



Washington City Council
Workshop Meeting Agenda
July 9, 2025

PUBLIC NOTICE is hereby given that the Washington City Council will hold a Public Electronic Workshop Meeting on **Wednesday, July 9, 2025 at 4:00 P.M.** or immediately following the Public Forum, hosted at Washington City Hall located at 111 North 100 East, Washington, Utah. The meeting will be broadcast via Youtube Live linked online at <https://washingtoncity.org/meetings>

1. Approval of the Agenda
2. Land Reserve
3. Pine View High School Homecoming Events
4. Canal Easement Agreement
5. Adjournment

POSTED on this 3rd day of July 2025
Tara Pentz, City Recorder

In accordance with the Americans with Disabilities Act, Washington City will make reasonable accommodations to participate in the meeting. Requests for assistance can be made by calling the City Recorder at 656-6308 at least 24 hours in advance of the meeting to be held.

ASSIGNMENT OF EASEMENTS AND FACILITIES LIABILITY AGREEMENT

THIS ASSIGNMENT OF EASEMENTS AND FACILITIES LIABILITY

AGREEMENT ("Agreement") is entered into this ____ day of _____, 2025, ("Effective Date") between City of Washington, a Utah municipal corporation ("City"), and the ST. GEORGE AND WASHINGTON CANAL COMPANY (aka the St. George and Washington Fields Canal Company), a Utah non-profit corporation, ("Company"), City and Company may also be referred to collectively as the "Parties" or individually as a "Party."

RECITALS

- A. Company was organized for, among other purposes, to own rights to the use of water for various beneficial uses and to deliver those waters for use by its stockholders.
- B. In pursuing this and other Company purposes, Company has acquired certain recorded and prescriptive rights-of-way and easements and constructed facilities within these rights-of-ways and easements for: (1) the conveyance and distribution of Company's waters from their source to the lands of stockholders for beneficial use of the waters (hereafter "Conveyance Easements") and (2) the collection and conveyance of (i) sluice waters for maintaining Company diversion facilities' flow capacities: (ii) runoff/tail/waste water from lands irrigated with Company's waters; and (iii) conveyance of these sluice/runoff/tail/waste waters to Ft. Pearce Wash, Seegmiller Marsh and the Virgin River (hereafter "Drainage Easements").
- C. Originally the majority of these Conveyance Easements and Drainage Easements were located outside City's corporate boundaries, but as City has grown through annexation of lands, portions of the Conveyance Easements and Drainage Easements are now located within City's corporate boundaries
- D. Associated with City's approvals of subdivisions and other development within these annexed lands, City has incorporated some or portions of Company's Drainage Easements into its Storm Water drainage system to carry and dispose of City's Storm Water and other wastewater from lands developed within its corporate boundaries. City has also incorporated some of the Drainage Easements into its Storm Water drainage masterplan to be utilized in the future to carry Storm Water and other wastewater from future developments within City's corporate boundaries.
- E. Company is concerned that City's discharge (whether under Company's authorization or otherwise) of Storm Water or other wastewaters into Company's drains and Drainage Easements may, when added to Company's existing sluice, and irrigation runoff/tail/wastewaters from Company's stockholders' lands, exceed the capacity of the drains/Drainage Easements resulting in overflows that damage private or public facilities which may subject Company to claims for property damage, bodily injury, and/or death based on these overflows.
- F. Development of lands adjacent to Company's Conveyance Easements and Drainage Easements have in some instances, resulted in encroachments by utilities into Company's Conveyance Easements and/or Drainage Easements thereby: (i) exposing Company facilities within Company's easements to damage arising from the construction, operation

and maintenance of these utilities; (ii) impeding Company in accomplishing Company's purposes to deliver water for the benefit of its stockholders and conveying wastewaters for discharge; and (iii) exposing Company to potential claims for damage to these utility encroachments as a result of Company's operation, maintenance and repair activities associated with its system facilities within its Conveyance Easements and Drainage Easements.

- G. City and Company desire to enter into this agreement to define the rights, responsibilities and obligations of the Parties with regard to Company's Conveyance Easements and Drainage Easements.

NOW, THEREFORE, in consideration of the mutual covenants, conditions, agreements, and representations contained herein, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

AGREEMENT

1 Definitions.

- A. Conveyance Easements: Those recorded and prescriptive conveyance easements and facilities located therein acquired and constructed by Company as now existing in the public record and as actually located on the ground as set out in Exhibit A, attached hereto and incorporated herein by this reference. These easements and facilities are used for the conveyance and distribution of Company's waters from their source throughout Company's service area for use by Company's stockholders for beneficial uses.
- B. Drainage Easements: Those recorded and prescriptive drainage easements and facilities located therein acquired and constructed by Company as now existing in the public record and as actually located on the ground as set out in Exhibit B, attached hereto and incorporated herein by this reference. These easements and facilities are used for the collection of sluice waters, irrigation tail water/runoff from irrigated lands within the Company's service area and conveyance of said waters to the Ft. Pearce Wash, Seegmiller Marsh and Virgin River where they are discharged.
- C. "Storm Water" means runoff water from precipitation or flooding within the City's corporate boundaries and shall not mean sewage or wastewater from commercial, industrial, or residential sources within the City.

2 Acknowledgment of Company's Systems and Easements. City acknowledges and agrees as follows:

- A. Company has existing physical facilities systems constructed within Company's Conveyance Easements and Drainage Easements (as set out in Exhibits A and B) which easements are located across and through portions of City's municipal boundaries.
- B. These physical facilities systems and easements:
- (i) are for the conveyance and distribution of irrigation water to Company's stockholders and for the collection and discharge of irrigation runoff/tail/waste water from Company's stockholders' lands;

- (ii) include the right of access to operate, maintain, repair and replace Company's facilities within its Conveyance Easements and Drainage Easements; and
- (iii) pre-date, in most instances, any City-authorized development approval or occupancy (whether through permit, formal grant of easement or right-of-way or otherwise) of lands within Company's Conveyance Easements and Drainage Easements.

C. Company has already or shall within 30 days after the Effective Date file with City the contact information and general description of its facilities systems required under § 10-9a-2 111, Utah Code Ann.

- 3 Assignment of Drainage Easements. Within five (5) days of the Effective Date, and subject to the terms and conditions set forth herein, Company will assign to City all of its right, title and interest in and to its Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B in substantially the assignment form attached hereto as Exhibit C. The assignment will contain a reservation in Company of: (i) Company's rights to continue to utilize the Drainage Easements for the collection of sluice, and irrigation runoff/tail/wastewaters from Company's stockholders lands and conveyance and discharge of the sluice, irrigation runoff/ tail/wastewaters to the Ft. Perce Wash, Seegmiller Marsh and Virgin River; and (ii) Company's right to notice and approval of any subsequent assignment, relocation, abandonment, or removal of any Drainage Easement. Company's approval may not be unreasonably withheld upon a showing of: (a) no reduction in the historic flow capacity through the drain routing replacing the relocated, abandoned or removed drain reach; and/or (b) the assignee's financial ability to operate, maintain, repair and replace the assigned drainage reach according to the terms of this agreement.
- 4 Operation & Maintenance of Drainage Easements. As partial consideration for Company's assignment of its Drainage Easements to City, City agrees to operate, manage, maintain and repair the drainage facilities within the Drainage Easements in that condition required to accept and adequately and safely convey: (i) the Company's historic sluice, irrigation runoff/tail/waste water flows from its stockholders' agricultural lands; and (ii) the additional Storm Water and other wastewaters added by and/or authorized by City to Company's Drainage Easements, drains and drainage facilities, and to safely convey these flows of sluice, drainage/runoff/tail/water and other Storm Water and wastewaters to the Ft. Pearce wash, Seegmiller Marsh and Virgin River. City agrees to take all actions necessary to ensure compliance with any and all applicable local, state, and federal water quality laws and regulations regarding collection and discharge of Storm Water and agricultural sluice, runoff/tail/waste water. In the event any federal, state, or local government laws or regulations are enacted or amended in the future concerning the handling or treatment of, or otherwise relating to, Storm Water, or agricultural sluice, runoff/tail/waste waters, including but not limited to all point/non-point source discharges, City agrees to comply with the requirements thereof.
- 5 Protection of Company's Conveyance Easements.
 - A. For purposes of this paragraph 5, "protect" and/or "protection" shall mean: to take all actions and precautions required to prevent damage to Company's irrigation conveyance/distribution facilities resulting from reasonably foreseeable construction/development activity located within Company's Conveyance Easements, including, but not limited to, the following:

- (i) requiring that all construction/development activity meets or exceeds accepted industry standards/specifications regarding material quality, utility separation (both vertical and lateral), protective cover depth, and cover/separation material (earth, concrete, asphalt, etc.);
- (ii) cooperate and assist Company in investigating and pursuing the removal or remediation of all unauthorized construction/development activity within City's municipal boundaries, including necessary informal or judicial actions to fully protect Company's facilities.
- (iii) periodic inspection/maintenance/repair/replacement of completed construction/development activity/infrastructure to ensure that long term use of completed construction/development activity/infrastructure has not/will not threaten the integrity of Company's facilities, including City's agreement to:
- (iv) repair or replace at City's sole expense Company facilities damaged by development activity or infrastructure installation that is approved or authorized in writing by the City and where such development activity or infrastructure installation has or will become incorporated into City's public utility infrastructure;
- (v) repair or replace at City's sole expense Company facilities damaged by the long term use of completed construction or development activity or infrastructure development and where the damage was reasonably foreseeable at the time of City's approval or authorization in writing.

B. City shall protect Company's irrigation conveyance/distribution facilities located within Company's Conveyance Easements on lands currently located within City's municipal boundaries and on all lands that City may annex in the future. In City's approval of construction, repair, maintenance or replacement of public/private infrastructure, including, but not limited to, roads, waterworks, sewage, electric, drainage or communication facilities located within Company's Conveyance Easements, City shall respect Company's right to occupy its easements by requiring City contractors, private developers and all others to protect Company's conveyance/distribution facilities and repair (when damaged), construct and/or relocate Company's facilities (where required by such public/private infrastructure) in accordance with Company's specific plans and authorizations at either City's or the private developer's sole expense. City agrees to bear all costs of protection and repair of all damaged Company facilities within the Conveyance Easements resulting from all construction or other activity occurring within Company's Conveyance Easements and where such construction, repair, maintenance, replacement or other activity is a facility that has been or will become dedicated into City's public utility infrastructure. More specifically City agrees as follows:

- (i) For lands already annexed into City and which lands also include a portion of Company's Conveyance Easements, City agrees to indemnify, save harmless and defend Company from and against all property damage (including damage to Company facilities located therein), bodily injury including death, damage, liability, claims, actions, costs and charges which have arisen or may arise in the future and result from the construction, repair, maintenance, and/or replacement of public/private roads, utilities or other infrastructure over, under or adjacent to Company Conveyance Easements where such construction, repair, maintenance,

and/or replacement, or other activity is a facility that has been or will become incorporated into City's public utility infrastructure.

- (ii) For lands that are annexed into the City's boundaries in the future and for all development activity that requires the construction of roads, public/private utilities or other infrastructure over, under, across, through, or adjacent to Company's Conveyance Easements, City agrees to require that such infrastructure construction protects Company's conveyance/distribution facilities by requiring that all construction/development activity be approved by City and require inspection and as-built drawings verifying that such construction, repair, maintenance or replacement activity has been completed in accordance with approved specifications.
- (iii) City agrees to indemnify, save harmless and defend Company from and against all property damage, bodily injury, liability, claims, actions, costs and charges arising from the construction, repair, maintenance, and/or replacement activities associated with public roads, utilities or other infrastructure over, under, across, through or adjacent to Company Conveyance Easements and where such infrastructure does become dedicated into City's public utility infrastructure. This provision does not relieve City from giving the notice required under § 10-9a-603(3)(d), UTAH CODE ANN.

C. When Company determines to repair or maintain its existing irrigation conveyance/distribution facilities located within its Conveyance Easements and Company damages public infrastructure located within the Conveyance Easements, notwithstanding Company's exercise of reasonable care, City shall repair and restore public infrastructure within the Conveyance Easements at City's sole cost and expense. Nothing in this provision excuses Company from its obligation to repair and restore public infrastructure that Company damages that is not within the Conveyance Easements. This provision shall not excuse Company from its obligation to repair or restore when Company or its assign or agent damages public infrastructure within the Conveyance Easements due to negligence, or due to Company's failure to exercise reasonable care, or due to Company's failure to meet industry standards and specifications for the actions that caused the damage. In the event that Company determines to expand or replace its existing irrigation conveyance/distribution facilities located within its Conveyance Easements in a manner that would result in widespread destruction of public infrastructure within the Conveyance Easements, Company shall repair and restore public infrastructure within the Conveyance Easements unless Company and City reach a written agreement addressing the scale of destruction to public assets and assigning responsibility for restoration and repair.

- 6 Indemnification. In addition to the City's indemnifications under paragraph 5 above, City, its authorized successors and assigns agrees (to the maximum extent authorized by law) to indemnify, save harmless, and defend Company, its officers, agents, stockholders and employees from all claims, damages, injuries to persons (including death), property damage, demands, actions, costs, and charges, including attorney fees and expert witness fees, arising out of or resulting from: (i) City's construction, maintenance, repair or replacement projects or any other official City action that causes harm or damage to Company's conveyance facilities located within its Conveyance Easements; (ii) City's modification(s) to the Drainage Easements set out and identified as City of Washington Drainage Easements in

Exhibit B (and facilities located therein); (iii) City's discharge of Storm Water and other wastewater into the drains/Drainage Easements (set out and identified as City of Washington Drainage Easements in Exhibit B) and management of such Storm Water and other wastewater including Company's sluice, runoff/tail/waste water through the drains/Drainage Easements until discharged into the Ft. Pearce Wash, Seegmiller Marsh, Virgin River or other wastewater facility; (iv) City's failure to maintain the drainage facilities within the Drainage Easements to adequately carry Company's historic flows plus any additional Storm Water and other wastewater that City adds to the drainage facilities; (v) any action, judgment, consent decree, or fine arising from, as a result of, or associated with City's management, operation, maintenance, repair or replacement of the Drainage Easements identified as Washington City Drainage Easements in Exhibit B and which are actually assigned to City in practice and as contemplated under this agreement; and (vi) City's violation of, or non-compliance with any local, state or federal ordinance, statute or regulation concerning the operation, management or discharge of Storm Water, other wastewater, sluice or agricultural runoff/waste water.

- 7 Company Representations and Warranties. Company hereby makes the following representations and warranties pertaining to its Drainage Easements and agrees that they shall be applicable as of the Signing Date.
- A. Subject to Company's grant to the State of Utah acting through the Board of Water Resources of its "easements, rights-of-way and permits" under the agreement dated November 22, 2005, Company shall assign title to its Drainage Easements to City by Assignment in substantially the form of Exhibit C.
 - B. Company has not received any notice and is not otherwise aware of any claims, actions, suits or other proceedings either pending, threatened, or, to the best of its knowledge, contemplated by any governmental agency, entity or person that might constitute a claim against the Company regarding any claim for property damage or bodily injury associated with Company's operation, maintenance or repair of its Drainage Easements.
 - C. Company has the full capacity, right, power and authority to enter into this Agreement and to make the transactions contemplated herein as evidenced by its Stockholders Resolution dated January 10, 2022.
 - D. This Agreement constitutes a valid and legally binding obligation of Company, enforceable in accordance with its terms.
 - E. The execution and performance of this Agreement by Company and the consummation of the transaction contemplated herein will not result in a breach or constitute a default or event of termination under the provisions of any other agreement or instrument to which Company is bound.
 - F. Company is not in default in any respect of any judgment, order, writ, injunction, decision, law, ordinance or regulation of any court or governmental authority for which the Drainage Easements or any portion thereof are or might be subject to which might prohibit or delay or interfere with the consummation of this transaction.

- G. The person signing this Agreement has authority to do so and to execute the Assignment on behalf of Company.
- 8 City's Representations and Warranties. City hereby makes the following representations and warranties pertaining to its acceptance of the assignment, rights and obligations associated with this Agreement and agrees that such representations and warranties shall be applicable as of the Signing Date.
- A. City has the full capacity, right, power and authority to enter into this Agreement and consummate the transaction contemplated herein.
 - B. This Agreement constitutes a valid and legally binding obligation of City enforceable in accordance with its terms.
 - C. The execution and performance of this Agreement by City and the consummation of the transaction contemplated herein will not result in a breach or constitute a default or event of termination under the provisions of any other agreement or instrument to which City is bound.
 - D. The person signing this Agreement has authority to do so.
- 9 Term. This Agreement shall be perpetual and shall remain in force and effect unless terminated upon the mutual written consent of the Parties. If during the term of this Agreement changed circumstances occur which make the performance by a Party impractical, impossible, or illegal, the Parties shall meet and exercise good faith efforts to modify or terminate this Agreement in light of the changed circumstances.
- 10 Rights. The City shall not acquire any shareholder rights, including voting rights in the Company, by virtue of this Agreement or Company's assignment of drains and Drainage Easements to City under this Agreement. Except for the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B assigned by Company under the Assignment, this agreement shall not be construed to convey to City any interest in Company's facilities, service area, water conveyance/distribution facilities capacity, water rights, or other assets or interests held by the Company or its shareholders. Nothing in this agreement restricts City from lawfully obtaining rights in Company or within Company's service area. Nothing in this agreement prohibits the City and Company from entering into future contracts.
- 11 Execution. The Company shall execute this Agreement within ten (10) business days after approval of this Agreement by Company shareholders. City shall execute the Agreement following approval by the City Council. Consistent with the provisions of Section 3 above, Company shall execute and deliver to City the Assignment assigning all of its right, title and interest in the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B, subject to the reservation in Company of certain rights.
- 12 Integrated Agreement. This Agreement sets forth the entire understanding, intent, and agreement of the Parties hereto with respect to the subject matter contained herein, and there are no other representations or warranties, either written or oral, which shall be binding on the Parties hereto except those contained herein. Any modifications of this Agreement must be in writing and signed by both Parties.

- 13 Compliance With Law. The Parties shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.
- 14 Assignability. No assignment of this Agreement shall be allowed absent the written consent of the Parties, which consent will not be unreasonably withheld. Consent may be reasonably withheld, including but not limited to instances where, in the opinion of the non- assigning party, the assignee is not financially or otherwise capable of performing the obligations and responsibilities required under this Agreement.
- 15 Notices. All notices required or desired to be given hereunder shall be in writing and shall be deemed to have been given on the date of personal service upon the party for whom intended or if mailed by certified mail, return receipt requested, postage prepaid, and addressed to the Parties at the following addresses:

City: City of Washington Attn: City Attorney
111 North 100 East
Washington, Utah 84780

Company: St. George and Washington Canal Company
533 East Waterworks Drive
St. George, Utah 84770

Either Party may change its address for notice under this Agreement by giving written notice to the other Party as provided in this paragraph.

- 16 Default. An "Event of Default" shall occur under this Agreement if any Party fails to perform its obligations hereunder when those obligations are due and the defaulting party has not performed the delinquent obligations within twenty (20) days following delivery of written notice of such delinquency to the delinquent party.
- 17 Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all rights and remedies available at law and in equity, including injunctive relief and specific performance. In support of the latter remedy, the Parties acknowledge that their obligations under this Agreement are unique and defaults may not be adequately compensated by purely monetary damages. All rights and remedies shall be cumulative. Furthermore, the non-defaulting party shall have the right to cure the default and seek reimbursement from the defaulting party for the costs incurred in effecting the cure. Notwithstanding any provision herein to the contrary, the defaulting party shall reimburse the non-defaulting party for all costs and fees related to the cure of such default within thirty (30) days following delivery to the defaulting party of a written notice of such costs and fees together with reasonable supporting documentation.
- 18 No Waiver. A party's failure to enforce any provision of the Agreement shall not constitute a waiver of the right to enforce the provision in the future. A provision may be waived only in a writing by the party intended to be benefitted by the provision and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provision.

- 19 Mediation. If any dispute or claim in law or equity arises out of this Agreement, the parties agree to proceed in good faith to the resolution of such dispute or claim, including submitting the matter to mediation. A mediator shall be selected by mutual agreement of the parties, and the parties will divide equally the cost of mediation. If such mediation is not successful in resolving the dispute or claim, then such dispute or claim shall be litigated in the Fifth Judicial District Court in and for Washington County, State of Utah.
- 20 Attorney Fees. In the event of any action or suit by a party against the other party for breach of the terms of this Agreement or for other cause of action arising out of this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney fees, from the other party.
- 21 Severability. If any terms, covenant, or condition of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of the Agreement shall remain in full force and effect.
- 22 Time of Essence. Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.
- 23 Cooperation. The Parties shall cooperate together, take such additional actions, sign such additional documentation and provide such additional information as reasonably necessary to accomplish the objectives set forth herein.
- 24 Knowledge. The Parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and risks and having had the opportunity to obtain legal counsel of their choice.
- 25 Recitals. The Recitals contained in this Agreement are incorporated into the Agreement are incorporated into the Agreement.
- 26 No Relationship. Nothing in this Agreement shall be construed to create any partnership, Joint venture or fiduciary relationship between the parties.
- 27 Successors and Assigns. The terms and conditions of this Agreement shall bind all successors and approved assigns of the Parties hereto.
- 28 Governing Law. This Agreement shall be subject to and governed by the laws of the State of Utah and venue shall be in the State of Utah.
- 29 Survival/Merger. As expressed in paragraph 9 above, the intent of this agreement is to provide for and perpetuate City's continuing obligation to operate, manage and maintain the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B and to protect Company's Conveyance/Distribution system. Notwithstanding the Company's assignment of its Drainage Easements to City under paragraph 3, the provisions of paragraphs 4- 6, 9, 10\, 12-22, 27 and any other provision required to effect the Parties' intent shall survive Company's assignment of the Drainage Easements to City and City shall continue to be bound by these provisions after Company's assignment and signing.

30 Counterparts. This Agreement may be executed in multiple and separate counterparts, each of which when so executed and delivered shall be deemed an original, and which together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

Washington City

St. George and Washington Canal Company

Kress Staheli
Its: Mayor

Matt Staheli
Its: President _____

STATE OF UTAH)
 : ss
COUNTY OF Washington)

On this ____ day of _____, 2025, appeared before me Kress Staheli _____ in his capacity as Mayor of Washington City and acknowledged that he is authorized to execute this Agreement.

NOTARY PUBLIC
My Commission Expires: _____
Residing at: _____

STATE OF UTAH)
 : ss
COUNTY OF Washington)

On this ____ day of _____, 2025, appeared before me Matt Staheli in his capacity as President of the St. George and Washington Canal Company and acknowledged that he/she is authorized to execute this agreement.

NOTARY PUBLIC
My Commission Expires: _____
Residing at: _____

ASSIGNMENT OF EASEMENTS AND FACILITIES LIABILITY AGREEMENT

Style Definition: Default Para

THIS ASSIGNMENT OF EASEMENTS AND FACILITIES LIABILITY

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facilities within Company's easements to damage arising from the construction, operation and maintenance of these utilities; (ii) impeding Company in accomplishing Company's purposes to deliver water for the benefit of its stockholders and conveying wastewaters for discharge; and (iii) exposing Company to potential claims for damage to these utility encroachments as a result of Company's operation, maintenance and repair activities associated with its system facilities within its Conveyance Easements and Drainage Easements.

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- runoff/tail/waste water from Company's stockholders' lands;
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C. Company has already or shall within 30 days after the Effective Date file with City the contact information and general description of its facilities systems required under § 10-9a-2 111, Utah Code Ann.

- 3 Assignment of Drainage Easements. Within five (5) days of the Effective Date, and subject to the terms and conditions set forth herein, Company will assign to City all of its right, title and interest in and to its Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B in substantially the assignment form attached hereto as Exhibit C. The assignment will contain a reservation in Company of: (i) Company's rights to continue to utilize the Drainage Easements for the collection of sluice, and irrigation runoff/tail/wastewaters from Company's stockholders lands and conveyance and discharge of the sluice, irrigation runoff/ tail/wastewaters to the Ft. Perce Wash, Seegmiller Marsh and Virgin River; and (ii) Company's right to notice and approval of any subsequent assignment, relocation, abandonment, or removal of any Drainage Easement. Company's approval may not be unreasonably withheld upon a showing of: (a) no reduction in the historic flow capacity through the drain routing replacing the relocated, abandoned or removed drain reach; and/or (b) the assignee's financial ability to operate, maintain, repair and replace the assigned drainage reach according to the terms of this agreement.
- 4 Operation & Maintenance of Drainage Easements. As partial consideration for Company's assignment of its Drainage Easements to City, City agrees to operate, manage, maintain and repair the drainage facilities within the Drainage Easements in that condition required to accept and adequately and safely convey: (i) the Company's historic sluice, irrigation runoff/tail/waste water flows from its stockholders' agricultural lands; and (ii) the additional Storm Water and other wastewaters added by and/or authorized by City to Company's Drainage Easements, drains and drainage facilities, and to safely convey these flows of sluice, drainage/runoff/tail/water and other Storm Water and wastewaters to the Ft. Pearce wash, Seegmiller Marsh and Virgin River. City agrees to take all actions necessary to ensure compliance with any and all applicable local, state, and federal water quality laws and regulations regarding collection and discharge of Storm Water and agricultural sluice, runoff/tail/waste water. In the event any federal, state, or local government laws or regulations are enacted or amended in the future concerning the handling or treatment of, or otherwise relating to, Storm Water, or agricultural sluice, runoff/tail/waste waters, including but not limited to all point/non-point source discharges, City agrees to comply with the requirements thereof.
- 5 Protection of Company's Conveyance Easements.
 - A. For purposes of this paragraph 5, "protect" and/or "protection" shall mean: to take all actions and precautions required to prevent damage to Company's irrigation conveyance/distribution facilities resulting from reasonably foreseeable

construction/development activity located within Company's Conveyance Easements, including, but not limited to, the following:

- (i) requiring that all construction/development activity meets or exceeds accepted industry standards/specifications regarding material quality, utility separation (both vertical and lateral), protective cover depth, and cover/separation material (earth, concrete, asphalt, etc.);
- (ii) cooperate and assist Company in investigating and pursuing the removal or remediation of all unauthorized construction/development activity within City's municipal boundaries, including necessary informal or judicial actions to fully protect Company's facilities.
- (iii) periodic inspection/maintenance/repair/replacement of completed construction/development activity/infrastructure to ensure that long term use of completed construction/development activity/infrastructure has not/will not threaten the integrity of Company's facilities, including City's agreement to:
- (iv) repair or replace at City's sole expense Company facilities damaged by development activity or infrastructure installation that is approved or authorized in writing by the City and where such development activity or infrastructure installation has or will become incorporated into City's public utility infrastructure;
- (v) repair or replace at City's sole expense Company facilities damaged by the long term use of completed construction or development activity or infrastructure development and where the damage was reasonably foreseeable at the time of City's approval or authorization in writing.

B. City shall protect Company's irrigation conveyance/distribution facilities located within Company's Conveyance Easements on lands currently located within City's municipal boundaries and on all lands that City may annex in the future. In City's approval of construction, repair, maintenance or replacement of public/private infrastructure, including, but not limited to, roads, waterworks, sewage, electric, drainage or communication facilities located within Company's Conveyance Easements, City shall respect Company's right to occupy its easements by requiring City contractors, private developers and all others to protect Company's conveyance/distribution facilities and repair (when damaged), construct and/or relocate Company's facilities (where required by such public/private infrastructure) in accordance with Company's specific plans and authorizations at either City's or the private developer's sole expense. City agrees to bear all costs of protection and repair of all damaged Company facilities within the Conveyance Easements resulting from all construction or other activity occurring within Company's Conveyance Easements and where such construction, repair, maintenance, replacement or other activity is a facility that has been or will become dedicated into City's public utility infrastructure. More specifically City agrees as follows:

- (i) For lands already annexed into City and which lands also include a portion of Company's Conveyance Easements, City agrees to indemnify, save harmless and defend Company from and against all property damage (including damage to Company facilities located therein), bodily injury including death, damage, liability, claims, actions, costs and charges which have arisen or may arise in the future and result from the construction, repair, maintenance, and/or replacement of public/private

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roads, utilities or other infrastructure over, under or adjacent to Company Conveyance Easements where such construction, repair, maintenance, and/or replacement, or other activity is a facility that has been or will become incorporated into City's public utility infrastructure.

- (ii) For lands that are annexed into the City's boundaries in the future and for all development activity that requires the construction of roads, public/private utilities or other infrastructure over, under, across, through, or adjacent to Company's Conveyance Easements, City agrees to require that such infrastructure construction protects Company's conveyance/distribution facilities by requiring that all construction/development activity be approved by City and require inspection and as-built drawings verifying that such construction, repair, maintenance or replacement activity has been completed in accordance with approved specifications.
- (iii) City agrees to indemnify, save harmless and defend Company from and against all property damage, bodily injury, liability, claims, actions, costs and charges arising from the construction, repair, maintenance, and/or replacement activities associated with public roads, utilities or other infrastructure over, under, across, through or adjacent to Company Conveyance Easements and where such infrastructure does become dedicated into City's public utility infrastructure. This provision does not relieve City from giving the notice required under § 10-9a-603(3)(d), UTAH CODE ANN.

C. When Company determines to repair or maintain its existing irrigation conveyance/distribution facilities located within its Conveyance Easements and Company damages public infrastructure located within the Conveyance Easements, notwithstanding Company's exercise of reasonable care, City shall repair and restore public infrastructure within the Conveyance Easements at City's sole cost and expense. Nothing in this provision excuses Company from its obligation to repair and restore public infrastructure that Company damages that is not within the Conveyance Easements. This provision shall not excuse Company from its obligation to repair or restore when Company or its assign or agent damages public infrastructure within the Conveyance Easements due to negligence, or due to Company's failure to exercise reasonable care, or due to Company's failure to meet industry standards and specifications for the actions that caused the damage. In the event that Company determines to expand or replace its existing irrigation conveyance/distribution facilities located within its Conveyance Easements in a manner that would result in widespread destruction of public infrastructure within the Conveyance Easements, Company shall repair and restore public infrastructure within the Conveyance Easements unless Company and City reach a written agreement addressing the scale of destruction to public assets and assigning responsibility for restoration and repair.

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- 6 **Indemnification.** In addition to the City's indemnifications under paragraph 5 above, City, its authorized successors and assigns agrees (to the maximum extent authorized by law) to indemnify, save harmless, and defend Company, its officers, agents, stockholders and employees from all claims, damages, injuries to persons (including death), property damage, demands, actions, costs, and charges, including attorney fees and expert witness fees, arising out of or resulting from: (i) City's construction, maintenance, repair or

replacement projects or any other official City action that causes harm or damage to Company's conveyance facilities located within its Conveyance Easements; (ii) City's modification(s) to the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B (and facilities located therein); (iii) City's discharge of Storm Water and other wastewater into the drains/Drainage Easements (set out and identified as City of Washington Drainage Easements in Exhibit B) and management of such Storm Water and other wastewater including Company's sluice, runoff/tail/waste water through the drains/Drainage Easements until discharged into the Ft. Pearce Wash, Seegmiller Marsh, Virgin River or other wastewater facility; (iv) City's failure to maintain the drainage facilities within the Drainage Easements to adequately carry Company's historic flows plus any additional Storm Water and other wastewater that City adds to the drainage facilities; (v) any action, judgment, consent decree, or fine arising from, as a result of, or associated with City's management, operation, maintenance, repair or replacement of the Drainage Easements identified as Washington City Drainage Easements in Exhibit B and which are actually assigned to City in practice and as contemplated under this agreement; and (vi) City's violation of, or non-compliance with any local, state or federal ordinance, statute or regulation concerning the operation, management or discharge of Storm Water, other wastewater, sluice or agricultural runoff/waste water.

- 7 Company Representations and Warranties. Company hereby makes the following representations and warranties pertaining to its Drainage Easements and agrees that they shall be applicable as of the Signing Date.
- A. Subject to Company's grant to the State of Utah acting through the Board of Water Resources of its "easements, rights-of-way and permits" under the agreement dated November 22, 2005, Company shall assign title to its Drainage Easements to City by Assignment in substantially the form of Exhibit C.
 - B. Company has not received any notice and is not otherwise aware of any claims, actions, suits or other proceedings either pending, threatened, or, to the best of its knowledge, contemplated by any governmental agency, entity or person that might constitute a claim against the Company regarding any claim for property damage or bodily injury associated with Company's operation, maintenance or repair of its Drainage Easements.
 - C. Company has the full capacity, right, power and authority to enter into this Agreement and to make the transactions contemplated herein as evidenced by its Stockholders Resolution dated January 10, 2022.
 - D. This Agreement constitutes a valid and legally binding obligation of Company, enforceable in accordance with its terms.
 - E. The execution and performance of this Agreement by Company and the consummation of the transaction contemplated herein will not result in a breach or constitute a default or event of termination under the provisions of any other agreement or instrument to which Company is bound.
 - F. Company is not in default in any respect of any judgment, order, writ, injunction, decision, law, ordinance or regulation of any court or governmental authority for which

the Drainage Easements or any portion thereof are or might be subject to which might prohibit or delay or interfere with the consummation of this transaction.

G. The person signing this Agreement has authority to do so and to execute the Assignment on behalf of Company.

8 City's Representations and Warranties. City hereby makes the following representations and warranties pertaining to its acceptance of the assignment, rights and obligations associated with this Agreement and agrees that such representations and warranties shall be applicable as of the Signing Date.

A. City has the full capacity, right, power and authority to enter into this Agreement and consummate the transaction contemplated herein.

B. This Agreement constitutes a valid and legally binding obligation of City enforceable in accordance with its terms.

C. The execution and performance of this Agreement by City and the consummation of the transaction contemplated herein will not result in a breach or constitute a default or event of termination under the provisions of any other agreement or instrument to which City is bound.

D. The person signing this Agreement has authority to do so.

9 Term. This Agreement shall be perpetual and shall remain in force and effect unless terminated upon the mutual written consent of the Parties. If during the term of this Agreement changed circumstances occur which make the performance by a Party impractical, impossible, or illegal, the Parties shall meet and exercise good faith efforts to modify or terminate this Agreement in light of the changed circumstances.

10 Rights. The City shall not acquire any shareholder rights, including voting rights in the Company, by virtue of this Agreement or Company's assignment of drains and Drainage Easements to City under this Agreement. Except for the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B assigned by Company under the Assignment, this agreement shall not be construed to convey to City any interest in Company's facilities, service area, water conveyance/distribution facilities capacity, water rights, or other assets or interests held by the Company or its shareholders. Nothing in this agreement restricts City from lawfully obtaining rights in Company or within Company's service area. Nothing in this agreement prohibits the City and Company from entering into future contracts.

11 Execution. The Company shall execute this Agreement within ten (10) business days after approval of this Agreement by Company shareholders. City shall execute the Agreement following approval by the City Council. Consistent with the provisions of Section 3 above, Company shall execute and deliver to City the Assignment assigning all of its right, title and interest in the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B, subject to the reservation in Company of certain rights.

- 12 Integrated Agreement. This Agreement sets forth the entire understanding, intent, and agreement of the Parties hereto with respect to the subject matter contained herein, and there are no other representations or warranties, either written or oral, which shall be binding on the Parties hereto except those contained herein. Any modifications of this Agreement must be in writing and signed by both Parties.
- 13 Compliance With Law. The Parties shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.
- 14 Assignability. No assignment of this Agreement shall be allowed absent the written consent of the Parties, which consent will not be unreasonably withheld. Consent may be reasonably- withheld, including but not limited to instances where, in the opinion of the non-assigning party, the assignee is not financially or otherwise capable of performing the obligations and responsibilities required under this Agreement.
- 15 Notices. All notices required or desired to be given hereunder shall be in writing and shall be deemed to have been given on the date of personal service upon the party for whom intended or if mailed by certified mail, return receipt requested, postage prepaid, and addressed to the Parties at the following addresses:
- City: City of Washington Attn: City Attorney
111 North 100 East
Washington, Utah 84780
- Company: St. George and Washington Canal Company
533 East Waterworks Drive
St. George, Utah 84770
- Either Party may change its address for notice under this Agreement by giving written notice to the other Party as provided in this paragraph.
- 16 Default. An "Event of Default" shall occur under this Agreement if any Party fails to perform its obligations hereunder when those obligations are due and the defaulting party has not performed the delinquent obligations within twenty (20) days following delivery of written notice of such delinquency to the delinquent party.
- 17 Remedies. Upon the occurrence of an Event of Default, the non-defaulting party shall have the right to exercise all rights and remedies available at law and in equity, including injunctive relief and specific performance. In support of the latter remedy, the Parties acknowledge that their obligations under this Agreement are unique and defaults may not be adequately compensated by purely monetary damages. All rights and remedies shall be cumulative. Furthermore, the non-defaulting party shall have the right to cure the default and seek reimbursement from the defaulting party for the costs incurred in effecting the cure. Notwithstanding any provision herein to the contrary, the defaulting party shall reimburse the non-defaulting party for all costs and fees related to the cure of such default within thirty (30) days following delivery to the defaulting party of a written notice of such costs and fees together with reasonable supporting documentation.
- 18 No Waiver. A party's failure to enforce any provision of the Agreement shall not

constitute a waiver of the right to enforce the provision in the future. A provision may be waived only in a writing by the party intended to be benefitted by the provision and a waiver by a party of a breach hereunder by the other party shall not be construed as a waiver of any succeeding breach of the same or other provision.

- 19 Mediation. If any dispute or claim in law or equity arises out of this Agreement, the parties agree to proceed in good faith to the resolution of such dispute or claim, including submitting the matter to mediation. A mediator shall be selected by mutual agreement of the parties, and the parties will divide equally the cost of mediation. If such mediation is not successful in resolving the dispute or claim, then such dispute or claim shall be litigated in the Fifth Judicial District Court in and for Washington County, State of Utah.
- 20 Attorney Fees. In the event of any action or suit by a party against the other party for breach of the terms of this Agreement or for other cause of action arising out of this Agreement, the prevailing party shall be entitled to recover all costs and expenses, including reasonable attorney fees, from the other party.
- 21 Severability. If any terms, covenant, or condition of this Agreement shall be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and the remainder of the Agreement shall remain in full force and effect.
- 22 Time of Essence. Time is expressly made of the essence with respect to the performance of each and every obligation hereunder.
- 23 Cooperation. The Parties shall cooperate together, take such additional actions, sign such additional documentation and provide such additional information as reasonably necessary to accomplish the objectives set forth herein.
- 24 Knowledge. The Parties have read this Agreement and have executed it voluntarily after having been apprised of all relevant information and risks and having had the opportunity to obtain legal counsel of their choice.
- 25 Recitals. The Recitals contained in this Agreement are incorporated into the Agreement are incorporated into the Agreement.
- 26 No Relationship. Nothing in this Agreement shall be construed to create any partnership, Joint venture or fiduciary relationship between the parties.
- 27 Successors and Assigns. The terms and conditions of this Agreement shall bind all successors and approved assigns of the Parties hereto.
- 28 Governing Law. This Agreement shall be subject to and governed by the laws of the State of Utah and venue shall be in the State of Utah.
- 29 Survival/Merger. As expressed in paragraph 9 above, the intent of this agreement is to provide for and perpetuate City's continuing obligation to operate, manage and maintain the Drainage Easements set out and identified as City of Washington Drainage Easements in Exhibit B and to protect Company's Conveyance/Distribution system. Notwithstanding the

Company's assignment of its Drainage Easements to City under paragraph 3, the provisions of paragraphs 4- 6, 9, 10\, 12-22, 27 and any other provision required to effect the Parties' intent shall survive Company's assignment of the Drainage Easements to City and City shall continue to be bound by these provisions after Company's assignment and signing.

30 Counterparts. This Agreement may be executed in multiple and separate counterparts, each of which when so executed and delivered shall be deemed an original, and which together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the day and year first above written.

Washington City

St. George and Washington Canal Company

Kress Staheli

Its: Mayor

Matt Staheli

Its: President

STATE OF UTAH)

: ss

COUNTY OF Washington)

On this ____ day of _____, 2025, appeared before me Kress Staheli in his capacity as Mayor of Washington City and acknowledged that he is authorized to execute this Agreement.

NOTARY PUBLIC
My Commission Expires:
Residing at:

STATE OF UTAH)

: ss

COUNTY OF Washington)

On this ____ day of _____, 2025, appeared before me Matt Staheli in his capacity as President of the St. George and Washington Canal Company and acknowledged that he/she is authorized to execute this agreement.

NOTARY PUBLIC
My Commission Expires:
Residing at:

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