development area;
- 2. Number of proposed dwelling units;
- 3. Total number of square feet in nonresidential floor space;
- 4. Total number of off street parking spaces;
- 5. Amount of water per lot;
- 6. Estimated gallons per day of sewage;
- 7. Survey notes of perimeter survey. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21D-4: REVIEW PROCEDURE:

When The preliminary plat application and all documentation will be reviewedhas been received, reviewed and approved by the Land Use Authority Administrator and Kane County Engineer, it shall be placed on the Kane County Land Use Authority's agenda for review within forty five (45) days. **17-27a-509.5. Review for application completeness -- Substantive application review.**

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A. Kane County Administrative Land Use Authority shall, in a timely manner, determine whether a land use application is complete for the purposes of subsequent, substantive land use authority review.

B. After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:

1. complete for the purposes of allowing subsequent, substantive land use authority review; or
2. deficient with respect to a specific, objective, ordinance-based application requirement.

C. Within 30 days of receipt of an applicant's request under this section, the county shall either:

1. mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or
2. accept the application as complete for the purposes of further substantive processing by the land use authority.

D. If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.

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E. Each land use authority shall substantively review a complete application and an application considered complete and shall approve or deny each application with reasonable diligence.

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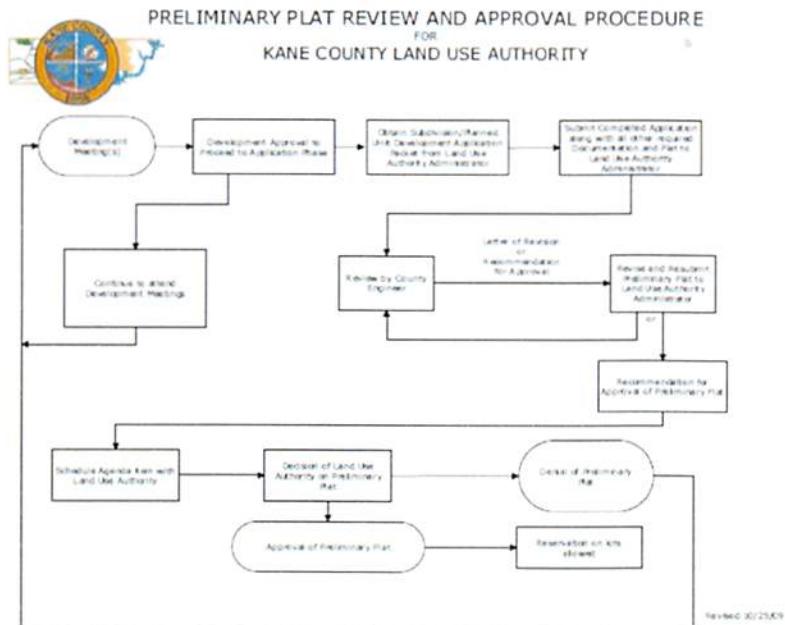
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F. After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.

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(Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21D-5: LAND USE AUTHORITY APPROVAL:

A. The Kane County Administrative Land Use Authority shall review all completed applications for preliminary plat approval and shall forward to the Land Use Authority only those preliminary plats which he/she finds have been developed in accordance with the standards and criteria specified in this chapter and all other ordinances and laws of Kane County and the State of Utah; including, but not limited to, land use ordinances, general plan and transportation plan.

B. At a public meeting the Land Use Authority may recommend approval to the County Commission, with or without conditions, table until additional information has been provided or disapprove the preliminary plat. In the event that the Kane County Administrative Land Use Authority disapproves a preliminary plat, it shall be stated, in writing, within thirty (30) days to the developer/subdivider the reason for disapproval via certified mail, return receipt requested.

—C— If recommended for approval to the County Commission, the County Commission shall review the application for approval, approval with conditions, or denial at the next regularly scheduled County Commission meeting. (Ord. O-2016-4, 10-15-2018)

2013, eff. 11-19-2013)

9-21D-6: SITE CONSTRUCTION:

A. No infrastructure site work may be started, even with preliminary plat approval, until infrastructure design construction drawings are submitted and approved by the Kane County Engineer.

9-21E-9: VACATING OR AMENDING A SUBDIVISION OR PLANNED UNIT DEVELOPMENT PLAT:

3. If the application for an amended plat includes a request to further subdivide or to create any additional lots, the application may only be approved if:

c. The amended plat is not a lot joinder which shall remain one lot once joined together.

ARTICLE E. FINAL PLAT

[9-21E-5: Administrative Land Use Authority Review](#)

[9-21E-6: County Commission Review](#)

[9-21E-76: Final Plat Recording](#)

[9-21E-8 7: Final Plat Distribution](#)

[9-21E-98: Vacating Or Amending A Subdivision Or Planned Unit Development Plat](#)

[9-21E-10:9 Final Plat Approval Procedure](#)

9-21E-1: GENERAL:

A. A final plat may be submitted once all provisions of article D, "Preliminary Plat", of this chapter have been met. The final plat of the subdivision or planned unit development may encompass all or part (see phased development) of the preliminary plat. The final plat shall be presented to the Kane County Administrative land use authority for review within one year after preliminary plat approval, otherwise preliminary plat approval shall be withdrawn and reapplication will be required.

B. The submitted final plat shall conform in all major respects to the preliminary plat as previously approved and/or modified by the Kane County Administrative land use authority.

9-21E-2: PHASED SUBDIVISION AND PLANNED UNIT DEVELOPMENTS:

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A. A. The final platting of subdivisions can be done in phases. P and Planned unit developments can be done in phases. Each phase in a planned unit development shall consist of a minimum of twenty five percent (25%) of the total number of lots in the subdivision or twenty five percent (25%) of the area of a planned unit development.

9-21E-3: ACCEPTANCE OF STREETS AND OTHER PUBLIC LAND DEDICATION:

Acceptance of dedication of proposed public lands or street right of way in an approved plat can be made only by the Kane County commissioners. Plat approval will be deemed as acceptance of dedication unless streets and other public spaces are shown as "not intended for dedication". (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21E-4: REQUIRED GENERAL SUBMISSION ITEMS:

A. Administrative:

1. Mylar copy of approved final plat (for signatures);
2. Four One (1) copies of approved and signed final plat;
3. Four (4) One (1) copies of approved construction drawings and documents;
4. Stormwater pollution prevention plan;
5. Three (3) One Copy (1) copyies of executed development agreement;

3. istance, length;
4. Excluded parcels marked as such;
5. All streets to be named;
6. Bearings and distances of all streets;
7. Parcels not included marked NAPOTS;
8. Adjacent streets shown and dimensioned;
9. Adjacent fences shown;
10. All easements to be labeled and dimensioned;
11. All land with boundaries to be accounted for;
12. All dimensions to be to 0.01' and 0'000'00;
13. Location of perc test trenches;
14. Name of subdivision;
15. North arrow;
16. Basis of bearing;

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17. Name and address of owners of record;
18. Total acreage of subdivision;
19. Total number of lots;
20. Legal description of entire subdivision;
21. Township, range, section and quarter section;
22. Graphic scale;
23. Required monuments;
24. County Engineer's signature block;
25. County surveyor's signature block;
26. County Attorney's signature block;
27. Administrative Land Use Authority's signature block;
28. ~~County Commission's signature block;~~
29. Signature(s) of owner(s) (notarized) block;
30. County Recorder's recording block;
31. Lender's signature block (or "consent to plat" form);
32. Surveyor's certificate;
33. Culinary water authority signature block;
34. Sanitary sewer authority signature block;
35. Kane County GIS/Addressing Administrator signature block;
36. ~~Kane County Addressing Administrator signature block;~~
37. An electronic digital version of the subdivision plat (PDF of the final plat).
38. Electronic versions of all submitted items on the above checklist.

C. Digital data submittal:

1. AutoCAD DWG file or GIS SHPE file;
2. File to contain all parcel lines and reference monuments;
3. Data file to be GEO referenced to Utah State plane south grid coordinate system or ground coordinate system including ground scale factor.
4. Shape files for the County GIS system North American datum (NAD) 1983 Zone 12 format. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. 2014-1, 1-27-2014, eff. 2-11-2014; Ord. O-2015-12, 7-27-2015, eff. 8-11-2015; Ord. O-2018-2, 4-9-2018; Ord. O-2016-4, 10-15-2018; Ord. 2020-22, 10-27-2020)

9-21E-5: ADMINISTRATIVE LAND USE AUTHORITY REVIEW:

A. After review and approval of the final plat drawing and receipt of required documents by the Administrator and County Engineer, the Kane County land use authority will review the final plat, at a regularly scheduled, publicly noticed public meeting. If approved, the land use authority shall recommend approval of the final plat to the Kane County commissioners to be reviewed at the next available work meeting, and then for final approval at the next regularly scheduled commission meeting. (Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

9-21E-6: COUNTY COMMISSION REVIEW:

The Kane County commission shall review the final plat within thirty (30) days of notification of review by the Kane County land use authority at a regularly scheduled public meeting. If the Kane County commission determines that the final plat drawing and documentation meets with the Kane County land use ordinance, subdivision ordinance and "Kane County Standard Specifications And Drawing Details For Design And Construction", they may grant approval. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21E-7: FINAL PLAT RECORDING:

A. The developer/subdivider or his agent shall record the approved final plat within one year of approval by the Kane County commission. The Kane County land use authority administrator shall maintain custody of the final plat mylar until all signatures have been obtained (with exception of the recorder), at which time he/she will notify the developer/subdivider that the plat is ready to be recorded. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2015-12, 7-27-2015, eff. 8-11-2015)

B. No building permits will be issued until the infrastructure is completed unless otherwise agreed to in the development agreement and approved by the Kane County engineer in writing. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21E-9: VACATING OR AMENDING A SUBDIVISION OR PLANNED UNIT DEVELOPMENT PLAT:

A. General Requirements:

1. A subdivision plat or planned unit development plat may be amended or vacated by complying with the requirements of this section and Utah Code 17-27a-608 and 609.

2. A complete application shall be submitted a minimum of twenty-one (21) days prior to the Kane County Land Use Authority's meeting date at which the action is to be reviewed by the owner's or by the property or person having power of attorney to act in behalf of the owner.

3. If the application for an amended plat includes a request to further subdivide or to create any additional lots, the application may only be approved if:

a. Eighty percent (80%) of the owners, or persons having legal authority to act on behalf of the owner, for any portion of property contained in the plat consents to the proposed amendment; and

b. The administrative land use authority, or county commission where required, makes a finding of good cause for the amendment.

B. Submission Items:

1. Application and fees;
2. Notarized affidavit that applicant is owner or authorized by the owner to make application for proposed plat amendment or abandonment;
3. Provide names and addresses of all property owners within 500 feet of the affected property;
4. One copy of the plat and electronic submission. Three (3) copies of plat map:
 - a. Amended plat map requirements (re: subsections [9-21E-4](#)B1 through B32 of this article);
 - b. Vacated plat map requirement (re: subsections [9-21E-4](#)B1 through B32 of this article).

C. Administrative Land Use Authority Review And Approval:

1. After review and approval of the abandonment or amended plat drawing and receipt of required documents by the land use authority administrator and county engineer, the Kane County land use authority will review the application at a regularly scheduled, publicly noticed public hearing within forty five (45) days unless Utah state code provides an exception to the public hearing requirement. In which case the land use authority may review the application at a regularly scheduled public meeting.
2. If the application does not propose to amend, abandon or vacate any county road or public right of way, the administrative land use authority may give final approval so long as the application meets the requirements of state code and any applicable county ordinance. If the application includes a proposal to amend, abandon or vacate any county road or public right of way, the Kane County land use authority will forward a written notification of its review to the Kane County commission.

D. County Commission Review And Approval:

1. If the application contains a proposal to amend, abandon or vacate any county road or public right of way, the Kane County commission shall review the abandonment or amended plat within thirty (30) days of notification of review by the Kane County land use authority at a regularly scheduled public meeting. If the Kane County commission determines that the plat drawing and documentation meets with the Kane County land use ordinance, subdivision ordinance and "Kane County Standard Specifications And Drawing Details For Design And Construction", they may grant approval.

E. Final Plat Recording:

1. The owner or his agent shall record the approved vacated or amended plat within one year of approval by the Kane County commission. The Kane County land use authority administrator shall maintain custody of the amended plat mylar until all

signatures have been obtained (with exception of the recorder), at which time he will notify the owner or agent that the plat is ready to be recorded.

9-21E-10: 11 FINAL PLAT APPROVAL PROCEDURE:

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(Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

ARTICLE F. DEDICATION AND ACCEPTANCE OF STREETS AND PUBLIC IMPROVEMENTS

SECTION:

[**9-21F-1:** Dedication Of Improvements And County Ownership Of Subdivision Roads](#)

[**9-21F-2:** Timeliness For Acting On Acceptance](#)

[**9-21F-3:** Dedication Of Nonsubdivision Rights-Of-Way And Roadways](#)

[**9-21F-4:** Required Right-Of-Way And Roadway Widths](#)

[**9-21F-5:** Roadways Dividing A Parcel](#)

[**9-21F-6:** Right-Of-Way And Roadway Improvements](#)

[**9-21F-7:** Right-Of-Way Improvements For Commercial Developments](#)

9-21F-1: DEDICATION OF IMPROVEMENTS AND COUNTY OWNERSHIP OF SUBDIVISION ROADS:

A. Subdividers are put on notice that the majority of roads (if not all) internal to a subdivision are typically to remain private. At the time the final plat is approved, the subdivider may dedicate the roads, easements and other public improvements to Kane County and the Kane County Commission will determine which improvements to preliminarily accept. All subdivision roads must adhere to county standards, including a minimum 28 foot width comprised of 24 feet of travel lanes (two twelve foot travel lanes) with two foot shoulders on each side of the travel lanes.

B. In determining which roads to preliminarily accept, the Kane County Commission may look at the following factors:

1. If the road could eventually be a Collector or Arterial Road;
2. How the road fits into the overall transportation system of the County;

3. Whether the road is internal to the subdivision, meaning that it only allows access to residents within the subdivision;
4. Whether the road has historically been open to the public, or allows access to public areas;
5. The overall traffic expected by both residents, visitors, and those just passing through.

C. The subdivider shall notify the **administrative land use authority** County in writing once all improvements are completed, at which time the Kane County Engineer will perform a final improvement inspection. Any dedicated improvements shall be deemed an offer by the subdivider which shall be irrevocable until one year after all of the improvements are completed. After one year, a final inspection will take place before officially accepting any preliminarily accepted improvements, and before releasing any bonds from any improvements. **The County Commission may**, at its option, accept the offer of dedication only if it finds that the subdivider has constructed, installed and maintained the public improvements required by this chapter and that the improvements comply with the minimum standards and requirements of this chapter and the "Kane County Standard Specifications and Drawing Details for Design and Construction" at the time of acceptance.

(Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2022-15, 3-22-2022)

9-21F-2: TIMELINESS FOR ACTING ON ACCEPTANCE:

Unless the Kane County Land Use Authority Administrator extends the time for making a decision as to whether or not Kane County will accept dedicated public improvements, the dedication may be acted upon within one year following the completion of the public improvements in accordance with the "Kane County Standard Specifications and Drawing Details for Design and Construction", but in no event shall such approval occur without the approval of the Kane County Engineer. In the event the Kane County Engineer does not approve the dedicated public improvements, the subdivider shall be so advised in writing and of the reason for the nonapproval. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21F-3: DEDICATION OF NONSUBDIVISION RIGHTS-OF-WAY AND ROADWAYS:

The Kane County Commission, on recommendation from the Kane County Land Use Authority, may accept Master Transportation Plans for areas in Kane County. Once a Master Transportation Plan is in place for an area the property owner(s) within the Master Transportation Plan area may dedicate the planned road(s) to Kane County. **Kane County Land Use Authority and Kane County Commission may accept the dedicated roads by the recording of a road dedication plat.** (Ord. O-2019-2, 1-14-2019)

ARTICLE G. DESIGN STANDARDS

SECTION:

[9-21G-1: General Provisions](#)

[9-21G-2: Lots](#)

[9-21G-3: Streets](#)

[9-21G-4: Curvature And Alignment](#)

[9-21G-5: Block And Cul-De-Sac Standards](#)

[9-21G-6: Pedestrian Crosswalks](#)

[9-21G-7: Easement Standards](#)

[9-21G-8: Exterior Perimeters](#)

[9-21G-9: Alleys](#)

[9-21G-10: Sanitary Sewage Disposal](#)

[9-21G-11: Water Supply](#)

[9-21G-12: Sanitation Collection Sites](#)

J. All residential lots in subdivisions shall front on a public street or on a private street or court approved by the Kane County land use authority and the Kane County commission, except as may be approved for planned unit developments or other special

9-21G-7: EASEMENT STANDARDS:

D. All power lines, telephone lines, and other normally overhead utility lines shall be placed underground by the subdivider unless the Kane County engineer determines it is not feasible to do so. This determination would be based upon application by a subdivider, supported by recommendation of the county engineer, and approved by the Kane County Administrative Land Use Authority and Kane County Commission. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21G-10: SANITARY SEWAGE DISPOSAL:

C. Where the Kane County General Plan or other plans indicate that construction or extension of sanitary sewers may serve the subdivision area within a reasonable time, the Kane County Administrative Land Use Authority may require the installation and capping of sanitary sewer mains and house connections by the subdivider. Whenever individual on-lot sanitary sewage disposal systems are proposed, they shall be installed at the time the principal building is constructed, and no building permit shall be issued until such installation is completed. In all other cases, sanitary sewage disposal facilities shall be provided for every lot or parcel by a complete community or public sanitary

ARTICLE I. FINANCIAL RESPONSIBILITY

SECTION:

[9-21I-1: Guarantee; Improvement Completion Assurance](#)

[9-21I-2: Payment And Performance Bonds](#)

9-21I-3: Escrow Deposit

9-21I-4: Irrevocable Letter Of Credit

9-21I-5: Default

9-21I-6: Improvement Guarantee; Warranty

9-21I-7: Covenant

9-21I-8: Acceptance And Release Of Surety

9-21I-9: Definitions

9-21I-1: GUARANTEE; IMPROVEMENT COMPLETION ASSURANCE:

Before approval of the final plat, the developer/subdivider shall provide an improvement completion assurance, guaranteeing the installation of the required subdivision improvements, by one of the methods as described in section **9-21I-2**, **9-21I-3** or **9-21I-4** of this article, prior to recording a subdivision plat or beginning development activity. The guarantee method employed shall be approved by the Kane County commission in the development agreement. This requirement is applicable to individual phases of a development. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-3: ESCROW DEPOSIT:

The developer/subdivider shall deposit in an interest bearing escrow account an amount of money equal to one hundred ten percent (110%) of the engineer's estimated cost of improvements as approved by the county engineer. The additional inflation percentage shall be determined in the development agreement and added to the one hundred ten percent (110%) figure. The escrow account shall be used solely for securing the subdivisions improvements. The escrow account holder must be approved by Kane County prior to deposit being made. The terms of the escrow account shall only require that the county present the issuer with a signed draft and a certificate signed by an authorized representative of the county certifying to the county's right to draw funds on the account to complete the required improvements. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-4: IRREVOCABLE LETTER OF CREDIT:

The developer/subdivider shall file with Kane County an irrevocable letter of credit from a duly chartered state or national bank or savings and loan institution in an amount equal to one hundred ten percent (110%) of the engineer's estimated cost of improvements as approved by the Kane County engineer. The additional inflation percentage shall be determined in the development agreement and added to the one hundred ten percent (110%) figure. Said letter of credit shall:

9-21I-5: DEFAULT:

In the event the developer/subdivider fails to complete the required improvements as stipulated in the development agreement, within two (2) years after final plat acceptance, Kane County shall pursue action against whichever method of guarantee

was provided (section [9-21I-2](#), [9-21I-3](#), or [9-21I-4](#) of this article) to complete the improvements as described.

Kane County may assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which required development improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract.

Kane County may exercise any other rights available under the law, upon default. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-6: IMPROVEMENT GUARANTEE; WARRANTY:

Should the developer/subdivider fail or refuse to affect said repairs or maintenance, the county shall have such work done at the developer/subdivider's expense. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-8: ACCEPTANCE AND RELEASE OF SURETY:

A. Request for conditional acceptance of the subdivision improvements and reduction in surety must be in writing from the developer/subdivider to the land use authority administrator. When installation of the subdivision improvements are seventy five percent (75%) complete, fifty percent (50%) of the estimated cost of the improvements will be released after inspection and written verification by the county engineer. After final completion of all work, an additional fifty percent (50%) of the estimated cost will be released after inspection and written verification by the county engineer. This leaves ten percent (10%) of the estimated cost to be held as the improvement warranty for the improvement warranty period, being one year from final completion and acceptance of the improvements, or a lengthier improvement warranty period as may be permitted, pursuant to this section, or Utah Code Annotated section 17-27a-604.5, as amended. The schedule for release of surety may be modified by the specific development agreement.

In many cases, the improvement warranty will be on the same document as the improvement completion assurance/performance bond. However, the county may require a separate document containing the improvement warranty.

B. Final inspection by the Kane County engineer shall be made one year after all improvement work has been completed. Any and all defects must be repaired and maintenance must be completed prior to final approval.

C. Upon written approval by the Kane County engineer, the land use administrator shall, in writing, accept all improvements and release remaining improvement warranty. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

9-21I-9: DEFINITIONS:

The following definitions apply to this article:

IMPROVEMENT COMPLETION ASSURANCE: A surety bond, letter of credit, cash, or other security required by Kane County to guaranty the proper completion of

landscaping or infrastructure that the land use authority has required as a condition precedent to:

- A. Recording a subdivision plat; or
- B. Beginning development activity.

IMPROVEMENT WARRANTY: An applicant's unconditional warranty that the accepted landscaping or infrastructure:

- A. Complies with Kane County's written standards for design, materials, and workmanship; and
- B. Will not fail in material respect, as a result of poor workmanship or materials, within the improvement warranty period.

IMPROVEMENT WARRANTY PERIOD: A period:

- A. No later than one year after Kane County's acceptance of required infrastructure, unless the county:
 1. Determines for good cause that the one year period is inadequate to protect the public health, safety, and welfare; and
 2. Has substantial evidence, on record:
 - a. Of prior poor performance by the applicant; or
 - b. That the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil. (Ord. 2014-9, 5-19-2014, eff. 6-3-2014)

ARTICLE J. RURAL, MOUNTAIN AND DESERT SUBDIVISION

SECTION:

[**9-21J-1: Scope**](#)

[**9-21J-2: Application**](#)

[**9-21J-3: Additional Provisions**](#)

9-21J-1: SCOPE:

The Kane County Administrative land use authority and Kane County commission may make special requirements for the regulation of subdivisions in rural, mountainous or desert areas for prevention or erosion, pollution and excessive costs to the public; protection of existing social, physical or economic values; and protection from fire and other hazards. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

9-21J-2: APPLICATION:

Before applying special requirements to rural, mountain or desert subdivisions that are more restrictive than those otherwise applicable by this chapter, the Kane County land use authority administrator shall cause copies of the proposed subdivision to be issued

to the staff (i.e., building official, county engineer, GIS/transportation department and any other entities deemed appropriate) for review and comment. Based on information supplied by the staff, the Kane County Administrative land use authority shall make its recommendation to the Kane County commission who shall determine what special requirements shall apply, if any. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013)

ARTICLE K. AG RURAL UNIMPROVED SPLIT

SECTION:

[9-21K-1: Intent](#)

[9-21K-2: Modifying Regulations](#)

[9-21K-3: AG Rural Unimproved Split Application](#)

[9-21K-4: Approval](#)

9-21K-1: INTENT:

Kane County desires to create a simplified, less restrictive process for the dividing of land located within the unincorporated areas of Kane County when the project is small and the main purpose and general intent of the division is not property development. This simplified process does not require all of the same improvements and regulations that are required under this chapter when applying for the division of land and approval of a subdivision plat. Under Utah State Code and Kane County ordinance almost any division of land is defined as a subdivision even though the common and ordinary use of the word subdivision refers to denser residential areas that include roads, utilities, and other improvements.

Furthermore, for decades many individuals have subdivided their property without first complying with State law and County ordinance in effect at the time of the illegal subdivision. Many individuals may desire to use this article to bring their land into compliance. If an applicant under this article otherwise complies with the requirements of this article, they may obtain approval for a AG rural unimproved split if, and only if, the application includes all portions of the original land (sometimes referred to as parent parcel) as it legally existed prior to being subdivided illegally, and the application is joined by all of the current property owners. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. 2014-18, 9-22-2014; Ord. O-2022-43, 8-23-2022)

9-21K-2: MODIFYING REGULATIONS:

Any improvements to be made within a AG rural unimproved split such as, but not limited to: roads, water, fire suppression water, power, septic/sewer, and drainage system shall first be approved by the Land Use Authority before any work can begin. The owner and/or owner's agent will be required to submit a Developers Subdivision Application and complete the subdivision approval process. All subdivision requirements and standards can be found in articles A through I of this chapter. Any owner and/or owner's agent found in violation of this section shall be guilty of a Class C misdemeanor upon conviction, punishable by a fine, injunction, mandamus, abatement, merger of title,

civil penalty, or any other remedy provided by law. (Ord. O-2019-13, 6-11-2019; amd. Ord. O-2022-43, 8-23-2022)

9-21K-3: AG RURAL UNIMPROVED SPLIT APPLICATION:

Notwithstanding articles A through J of this chapter, the Administrative Land Use Authority may approve an application for an AG rural unimproved split, if the following criteria and requirements are met:

A. The applicant shall complete, sign, and submit an official application together with any other required documentation, the form of the application having been prepared by the Land Use Administrator, and pay the associated fee.

B. The proposed split:

1. Is for ten (10) lots or less, all of which are at least ten (10) acres as a conforming aliquot parts parcel or less than ten (10) acres, but not less than 9.5 acres if necessary to compensate for the curvature of the earth or the convergence of Township lines as recognized in the public land survey system, or because of previous survey errors;

2. Is not traversed by the mapped lines of a proposed street as shown in the general plan and does not require the dedication of any land for street or other public purposes;

3. Has been approved by the culinary water authority and the sanitary sewer authority, if a culinary water system or sewer system is included in the plans of the subdivision (Note: Under Kane County ordinance and Utah State Code a building permit will not be issued for lots that do not first contain an approved culinary water and sewer system.);

4. Is located in a zoned area; upon completion and approval of application, land will then comply with FAA agricultural land use and will be zoned AG-FAA. The AG-FAA zoning must remain in place for a minimum of five (5) years from the time of the split.

5. Conforms to all applicable Land Use Ordinances or has properly received a variance from requirements of an otherwise conflicting and applicable Land Use Ordinance;

6. Is graphically illustrated on a record of survey map completed by a licensed surveyor who certifies that he or she is a licensed surveyor and has verified all measurements and placed monuments as represented on the map. The record of survey map must be signed by the applicant and the surveyor, and shall contain the following notes on the record of survey:

- a. Roads are not constructed or maintained by Kane County or any local government entities and are the responsibility of the owner(s) or developers;
- b. No utilities (e.g., power, water, sewer, phones) are provided by Kane County. Kane County does not bear the responsibility now or in the future for any improvements. Improvements are the responsibility of the owner or developer;

c. If and when the developer/landowner has met County standards and specifications for infrastructure and they have been formally accepted by the County these notations should be removed from the plat;

d. County acceptance of infrastructure does not infer that the County will upgrade that accepted infrastructure beyond the standard of its acceptance;

7. Provides each newly created parcel with: a) legal recorded access to the utility and access easements and other rights of access that the parent parcel holds at the time of the subdivision application; b) a recorded public access and public utility easement(s) with a minimum of a sixty six foot (66') width across the parent parcel for any roads that provide access beyond the development or are planned to provide access beyond the development or a minimum of fifty foot (50') width for roads that terminate within the development to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcels. Roads that terminate within the development may be recorded as private easements rather than a public easement at the discretion of the applicant; c) a recorded utility easement across the parent parcel necessary to allow each newly created parcel access to the same utilities currently available to the parent parcel and planned future access for power, water, and other utilities, to be available to all the parcel(s) in the future; and d) to provide access and utility easement(s) from the original point of access of the parent parcel to the newly created parcel(s) to any public right-of-way. If a recorded access does not exist at the time of the application, the width of the newly created access across private property shall be listed in subsection B7c of this section.

a. A public right-of-way shall be any right-of-way claimed by UDOT, the County, or a municipality as a Class B, C, or D road which is established or claimed through a recorded deed easement, RS-2477 assertion, or title V easement on BLM lands, recorded access across State trust lands, recorded access across Forest Service lands, or a public prescriptive easement as determined by the Kane County GIS Department.

b. The recorded legal access may be any of the following:

(1) On BLM Lands: Access across public lands shall be accepted in the form of any valid, private, public or County title V or RS-2477 rights-of-way. RS-2477 right-of-way or title V access across land managed by the Bureau of Land Management (BLM) with any width approved by the BLM deemed acceptable.

(2) On Private Lands: Existing recorded legal access easement with a minimum of twenty eight feet (28'). Prescriptive easements do not satisfy the access requirements of this section. The subservient land owner must sign a recordable document acknowledging the easement and allow use for all of the new lots in the proposed subdivision as a public or private easement as outlined in this subsection B7.

c. Width of a newly created easement may be any of the following:

(1) Any new recorded easement across private land, with a minimum width of sixty six feet (66') or fifty feet (50') as outlined in this subsection B8; and

8. Has a name for each existing and newly created access road or easement distinct from other road or easement names located in Kane County for address purposes, designated on the record of survey.

C. The applicant shall submit an agreement of understanding with the Kane County Commission that in unincorporated areas of the County, dedicated roads will not be accepted, paved or maintained by the County, until the subdivision complies with articles A through J of this chapter.

D. The proposed split does not include land previously divided under this article.

E. If the applicant so desires a plat may be submitted instead of the record of survey map. The form of the plat must conform with all the requirements of this chapter.

F. The application is signed and submitted by each and every property owner of the land included in the application.

G. If any land contained in the application is the result of land that was previously divided without first complying with State law and County ordinances, the application must include all of the lots or parcels that together represent the entire original parent parcel before it was subdivided illegally.

H. If the proposed split contains agricultural land that qualifies as land in agricultural use as defined by Utah State Code section 59-2-502 (FAA) the applicant must also submit:

1. A signed statement that the land is not used and will not be used for any nonagricultural purpose;

2. A signed notice that the County shall require the parcel to comply with articles A through J of this chapter if it is later used for a nonagricultural purpose.

I. If fencing, gates or cattle guards exist they must remain in place. However they may be moved to conform to new lot lines.

J. If any roads exist at the time of applying for the rural unimproved split they must continue to remain at the existing or improved condition.

K. It is not necessary to improve any existing roads to the full width of the dedicated easement at the time of application.

L. If any proposed lot has access to any major highway system, the applicant shall give notice to the Utah Department of Transportation for the newly created lots or parcels. (Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. 2013-11, 11-25-2013, eff. 12-10-2013; Ord. 2014-18, 9-22-2014; Ord. O-2015-12, 7-27-2015, eff. 8-11-2015; Ord. O-2016-4, 10-15-2018; Ord. O-2018-6, 7-9-2018; Ord. O-2019-4, 3-25-2019; Ord. O-2019-13, 6-11-2019; Ord. O-2022-43, 8-23-2022)

9-21K-4: APPROVAL:

A. If an applicant meets the requirements of section [9-21K-3](#) of this article the Administrative Land Use Authority after hearing the application in a public meeting shall

recommend approval of the application to the County Commission or deny the application.

B. If recommended for approval the application shall be forwarded to the County Commission for final approval.

C. Upon final approval of the County Commission, the appropriate official of the County Commission and the Land Use Authority shall sign the plat or issue a letter of written approval in the case of a record of survey or the record of survey may have all the signature blocks required for a plat in place of a written letter.

D. A rural unimproved split with a recorded approved plat or a letter of written approval recorded with a record of survey shall be considered in compliance with this chapter as of the date of recording.

E. A building permit shall not be denied on the basis that a lot or parcel is part of a rural unimproved split, approved under this article.

F. A lot or parcel approved under this article shall not be restricted from being sold or offered for sale under sections [9-21A-6](#) and [9-21B-4](#) of this chapter.

G. A plat may not be recorded without all the appropriate signatures and a record of survey map may not be recorded without the letter of written approval or signature.
(Ord. 2013-10, 11-4-2013, eff. 11-19-2013; amd. Ord. O-2019-4, 3-25-2019; Ord. O-2019-13, 6-11-2019; Ord. O-2022-43, 8-23-2022)

Kane County Proposed Ordinance for SB174 Compliance

TITLE 9 - SUBDIVISIONS

ARTICLE M - SINGLE-FAMILY, TWO-FAMILY, AND TOWNHOME SUBDIVISION REGULATIONS

Section 9-21M-1 - Purpose and Applicability

Purpose: The purpose of this article is to ensure compliance with Utah Code for subdivisions involving single-family dwellings, two-family dwellings, and townhomes.

Applicability: The provisions of this article apply only to subdivisions for single-family, two-family, and townhome developments. A subdivision application that qualifies under this section does not have to meet the approval procedures of Articles A through L of this chapter, though the standards, specifications, and public improvements requirements may still apply. Where conflicts arise between this article and other sections of the Kane County Subdivision Ordinance, the provisions of this article shall control for such applications.

Section 9-21M-2 - Definitions

Review Cycle: The occurrence of: (i) the applicant's submission of a complete subdivision application; (ii) the county's review of that application; (iii) the county's response to that application; and (iv) the applicant's reply to the county's response that addresses each required modification or request for additional information.

Subdivision Application: A land use application for the subdivision of land within the unincorporated area of the county.

Subdivision Improvement Plans: The civil engineering plans associated with required infrastructure improvements and county-controlled utilities for a subdivision.

Subdivision Ordinance Review: Review by the county to verify that a subdivision application meets the criteria of the county's ordinances.

Subdivision Plan Review: Review of the applicant's subdivision improvement plans and other aspects of the subdivision application to verify compliance with county ordinances and standards.

Section 9-21M-3 - Designation of Administrative Authority

The Kane County Land Use Authority Administrator is hereby designated to review and approve preliminary and final subdivision applications for single-family dwellings, two-family dwellings, and townhomes.

Section 9-21M-4 - Pre-Application Process

If an applicant requests a pre-application meeting, the Land Use Authority Administrator shall, within 15 business days, schedule the meeting to review the concept plan and provide initial feedback.

At the pre-application meeting, county staff shall provide:

1. Copies of applicable land use regulations;

2. A complete list of standards required for the project;
3. Preliminary and final application checklists;
4. Feedback on the concept plan.

Section 9-21M-5 - Preliminary Subdivision Application Process

Application Submission: Applications for preliminary subdivision approval shall be submitted to the Kane County Planning and Development office and include: (1) an owner's affidavit; (2) an electronic copy of all plans in PDF format; (3) preliminary subdivision plat drawings; and (4) a breakdown of fees.

Review Period: The Land Use Authority Administrator shall complete a review within 15 business days after receipt of a complete application.

Request for Additional Information: The Land Use Authority Administrator may request specific additional information or modifications, including applicable ordinance citations, and such requests shall be logged.

Section 9-21M-6 - Final Subdivision Application Process

Application Requirements: The final application must include subdivision improvement plans and be submitted to the Kane County Planning and Development office.

Review Period: The Land Use Authority Administrator shall complete a review of the final application within 20 business days after receipt of a complete application.

Modifications and Additional Information: In reviewing the final application, the Land Use Authority Administrator may require specific modifications, which shall include citations to relevant ordinances and be logged in an index.

Section 9-21M-7 - Review Cycle Process

Review Cycle Definition: Each review cycle shall consist of the applicant's submission, county review, county response, and applicant reply.

Timeline: Each review cycle shall be completed within 20 business days. There shall be no more than four review cycles per application.

Waiver of Unaddressed Modifications: Modifications not addressed during the review process are waived unless necessary for health and safety.

Section 9-21M-8 - Appeals After Final Review Cycle

Appeal Process: If the County fails to respond within 20 business days after the final review cycle, the applicant may initiate an appeal process.

Appeal Request: The applicant must submit a written request for an appeal to the County within 10 business days after the County's failure to respond.

Appeal Panel: The County shall, within 10 business days after receiving the appeal request, assemble an appeal panel in accordance with Utah Code 17-27a-507(5)(d). The panel shall consist of three licensed engineers:

1. One designated by the County;
2. One designated by the applicant; and
3. One mutually agreed upon by the two designated engineers.

Panel Qualifications: Members of the panel may not have a personal or financial interest in the application that is the subject of the appeal.

Costs: The applicant shall pay 50% of the cost of the appeal panel, along with the County's published appeal fee.

Review and Determination: The appeal panel shall review the final revised set of plans and make a determination to approve or deny the application within 15 business days of being assembled. The panel's determination shall be final and binding.

Notification: The County shall notify the applicant in writing of the panel's decision, including any reasons for denial, and provide information regarding further appeal options if available.

Section 9-21M-9 - Approval of Final Subdivision Application

Administrative Approval: Approval of the final subdivision application shall not require Planning Commission or County Commission approval if the application complies with all applicable ordinances.

Section 9-21M-10 - Standards and Specifications for Public Improvements

Public Improvement Standards: Existing county standards and specifications for construction of public improvements shall apply to all subdivisions governed by this article. However, the review process shall follow the requirements specified in this article.

ITEM # 11

**Kane County Ordinance No. O 2024-30 an Ordinance
Establishing Rules of Order and Procedure for the Kane
County Redevelopment Agency**

KANE COUNTY ORDINANCE NO. O 2024 – 30

**AN ORDINANCE ESTABLISHING RULES OR ORDER AND PROCEDURE
FOR THE KANE COUNTY REDEVELOPMENT AGENCY**

WHEREAS the Kane County Commission created the Kane County Redevelopment Agency in 2014 under Kane County Ordinance No. 2014-7; and

WHEREAS the Kane County Commission desires to establish and clarify the rules of order and procedure for the Kane County Redevelopment Agency to mirror the rules of order and procedure for the Kane County Commission; and

WHEREAS the authorization for this resolution is found in Utah Code §§ 17C-1-101 et seq., 17-53-201 et. seq., and various other state statutes and in county code;

NOW THEREFORE THE COUNTY LEGISLATIVE BODY OF KANE COUNTY, STATE OF UTAH ORDAINS AS FOLLOWS:

Section 1. Enactment. Kane County Code Title 2 Chapter 5 Section 6 “Agency Rules of Order and Procedure” is enacted to read as set forth below.

2-5-6: AGENCY RULES OF ORDER AND PROCEDURE:

Agency meetings must be conducted in accordance with the Utah Open and Public Meetings Act. The Agency must substantially follow the rules of order and procedure for the Kane County Commission as set forth in Kane County Code Section 1-5-7.

Section 2. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date

This ordinance is effective fifteen (15) days after adoption, and after publication and notice are completed as set forth below.

Section 4. Publication and Notice.

This Ordinance shall be deposited in the Office of the Kane County Clerk. The Kane County Clerk is directed to publish a short summary of this Ordinance with the name of the members voting for and against, together with a statement that a complete copy of the ordinance is available at the Office of the Kane County Clerk, for at least one publication in a newspaper of general circulation in the county, or as otherwise permitted and required by Utah State Law.

End of Ordinance.

ADOPTED this 12th day of November, 2024.

ATTEST:

CHAMEILL LAMB
Kane County Clerk

Patty Kubeja, Chair
Board of Commissioners
Kane County

Commissioner Heaton voted
Commissioner Meyeres voted
Commissioner Kubeja voted

ITEM # 12

**Kane County Interlocal Agreement for Fire
Mitigation Projects**

KANE COUNTY – _____ DISTRICT
INTERLOCAL AGREEMENT FOR FIRE MITIGATION PROJECTS

THIS AGREEMENT is made and entered into this _____ day of _____, 2024, by and between the _____ District, a political subdivision of the State of Utah, Utah 84741, hereinafter referred to as the “District,” and Kane County, a political subdivision of the state of Utah, 76 North Main, Kanab, Utah 84741, referred to as the “County.”

RECITALS

WHEREAS, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended, (the “Act”) permits local governmental units including cities and counties to make the most efficient use of their powers by enabling them to cooperate with other public agencies on the basis of mutual advantage and to create a legal entity to more efficiently provide governmental facilities, services and improvements to the general public; and

WHEREAS, all parties are public agencies within the meaning of the Act; and

WHEREAS, pursuant to §11-13-202 of the Act, the parties are empowered to engage in joint or cooperative action; provide services that they are each authorized by statute to provide; to exchange services that they are each authorized by statute to provide; or to do anything else that they are each authorized by statute to do; and

WHEREAS, this agreement does not: include an out-of-state public agency as a party; provide for either public agency to acquire or construct any new facility or improvement to real property; provide for the acquisition or transfer of title to any real property by either party; require either party to issue bonds; create an interlocal entity; and

WHEREAS, the County participates and collaborates with the State of Utah in preventing and extinguishing wildland fire, including spending a specific allocation of funding each year on mitigation projects throughout the county; and

WHEREAS the District, which is authorized to provide structural fire protection services, and is also authorized to assist the County and the State in wildland fire protection, is uniquely situated to provide labor and other assistance with wildland fire mitigation and prevention projects; and

WHEREAS, the County and the District, desire to enter into a collaborative relationship, on a project by project basis, regarding wildland fire mitigation projects where the County will fund and the District will complete, on a project-by-project basis, various mitigation projects throughout the County;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the adequacy of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **No Interlocal Entity Created.** This agreement shall not create an Interlocal Entity within the meaning of the Act. Alan Alldredge, or the then acting Emergency Manager of the Kane County Sheriff's Office shall act as Administrator of this agreement.
2. **Duration.** This Agreement shall begin as of the day of execution by both parties and shall continue for an initial term of five (5) years. This Agreement will extend automatically for additional five (5) year periods upon the same terms and conditions herein provided, unless either party provides written notice of termination as set forth in paragraph 3 below. In any event, this agreement shall not extend past fifty (50) years.
3. **Termination.** This Agreement may be terminated at any time by either party so long as there are no mitigation projects that the parties have initiated and agreed to but are not yet completed.
4. **County shall.**
 - a. Present specific and individual wildland fire mitigation projects to the District for consideration and approval.
 - b. Provide funding as it is made available for the performance of this agreement. Funding is not guaranteed.
 - c. Through the County Fire Warden or other similar position, provide technical assistance, a scope of work and map exhibit for each project work area defining desired end state and specifications and project boundaries.
 - d. Delineate project boundaries with flagging and/or paint and/or provide a georeferenced PDF map of the boundaries.
 - e. Perform a post treatment inspection for compliance with specifications contained within the scope of work.
 - f. Confirm acres treated for payment, if applicable, by using GPS mapping.
 - g. Provide District with a single point of contact for administration of this Agreement.
5. **District shall.**
 - a. Upon receiving a project from the County, promptly review the project scope, parameters and financial component, and respond timely to the County as to whether the District will accept the project, on a project-by-project basis.

- b. Provide a workforce that is trained and equipped to perform hazardous fuels reduction work as needed for individual projects.
- c. Perform work to specifications and end state as outlined in the scope of work for each project area.
- d. Bill County, within thirty days of the completion of a project, or as otherwise requested by the County, for any work completed, to ensure payment during the appropriate fiscal year (January to December).
- e. Provide County with a single point of contact for the administration of this cooperative agreement.

6. **State of Utah Standard Terms and Conditions.** To the extent applicable, the terms of Attachment A, “State of Utah Standard Term and Conditions for Services,” applies to this Agreement. Any reference to the State of Utah as an entity will mean Kane County and any reference to Contractor means the District. If there are any conflicts with Attachment A and this Agreement, the terms of this Agreement govern.

7. **Rates.** Rates for each project will use the current recognized rates in the Utah Fire Business System (FBS) Fire Rate Agreement (FRA). Rates not recognized and specified in the FBS are identified in Attachment B “Schedule of Rates for Fuels Reduction.” The parties may modify the rate schedule upon mutual agreement. Once the District has agree to a rate for a specific project, it is binding for the duration of the project.

8. **Entire Agreement.** This document constitutes the entire agreement between the parties pertaining to the subject matter contained in this agreement. Except as provided herein, all prior and contemporaneous contracts, representations and understandings of the parties, oral or written, are superseded by and merged in this agreement. No supplement, modification or amendment of this Contract shall be binding unless it is reduced to writing and executed by both parties.

9. **Severability.** If any section, clause, sentence or portion of this agreement is declared for any reason to be invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed to continue in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

10. **Liability and Indemnification.** Each entity is a governmental entity that holds and retains protections from liability as set forth in the Utah Governmental Immunities Act, under legal

principles of sovereign immunity, and under other various state and federal laws. Each entity also holds appropriate levels of insurance or indemnity for harms arising from their own acts or omissions. Nothing in this agreement shall be construed to limit, alter, or waive any of these protections from liability in any way. Each party is legally responsible for their own acts or omissions under this Agreement and only to the extent that state or federal law places legal responsibility on one of the parties for harm arising from their own acts or omissions. Neither party agrees to indemnify or defend the other party for any harm or damages to third parties arising from acts or omission performed under this agreement.

11. Other. A copy of this agreement shall be kept on file with the District Clerk and the County Clerk. Both parties agree to publish this agreement in accordance with Utah Code § 11-13-219.

(The remainder of this page is intentionally left blank. Signatures will follow on the next page.)

SIGNATURES

IN WITNESS WHEREOF, the parties sign the foregoing Interlocal Agreement through appropriate and authorized representatives on the date first noted above.

For the District:

ATTEST:

Name:

Title:

Approved as to Form and Legal Content:

Name:

District Clerk

Name:
District Attorney

For the County:

ATTEST:

Patty Kubeja
Kane County Commission Chair

Chameill Lamb
Kane County Clerk

Tracy Glover
Kane County Sheriff

Approved as to Form and Legal Content:

Robert Van Dyke
Kane County Attorney

		State Contract # 203691 Assigned by the Division of Finance or Purchasing
STATE OF UTAH CONTRACT COVER SHEET		
This contract is entered into as a result of:		
<input type="checkbox"/> The procurement process on Bid /RFP # _____		
<input type="checkbox"/> The procurement process on Requisition # _____ FY _____		
<input type="checkbox"/> Pre-approved sole source (approval attached) _____		
<input type="checkbox"/> Agency grant, land purchase, DAS-Purchasing delegation		
<input checked="" type="checkbox"/> Contract with other state agency or political subdivision		
<input type="checkbox"/> Under \$5,000 (total amount for contract period)		
<input type="checkbox"/> Agency exemption from DAS-purchasing approval LPD169		
<input type="checkbox"/> Revenue agreement		

1. Agency Name UTAH DEPARTMENT OF NATURAL RESOURCES/FORESTRY FIRE, & STATE LANDS

Agency Code 560

2. General Purpose of Contract:

Hazardous fuels management treatments

3. Contractor Name Cedar Mountain Fire Protection District

4. Contract Period: Effective date date of last signature Termination date 6/30/2024
(mm/dd/yy) (mm/dd/yy)

5. Authorized Amount: \$600,000

6. Vendor # 83960A

7. Commodity Code(s) 70111

COMMENTS:

CONTRACT SUMMARY PAGE - FOR DEPARTMENT USE ONLY - NOT PART OF CONTRACT

**UTAH DEPARTMENT OF NATURAL RESOURCES
CONTRACT SUMMARY PAGE - FOR DEPARTMENT USE ONLY - NOT PART OF CONTRACT**

		LEGAL STATUS OF CONTRACTOR: LG <input checked="" type="checkbox"/> State or Local Government CU <input type="checkbox"/> College or University NP <input type="checkbox"/> Non-Profit Corporation CC <input type="checkbox"/> For-Profit Corporation OT <input type="checkbox"/> Other	
DEPARTMENT OF NATURAL RESOURCES INFORMATION: Division: <u>FORESTRY, FIRE, & STATE LANDS</u> Office:		NAME OF CONTRACT: <u>CMFPD Hazardous Fuels Management</u> Name of Contractor: <u>Cedar Mountain Fire Protection District</u> Address: <u>HC82 Box 1084</u> <u>Duck Creek Village, UT 84762</u> DUNS # (if applicable):	

**APPROVAL AND REVIEW SIGNATURES
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY**

APPROVAL AND REVIEW OF CONTRACT:

Brett Ostler 06/08/2020
Brett Ostler (Jun 8, 2020 16:46 MDT)
 Program Manager Date

APPROVAL OF FUNDS AVAILABILITY:

Stacy Carroll 06/09/2020
Stacy Carroll (Jun 9, 2020 06:54 MDT)
 Financial Manager Date

CONTRACT PROVISIONS: (Select 1 or 2; select 3 if applicable)

- 1. Vendor Contract - Contractor provides goods or services.
 - Standard Terms and Conditions used as Attachment A in Contract.
 - Other approved provisions used as Attachment A in Contract.
- 2. Subrecipient Contract - Contractor carries out grant program.
 - Standard Terms and Conditions used as Attachment A in Contract *and* DEQ Subaward Terms and Conditions used as additional attachment.
 - Other approved provisions used as additional attachment.
- 3. Digital Signature – This contract is appropriate to utilize scanned or faxed signatures considering the type of contract and dollar amount. The clause authorizing this use has been included in the scope of work or applicable attachment.

Source of Funds:

Contract Allocation Sheet								FFY _____
State/Federal Source %	CFDA #	Fund	Agency	Unit	Appr Unit	Object	Prog/Func	Amount
		1000	560	1780	RDH		FL2020CFDK	\$150,000
			560				Various	450,000
			560					
			560					
Totals								

CONTRACT SUMMARY PAGE - FOR DEPARTMENT USE ONLY - NOT PART OF CONTRACT

**COOPERATIVE AGREEMENT FOR HAZARDOUS FUELS MANAGEMENT
BETWEEN
UTAH DIVISION OF FORESTRY, FIRE, & STATE LANDS
AND
CEDAR MOUNTAIN FIRE PROTECTION DISTRICT**

This Cooperative Agreement made and entered into by and between the Utah Division of Forestry, Fire, and State Lands, hereinafter referred to as FFSL, and Cedar Mountain Fire Protection District, hereinafter referred to as DISTRICT and individually and collectively known as PARTY or PARTIES.

Purpose:

FFSL and DISTRICT have entered into a Cooperative Agreement to provide hazardous fuels management treatments within the Southwest Area of the Division. Hazardous vegetative fuels are a known public nuisance.

FFSL and DISTRICT desire to facilitate cooperation and coordination of hazardous fuels management efforts in order to increase effectiveness of fire protection measures to enhance public safety and improve forest and range health.

FFSL, in cooperation with the DISTRICT, wishes to support the efforts of private landowners and land management agencies, local, state and federal in the reduction of hazardous wildland fuels.

Statement of Mutual Benefits and Interest

It is to the mutual benefit of the PARTIES to cooperate in management and reduction of hazardous fuels in the local geographic area

It is to the mutual benefit of the PARTIES to this agreement to cooperate and coordinate efforts to reduce hazardous fuel loading to enhance protection of life and property.

In consideration of the above purposes and benefits, the PARTIES hereto agree to the following:

1. FFSL Shall:

- a. Provide funding as it is made available through multiple funding sources for the performance of this agreement not to exceed \$150,000 annually. Funding is not guaranteed.
- b. Provide technical assistance, a scope of work and map exhibit for each project work area defining desired end state and specifications and project boundaries.
- c. Delineate project boundaries with flagging and/or paint and/or provide a georeferenced PDF map of the boundaries.
- d. Perform a post treatment inspection for compliance with specifications contained within the scope of work. Confirm acres treated for payment by using GPS mapping.

- e. Provide DISTRICT with a single point of contact for administration of this cooperative agreement.

2. The DISTRICT shall:

- a. Provide a workforce to that is trained and equipped to perform hazardous fuels reduction work. Perform work to specifications and end state as outlined in the scope of work for each project area.
- b. Bill FFSL, at least annually, prior to or at the end of each state fiscal year (July 1st to June 30th) for any work completed within the fiscal year. The DISTRICT may bill FFSL periodically during the state fiscal year as long as the total amount billed during the state fiscal year does not exceed the allocated \$150,000.
- c. Provide FFSL with a single point of contact for the administration of this cooperative agreement.

3. It is mutually agreed and understood between the said PARTIES that:

- a. Rates for prescribed fire support shall use the current recognized rates in the Utah Fire Business System (FBS) Fire Rate Agreement (FRA). Rates for fuels management not recognized and specified in FBS are identified in Attachment B "Rate Schedule" (attached). The PARTIES may modify the rate schedule upon mutual agreement on an annual basis.
- b. Once the DISTRICT has agreed to a rate for a specific project or unit, it is binding for the duration of the project or unit.
- c. Any of the PARTIES, in writing, may terminate this cooperative agreement in whole, or in part, at any time before the date of expiration. No PARTY shall incur any new obligations for the terminated portion of the cooperative agreement after the effective date of termination and shall cancel as many obligations as is possible. Full credit shall be given for each PARTY's expenses and all non-cancellable obligations properly incurred up to the date of termination.
- d. Nothing herein shall be considered as obligating the parties to this agreement to expend money in excess of funding approved and made available for payment under this instrument and modification thereto.
- e. Modifications within the scope of this agreement shall be made by mutual consent to the parties, in writing, signed, and dated by all parties, prior to any changes being performed. No party to the agreement to obligate to fund any changes not properly approved in advance.
- f. The State auditor or FFSL personnel and DISTRICT auditor, through any authorized representative, shall have the right to examine all records of the other PARTY related to this cooperative agreement during normal business hours, or by appointment. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data regardless of whether such items are in written form, in the form of computer data, or any other form.

- g. The recipient/cooperator has the legal authority to enter into this agreement and the institutional, managerial, and financial capability to ensure proper planning, implementation and management to fulfill the purposes of this agreement.
- h. This cooperative agreement in no way restricts the PARTIES from participating in similar activities with other agencies, organizations, and/or individuals.
- i. FFSL and DISTRICT, by written modification to the agreement, may extend the term of this agreement for subsequent performance periods not to exceed a total duration of five years from the execution date, including the subsequent performance periods.
- j. This agreement is effective through June 30th, 2024, at which time it will expire unless renewed.

IN WITNESS WHEREOF, the PARTIES hereto have executed this agreement as of the date of last signature obtain

Cooperator Representative

Wade Heaton
Wade Heaton (Jun 8, 2020 16:40 EDT)

Signature

06/08/2020

Date

Print or Type Name

Utah Division of Forestry, Fire and State Lands
Financial Manager

Stacy Carroll
Stacy Carroll (Jun 9, 2020 06:54 EDT)

Signature

06/09/2020

Date

Print or Type Name

Utah Division of Forestry, Fire and State Lands
Deputy Director

Brian L. Cotton
Signature

6-9-20
Date

Attorney General

Fred Donaldson
Fred Donaldson (Jun 8, 2020 17:01 EDT)

Signature

06/08/2020

Date

Print or Type Name

Print or Type Name

Division of Finance

**RECEIVED AND PROCESSED
BY DIVISION OF FINANCE**

06/16/2020

Signature

Date

Print or Type Name

ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS FOR SERVICES

This is for a contract for services (including professional services) meaning the furnishing of labor, time, or effort by a contractor.

1. DEFINITIONS: The following terms shall have the meanings set forth below:

- a) **Confidential Information** means information that is deemed as confidential under applicable state and federal laws, including personal information. The State Entity reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
- b) **Contract** means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" may include any purchase orders that result from this Contract.
- c) **Contract Signature Page(s)** means the State of Utah cover page(s) that the State Entity and Contractor sign.
- d) **Contractor** means the individual or entity delivering the Services identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
- e) **Custom Deliverable** means the Work Product that Contractor is required to deliver to the State Entity under this Contract.
- f) **Services** means the furnishing of labor, time, or effort by Contractor pursuant to this Contract. Services include, but are not limited to, all of the deliverable(s) (including Custom Deliverable, supplies, equipment, or commodities) that result from Contractor performing the Services pursuant to this Contract. Services include those professional services identified in Section 63G-6a-103 of the Utah Procurement Code.
- g) **Proposal** means Contractor's response to the State Entity's Solicitation.
- h) **Solicitation** means the documents used by the State Entity to obtain Contractor's Proposal.
- i) **State Entity** means the department, division, office, bureau, agency, or other organization identified on the Contract Signature Page(s).
- j) **State of Utah** means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized volunteers.
- k) **Subcontractors** means subcontractors or subconsultants at any tier that are under the direct or indirect control or responsibility of the Contractor, and includes all independent contractors, agents, employees, authorized resellers, or anyone else for whom the Contractor may be liable at any tier, including a person or entity that is, or will be, providing or performing an essential aspect of this Contract, including Contractor's manufacturers, distributors, and suppliers.
- l) **Work Product** means every invention, modification, discovery, design, development, customization, configuration, improvement, process, software program, work of authorship, documentation, formula, datum, technique, know how, secret, or intellectual property right whatsoever or any interest therein (whether patentable or not patentable or registerable under copyright or similar statutes or subject to analogous protection) that is specifically made, conceived, discovered, or reduced to practice by Contractor or Contractor's Subcontractors (either alone or with others) pursuant to this Contract. Work Product shall be considered a work made for hire under federal, state, and local laws; and all interest and title shall be transferred to and owned by the State Entity. Notwithstanding anything in the immediately preceding sentence to the contrary, Work Product does not include any State Entity intellectual property, Contractor's intellectual property (that it owned or licensed prior to this Contract) or Third Party intellectual property.

- 2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
- 3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
- 4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made by the State Entity to Contractor under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, the State of Utah, federal auditors, and State Entity staff, access to all such records.
- 5. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process and to sole sources that are included within a Request for Proposal.
 - 1. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 - 2. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
 - 3. Contractor's failure to comply with this section will be considered a material breach of this Contract.
- 6. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State Entity or the State of Utah, unless disclosure has been made to the State Entity.

7. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the State Entity or the State of Utah.
8. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the State Entity and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract to the extent caused by any intentional wrongful act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of the State Entity. The parties agree that if there are any limitations of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property.
9. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by federal and state employment laws, including: (i) Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e), which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; (ii) Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; (iii) 45 CFR 90, which prohibits discrimination on the basis of age; (iv) Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disabilities; and (v) Utah's Executive Order 2019-1, dated February 5, 2019, which prohibits unlawful harassment in the workplace. Contractor further agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
10. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement of the parties, provided that the amendment is within the Scope of Work of this Contract and is within the scope/purpose of the original solicitation for which this Contract was derived. The amendment will be attached and made part of this Contract. Automatic renewals will not apply to this Contract, even if listed elsewhere in this Contract.
11. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Contractor must notify the State Entity within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
12. **TERMINATION:** This Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and is subject to the remedies listed below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by the State Entity, upon thirty (30) days written termination notice being given to the Contractor. The State Entity and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing. On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved Services ordered prior to date of termination.
Contractor shall be compensated for the Services properly performed under this Contract up to the effective date of the notice of termination. Contractor agrees that in the event of such termination for cause or without cause, Contractor's sole remedy and monetary recovery from the State Entity or the State of Utah is limited to full payment for all Services properly performed as authorized under this Contract up to the date of termination as well as any reasonable monies owed as a result of Contractor having to terminate other contracts necessarily and appropriately entered into by Contractor pursuant to this Contract. In no event shall the State Entity be liable to the Contractor for compensation for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State Entity's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State Entity for any damages or claims arising under this Contract.
13. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, this Contract may be terminated in whole or in part at the sole discretion of the State Entity, if the State Entity reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects the State Entity's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to, a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor. If a written notice is delivered under this section, the State Entity will reimburse Contractor for the Services properly ordered until the effective date of said notice. The State Entity will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.
14. **SUSPENSION OF WORK:** Should circumstances arise which would cause the State Entity to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by written notice. Contractor's responsibilities may be reinstated upon advance formal written notice from the State Entity.
15. **SALES TAX EXEMPTION:** The Services under this Contract will be paid for from the State Entity's funds and used in the exercise of the State Entity's essential functions as a State of Utah entity. Upon request, the State Entity will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request the State Entity's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
16. **CONTRACTOR'S INSURANCE RESPONSIBILITY:** The Contractor shall maintain the following insurance coverage:
 - a. Workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers'

compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.

- b. Commercial general liability [CGL] insurance from an insurance company authorized to do business in the State of Utah. The limits of the CGL insurance policy will be no less than one million dollars (\$1,000,000.00) per person per occurrence and three million dollars (\$3,000,000.00) aggregate.
- c. Commercial automobile liability [CAL] insurance from an insurance company authorized to do business in the State of Utah. The CAL insurance policy must cover bodily injury and property damage liability and be applicable to all vehicles used in your performance of Services under this Agreement whether owned, non-owned, leased, or hired. The minimum liability limit must be \$1 million per occurrence, combined single limit. The CAL insurance policy is required if Contractor will use a vehicle in the performance of this Contract.
- d. Other insurance policies required in the Solicitation.

Certificate of Insurance, showing up-to-date coverage, shall be on file with the State Entity before the Contract may commence.

The State reserves the right to require higher or lower insurance limits where warranted. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.

17. RESERVED.

18. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the State Entity and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the State of Utah Division of Purchasing and General Services, Contractor also agrees that the Contractor's Proposal to the Solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. The State Entity and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
19. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State Entity, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.
20. **ACCEPTANCE AND REJECTION:** The State Entity shall have thirty (30) days after the performance of the Services to perform an inspection of the Services to determine whether the Services conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Services by the State Entity.

If Contractor delivers nonconforming Services, the State Entity may, at its option and at Contractor's expense: (i) return the Services for a full refund; (ii) require Contractor to promptly correct or reperform the nonconforming Services subject to the terms of this Contract; or (iii) obtain replacement Services from another source, subject to Contractor being responsible for any cover costs.

21. **INVOICING:** Contractor will submit invoices within thirty (30) days of Contractor's performance of the Services to the State Entity. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by the State Entity will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Proposal or on its invoice. The State Entity has the right to adjust or return any invoice reflecting incorrect pricing.
22. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by the State Entity, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without a written protest filed with the State Entity within ten (10) business days of receipt of final payment, shall release the State Entity and the State of Utah from all claims and all liability to the Contractor. The State Entity's payment for the Services shall not be deemed an acceptance of the Services and is without prejudice to any and all claims that the State Entity or the State of Utah may have against Contractor. The State of Utah and the State Entity will not allow the Contractor to charge end users electronic payment fees of any kind.
23. **TIME IS OF THE ESSENCE:** The Services shall be completed by any applicable deadline stated in this Contract. For all Services, time is of the essence. Contractor shall be liable for all reasonable damages to the State Entity, the State of Utah, and anyone for whom the State of Utah may be liable as a result of Contractor's failure to timely perform the Services required under this Contract.
24. **CHANGES IN SCOPE:** Any changes in the scope of the Services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of Services.

25. **PERFORMANCE EVALUATION:** The State Entity may conduct a performance evaluation of Contractor's Services, including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.

26. **STANDARD OF CARE:** The Services of Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the Services that are the subject of this Contract. Contractor shall be liable to the State Entity and the State of Utah for claims, liabilities, additional burdens, penalties, damages, or third party claims (e.g., another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.

27. **REVIEWS:** The State Entity reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the Services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.

28. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the State Entity.

29. **REMEDIES:** Any of the following events will constitute cause for the State Entity to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. The State Entity may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, the State Entity may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the State Entity or the State of Utah; or (v) demand a full refund of any payment that the State Entity has made to Contractor under this Contract for Services that do not conform to this Contract.

30. **FORCE MAJEURE:** Neither party to this Contract will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. The State Entity may terminate this Contract after determining such delay will prevent successful performance of this Contract.

31. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify the State Entity of any potential or actual misuse or misappropriation of Confidential Information.

Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the State Entity and the State of Utah, including anyone for whom the State Entity or the State of Utah is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.

Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the State Entity or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.

32. **PUBLICITY:** Contractor shall submit to the State Entity for written approval all advertising and publicity matters relating to this Contract. It is within the State Entity's sole discretion whether to provide approval, which must be done in writing.

33. **CONTRACT INFORMATION:** Contractor shall provide information regarding job vacancies to the State of Utah Department of Workforce Services, which may be posted on the Department of Workforce Services website. Posted information shall include the name and contact information for job vacancies. This information shall be provided to the State of Utah Department of Workforce Services for the duration of this Contract. This requirement does not preclude Contractor from advertising job openings in other forums throughout the State of Utah.

34. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the State Entity and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the State Entity or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.

35. **OWNERSHIP IN CUSTOM DELIVERABLES:** In the event that Contractor provides Custom Deliverables to the State Entity, pursuant to this Contract, Contractor grants the ownership in Custom Deliverables, which have been developed and delivered by Contractor exclusively for the State Entity and are specifically within the framework of fulfilling Contractor's contractual obligations under this contract. Custom Deliverables shall be deemed work made for hire, such that all intellectual property rights, title and interest in the Custom Deliverables shall pass to the State Entity, to the extent that the Custom Deliverables are not recognized as work made for hire. Contractor hereby assigns to the State Entity any and all copyrights in and to the Custom Deliverables, subject to the following:

1. Contractor has received payment for the Custom Deliverables,
2. Each party will retain all rights to patents, utility models, mask works, copyrights, trademarks, trade secrets, and any other form of protection afforded by law to inventions, models, designs, technical information, and applications ("Intellectual Property Rights") that it owned or controlled prior to the effective date of this contract or that it develops or acquires from activities independent of the services performed under this contract ("Background IP"), and
3. Contractor will retain all right, title, and interest in and to all Intellectual Property Rights in or related to the services, or tangible components thereof, including but not limited to (a) all know-how, intellectual property, methodologies, processes, technologies, algorithms, software, or development tools used in performing the Services (collectively, the "Utilities"), and

(b) such ideas, concepts, know-how, processes and reusable reports, designs, charts, plans, specifications, documentation, forms, templates, or output which are supplied or otherwise used by or on behalf of Contractor in the course of performing the Services or creating the Custom Deliverables, other than portions that specifically incorporate proprietary or Confidential Information or Custom Deliverables of the State Entity (collectively, the "Residual IP"), even if embedded in the Custom Deliverables.

4. Custom Deliverables, not including Contractor's Intellectual Property Rights, Background IP, and Residual IP, may not be marketed or distributed without written approval by the State Entity.

Contractor agrees to grant to the State Entity a perpetual, irrevocable, royalty-free license to use Contractor's Background IP, Utilities, and Residual IP, as defined above, solely for the State Entity and the State of Utah to use the Custom Deliverables. The State Entity reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for the State Entity's and the State of Utah's internal purposes, such Custom Deliverables. For the Goods delivered that consist of Contractor's scripts and code and are not considered Custom Deliverables or Work Product, for any reason whatsoever, Contractor grants the State Entity a non-exclusive, non-transferable, irrevocable, perpetual right to use, copy, and create derivative works from such, without the right to sublicense, for the State Entity's and the State of Utah's internal business operation under this Contract. The State Entity and the State of Utah may not participate in the transfer or sale of, create derivative works from, or in any way exploit Contractor's Intellectual Property Rights, in whole or in part.

36. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The State Entity and Contractor agree that each has no right, title, interest, proprietary or otherwise in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All deliverables, documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically created or manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the State Entity.
37. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
38. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.
39. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
40. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The State Entity, after consultation with the Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the State Entity appoints such an expert or panel, State Entity and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
41. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of the State Entity or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
42. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice the State Entity's right to enforce this Contract with respect to any default or defect in the Services that has not been cured.
43. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
44. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

(Revision Date: 12 December 2019)

**COOPERATIVE AGREEMENT FOR HAZARDOUS FUELS MANAGEMENT
BETWEEN
UTAH DIVISION OF FORESTRY, FIRE, & STATE LANDS
AND
CEDAR MOUNTAIN FIRE PROTECTION DISTRICT**
Attachment B

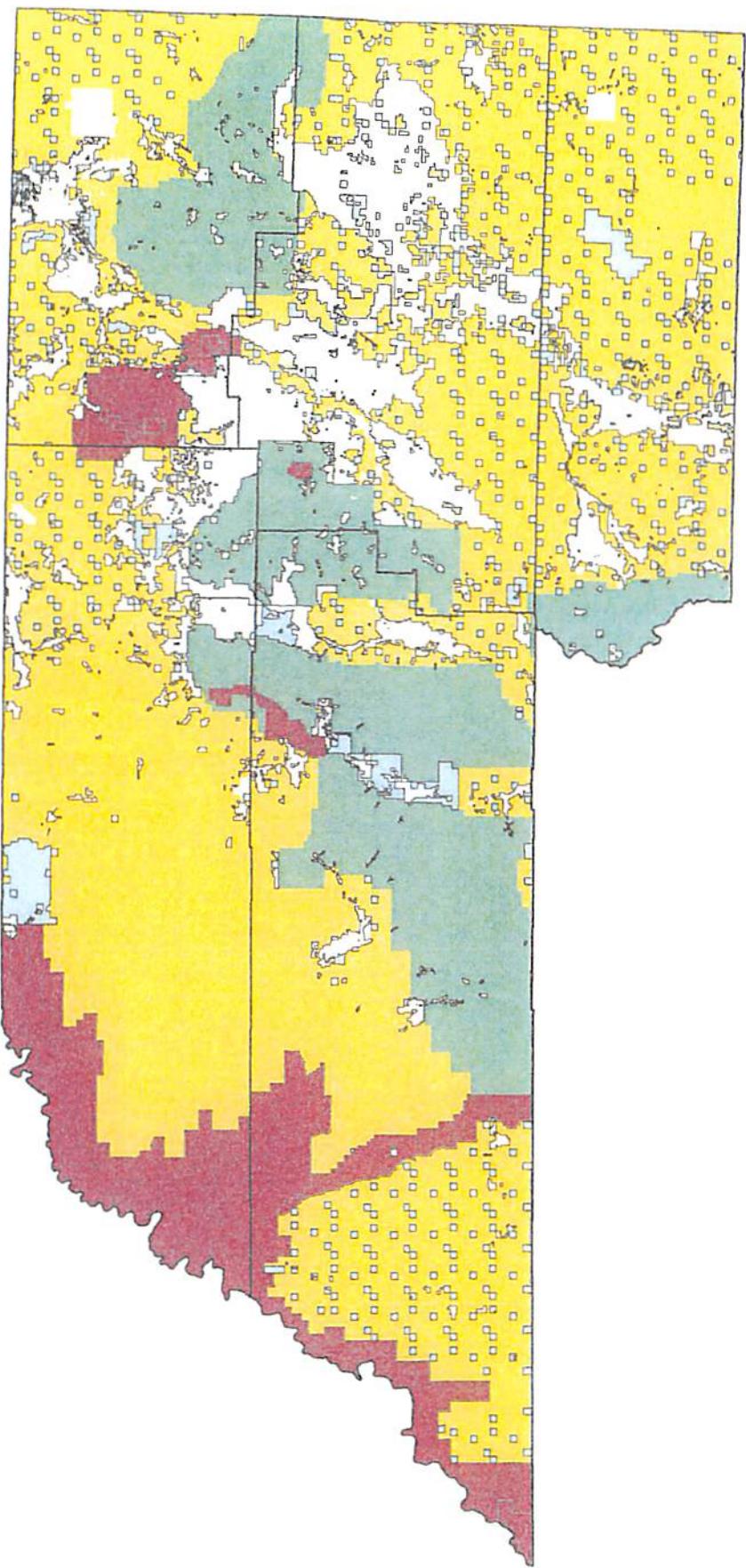
Schedule of Rates for Fuels Reduction:

Action	Rate	Unit	Comments
Cut and Pile: Pinyon and Juniper & Brush (moderate density)	\$900	Acre	Labor + all expenses Slope < 30%
Cut and Pile: Pinyon and Juniper & Brush (high density)	\$1100	Acre	Labor + all expenses Slope > 30%
Cut and Pile: mixed conifer (moderate density)	\$1500	Acre	Labor + all expenses Slope < 30%
Cut and Pile: mixed conifer (high density)	\$1700	Acre	Labor + all expenses Slope > 30%

Rates above will be included in the scope of work for each project or unit if the project is delineated into multiple units.

A map showing completed work by the acre will accompany all invoices. Crew Time Reports will accompany all work completed by the hour or by the day.

Southwest Area Fuels Co-op Agreement



ITEM # 13

**Kane County-Orderville Interlocal Agreement for the
North Event Center**

INTERLOCAL COOPERATIVE AGREEMENT BETWEEN
KANE COUNTY AND THE TOWN OF ORDERVILLE
THE KANE COUNTY NORTH EVENT CENTER

This Interlocal Agreement (“Agreement”) is made and entered into this ____ day of _____, 2019, by and between Kane County, a political subdivision of the State of Utah, 76 North Main, Kanab, Utah 84741 (the “County”), and the Town of Orderville, a municipal corporation, P.O. Box 165, Orderville, Ut 84758 (“Orderville”).

RECITALS

WHEREAS, the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended, (the “Act”) permits local governmental units including cities and counties to make the most efficient use of their powers by enabling them to cooperate with other public agencies on the basis of mutual advantage and to create a legal entity to more efficiently provide governmental facilities, services and improvements to the general public; and

WHEREAS, all parties are public agencies within the meaning of section 103(13) of the Act; and

WHEREAS, pursuant to §11-13-202 of the Act, the parties are empowered to engage in joint or cooperative action; provide services that they are each authorized by statute to provide; to exchange services that they are each authorized by statute to provide; or to do anything else that they are each authorized by statute to do; and

WHEREAS, this agreement does not: include an out-of-state public agency as a party; provide for either public agency to acquire or construct any new facility or improvement to real property; provide for the acquisition or transfer of title to any real property by either party; require either party to issue bonds; create an interlocal entity; and

WHEREAS, the County has constructed the North Event Center (“NEC”), a building located on the Kane County Fair Grounds in Orderville, which serves the needs of the fair and many other public interests; and

WHEREAS, the County maintains the Valley Senior Center, also located in Orderville, for the purpose of providing food and social interaction for Senior Citizens living in the County; and

WHEREAS, the residents of Orderville benefit from both the NEC and the Valley Senior Center because of their location in Orderville; and

WHEREAS, there exists a need to schedule and generally maintain the NEC; and

WHEREAS, there exists an ongoing need for cleaning of the Valley Senior Center and, the County desires to pay Orderville to clean the Valley Senior Center; and

WHEREAS, the County desires Orderville to manage, and schedule the NEC and Orderville desires to provide those services.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the adequacy of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. No Interlocal Entity Created. This agreement shall not create an Interlocal Entity within the meaning of the Act.
2. Duration. This MOU shall begin as of the 1st day of January 2019 and shall continue for an initial term of one (1) year. This MOU will extend automatically for additional one (1) year periods upon the same terms and conditions herein provided, unless either party provides written notice of termination at least thirty (30) days before the end of any term.
3. Termination. This Contract may be terminated at any time by Orderville or the County by ninety (90) days written notice.

4. NEC Cleaning and Maintenance. Kane County Buildings and Grounds Department will be responsible for cleaning and maintenance of the NEC.
5. Valley Senior Center Cleaning. The County shall pay Orderville a monthly fee of three hundred fifty dollars (\$350) during the first week of each month for the cleaning of the Valley Senior Center. Orderville shall provide the personnel for adequate cleaning of the Valley Senior Center. All necessary cleaning supplies and equipment will be provided by the County. Any personnel hired by Orderville for cleaning of the Valley Senior Center shall be under the general supervision of the County Grounds and Maintenance Director. Cleaning includes but is not limited to:
 - ❖ Cleaning all common areas to include hallways, entry ways, waiting rooms, kitchens, bathrooms, classrooms, and meeting rooms.
 - ❖ Vacuuming of carpets and rugs; Sweeping and mopping of bare floors
 - ❖ Dusting and cleaning of chairs, tables, counter tops, decorations, and any other common surfaces.
 - ❖ Cleaning kitchen appliances, bath tubs and/or shower stalls, toilets, sinks, and water fixtures;
 - ❖ Removal of trash from interior trash containers to outdoor Dumpster or other disposal container located on Client's premises.
 - ❖ Putting away tables and chairs.
 - ❖ Refilling all paper towels, soap and toilet paper in the bathrooms.
 - ❖ Other duties as assigned by County Grounds and Maintenance Director.
6. Snow Removal. Orderville shall be responsible for the snow removal at the NEC. All parking lots and other drive ways shall be plowed and salted whenever the snow reaches three inches. All sidewalks and other areas of general pedestrian traffic shall be shoveled and salted and in general shall be kept clear of any snow and ice regardless of the amount of snow fall. Kane County will make a reasonable effort to remove the snow from the greater parking lot area and may assist with general snow removal. The County may provide snow removal equipment when available to include a snow blower.

7. NEC Scheduling. Orderville shall be responsible for maintaining a schedule for the NEC and accepting and processing applications to use the building. Orderville shall make the schedule available on a publicly viewable electronic calendar such as Google Calendars so that the public may have easy access to viewing the schedule. Orderville shall comply with County policy when scheduling the NEC, including but not limited to the types of activities that are allowed to be scheduled and the fees to be collected for each type of activity. Orderville shall collect and manage any security or cleaning deposit. Orderville shall collect the application fees from the applicants and shall keep any such fees as compensation for processing of applications and maintaining the schedule.
8. Insurance and Liability. The County shall maintain insurance on the building in accordance with the general policies of the Utah Counties Indemnity Pool. Any activity sponsored by Orderville shall be the responsibility of Orderville. Any activity not sponsored by the County or by Orderville shall be responsible for their own insurance and shall be required to waive any and all liability that could arise against the County and shall indemnify the County against said liabilities.
9. Indemnification. Orderville agrees to indemnify and hold harmless the County for any acts that arise from this MOU due to the negligence of Orderville.
10. Keys. The County shall provide five copies of the keys for the NEC and the Valley Senior Center to Orderville.
11. Utilities. The County shall continue to pay the utilities for the NEC and the Valley Senior Center. Orderville shall make its best efforts to reduce the cost of utilities by ensuring that lights are turned off after events are finished and that the heat and air conditioning are set at reasonable temperatures taking into consideration non-used time periods.

12. Other. Orderville agrees that it shall not disturb or modify any sound equipment or mechanical, electronic, IT, phone, HVAC, or other structural component of the buildings without first consulting with the appropriate county official or personnel.

13. Entire Agreement. This MOU constitutes the entire agreement between the parties pertaining to the subject matter contained in this MOU. Except as provided herein, all prior and contemporaneous agreements, representations and understandings of the parties, oral or written, are superseded by and merged in this MOU. No supplement, modification or amendment of this MOU shall be binding unless it reduced to writing and executed by both parties.

14. Severability. If any section, clause, sentence or portion of this MOU is declared for any reason to be invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions and the same shall be deemed to continue in full force and effect as if this MOU had been executed with the invalid portions eliminated.

SIGNATURES

IN WITNESS WHEREOF, the parties sign the foregoing MOU through appropriate and authorized representatives on the date first noted above.

For Orderville:

ATTEST:

Robert Caruso,
Orderville Mayor

Orderville Recorder

For the County:

ATTEST:

Lamont Smith,
County Commission Chair

Karla Johnson
County Clerk

ITEM # 14

**Authorization to File Additional Quiet Title Action
Regarding Kane County RS2477 Roads Including the Sand
Dunes Road and Other Sand Dunes Area Roads**

ITEM # 15

Review of Legislative Issues

ITEM # 16

Commissioner Report on Assignments