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**M E M O R A N D U M**

**TO:** Summit County Council  
Bob Jasper, County Manager

**FROM:** David R. Brickey *DRB*

**DATE:** January 24, 2013

**SUBJECT:** Boards, Commissions, and Special Service Districts.

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On January 15 and 29, 2013, I conducted training for several Boards, Commissions and Special Service Districts that currently operate in Summit County. Attached is a list of the ~~FOURTY-FIVE~~ (45) Boards, Commissions, and Special Service Districts currently acting on behalf of the citizens of Summit County.

During the training I discovered some concerns that I need to share with the Summit County Council. Glenn Thompson, former Summit County Treasurer, had been the sole individual who kept track of all of the Boards, Commissions, and Special Service Districts for the County. When he retired, it appears that no single individual continued in that capacity. Glenn had taken on the task, as he enjoyed that aspect of working with the community. There is no statutory responsibility in the Treasurer's Office to carry on that task.

Obviously, some of the commissions receive help from the County. That number is very limited. I was able to identify three such Commissions: The Eastside Planning Commission; the Snyderville Basin Planning Commission; and the Board of Adjustment. These three (3) entities are assisted through the Summit County Planning Department. The remaining Commissions have virtually been on their own to provide assistance to those citizens who appear before them. The purpose of this memo is to give you notice of the need to audit the Boards, Commissions, and Special Service Districts to identify which members of the County should be assisting these Boards, Commissions, and Special Service Districts.

**“Boards and Commissions” List:**

SC Heritage and Landmark Commission  
County Fair Advisory Board  
Library Board of Directors  
Board of Health  
SC Mosquito Abatement District  
Mountain Regional Water Special Service District Administrative Control Board  
Public Arts Program and Advisory Board  
North Summit Recreation Special Service District  
SC Recreation Arts and Parks Advisory Committee – Cultural  
SC Recreation Arts and Parks Advisory Committee – Recreation  
Hoytsville Cemetery Maintenance District  
Wanship Cemetery Maintenance District  
Snyderville Basin Open Space Advisory Committee  
Eastern SC Water Conservancy Special Service District  
Snyderville Basin Special Recreation Service District  
Peoa Recreation Special Service District  
Park City Fire Service District  
North Summit Fire Service District  
SC Service Area No. 5 (Lake Rockport Estates)  
Echo Creek Ranches Special Service District  
Eastern SC Agriculture Preservation and Open Space Advisory Committee  
SC Historical Society  
Timberline Special Service District  
SC Restaurant Tax Advisory Committee  
SC Water Concurrency Advisory Board  
SC Board of Adjustments  
Snyderville Basin Planning Commission  
Eastern SC Planning Commission  
Weed Control Board

**No Board**

Special Service District No. 1 (Mineral Lease-Roads)  
SC Wildland Fire Service Area  
SC Boundary Commission  
SC Service Area No. 6 (Subdivisions, Streets and Improvements)  
SC Service Area No. 8 (Chalk Creek)  
SC Service Area No.3 (Silver Creek)  
Summit County Emergency Medical Services Board  
Community Development and Renewal Agency  
SC Municipal Building Authority  
Snyderville Basin Public Transit District Board  
SC Senior Citizen Services  
Agriculture Protection Area Advisory Board  
Kimball Area Transportation Special Service District

**Independent Districts**

Snyderville Basin Water Reclamation District  
South Summit Cemetery Maintenance District  
South Summit Fire Protection District



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## STAFF REPORT

**To:** Summit County Council (SCC)  
**Report Date:** January 23, 2013  
**Meeting Date:** January 30, 2013  
**Author:** Don B Sargent, Community Development Director   
**Project Name or Topic:** Fee Schedule Update Discussion

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**EXECUTIVE SUMMARY:** This item includes the review and discussion of an updated fee schedule for the Planning, Building and Engineering Departments. The proposed updates support the need for both increased and decreased fees. Staff recommends the SCC review and discusses the proposed updates and associated staff comments and provides direction to Staff in preparation for a public hearing.

### A. Background

The current fee schedule was adopted on September 1, 2010 by Resolution 2010-13, attached as *Exhibit A*. According to Section 5 of the resolution, the fee schedule is to be reviewed every two (2) years to ensure that the fees are covering the actual cost of processing applications.

A fee study, attached as *Exhibit B*, was completed by a consultant in 2010 which determined that the cost of providing services was not being collected with the current fee schedules in 2010, and in many cases, grossly short of the cost of doing business. The fees were approximately doubled with adoption of the 2010 resolution but are still approximately 50% less than the actual review and processing cost indicated in the fee study.

Due to the circumstances of fees not being increased for permitting review and processing in 16 years since 1994, the SCC in 2010 felt it would be too difficult for applicants to absorb the full increase in fees at that time. Consequently, the SCC decided not to adopt the full fee amount as indicated by the study and instead approved an increase which generally doubled the fees as recommended by Staff. It was determined that the fee schedule would be reviewed again in two years and at that time additional fee amounts would be considered. Attached as *Exhibit C* is the SCC meeting minutes when the 2010 fee resolution was adopted.

The fee study included data from the Planning, Building, and Engineering Departments, along with information from the Auditor's, Attorney's and other associated County departments to calculate the cost of providing services. The fee study matrix highlighted the

disparity between existing permit fees and the actual cost of providing services. The findings of the study showed a gap between the cost of providing services and the costs received through application fees on 50 of the total 53 fees initially analyzed.

In September of 2011, Staff recommended an overall increase of approximately 3% to the fee amounts to cover electronic payment costs the County was incurring. At that time the SCC decided not to increase the fees but rather absorb the cost and provide this service to applicants.

## **B. Identification and Analysis of Issues**

The fee study allows the County the discretion to set new fees as determined appropriate. Issues discussed regarding the fee schedule included implications of increasing fees, not increasing fees, how much the County should subsidize the fees as well as how much the applicant should be expected to pay for the cost of providing services as the direct user of the respective permits.

Based on the fee analysis and internal review and application of the of the current fee schedule over the past two (2) years, Staff is suggesting adjusting the fees to better cover the cost of providing services. In some cases, Staff is suggesting a cap on some fees to more accurately reflect review and processing costs in certain situations. In addition, Staff is suggesting several language modifications to more accurately reflect current industry standards.

Staff is also suggesting adding a new section in the fee schedule, Administrative Code Enforcement Fines, for identification and reference. The draft Updated Fee Schedule (attached as *Appendix D*) reflects the Staff suggestions and associated comments for further discussion. The SCC should also consider whether or not an overall increase in fees is warranted at this time.

## **C. Recommendation(s)/Alternatives**

Staff recommends the SCC review and discusses the proposed updates and associated Staff comments and provides direction to Staff for editing the fee schedule in preparation for an additional work session and/or public hearing.

Representatives from the Planning, Building and Engineering Departments, will be in attendance at the work session to answer questions.

## **Attachment(s)**

- Appendix A: Resolution 2010-13
- Appendix B: 2010 Fee Study
- Appendix C: September 1, 2010 SCC Meeting Minutes
- Appendix D: Draft Updated Fee Schedule

# EXHIBIT A

## SUMMIT COUNTY, UTAH RESOLUTION NO. 2010-13

### AMENDMENT TO DEVELOPMENT PERMIT, BUILDING, AND ENGINEERING APPLICATION FEES

**WHEREAS**, the Snyderville Basin Development Code, Title 10, and the Eastern Summit County Development Code, Title 11 empower the Summit County Council to establish fees for the purpose of covering specific County costs incurred during the review and processing of any development permit application, and

**WHEREAS**, on July 12, 2006, the previous legislative body, the Summit County Commission, adopted Resolution 99-11A, creating development permit application fees for the 1998 Snyderville Basin Development Code and the 1996 Eastern Summit County Development Code, and

**WHEREAS**, on July 22, 2009, the Summit County Council adopted Ordinance No. 723 that added a Special Exception Process to the Snyderville Basin and Eastern Summit County Development Codes; and

**WHEREAS**, on August 12, 2009, the Summit County Council adopted Resolution No. 2009-22 creating the Special Exception Application Fee that is required to be submitted with an associated special exception application; and

**WHEREAS**, certain Summit County ordinances require the Engineering Department to review and administer permit applications and to inspect the work permitted under these ordinances; and

**WHEREAS**, on July 12, 2006, the Summit County Commission adopted Resolution 2006-09, creating permit application fees and bond requirements for the Engineering Department; and

**WHEREAS**, Utah Code Annotated Title 58, Chapter 56 provides for the statewide adoption of construction Codes; and

**WHEREAS**, these codes provide for the payment of building permit fees, plan check fees, plumbing permit fees, mechanical permit fees, and electrical permit fees upon the issuance of permits authorizing building construction within Summit County; and

**WHEREAS**, on December 19, 1994, the Summit County Commission adopted Resolution No. 94-21, creating building, plumbing, mechanical, and electrical permit fees; and

**WHEREAS**, since the adoption of the aforementioned resolutions, the interim County Manager contracted with Daly Summit Consulting on September 17, 2009 to conduct a fee study to determine the actual costs of providing development permit application services, and

**WHEREAS**, the Summit County Council determined that the fee study, attached hereto as **Exhibit A** and incorporated herein, documents and supports the need for an adjustment to certain permit application fees.

**NOW, THEREFORE, BE IT RESOLVED**, that the County Council of the County of Summit, State of Utah [hereinafter the "Council"] resolves as follows:

# EXHIBIT A

## **Section 1:**

- a. The Council hereby repeals Summit County, Utah Resolution No 99-11A in order to establish an amended fee schedule for the Snyderville Basin Development Code and the Eastern Summit County Development Code.
- b. The Council hereby repeals Summit County, Utah Resolution No. 2009-22 in order to establish an amended fee for special exceptions within the Snyderville Basin and Eastern Summit County Development Code.
- c. The Council hereby repeals Summit County, Utah Resolution No 2006-09 in order to establish appropriate revisions to the fee and bond schedules for the Engineering Department.
- d. The Council hereby repeals Summit County, Utah Resolution No. 94-21 in order to establish an amended fee schedule for the Building Department.

## **Section 2:**

The Council, hereby establishes new fee schedules for the Community Development, Building, and Engineering Departments attached hereto as **Exhibit B**. Indicated Engineering Fees shall be credited to the Summit County Engineering Department and all other fees shall be credited to the Summit County Community Development Department.

## **Section 3: Refund of Fees**

### *Community Development Department Fees and Engineering Department Fees*

A refund may be given in an amount not to exceed fifty percent of the application fee or fees paid, when the application is withdrawn, in writing, prior to any of the following:

1. Issuance of any notice of public hearing or prior to begin placed on agenda of the County Manager, Planning Commission, Board of Adjustment, or County Council.
2. Completion of the review of any documents or plans submitted with the application.
3. An inspection or site visit requested by the applicant or performed by Staff.

### *Building Department Fees*

A refund may be given in an amount not to exceed eighty percent of the building permit fees paid, at the discretion of the Building Official, if work has not commenced on the permitted project and more than six months have not passed since the granting of the permit. Plan review fees are not refundable.

## **Section 4: Additional Fees**

In the event the Director of Community Development, Building Official, or County Engineer determines that a specific project requires additional resources (e.g. specialized consultant, special mapping, etc.) to review extraordinary conditions related to the development proposal, additional fees to cover the cost of these additional resources shall be assessed to the applicant.

## **Section 5: Review and Revision of Fee Schedule**

The Community Development Department and Engineering Department shall review the fee schedule every two (2) years after the effective date of this resolution, and recommend revisions to the fee schedule to ensure that the fees cover the actual cost of processing applications, but in no case exceeds that amount. In no case shall there be longer than a five (5) year period without the review and recommendation of the Community Development Department and Engineering Department regarding necessary changes to the fee schedule.

EXHIBIT A

**Section 6: Effective Date**

This Resolution shall take effect immediately upon its adoption.

APPROVED, ADOPTED, PASSED and ordered published by the Summit County Council, this 1 day of September, 2010

**SUMMIT COUNTY COUNCIL, SUMMIT COUNTY, UTAH**

By: Claudia McMullin  
Claudia McMullin, Chair

Councilor Hanrahan voted	<u>Aye</u>
Councilor Elliott voted	<u>Aye</u>
Councilor McMullin voted	<u>Aye</u>
Councilor Ure voted	<u>Aye</u>
Councilor Robinson voted	<u>Aye</u>

# EXHIBIT A

## Exhibit "B"

### COMMUNITY DEVELOPMENT DEPARTMENT FEE SCHEDULE

- 1) **Agricultural Protection Area:** \$100
- 2) **Administrative Appeal:** \$400 for Planning Department review, \$600 for Planning and Engineering Department review
- 3) **Board of Adjustment Application:** \$400
- 4) **Conditional Use Permit**
  - a. **Residential:** \$400
  - b. **Non-Residential:** \$1,000 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$1,000
  - c. **Wind Turbine, Solar, or Recycling Facility**
    1. Residential: \$200
    2. Non-Residential: \$500 acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
      - a. If the parcel is less than one acre, the fee shall be \$500
- 5) **Condominium Plat:** \$200 /lot or unit
- 6) **Development Agreement:** \$1,000 paid with initial application, plus an additional \$2,000 to be paid prior to County Council action
- 7) **Development Agreement Amendment:** \$1,000
- 8) **Development Code Amendment:** \$2,000
- 9) **Final Site Plan**
  - a. **Residential:** \$30 /lot or unit
  - b. **Non-Residential:** \$75 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$75
- 10) **Final Subdivision Plat:** \$300 /lot or unit
- 11) **General Plan Amendment:** \$2,500
- 12) **Lot Line Adjustment:** \$500
- 13) **Lot of Record Determination:** \$50 /parcel
- 14) **Low Impact Permit**
  - a. **Residential:** \$210
  - b. **Non-Residential:** \$500
  - c. **Wind Turbine, Solar, or Recycling Facility**
    1. Residential: \$105

# EXHIBIT A

2. **Non-Residential:** \$250 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
  - a. If the parcel is less than one acre, the fee shall be \$250

## 15) Plat Amendment

- a. **Administrative process** (if no public hearing is held): \$360
- b. **Public process** (if a public hearing is held): \$760

## 16) Preliminary Plan

- a. **Residential:** \$250 /lot or unit
- b. **Non-Residential:** \$250 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
  1. If the parcel is less than one acre, the fee shall be \$250

## 17) Public Hearing Notification and Publication: \$2.00/individual notice and actual cost of newspaper publication.

## 18) Rezone (Zone District Map Amendment): \$2,000

## 19) Sign Permit: \$100/sign

## 20) Sketch Plan

- a. **Residential:** \$20 /lot or unit
- b. **Non-Residential:** \$95 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
  1. If the parcel is less than one acre, the fee shall be \$95

## 21) SPA Plan

- a. **Residential:** \$25 /lot
- b. **Non-Residential:** \$75 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
  1. If the parcel is less than one acre, the fee shall be \$75

## 22) Special Event Permit

- a. **Single Location Event:** \$250
- b. **Mobile/Multi-Location Event:** \$400

## 23) Special Exception: \$400

## 24) Temporary Use Permit

- a. **Residential:** \$400
- b. **Non-Residential:** \$1,000 first-time fee (\$100 renewal fee for each time permit is renewed)

## 25) Vested Rights Determination

- a. **Residential:** \$500
- b. **Non-Residential:** \$550

# EXHIBIT A

## ENGINEERING DEPARTMENT FEE AND BONDING SCHEDULE

- 1) **Board of Adjustment Application: \$170**
- 2) **Conditional Use Permit**
  - a. **Residential: \$20**
  - b. **Non-Residential: \$90 /acre of disturbed land**
    1. If the development parcel is less than one acre, the fee shall be \$90
  - c. **Wind Turbine, Solar, Recycling Facility**
    1. **Residential: \$10**
    2. **Non-Residential: \$45 /acre of disturbed land**
      - a. If the development parcel is less than one acre, the fee shall be \$45
- 3) **Condominium Plat: \$35 /lot or unit**
- 4) **Construction Plan**
  - a. **Residential of less than 10 lots: \$100**
  - b. **Residential of 10 lots or more: \$250**
  - c. **Non-Residential of less than 100,000 square feet of disturbed land: \$175**
  - d. **Non-Residential of 100,000 square feet or more of disturbed land: \$400**
  - e. **Engineering Construction Inspection Fee**
    1. For projects whose estimated construction cost is less than or equal to \$500,000, the fee is 1.5% times the construction cost.\*
    2. For projects whose estimated construction cost is more than \$500,000, the fee is \$7,500 plus 0.1% times the construction cost.\*

\* Construction costs to be included in the fee calculation are all "Civil" Improvements less sewer, water, and landscaping; it does not include building or structure improvement costs.
- 5) **Development Agreement: \$85**
- 6) **Development Agreement Amendment: \$85**
- 7) **Final Site Plan**
  - a. **Residential: \$5 /lot or unit**
  - b. **Non-Residential: \$5 /acre of disturbed land**
    1. If the development parcel is less than one acre, the fee shall be \$5
- 8) **Final Subdivision Plat: \$15 /lot or unit**
- 9) **Lot Line Adjustment: \$40**
- 10) **Low Impact Permit**
  - a. **Residential: \$40**
  - b. **Non-Residential: \$130**
  - c. **Wind Turbine, Solar, Recycling Facility**
    1. **Residential: \$20**
    2. **Non-Residential: \$65 /acre of disturbed land**
      - a. If the development parcel is less than one acre, the fee shall be \$65

## EXHIBIT A

- 11) **Plat Amendment:** \$40
- 12) **Preliminary Plan**
  - a. **Residential:** \$30/lot or unit
  - b. **Non-Residential:** \$30 /acre of disturbed land
    1. If the development parcel is less than one acre, the fee shall be \$30
- 13) **Public Hearing Notification and Publication:** \$2.00/individual notice and actual cost of newspaper publication
- 14) **Road Vacation Petition:** \$300
- 15) **SPA Plan**
  - a. **Residential:** \$15 / lot
  - b. **Non-Residential:** \$15 /acre of disturbed land
    1. If the development parcel is less than one acre, the fee shall be \$15
- 16) **Ordinance 181-D Excavation Encroachments and Structures in the County Right of Way**
  - a. **Excavation Permit:** \$25 Base Fee for the first 100 linear feet plus \$5 per additional 100 linear feet
  - b. **Driveway Encroachment Permit**
    1. \$100 per Encroachment
    2. \$100 Re-inspection Fee
  - c. **Structure Encroachment Permit:** \$50 first structure plus \$10 per additional structure
  - d. **Excavation Completion Bond:** \$250 per 100 feet of trench (\$250 min)
  - e. **Asphalt Cut Repair Bond:** \$250 plus \$25 per square foot
  - f. **Driveway Bond**
    1. \$250 per Encroachment for lots having average slopes of less than 10%
    2. \$500 per Encroachment for lots having average slopes between 10% and 15%
    3. \$2,000 per Encroachment for lots having average slopes over 15%
  - g. **Road Closure Permit:** \$25
- 17) **Ordinance 315-C Excavation, Grading, and Filling on Private Property**
  - a. **Grading Permit**
    1. **Less than 5,000 cubic yards:** \$40/application
    2. **Equal to or more than 5,000 cubic yards:** \$110/application
  - b. **Revegetation Bond:** 120% of the estimated cost to complete revegetation
  - c. **Completion Bond:** 120% of the estimated cost to complete restoration
- 18) **Ordinance 212-A Floodplain Development**
  - a. **Application Review:** \$100 per application
  - b. **Floodplain Determinations:** \$20 per request
- 19) **Ordinance 381-A Storm Water Pollution Prevention Plan and Erosion Control Plan**
  - a. **Sites Less Than One Acre:** \$25 per application
    1. \$100 Re-inspection Fee
  - c. **Sites of 1 Acre or More:** \$25 per Application + \$10 per additional acre
    1. \$100 Re-inspection Fee
  - d. **SWP3 and ECP Bond:** 120% estimated cost to implement

# EXHIBIT A

## BUILDING DEPARTMENT FEE SCHEDULE (fees are based on cost per square foot)

### 1) Building Valuations

- a. **Agricultural Buildings:** \$20 per square foot
- b. **Commercial Structures per the International Building Code (IBC):** Cost per square foot as reported in the Building Safety Journal published by the International Code Council (ICC)
- c. **Residential Structures per the International Residential Code (IRC):** Cost per square foot is based on the table listed below:

#### Residences (single family and townhouses)

250 – 1300 = \$98.95	1801 – 1900 = \$104.89	2401 – 2500 = \$110.82
1301 – 1400 = \$99.94	1901 – 2000 = \$105.88	2501 – 2600 = \$111.81
1401 – 1500 = \$100.93	2001 – 2100 = \$106.87	2601 – 2700 = \$112.80
1501 – 1600 = \$101.92	2101 – 2200 = \$107.86	2701 – 2800 = \$113.79
1601 – 1700 = \$102.91	2201 – 2300 = \$108.55	2801 – 2900 = \$114.78
1701 – 1800 = \$103.90	2301 – 2400 = \$109.83	2901 – 3000 = \$115.77
		3001 & up = \$116.76

- d. **Garages:** \$37.87 per square foot
- e. **Decks:** \$5 per square foot

### 2) Building Fees

- a. **Agricultural Buildings:** \$6 per \$1,000 of valuation or fraction thereof
- b. **Commercial Structures built per the IBC:** Fees determined using Appendix L of the currently adopted edition of the IRC and based on the valuations calculated using Section 1 above.
- c. **Residential Structures built per the IRC:** Fees determined using Appendix L of the currently adopted edition of the IRC and based on the valuations calculated using Section 1 above.

### 3) Plan Review Fees

- a. **Agricultural Buildings:** No fee
- b. **Commercial Structures:** 65% of building permit fee
- c. **Residential Structures:** 65% of building permit fee
- d. **Detached garages with no living space, decks/porches for existing structures, and accessory buildings:** 15% of building permit fee

### 4) Plumbing Permit Fees

- a. **Permit Issuance Fee:** \$10
- b. **System Fee (does not include \$10 issuance fee):**
  - i. **Agricultural Buildings:** \$0.025 per square foot
  - ii. **Commercial Structures per the International Plumbing Code (IPC):** \$0.03 per square foot
  - iii. **Residential Structures per the IRC:** \$0.025 per square foot

# EXHIBIT A

- 5) **Mechanical Permit Fees**
  - a. **Permit Issuance Fee: \$10**
  - b. **System Fee (does not include \$10 issuance fee):**
    - i. **Agricultural Buildings: \$0.025 per square foot**
    - ii. **Commercial Structures per the International Mechanical Code (IMC): \$0.03 per square foot**
    - iii. **Residential Structures per the IRC: \$0.025 per square foot**
  
- 6) **Electrical Permit Fees**
  - a. **Permit Issuance Fee: \$10**
  - b. **System Fee (does not include \$10 issuance fee):**
    - i. **Agricultural Buildings: \$0.025 per square foot**
    - ii. **Commercial Structures per the National Electric Code (NEC): \$0.035 per square foot**
    - iii. **Residential Structures per the IRC: \$0.03 per square foot**
  
- 7) **Alternative Energy Permits: These permits are separate from the permits issued for new construction. These permits include, but are not limited to, solar hot water, photovoltaic, geo-thermal, and wind generated power.**
  - a. **Photovoltaic System: \$700**
  - b. **Geo-Thermal: \$500**
  - c. **Solar Hot Water: \$250**
  - d. **Wind Generator: \$250**
  - e. **Permit Issuance: 10% of review fee**
  
- 8) **Utah State Surcharge: A 1% surcharge on all permits to be collected and remitted to the State of Utah as per UCA 58-54-9-3, as amended**
  
- 9) **Other Inspections and Fees**
  - a. **Inspections outside of normal office hours: \$100 per hour (minimum of one hour)**
  - b. **Re-Inspection fee assessed under the provisions of Chapter 1 of both the IBC and IRC: \$100 per occurrence**
  - c. **Inspections and permits for which no fee is specifically indicated: \$100**
  - d. **Additional plan review required by changes, additions, or revisions to approved plans: \$100 per hour (minimum of one hour)**

## **Executive Summary**

The purpose of the Fee Analysis Study is to evaluate the total cost of providing Community Development Department and Engineering Department services compared to the current fees charged, and to use this information to provide updated fee recommendations. Summit County Community Development includes the: Planning Department, Building Department, and Community Development Administration services. The Summit County Engineering Department was also included as part of the fee analysis.

Summit County has not comprehensively examined nor adjusted its Community Development Services/Engineering application fees for over seven+ years. Rosenthal & Associates Inc, a financial consulting firm, completed a "Cost of Service Analysis" and an "Indirect Cost of Service Analysis" in 2002. The studies demonstrated that opportunities exist for the County to move toward greater cost recovery in land use, engineering, and building fee application processes. A complete revision to the County's Community Development Services/Engineering Department application fees has not occurred since the conclusion of the Rosenthal studies; and since 1994 in some cases. In the meantime, development and land use applications have increased in Summit County, as well as the costs to provide the services (personnel expenses, cost of living, inflation, etc).

Analysis of the County's actual revenue and spending for the past several years show that revenue brought in from the fees for Community Development/Engineering services have never covered more than 50% of the costs of operating the overall departments. While efficiency measures have been taken where possible to reduce and keep costs down, there are still significant gaps between costs to the County for processing development applications and the fees charged. Furthermore, the current fee schedules do not reflect the rate of inflation through present day (2010) from when they were last updated. These factors, as well as ongoing changes to the zoning code and staff review, results in a need to re-examine application fees in an attempt to recover a greater share of the cost of providing services.

Daly Summit Consulting has reviewed the historical information, studied other fee analysis reports prepared for the County, assessed other similar communities' fee structures, and conducted an analysis of the Community Development/Engineering Services application fees to provide an understanding of the actual cost per application type for the County as described in this document and attachments. This report's findings would help to bridge the gaps with appropriate increases in fees paid by the applicants who are requesting land use changes and/or submitting associated Community Development and/or Engineering applications for processing.

Staff's fee recommendations created for Summit County Community Development/Engineering services are based on the costs borne by the County to provide these services. The total cost of service includes the cost of work provided by each department directly, and the cost of additional support services provided by other departments. The total cost of services analysis is the data used for fee recommendations. A comparative analysis that looks at other western U.S. communities Community Development/Engineering fees as evaluated next to Summit County's was also completed. This information was reviewed as a "gut check" discussion and not utilized as the basis for fee recommendation.

The findings of the fee analysis are provided within this study and the proposed new fee schedule attachment. The intent is to utilize the fee spreadsheet attachment as a stand-alone document for use and reference as a hardcopy handout and possibly posted on the Summit County website. Our findings

# EXHIBIT B

SUMMIT COUNTY UTAH

*Building, Community Development, Engineering, and Planning Departments  
Fee Analysis Report*

show a gap between the cost of providing services and the costs received through application fees on 50 of the total 53 Community Development/Engineering applications analyzed. We recommend updating the Community Development/Engineering fees so that fees cover a higher percentage of the cost of providing services to applicants. The adjusted fees would meet a public need by allowing the County to ensure that new development and land use applications meets the public objectives while recovering the cost of the review from the direct user of the respective permits. Although increased fees will affect some applicants with limited resources, all of the proposed fee increases are in line with the rate of inflation and the cost of staff time and resources. The proposed changes are timely given that it has been approximately 16 years since the last time the entire fee schedule was updated. The proposed fees are the staff recommendations based on the Fee Analysis cost findings.

## **Purpose**

The purpose of this report is to evaluate the total cost of providing services compared to fees currently charged by the Summit County Community Development Department and Engineering Department. Community Development includes the: Planning Department, Building Department, and Community Development Administration.

## **Introduction and Background**

Summit County has not comprehensively examined nor adjusted its Community Development Services/Engineering application fees for over seven-plus years. Rosenthal & Associates Inc, a financial consulting firm, completed a “Cost of Service Analysis” and an “Indirect Cost of Service Analysis” in 2002. The studies demonstrated that opportunities exist for the County to move toward greater cost recovery in land use, engineering, and building fee application processes. A complete revision to the County’s Community Development Services/Engineering Department application fees has not occurred since the conclusion of the Rosenthal studies; and since 1994 in some cases. In the meantime, development and land use applications have increased in Summit County, as well as the costs to provide the services (personnel expenses, cost of living, inflation, etc).

Analysis of the County’s actual revenue and spending for the past several years show that revenue brought in from the fees for Community Development/Engineering services have never covered more than 50% of the costs of operating the overall departments – and in many cases covered considerably less. While efficiency measures have been taken where possible to reduce and keep costs down, there are still significant gaps between costs to the County for processing development applications and the fees charged. Furthermore, the current fee schedules do not reflect the rate of inflation through present day (2010) from when they were last updated. These factors, as well as ongoing changes to the zoning code and staff review, results in a need to re-examine application fees in an attempt to recover a greater share of the cost of providing services.

Daly Summit Consulting has reviewed the historical information, studied other fee analysis reports prepared for the County, assessed other similar communities’ fee structures, and conducted an analysis of the Community Development/Engineering Services application fees to provide an understanding of the actual cost per application type for the County as described in this document and attachments. This report’s findings would help to bridge the gaps with appropriate increases in fees paid by the applicants who are requesting land use changes and/or submitting associated Community Development/Engineering applications for processing.

## **Summary of Approach**

The fee recommendations created for Summit County Community Development/Engineering services are based on the costs borne by the county to provide these services. Staff reviewed the total costs of service for each application type with the consultant and then determined the appropriate recommended fee for County Council’s review and approval. The total cost of service includes the cost of work provided by each department directly, and the cost of additional support services provided by other departments. The total cost of services analysis is the data used for fee recommendations. We also completed a comparative analysis that looks at other western U.S. communities Community Development fees as evaluated next to Summit County’s. This information was reviewed as a “gut

check” discussion and not utilized as the basis for fee recommendation. The fee analysis methodology discussion is provided below, along with the fee comparative chart.

### **Fee Analysis Methodology**

The methodology used to determine the total cost of services is based on the direct and indirect costs of each application. Direct costs of an application are those costs (time, materials, etc) spent by the department issuing or processing the application. An application’s indirect costs are those expenses incurred by other departments during the process of review/approval of an application (interdepartmental review, legal analysis, etc.). It was extremely important to recognize and account for all the time spent on each type of application processed by the each of the Departments, as significant hours are tallied by the County’s many departments in order to do “business as usual”. The background data was generated by a collaborative effort with the Planning, Building, and Engineering departments.

To complete the total cost of services analysis, expenditure of staff time per application type was first identified. We examined the personnel inventory for each department, listing each employee by title and salary tier. Then the amount of time per application type was determined based upon detailed staff record maintained by the respective department.

In order to calculate the cost of the individual time associated with each hour of staff time per application, an analysis of the expenses directly and indirectly associated with each department per the Summit County Year-End Financials between 2003 and 2008 was conducted. 2008 was considered the baseline year and the expenses associated with all prior years were adjusted for its corresponding year’s Consumer Price Index (CPI). Then an average of the costs per year was determined. This average cost of expenses per year, per department was then divided by the total number of employees multiplied by the total hours per employee per year (2,080 which is a standard number of work hours per employee per year based upon the average work week of 40 hours times 52 weeks per year). Collectively, these expenses determined an average cost of each hour per employee.

A similar method was used to determine the cost per hour of supporting departments (indirect costs), with the exception that these total costs were prorated based upon the approximate amount of time and services from each department that are needed and used to support the various Community Development/Engineering departments. This hourly cost basis was then multiplied against the total number of staff hours per application type in order to determine the total average amount of time used to process each of the various types of applications. Since many of the applications are based upon the total number of lots, units, acres, commercial square footage or other; an analysis of the actual development product per project was then considered. This permitted the evaluation of average cost based upon the actual development program.

## **Legal Context**

### **State Code**

The County’s Community Development Department fees are administered within the context of **U.C.A. 17-27a-509 Limit on fees – Requirements to itemize fees**, which states the following:

“(1) A county may not impose or collect a fee for reviewing or approving the plans for a commercial or residential building that exceeds the lesser of:

- (a) the actual cost of performing the plan review; and
  - (b) 65% of the amount the county charges for a building permit fee for that building.
- (2) Subject to Subsection (1), a county may impose and collect only a nominal fee for reviewing and approving identical plans.
- (3) A county may not impose or collect a hookup fee that exceeds the reasonable cost of installing and inspecting the pipe, line, meter, or appurtenance to connect to the county water, sewer, storm water, power, or other utility system.
- (4) A county may not impose or collect:
- (a) a land use application fee that exceeds the reasonable cost of processing the application; or
  - (b) an inspection or review fee that exceeds the reasonable cost of performing the inspection or review.
- (5) Upon the request of an applicant or an owner of residential property, the county shall itemize each fee that the county imposes on the applicant or on the residential property, respectively, showing the basis of each calculation for each fee imposed.
- (6) A county may not impose on or collect from a public agency any fee associated with the public agency's development of its land other than:
- (a) subject to Subsection (4), a fee for a development service that the public agency does not itself provide;
  - (b) subject to Subsection (3), a hookup fee; and
  - (c) an impact fee for a public facility listed in Subsection [11-36-102](#)(13)(a), (b), (c), (d), (e), or (g), subject to any applicable credit under Subsection [11-36-202](#)(2)(b)."

Code excerpt from: <http://www.le.state.ut.us/UtahCode/getCodeSection?code=17-27a-509>

### **County Legal Parameters**

Summit County must follow the regulations set out by State statute for Planning, Engineering and Building fee assessment. The fee schedules currently in place for the Community Development/Engineering Departments reflect the state's requirements; however as discussed, the fees have not been updated for many years.

*Summit County Code* Titles 10 and 11 and more specifically, *Snyderville Basin Development Code* Chapter 10, Section 10-9-14 (Ord. 708, 12-10-2008), and the *Eastern Summit County Development Code* Chapter 7, Section 11-7-4 (Ord. 708, 12-10-2008) empower the Summit County Council to establish fees for the purpose of covering specific county costs incurred during the review and processing of development permits. The County Council is required to establish the fees by resolution.

The most recent Building, Plumbing, Mechanical, and Electrical Permit Fees were set by Summit County Resolution 94-21 passed in December 1994. According to discussions with staff, the fee schedule set in 1994 was purposely established lower than other regional communities and lower than could have been

charged at that time due to the County Commission's desires to encourage low income and/or affordable housing in Summit County.

On the Planning Department side, the first established fee structure resembling the modern code was created in 1991. In 1998 and 1999 the fee structure Summit County is essentially working under now was created due to the requirements to charge fees for new types of applications and significant changes to the code. 2006 brought a few updates and changes to the Planning fees with the most recent changes occurring to add one type of new permit in 2009.

Engineering's fee structure set in 1997 and 1999 reflected the basic types of permits the county saw during that time and the relatively low volume of permits being processed. In 2000 and again in 2006 the county added numerous types of permits and updated fees to reflect the changing landscape of development.

In the early 2000's, a need to assess the discrepancies between actual costs of doing business in the Building, Engineering, and Planning Departments and the costs of the applications was recognized by staff and the Commission. The building boom and economic boost of the preparations for the 2002 Winter Olympics created a busy and unusual situation for the Community Development/Engineering Departments from approximately 2000-2003. The demand for quick output and focus on hosting a great Olympics took the spotlight away from the fee issues. Rosenthal's important findings demonstrating the gap between costs and fees in 2002 were never adopted nor implemented.

## **County Financial Data**

In data provided by the Summit County Auditor's office, the percentage of department expenditures covered by the related revenue sources for Planning, Engineering and Community Development are expected to be less than 40% for 2009. Fees collected for the work completed by these departments do not cover 60% of their costs. In fact, the fees collected for Planning, Engineering and Community Development from 2003-2009 have typically covered less than 50% of the costs (for the dates 2007/2008 data was provided). The deficiencies between fees and costs have largely been supported by the County's General & Municipal Fund.

## **Fee Comparison**

The purpose of the fee comparison section is to provide a context for Summit County development fees by looking at other jurisdictions fee schedules. This section exists to provide verification that Summit County's proposed fee changes "fit" and are comparable to fee rates charged in other areas. The County is NOT required to match fees charged by other jurisdictions for like services; however, it is prudent to look to other communities as a gauge, especially when looking at possible fee increases.

The information presented here shows that every community takes a different approach to not only how much is charged for development application fees, but also diversity in the types of fees charged and the types of applications they support. For example, an applicant might apply for a pre-application conference in one community, whereas the same development application in another community would go directly to the sketch plan process. In addition, a fee comparison between communities does not discover what the costs are based upon, only what it charged. A fee in one community may be higher because they use a Senior Planner to review and process an application where another community

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Building, Community Development, Engineering, and Planning Departments  
 Fee Analysis Report

might use a Planner II. In other words, the costs in one community to actually provide the service could be dramatically different than the costs of providing services another similar community.

As part of the analysis, fee rates and structures from seven relevant jurisdictions throughout the west were reviewed comparatively to Summit County. The data collection consulted the published information available and included direct survey of some of the subject communities to learn the cost of fees to applicants in processing typical planning and development applications. Please see the Fee Comparison Chart below for the fee rate data.

Fee Comparison: Summit County, Utah to other western U.S. communities (2008).								
Community and State	Summit County, Utah – Snyderville Basin	Summit County, Utah – Eastern County	Park City, Utah	Wasatch County, Utah	Routt County, Colorado	Summit County, Colorado	Jackson Hole, Wyoming	Teton County, Wyoming
Sample Application Type & Cost								
<b>Planning</b>								
Pre-Application Conference			\$610 (special meeting w/staff and PC wk session)	\$500 (special meeting, + other fees)	\$1,000	(Work Session) Planning Commission \$1,585. PC & BCC \$5,305	\$300 w/staff, \$500 w/PC and/or Council	\$100-\$600+
Conditional Use Permit	Res: \$50/lot Non-Res: \$200/acre or 1,000 SF	Res: \$75/lot Non-Res: \$250	\$720 (Discretionary)	\$200 + costs	\$ 600 + \$50 annual fee*	\$3,560	+\$500 to main applicat	\$400-\$2,000
Special Use Permit	\$100 (special event – one time use)			\$100 + costs (mass gathering is more)	\$ 800 + \$100 annual fee*			\$2,000
Sketch Plan	Res: \$10/lot, unit Non-Res: \$40/acre or 1,000 SF	Res: \$10/Unit Non-Res: \$40/ac.			\$500 + \$20/lot		\$2,500	\$5,000 (major only)
Appeals	\$100		\$365 for PC, Board of Appeals, and/or HDC, \$100 staff appeals	Case by case	Min basic fees and hrly fees at same rate as the original application	½ fee for the type of applic involved (BCC). \$1,585 fee (Admin Decision) Appeal Fee refunded to successful appellants	\$500 for Admin Decision	\$800

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Preliminary Subdivision	Res: \$75/lot, unit Non-Res: \$75/acre or 1,000 SF	Res: \$75/Unit Non-Res: \$75/ac.	\$255/unit	Res: \$300 + \$100/lot/unit/eru, + costs Other: \$100/1,000 s f, + costs	\$2,000 + \$40/lot	\$3,560 + \$175/lot	See Sketch Plan	\$600-\$3,000* + \$50/lot over 20 lots, and \$50/1,000 s.f. if over \$15,000 s.f.
Final Subdivision Plat	\$60/lot, unit	Res: \$75/Unit Non-Res: \$75/ac.	\$180/unit	Res: \$50 lot/unit/eru, + costs Other: \$25/1,000 s f, + costs	\$1,000 + \$20/lot	\$1,740 + \$175/lot	\$1,000 + \$100 per lot max \$3,000	\$450

If we take a comparative look at the Preliminary Subdivision costs per jurisdiction we find Summit County charges less per application than the majority of other communities. In a scenario with 100 residential lots/units we observe the following costs:

Community and State	Summit County, Utah	Park City, Utah	Wasatch County, Utah	Routt County, Colorado	Summit County, Colorado	Jackson Hole, Wyoming	Teton County, Wyoming
Preliminary Subdivision	\$7,500	\$25,500	\$10,300 + costs	\$6,000	\$21,060	\$2,500 + fees/costs	\$7,600-\$8,000+

### Wasatch County, Utah

Wasatch County is located in the north-central part of Utah, approximately 40 miles east of Salt Lake City. Within Wasatch County there are approximately 772,835 acres (1,207 square miles), of which about 70% are publicly owned. The public lands are administered by: U.S. Forest Service, U.S. Bureau of Reclamation, U.S. Bureau of Land Management, State Division of Lands, State Division of Parks and Recreation, and right-of-ways administered by the Utah State Department of Transportation. There are eight municipalities located within the County, including: Heber City (County Seat), Midway, Charleston, Wallsburg, Daniel, Independence, Hideout, and part of Park City. The County is bordered on the north by Summit County, on the east by Duchesne County, on the south and southwest by Utah County and the northwest by Salt Lake County. By area, Wasatch County is one of the smaller counties in the state with a total surface area of 1,207 square miles and a population estimated at 22,845 in 2008.

The fee schedule for Wasatch County provides for Community Development fees to be charged by the Planning and Zoning Department, Engineering Department, and/or the Building Inspection Department. The Planning fees are set up into two categories: development fees and other fees, with a total of 28 types of applications or processes listed. The county also charges for “costs” for most applications and these are described separately. Engineering fees for subdivisions and capital improvements are charged as 5% of the total estimated cost of the improvements. Additionally, the county charges for encroachment and excavation permits. The building permit fees charged are based on a basic total valuation of the structure formula. Plan review fee is 65% of the building permit fee. Other building department fees charged include: investigation fees, hourly fees charged for inspections outside normal business hours, re-inspection fees (hourly), other inspections (hourly), additional plan review due to

changes, and costs. <http://www.co.wasatch.ut.us/>, <http://www.ulct.org/ulct/> and <http://www.mountainland.org/>

### **Routt County, Colorado**

Routt County is a diverse environment offering mountain vistas and ranch lands. Located in northwest Colorado, the county encompasses a total of 2,231 square miles. Communities located in Routt County include Clark, Hahns Peak, Milner, Phippsburg, and Toponas, the towns of Hayden, Oak Creek and Yampa, and the city of Steamboat Springs. About 50% of the land in Routt County is publicly owned. The 2000 census reports the full time residential population of the county is approximately 19,690. During the winter months the resort town of Steamboat Springs thrives due to a world-class ski resort, while ranching, agriculture, forestry, mining and power generation provide a year-round economy in the surrounding areas.

Routt County's planning fee schedule categorizes the main fees charged into three groups: Minimum Basic Fees, Hourly Fees and Annual Fees. All applications pay the minimum basic fee for their proposal type. In addition, the applicant may have to pay hourly fees and/or annual fees if the workload exceeds the maximum time allotted to the application or if the application/project needs monitoring over the course of a year. The building fees charged are based on a total valuation of the structure formula. When a plan or other information is required to be submitted to the building department, a plan review fee of 65% of the building permit fee shall be paid at the time of submitting plans and specifications for review. <http://www.co.routt.co.us/index.php>

### **Summit County, Colorado**

Summit County is located among the high peaks of the Colorado Rockies, just on the west side of the Continental Divide. Colorado's main east-west transportation corridor bisects the County and enhances the proximity of the County to Denver and the Front Range communities. Included within the county are six municipalities (Blue River, Breckenridge, Dillon, Frisco, Montezuma, and Silverthorne), four major ski resorts (Arapahoe Basin, Breckenridge, Copper Mountain, and Keystone), National Forest and Bureau of Land Management lands, and two Congressionally-designated Wilderness Areas (Eagles Nest and Ptarmigan Peak). The County is relatively small in geographic terms, occupying a total land area of approximately 396,000 acres (about 619 square miles). In the context of ownership roughly 80 percent of the land in the County is public lands managed by the U.S. Forest Service and Bureau of Land Management. The remaining 20 percent is privately owned (this correlates to approximately 150 square miles). The majority of the private lands are found in narrow bands along the valley bottoms and adjacent to the major road corridors. It is along these major roadways that most of the existing and approved development occurs. Summit County's 2009 permanent resident population is estimated at 29,000. <http://www.co.summit.co.us/Planning/overview.html>

Summit County, Colorado's Planning Department Development Review schedule is organized by type of application (zoning, PUD, Subdivision, etc.) and then (if appropriate) by residential, other structural or non-structural use. Summit CO also charges hourly rates for additional time spent on an application and non-standard reviews.

**Town of Jackson and Teton County, Wyoming**

Jackson, Wyoming sits at 6,500 feet above sea level. The population of the Town of Jackson is 8,452, with the remaining population of Teton County at 10,345. Jackson Hole is a common nickname for the area and refers to the entire valley which is surrounded by Yellowstone National Park on the north, the Tetons on the west, the Gros Ventres on the east and the Wyoming Range on the south. Jackson/Teton County contains roughly 2.6 million acres of federally protected and resource-rich land. With 73,000 acres (or 3%) of land in the county available for private development, there are limited resources available to meet the demands of the many people who want to live in and visit the area.

<http://www.ci.jackson.wy.us/content/index.cfm> and <http://tetonwyo.org/AgencyHome>

The Town of Jackson's Fee Schedule is relatively straight forward with only 19 total Planning application types. Each type of application has further clarification (residential vs. non-residential or with or without CUP) within each grouping. Jackson's Town Council may also reduce, defer, or waive application fees if the project advances community goals (e.g. publicly sponsored/funded project, project with extraordinary charitable, civic, educational, etc benefits). Teton County summarizes their development permit applications, other permits and amendments, and fees into about 32 main categories. The county notes that "Application fees are based upon the estimated costs processing the application (Planning Staff time, advertising and overhead)".

**Summary of Findings**

Revenue collected by Summit County to provide Building, Community Development, Engineering and Planning services is, in many cases, grossly short of the costs of doing business. The intent of this study is for the County to utilize the fee spreadsheet attachment as a stand-alone document for use and reference as a hardcopy handout and possibly posted on the Summit County website. Our findings show a gap between the cost of providing services and the costs received through application fees on 50 of the total 53 Community Development/Engineering fees analyzed. We recommend updating the Community Development/Engineering fees so that they cover a higher percentage of the cost of providing services to applicants. The adjusted fees would meet a public need by allowing the County to ensure that new development and land use applications meets the public objectives while recovering the cost of the review from the direct user of the respective permits. Although increased fees will affect some applicants with limited resources, all of the proposed fee increases are in line with the rate of inflation and the cost of staff time and resources. The proposed changes are timely given that it has been approximately 16 years since the last time the entire fee schedule was updated. The proposed fees are the staff recommendations based on the consultant developed Fee Analysis cost findings.

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CURRENT APPLICATION TYPES	Side	Planning			Engineering		
		Current Fees	Fee Based Upon Cost	Staff Recommendations for New Fee	Current Fees	Fee Based Upon Cost	Staff Recommendations for New Fee
Ag Exemption	E	\$0	\$42	\$0	-	-	-
Agriculture Protection Area	E	\$60	\$926	\$100	-	-	-
Administrative Appeal (in this instance, fees are not combined)	S/E	\$100	\$2,021	\$400 - if Planning Dept Review Only, \$600 if Eng & Plan Review	\$100	\$172	\$400 - if Eng Dept Review Only, \$600 if Eng & Plan Review
Board of Adjustment Application/Appeal	S/E	\$100	\$2,021	\$400	\$100	\$172	\$170
Cluster Bonus/ Agriculture Preservation Subdivision	E	2 Step \$10/Lot - Sketch \$75/Lot - Final	2 Step \$31/Lot - Sketch \$237/Lot - Final	2 Step \$30/Lot - Sketch \$200/Lot - Final	2 Step \$5/Lot - Sketch \$25/Lot - Final	2 Step \$0/Lot - Sketch \$15/Lot - Final	2 Step \$0/Lot - Sketch \$15/Lot - Final
Conditional Use Permit	S/E	Res: \$50/lot Non-Res: \$200/acre or 1,000 SF	Res: \$674/lot Non-Res: \$2,694/acre or 1,000 SF	Res: \$400 Comm.: \$1,000/ disturbable acre or 1,000 SF	-	Res: \$23/lot Non-Res: \$92/acre or 1,000 SF	Res: \$20 Comm.: \$90/acre or 1,000 SF
Condominium Plat	S/E	\$60/Lot, unit	\$404/Lot, unit	\$200/Lot, unit	\$25/Lot, unit	\$37/Lot, unit	\$35/Lot, unit
Construction Plan	S/E	-	-	-	Res: \$10/Lot Non-Res: \$10/acre or 1,000 SF + 1.5% Insptn Fee	Res: <10 Lots = \$100 10 Lots or more = \$250 Non-Res:<100K SF = \$175 100K SF or more = \$400 +1.5% Inspection Fee	Res: <10 Lots = \$100 10 Lots or more = \$250 Non-Res:<100K SF = \$175 100K SF or more = \$400 +1.5% Inspection Fee
Development Agreement	S/E	\$500	\$3,368	\$1,000 at Application + \$2,000 Prior to Council Mtg.	-	\$86	\$85
Development Agreement Amendment	S/E	\$500	\$2,021	\$1,000	-	\$86	\$85
Development Code Amendment	S/E	\$500	\$2,021	\$2,000	-	-	-
Final Site Plan	S	Res: \$65/lot Non-Res: \$150/acre or 1,000 SF	Res: \$34/lot Non-Res: \$78/acre or 1,000 SF	Res: \$30/lot Non-Res: \$75/acre or 1,000 SF	Res: \$25/lot Non-Res: \$40/acre or 1,000 SF	Res: \$3/lot Non-Res: \$5/acre or 1,000 SF	Res: \$3/lot Non-Res: \$5/acre or 1,000 SF
Final Subdivision Plat	S/E	\$60/Lot, unit	\$281/Lot, unit	\$200/Lot, unit	\$25/Lot, unit	\$15/Lot, unit	\$15/Lot, unit
General Plan Amendment	S/E	\$500	\$2,694	\$2,500	-	-	-
Lot Line Adjustment	S/E	\$50	\$1,347	\$500	\$50	\$43	\$40
Lot of Record	S/E	-	\$253	\$100	-	-	-

## EXHIBIT B

CURRENT APPLICATION TYPES	Side	Planning			Engineering		
		Current Fees	Fee Based Upon Cost	Staff Recommendations for New Fee	Current Fees	Fee Based Upon Cost	Staff Recommendations for New Fee
Low Impact Permit	S/E	\$50 - SF Res \$250 - Major Project	\$253 - SF Res \$1,347 - Major Project	\$210 - Res \$870 - Non-Residential	-	\$46 - SF Res \$137 - Major Project	\$40 - Res \$130 - Non-Residential
Major Development	S/E	<u>SKETCH:</u> Res: \$10/lot, unit Non-Res: \$40/acre or 1,000 SF <u>PRELIM:</u> Res: \$75/lot, unit Non-Res: \$75/acre or 1,000 SF <u>FINAL:</u> \$60/lot, unit	<u>SKETCH:</u> Res: \$24/lot, unit Non-Res: \$95/acre or 1,000 SF <u>PRELIM:</u> Res: \$315/lot, unit Non-Res: \$315/acre or 1,000 SF <u>FINAL:</u> \$281/lot, unit	<u>SKETCH:</u> Res: \$20/lot, unit Non-Res: \$955/acre or 1,000 SF <u>PRELIM:</u> Res: \$250/lot, unit Non-Res: \$250/acre or 1,000 SF <u>FINAL:</u> \$200/lot, unit	<u>SKETCH:</u> Res: \$5/lot, unit Non-Res: \$40/acre or 1,000 SF <u>PRELIM:</u> Res: \$30/lot, unit Non-Res: \$40/acre or 1,000 SF <u>FINAL:</u> \$25/lot, unit	<u>SKETCH:</u> Res: \$0/lot, unit Non-Res: \$0/acre or 1,000 SF <u>PRELIM:</u> Res: \$30/lot, unit Non-Res: \$30/acre or 1,000 SF <u>FINAL:</u> \$15/lot, unit	<u>SKETCH:</u> Res: \$0/lot, unit Non-Res: \$0/acre or 1,000 SF <u>PRELIM:</u> Res: \$30/lot, unit Non-Res: \$30/acre or 1,000 SF <u>FINAL:</u> \$15/lot, unit
Minor Development	S/E	<u>SKETCH:</u> Res: \$10/lot, unit Non-Res: \$40/acre or 1,000 SF <u>FINAL:</u> \$60/lot, unit	<u>SKETCH:</u> Res: \$24/lot, unit Non-Res: \$95/acre or 1,000 SF <u>FINAL:</u> \$281/lot, unit	<u>SKETCH:</u> Res: \$30/lot, unit Non-Res: \$125/acre or 1,000 SF <u>FINAL:</u> \$200/lot, unit	<u>SKETCH:</u> Res: \$5/lot, unit Non-Res: \$40/acre or 1,000 SF <u>FINAL:</u> \$25/lot, unit	<u>SKETCH:</u> Res: \$0/lot, unit Non-Res: \$0/acre or 1,000 SF <u>FINAL:</u> \$15/lot, unit	<u>SKETCH:</u> Res: \$0/lot, unit Non-Res: \$0/acre or 1,000 SF <u>FINAL:</u> \$15/lot, unit
Plat Amendment	S/E	\$100	\$1,347	Admin Process: \$360 Public Process: \$760	\$100	\$43	\$40
Preliminary Plan	S/E	Res: \$75/lot Non-Res: \$75/acre or 1,000 SF	Res: \$315/lot, unit Non-Res: \$315/acre or 1,000 SF	Res: \$250/lot, unit Non-Res: \$250/acre or 1,000 SF	Res: \$40/lot Non-Res: \$30/acre or 1,000 SF	Res: \$30/lot, unit Non-Res: \$30/acre or 1,000 SF	Res: \$30/lot, unit Non-Res: \$30/acre or 1,000 SF
Rezone	S/E	\$500	\$2,694	\$2,000	-	-	-
Sign Permit	S/E	\$50	\$253	\$100	-	-	-
Sketch Plan	S/E	Res: \$10/lot Non-Res: \$40/acre or 1,000 SF	Res: \$24/lot Non-Res: \$95/acre or 1,000 SF	Res: \$20/lot Non-Res: \$955/acre or 1,000 SF	Res: \$5/lot Non-Res: \$40/acre or 1,000 SF	-	-
SPA Plan	S/E	Res: \$50/lot Non-Res: \$150/acre or 1,000 SF	Res: \$25/lot Non-Res: \$75/acre or 1,000 SF	Res: \$25/lot Non-Res: \$75/acre or 1,000 SF	Res: \$40/lot Non-Res: \$40/acre or 1,000 SF	Res: \$15/lot Non-Res: \$15/acre or 1,000 SF	Res: \$15/lot Non-Res: \$15/acre or 1,000 SF
Special Event Permit	S/E	\$100 per Day (\$250 Max)	\$337	Single-Location: \$250 Mobile/Multi-Location Event: \$400	-	\$64	\$60
Special Exception	S/E	\$250	\$0	\$400	-	-	-
Temporary Use Permit	S/E	Res: \$75 Non-Res: \$250	Res: \$449 Non-Res: \$1,497	Res: \$400 Non-Res: \$1,000 + \$100 Renewal Fee	-	-	-
Vested Rights Determination	S/E	Res: \$100/lot Non-Res: \$150/acre or 1,000 SF	Res: \$1,347/lot Non-Res: \$2,021/acre or 1,000 SF	Res: \$500/lot Non-Res: \$550/acre or 1,000 SF	-	-	-

## EXHIBIT C

Ms. Briggs commented that the Code has not been updated since the recession started, and the current assessment has not been completed. Chair McMullin explained that the needs assessment addresses the incentive element of workforce housing, not the 20% mandatory element. Ms. Briggs asked if the 20% was required by the State. Chair McMullin explained that it was a local decision based on a number of factors. Ms. Briggs asked if the affordable housing must be new units, especially with all the condos going into foreclosure. She asked if the need could be addressed with some of the homes that are becoming vacant. Chair McMullin stated that she did not know, but they would check into that when the needs assessment has been completed. Ms. Briggs requested that something be done about the road and stated that it is being built through her driveway. She suggested that the road go through the factory stores. She was not sure how she would be able to get into her garage. This will also be a bus route, and she expressed concern about buses sliding into her building. She commented that the whole situation is ludicrous.

Chair McMullin closed the public input.

### **PUBLIC HEARING AND POSSIBLE ADOPTION OF RESOLUTION 2010-13 TO ESTABLISH AN UPDATED FEE SCHEDULE FOR THE BUILDING, ENGINEERING, AND PLANNING DEPARTMENTS**

Mr. Sargent explained that the purpose of considering an update to the fees is that the fees were found to be insufficient based on the cost of providing services. The Community Development Department hired consultants to provide a third-party analysis of the fee structure, and the study determined that the current fee schedule comes grossly short of recovering the cost of doing business. An initial public hearing was held in March 2010 in addition to several work sessions. The last time fees were evaluated was in 2002, and although that analysis supported raising fees, they were not increased. In some cases, permitting fees have not increased in 16 years. The current fee study allows the County to increase fees as deemed appropriate. Staff was uncomfortable with charging actual costs, because it would create a huge jump from the previous fees. He recommended a 50% increase of fees overall to get closer to the actual cost of providing services. There was discussion in work session and in the public hearing about who should bear the cost of application fees and whether they should be subsidized by the County's general citizenry. It was determined that those who will benefit from the permits and approvals should bear the majority of the cost of providing that service. They also discussed reduction of fees for renewable energy projects, and the proposed fee schedule shows a 50% reduction in fees for those projects. The resolution also provides for review and revision of the fee schedule every two years to insure that fees will cover actual costs of processing applications over time and for a refund of Planning, Engineering, and Building Department fees of up to 50% under certain circumstances. Staff recommended that the Council continue to discuss the fee schedule and studies, consider any additional public comment, and adopt the resolution to enact a new fee schedule.

## EXHIBIT C

Council Member Robinson asked about the proposed fee of \$870 for a Low Impact Permit for a Major Project. Mr. Sargent explained that the Low Impact Fee for a Major Project would be for a non-residential project, and the actual cost is \$1,347. He explained that this fee applies to non-residential applications. Lauren Knowles with Daly Summit Consulting explained that the terminology was changed from Minor and Major Project to residential and non-residential. Mr. Sargent clarified that the table Council Member Robinson had referred to was a work in progress at the time it was prepared, and the actual fee schedule reflects non-residential and residential Low Impact Permits. Council Member Robinson noted that the fee for vested rights determinations is \$500 per lot. He stated that Silver Creek Plat I came to mind, and if someone were to ask if Plat I had a vested right, the Planning Department would charge \$450,000 to make that determination. He questioned whether \$500 per lot was the right amount and whether it should be a per-lot fee. He also asked about the distinction between a revegetation bond and a completion bond. County Engineer Derrick Radke explained that a restoration bond covers a situation where someone might do some major grading on their property and not complete it. The bond would be used to put the property back the way it was and revegetate it. Council Member Robinson referred to the \$350 fee for a photovoltaic system and asked if the person who complained about paying \$700 for review of his photovoltaic system would have been subject to the \$350 fee if the new fee schedule had already been enacted. Mr. Sargent explained that, when that issue came to their attention, and it appeared to be supported by the County Council and County Manager, Staff looked at the fee and decided to apply the standard building permit review procedures while the fee schedule is being considered.

Council Member Ure asked if something has been worked out with the special inspector for photovoltaic systems or if the County will be subsidizing him. Mr. Sargent replied that the County will be subsidizing him.

Chair McMullin asked if the individual who complained about the \$700 fee would get the benefit of this fee schedule. Mr. Sargent replied that he would not, because his application was submitted prior to adoption of this fee schedule. But they have looked at the building permit fee structure and been able to reduce his fees.

Chair McMullin opened the public hearing.

There was no public comment.

Chair McMullin closed the public hearing.

**Council Member Robinson made a motion to adopt Resolution 2010-13 to establish an updated fee schedule for the Building, Engineering, and Planning Departments with the following changes:**

- 1. Decrease the \$870 Low Impact Permit for non-residential to \$500.**

The Council Members suggested waiting to make a motion until Mr. Sargent is able to provide a new metric for the changes requested by Council Member Robinson.

**Council Member Robinson retracted his motion.**

## EXHIBIT C

Brooke Hontz with Daly Summit Consulting explained that Planning, Building, and Engineering did a great job of providing past data, and that is where the numbers came from. She explained that it does cost over \$1,500 per lot for a residential vested rights determination. She explained that they discussed vested rights determinations internally to determine whether this was the right number and whether to do a breakdown with a minimum, but they understood from their previous meeting with the Council that they would like the fees to be concrete. However, they cannot look into a crystal ball and determine every type of situation. For instance, a person could come in for a vested rights determination for one lot, and it would cost \$500. Another person could come in and ask for a determination for 40 lots and still pay \$500 if the fee is not assessed on a per-lot basis. Council Member Robinson asked if this is designed for a single lot owner or for someone who wants to know if their whole subdivision is vested. Ms. Hontz replied that most vested rights determinations have been per lot. Mr. Sargent explained that vested rights applications are very time consuming and very difficult to process, and it is one of the most controversial processes. He explained that determinations are done by lot, although a developer may come in who has gone through a portion of the process and may have 20 lots under consideration and ask about the vested rights of 20 development rights. Mr. Sargent noted that other fees in the proposed fee schedule have doubled, and he suggested that they could double this fee from \$100 to \$200 per lot. Council Member Robinson asked if they could do that and put a cap on it. Deputy County Attorney Helen Strachan explained that the resolution includes a section on additional fees. In the event the Community Development Director determines that additional resources are required, he can assess additional costs to the applicant. She believed that might be the answer to the problem.

Council Member Hanrahan commented that it seemed like the Low Impact Permit should be based on a range of what the project will cost, because some projects could create more work. He asked if it would take the same amount of work to process the application for a small project as for a large project. Mr. Sargent replied that is typically the case, but it is difficult to come up with a quantifiable way to say that an additional fee is applicable at a certain point. Chair McMullin verified with Mr. Sargent that he could live with the \$500 fee and rely on the section that allows him to assess additional fees if an application takes an inordinate amount of time.

**Council Member Robinson made a motion to adopt Resolution 2010-13 to establish an updated fee schedule for the Building, Engineering, and Planning Departments with the following changes:**

- 1. The Low Impact Permit fee for non-residential be changed from \$870 to \$500, and**
- 2. The vested rights determination fee for residential be \$500 per application and for non-residential be \$550 per application.**

**The motion was seconded by Council Member Elliott and passed unanimously, 5 to 0.**

**PLANNING DEPARTMENT FEE SCHEDULE**

- 1) **Agricultural Protection Area:** \$100
- 2) **Administrative Appeal:** \$400 for Planning Department review, \$600 for Planning and Engineering Department review
- 3) **Board of Adjustment Application:** \$400
- 4) **Conditional Use Permit**
  - a. **Residential:** \$400
  - b. **Non-Residential:** \$1,000 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$1,000
  - c. **Wind Turbine, Solar, or Recycling Facility**
    1. Residential: \$200
    2. Non-Residential: \$500 acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
      - a. If the parcel is less than one acre, the fee shall be \$500
- 5) **Condominium Plat:** \$200 /lot or unit
- 6) **Development Agreement:** \$1,000 paid with initial application, plus an additional \$2,000 to be paid prior to County Council action
- 7) **Development Agreement Amendment:** \$1,000
- 8) **Development Code Amendment:** \$2,000
- 9) **Final Site Plan**
  - a. **Residential:** \$30 /lot or unit
  - b. **Non-Residential:** \$75 /acre of disturbed land or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$75
- 10) **Final Subdivision Plat:** \$300 /lot or unit
- 11) **General Plan Amendment:** \$2,500
- 12) **Lot Line Adjustment:** \$500
- 13) **Lot of Record Determination:** \$50 /parcel
- 14) **Low Impact Permit**
  - a. **Residential:** \$210
  - b. **Non-Residential:** \$870

**Comment [dbs1]:** May need to consider a fee cap for a large number of residential lots; i.e. \$10,000

**Comment [dbs2]:** May need to consider a fee cap for Non-Residential; i.e. \$10,000

**Comment [dbs3]:** May need to differentiate between substantial and administrative? An administrative amendment is just handled by staff, and doesn't require reports to the SBPC or SCC or ESCPC. Typically are less time intensive and cost less to administer.

**Comment [dbs4]:** May need to separate those that are processed with a Plat Amendment and those that are not?

- c. **Wind Turbine, Solar, or Recycling Facility**
1. Residential: \$105
  2. Non-Residential: \$435 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
    - a. If the parcel is less than one acre, the fee shall be \$435
- 15) **Plat Amendment**
- a. Administrative process (~~if no public hearing is held~~no planning commission action): \$360
  - b. Public process (~~if a public hearing is held~~planning commission action): \$760
- 16) **Preliminary Plan**
- a. **Residential:** \$250 /lot or unit
  - b. **Non-Residential:** \$250 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$250
- 17) **Public Hearing Notification and Publication:** \$2.00/individual notice and actual cost of newspaper publication.
- 18) **Rezone (Zone District Map Amendment):** \$2,000
- 19) **Sign Permit:** \$100/sign
- 20) **Sketch Plan**
- a. **Residential:** \$20 /lot or unit
  - b. **Non-Residential:** \$95 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$95
- 21) **SPA Plan**
- a. **Residential:** \$25 /lot
  - b. **Non-Residential:** \$75 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
    1. If the parcel is less than one acre, the fee shall be \$75
- 22) **Special Event Permit**
- a. ~~Single Location Event:~~ \$250
  - b. ~~Mobile/Multi Location Event:~~ \$400
  - a. Minor Event: \$250
  - b. Major Event, up to 5,000 participants: \$400
  - c. Major Event, exceeding 5,000 participants: \$750
  - d. Late application: double fees

**Comment [dbs5]:** Public hearings are not always required before the Planning Commission, but an action is.

**Comment [dbs6]:** Staff suggests changing it so it's minor vs. major, and then charging more for events exceeding 5,000 people. We only have a few, can document how extensive the hours are for those events. The fee should actually be close to \$1000 to recoup any portion...for an example Staff has already put in over 20-30 hours for the 2013 Wasatch Back Relay, and will put in 20-40 more at a minimum. Tour of Utah is a big drain on Staff time as well.

23) **Special Exception:** \$400

24) **Temporary Use Permit**

- a. **Residential:** \$400
- b. **Non-Residential:** \$1,000 first-time fee (\$100 renewal fee for each time permit is renewed)

25) **Vested Rights Determination**

- a. **Residential:** \$500 /lot or unit
- b. **Non-Residential:** \$550 /acre of disturbed area or 1,000 square feet of building footprint area (whichever is greater).
  - 1. If the parcel is less than one acre, the fee shall be \$550

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**ENGINEERING DEPARTMENT FEE AND BONDING SCHEDULE**

- 1) **Board of Adjustment Application:** \$170
- 2) **Conditional Use Permit**
  - a. **Residential:** \$20
  - b. **Non-Residential:** \$90 /acre of disturbed land
    1. If the development parcel is less than one acre, the fee shall be \$90
  - c. Wind Turbine, Solar, Recycling Facility
    1. Residential: \$10
    2. Non-Residential: \$45 /acre of disturbed land
      - a. If the development parcel is less than one acre, the fee shall be \$45
- 3) **Condominium Plat:** \$35 /lot or unit
- 4) **Construction Plan**
  - a. **Residential of less than 10 lots:** \$100
  - b. **Residential of 10 lots or more:** \$250
  - c. **Non-Residential of less than 100,000 square feet of disturbed land:** \$175
  - d. **Non-Residential of 100,000 square feet or more of disturbed land:** \$400
  - e. **Engineering Construction Inspection Fee**
    1. For projects whose estimated construction cost is less than or equal to \$500,000, the fee is 1.5% times the construction cost.\*
    2. For projects whose estimated construction cost is more than \$500,000, the fee is \$7,500 plus 0.1% times the construction cost.\*

\* Construction costs to be included in the fee calculation are all "Civil" Improvements less sewer, water, and landscaping; it does not include building or structure improvement costs.
- 5) **Development Agreement:** \$85
- 6) **Development Agreement Amendment:** \$85
- 7) **Final Site Plan**
  - a. **Residential:** \$5 /lot or unit
  - b. **Non-Residential:** \$5 /acre of disturbed land
    1. If the development parcel is less than one acre, the fee shall be a minimum of \$45
- 8) **Final Subdivision Plat:** \$15 /lot or unit
- 9) **Lot Line Adjustment:** \$40

- 10) **Low Impact Permit**
- a. **Residential:** \$40
  - b. **Non-Residential:** \$130
  - c. **Wind Turbine, Solar, Recycling Facility**
    1. **Residential:** \$20
    2. **Non-Residential:** \$65 /acre of disturbed land
      - a. If the development parcel is less than one acre, the fee shall be \$65
- 11) **Plat Amendment:** \$40
- 12) **Preliminary Plan**
- a. **Residential:** \$30/lot or unit
  - b. **Non-Residential:** \$30 /acre of disturbed land
    1. If the development parcel is less than one acre, the fee shall be a minimum of \$45
- 13) **Public Hearing Notification and Publication:** \$2.00/individual notice and actual cost of newspaper publication
- 14) **Road Vacation Petition:** \$300
- 15) **SPA Plan**
- a. **Residential:** \$15 / lot
  - b. **Non-Residential:** \$15 /acre of disturbed land
    1. If the development parcel is less than one acre, the fee shall be a minimum of \$15
- 16) **Ordinance 181-D Excavation Encroachments and Structures in the County Right of Way**
- a. **Excavation Permit Application Fee: \$2575** Base Fee for the first 100 linear feet plus \$5 per additional 100 linear feet (includes SWP3 fee)
  - b. **Driveway Encroachment Permit Application Fee**
    1. \$100 per Encroachment (includes SWP3 fee)
    2. \$100 Re-inspection Fee
  - c. **Structure Encroachment Permit Application Fee: \$5075** first structure plus \$10 per additional structure (includes SWP3 fee)
  - d. **Excavation Completion Bond:** \$250 per 100 feet of trench (\$250 min)
  - e. **Asphalt Cut Repair Bond:** \$250 plus \$25 per square foot
  - f. **Driveway Bond**
    1. \$250 per Encroachment for lots having average slopes of less than 10%
    2. \$500 per Encroachment for lots having average slopes between 10% and 15%
    3. \$2,000 per Encroachment for lots having average slopes over 15%
  - g. **Road Closure Permit Application Fee: \$25**

**Comment [dbs7]:** The changes principally reflect the extra time it takes to use GovPartner, and to consolidate fees under one application. For example, we have been charging an "Excavation Permit" fee of \$25, and an additional \$25 for the SWP3. All of this information come is in one plan, so we would like to just charge \$75 to include both the excavation plan and the SWP3 plan (previously charged at \$25 each). The additional \$25 is to offset the GovPartner time.

- h. Weed Control Fee (Work in County Right-of-Way Only)
1. \$10 first 1000 sq ft
  2. Add \$0.010 times the area between 1000 sq ft and 10,000 sq ft
  3. Add \$0.006 times the area over 10,000 sq ft
- 17) **Ordinance 315-C Excavation, Grading, and Filling on Private Property**
- a. **Grading Permit Application Fee**
    1. **Less than 5,000 cubic yards:** ~~\$40~~100/application (includes SWP3 fee)
    2. **Equal to or more than 5,000 cubic yards:** ~~\$140~~200/application
  - b. **Revegetation Bond:** 120% of the estimated cost to complete revegetation
  - c. **Completion Bond:** 120% of the estimated cost to complete restoration
  - d. Weed Control Bond
    1. \$100 first 1000 sq ft
    2. Add \$0.010 times the area between 1000 sq ft and 10,000 sq ft
    3. Add \$0.006 times the area over 10,000 sq ft
- 18) **Ordinance 212-A Floodplain Development Application Fee**
- a. **Application Review:** \$100 per application
  - b. **Floodplain Determinations:** \$20 per request
- 19) **Ordinance 381-A Storm Water Pollution Prevention Plan and Erosion Control Plan Application Fee (Stand-alone Permits Only)**
- a. **Sites Less Than One Acre:** ~~\$25~~100 per application
    1. \$100 Re-inspection Fee
  - c. **Sites of 1 Acre or More:** ~~\$25~~100 per Application + \$10 per additional \_\_\_\_\_ acre
    1. \$100 Re-inspection Fee
  - d. **SWP3 and ECP Bond:** 120% estimated cost to implement

**BUILDING DEPARTMENT FEE SCHEDULE**  
(fees are based on ~~cost~~ Valuation per square foot)

1) **Building Valuations**

- a. **Agricultural Buildings:** \$20 per square foot
- b. **Commercial Structures and Residential Structures other and One- and Two-family dwellings per the International Building Code (IBC):** ~~Cost~~ Valuation per square foot as reported in the latest Building Safety Journal published by the International Code Council (ICC)
- c. **One- and Two Family Residential Structures per the International Residential Code (IRC):** ~~Cost~~ Valuation per square foot is based on the table listed below:

~~Residential Structures Residences (single family and townhouses)~~

250 – 1300 = \$98.95	1801 – 1900 = \$104.89	2401 – 2500 = \$114.76
1301 – 1400 = \$99.94	1901 – 2000 = \$105.88	2501 – 2600 = \$115.77
1401 – 1500 = \$100.93	2001 – 2100 = \$106.87	2601 – 2700 = \$116.76
1501 – 1600 = \$101.92	2101 – 2200 = \$107.86	2701 – 2800 = \$117.75
1601 – 1700 = \$102.91	2201 – 2300 = \$108.85	2801 – 2900 = \$118.74
1701 – 1800 = \$103.90	2301 – 2400 = \$109.83	2901 – 3000 = \$119.73
		3001 & up = \$120.72

- d. **Garages:** \$37.87 per square foot
- e. **Decks:** ~~\$5~~ \$15.00 per square foot

2) **Building Fees**

- a. **Agricultural Buildings:** \$6 per \$1,000 of valuation or fraction thereof
- b. **Commercial Structures and Residential Structures other than One- and Two-family dwellings Structures built per the IBC:**

TOTAL VALUATION	FEE
\$1 to \$ 500	\$24
\$501 to \$2,000	\$24 for the first \$500; plus \$3 for each additional \$ 100 or fraction thereof, to and including \$2,000
\$2,001 to \$40,000	\$69 for the first \$2,000; plus \$11 for each additional \$1,000 or fraction thereof, to and including \$40,000
\$40,001 to \$100,000	\$487 for the first \$40,000; plus \$9 for each additional \$1,000 or fraction thereof, to and including \$100,000

**Comment [RT8]:** Correct term is valuation, not cost. A builder's potential cost is less than a building's valuation.

**Comment [RT9]:** Addition of text: Commercial Structures and Residential Structures other and One- and Two-family dwellings . . . Reason is to treat the larger residential uses such as townhouses, condo/hotels etc. as commercial buildings when calculating valuation and fees.

**Comment [RT10]:** Actual term is valuation, not cost. A builder's potential cost is less than a building's valuation.

**Comment [RT11]:** Recommend changing this to read One- and Two Family Residential Structures. These "residential" valuations are intended to apply to One- and Two-family dwellings only

**Comment [RT12]:** Actual term is valuation, not cost. A builder's potential cost is less than a building's valuation.

**Comment [RT13]:** Recommend changing this to read One- and Two Family Residential Structures. These "residential" valuations are intended to apply to One- and Two-family dwellings only.

**Comment [RT14]:** Clarification: Private Garages

**Comment [RT15]:** Recommend increasing this valuation figure to \$15.00 per sf. \$5.00 per sf won't even buy the materials at Home Depot. Park City is currently at \$21.81.

**Comment [RT16]:** Commercial Structures and Residential Structures other and One- and Two-family dwellings . . . Reason is to treat the larger residential uses such as townhouses, condo/hotels etc. as commercial buildings when calculating valuation and fees.

**Comment [dbs17]:** Staff recommends modifying the reference fee table from the IRC. The IRC code is intended for 1 & 2 family residential structures and not for commercial structures. The complexity of commercial structures increases as valuation increases. The fee table we are currently using has the fees decreasing as the valuation/complexity increases.

Staff recommends modifying the table so fees flatten out at ~4/10 of 1% of the valuation for construction valuations over \$1,000,000.

\$100,001 to \$500,000	\$1,027 for the first \$100,000; plus \$7 for each additional \$1,000 or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	\$3,827 for the first \$500,000; plus \$5 for each additional \$1,000 or fraction thereof, to and including \$1,000,000
\$1,000,001 and over	\$6,327 for the first \$1,000,000; plus \$4 for each additional \$1,000 or fraction thereof.

c. **One-and Two-Family Residential Structures built per the IRC:**

TOTAL VALUATION	FEE
\$1 to \$ 500	\$24
\$501 to \$2,000	\$24 for the first \$500; plus \$3 for each additional \$ 100 or fraction thereof, to and including \$2,000
\$2,001 to \$40,000	\$69 for the first \$2,000; plus \$11 for each additional \$1,000 or fraction thereof, to and including \$40,000
\$40,001 to \$100,000	\$487 for the first \$40,000; plus \$9 for each additional \$1,000 or fraction thereof, to and including \$100,000
\$100,001 to \$500,000	\$1,027 for the first \$100,000; plus \$7 for each additional \$1,000 or fraction thereof, to and including \$500,000
\$500,001 to \$1,000,000	\$3,827 for the first \$500,000; plus \$5 for each additional \$1,000 or fraction thereof, to and including \$1,000,000
\$1,000,001 to \$5,000,000	\$6,327 for the first \$1,000,000; plus \$3 for each additional \$1,000 or fraction thereof, to and including \$5,000,000
\$5,000,001 and over	\$18,327 for the first \$ 5,000,000; plus \$1 for each additional \$1,000 or fraction thereof

**Comment [RT18]:** Recommend changing this to read One- and Two Family Residential Structures.

3) **Plan Review Fees**

- a. **Agricultural Buildings:** No fee
- b. **Commercial Structures:** 65% of building permit fee
- c. **Residential Structures:** 65% of building permit fee
- d. **Detached garages with no living space, decks/porches for existing structures, and accessory buildings:** 15% of building permit fee

**Comment [RT19]:** Addition of text: Commercial Structures and Residential Structures other and One-and Two-family dwellings . . . Reason is to treat the larger residential uses such as townhouses, condo/hotels etc. as commercial buildings when calculating valuation and fees.

4) **Plumbing Permit Fees**

- a. **Permit Issuance Fee:** \$10
- b. **System Fee (does not include \$10 issuance fee):**
  - i. **Agricultural Buildings:** \$0.025 per square foot

**Comment [RT20]:** Recommend changing this to read One- and Two Family Residential Structures.

**Comment [RT21]:** Revise to Detached Private Garages . . .

- ii. **Commercial Structures per the International Plumbing Code (IPC):** \$0.03 per square foot
- iii. **One- and Two Family Residential Structures per the IRC:** \$0.025 per square foot

**Comment [RT22]:** Addition of text: Commercial Structures and Residential Structures other and One- and Two-family dwellings . . . Reason is to treat the larger residential uses such as townhouses, condo/hotels etc. as commercial buildings when calculating valuation and fees.

**Comment [RT23]:** Recommend changing this to read One- and Two Family Residential Structures.

5) **Mechanical Permit Fees**

- a. **Permit Issuance Fee:** \$10
- b. **System Fee (does not include \$10 issuance fee):**
  - i. **Agricultural Buildings:** \$0.025 per square foot
  - ii. **Commercial Structures and Residential Structures other and One- and Two-family dwellings Structures per the International Mechanical Code (IMC):** \$0.03 per square foot
  - iii. **One- and Two Family Residential Structures per the IRC:** \$0.025 per square foot

**Comment [RT24]:** Addition of text: Commercial Structures and Residential Structures other and One- and Two-family dwellings . . . Reason is to treat the larger residential uses such as townhouses, condo/hotels etc. as commercial buildings when calculating valuation and fees.

**Comment [RT25]:** Recommend changing this to read One- and Two Family Residential Structures.

6) **Electrical Permit Fees**

- a. **Permit Issuance Fee:** \$10
- b. **System Fee (does not include \$10 issuance fee):**
  - i. **Agricultural Buildings:** \$0.025 per square foot
  - ii. **Commercial and One- and Two Family Residential Structures per the National Electric Code (NEC):** \$0.035 per square foot
  - iii. **One- and Two Family Residential Structures per the IRC:** \$0.03 per square foot

**Comment [RT26]:** Addition of text: Commercial Structures and Residential Structures other and One- and Two-family dwellings . . . Reason is to treat the larger residential uses such as townhouses, condo/hotels etc. as commercial buildings when calculating valuation and fees.

**Comment [RT27]:** Recommend changing this to read One- and Two Family Residential Structures.

7) **Alternative Energy Permits: These permits are separate from the permits issued for new construction and are based on 50% of the actual permit cost. These permits include, but are not limited to, solar hot water, photovoltaic, geo-thermal, and wind generated power.**

- a. **Photovoltaic System:** \$350
- b. **Geo-Thermal:** \$250
- c. **Solar Hot Water:** \$125
- d. **Wind Generator:** \$125
- e. **Permit Issuance:** 10% of review fee

**Comment [dbs28]:** As part of the grant the County received information about best practices for fees for residential and commercial solar PV installations. As of now, Summit County charges \$350 for permitting for any roof-mounted PV installation, regardless of kW. However, a review of a large installation (i.e., 120 kW) would mean a significant amount of time for building staff that would not be reflected in the permitting fee. Best practices recommend a flat fee system where the fee reflects the cost of issuing the permit.

- 1) Use a scaled system that reflects the size of the installation by kW:
  - Systems 0-15 kW: \$350
  - Systems 15-50 kW: \$700
  - Systems 51-100 kW: \$1400
  - Systems 101-500 kW: \$2800
  - Systems 501-1000 kW: \$4000
  - Systems 1001 +kW: \$5600

- 2) Use a flat fee for smaller installations, and a per kW fee for systems above a certain kW:
  - Systems 0-15 kW: \$350
  - Per kW fee of \$10-\$40 for every kW above 15 kW

8) **Utah State Surcharge:** A 1% surcharge on all permits to be collected and remitted to the State of Utah as per UCA 58-54-9-3, as amended

9) **Other Inspections and Fees**

- a. **Inspections outside of normal office hours:** \$100 per hour (minimum of one hour)
- b. **Re-Inspection fee assessed under the provisions of Chapter 1 of both the IBC and IRC:** \$100 per occurrence

- c. **Inspections and permits for which no fee is specifically indicated:** \$100
- d. **Additional plan review required by changes, additions, or revisions to approved plans:** \$100 per hour (minimum of one hour)

Administrative Code Enforcement Fine Schedules

**Comment [RT29]:** Consider incorporating the Administrative Code Enforcement Fine Schedules into this document.

ADMINISTRATIVE CODE ENFORCEMENT

Planning Division Fine Schedule

<u>Violation</u>	<u>Fine</u>
<u>Re-Inspection</u>	<u>\$100.00</u>
<u>Sign Violation</u>	<u>\$100.00</u>
<u>Setback Violation</u>	<u>\$200.00</u>
<u>Development Activity without a Permit</u>	<u>\$250.00</u>
<u>Prohibited Land Use</u>	<u>\$500.00</u>
<u>Junk Ordinance #456</u>	<u>\$500.00</u>
<u>Any other Violation not listed</u>	<u>\$250.00</u>

ADMINISTRATIVE CODE ENFORCEMENT

PUBLIC WORKS AND ENGINEERING DEPARTMENTS FINE SCHEDULE

<u>ENGINEERING</u>	<u>1<sup>ST</sup> Offense</u>	<u>2<sup>nd</sup> Offense and Each Reoccurring Offense</u>
<u>Re-inspection</u>	<u>\$100.00</u>	<u>\$100.00</u>
<u>Tracking mud on road</u>	<u>\$100.00</u>	<u>\$200.00</u>
<u>Steel tracked equipment driven on road</u>	<u>\$500.00</u>	<u>\$750.00</u>
<u>Failure to maintain sediment Control</u>	<u>\$100.00</u>	<u>\$200.00</u>

<u>Illegal excavation, grading, or placement of fill on private property</u>	<u>\$100.00</u>	<u>\$200.00</u>
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<u>Illegal driveway encroachment</u>	<u>\$100.00</u>	<u>\$200.00</u>
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<u>Illegal excavation in County right-of-way</u>	<u>\$100.00</u>	<u>\$200.00</u>
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<u>Illicit discharge</u>	<u>\$500.00</u>	<u>\$750.00</u>
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<u>Beginning work without a Permit (After application for permit.)</u>	<u>\$250.00</u>	<u>\$500.00</u>
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**PUBLIC WORKS****1<sup>ST</sup> Offense****2<sup>ND</sup> Offense****Each  
Reoccurring  
Offense**

<u>Snow deposited in public right-of-way from private property</u>	<u>\$50.00</u>	<u>\$100.00</u>	<u>\$250.00</u>
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<u>Parking within County right-of-way during the winter season (November 1st - April 30<sup>th</sup>)</u>	<u>\$50.00</u>	<u>\$100.00</u>	<u>\$100.00</u>
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**ADMINISTRATIVE CODE ENFORCEMENT****Building Division Fine Schedule****IRC Fine****IBC Fine**

<u>Re-Inspection</u>	<u>\$100.00</u>	<u>\$100.00</u>
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<u>Building without a Permit</u>	<u>\$250.00</u>	<u>\$750.00</u>
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<u>Continuance after Stop Work Order</u>	<u>\$250.00</u>	<u>\$750.00</u>
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<u>Occupancy prior to issuance of Certificate of Occupancy</u>	<u>\$250.00</u>	<u>\$750.00</u>
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<u>Unlawful Code Violations</u>	<u>\$250.00</u>	<u>\$750.00</u>
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## BRIEFING

To: Summit County Council  
From: Anita Lewis, Alison Weyher  
Date: January 24, 2013  
Subject: Summit County Economic Development Status Update

### A. History

- In 2010 the Summit County Council established Economic Development as a top priority.
- In October, 2010 Summit County and the Park City Chamber Bureau hosted an economic round table comprised of business and community leaders as well as elected officials. Key issues raised included:
  1. Seasonality
  2. Access to Capital
  3. Red tape/Regulations
  4. Conflict between job growth and quality of life
- In June 2011 an economic development task force was formed. The committee recommended four strategies
  1. Developing an economic webpage linked to the County government homepage
  2. Identifying regulations which hinder economic development and job growth in Summit County
  3. Create a County-wide online business directory
  4. Expand and enhance the Eastern Summit County business community by providing resources for existing local businesses and recruiting small business.

### B. Current Status:

- Economic Development webpage is up and running
- On-line business directory is running
- Snyderville Basin Sign Ordinance relaxed to allow more signage
- In July, 2012 the County was awarded \$27,000 from the Governor's Office of Education to conduct 200 interviews with a cross section of businesses in the County.
  1. To date 60 interviews have been conducted by Alison Weyher
  2. Staff is following up the interviews including help with signage, power issues, government procurement, job training
  3. Preliminary trends have been identified including the need for job training assistance, employee recruitment challenges, and large percentage of employees who do not live in Summit County
- Summit County joined EDCUtah. Currently working to find tenant for Henefer building,

C. Next steps

- Expand and divide the task force into eastern Summit County and Snyderville Basin teams, including more business owners.
- Market Eastern Summit County as an alternative location to the Wasatch Front for business relocation, through EDCUtah and GOED.
- Work with MCAT, Custom Fit Training, Workforce Services and others to establish job training programs in Summit County
- Identify appropriate types and uses of incentives where necessary

#### 5-2-4: FALSE ALARMS:

A. FIRE EMERGENCY: No person shall transmit by any means an alarm that results in a county fire unit being dispatched, and the person transmitting, or causing the transmission of, the alarm knows at the time of said transmission that no fire or fire related emergency exists.

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B. MEDICAL EMERGENCY: No person shall transmit by any means an alarm that results in a county fire unit or a county emergency medical unit being dispatched, and the person transmitting, or causing the transmission of, the alarm knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

C. This section may be enforced through the Administrative Code Enforcement Hearing Program, Title 1, Chapter 13. Remedies may include both civil fines and cost recovery.

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#### 5-2-5: RELEASE OF HAZARDOUS MATERIALS:

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A. HAZARDOUS MATERIALS RELEASE UNLAWFUL: No person shall release any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

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B. This section may be enforced through the Administrative Code Enforcement Hearing Program, Title 1, Chapter 13. Remedies may include both civil fines and cost recovery, as allowed pursuant to UCA §53-2-105(3), as amended.

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#### 5-2-6: RECKLESS BURNING:

A. Reckless Burning Prohibited: No person shall

(1) recklessly start a fire; or

(2) cause an explosion which endangers human life; or

(3) having started a fire, whether recklessly or not, and knowing that it is spreading and will endanger the life or property of another, either fails to take reasonable measures to put out or control the fire or fails to give a prompt fire alarm; or

(4) build or maintain a fire without taking reasonable steps to remove all flammable materials surround the site of the fire as necessary to prevent the fire's spread or escape; or

(5) damage the property of another by reckless use of fire.

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B. This section may be enforced through the Administrative Code Enforcement Hearing Program, Title 1, Chapter 13. Remedies may include both civil fines and fire cost recovery.

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## 5-2-74: PENALTY:

Any person violating the provisions of this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to penalty as provided in section [1-4-1](#) of this code. (Ord. 710, 12-17-2008, eff. 1-1-2009)

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## 5-4-10: RECOVERY OF COSTS FOR RESPONDING TO EMERGENCIES:

~~Recovery for recovering costs incurred by the county for assistance rendered by the county in responding to hazardous materials emergencies, aggravated fire emergencies and aggravated emergency medical responses.~~

### A. Definitions:

~~AGGRAVATED FIRE EMERGENCY: A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate action to mitigate the threat, and the fire:~~

- ~~1. Is caused or contributed to by the failure to comply with an order from any county agency, department or official, or~~
- ~~2. Occurs as a direct result of a deliberate act in violation of the ordinances or regulations of the county, or~~
- ~~3. Is caused by arson, or~~
- ~~4. Is an alarm that results in a county fire unit being dispatched, and the person transmitting, or causing the transmission of, the alarm knows at the time of said transmission that no fire or fire related emergency exists.~~

~~AGGRAVATED MEDICAL EMERGENCY: An alarm that results in a county fire unit or a county emergency medical unit being dispatched, and the person transmitting, or causing the transmission of, the alarm knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.~~

~~EXPENSES: The actual costs of government and volunteer personnel including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and the costs of any contract labor and materials.~~

~~HAZARDOUS MATERIALS EMERGENCY: A sudden or unexpected release of any substance that, because of its quantity, concentration or physical, chemical or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.~~

~~B. Procedure For Recovery Costs: The county is hereby empowered to recover expenses incurred by virtue of the county's response to a hazardous materials emergency, aggravated fire emergency or an aggravated medical emergency from any person, corporation, partnership or other individual or entity who caused such an emergency, pursuant to the following procedure:~~

- ~~1. The county shall investigate the circumstances of the emergency. Where liability can be assessed, the county manager shall notify the responsible party by mail of the determination of responsibility and the expenses to be recovered.~~
- ~~2. The county manager may provide for a payment plan to recover the costs of the emergency from a responsible party.~~
- ~~3. A responsible party may appeal the determination of the county manager de novo to the county council within thirty (30) calendar days of receipt of the mailed determination.~~

~~C. Liability: The payment of expenses determined owing under this chapter does not constitute an admission of liability or negligence in any legal action for damages or a criminal fine.~~

~~D. Civil Suit To Collect Expenses: In the event the parties determined to be responsible for the repayment of expenses incurred due to the county's response to such an emergency fail to make payment to the county within thirty (30) calendar days after a final administrative determination of any appeal to the county or thirty (30) calendar days from the deadline for appeal in the event no appeal is filed, the county may initiate legal action to recover from the determined responsible parties the expenses determined to be owing, including the county's reasonable attorney fees. (Ord. 777, 7-18-2012)~~

### **1-13-4-3: ADMINISTRATIVE CITATIONS:**

A. Declaration Of Purpose:

1. The county council finds that there is a need for an alternative method of enforcement for violations of this code and applicable state statutes. The county council further finds that an appropriate method of enforcement is an administrative citation program.
2. The procedures established in this section shall be an alternative and in addition to criminal, civil, or any other legal remedy established by law or this code that may be pursued to address violations of this code or applicable state statutes.

B. Authority:

1. Any person violating any provision of this code or applicable state statutes may be issued an administrative citation by an enforcement official as provided in this section.
2. A civil fee shall be assessed by means of an administrative citation issued by the enforcement official, and shall be payable directly to the Summit County treasurer.

#### C. Procedures:

1. Upon discovering any violation of this code or applicable state statute, an enforcement official may issue an administrative citation to a responsible person in the manner prescribed in this section. The administrative citation shall be issued on a form approved by the administrative law judge.
2. If the responsible person is a business, the enforcement official shall attempt to locate the business owner and issue an administrative citation to the business owner. If the enforcement official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation may also be mailed to the business owner or any other responsible person in the manner prescribed in section [1-13-3-1](#) of this chapter.
3. Once the responsible person has been located, the enforcement official shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation and subsequent proceedings.
4. If the enforcement official is unable to locate the responsible person for the violation, then the administrative citation may be mailed to the responsible person in the manner prescribed in section [1-13-3-1](#) of this chapter and also be posted in a conspicuous place on or near the property.
5. The administrative citation shall also contain the signature of the enforcement official.
6. The failure of any person with a third party legal or other interest in the property to receive notice shall not affect the validity of any proceedings taken under this section.

#### D. Contents Of Administrative Citation:

1. The administrative citation shall refer to the date and location of the violation(s) and the approximate time the violation(s) was observed.
2. The administrative citation shall refer to the code sections violated.
3. The administrative citation shall state the amount of the administrative civil fee imposed for the violation(s).
4. The administrative citation shall explain how the civil fee shall be paid, the time period by which the civil fee shall be paid, and the consequences of failure to pay the civil fee.
5. The administrative citation shall identify the right and the procedures to request a hearing.

6. The administrative citation shall contain the signature of the enforcement official and the signature of the responsible person.

E. Civil Fees Assessed:

1. Civil fees shall be assessed immediately for each violation listed on the administrative citation. The fees shall be those established in the Summit County administrative fee schedule.
2. Payment of the fee shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the county. (Ord. 710, 12-17-2008, eff. 1-1-2009)

F. Cost Recovery – Emergency Response Costs:

1. Recovery of costs incurred by the county for assistance rendered by the county in responding to a reckless burning, release of hazardous materials, or false alarm, as defined in this Code, is authorized under this Chapter.
2. Costs Defined. The actual costs of government and volunteer personnel including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, costs of disposal and the costs of any contract labor and materials.

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### 1-13-4-5: ADMINISTRATIVE LAW JUDGE:

A. Appointment, Qualifications And Disqualification Of Administrative Law Judge:

1. The county manager with the advice and consent of the county council shall appoint administrative law judge(s) to preside at administrative code enforcement hearings. An administrative law judge shall have no personal, financial or other conflict of interest in the matter for which the hearing is being held. The administrative law judge may be discharged by the county manager prior to the expiration of any personal services contract between the county and the administrative law judge for just cause.
2. The administrative law judge is subject to disqualification for bias, prejudice, interest, or any other reason for which a judge may be disqualified in a court of law. The policy for disqualification and replacement shall be approved by the administrative law judge.

B. Powers Of The Administrative Law Judge:

1. The administrative law judge has the authority to hold hearings, determine if violations of this code exist, order compliance with this code, and enforce compliance on any matter as provided in this chapter.
2. If a person is found to be in violation through an administrative code enforcement hearing process, the administrative law judge has the ability to require the responsible person to provide the county with applicable civil fees, restitution, [cost recovery](#), community service, abatement, revocation or suspension of a business license and any other fees incurred by the county during the enforcement process.
3. The administrative law judge may continue a hearing based on good cause shown by one of the parties to the hearing or if the administrative law judge independently determines that due process has not been adequately afforded to any party.
4. The administrative law judge, at the request of any party to the hearing, may sign subpoenas for witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed helpful or necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The administrative law judge shall approve the policy relating to the issuance of subpoenas in administrative code enforcement hearings, including the form of the subpoena and related costs.
5. The administrative law judge has continuing jurisdiction over the subject matter of an administrative code enforcement hearing for the purposes of granting a continuance; ordering compliance by issuing an administrative code enforcement order; ensuring compliance of that administrative code enforcement order, which includes the right to authorize the county to enter and abate a violation; modifying an administrative code enforcement order; or, where extraordinary circumstances exist, granting a new hearing.
6. The administrative law judge has the authority to require a responsible person to post a code enforcement performance bond to ensure compliance with an administrative code enforcement order, but only if agreed to by the enforcement official handling the matter for the county.
7. An administrative law judge shall not make determinations as to the existence of legal nonconforming rights. If a responsible person claims a legal nonconforming right as a defense, the administrative law judge shall continue the administrative code enforcement hearing and shall refer the matter to the Summit County board of adjustment for a determination as to the existence of the nonconforming right. The decision shall be binding on the administrative law judge. The responsible person shall bear the costs of the appeal. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### **1-13-4-6: ADMINISTRATIVE CODE ENFORCEMENT ORDER:**

##### A. General:

1. Subsequent to all evidence and testimony being presented in an administrative code enforcement hearing, the administrative law judge shall issue a written administrative code enforcement order that affirms, modifies or rejects the notice of violation or administrative citation, and notify all parties of such written decision by any of the methods listed in section [1-13-3-1](#) of this chapter within ten (10)

calendar days of the hearing. The administrative law judge may increase or decrease the total amount of civil fees and costs that are due pursuant to the county fee schedule and the procedures set forth in this chapter.

2. An administrative law judge may issue an administrative code enforcement order that requires a responsible person to cease and desist from violating this code or applicable state statutes and take any necessary corrective action. This administrative code enforcement order may also include, but is not limited to, civil fees, restitution, cost recovery, community service, abatement, revocation, suspension or conditioning of a business license and any other fees incurred by the county during the enforcement process.
3. The administrative law judge may issue an administrative code enforcement order for the county to enter the property to abate all violations.
4. As part of the administrative code enforcement order, the administrative law judge may establish specific deadlines for the payment of fees and costs and condition the total or partial assessment of civil fees on the responsible person's ability to complete compliance by specified deadlines.
5. As part of the administrative code enforcement order, the administrative law judge may revoke, suspend or condition a Summit County business license or liquor license.
6. An administrative law judge may issue an administrative code enforcement order imposing civil fees. Such fees shall continue to accrue until the responsible person complies with the administrative code enforcement order and corrects the violation.
7. The administrative law judge may schedule subsequent review hearings as may be necessary or as requested by the county to ensure compliance with the administrative code enforcement order.
8. The administrative law judge may require the responsible person to post a code enforcement performance bond to ensure compliance with the administrative code enforcement order, but only if agreed to by the enforcement official handling the matter for the county.
9. The administrative code enforcement order shall become final on the date of the signing by the administrative law judge.
10. A copy of the administrative code enforcement order shall be served by the administrative law judge on all parties by any one of the methods listed in section 1-13-3-1 of this chapter. When required by this chapter, the enforcement official shall record the administrative code enforcement order with the Summit County recorder's office.

#### B. Failure To Comply With Administrative Code Enforcement Order:

1. Upon the failure of the responsible person to comply with the terms and deadlines set forth in the administrative code enforcement order, the county may use all appropriate legal means to recover the civil fees and administrative costs to obtain compliance. The failure of a responsible person to comply with the administrative code enforcement order shall be a class C misdemeanor.

2. After the administrative law judge issues an administrative code enforcement order, the administrative law judge or the enforcement official shall monitor the violations and determine compliance. (Ord. 710, 12-17-2008, eff. 1-1-2009)

C. Appeal Of Administrative Code Enforcement Hearing Decision:

1. The responsible person(s) adversely affected by an administrative code enforcement order made in the exercise of the provisions of this section may file a petition for review by the district court within thirty (30) calendar days after the decision is final.
2. No responsible person(s) may challenge in district court an administrative law judge's decision until that person has exhausted his or her administrative remedies.
3. In the petition, the plaintiff may only allege that the administrative code enforcement order was arbitrary, capricious or illegal.
  - a. Within one hundred twenty (120) calendar days after submitting the petition, the responsible party petitioning for appeal shall request a copy of the record of the proceedings, including findings, orders, and if available, transcripts of hearings when necessary from the administrative law judge. If the proceeding was tape recorded, a transcript of such tape recordings shall be deemed a true and correct transcript for purposes of this subsection. The administrative law judge and the enforcement official shall not submit copies of files or transcript to the reviewing court until the party petitioning for appeal has paid all required costs. The petitioning party's failure to properly arrange for copies of the record, or to pay the full costs for the record, within one hundred eighty (180) calendar days after the petition for review was filed shall be grounds for dismissal of the petition.
  - b. If a transcript of a hearing cannot be prepared because the tape recording is incomplete or unintelligible, the district court may, in its discretion, remand the matter to the administrative law judge for a supplemental proceeding to complete the record. The district court may limit the scope of the supplemental proceeding to issues that, in the court's opinion, need to be clarified.
4. The district court's review is limited to the record of the administrative decision that is being appealed. The court shall not accept or consider any evidence that is not part of the record of that decision unless that evidence was offered to the administrative law judge and the district court determines that it was improperly excluded.
5. The district court shall:
  - a. Presume that the administrative law judge's decision and administrative code enforcement order are valid;
  - b. Review the record to determine whether or not the decision and administrative code enforcement order were arbitrary, capricious, or illegal; and
  - c. Affirm the decision and administrative code enforcement order if they are supported by substantial evidence.
6. The filing of a petition does not stay execution of an administrative code enforcement order. Before filing a petition, a responsible person may request the administrative law judge to stay an

administrative code enforcement order. Upon receipt of a request to stay, the administrative law judge may require the administrative code enforcement order to be stayed pending district court review.

D. Settlement Agreements: In lieu of an administrative code enforcement hearing, the responsible person and the county may enter into a stipulated settlement agreement, which must be signed by both parties. When this occurs, the agreement shall be entered as the administrative code enforcement order and shall be binding upon the responsible person. Entry of this agreement shall constitute a waiver of the right to a hearing and the right to appeal. (Ord. 679-A, 6-17-2009)

### **1-13-4-8: COSTS:**

#### A. Declaration Of Purpose:

1. The county council finds that there is a need to recover costs incurred by enforcement officials and other county personnel who spend considerable time inspecting and reinspectng properties throughout the county in an effort to ensure compliance with this code or applicable state statutes.
2. The county council further finds that the assessment of costs is an appropriate method to recover expenses incurred for actual costs of abating violations, reinspections, administrative time, administrative law judge fees, title searches, [cost recovery for emergency responses](#), and any additional actual costs incurred by the county for each individual case. The assessment and collection of costs shall not preclude the imposition of any administrative or judicial fees or fines for violations of this code or applicable state statutes.

#### B. Authority:

1. The enforcement official or administrative law judge has the authority to assess costs incurred in the administration of this chapter, such as for investigation of violations, preparation of hearings, attendance at hearings, abatements and the collection process. The costs assessed shall be the amount set forth in the county's administrative fee schedule.
2. In the case of a notice of violation, the property will be inspected one time. Any additional inspections shall be subject to reinspection fees pursuant to the county's administrative fee schedule.

#### C. Notification Of Assessment Of Reinspection Costs:

1. Notification of reinspection costs shall be provided to the responsible person(s).

2. Reinspection costs assessed or collected pursuant to this chapter shall not be included in any other costs assessed.

3. The failure of any responsible person to receive notice of the reinspection costs shall not affect the validity of any other fees imposed under this chapter.

D. Failure To Timely Pay Costs: The failure of any person to pay assessed costs by the deadline specified may result in a late fee pursuant to the county's administrative fee schedule. (Ord. 710, 12-17-2008, eff. 1-1-2009)

## OPTION AGREEMENT

### (SBSRD & UOL)

This Agreement (the "**Agreement**") is made effective the \_\_\_ day of January, 2013 (the "**Effective Date**"), by and between **Snyderville Basin Special Recreation District**, a local district of the State of Utah (the "**District**") and **The Utah Open Lands Conservation Association, Inc.**, a Utah not-for-profit corporation ("**UOL**") (each is a "**Party**" and collectively they are referred to as the "**Parties**").

### RECITALS

UOL has entered into an Option Agreement dated November 16, 2012, as amended December 5, 2012, and December 19, 2012 (collectively, the "**Option**"), with RE Investment Holdings, LLC, a Utah limited liability company (the "**REIH**"), a copy of which is attached as **Exhibit "A"**. Pursuant to the Option, UOL has the right to purchase from REIH approximately 781 acres of real property located in Summit County, Utah, commonly referred to as the Toll Canyon Property (the "**Property**").

As stated in the Option, the purchase price for the Property is Six Million One Hundred Thousand dollars (\$6,100,000.00), (the "**Purchase Price**"). Under the Option, UOL has the right to pay the Purchase Price by making a down payment of two million dollars (\$2,000,000) (the "**Down Payment**") and delivering to REIH an interest-free promissory note in the amount of Four Million One Hundred Thousand Dollars (\$4,100,000) payable on or before December 28, 2014, with a further provision that, if timely paid, REIH shall reduce the principal amount by Six Hundred Ten Thousand Dollar (\$610,000), bringing the net amount due if timely paid to Three Million Four Hundred Ninety Thousand Dollars (\$3,490,000) (the "**Promissory Note**"), and a trust deed conveying the Property in trust as security for all amounts due under the Promissory Note (the "**REIH Trust Deed**").

Upon the terms identified in this Agreement, the District desires the option to purchase the Property from UOL. In the event the District exercises its option and purchases the Property from UOL and subject to the terms and conditions herein contained, the District shall grant to UOL the Conservation Easement (defined below) covering the Property to preserve, protect and enhance the conservation values of the Property.

### TERMS

**NOW THEREFORE**, in consideration of the covenants set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and UOL agree as follows:

1. Escrow, Escrow Agent, and Title. The transactions contemplated by this Agreement shall be escrowed (the “**Escrow**”), closed, and settled at the offices of U.S. Title Insurance Agency, 1630 Shortline Road, P.O. Box 681128, Park City, UT, 84060, (the “**Escrow Agent**”) (attention Corinne Woodward; telephone 435-615-1148; email cwoodward@ustitleutah.com). The Escrow Agent has provided title commitment for the Property, which is attached hereto as **Exhibit “B”** (the “**Title Commitment**”). The District hereby accepts the Title Commitment and the exceptions identified therein (the “**Permitted Exceptions**”).

2. District’s Option. The District shall have the exclusive option to purchase the Property from UOL (the “**District’s Option**”), which option shall expire on January 31, 2013 (the “**Deadline**”). To exercise the District’s Option, prior to the expiration of the Deadline, the District shall provide to UOL written notice of its election to proceed with purchase of the Property pursuant to the terms of this Agreement and the Option. Upon receipt of such notice, UOL shall provide to REIH the written notice required to exercise the Option and shall proceed with all steps required to close the purchase of the Property.

3. UOL’s Closing; Down Payment. UOL’s purchase of the Property from REIH pursuant to the Option shall be effectuated through the Escrow on or before the “closing date” specified in the Option (the “**UOL Closing**”). At the UOL Closing, the Parties shall do the following: (a) the District shall deliver into Escrow the Down Payment in immediately available funds for use by UOL as the down payment required by the Option; and (b) UOL shall deliver to the District and cause to be recorded the second position trust deed evidencing the District’s interest in the Property, a copy of which is attached hereto as **Exhibit “C”** (the “**District Trust Deed**”).

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT OR THE DISTRICT TRUST DEED TO THE CONTRARY, THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT: (A) UOL HAS NEITHER THE MEANS NOR THE CORPORATE AUTHORITY TO PAY THE BALANCE DUE ON THE PROMISSORY NOTE AND THAT CONSEQUENTLY, IF THE DISTRICT IS UNWILLING OR UNABLE TO PAY THE BALANCE DUE ON THE PROMISSORY NOTE FOR ANY REASON, REIH MAY FORCLOSE ON THE REIH TRUST DEED, AND (B) THE DISTRICT TRUST DEED IS EXPRESSLY “NON-RECOURSE” TO UOL, AND THEREFORE THE DISTRICT SHALL NOT HAVE THE RIGHT TO SEEK REPAYMENT OF THE DOWN PAYMENT OR PAYMENT OF THE BALANCE DUE ON THE PROMISSORY NOTE FROM UOL AND THE DISTRICT’S SOLE REMEDY SHALL BE TO ATTEMPT TO OBTAIN TITLE TO THE PROPERTY BY FORECLOSING UPON THE DISTRICT TRUST DEED AND BY PERFECTING THE ADDITIONAL SECURITY (DESCRIBED BELOW).

4. Recreational Lease. The Parties shall act in good faith to agree upon a lease to allow the District to use the Property for recreational purposes, which Lease shall be executed on or before December 31, 2013.

5. Additional Security. As additional security for the District's contribution of the Down Payment and at UOL's Closing, UOL shall execute and deliver into Escrow the following (collectively, the "**Additional Security**") (a) a quitclaim deed conveying to the District all of UOL's right, title and interest in and to the Property (the "**Quitclaim Deed**"), a copy of which is attached hereto as **Exhibit "D"**, and (b) the escrow instructions letter, substantially in the form attached hereto as **Exhibit "E"**, directing the Escrow Agent to deliver the Quitclaim Deed to the District at the Closing. The District shall have the right to record the Quitclaim Deed in the event of default by UOL under the terms of the Promissory Note or the REIH Trust Deed.

6. UOL's Contribution and the Minimum Contribution. UOL shall use commercially reasonable efforts to seek USDA Forest Legacy ("**Forest Legacy**") and other funding to be paid directly to REIH to pay down any outstanding balance due on the Promissory Note ("**UOL's Contribution**"). Provided, however, in consideration for and as a condition to the District's granting the Conservation Easement to UOL and regardless of whether UOL has been successful in obtaining Forest Legacy funding, on or before the due date under the Promissory Note or at the District's Closing (defined below), UOL shall pay to REIH to be applied toward any outstanding balance on the Promissory Note, the minimum sum of Two Hundred Fifty Thousand Dollars (\$250,000) (the "**Minimum Contribution**"). In the event that UOL fails to pay the Minimum Contribution, the District shall not be obligated to grant the Conservation Easement to UOL and UOL shall be relieved of its obligation to pay the Minimum Contribution.

7. Property Tax Abatement. The UOL shall seek a property tax abatement from Summit County on the Property for the tax years 2013 and 2014.

8. Water.

- a. Appurtenant to the Property are 17.62 acre feet of decreed water rights identified of record at the Utah Division of Water Rights as Water Right Nos. \_\_\_\_\_, which pursuant to approved Exchange Application No. 144, is currently authorized to be used for irrigation and domestic use, together with a Weber Basin Water Conservancy District Water Lease, Weber Basin Contract #69710, of 20 acre feet, giving a combined water right of 37.62 acre feet (the "Water Rights"). REIH will convey and assign the Water Rights to UOL at the UOL Closing, whereupon UOL shall convey and assign the Water Rights to SBSRD within thirty (30) days thereafter.
- b. Appurtenant to the Property is a Joint Well Agreement which grants to REIH as successor to Sorenson 30 gpm in source capacity in two wells owned by Mountain Regional Water Special Service District. REIH will assign the Joint Well Agreement to UOL at the UOL Closing, whereupon UOL shall assign the Joint Well Agreement to SBSRD within thirty (30) days thereafter.

9. District's Closing. The Parties shall effectuate the transactions contemplated by this Section 6 through Escrow (the "**District's Closing**"). In the event that the District exercises the District's Option, the Parties shall do the following: (a) the District shall pay the balance due on the Promissory Note according to its terms, less UOL's Contribution, (b) UOL shall repay in full the Promissory Note and the REIH Trust Deed shall be fully reconveyed, (c) UOL shall deliver to the District a special warranty deed conveying good and marketable title of the Property to the District subject only to the Permitted Exceptions and, if UOL pays the Minimum Contribution, the Conservation Easement, (d) UOL shall pay for and provide a standard A.L.T.A. owner's title insurance policy, insuring good and marketable title in the District, subject only to the Permitted Exceptions and, if UOL pays the Minimum Contribution, the Conservation Easement, (e) if UOL has paid or pays at the District's Closing the Minimum Contribution, the Parties shall execute and record the conservation easement covering the Property, substantially in the form attached hereto as **Exhibit "F"** (the "**Conservation Easement**"), and (f) the Parties shall equally share in the costs of the Escrow. Provided, however, in the event UOL is successful in obtaining funding from Forest Legacy and that such funding requires that a governmental entity holds the conservation easement, the District shall not be required to grant to UOL the Conservation Easement but rather a conservation easement acceptable to the District and Forest Legacy shall be granted by the District and recorded against the Property.

10. Notices. Any notice, demand, request, consent, approval, or communication between the Parties shall be in writing and served personally or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the Parties as follows, or to such other address as the Parties may from time to time designate by written notice.

To UOL:                      Utah Open Lands  
                                    2188 So. Highland Drive, Ste. 203  
                                    Salt Lake City, UT 84106  
                                    Attn: Wendy Fisher

To District:                Snyderville Basin Special Recreation District  
                                    Attn: District Director  
                                    5715 Trailside Drive  
                                    Park City, Utah 84098

11. Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the described matters, and supersedes all prior negotiations and agreements.

12. Successors and Assigns. This Agreement shall inure to the benefit of, and shall be binding on, the Parties, their successors and assigns.

13. Modification. This Agreement may not be modified except by an instrument in writing signed by all the Parties.

14. Cooperation. Each Party agrees to execute and deliver such additional documents and to perform such additional acts as may be reasonably necessary or appropriate to effectuate, consummate, or perform any of the terms of this Agreement.

15. Counterparts; Signatures. This Agreement may be executed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures were upon the same instrument. Any Party's facsimile signature and any emailed copy of a Party's signature shall be deemed a binding signature.

16. Authorization. Each individual executing this Agreement represents and warrants that such individual has been duly authorized to execute and deliver this Agreement in the capacity and for the entity set forth where such individual signs.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK;  
SIGNATURES FOLLOW ON NEXT PAGE]

The Parties have executed this Agreement to be effective as of the date first set forth above.

SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

THE UTAH OPEN LANDS  
CONSERVATION ASSOCIATION, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_

EXHIBIT "A"  
To  
Option Agreement (SBSRD & UOL)

OPTION AGREEMENT BETWEEN UOL AND REIH,  
INCLUDING FIRST AND SECOND AMENDMENTS

[see attached]

**OPTION AGREEMENT**  
**[REIH /UOL]**

This Option Agreement ("**Agreement**") is made as of this 16<sup>th</sup> day of November, 2012 (the "**Effective Date**") by and between RE Investment Holdings, L.L.C., a Utah limited liability company ("**REIH**"), and Utah Open Lands Conservation Association, Inc. a Utah corporation ("**UOL**").

WITNESSETH

REIH owns approximately 781 acres of real property located in Summit County, Utah (the "**Property**") a map of which is attached hereto as Exhibit "A" and incorporated herein. A legal description of the Property is attached here to as Exhibit "B" and incorporated herein;

The Property currently provides important and significant protection of natural habitat for wildlife and plants, serves as scenic relief along the highly travelled I-80 corridor and could provide critical public trail connections (collectively, the "**Conservation Purposes**");

UOL is an Internal Revenue Code §501(c) (3) entity and is a "qualified organization" as such term is used in §170(h) of such Code;

UOL desires to acquire fee title to the Property in order to facilitate its protection as open space and to protect and promote the conservation values that exist upon the Property;

A recent appraisal valued the Property at Six Million One Hundred Thousand dollars (\$6,100,000.00) (the "**Value**"). REIH is willing to grant an option to UOL to purchase the Property. To facilitate the preservation of the Property for the Conservation Purposes, REIH intends to donate ten percent (10%) of the Value to UOL as a charitable donation (the "**Donation**"). The Donation shall take the form of a Six Hundred Ten Thousand Dollar (\$610,000) discount of the Principal Amount of the Note required to be paid by UOL, provided that UOL makes timely payments as may be required by the terms of the Note; and

REIH recognizes that UOL needs additional time to ensure that it can raise the funds needed to acquire fee title to the Property.

**NOW, THEREFORE**, for good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, the parties agree as follows:

1. **Option.** REIH hereby grants to UOL the exclusive option (the "**Fee Option**") to acquire fee title to the Property. The Fee Option may be exercised by providing written notice of exercise to REIH on or before December 15, 2012 (the "**Exercise Notice**"). If UOL fails, for any reason, to deliver the Exercise Notice to REIH on or before December 15, 2012, the Fee Option shall expire and neither party shall have any further rights or claims against the other by reason of this transaction.

2. **Escrow Agent; Title Report.** The transactions contemplated by this Agreement shall be escrowed, closed, and settled (collectively, the "Closing") at the offices of U.S. Title Insurance Agency, 1630 Shortline Road, P.O. Box 681128, Park City, UT, 84060, (the "Escrow Agent") (attention Corinne Woodward; telephone 435-615-1148; email cwoodward@ustitleutah.com). Within ten (10) days of the Effective Date, REIH shall provide UOL with a title commitment, issued by the Escrow Agent, for the Property, including copies of all exception documents and the extent of the mineral interests in the Property (the "Title Commitment"). UOL shall have fifteen (15) business days after receipt of the Title Commitment in which to notify REIH of any objections to exceptions in the Title Commitment. Any title exceptions not timely objected to by UOL shall be deemed to be permitted exceptions (the "Permitted Exceptions"). To the extent REIH fails for any reason to cure any such objection prior to the Closing Date (defined below), UOL shall have a right to not close.

3. **Consideration.** As consideration for the Fee Option, UOL shall pay to REIH One Hundred Dollars (\$100.00) in good and immediately available funds upon execution of this Agreement. REIH acknowledges said amount to be good and adequate consideration for the Fee Option. When paid, said consideration shall be non-refundable, fully earned and shall be retained by REIH.

4. **Purchase Price; Payment Terms.** The purchase price for the Property shall be Six Million One Hundred Thousand Dollars (\$6,100,000.00) (the "Purchase Price"). The Purchase Price shall be paid as follows:

(a) At the Closing, UOL shall pay to REIH Two Million Dollars (\$2,000,000) (the "Down Payment"); and

(b) At the Closing, UOL shall execute and deliver to REIH an interest-free promissory note for the balance of the Purchase Price in the principal amount of Four Million One Hundred Thousand Dollars (\$4,100,000.00), due and payable on or before December 21, 2014 (the "Promissory Note"). As described above, if UOL is able to repay the Purchase Price on or before December 21, 2014, then REIH shall apply the Donation and shall discount the Purchase Price by Six Hundred Ten Thousand Dollars (\$610,000). The Promissory Note shall be secured by a first lien deed of trust, which shall encumber all of the Property (the "Trust Deed"). The form of the Promissory Note and Trust Deed are attached hereto as Exhibits "C" and "D", respectively.

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT, THE PROMISSORY NOTE OR THE TRUST DEED TO THE CONTRARY, UOL'S OBLIGATIONS UNDER THE PROMISSORY NOTE AND WITH RESPECT TO THE DOWN PAYMENT ARE EXPRESSLY "NON-RECOURSE" AGAINST UOL, AND THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT, IN THE EVENT THAT UOL OR ITS SUCCESSORS AND ASSIGNS FAIL TO PAY WHEN DUE THE OUTSTANDING BALANCE UNDER THE PROMISSORY NOTE, REIH'S SOLE REMEDY SHALL BE TO FORECLOSE UPON THE PROPERTY PURSUANT TO THE TERMS OF THE TRUST

DEED AND REGAIN TITLE TO THE PROPERTY. REIH SHALL NOT HAVE THE RIGHT TO COLLECT THE OUTSTANDING BALANCE FROM UOL NOR TO SEEK ANY DEFICIENCY FROM UOL IN THE EVENT THAT THE PROCEEDS FROM A FORECLOSURE SALE OF THE PROPERTY ARE INSUFFICIENT TO SATISFY IN FULL THE OUTSTANDING BALANCE ON THE PROMISSORY NOTE.

5. Closing; Closing Date. The Closing shall occur (the "Closing Date") within ten (10) days of delivery by UOL of the Exercise Notice, but in no event later than December 21, 2012. At the Closing, the parties shall do the following through escrow: (a) the UOL shall pay the Down Payment and shall execute and deliver the Promissory Note and Trust Deed, (b) REIH shall execute and deliver a special warranty deed conveying good and marketable title of the Property to the UOL subject only to the Permitted Exceptions, (c) REIH shall pay for and provide a standard A.L.T.A. owner's title insurance policy, insuring good and marketable title in the UOL, subject only to the Permitted Exceptions; (d) the parties shall equally share in the costs of the escrow, and (e) the parties shall take all other steps needed to effectuate the transactions contemplated by this Agreement.

6. Encumbrances. REIH will not take any action before the Closing Date that would have a material negative impact on the Property or its conservation values without the prior written approval of UOL.

7. Notices. All notices provided for herein to be deemed delivered when sent to the following:

If to REIH:

RE Investment Holdings, L.L.C.  
Attn: Terry D. Hodder  
2511 South West Temple  
Salt Lake City, Utah 84115

With copy to:

Gregory O. Taylor  
Manager, RE Management, L.L.C.  
2511 South West Temple  
Salt Lake City, Utah 84115

If to UOL:

Utah Open Lands  
Attn: Wendy Fisher  
2188 South Highland Drive, Suite 203  
Salt Lake City, Utah 84106

8. **No Recordation of Notice.** No formal notice of this Agreement is required to be filed on the public records of Summit County; however, REIH understands that UOL will need to publically announce the intention to preserve this Property in order to facilitate funding campaigns for the purchase of the Property.

9. **Entire Agreement; Amendment Waiver.** This Agreement constitutes the entire agreement between the parties pertaining to any right or interest in and to the Property or other subject matter contained in it and supersedes all prior agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. Only a writing executed by both parties clearly stating its termination may cancel this Agreement.

10. **Severability.** Any provision hereof which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction will not invalidate or render unenforceable such provision in any other jurisdiction.

11. **Authority.** Each Party represents and warrants that it has full authority to perform as herein provided, and has received all consents necessary or desirable in connection with the execution of this Agreement.

12. **Execution.** This Agreement may be executed by the execution of one of more counterparts and may be executed by sending an electronic copy of an executed Agreement to the other party hereto.

13. **Dispute Resolution.** The parties agree that any dispute, arising related to this Agreement or either of the options herein contained may first be submitted to mediation. If mediation is mutually agreed upon then, the dispute shall be submitted to mediation through a mediation provider unanimously agreed upon by the parties. Each party agrees to bear its own costs of mediation. If, however, any party is required to take legal action to pursue any rights under this Agreement, then the prevailing party shall be entitled to attorney's fees and costs.

14. **No Brokers.** Both parties represent to each other that they have not engaged a real estate broker or other professional to whom monies might be owed by reason of this transaction. The parties agree to indemnify and hold the other harmless from any and all costs, expenses or damages resulting from any claims for brokerage fees or other similar forms of compensation made by any real estate broker or any other person or entity because of the option and future sale contemplated by this Agreement.

15. **Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the state of Utah. The parties consent to the jurisdiction of the courts of the state of

Utah and further agree that any action arising out of or relating to this Agreement may only be commenced in the courts of the state of Utah. The terms and provisions of the Agreement are for the benefit of UOL and REIH only and no other person shall have any right or cause of action on account thereof.

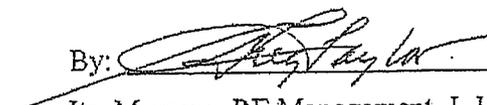
16. Prorations. At Closing, all real estate taxes and assessments, both general and special, shall be prorated as of the Closing Date. Further, the costs of Closing shall be divided as between the parties in the manner typical for this type of transaction.

17. Binding Effect. This Agreement shall be binding upon and inure to the benefit of REIH and UOL and their respective successors and assigns.

18. Assignment. This Agreement may be assigned with the prior written permission of the non-assigning party, which permission will not be unreasonably withheld.

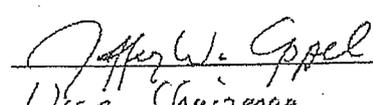
IN WITNESS WHEREOF, this Option Agreement has been duly executed by the parties hereto as of the date written above.

RE INVESTMENT HOLDINGS, L.L.C.

By: 

Its: Manager, RE Management, L.L.C., Manager

UTAH OPEN LANDS CONSERVATION ASSOCIATION,  
INC.

By: 

Its: Vice-Chairman

**Exhibit "A"**  
**Map of Property**

[see attached]



**Exhibit "B"**  
**Legal Description**

[see attached]

**PP-58**

THAT PART OF SEC 16 T1S R3E SLBM IN SUMMIT COUNTY. LESS 301.00 AC IN IQC193 BAL 58.76 ACRES M17-284 PWD-204 XMI-159M9-239-242-245 PQC-193 M31-644 473-430 534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-57-C**

ALL OF THAT PORTION OF SEC 15 T1S R3E SLBM LYING W OF THE FOLLOWING DESC LINE, SD LINE REPRESENTING THE W LINE OF THE APPROVED PINEBROOK MASTER PLAN. BEG AT A PT WH LIES S89\*56'44" E 605.72 FT ALGTHE N LINE OF SEC 15 FR THE N 1/4 COR OF SEC 15 T1S R3E SLBM & RUN TH S0\*25'05"E 5392.97 FT TO A PT ON THE S LINE OF SEC 15, SD PT ALSO BEING N89\*52'55" E607.72 FT FR THE S 1/4 COR OF SEC 15. (EXCLUDING THAT PORTION DEEDED TO SUMMIT PARK CO WWD-150) CONT 309.87 AC 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-35-C-2**

BEG SE COR LOT 49, TIMBERLINE 1, SUBDIN SEC. 10 T1SR3E, SLBM, SD PT BEING S 89\*55'12" E 2690.44 FT & S 00\*01'38" W561.31 FT FR W 1/4 COR SD SEC 10, RUN TH ALG E BNDRY SW 1/4 SD SEC S 00\*01'38" W 1452.13 FT M/L TO SE COR N 1/2 SE1/4 SW1/4 SEC, RUN TH ALG S BNDRY N 1/2 SE1/4 SEC S 89\*53'28" W 684 FT M/L TO SE COR LOT 217 TIMBERLINE 2; TH ALG E BNDRY 352.59 FT; N 33\*20' E 235.70 FT; N 15\* 37'20" W 137.91 FT; N 12\*05'24" E 161.78 FT M/L TO PT ON BNDRY TIMBERLINE 1, RUN TH ALG SD BNDRY N 64}25' E 537.74 FT M/L TO BEG CONT 18.7 ACRES ALSO SW 1/4 SE1/4 SEC 10 T1SR3E SLBM CONT 41.6 ACRES SUBJECT TO R/W EXCEPTING THEREFROM THE FOLLOWING DIVIDED PARCEL LOT TO TH REAR BEG TO THE NE COR OF LOT 206, TIMBERLINE PLAT 2, RUN TH N 64\*25' E 81 FT; TH S'LY TO A PT WH IS S 79\*55' E 18 FT FR THE SE COR OF SD LOT 206; TH N 79\*55' W 18 FT TO SD COR; TH N 12\*05'25" W 161.78 FT TO THE PT OF BEG CONT .19 AC TOTAL ACRES 60.11 M42-681 M60-112 859-448 1105-685

**PP-35-C-5**

ALL INT IN E 6.0 ACRES OF SE 1/4 SE 1/4SW 1/4 SEC 10 T1SR3E, SLBM M2-385-386 489-231 1079-367 1105-685

**PP-60**

NW1/4 OF SEC 22 T1SR3E SLBM CONT 167.05 ACRES M18-123-129 UWD-519 3AMI-243 M9-239-242-245 M17-284 M31-644 473-430534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-67-B**

THAT PORTION OF SEC 21 T1SR3E SLBM LYING WITHIN SUMMIT COUNTY CONT 179.28 AC WD-I-385 1318-427

## ADDENDUM TO OPTION AGREEMENT

### (REIH & UOL)

This Addendum to Option Agreement (the "Addendum") is made effective the 5<sup>th</sup> day of December, 2012 (the "Effective Date"), by and between RE Investment Holdings, L.L.C., a Utah limited liability company ("REIH") and Utah Open Lands Conservation Association, Inc., a Utah not-for-profit corporation ("UOL") (each is a "Party" and collectively they are referred to as the "Parties").

### RECITALS

UOL has entered into an Option Agreement dated November 16, 2012, (the "Option Agreement"), with REIH. Pursuant to the Option Agreement, UOL has the right to purchase from REIH approximately 781 acres of real property located in Summit County, Utah, commonly referred to as the Toll Canyon Property (the "Property"). The right to purchase the Property must be exercised no later than December 15, 2012 ("Option Date"), with a closing no later than December 21, 2012. Due to circumstances involving the execution of an agreement between UOL and the Snyderville Basin Special Recreation District ("District"), the down payment to be utilized by UOL has been delayed, necessitating an extension of the Option Date above referenced.

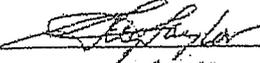
### TERMS

NOW THEREFORE, in consideration of the covenants set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, REIH and UOL agree as follows:

1. Option. The written notice to exercise the Fee Option, as provided for in section 1 of the Option Agreement, is amended to December 21, 2012.
2. Closing; Closing Date. The Closing date, as provided for in section 5 of the Option Agreement, is amended to December 28, 2012.
3. No Changes to Other Terms. This Addendum shall not alter or modify any other terms or conditions to the Option Agreement other than those recited herein.

The Parties have executed this Agreement on the respective dates set forth below, to be effective as of the date first set forth above.

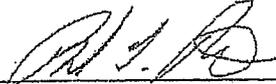
RE INVESTMENT HOLDINGS, LLC

By: 

Its: Manager, RE Management L.L.C., Manager

Dated: 12/5/12

THE UTAH OPEN LANDS  
CONSERVATION ASSOCIATION, INC.

By: 

Its: Chairman, Board of Directors

Dated: 12/5/12

## SECOND ADDENDUM TO OPTION AGREEMENT

### (REIH & UOL)

This Second Addendum to Option Agreement (the "Addendum") is made effective the 19<sup>th</sup> day of December, 2012 (the "Effective Date"), by and between RE Investment Holdings, L.L.C., a Utah limited liability company ("REIH") and Utah Open Lands Conservation Association, Inc., a Utah not-for-profit corporation ("UOL") (each is a "Party" and collectively they are referred to as the "Parties").

### RECITALS

UOL has entered into an Option Agreement dated November 16, 2012, as amended on December 5, 2012 (collectively the "Option Agreement"), with REIH. Pursuant to the Option Agreement, UOL has the right to purchase from REIH approximately 781 acres of real property located in Summit County, Utah, commonly referred to as the Toll Canyon Property (the "Property"). The right to purchase the Property must be exercised no later than December 21, 2012 ("Option Date"), with a closing no later than December 28, 2012. Due to the discovery of an Exception within the Title Commitment and certain water rights that need further investigation, the Parties have agreed to an extension of the Option Date.

### TERMS

NOW THEREFORE, in consideration of the covenants set forth herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, REIH and UOL agree as follows:

1. Option. The written notice to exercise the Fee Option, as provided for in section 1 of the Option Agreement, is amended to February 1, 2013.
2. Closing; Closing Date. The Closing date, as provided for in section 5 of the Option Agreement, is amended to February 8, 2013.
3. No Changes to Other Terms. This Addendum shall not alter or modify any other terms or conditions to the Option Agreement other than those recited herein.

The Parties have executed this Agreement on the respective dates set forth below, to be effective as of the date first set forth above.

RE INVESTMENT HOLDINGS, LLC

By: [Signature]  
Its: MANAGER, RE Management, L.L.C., manager  
Dated: 12/19/12

THE UTAH OPEN LANDS  
CONSERVATION ASSOCIATION, INC.

By: Jeffrey W. Cappel  
Its: Vice Chairman  
Dated: 12/19/12

**Exhibit "C"**

**Promissory Note**

**[see attached]**

Promissory Note (the "Note")

Maker:  
Utah Open Lands Conservation Association, Inc.  
2188 South Highland Drive, Suite 203  
Salt Lake City, Utah 84106

Principal Amount:  
\$4,100,000.00

FOR VALUE RECEIVED, the undersigned, Utah Open Lands Conservation Association, Inc., a Utah non-profit corporation (the "Maker"), promises to pay to the order of RE Investment Holdings, L.L.C., a Utah limited liability company, ("Seller") at 2511 South West Temple, Salt Lake City, Utah 84115, or at such other location as designated by Seller, in lawful money of the United States of America, the principal amount of **Four Million Four One Hundred Thousand Dollars (\$4,100,000.00)** ( the "Principal Amount"), without interest thereon, or such portion thereof as may be outstanding, on or before **December 21, 2014**, (the "Maturity Date").

Notwithstanding anything above to the contrary, Seller has agreed to discount the amount of the Principal Amount owing by the Maker by Six Hundred Ten Thousand Dollars (\$610,000) if Maker can pay the entire Principal Amount and any other amounts due and payable under the Note or pursuant to the Trust Deed, in full, on or before the Maturity Date.

The financial obligation evidenced by this Note arises from a transaction more fully set forth in an Option Agreement dated November \_\_, 2012 (the "Option Agreement"). This Note is secured by a first position trust deed encumbering approximately 781 acres located in Summit County, Utah (the "Trust Deed").

NOTWITHSTANDING ANYTHING IN THE OPTION AGREEMENT, THE TRUST DEED, OR THIS NOTE TO THE CONTRARY, THE OBLIGATIONS OF THE MAKER UNDER THIS NOTE AS SECURED BY THIS TRUST DEED ARE "NON-RECOURSE" AGAINST MAKER, AND THE SELLER HEREBY ACKNOWLEDGES AND AGREES THAT, IN THE EVENT OF A DEFAULT BY MAKER UNDER THIS NOTE, THE SELLER'S SOLE

REMEDY SHALL BE TO FORECLOSE UPON THE PROPERTY PURSUANT TO THE TERMS OF THE TRUST DEED. THE SELLER SHALL NOT HAVE THE RIGHT TO MAKE ANY CLAIMS AGAINST MAKER SEEKING TO COLLECT THE INDEBTEDNESS UNDER THIS NOTE FROM THE MAKER.

Interest hereunder shall accrue at an annual rate of zero percent (0.0%) per annum.

On the Maturity Date, the entire outstanding Principal Amount balance, together with any and all other amounts that may be due and payable under this Note or pursuant to the Trust Deed shall be due and payable in full.

Maker may prepay this Note at any time without penalty.

If a payment on this Note becomes due and payable on a Saturday, Sunday or legal holiday under the laws of the State of Utah, the payment date shall be extended to the next succeeding business day. The Maker waives presentment for payment, protest, notice of protest and of nonpayment of this Note. Maker agrees that failure of Seller or any holder of this Note to exercise its rights hereunder shall not constitute a waiver of the right to exercise the same in the event of a later default.

This Note shall be construed according to the laws of the State of Utah.

DATED this \_\_\_ day of December, 2012.

“Maker”:

Utah Open Lands Conservation Association, Inc.,  
a Utah non-profit corporation

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Exhibit "D"**

**Trust Deed**

**[see attached]**

**EXHIBIT "D"**

WHEN RECORDED MAIL TO:

RE Investment Holdings, L.L.C.  
2511 South West Temple  
Salt Lake City, Utah 84115

SPACE FOR RECORDER'S USE

**TRUST DEED**

THIS TRUST DEED is made and given the \_\_\_\_ day of \_\_\_\_\_, 2012, by **Utah Open Lands Conservation Association, Inc.**, a Utah non-profit corporation, whose address is 2188 South Highland Drive, Suite 203, Salt Lake City, Utah, 84106 as "Trustor" to **U.S. Title Insurance Agency, LLC**, 1630 Short Line Road, Park City, UT, 84060; Attention Kathie Johnston, as "Trustee", for the benefit of **RE Investment Holdings, L.L.C.**, a Utah limited liability company, whose address is 2511 South West Temple, Salt Lake City, Utah 84115, as "Beneficiary".

WITNESSETH: That Trustor hereby grants, conveys, transfers, assigns and warrants to Trustee in trust, with power of sale, for the benefit of Beneficiary, the following described property, situated in Summit County, State of Utah:

See Exhibit "A" attached hereto and incorporated herein.

Together with all the estate, right, title and interest that Trustor now has or may hereafter acquire, either in law or in equity, in and to the property described above; to have and to hold the same, together with all buildings, structures and improvements now or hereafter constructed or placed on the property and all alterations, additions or improvements now or hereafter made thereto, and together with all easements, rights of way, prescriptive rights, covenants benefiting the property, tenements, hereditaments, reversions, remainders, issues, profits, privileges, water rights, water company shares of stock (with all certificates therefor to be delivered to Beneficiary), and appurtenances of every kind and nature thereunto belonging, relating or in any way appertaining, or which may be hereafter acquired and used or related to the property, or any part thereof, and together with all proceeds therefrom including without limitation condemnation awards and insurance proceeds (all of the foregoing shall hereinafter be collectively referred to as the "Property").

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a Trust Deed Note, dated of even date herewith, in the stated principal sum of Four Million One Hundred Thousand Dollars (\$4,100,000), made by Trustor, payable to the order of Beneficiary at the times, in the manner as therein set forth, and any increases, extensions, renewals or modifications thereof and any restated or replacement promissory note therefor (the "Note"); (2) the payment and performance of all obligations and liabilities of Trustor under the terms of all documents executed for the benefit of Beneficiary in connection with the Note; (3) the performance of each agreement, covenant and representation of Trustor set forth in this Trust Deed; (4) the payment of any other loans or credit made or extended by Beneficiary to Trustor or its successors or assigns; and (5) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Trust Deed.

An "Event of Default" under this Trust Deed shall occur upon (1) any default or event of default occurring under the Note, (2) any default or event of default occurring under any other obligation secured by this Trust Deed, (3) any failure to meet or comply with Trustor's obligations under this Trust Deed, (4) a receiver or a trustee being appointed for Trustor or with respect to Trustor's property, (5) Trustor making an assignment for benefit of creditors, (6) Trustor becoming insolvent, or (7) a petition being filed by or against Trustor pursuant to any provision of the United States Bankruptcy Code, as amended.

TO PROTECT THE LIENS AND SECURITY INTERESTS GRANTED BY THIS TRUST DEED, TRUSTOR HEREBY AGREES:

1. To keep the Property in good condition and repair; not to remove or demolish any building or improvement or landscaping; to complete or restore promptly and in good workmanlike manner any building or improvement or landscaping which may be constructed, damaged or destroyed thereon; to comply with all laws, regulations, covenants and restrictions affecting the Property including without limitation all applicable local, state and federal laws, rules, regulations and ordinances relating to land use and zoning; not to commit or permit waste on the Property; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary to maintain its value. Notwithstanding anything to the contrary in this Section 1, Trustor shall have the right to commence planning (but not construction) trails upon the Property, including but not limited to the placement of survey markers and other devices necessary for trail planning purposes.

2. To pay at least 20 days before delinquency all taxes and assessments affecting the Property, including all assessments upon water company stock and all assessments and charges for water and other utilities used in connection with the Property; to pay, when due, all encumbrances, charges, and liens with interest on the Property or any part thereof, which at any time appear to be prior or superior hereto; to pay all costs, fees and expenses incurred by Beneficiary in connection with this Trust Deed.

3. Upon an Event of Default, Beneficiary or Trustee, but without any obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation under this Trust Deed, may (i) take measures as either may deem necessary to protect and preserve

the liens and security interests granted by this Trust Deed, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (ii) commence, appear in and defend any action or proceeding purporting to affect the Property, this Trust Deed or the rights or powers of Beneficiary or Trustee under this Trust Deed; (iii) pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior to this Trust Deed; and (iv) in exercising any such powers, expend whatever amounts it may deem necessary therefor, including title work and the employment of attorneys, with Trustor hereby agreeing to reimburse Beneficiary or Trustee for all such expenses with interest thereon at the applicable interest rate set forth in the Note.

4. To accord Beneficiary the right to inspect the Property upon reasonable notice during usual business hours.

IT IS MUTUALLY AGREED THAT:

5. Should the Property or any part thereof be taken or damaged by reason of any public improvements or condemnation proceeding, Beneficiary shall be entitled to receive independently and solely all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, right of action and proceeds, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured by this Trust Deed in such order as Beneficiary may determine. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary may request.

6. Trustor hereby assigns absolutely to Beneficiary all leases, rents, issues and royalties generated at or arising in connection with any portion of the Property, whether now existing or hereafter arising. Until an Event of Default or until Beneficiary gives notice otherwise (which notice may be given even if no Event of Default exists), Trustor shall be permitted to collect all such leases, rents, issues and royalties payable prior to such Event of Default or, as the case may be, prior to notice from Beneficiary, as they become due and payable (Trustor may not collect any prepayments thereof). If an Event of Default occurs or upon Beneficiary's notice, Trustor's privilege to collect any of such moneys and enjoy the benefits of such Property shall immediately cease, and Beneficiary shall have the right, as stated above, with or without taking possession of the Property, to collect all leases, rents, issues and royalties and enjoy the benefits of the Property. Failure of or discontinuance by Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be or be construed to be, an affirmation by Beneficiary of any tenancy, lease, or option, nor an assumption of liability under, nor a subordination of the lien of this Trust Deed to any such tenancy, lease or option.

7. Upon an Event of Default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the ex parte appointment of such receiver without the posting of a bond or undertaking and consenting to

the appointment of Beneficiary or its affiliate as such receiver and without regard to the value of the Property or the adequacy of any security for the indebtedness secured by this Trust Deed), enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect leases, rents, issues and royalties including those past due and unpaid, and apply such collections, less costs and expenses of operation and collection, including attorney's fees, upon the indebtedness secured hereby, and in such order as Beneficiary may determine. This right to the appointment of a receiver is a contractual right that may be specifically enforced by Beneficiary with or without adherence to any rule of civil procedure applicable otherwise to the prejudgment appointment of a receiver.

8. The exercise by Beneficiary of the remedies provided by this Trust Deed, including the entering upon and taking possession of the Property, the appointment of a receiver, the collection of leases, rents, issues, and royalties, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the Property, and the application thereof shall not cure or waive any Event of Default, nor shall it affect or limit the rights of Beneficiary to commence foreclosure proceedings pursuant to the applicable trust deed statute or as otherwise provided by law. The judicial appointment of a receiver shall not affect the rights of Beneficiary to conduct a power of sale foreclosure.

9. Failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any Event of Default or acceptance of payment of any payment secured hereby after its due date shall not constitute a waiver of any other subsequent Event of Default.

10. Time is of the essence hereof. Upon an Event of Default, all sums secured hereby shall immediately become due and payable in full at the option of Beneficiary. Upon an Event of Default, and without any obligation on Beneficiary to give notice of such acceleration, Beneficiary may execute or cause Trustee to execute and record a "notice of default" pursuant to the applicable trust deed statutes and commence a power of sale foreclosure permitted by those trust deed statutes.

11. At any time after the lapse of such time as may then be required by law following the recordation of a notice of default, and a notice of sale having been given in the manner required or permitted by law, Trustee, without demand on Trustor, may sell the Property on the date and at the time and place designated in such notice of sale, either as a whole or in separate parcels, and in such order as Beneficiary may request, at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any reason, postpone the sale from time to time to the extent permitted by law until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale. Trustee shall execute and deliver to the purchaser its trustee's deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Except as otherwise directed by applicable law, Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) the costs of any appraisals,

environmental audits, and evidences of title procured in connection with such sale and any expenses associated with the trustee's deed; (3) all sums expended under the terms of this Trust Deed not then repaid, with accrued interest from the day of expenditure at the applicable rate set forth in the Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit or interplead the balance of such proceeds with the county clerk or a court of the county in which the sale took place.

12. Trustor agrees to surrender complete possession of the Property to the purchaser at the trustee's sale immediately after such sale in the event such possession has not previously been surrendered by Trustor.

13. NOTWITHSTANDING ANYTHING IN THIS TRUST DEED OR THE NOTE TO THE CONTRARY, TRUSTOR'S OBLIGATIONS UNDER THE NOTE AS SECURED BY THIS TRUST DEED ARE "NON-RECOURSE" AGAINST TRUSTOR AND THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT, IN THE EVENT OF A DEFAULT BY TRUSTOR, EXCEPT FOR A BREACH OF TRUSTOR'S AGREEMENT WITH RESPECT TO HAZARDOUS SUBSTANCES AS PROVIDED FOR IN SECTION 16 HEREOF, THE BENEFICIARY'S SOLE REMEDY SHALL BE TO FORECLOSE UPON THE PROPERTY PURSUANT TO THE TERMS OF THIS TRUST DEED. THE BENEFICIARY SHALL NOT HAVE THE RIGHT TO MAKE ANY CLAIMS AGAINST TRUSTOR, INCLUDING BUT NOT LIMITED TO CLAIMS SEEKING TO COLLECT ANY INDEBTNESS OF TRUSTOR TO BENEFICIARY UNDER THE NOTE.

14. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

15. Trustor hereby agrees not to sell or transfer any right, title or interest in or to the Property or any portion thereof, whether voluntarily or involuntarily, without the prior written consent of Beneficiary, which consent shall not be unreasonably conditioned, delayed, or withheld. In the event of a permitted transfer, Trustor shall remain obligated to Beneficiary under the Note, the other Loan Documents and this Trust Deed, unless Beneficiary expressly releases Trustor in writing. A prohibited transfer under this paragraph shall include a transfer of more than a fifty percent (50%) ownership interest in Trustor.

16. With respect to Trustor's ownership and use of the Property, Trustor agrees to comply with all laws, statutes and regulations now or hereafter effective with respect to the protection of the environment, or to the generation, use, storage, removal, transportation, handling or disposal of toxic materials, hazardous substances, hazardous waste or other similar materials or substances.

17. This Trust Deed shall be construed according to the laws of the State of Utah.

18. If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Trust Deed, the liens granted hereby, or the rights of Beneficiary hereunder.

19. Trustor agrees that a copy of any notice default and any notice of sale given in connection with a power of sale foreclosure (or any other notice given in connection with this Trust Deed) may be mailed to Trustor at the Trustor's address set forth above.

SIGNATURE OF TRUSTOR:

Utah Open Lands Conservation Association, Inc.,  
a Utah non-profit corporation

By \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**TRUSTOR'S ACKNOWLEDGMENT**

STATE OF UTAH )  
 )  
 ) :ss.  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_, the \_\_\_\_\_ of Utah Open Lands Conservation Association, Inc., a Utah non-profit corporation who being duly sworn, did say that the foregoing instrument was signed in behalf of Utah Open Lands Conservation Association, Inc., by authority of its governing body and said \_\_\_\_\_ acknowledged to me that the Utah Open Lands Conservation Association, Inc., executed the same.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**

**Legal Description of Property**

[see attached]

**PP-58**

THAT PART OF SEC 16 T1S R3E SLBM IN SUMMIT COUNTY. LESS 301.00 AC IN IQC193 BAL 58.76 ACRES M17-284 PWD-204 XMI-159M9-239-242-245 PQC-193 M31-644 473-430 534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-57-C**

ALL OF THAT PORTION OF SEC 15 T1S R3E SLBM LYING W OF THE FOLLOWING DESC LINE, SD LINE REPRESENTING THE W LINE OF THE APPROVED PINEBROOK MASTER PLAN. BEG AT A PT WH LIES S89°56'44" E 605.72 FT ALGTHE N LINE OF SEC 15 FR THE N 1/4 COR OF SEC 15 T1S R3E SLBM & RUN TH S0°25'05"E 5392.97 FT TO A PT ON THE S LINE OF SEC 15, SD PT ALSO BEING N89°52'55" E607.72 FT FR THE S 1/4 COR OF SEC 15. (EXCLUDING THAT PORTION DEEDED TO SUMMIT PARK CO WWD-150) CONT 309.87 AC 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-35-C-2**

BEG SE COR LOT 49, TIMBERLINE 1, SUBDIN SEC. 10 T1SR3E, SLBM, SD PT BEING S 89°55'12" E 2690.44 FT & S 00°01'38" W561.31 FT FR W 1/4 COR SD SEC 10, RUN TH ALG E BNDRY SW 1/4 SD SEC S 00°01'38" W 1452.13 FT M/L TO SE COR N 1/2 SE1/4 SW1/4 SEC, RUN TH ALG S BNDRY N 1/2 SE1/4 SEC S 89°53'28" W 684 FT M/L TO SE COR LOT 217 TIMBERLINE 2; TH ALG E BNDRY 352.59 FT; N 33°20' E 235.70 FT; N 15° 37'20" W 137.91 FT; N 12°05'24" E 161.78 FT M/L TO PT ON BNDRY TIMBERLINE 1, RUN TH ALG SD BNDRY N 64}25' E 537.74 FT M/LTO BEG CONT 18.7 ACRES ALSO SW 1/4 SE1/4 SEC 10 T1SR3E SLBM CONT 41.6 ACRES SUBJECT TO R/W EXCEPTING THEREFROM THE FOLLOWING DIVIDED PARCEL LOT TO TH REAR BEG TO THE NE COR OF LOT 206, TIMBERLINE PLAT 2, RUN TH N 64°25' E 81 FT; TH S'LY TO A PT WH IS S 79°55' E 18 FT FR THE SE COR OF SD LOT 206; TH N 79°55' W 18 FT TO SD COR; TH N 12°05'25" W 161.78 FT TO THE PT OF BEG CONT .19 AC TOTAL ACRES 60.11 M42-681 M60-112 859-448 1105-685

**PP-35-C-5**

ALL INT IN E 6.0 ACRES OF SE 1/4 SE 1/4SW 1/4 SEC 10 T1SR3E, SLBM M2-385-386 489-231 1079-367 1105-685

**PP-60**

NW1/4 OF SEC 22 T1SR3E SLBM CONT 167.05 ACRES M18-123-129 UWD-519 3AMI-243 M9-239-242-245 M17-284 M31-644 473-430534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-67-B**

THAT PORTION OF SEC 21 T1SR3E SLBM LYING WITHIN SUMMIT COUNTY CONT 179.28 AC WD-I-385 1318-427

EXHIBIT "B"

To

Option Agreement (SBSRD & UOL)

TITLE COMMITMENT TO THE PROPERTY

[see attached]

**SCHEDULE A**

Effective Date: November 16, 2012 @ 8:00 a.m.

1.	Policy or Policies to be issued:	Amount	Premium
(a)	ALTA 2006 Owner's Policy: Proposed Insured:	\$	\$11,552.00

**Utah Open Lands Conservation Association, Inc.**

(b)	ALTA 2006 Loan Policy Proposed Insured:	\$	\$0.00
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Endorsements: \$0.00

2. The estate or interest in the land described or referred to in this Commitment and covered herein is fee simple and title thereto is at the effective date hereof vested in:

**RE Investment Holdings, L.L.C., a Utah limited Liability Company successor by merger to JLS Group, LLC**

3. The land referred to in this Commitment is described as follows:

See Attached Exhibit "A"

Said property is located in County, State of Utah also known as:

NO SITUS ADDRESS ASSIGNED

EXHIBIT "A"

PARCEL 1:

All Section 16 Township 1 South, Range 3 East, Salt Lake Base and Meridian.

Less and excepting therefrom the following any portion within the bounds of Salt Lake County and that portion deeded to Summit Park Company, a Utah corporation and described in that certain Warranty Deed recorded July 5, 1960 as Entry No. 91905 in Book W of Warranty Deeds at page 150 of Official Records.

Tax ID No. PP-58

PARCEL 2:

All of that portion of Section 15 Township 1 South, Range 3 East, Salt Lake Base and Meridian lying West of the following described line, said line representing the West line of the approved Pinebrook Master Plan:

Beginning at a point South 89°56'44" East 605.72 along the North line of Section 15 from the North Quarter Corner of Section 15 Township 1 South, Range 3 East, Salt Lake Base and Meridian and running thence South 0°25'05" East 5293.97 feet to a point on the South line of Section 15, said point also being North 89°52'55" East 607.72 feet from the South Quarter Corner of said Section 15.

Less and excepting therefrom the following that portion deeded to Summit Park Company, a Utah corporation and described in that certain Warranty Deed recorded July 5, 1960 as Entry No. 91905 in Book W of Warranty Deeds at page 150 of Official Records.

Tax ID No. PP-57-C

Parcels 1 and 2 are together with and subject to all rights, title and interest in the certain "Amendment to Real Estate Sales Agreement" dated 20, October, 1989, as disclosed by a "Notice" dated 9 June, 1993 and recorded 10 June 1993 as Entry No. 380891 in Book 730 at pages 795 of Official Records.

Parcels 1 and 2 are also together with a 20 foot wide private access road easement, as granted in those certain Grants of Easement recorded December 21, 1993 as Entry No. 394090 in Book 774 at page 535 of Official Records and re-recorded January 31, 1994 as Entry No. 396919 in Book 783 at page 389 of Official Records and recorded December 29, 1993 as Entry No. 394847 in Book 777 at page 201 of Official Records.

Parcels 1 and 2 are also together with and subject to the rights, easements and obligations created by the Easement Agreement recorded June 27, 1990 as Entry No. 326148 in Book 569 at page 113 of Official Records; and the Grant of Easement recorded May 19, 1994 as Entry No. 404864 in Book 807 at page 243 of Official Records.

Tax ID No. PP-57-C

PARCEL 3:

The Southwest Quarter of the Southeast Quarter of Section 10, Township 1 South Range 3 East, Salt Lake Base and Meridian. And also: Beginning at the Southeast corner of Lot 49 of Timberline 1, a recorded subdivision, a part of Section 10, Township 1 South, Range 3 East, Salt Lake Base and Meridian, said point also described as being South 89°55'12" East 2690.44 feet and South 00°01'38" West 561.31 feet from the West Quarter Corner of said Section 10; and running thence along the East boundary of the Southwest Quarter of said Section 10, South 00°01'38" West 1452.13 feet, more or less, to the Southeast corner of the North half of the Southeast Quarter of the Southwest Quarter of said Section 10; and running thence along the boundary of the North Half of the Southeast Quarter of the Southwest Quarter of said Section 10, South 89°53'28" West 684.00 feet, more or less, to the Southeast corner of Lot 217, of Timberline 2, a recorded subdivision, and running thence along the East boundary of said Timberline 2, North 07°06'45" West 402.66 feet; thence North 20°29'05" East 352.59 feet; thence North 33°20' East 235.70 feet; thence North 15°37'20" West 137.91 feet; thence North 12°05'24" East 161.78 feet, more or less, to a point of the boundary of said Timberline 1; and running thence along the boundary of said Timberline 1, North 64°25' East 537.74 feet, more or less, to the point of beginning.

Less and Excepting therefrom any portion thereof within the bounds of the following:

Beginning at the Northeast corner of Lot 206, Timberline Plat 2, a recorded plat, and running thence North 64°25' East 81 feet; thence Southerly to a point which is South 79°55' East 18 feet from the Southeast corner of Lot 206; thence North 79°55' West 18 feet to said Southeast corner; thence North 2°05'25" West along said lot line, 161.78 feet to the point of beginning.

Tax ID No. PP-35-C-2

PARCEL 4:

The East six (6) acres of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of Section 10, Township 1 South, Range 3 East, Salt Lake City Base and Meridian.

Tax ID NO. PP-35-C-5

PARCEL 5:

The Northwest Quarter of Section 22, Township 1 South, Range 3 East, Salt Lake City Base and Meridian.

Tax ID No. PP-60

PARCEL 6:

That portion of Section 21, Township 1 South, Range 3 East, Salt Lake City Base and Meridian, lying within Summit County, State of Utah.

Tax ID No. PP-67-B

SCHEDULE B - SECTION 1  
Requirements

The following are the requirements to be complied with:

1. Pay the Agreed amounts for the interest in the land and/or the mortgage to be insured.
2. Pay us the premiums, fees and charges for the policy.
3. Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
4. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
5. After we have received the information requested in these requirements, together with any other information about the transaction, we will have the right to add requirements to this Schedule B-1 or special exceptions to Schedule B-2.
6. Pay any amounts due under Exception No. 9 through 13.
7. Copies of the Articles of Organization and the Operating Agreement for RE Investment Holdings, L.L.C. must be provided to the company as soon as possible before closing.
8. Information and indemnification, as necessary, regarding mechanic's and/or materialmen's liens, parties in possession, and any and all other matters which are known to the seller and/or buyer, but not known by the Title Company. The Company will require the seller to sign an Affidavit regarding such matters.
9. This commitment and any requested endorsements must be submitted to our Underwriter for approval. U.S. Title Company may amend this commitment or add additional requirements at the underwriter's request to gain that approval. Failure to fulfill any additional requirements may result in a denial of coverage.
10. In order to prevent any delays in your closing, please send the above requested documentation and/or information, as soon as possible to: Kathie Johnston at 1630 Shortline Road, 3rd Floor, Park City, UT 84060.

Upon receipt and review of the requested documentation/information, the Company may add further exceptions and/or requirements to this commitment. Failure to fulfill the requirements shown herein may impair the Company's ability to insure this transaction and may result in a denial of coverage.

(Continued)

Order Number: SU52480CW

**SCHEDULE B - Section 1  
Requirements (Continued)**

11. In the event the transaction for which this commitment is furnished cancels, the Company reserves the right to charge a cancellation fee.

SCHEDULE B - Section 2  
Exceptions

Schedule B of the policy or policies to be issued will contain exceptions to the following unless the same are disposed of to the satisfaction of the Company:

Part I:

1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; (b) proceedings by a public agency that may result in taxes or assessments, or notice of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims that are not shown by the public records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
3. Easements, liens or encumbrances, or claims thereof, not shown by the public records.
4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
5. (a) Unpatented mining claim; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims, or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the Public Records.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.
7. Defects, liens, encumbrances, adverse claims or other matters, if any created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
8. Taxes for the year 2012 have been paid, amounts available upon request.
9. The property described herein is located within the boundaries of Weber Basin Water Conservancy District, and is subject to any and all charges and assessments thereof.
10. The property described herein is located within the boundaries of Snyderville Basin Water Reclamation District, and is subject to any and all charges and assessments thereof.
11. The property described herein is located within the bounds of Park City Fire Protection Special Service District and is subject to the charges and assessments thereof.
12. The property described herein is located within the boundaries of Snyderville Basin Special Recreation District, and is subject to any and all charges and assessments thereof.

(Continued)

SCHEDULE B - Section 2  
Exceptions

13. The property described herein is located within the boundaries of Summit County Special Service District No. 1, and is subject to any and all charges and assessments thereof.

14. Reservations contained in that certain Patent, issued by the United States of America, and recorded February 9, 1903 as Entry No. 11613 in Book H of Warranty Deeds at Page 72 of Official Records:

"Yet excluding from the transfers by these presents, all mineral lands should any be found to exist in the tract described in the foregoing, but the exclusion and exception, according to the terms of the Statute, shall not be construed to include coal and iron."

15. Mineral and other reservations in that certain Warranty Deeds, issued by Union Pacific Railroad Company and recorded November 12, 1908 as Entry No. 18413 in Book I of Warranty Deeds at Page 385 of Official Records.

The Company makes no assurances as to the current ownership and/or status of any mineral rights reserved therein.

16. Reservations contained in that certain Warranty Deed executed by the Union Pacific Railroad Company, and recorded November 17, 1910 as Entry No. 20457 in Book J of Warranty Deeds at Page 256, of Official Records, said reservations being set forth as follows:

"Excepting and reserving to the Union Pacific Railroad Company, its successors and/or assigns:

First: All coal and other minerals within or underlying said lands

Second: The exclusive right to prospect in and upon said land for coal and other minerals therein, or which may be supposed to be therein, and to mine for and remove, from said land, all coal and other minerals which may be found by anyone.

Third: The right of ingress, egress and regress upon said land to prospect for, mine and remove any and all such coal and other minerals, and the right to use so much of said land as may be convenient or necessary for the right of way to and from such prospect places or mines and for the convenient and proper operations of such prospect places, mines and for roads and approaches thereto or for removal therefrom of coal, mineral, machinery or other material.

Fourth: The right to said Union Pacific Railroad Company to maintain and operate its railroad in its present form of construction, and to make any changes in the form of construction of method of operation of said railroad."

The Company makes no assurances as to the current ownership and/or status of any mineral rights reserved therein.

(Continued)

SCHEDULE B - Section 2  
Exceptions

17. Excepting therefrom all coal and other minerals, as provided under Sections 65-1-15, 65-1-16 and 65-1-17, Utah Code Annotated 1953, and as amended, together with the right of ingress and egress for the purpose of exploring and/or removing the same, as disclosed by that certain Patent, issued by that State of Utah and recorded December 2, 1930 as Entry No. 45584 in Book P of Warranty Deeds at Page 204 of Official Records.
18. Excepting therefrom all coal and other minerals, as provided under Sections 65-1-15, 65-1-16 and 65-1-17, Utah Code Annotated 1953, and as amended, together with the right of ingress and egress for the purpose of exploring and/or removing the same, as disclosed by that certain Patent, issued by that State of Utah and recorded October 31, 1947 as Entry No. 76777 in Book T of Warranty Deeds at Page 150 of Official Records.
19. An Easement, the exact location of which is not described, to construct, operate and maintain such communication systems as may be required, and incidental purposes, as granted to American Telephone and Telegraph Company, in the document recorded April 20, 1948 as Entry No. 77348 in Book Z of Miscellaneous Records at Page 206 of Official Records.
20. An Easement, which affects said land, to lay, maintain and operate pipe lines and other appurtenances thereof for the transportation of oil, petroleum, gas, gasoline, water or other substances, and to erect, maintain and operate telegraph, telephone or power lines and appurtenances thereof, and incidental purposes, as granted to Salt Lake Pipe Line Company, in the document recorded May 27, 1948 as Entry No. 77495 in Book Z of Miscellaneous Records at page 243 of Official Records.

An Affidavit describing the located of the finished easement was recorded November 23, 1948 as Entry No. 78183 in Book Z of Miscellaneous Records at page 375.

(Continued)

SCHEDULE B - Section 2  
Exceptions

21. Reservations contained in that certain Warranty Deed executed by the Union Pacific Railroad Company, and recorded November 30, 1954 as Entry No. 84728 in Book U of Warranty Deeds at Page 519, of Official Records, said reservations being set forth as follows:

"Excepting and reserving to the Union Pacific Railroad Company, its successors and/or assigns:

First: All coal and other minerals within or underlying said lands

Second: The exclusive right to prospect in and upon said land for coal and other minerals therein, or which may be supposed to be therein, and to mine for and remove, from said land, all coal and other minerals which may be found by anyone.

Third: The right of ingress, egress and regress upon said land to prospect for, mine and remove any and all such coal and other minerals, and the right to use so much of said land as may be convenient or necessary for the right of way to and from such prospect places or mines and for the convenient and proper operations of such prospect places, mines and for roads and approaches thereto or for removal therefrom of coal, mineral, machinery or other material.

Fourth: The right to said Union Pacific Railroad Company to maintain and operate its railroad in its present form of construction, and to make any changes in the form of construction or method of operation of said railroad."

22. A Right of Way and Easement Grant, which affects said land, to lay, maintain and operate pipe lines, valves, valve boxes and other gas transmission and distribution facilities, and incidental purposes, as granted to Mountain Fuel Supply Company, in the document recorded June 29, 1988 as Entry No. 283235 in Book 461 at Page 707 of Official Records.

23. The terms and conditions, including lien rights, of that certain Contract for Sale and Use of Untreated Water, by and between Weber Basin Water Conservancy District and Gorgoza Pine Ranch, Inc., ; and recorded December 26, 1975 as Entry No. 129931 in Book M-75 at Page 398 of Official Records.

The interest of Gorgoza Pines Ranch, in and to said Contract has since been assigned to JLS Properties, L.L.C.

24. The easements, terms and conditions of that certain Easement Agreement by and between James L. Sorensen and Summit County, through its Summit Park Water Special Improvement District; and recorded June 27, 1990 as Entry No. 326148 in Book 569 at page 113 of Official Records. See said document for full particulars.

25. The terms and conditions of that certain unrecorded Amendment to Real Estate Sales Agreement, by and between James L. Sorenson and Pinerbrook Development Corporation; and disclosed by that certain Notice recorded June 10, 1993 as Entry No. 380894 in Book 730 at Page 795 of Official Records.

(Continued)

SCHEDULE B - Section 2  
Exceptions

26. The easements, terms and conditions of that certain Grant of Easement by and between Pine Ridge Limited Liability Company and James L. Sorenson; and recorded December 21, 1993 as Entry No. 394094 in Book 774 at page 535 of Official Records and re-recorded January 31, 1994 as Entry No. 396919 in Book 783 at page 389 of Official Records. See said document for full particulars.
27. The easements, terms and conditions of that certain Grant of Easement by and between Pine Ridge Limited Liability Company and James L. Sorenson; and recorded December 29, 1993 as Entry No. 394847 in Book 777 at page 201 of Official Records. See said document for full particulars.
28. A Grant of Easement, which affects said land, to construct, operate and maintain water lines, including all necessary fixtures, and incidental purposes, as granted to Gorgoza Mutual Water Company, in the document recorded December 29, 1993 as Entry No. 394845 in Book 777 at Page 199 of Official Records.
29. The easements, terms and conditions of that certain Grant of Easement for Well 6, Access Easement, Well Site and Protection Zone and Agreement by and between James L. Sorenson and Summit County, through its Summit Park Water Special Improvement District; and recorded May 19, 1994 as Entry No. 404864 in Book 807 at page 243 of Official Records. See said document for full particulars.
30. The easements, notes and recitals contained in that certain Special Warranty Deed, wherein Salt Lake City Corporation appears and Grantor; and recorded May 9, 2000 as Entry No. 565057 in Book 1318 at page 427 of Official Records.

\* \* \*

NOTE: The names of Utah Open Lands Conservation Association, Inc. and Re Investments Holdings, L.L.C. have been checked for Judgments and Tax Liens, etc., in the appropriate offices and if any were found would appear as Exceptions to title under Schedule B, Section 2 herein.

\* \* \*

For inquiries about your closing or other Escrow matters please contact Escrow Officer: Corinne S. Woodward at 435-615-1148. E-Mail: cwoodward@ustitleutah.com

For inquiries about this title commitment or other Title Matters please contact Title Officer: Kathie Johnston at 435-615-1148. E-Mail: mkjohnston@ustitleutah.com.

\* \* \*

(Continued)

No. SU52480CW

SCHEDULE B - Section 2  
Exceptions

NOTE: The Policy(ies) to be issued as a result of this Commitment may contain an Arbitration Clause. When the Amount of Insurance is less than the certain dollar amount set forth in any applicable arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. If you desire to review the terms of the policy, including any arbitration clause that may be included, contact the office that issued this Commitment or Report to obtain a sample of the policy jacket for the policy that is to be issued in connection with your transaction.

## CONDITIONS

1. The term mortgage, when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquired actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company, at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of this Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring liability and Conditions and Stipulations and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. This Commitment is a contract to issue one or more title insurance policies and is not an abstract of title or a report of the condition of title. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.
5. The policy to be issued contains an arbitration clause. All arbitrable matters when the Amount of Insurance of \$2,000,000.00 or less shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. You may review a copy of the arbitration rules at <http://www/alta.org/>.

*The First American Corporation  
US Title of Utah*

Privacy Policy

**We Are Committed to Safeguarding Customer Information**

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our parent company, The First American Corporation, we have adopted this Privacy Policy to govern the use and handling of your personal information.

**Applicability**

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values, a copy of which can be found on our website at [www.firstam.com](http://www.firstam.com).

**Types of Information**

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

**Use of Information**

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

**Former Customers**

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

**Confidentiality and Security**

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with the Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

EXHIBIT "C"

To

Option Agreement (SBSRD & UOL)

DISTRICT TRUST DEED

[see attached]

WHEN RECORDED MAIL TO:

Snyderville Basin Special Recreation District  
Attn: District Director  
5715 Trailside Drive  
Park City, UT 84098

SPACE FOR RECORDER'S USE

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**TRUST DEED**

THIS TRUST DEED is made and given the \_\_\_\_ day of \_\_\_\_\_, 2012, by **Utah Open Lands Conservation Association, Inc.**, a Utah non-profit corporation, whose address is 2188 South Highland Drive, Suite 203, Salt Lake City, Utah, 84106 as "Trustor" to **U.S. Title Insurance Agency, LLC**, 1630 Short Line Road, Park City, UT, 84060; Attention Kathie Johnston, as "Trustee", for the benefit of the **Snyderville Basin Special Recreation District**, a local district of the State of Utah, whose address is 5715 Trailside Drive, Park City, Utah 84098, as "Beneficiary".

THIS TRUST DEED is intended to and shall be junior and subordinate to that certain Trust Deed of even date entered into by and between Utah Open Lands Conservation Association, Inc., a Utah non-profit corporation as "Trustor" and RE Investment Holdings, L.L.C., a Utah limited liability company as "Beneficiary", which also encumbers the property described hereafter on Exhibit "A".

WITNESSETH: That Trustor hereby grants, conveys, transfers, assigns and warrants to Trustee in trust, with power of sale, for the benefit of Beneficiary, the following described property, situated in Summit County, State of Utah:

See Exhibit "A" attached hereto and incorporated herein.

Together with all the estate, right, title and interest that Trustor now has or may hereafter acquire, either in law or in equity, in and to the property described above; to have and to hold the same, together with all buildings, structures and improvements now or hereafter constructed or placed on the property and all alterations, additions or improvements now or hereafter made thereto, and together with all easements, rights of way, prescriptive rights, covenants benefiting the property,

tenements, hereditaments, reversions, remainders, issues, profits, privileges, water rights, water company shares of stock (with all certificates therefor to be delivered to Beneficiary), and appurtenances of every kind and nature thereunto belonging, relating or in any way appertaining, or which may be hereafter acquired and used or related to the property, or any part thereof, and together with all proceeds therefrom including without limitation condemnation awards and insurance proceeds (all of the foregoing shall hereinafter be collectively referred to as the "Property").

FOR THE PURPOSE OF SECURING (1) payment of the indebtedness evidenced by a Trust Deed Note, dated of even date herewith, in the stated principal sum of Five Million Four Hundred Ninety Thousand Dollars (\$5,490,000), made by Trustor, payable to the order of Beneficiary at the times, in the manner as therein set forth, and any increases, extensions, renewals or modifications thereof and any restated or replacement promissory note therefor (the "Note"); (2) the payment and performance of all obligations and liabilities of Trustor under the terms of all documents executed for the benefit of Beneficiary in connection with the Note; (3) the performance of each agreement, covenant and representation of Trustor set forth in this Trust Deed; (4) the payment of any other loans or credit made or extended by Beneficiary to Trustor or its successors or assigns; and (5) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms of this Trust Deed.

An "Event of Default" under this Trust Deed shall occur upon (1) any default or event of default occurring under the Note, (2) any default or event of default occurring under any other obligation secured by this Trust Deed, (3) any failure to meet or comply with Trustor's obligations under this Trust Deed, (4) a receiver or a trustee being appointed for Trustor or with respect to Trustor's property, (5) Trustor making an assignment for benefit of creditors, (6) Trustor becoming insolvent, or (7) a petition being filed by or against Trustor pursuant to any provision of the United States Bankruptcy Code, as amended.

TO PROTECT THE LIENS AND SECURITY INTERESTS GRANTED BY THIS TRUST DEED, TRUSTOR HEREBY AGREES:

1. To keep the Property in good condition and repair; not to remove or demolish any building or improvement or landscaping; to complete or restore promptly and in good workmanlike manner any building or improvement or landscaping which may be constructed, damaged or destroyed thereon; to comply with all laws, regulations, covenants and restrictions affecting the Property including without limitation all applicable local, state and federal laws, rules, regulations and ordinances relating to land use and zoning; not to commit or permit waste on the Property; not to commit, suffer or permit any act upon the Property in violation of law; to do all other acts which from the character or use of the Property may be reasonably necessary to maintain its value.

2. To pay at least 20 days before delinquency all taxes and assessments affecting the Property, including all assessments upon water company stock and all assessments and charges for water and other utilities used in connection with the Property; to pay, when due, all encumbrances, charges, and liens with interest on the Property or any part thereof, which at any time appear to be

prior or superior hereto; to pay all costs, fees and expenses incurred by Beneficiary in connection with this Trust Deed.

3. Upon an Event of Default, Beneficiary or Trustee, but without any obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation under this Trust Deed, may (i) take measures as either may deem necessary to protect and preserve the liens and security interests granted by this Trust Deed, Beneficiary or Trustee being authorized to enter upon the Property for such purposes; (ii) commence, appear in and defend any action or proceeding purporting to affect the Property, this Trust Deed or the rights or powers of Beneficiary or Trustee under this Trust Deed; (iii) pay, purchase, contest, or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior to this Trust Deed; and (iv) in exercising any such powers, expend whatever amounts it may deem necessary therefor, including title work and the employment of attorneys, with Trustor hereby agreeing to reimburse Beneficiary or Trustee for all such expenses with interest thereon at the applicable interest rate set forth in the Note.

4. To accord Beneficiary the right to inspect the Property upon reasonable notice during usual business hours.

IT IS MUTUALLY AGREED THAT:

5. Should the Property or any part thereof be taken or damaged by reason of any public improvements or condemnation proceeding, Beneficiary shall be entitled to receive independently and solely all compensation, awards, and other payments or relief therefor, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, right of action and proceeds, are hereby assigned to Beneficiary, who may, after deducting therefrom all its expenses, including attorney's fees, apply the same on any indebtedness secured by this Trust Deed in such order as Beneficiary may determine. Trustor agrees to execute such further assignments of any compensation, award, damages, and rights of action and proceeds as Beneficiary may request.

6. Trustor hereby assigns absolutely to Beneficiary all leases, rents, issues and royalties generated at or arising in connection with any portion of the Property, whether now existing or hereafter arising. Until an Event of Default or until Beneficiary gives notice otherwise (which notice may be given even if no Event of Default exists), Trustor shall be permitted to collect all such leases, rents, issues and royalties payable prior to such Event of Default or, as the case may be, prior to notice from Beneficiary, as they become due and payable (Trustor may not collect any prepayments thereof). If an Event of Default occurs or upon Beneficiary's notice, Trustor's privilege to collect any of such moneys and enjoy the benefits of such Property shall immediately cease, and Beneficiary shall have the right, as stated above, with or without taking possession of the Property, to collect all leases, rents, issues and royalties and enjoy the benefits of the Property. Failure of or discontinuance by Beneficiary at any time or from time to time to collect any such moneys shall not in any manner affect the subsequent enforcement by Beneficiary of the right, power, and authority to collect the same. Nothing contained herein, nor the exercise of the right by Beneficiary to collect, shall be or be construed to be, an affirmation by Beneficiary of

any tenancy, lease, or option, nor an assumption of liability under, nor a subordination of the lien of this Trust Deed to any such tenancy, lease or option.

7. Upon an Event of Default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court (Trustor hereby consenting to the ex parte appointment of such receiver without the posting of a bond or undertaking and consenting to the appointment of Beneficiary or its affiliate as such receiver and without regard to the value of the Property or the adequacy of any security for the indebtedness secured by this Trust Deed), enter upon and take possession of the Property or any part thereof, in its own name sue for or otherwise collect leases, rents, issues and royalties including those past due and unpaid, and apply such collections, less costs and expenses of operation and collection, including attorney's fees, upon the indebtedness secured hereby, and in such order as Beneficiary may determine. This right to the appointment of a receiver is a contractual right that may be specifically enforced by Beneficiary with or without adherence to any rule of civil procedure applicable otherwise to the prejudgment appointment of a receiver.

8. The exercise by Beneficiary of the remedies provided by this Trust Deed, including the entering upon and taking possession of the Property, the appointment of a receiver, the collection of leases, rents, issues, and royalties, or the proceeds of fire and other insurance policies, or compensation or awards for any taking or damage of the Property, and the application thereof shall not cure or waive any Event of Default, nor shall it affect or limit the rights of Beneficiary to commence foreclosure proceedings pursuant to the applicable trust deed statute or as otherwise provided by law. The judicial appointment of a receiver shall not affect the rights of Beneficiary to conduct a power of sale foreclosure.

9. Failure on the part of Beneficiary to promptly enforce any right hereunder shall not operate as a waiver of such right and the waiver by Beneficiary of any Event of Default or acceptance of payment of any payment secured hereby after its due date shall not constitute a waiver of any other subsequent Event of Default.

10. Time is of the essence hereof. Upon an Event of Default, all sums secured hereby shall immediately become due and payable in full at the option of Beneficiary. Upon an Event of Default, and without any obligation on Beneficiary to give notice of such acceleration, Beneficiary may execute or cause Trustee to execute and record a "notice of default" pursuant to the applicable trust deed statutes and commence a power of sale foreclosure permitted by those trust deed statutes.

11. At any time after the lapse of such time as may then be required by law following the recordation of a notice of default, and a notice of sale having been given in the manner required or permitted by law, Trustee, without demand on Trustor, may sell the Property on the date and at the time and place designated in such notice of sale, either as a whole or in separate parcels, and in such order as Beneficiary may request, at public auction to the highest bidder, the purchase price payable in lawful money of the United States at the time of sale. The person conducting the sale may, for any reason, postpone the sale from time to time to the extent permitted by law until it shall be completed and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale. Trustee shall

execute and deliver to the purchaser its trustee's deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale. Except as otherwise directed by applicable law, Trustee shall apply the proceeds of the sale to payment of (1) the costs and expenses of exercising the power of sale and of the sale, including the payment of the Trustee's and attorney's fees; (2) the costs of any appraisals, environmental audits, and evidences of title procured in connection with such sale and any expenses associated with the trustee's deed; (3) all sums expended under the terms of this Trust Deed not then repaid, with accrued interest from the day of expenditure at the applicable rate set forth in the Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto, or the Trustee, in its discretion, may deposit or interplead the balance of such proceeds with the county clerk or a court of the county in which the sale took place.

12. Trustor agrees to surrender complete possession of the Property to the purchaser at the trustee's sale immediately after such sale in the event such possession has not previously been surrendered by Trustor.

13. NOTWITHSTANDING ANYTHING IN THIS TRUST DEED TO THE CONTRARY, TRUSTOR'S OBLIGATIONS UNDER THE NOTE AS SECURED BY THIS TRUST DEED ARE "NON-RECOURSE" AGAINST TRUSTOR AND THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT IN THE EVENT OF A DEFAULT BY TRUSTOR, EXCEPT FOR A BREACH OF TRUSTOR'S AGREEMENT WITH RESPECT TO HAZARDOUS SUBSTANCES AS PROVIDED FOR IN SECTION 16 HEREOF, THE BENEFICIARY'S SOLE REMEDY SHALL BE TO FORECLOSE UPON THE PROPERTY PURSUANT TO THE TERMS THIS TRUST DEED.

14. This Trust Deed shall apply to, inure to the benefit of, and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns.

15. Trustor hereby agrees not to sell or transfer any right, title or interest in or to the Property or any portion thereof, whether voluntarily or involuntarily, without the prior written consent of Beneficiary, which consent shall not be unreasonably conditioned, delayed, or withheld. In the event of a permitted transfer, Trustor shall remain obligated to Beneficiary under the Note, the other Loan Documents and this Trust Deed, unless Beneficiary expressly releases Trustor in writing. A prohibited transfer under this paragraph shall include a transfer of more than a fifty percent (50%) ownership interest in Trustor.

16. With respect to Trustor's ownership and use of the Property, Trustor agrees to comply with all laws, statutes and regulations now or hereafter effective with respect to the protection of the environment, or to the generation, use, storage, removal, transportation, handling or disposal of toxic materials, hazardous substances, hazardous waste or other similar materials or substances.

17. This Trust Deed shall be construed according to the laws of the State of Utah.

18. If any provision hereof should be held unenforceable or void, then such provision shall be deemed separable from the remaining provisions and shall in no way affect the validity of this Trust Deed, the liens granted hereby, or the rights of Beneficiary hereunder.

19. Trustor agrees that a copy of any notice default and any notice of sale given in connection with a power of sale foreclosure (or any other notice given in connection with this Trust Deed) may be mailed to Trustor at the Trustor's address set forth above.

SIGNATURE OF TRUSTOR:

Utah Open Lands Conservation Association, Inc.,  
a Utah non-profit corporation

By \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**TRUSTOR'S ACKNOWLEDGMENT**

**STATE OF UTAH** )  
 :ss.  
**COUNTY OF** \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 2012, personally appeared before me \_\_\_\_\_ ,  
the \_\_\_\_\_ of Utah Open Lands Conservation Association, Inc., a Utah non-profit  
corporation who being duly sworn, did say that the foregoing instrument was signed in behalf of  
Utah Open Lands Conservation Association, Inc., by authority of its governing body and said  
\_\_\_\_\_ acknowledged to me that the Utah Open Lands Conservation  
Association, Inc., executed the same.

\_\_\_\_\_  
Notary Public

**EXHIBIT "A"**

**Legal Description of Property**

[see attached]

**PP-58**

THAT PART OF SEC 16 T1S R3E SLBM IN SUMMIT COUNTY. LESS 301.00 AC IN IQC193 BAL 58.76 ACRES M17-284 PWD-204 XMI-159M9-239-242-245 PQC-193 M31-644 473-430 534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-57-C**

ALL OF THAT PORTION OF SEC 15 T1S R3E SLBM LYING W OF THE FOLLOWING DESC LINE, SD LINE REPRESENTING THE W LINE OF THE APPROVED PINEBROOK MASTER PLAN. BEG AT A PT WH LIES S89°56'44" E 605.72 FT ALGTHE N LINE OF SEC 15 FR THE N 1/4 COR OF SEC 15 T1S R3E SLBM & RUN TH S0°25'05"E 5392.97 FT TO A PT ON THE S LINE OF SEC 15, SD PT ALSO BEING N89°52'55" E607.72 FT FR THE S 1/4 COR OF SEC 15. (EXCLUDING THAT PORTION DEEDED TO SUMMIT PARK CO WWD-150) CONT 309.87 AC 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-35-C-2**

BEG SE COR LOT 49, TIMBERLINE 1, SUBDIN SEC. 10 T1SR3E, SLBM, SD PT BEING S 89°55'12" E 2690.44 FT & S 00°01'38" W561.31 FT FR W 1/4 COR SD SEC 10, RUN TH ALG E BNDRY SW 1/4 SD SEC S 00°01'38" W 1452.13 FT M/L TO SE COR N 1/2 SE1/4 SW1/4 SEC, RUN TH ALG S BNDRY N 1/2 SE1/4 SEC S 89°53'28" W 684 FT M/L TO SE COR LOT 217 TIMBERLINE 2; TH ALG E BNDRY 352.59 FT; N 33°20' E 235.70 FT; N 15° 37'20" W 137.91 FT; N 12°05'24" E 161.78 FT M/L TO PT ON BNDRY TIMBERLINE 1, RUN TH ALG SD BNDRY N 64}25' E 537.74 FT M/L TO BEG CONT 18.7 ACRES ALSO SW 1/4 SE1/4 SEC 10 T1SR3E SLBM CONT 41.6 ACRES SUBJECT TO R/W EXCEPTING THEREFROM THE FOLLOWING DIVIDED PARCEL LOT TO TH REAR BEG TO THE NE COR OF LOT 206, TIMBERLINE PLAT 2, RUN TH N 64°25' E 81 FT; TH S'LY TO A PT WH IS S 79°55' E 18 FT FR THE SE COR OF SD LOT 206; TH N 79°55' W 18 FT TO SD COR; TH N 12°05'25" W 161.78 FT TO THE PT OF BEG CONT .19 AC TOTAL ACRES 60.11 M42-681 M60-112 859-448 1105-685

**PP-35-C-5**

ALL INT IN E 6.0 ACRES OF SE 1/4 SE 1/4SW 1/4 SEC 10 T1SR3E, SLBM M2-385-386 489-231 1079-367 1105-685

**PP-60**

NW1/4 OF SEC 22 T1SR3E SLBM CONT 167.05 ACRES M18-123-129 UWD-519 3AMI-243 M9-239-242-245 M17-284 M31-644 473-430534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-67-B**

THAT PORTION OF SEC 21 T1SR3E SLBM LYING WITHIN SUMMIT COUNTY CONT 179.28 AC WD-I-385 1318-427

EXHIBIT "D"

To

Option Agreement (SBSRD & UOL)

QUITCLAIM DEED AS PART OF ADDITIONAL SECURITY

[see attached]



## EXHIBIT A

### Legal Description of Subject Property

#### PP-58

THAT PART OF SEC 16 T1S R3E SLBM IN SUMMIT COUNTY. LESS 301.00 AC IN IQC193 **BAL 58.76 ACRES** M17-284 PWD-204 XMI-159M9-239-242-245 PQC-193 M31-644 473-430.534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

#### PP-57-C

ALL OF THAT PORTION OF SEC 15 T1SR3ESLBM LYING W OF THE FOLLOWING DESC LINE, SD LINE REPRESENTING THE W LINE OF THE APPROVED PINEBROOK MASTER PLAN. BEG AT A PT WH LIES S89°56'44" E 605.72 FT ALG THE N LINE OF SEC 15 FR THE N 1/4 COR OF SEC 15 T1SR3E SLBM & RUN TH S0°25'05"E 5392.97 FT TO A PT ON THE S LINE OF SEC 15, SD PT ALSO BEING N89°52'55" E 607.72 FT FR THE S 1/4 COR OF SEC 15. (EXCLUDING THAT PORTION DEEDED TO SUMMIT PARK CO WWD-150) **CONT 309.87 AC** 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

#### PP-35-C-2

BEG SE COR LOT 49, TIMBERLINE 1, SUBD IN SEC. 10 T1SR3E, SLBM, SD PT BEING S 89°55'12" E 2690.44 FT & S 00°01'38" W 561.31 FT FR W 1/4 COR SD SEC 10, RUN TH ALG E BNDRY SW 1/4 SD SEC S 00°01'38" W 1452.13 FT M/L TO SE COR N 1/2 SE 1/4 SW 1/4 SEC, RUN TH ALG S BNDRY N 1/2 SE 1/4 SEC S 89°53'28" W 684 FT M/L TO SE COR LOT 217 TIMBERLINE 2; TH ALG E BNDRY 352.59 FT; N 33°20' E 235.70 FT; N 15°37'20" W 137.91 FT; N 12°05'24" E 161.78 FT M/L TO PT ON BNDRY TIMBERLINE 1, RUN TH ALG SD BNDRY N 64°25' E 537.74 FT M/L TO BEG CONT 18.7 ACRES ALSO SW 1/4 SE 1/4 SEC 10 T1SR3E SLBM CONT 41.6 ACRES SUBJECT TO R/W EXCEPTING THEREFROM THE FOLLOWING DIVIDED PARCEL LOT TO TH REAR BEG TO THE NE COR OF LOT 206, TIMBERLINE PLAT 2, RUN TH N 64°25' E 81 FT; TH S'LY TO A PT WH IS S 79°55' E 18 FT FR THE SE COR OF SD LOT 206; TH N 79°55' W 18 FT TO SD COR; TH N 12°05'25" W 161.78 FT TO THE PT OF BEG CONT .19 AC **TOTAL ACRES 60.11** M42-681 M60-112 859-448 1105-685

#### PP-35-C-5

ALL INT IN E **6.0 ACRES** OF SE 1/4 SE 1/4 SW 1/4 SEC 10 T1SR3E, SLBM M2-385-386 489-231 1079-367 1105-685

#### PP-60

NW 1/4 OF SEC 22 T1SR3E SLBM **CONT 167.05 ACRES** M18-123-129 UWD-519 3AMI-243 M9-239-242-245 M17-284 M31-644 473-430 534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

PP-67-B

THAT PORTION OF SEC 21 T1SR3E SLBM LYING WITHIN SUMMIT COUNTY CONT  
179.28 AC WD-I-385 1318-427

EXHIBIT "E"

To

Option Agreement (SBSRD & UOL)

ESCROW INSTRUCTION LETTER RE: ADDITIONAL SECURITY

[see attached]

DAVID R. BRICKEY  
COUNTY ATTORNEY

Criminal Division

JOY E. NATALE  
Prosecuting Attorney

RYAN P.C. STACK  
Prosecuting Attorney

MATTHEW D. BATES  
Prosecuting Attorney

Summit County Courthouse, 60 N. Main #227, P.O. Box 128  
Coalville, Utah 84017

Telephone (435) 336-3206 Facsimile (435) 336-3287  
Email: (first initial)(last name)@summitcounty.org

Civil Division

DAVID L. THOMAS  
Chief Deputy

JAMI R. BRACKIN  
Deputy County Attorney

HELEN E. STRACHAN  
Deputy County Attorney

January \_\_, 2013

Corinne Woodward  
U.S. Title Insurance Agency  
1630 Shortline Road  
P.O. Box 681128  
Park City, Utah 84060

Re: Option Agreement, dated November 16, 2012, and as amended on December 5, 2012, and December 19, 2012, by and between RE Investment Holdings, LLC, a Utah limited liability company and Utah Open Lands Conservation Association, Inc., a Utah corporation ("**REIH/UOL Option Agreement**")

Option Agreement, dated January \_\_, 2013 by and between Snyderville Basin Special Recreation District, a local district of the State of Utah, and The Utah Open Lands Conservation Association, Inc., a Utah not-for-profit corporation ("**UOL/District Option Agreement**")

Dear Corinne:

I represent the Snyderville Basin Special Recreation District ("**District**") in connection with the UOL/District Option Agreement which contemplates the sale and conveyance of the Property from Utah Open Lands Conservation Association, Inc. ("**UOL**") to the District. Capitalized terms which are used but not defined in this letter (the "**Instructions**") shall have the same meanings as are set forth in the UOL/District Option Agreement. You may receive separate instructions from UOL and/or RE Investment Holding, LLC ("**REIH**"). In the event of any inconsistency between these Instructions and the instructions of UOL and/or REIH, please contact me.

UOL and REIH have appointed U.S. Title Insurance Agency (the "**Escrow Agent**") to act as escrow agent to record and file certain instruments in connection with the Closing of the transactions contemplated by the REIH/UOL Option Agreement.

The District's involvement in the UOL/REIH Closing relates to paragraphs 3 and 4 the UOL/District Option Agreement.

I. Documents to be Delivered to Title Company for Possible Recordation

In connection with the UOL/REIH Closing or under separate cover, Escrow Agent has conditionally received the following instruments:

1. Quitclaim Deed, dated January \_\_, 2013 executed and acknowledged by UOL ("**Quitclaim Deed**") to be delivered to the District at closing. The District shall have the right to record the Quitclaim Deed in the event of default by UOL under the terms of the Promissory Note or the REIH Trust Deed.
2. Deed of Trust, dated January \_\_, 2013 executed and acknowledged by UOL ("**District Trust Deed**") to be delivered to the District and recorded in a second position to the REIH Trust Deed.

II. Down Payment to be Delivered to REIH

The District has delivered the Down Payment of two million dollars (\$2,000,000.00) to Escrow Agent for distribution to REIH in accordance with the terms and conditions of the REIH/UOL Option Agreement.

III. Agreement with and Change in Instructions

Any departure from the requirements and authorizations contained in these Instructions must be approved in writing by the undersigned. **If these Instructions meet with your approval, please so indicate by dating and executing the accompanying copy of these Instructions in the indicated place and returning the same, as so executed, to the undersigned. Please also PDF your signed counterpart of these Instructions to the undersigned at [dthomas@summitcounty.org](mailto:dthomas@summitcounty.org) at your earliest convenience.** Thank you for your cooperation and assistance.

Very truly yours,

David L. Thomas  
Chief Civil Deputy

**AGREEMENT OF ESCROW AGENT**

THE FOREGOING arrangement and instructions are accepted and agreed to on this \_\_\_\_ day of January, 2013 by the following as Escrow Agent.

U.S. TITLE INSURANCE AGENCY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

EXHIBIT "F"

To

Option Agreement (SBSRD & UOL)

CONSERVATION EASEMENT

[see attached]

**WHEN RECORDED, MAIL TO:**

Snyderville Basin Special Recreation District  
Attn: District Director  
5715 Trailside Drive  
Park City, UT 84098

**TOLL CANYON  
CONSERVATION EASEMENT**

(OPEN SPACE AND RECREATIONAL USES)

**THIS CONSERVATION EASEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by the SNYDERVILLE BASIN SPECIAL RECREATION DISTRICT, a local district of the State of Utah (the "Grantor"), in favor of UTAH OPEN LANDS CONSERVATION ASSOCIATION, INC., a Utah not-for-profit corporation (the "Grantee").

**RECITALS:**

**WHEREAS**, Grantor hereby represents and acknowledges it is the sole owner in fee simple title of certain real property located within Summit County, State of Utah, which (a) consists of approximately 781 acres, (b) is commonly known as "Toll Canyon", (c) is more particularly described in the legal description attached hereto as Exhibit "A", (d) is graphically depicted on the map attached hereto as Exhibit "B", and (e) is hereinafter referred to as the "Property";and

**WHEREAS**, the Property possesses unique, sensitive, natural, scenic, aesthetic, open space, riparian, wildlife, and community recreational values (collectively referred to as the "Conservation Values") of great importance to the Grantor, the Grantee, and the public, including but not limited to the following:

- A. High value habitat for black bear (*Ursus Americana*), elk (*Cervuscanandensis*), mule deer (*Odocoileus hemionus*), and moose (*Alcesalces*), and the protection of the Property will result in the protection of habitat for these species;
- B. Habitat appropriate for several priority wildlife species for conservation in Utah. Of the listed priority Utah wildlife species, 14 priority species have been documented on or near the Property, and the following six species are considered most likely to currently be found in habitat on or directly connected to the Property: northern goshawk (*Accipiter gentilis*), Bonneville cutthroat trout (*Oncorhynchusclarkiutah*), smooth greensnake

(*Opheodrys vernalis*), mule deer (*Odocoileus hemionus*), broad-tailed hummingbird (*Selasphorus platycercus*), and western toad (*Bufo boreas*);

- C. As identified by the Utah Division of Wildlife Resources, riparian habitat is considered a high priority habitat and abundant riparian habitat occurs on this Property;
- D. Views of the Property can be seen from several vantage points including Interstate 80 and adjacent public trails (including the Mid-Mountain Trail) which are part of a trail network throughout the Snyderville Basin and Park City area, and the protection of the Property will provide critical trail connections to other public trails; and
- E. The Property is adjacent to several permanently protected open spaces including the Baker Griswold Open Land Preserve, Hi Ute Canyon Preserve, Wasatch Cache National Forest, Forest Legacy's Summit Park Open Space, and the Salt Lake City watershed lands.
- F. The property and its location adjacent to other open land preserves provide the potential for critical public trail connections including connections for the Mid-mountain Trail and the Wasatch Crest Trail.

WHEREAS, Grantor intends that the Conservation Values of the Property be preserved and maintained by continuation of the use of the Property in such a way which does not significantly impair or interfere with those values and which provides for appropriate natural, ecological, wildlife, open space and recreational uses of the Property; and

WHEREAS, Grantor intends to preserve and protect the Conservation Values of the Property as open space for the benefit of the public and to protect the Property from future development in perpetuity through this Easement (defined below) and dedication of the same to Grantee; and

WHEREAS, Grantee is a charitable organization, having a mission is to conserve and protect open space and natural areas for ecological, scientific, recreational, and educational purposes; and is a non-profit, tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of 1986 as amended (the "Code"); and was created more than two years prior to the date of this Agreement; and is a qualified conservation easement holder under Utah Code Ann. § 57-18-3; and Grantee is a qualified organization under Section 170(h)(3) of the Internal Revenue Code to receive and hold conservation easements.

**NOW, THEREFORE**, in consideration of the above and the covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Utah, particularly the Utah Land Conservation Easement Act as set forth in *Utah Code Ann. § 57-18-1*,

*et seq.*, as amended, with the intention of making an irrevocable easement in perpetuity, Grantor hereby agrees and conveys as follows:

1. **Conveyance.** Grantor hereby grants and conveys to Grantee, a perpetual conservation easement as hereinafter defined (the "Easement") over and across all the Property to preserve, restore and protect the Conservation Values on the Property, to have and to hold unto Grantee, its qualified successors and assigns, forever.

2. **Current Use and Condition of Property.** The Property presently consists of natural open space, including deciduous and coniferous trees, natural grasses and shrubs. It is habitat for wildlife and demonstrates potential for public recreational use. The Property is adjacent to other dedicated open space. The Grantee has prepared and delivered to Grantor a report documenting and summarizing the current condition of the Property (the "Baseline Documentation"). The Baseline Documentation consists of maps and photographs documenting the current condition of the Property, the purpose of which is to create an accurate representation of the Property and its Conservation Values. The Baseline Documentation and any subsequent updates which may be done from time to time by the Grantee to further reflect the restored or enhanced Conservation Values of the Property shall be on file at the office of the Grantee.

3. **Purpose.** Grantor is the fee simple title owner of the Property and is committed to preserving the Conservation Values of the Property. The purpose of this Easement is to assure that the Property will be retained forever in its natural, scenic, recreational, and open space condition, for the enjoyment of and use by the public, preventing any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Any use of the Property which may impair or interfere with the Conservation Values, unless expressly permitted in this Easement, is expressly prohibited. Grantor agrees to confine use of the Property to activities consistent with the purposes of this Easement and preservation of the Conservation Values of the Property.

4. **Duration.** The duration of the Easement shall be perpetual.

5. **Permitted Uses.** Subject to the terms and conditions set forth in this Easement and to ensure that the Property remains accessible to the public and to ensure the protection of the Conservation Values, the following activities and/or uses of the Property are permitted (the "Permitted Uses"):

a. Conserving the land in its natural, open state including but not limited to the preservation and restoration of forests, trees, natural grasses, riparian corridors and shrubs.

b. Restoring the biological and ecological integrity and natural state of the Property by, without limiting the generality of the foregoing: controlling invasive or noxious weeds; removing debris; planting or reseeded native vegetation; and preserving or enhancing the Property as habitat for wildlife.

c. Constructing, installing, maintaining, operating, grooming, expanding, and replacing non-motorized recreational trails and such trailhead parking areas, restrooms, watering facilities, landscaping, interpretative and informational kiosks and signs, nature exhibits, and benches as may be necessary or desirable to support the same.

d. Constructing, installing, repairing, maintaining, operating, and replacing underground utility pipelines, cables, wires, and facilities, within existing utility easements recorded against the title to the Property prior to the grant of this Easement.

e. Hosting and staging temporary special events and races provided these events are permitted or are approved under appropriate county codes, including such temporary structures as may be necessary or desirable for the same; provided however, any damage to the Property resulting from such special events or races shall be repaired by the Grantor or the party authorized by Grantor to use the Property for such purposes.

6. **Prohibited Uses.** Any activity on or use of the Property not specifically listed as a Permitted Use or any activity on or use of the Property which is inconsistent with the purpose of this Easement or detrimental to the Conservation Values is expressly prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

a. Any residential, commercial or industrial development of the Property.

b. Any development, construction or location of any man-made modification or improvements such as buildings, structures, fences, roads, parking lots, or other improvement on the Property, except as expressly permitted in this Easement.

c. Any filling, dredging, excavating, mining, drilling, or exploration for and extraction of oil, gas, minerals or other resources from the Property.

d. Any dumping or storing of ashes, trash, garbage or junk on the Property.

e. The manipulation or alteration of natural watercourses, wetlands, or riparian communities, except as expressly permitted herein or as necessary to carry out the Permitted Uses, and then in any event, only if approved by Summit County and the U.S. Army Corps of Engineers and only to the extent that such manipulation or alteration shall not result in a significant injury to or the destruction of significant Conservation Values.

f. Burning of any materials on the Property, except as necessary for drainage, vegetation management, and fire protection purposes or as permitted herein.

The use of motorized vehicles or equipment, including snowmobiles, all-terrain vehicles, motorcycles and other recreational vehicles, except: (i) as may be necessary in conjunction with carrying out a Permitted Use or (ii) in the case of an emergency for emergency vehicles.

g. Shooting, discharging of firearms, hunting or trapping for any purpose; provided, however, the Grantor shall have the right to shoot, discharge firearms, hunt, or trap for predator or problem animal control, consistent with any applicable provisions in the Plan (defined below).

h. Establishment or maintenance of any grazing or livestock feedlots on the Property.

i. Advertising of any kind or nature on the Property and any billboards or signs, except the placement of a limited number of identification, directory and information signs describing the Easement and the prohibited or authorized use of the same.

j. Any cutting of trees or vegetation, except as necessary for fire protection, vegetative management, thinning, elimination of diseased growth, control of non-native plant species, and similar protective measures, except as necessary to construct structures, conditions or improvements as permitted herein.

k. The change, disturbance, alteration, or impairment of the significant natural ecological features and values of the Property or the destruction of other significant conservation interests on the Property, except as necessary to accomplish the Permitted Uses.

l. The division, subdivision or *de facto* subdivision of the Property, except for subdivision and dedication of the Property as necessary to accomplish the Permitted Uses or as necessary or desirable to convey a portion of the underlying fee title to third parties.

m. Changing the topography of the Property by placing on it any soil, dredging spoils, land filling, or other material, except as necessary to accomplish the Permitted Uses.

n. Any development, location, or storage of any personal property, vehicles, recreational equipment, or other residential uses such as trampolines, patios, gazebos, sports courts, barbeques, etc., except as otherwise provided.

o. Any permanent or temporary structures affixed to the ground necessary to facilitate commercial downhill skiing.

p. All other uses and practices inconsistent with and significantly detrimental to the stated objectives and purpose of the Easement.

7. **Rights of the Grantee.** Grantor confers the following rights upon Grantee to perpetually maintain the Conservation Values of the Property and to accomplish the purpose of this Easement.

a. Grantee has the right to enforce the terms of this Easement for the purpose of preserving and protecting the Conservation Values of the Property.

b. Grantee has the right to enter upon the Property at reasonable times to monitor or to enforce compliance with this Easement and to inspect and enforce the rights herein granted, provided that such entry shall not unreasonably interfere with the Grantor's use and quiet enjoyment of the Property.

c. Unless a Permitted Use as provided for herein, Grantee has the right to enjoin and prevent any activity on or use of the Property that is inconsistent with the terms or purposes of this Easement and to preserve and protect the Conservation Values of the Property.

d. Grantee has the right to require restoration of the areas or features of the Property which are damaged by activity inconsistent with this Easement.

e. Grantee has the right to place signs on the Property which identify the Property as being protected by this Easement.

f. Grantee has the right to enter on the Property to study and make ecological and scientific observation of the Property and its ecosystems.

g. Grantee has the right to engage in activities that restore the biological and ecological integrity of the Property. Possible activities include planting native vegetation and use of controlled fire to reduce the presence of undesirable vegetation.

8. **Duties of the Grantor.** Grantor shall be subject to all terms, conditions and restrictions of this Easement and shall have the affirmative duty to refrain from conducting or causing to be conducted any action inconsistent with the purpose and provisions of this Easement and to take reasonable actions to preserve and protect the Conservation Values of the Property.

9. **Enforcement of Easement.**

a. Notice and Demand. If Grantee determines that Grantor is in violation of this Easement, or that a violation is threatened, the Grantee may provide written notice to the Grantor of such violation and request corrective action to cure the violation or to restore the Property. In the event Grantee determines that the violation constitutes immediate and irreparable harm, such notice shall not be required.

b. Failure to Act. If, for a 30-day period after the date of the written notice from Grantee to Grantor, the Grantor continues violating the Easement, or if the Grantor does not abate the violation and implement corrective measures requested by the Grantee, the Grantee may bring an action in law or in equity to enforce the terms of the Easement. The Grantee is also entitled to enjoin the violation through injunctive relief, specific performance, declaratory relief, restitution, reimbursement of expenses, or an order compelling restoration of the Property. If a court determines that the Grantor has failed to comply with this Easement, the Grantor agrees to reimburse Grantee for all reasonable costs and attorneys' fees incurred by the Grantee in compelling such compliance.

c. Absence of Grantor. If the Grantee determines that the Easement is, or is expected to be, violated, the Grantee shall make good-faith efforts to notify the Grantor. If, through reasonable efforts, the Grantor cannot be notified, and if the Grantee determines that circumstances justify prompt action to mitigate or prevent impairment of the Conservation Values, then the Grantee may pursue its lawful remedies without prior notice and without waiting for Grantor's opportunity to cure. Grantor agrees to reimburse Grantee for all costs reasonably incurred by Grantee in pursuing such remedies.

d. Actual or Threatened Non-Compliance. Grantor acknowledges that actual or threatened events of non-compliance under this Easement constitute immediate and irreparable harm. The Grantee is entitled to invoke the equitable jurisdiction of the court to enforce this Easement.

e. Injunctive Relief and Restoration. Any violation of the Easement shall be subject to termination through injunctive proceedings with the imposition of temporary restraining orders or through any other legal means, it being recognized that monetary damages and/or other non-injunctive relief would not adequately remedy the violation of the covenants and restrictions of the Easement. In addition, subject to the provisions set forth herein, the Grantee shall have the right to enforce the restoration of the portions of the Property affected by activities in violation of the Easement to the condition which existed at the time of the signing of this instrument.

f. Cumulative Remedies. The remedies set forth herein are cumulative. Any, or all, of the remedies may be invoked by the Grantee if there is an actual or threatened violation of this Easement.

g. Waiver. A delay in enforcement shall not be construed as a waiver of the Grantee's right to enforce the terms of this Easement.

**10. Permitted Construction and Maintenance Activities.** This Easement is subject to the rights of Grantor or its assigns to enter upon the Property for the construction, installation, operation, maintenance and replacement of underground utilities as provided for in the Permitted Uses. The responsible person, entity or utility company in interest, shall, at its sole cost and

expense, promptly restore the Property affected by such activities to as near as reasonably practicable the same condition as existed immediately prior to such activities. Nothing herein shall be deemed a grant of an easement to any third party.

11. **Extinguishment of Development Rights.** Except as otherwise reserved unto the Grantor in this Easement, all development rights appurtenant to the Property are hereby released, terminated and extinguished and may not be used on or transferred to any portion of the Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise or used for the purpose of calculating permissible lot yield of the Property or any other property.

12. **Management and Maintenance Plan.** Grantor shall be solely responsible for the upkeep and maintenance of the Property. The parties intend to cooperate in the creation of a management and maintenance plan ("the Plan") for the maintenance of the Property and to further identify ecological restoration and public recreation improvements identified under the Permitted Uses section of this Easement. The Plan shall be subject to the approval in writing of both Grantor and Grantee, and the Plan, together with any approved updates, shall be on file at the office of the Grantee. It shall be in the Grantor's sole discretion as to whether Grantor implements the Plan, in whole or in part. Grantor agrees and acknowledges that Grantee may, in its sole discretion and at its sole cost and expense, take such actions as may be identified in the Plan to preserve and protect the Conservation Values of the Property.

13. **Transfer of Grantee's Interest.** If the Grantee determines that it no longer is able to enforce its rights under this instrument or that it no longer desires to enforce the rights, or desires to assign enforcement rights to a qualified organization under Section 501(c)(3) and/or 170(h)(3) of the *Internal Revenue Code*, after first having obtained the written consent of Grantor, the Grantee shall be entitled to convey in whole or in part all of its rights under this instrument and deliver a copy of this instrument to an organization designated by the Grantee and described in or contemplated by Section 501(c)(3) and/or 170(h)(3) of the Code, or the comparable provision in any subsequent revision of the Code, to ensure that the Easement is enforced. Furthermore, the Grantee is hereby expressly prohibited from subsequently transferring the Easement, whether or not for consideration, unless (a) the transferee agrees to enforce the conservation purposes protected by this Easement and (b) the transferee is an organization qualifying at the time of the transfer as an eligible donee under Section 501(c)(3) and/or 170(h)(3) of the Code and regulations promulgated thereunder.

14. **Cessation of Grantee's Existence.** If Grantee shall cease to exist or if the Grantee is no longer authorized to acquire and hold conservation easements, then this Easement shall become vested in another entity. Any successor entity shall be a qualified organization for the purposes of Section 501(c)(3) and/or 170(h)(3) of the *Internal Revenue Code*.

15. **Termination of the Easement.** Grantor and Grantee agree that the conveyance of this Easement to Grantee creates a Property right immediately vested in Grantee. Grantee's

Property right in this Easement shall be based on the condition and improvements on the Property at the time the Easement is established, and this condition shall be documented as referred to in Section 2 above. For purposes of this Section, the Easement shall be deemed to have a fair market value at least equal to the proportionate value this Easement bears to the entire value of the Property as a whole at the time of its creation. That proportionate value of Grantee's Property rights shall remain constant. If circumstances arise in the future that render the purposes of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether with respect to all or part of the Property, by judicial proceedings in a court of competent jurisdiction. Should a change in conditions give rise to the extinguishment of this Easement, as provided in Treasury Regulation Section 1.170A-14(g)(6)(I) (or any subsequent revision to that section of the IRS Code) or extinguishment of a portion of Grantee's rights under this Easement, Grantee on a subsequent sale, exchange, conveyance, or involuntary conversion of the Property or a portion of the Property shall be entitled to a portion of the proceeds at least equal to such proportionate value of this Easement as established at the time of its creation.

Whenever all or part of the Property is taken in an exercise of eminent domain, or under claim of rights of eminent domain, by public, corporate, or other authority so as to abrogate the restrictions imposed by this Easement, Grantor and Grantee may join in appropriate actions to recover the full value of the Property taken and all incidental or direct damages resulting from such taking. All reasonable expenses incurred by Grantor or Grantee in any such action shall first be reimbursed out of the recovered proceeds and the remainder of such proceeds shall be divided between Grantor and Grantee in proportion to their interest in the Property, as provided in the first paragraph of this Section.

In the event that Grantee receives any proceeds from the partial or complete termination or extinguishment of the Easement pursuant to this Section 15, all such proceeds received by the Grantee must be used by Grantee in a manner consistent with the Conservation Values as required by Treasury Regulation Section 1.170A-14(g)(6)(i) (or any subsequent revision to that section) and must be used to acquire fee title to or a conservation easement on other real property with similar conservation values located within the legal boundaries of the Snyderville Basin Special Recreation District.

**16. Transfer of Grantor's Interest.** This Easement shall continue as a servitude running in perpetuity with the Property. Any deed or other legal instrument by which Grantor divests itself of any interest in all or any portion of the Property, including, without limitation, a leasehold interest, shall be subject to this Easement and shall transfer any and all obligations of the Grantor as set forth herein. Upon Grantor's conveyance of title to the Property, the Grantor shall be released from its obligations under this Easement with respect to the portion of the Property covered by such conveyance.

**17. Notices.** Any notice, demand, request, consent, approval, or communication shall be in writing and served personally or sent by registered or certified mail, postage prepaid, return

receipt requested, addressed to the following, or to such other address as the Grantee or Grantor shall from time to time designate by written notice.

To Grantee: Utah Open Lands  
2188 So. Highland Drive, Ste. 203  
Salt Lake City, UT 84106  
Attn: Wendy Fisher

To Grantor: Snyderville Basin Special Recreation District  
Attn: District Director  
5715 Trailside Drive  
Park City, UT 84098

18. **Title Warranty.** Grantor warrants that it has good and sufficient title to the Property, free from all encumbrances except those existing matters of record as the date of this Easement and hereby promises to defend the same against all claims arising by, through, or under Grantor. The Parties hereby acknowledge that the grant of this Easement is made subject to those existing matters of record as of the date of this Easement.

19. **Environmental Warranty.** Grantor warrants that it has no actual knowledge or threatened release of hazardous substances or wastes on the Property, as such substances and wastes are defined by applicable law, and hereby promises to indemnify Grantee against, and hold Grantee harmless from, any and all loss, cost, claim, liability or expense, including reasonable attorney's fees arising from or with respect to any release of hazardous waste or violation of environmental laws with respect to the Property, unless due to the gross negligence or willful misconduct of Grantee.

20. **Recordation.** The Grantee shall record this instrument in timely fashion in the official records of Summit County, Utah, and may re-record it at any time as may be required to preserve its rights in this Easement.

21. **Controlling Law.** The interpretation and performance of this Easement shall be governed by the laws of the State of Utah.

22. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the Easement to effect the purpose of this Easement and the policy and purpose of *Utah Code Ann. § 57-18-1, et seq.*, as amended, and related provisions. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

23. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement,

or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

24. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the Grantee, the Grantor, and their respective personal representatives, heirs, successors, and assigns, and shall continue as a servitude running in perpetuity with the Property.

25. **Entire Agreement.** This Easement, together with all exhibits, sets forth the entire agreement of the parties with respect to the subject matter hereof and supercedes all prior discussions and understandings.

26. **Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

27. **Amendments.** If circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee may jointly amend the Easement; provided, that no amendment shall be allowed that affects the qualification of the Easement under the IRS Code 170(h), or any regulation promulgated thereunder, or the Utah Land Conservation Easement Act, as set forth in *Utah Code Ann. §§ 57-18-1, et seq.*, as amended. Any amendment to this Easement shall be consistent with the purposes of this Easement, shall not affect its perpetual duration, and shall not impair any of the significant Conservation Values of the Property. Any such amendment shall be in writing, signed by both parties, and recorded in the official records of Summit County, Utah.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURES FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument on the day and year first above written.

**GRANTOR:**

SNYDERVILLE BASIN SPECIAL  
RECREATION DISTRICT

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
District Clerk

DISTRICT ATTORNEY APPROVAL:

\_\_\_\_\_  
District Attorney



On the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that the foregoing instrument was signed in behalf of the Grantee by authority of its governing body and said \_\_\_\_\_ acknowledged to me that the Grantee executed the same.

\_\_\_\_\_  
Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

[see attached]

**PP-58**

THAT PART OF SEC 16 T1S R3E SLBM IN SUMMIT COUNTY, LESS 301.00 AC IN IQC193 BAL 58.76 ACRES M17-284 PWD-204 XMI-159M9-239-242-245 PQC-193 M31-644 473-430 534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685.

**PP-57-C**

ALL OF THAT PORTION OF SEC 15 T1S R3E SLBM LYING W OF THE FOLLOWING DESC LINE, SD LINE REPRESENTING THE W LINE OF THE APPROVED PINEBROOK MASTER PLAN, BEG AT A PT WH LIES S89°56'44" E 605.72 FT ALGTHE N LINE OF SEC 15 FR THE N 1/4 COR OF SEC 15 T1S R3E SLBM & RUN TH S0°25'05" E 5392.97 FT TO A PT ON THE S LINE OF SEC 15, SD PT ALSO BEING N89°52'55" E 607.72 FT FR THE S 1/4 COR OF SEC 15. (EXCLUDING THAT PORTION DEEDED TO SUMMIT PARK CO WWD-150) CONT 309.87 AC 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

**PP-35-C-2**

BEG SE COR LOT 49, TIMBERLINE 1, SUBDIN SEC. 10 T1SR3E, SLBM, SD PT BEING S 89°55'12" E 2690.44 FT & S 00°01'38" W 561.31 FT FR W 1/4 COR SD SEC 10, RUN TH ALG E BNDRY SW 1/4 SD SEC S 00°01'38" W 1452.13 FT M/L TO SE COR N 1/2 SE1/4 SW1/4 SEC, RUN TH ALG S BNDRY N 1/2 SE1/4 SEC S 89°53'28" W 684 FT M/L TO SE COR LOT 217 TIMBERLINE 2; TH ALG E BNDRY 352.59 FT; N 33°20' E 235.70 FT; N 15° 37'20" W 137.91 FT; N 12°05'24" E 161.78 FT M/L TO PT ON BNDRY TIMBERLINE 1, RUN TH ALG SD BNDRY N 64}25' E 537.74 FT M/L TO BEG CONT 18.7 ACRES ALSO SW 1/4 SE1/4 SEC 10 T1SR3E SLBM CONT 41.6 ACRES SUBJECT TO R/W EXCEPTING THEREFROM THE FOLLOWING DIVIDED PARCEL LOT TO TH REAR BEG TO THE NE COR OF LOT 206, TIMBERLINE PLAT 2, RUN TH N 64°25' E 81 FT; TH S'LY TO A PT WH IS S 79°55' E 18 FT FR THE SE COR OF SD LOT 206; TH N 79°55' W 18 FT TO SD COR; TH N 12°05'25" W 161.78 FT TO THE PT OF BEG CONT .19 AC TOTAL ACRES 60.11 M42-681 M60-112 859-448 1105-685

**PP-35-C-5**

ALL INT IN E 6.0 ACRES OF SE 1/4 SE 1/4 SW 1/4 SEC 10 T1SR3E, SLBM M2-385-386 489-231 1079-367 1105-685

**PP-60**

NW1/4 OF SEC 22 T1SR3E SLBM CONT 167.05 ACRES M18-123-129 UWD-519 3AMI-243 M9-239-242-245 M17-284 M31-644 473-430534-87 540-773 (SEE SURVEY FILE S-380 FOR ACREAGE) 859-448 1105-685

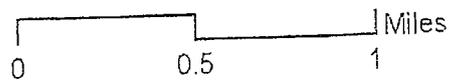
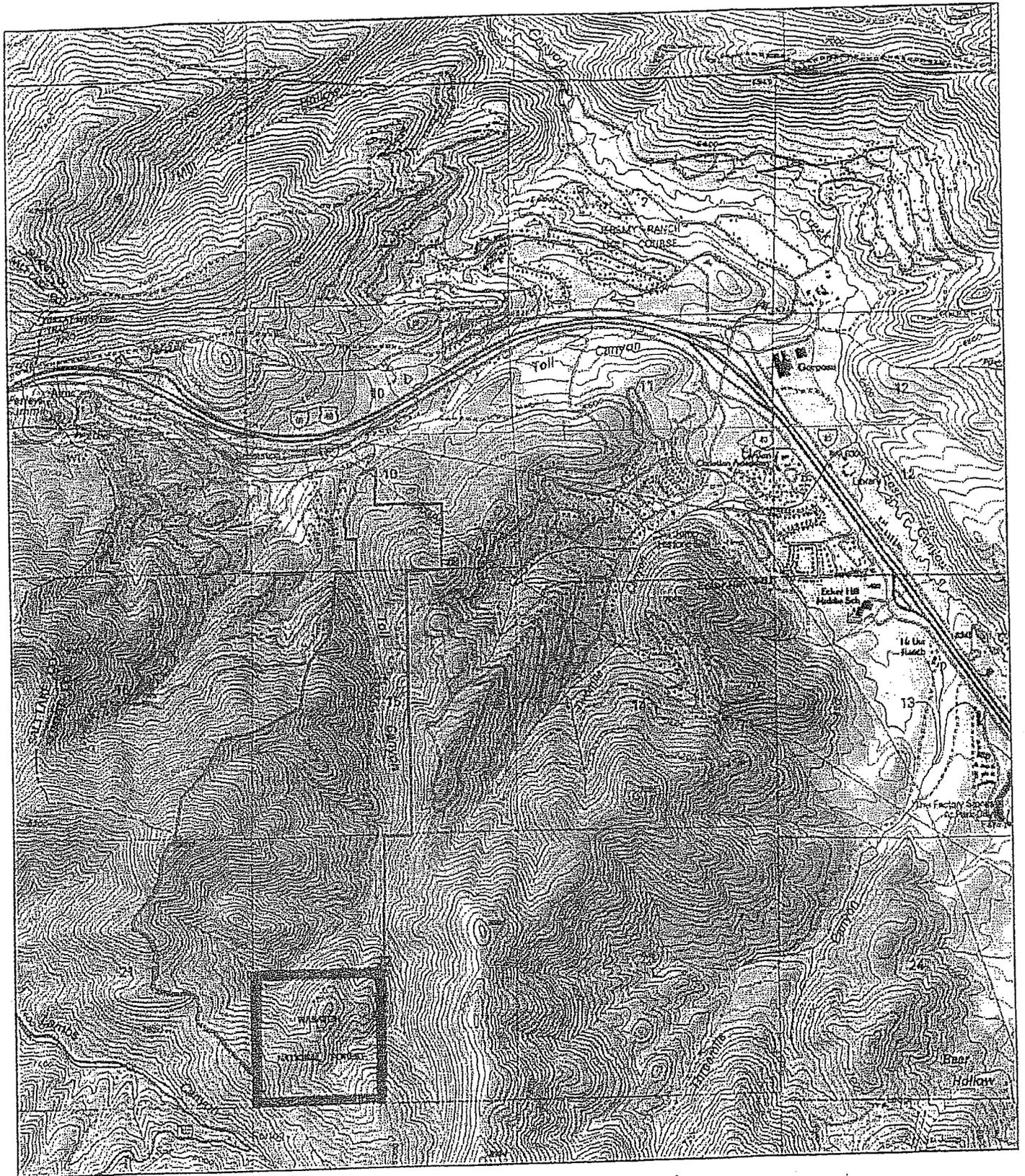
**PP-67-B**

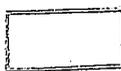
THAT PORTION OF SEC 21 T1SR3E SLBM LYING WITHIN SUMMIT COUNTY CONT 179.28 AC WD-I-385 1318-427

EXHIBIT "B"

MAP OF PROPERTY

[see attached]



 Toll Canyon Project Area

Topographic Map: ESRI Basemap -- USA Topo Maps



COUNTY COUNCIL



Claudia McMullin - Chair  
Chris Robinson - Vice Chair  
Roger Armstrong  
Kim Carson  
Dave Ure

January 30, 2013

Utah Open Lands  
ATTN: Wendy Fisher  
2188 So. Highland Drive, Suite 203  
Salt Lake City, Utah 84106

Re: Exercise of Option, Option Agreement (SBSRD & UOL), dated December 19, 2012

Dear Wendy:

Pursuant to ¶12 of that certain Option Agreement (the "Agreement") between the Snyderville Basin Special Recreation District ("SBSRD") and Utah Open Lands Conservation Association, Inc. ("UOL"), dated January 30, 2013, the SBSRD hereby exercises its option to purchase the Toll Canyon Open Space from UOL under the terms of the Agreement.

Sincerely,

Claudia McMullin  
Chair of Governing Board  
Snyderville Basin Special Recreation District

**AMENDMENTS TO TITLE 1, CHAPTER 11 OF THE SUMMIT COUNTY CODE  
DISPOSITION OF COUNTY REAL AND PERSONAL PROPERTY**

**ORDINANCE NO. \_\_\_\_**

**PREAMBLE**

**WHEREAS**, the County Council enacted Ordinance 788 which modified the powers of the County Manager as it pertains to the disposal of real property; and,

**WHEREAS**, other modifications are needed to streamline the process; and,

**WHEREAS**, this Ordinance accordingly amends Summit County Code, Title 1, Chapter 11;

**NOW, THEREFORE**, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1.     **Amendments.** Disposition of County Real and Personal Property, Summit County Code, Title 1, Chapter 11 is amended in accordance with Exhibit A herein.

Section 2.     **Effective Date.** This Ordinance shall take effect 15 days after approval and upon publication in accordance with law.

Enacted this \_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

Summit County Council

\_\_\_\_\_  
Kent Jones  
Summit County Clerk

\_\_\_\_\_  
Claudia McMullin, Chair

---

Approved as to Form  
David L. Thomas  
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Armstrong	_____
Councilmember Robinson	_____
Councilmember Ure	_____
Councilmember Carson	_____
Councilmember McMullin	_____

# **EXHIBIT A**

# Chapter 11

## DISPOSITION OF COUNTY REAL AND PERSONAL PROPERTY

### 1-11-1: DISPOSAL OF PROPERTY AUTHORIZED:

### 1-11-2: PERSONAL PROPERTY:

### 1-11-3: REAL PROPERTY IN PUBLIC USE:

### 1-11-4: REAL PROPERTY NOT IN PUBLIC USE:

### 1-11-4-1: PURCHASE AND SALE OF AFFORDABLE HOUSING:

### 1-11-5: APPROVAL BY COUNTY MANAGER; RECORD KEEPING:

### 1-11-6: GENERAL RULES:

### 1-11-7: NO RIGHTS CREATED IN THIRD PARTIES:

#### **1-11-1: DISPOSAL OF PROPERTY AUTHORIZED:**

The county manager may dispose of, or control the disposition of, any county property, real or personal (including lost or abandoned property, and property whereby the county has any legal or equitable interest), the disposition of which is determined to be in the public interest and in accordance with good property management. The disposition of property, or any interest therein, may be by public or private sale, exchange, exchange and sale, option to purchase, lease, lease with an option to purchase, rental, trade in, public auction, public advertisement for sealed bids, or any other lawful manner or means. Such disposition shall not be for less than a full and adequate consideration unless otherwise permitted by law, and such consideration may be other than monetary. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### **1-11-2: PERSONAL PROPERTY:**

The power to dispose of surplus, obsolete or unusable personal property held by the county is vested in the county auditor, and such disposition may be made in any manner consistent with county policy. The county auditor shall have discretion, subject to the best interests of the county and its residents, and in accordance with good property management techniques, over the disposition and manner of disposition of surplus, obsolete or unusable personal property. However, no such disposition shall be final without the approval of the county manager. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### **1-11-3: REAL PROPERTY IN PUBLIC USE:**

- A. ~~Recommendation Of Planning Commission;~~ Approval Of County Manager; Hearing Required: The disposition of real property that is in public use, regardless of the value thereof, shall be made only with the approval of the ~~county manager~~ ~~commission and after receiving a recommendation from the appropriate planning commission where the property is situated~~ and the holding of a public hearing with proper notice.

B. Included Real Property: Real property in public use is deemed to be significant real property for purposes of state law, and includes, but is not limited to, realty and improvements thereon in actual current use as governmental offices or other public buildings, courthouses, jails, police stations, fire stations, developed parks or other recreational or entertainment facilities, utilities, cemeteries, animal control facilities, hospitals or other health facilities, facilities for the welfare of the indigent, sanitary landfills, or any other realty or improvement thereon held for the benefit or advantage of the general public and not confined to use by privileged or particular individuals, without regard to whether that use may be classified as governmental or proprietary.

C. Public Hearing; Notice: The county manager shall call and hold a public hearing concerning disposition of realty under this section. All interested persons may appear and be heard at the hearing. Public notice shall be given of the hearing, which shall contain the date, time and place thereof, a statement of the purpose of the hearing, and a description of the property or the interest therein to be disposed of. Such notice shall be published at least once prior to the hearing in a newspaper of general circulation in the county, and the hearing shall be held not sooner than fourteen (14) days after the publication of the notice thereof. (Ord. 710, 12-17-2008, eff. 1-1-2009)

D. Council Consent: With respect to the disposal of real property which has a fair market value in excess of \$500,000, the County Manager shall obtain approval of the County Council prior to the sale of such property.

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#### **1-11-4: REAL PROPERTY NOT IN PUBLIC USE:**

A. Included Real Property: Realty not in public use includes, but is not limited to, realty or improvements thereon existing as vacant lands; real property with vacant or unused buildings, structures or other improvements thereon; buildings used as maintenance or repair facilities and not open to the general public; buildings rented or leased by the county to private entities; or any other realty or improvements thereon not held for the benefit or advantage of the public, nor open to the general public or to a substantial portion thereof.

B. Approval By County Manager: The county manager shall approve the sale of such realty. No public hearing is required.

C. Disposal Of Property: Where property is acquired by the county for a specific purpose (such as in the case of transfers of development rights), said property may be disposed

of by the county for that purpose under this section as real property not in public use. The county manager may delegate the authority to dispose of this classification of property to an administrative official of the county. (Ord. 710, 12-17-2008, eff. 1-1-2009)

[D. Council Consent: With respect to the disposal of real property which has a fair market value in excess of \\$500,000, the County Manager shall obtain approval of the County Council prior to the sale of such property.](#)

#### **1-11-4-1: PURCHASE AND SALE OF AFFORDABLE HOUSING:**

Deed restricted affordable housing within Summit County is hereby established as real property not in public use as set forth in this section [1-11-4](#). (Ord. 710, 12-17-2008, eff. 1-1-2009)

- A. Purchase: The Summit County council hereby authorizes the chief executive officer of Summit County to purchase existing deed restricted affordable housing within Summit County immediately upon availability. (Ord. 690, 3-19-2008; amd. Ord. 710, 12-17-2008, eff. 1-1-2009)
  
- B. Funding: To effect the affordable housing transaction program, there is hereby established an affordable housing fund which may receive funding from fees in lieu under this code and other affordable housing contributions, and which may be used to purchase available affordable housing under this program.
  
- C. Resale: Once purchased, the chief executive officer of Summit County is hereby authorized to immediately sell the purchased unit to a qualified buyer at the maximum allowed sales price under the deed restriction or, if and when appropriate, at a lower price which is based upon the area median income ("AMI") or less when necessary to achieve the goals of affordable housing. If fair market value is less than the maximum allowed sales price, the resale price shall be at fair market value.
  
- 1. Qualified Buyers: The county, or its designee, shall maintain at its office a list ("list") of persons meeting the requirements for qualified purchasers of a unit ("qualified buyer"). The list shall rank the qualified buyers in order of the dates on which they applied to be placed on the list. The county shall have the right to determine the eligibility criteria for qualified buyers, and shall adopt written guidelines and policies to establish eligibility. The county shall have the right to amend such guidelines and policies from time to time as it determines necessary. In order to be placed on the list, a qualified buyer must deliver to the county evidence of being prequalified for sufficient financing to purchase a unit. If there are no qualified buyers on the list, the owner shall have the right to sell the unit to any qualified

buyer not on the list. Any qualified buyer on the list who purchases a unit shall pay to the county, at closing, the minimum sum of five dollars (\$5.00) as a fee for being included on the list ("list inclusion fee").

2. Sale To Nonqualified Buyers: If, after using reasonable efforts to sell the unit to a qualified buyer, the county has not sold the unit within sixty (60) days after the offer date, then the county shall have the right to sell the unit to any person.
3. Sales Price: Where possible, the county shall sell all deed restricted affordable housing units at the maximum allowed sales price allowed under the deed restriction. If, however, the maximum allowed sales price exceeds that allowed to achieve affordable housing goals, or if the maximum allowed sales price exceeds fair market value, the county may reduce the sales price to that amount which is appropriate to achieve the affordable housing goals or fair market value.

D. Authorization: Notwithstanding the provision of subsection [1-11-5A](#) of this chapter, the chief executive officer is authorized to dispose of deed restricted affordable housing without prior approval of the legislative body of Summit County. (Ord. 690, 3-19-2008)

#### **1-11-5: APPROVAL BY COUNTY MANAGER; RECORD KEEPING:**

- A. Approval: No disposition of real or personal property, in public use or otherwise, shall be finalized until after the county manager shall have reviewed and approved the disposition, manner of disposition, and consideration benefiting the county; except that the county manager may, on a case by case basis, preauthorize the final disposition of surplus property subject to such restrictions, if any, as the county manager may deem appropriate.
- B. Records: The county auditor shall maintain permanent public records for conveyances of real property and transactions involving personal property greater than five thousand dollars (\$5,000.00). Such records must reflect a description of the property sold or otherwise conveyed, an appraisal of the real property conveyed, the manner of disposition, the consideration received by the county, the identity of the person to whom such property was sold or otherwise disposed of, the date of disposition, the date of approval by the county manager, and the nature of the county's use of the property prior to disposition. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### **1-11-6: GENERAL RULES:**

- A. Condemnation: If real property was acquired by condemnation, the county shall give the original owner the right of first refusal prior to the disposition thereof.

B. Federal Interests: If real property was acquired with federal funds, the federal government must consent to any disposal thereof.

C. Abandonment: Where the county has acquired real or personal property by dedication for a specific purpose, it may abandon its interests to such only through a vacation proceeding. Once the county's interest in the property has been vacated, the ownership of the property shall inure to the original owner who dedicated such to the county in the case of personal property or wholly dedicated land, or to the current owner where the county merely acquired a right of way interest to the land.

D. Tax Sales: Where the county has acquired real property through delinquent taxes, the tax sale requirements and procedures of Utah Code Annotated section 59-2-1301 et seq., shall apply. (Ord. 710, 12-17-2008, eff. 1-1-2009)

**1-11-7: NO RIGHTS CREATED IN THIRD PARTIES:** 

This chapter is not intended to, nor shall it be construed to, create any rights, claims or causes of action in third parties. (Ord. 710, 12-17-2008, eff. 1-1-2009)

**AMENDMENTS TO TITLE 9, CHAPTER 1 OF THE SUMMIT COUNTY CODE  
BUILDING CODES AND REGULATIONS**

**ORDINANCE NO. \_\_\_\_**

**PREAMBLE**

**WHEREAS**, the State requires the County to comport with the building and fire codes set forth in statute; and,

**WHEREAS**, updates are needed to the Summit County Code; and,

**WHEREAS**, this Ordinance accordingly amends Summit County Code, Title 9, Chapter 1;

**NOW, THEREFORE**, the County Council of the County of Summit, State of Utah, ordains as follows:

Section 1.     **Amendments.** Building Codes and Regulations, Summit County Code, Title 9, Chapter 1 is amended in accordance with Exhibit A herein.

Section 2.     **Effective Date.** This Ordinance shall take effect 15 days after approval and upon publication in accordance with law.

Enacted this \_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

Summit County Council

\_\_\_\_\_  
Kent Jones  
Summit County Clerk

\_\_\_\_\_  
Claudia McMullin, Chair

---

Approved as to Form  
David L. Thomas  
Chief Civil Deputy

VOTING OF COUNTY COUNCIL:

Councilmember Armstrong	_____
Councilmember Robinson	_____
Councilmember Ure	_____
Councilmember Carson	_____
Councilmember McMullin	_____

# **EXHIBIT A**

# Chapter 1

## BUILDING CODES AND REGULATIONS

### [9-1-1: CODES ADOPTED:](#)

### [9-1-2: ENFORCEMENT PROVISIONS:](#)

### [9-1-3: NO RIGHTS CREATED IN THIRD PARTIES:](#)

### [9-1-4: CONFLICTS OF INTEREST:](#)

### [9-1-5: COPIES OF CODES ON FILE:](#)

#### 9-1-1: CODES ADOPTED:

A. Adoption Of Codes: Construction [and Fire](#) codes adopted under title [68, 15A](#), chapters [66, 1 thru 5](#) of the Utah code.

B. Applicability Of Building Code Administrative Remedies: The administrative portions of the international building [and fire](#) codes, as amended, [are](#) hereby adopted, incorporated and made applicable to the administration and enforcement of the provisions of those codes adopted in subsection A of this section. (Ord. 733, 1-20-2010)

#### 9-1-2: ENFORCEMENT PROVISIONS:

A. Delegation: The county council and county manager hereby approve the delegation of enforcement and authority by the building official [and fire districts](#) to an appropriate number of technical officers, inspectors and other employees. Such delegations shall be accomplished by appointment, duly deputizing the officer, inspector or employee to carry out the functions of code enforcement.

B. Violation Prohibited: It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure, or cause or permit the same to be done in violation of the codes adopted herein. Each violation of any provision of these codes shall be a class B misdemeanor. Each day a violation of these codes continues shall constitute a separate offense.

C. Denial Of Permit Or Certificate For Failure To Comply: The county building official reserves the right to deny issuance of any building permit or certificate of occupancy when the applicant for such has failed to adhere to any provision of the codes adopted herein.

D. Authority Of County Attorney: The county attorney reserves the right to enforce these codes using any civil and equitable remedy provided for under state law, including, but not limited to, injunctive, abatement, and/or declaratory relief. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### 9-1-3: NO RIGHTS CREATED IN THIRD PARTIES:

This chapter is not intended to, nor shall it be construed to, create any rights, claims or causes of action in third parties. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### 9-1-4: CONFLICTS OF INTEREST:

All county officers and employees charged with the duty or responsibility of enforcing the codes herein adopted shall comply with the county officers and employees disclosure act, Utah Code Annotated [title 17, chapter 16a](#), as amended. (Ord. 710, 12-17-2008, eff. 1-1-2009)

#### 9-1-5: COPIES OF CODES ON FILE:

Copies of each volume of said codes have been filed and are available in the office of the county building official for examination by any person desiring to use the same. (Ord. 710, 12-17-2008, eff. 1-1-2009)



Community Development Department  
P.O. Box 128  
Coalville, Utah 84017  
Phone: 435-615-3124  
Fax: 435-615-3046  
www.summitcounty.org

## STAFF REPORT

**To:** Summit County Council  
**From:** Jennifer Strader, County Planner  
**Report Date:** January 22, 2013  
**Meeting Date:** January 30, 2013  
**Project Name & Type:** Appeal of a Low Impact Permit for Blue Sky Ranch

---

### EXECUTIVE SUMMARY

Dave Ure and Sally Elliott submitted an application for an appeal of an administrative decision that approved a Low Impact Permit for Blue Sky Ranch, located in Wanship.

The Summit County Council (SCC) is charged with reviewing the information contained in this Staff Report, hearing the appeal in an open meeting, and making a determination as to whether or not the Community Development Director (CDD) erred in issuing the Low Impact Permit.

This report is based on the information submitted with the original appeal application; however, the appellants have informed Staff that they may submit supplemental information. If received prior to the hearing, Staff will forward that to the SCC.

**Staff recommends that the SCC consider the issues outlined in this report and any additional information provided at the hearing, and vote to uphold the findings of the CDD to approve the Low Impact Permit for Blue Sky Ranch (Exhibit A).**

#### A. Project Description

- **Project Name:** Blue Sky Ranch
- **Applicant(s):** Dave Ure and Sally Elliott
- **Property Owner(s):** Blue Sky Corporation Ranch, LLC
- **Location:** Wanship, Parcels NS-82 and NS-86
- **Zone District:** AP & AG-100
- **Adjacent Land Uses:** Agriculture
- **Existing Uses:** Agriculture

#### B. Standard of Review

Appeals of decisions made by the Director must be made to the County Council within ten (10) calendar days of the final written decision by the Director, or designated planning staff member. Pursuant to Utah Code Annotated §17-27a-705 and 707, the appellant has the burden of proving that the land use authority, i.e. the Director, erred. On appeal, the County Council shall review the matter de novo, which is reviewing the facts and evidence “anew,” and shall determine the correctness of the Director’s decision in his interpretation and application of the Eastern Summit County General Plan and Section 11-4-16 of the Code governing Low Impact Permits.

C. **Background**

On October 23, 2006, the ESCPC approved a Conditional Use Permit (CUP) for a Corporate Retreat, located in Wanship. The main use of the facility was intended as a corporate university that would provide educational and teambuilding opportunities to employees. Facilities would include a conference center, wellness center, lodging, agricultural buildings associated with the agricultural use of the property, incidental structures such as a maintenance services building and administration buildings, and a single family residence.

In addition to the university campus, other anticipated uses included traditional conferences, weddings and other special events, corporate training, food and beverage services, and recreational activities such as horseback riding and mountain bike riding. The total size of the project was approximately 220,000 square feet (**Exhibits B and C**).

In 2011, Staff began communicating with representatives for Blue Sky Ranch regarding their request to amend their CUP. Given the current economic situation, they requested to decrease their overall square footage by approximately half of what was originally approved, resulting in approximately 110,000 square feet, but the primary use of the facility would remain the same. In addition to the decrease in square footage, the applicant requested the addition of High West Distillery to the site. High West Distillery is a restaurant that also produces distilled spirits, similar to Squatters or the Wasatch Brew Pub in Park City.

	2006 CUP Approval	Proposed Amendments
<b>STRUCTURES</b>		
Main Conference Lodging Building	103,000 sq. ft.	59,000 sq. ft.
Wellness Center	7,800 sq. ft.	12,500 sq. ft.
Creekside Lodging	171 guest rooms & 90,000 sq. ft.	Creekside Lodging Eliminated and buildings redesigned to accommodate 60 rooms.
Wastewater/Equestrian/Operations Support Buildings	14,300 sq. ft.	13,000 sq. ft.
High West Distillery/Meeting Complex		29,000 sq. ft.
Single Family Dwelling	6,000 sq. ft.	6,000 sq. ft.
<b>USES</b>		
Traditional Conferences	x	x
Weddings	x	x
Special Events	x	x
Food and Beverage Services	x	x
Recreational Uses	x	x

Section 11-4-12, G-1 of the Eastern Summit County Development Code (Code) states that a CUP may be amended through the Low Impact Permit process as long as the amendment does not increase the square footage, density, or intensity of the previously approved use (**Exhibit D**).

Staff discussed the addition of High West Distillery and reviewed potential land use impacts that could be created by the use. Staff found no impacts that would be any greater than those anticipated with the original proposal as there were approximately five (5) restaurants/cafes associated with the original CUP. In fact, Staff's opinion is that the impacts would decrease based on the overall reduction of the square footage for the entire project. The Director made a determination that the CUP could be amended administratively through the Low Impact Permit process as the square footage, density, and intensity of the use wouldn't increase.

A general update on the applicant's intentions with the project was discussed with the Eastern Summit County Planning Commission (ESCPC) on November 28, 2012. The ESCPC unanimously voiced general support of the project, but desired public comment and input on the Low Impact Permit application (**Exhibit E**). Subsequently, the CDD directed Staff to schedule a public hearing on the Low Impact Permit before the ESCPC, specific to the addition of High West Distillery.

On December 19, 2012, a public hearing was held before the ESCPC. Four (4) members of the public spoke in favor of the application; there were no negative comments expressed from the public. The ESCPC voted in favor of forwarding a positive recommendation to the Community Development Director for the Low Impact Permit, by a vote of 4-2 (**Exhibit F**).

D. **Community Review**

An appeal application does not require a public hearing. Public notice has not been mailed to surrounding property owners.

E. **Identification and Analysis of Issues**

The concerns listed in the appeal application are identified below. Staff's responses follow in italics.

1. **Not an allowed use (Sections 11-4-16 & 11-4-8 of the Code).**

*The approved CUP was processed as a "guest ranch or lodge intended to attract visitors/patrons on a daily basis or an extended stay" as identified in the Code. The original application states, "Primarily, Phillips Edison will use Blue Sky as a corporate training facility catering to employees. Additionally, Blue Sky will market itself as an event facility catering to traditional conferences, weddings, corporate training, team building, etc. As a destination training and conference center, **Blue Sky will offer full food and beverage services...**" The previous CUP was issued based on this information.*

*It is Staff's opinion that the use of a guest ranch would include a number of support uses for the overall facility. Each of these uses is not identified separately in the Use Chart in the Code, but previously approved projects include:*

\* *CUP for a hunting guest ranch on Thousand Peaks Ranch in Chalk Creek, with associated food and beverage services.*

\* *Five (5) year Temporary Use Permit (TUP) for a snowmobiling operation for Thousand Peaks Ranch in Weber Canyon, with associated food and beverage operations.*

- \* *Nine (9) year TUP for Rendezvous Ranch in Weber Canyon for recreational activities such as dinners, snowmobile adventures, hay and sleigh rides, private parties, etc.*

*The appellant references sections 11-4-16 and 11-4-8 of the Code; 11-4-16 is the Low Impact Permit section and 11-4-8 is the Minor Subdivision section. Staff has not been given a clear explanation as to why these sections are referenced.*

**2. Doesn't meet the definition of an accessory use.**

*The definition in the Code of an accessory use is, "A use conducted on the same lot as the principal use or structure with which it is associated (the principal use is the guest ranch or lodge, approved on parcels NS-82 and NS-86); and is a use which is clearly incidental to and is customarily found in connection with such principal use (food and beverage service is customarily found in connection with a guest ranch or lodge, including corporate retreats, lodges, weddings, special events, etc.), and is either in the same ownership as such principal use or is maintained and operated on the same lot (High West is leasing the space from Blue Sky LLC, the owners of parcels NS-82 and NS-86) substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use (High West is intended primarily for the customers or visitors of the principal use). No accessory use shall be allowed on any lot of parcel unless the permitted use is being actively utilized" (the permitted use, approved as a CUP, has commenced).*

**3. Conflict with Section 11-4-12-G of the Code.**

*Section 11-4-12-G of the code references the process for amending CUP's; it states:*

- 1. Minor Amendment: A minor amendment is defined as an amendment that does not increase the square footage, density, or intensity of a previously approved CUP, which may be approved administratively. A minor amendment may be commenced by filing a Low Impact Permit and paying the fee for the review thereof.*
- 2. Major Amendment: A major amendment is defined as an amendment that increases square footage, density, and/or intensity of a previously approved CUP. A major amendment may be commenced by filing a CUP application and paying the fee for the review thereof.*

*Staff directed the applicant to apply for a Low Impact Permit as the square footage and density was proposed to be decreased, and, in Staff's opinion, the intensity of the project didn't increase.*

**4. Can't create a use through the Low Impact Permit process.**

*A use wasn't created through the Low Impact Permit process. The use of the project is a "guest ranch or lodge intended to attract visitors/patrons on a daily basis or an extended stay". The High West Distillery and Restaurant is an accessory use to the primary use of the guest ranch.*

5. How can two different tax i.d. numbers be associated with the same CUP and have two different business owners?

*The Code does not restrict approval of a CUP to one parcel. The CUP was approved on parcels NS-82 and NS-8, which are adjacent to each other. As previously stated in #2 above, High West is leasing the space from Blue Sky LLC, the owners of both parcels.*

6. There are no regulations in place for High West Distillery as far as what they can and can't do.

*High West is subject to and has to meet all requirements of the Code, including setback and height regulations, all service provider requirements, and all requirements of the applicable Building Codes.*

7. The original CUP for Blue Sky (#16).

*Condition #16 in the CUP states, "If any future development is proposed, all development activity would need to be in close proximity to the existing uses and would need to meet similar standards with respect to sensitive land areas (Staff found, after conducting a site visit, that the proposed location for High West is appropriate given the topography and sensitive areas on site, including the proposed locations of other structures). An amendment to this CUP would need to be obtained (the amendment was appropriately applied for according to Section 10-4-12-G of the Code).*

F. **Recommendation(s)**

Staff recommends that the SCC review and discuss the records as provided. Staff further recommends that the SCC vote to uphold the recommendation of the ESCPC and final decision of the Director to approve a Low Impact Permit for Blue Sky Ranch.

**ATTACHMENTS**

- Exhibit A: LIP Approval Letter
- Exhibit B: LIP Approved Site Plan
- Exhibit C: CUP Approval Letter
- Exhibit D: CUP Approved Site Plan
- Exhibit E: 10.18.06 ESCPC Meeting Minutes
- Exhibit F: Section 11-4-12, G-1 of Code
- Exhibit G: 11.28.12 ESCPC Meeting Minutes
- Exhibit H: 12.19.12 ESCPC Meeting Minutes

December 20, 2012

Blue Sky Ranch  
Dan Weatherbie  
2071 State Road 32  
Wanship, Utah 84017

**Re: Low Impact Permit to Amend the Blue Sky Ranch Conditional Use Permit Located at 27649 Old Lincoln Highway, Wanship, Utah.**

Dear Mr. Weatherbie,

This letter is to confirm that on December 19, 2012, the Eastern Summit County Planning Commission conducted a public hearing and forwarded a positive recommendation to the Community Development Director for a Low Impact Permit to amend the Blue Sky Ranch Conditional Use Permit, based upon compliance with the following findings:

1. The use is in compliance with the provisions of the General Plan.
2. The use conforms to all applicable requirements of the Code and State and Federal regulations.
3. The use is not detrimental to public health, safety, and welfare.
4. The use is appropriately located with respect to public facilities and services.
5. The use is compatible with the existing neighborhood character and will not adversely affect surrounding land uses.
6. Exterior lighting will be directed downward and not be reflected upon adjoining land.
7. The natural topography, ridgelines, soils, critical areas, watercourses, and vegetation will be preserved where possible through careful site planning and design of access routes, circulation areas, buildings and other structures, parking areas, utilities, drainage facilities and other features.

On December 20, 2012, the Community Development Department approved the Low Impact Permit (site plan attached) with the following conditions:

1. All requirements of the Eastern Summit County Development Code shall be met for all structures, including, but not limited to, setbacks, height, and compliance with any service provider requirements.
2. Prior to commencement of construction of any structures, a Summit County Building Permit shall be obtained.

If you should have any questions, please feel free to contact me at (435) 615-3152 or by email, [jstrader@summitcounty.org](mailto:jstrader@summitcounty.org).

Sincerely

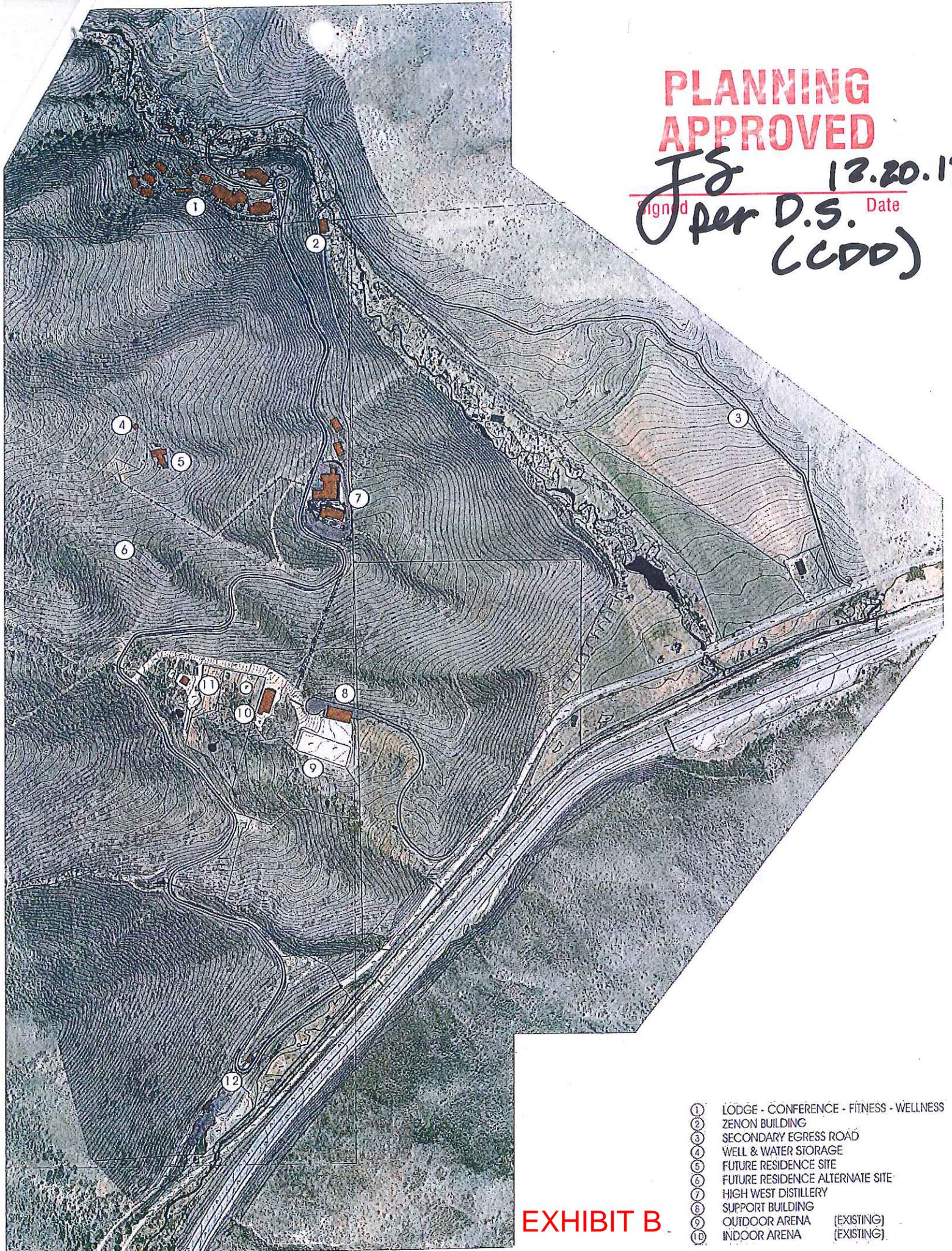
Jennifer Strader  
County Planner

Cc: file  
Attachment

**EXHIBIT A**

# PLANNING APPROVED

*FS* 12.20.12  
Signed *per D.S.* Date  
(CDD)



## EXHIBIT B

- ① LODGE - CONFERENCE - FITNESS - WELLNESS
- ② ZENON BUILDING
- ③ SECONDARY EGRESS ROAD
- ④ WELL & WATER STORAGE
- ⑤ FUTURE RESIDENCE SITE
- ⑥ FUTURE RESIDENCE ALTERNATE SITE
- ⑦ HIGH WEST DISTILLERY
- ⑧ SUPPORT BUILDING
- ⑨ OUTDOOR ARENA (EXISTING)
- ⑩ INDOOR ARENA (EXISTING)

October 23, 2006

Phillips Edison & Company  
Attn: Mike Phillips  
175 East 400 South Ste. 402  
Salt Lake City, Utah 84111

Re: Conditional Use Permit for Blue Sky Corporate Retreat

Dear Mike,

This letter is to inform you that on October 18, 2006 the Eastern Summit County Planning Commission approved a conditional use permit for Blue Sky Corporate Retreat, located on parcels NS-86 & NS-82, Summit County, Utah. The granting of this permit is based upon the findings listed below and requires that the following conditions of approval be satisfied.

#### **FINDINGS**

1. The proposed use is appropriate in its particular location, taking into account the nature of the use, its relationship to surrounding lands uses and its impact on the natural environment.
2. The proposed use is in general compliance with the Development Evaluation Standards described in Chapter 2 of the Code.
3. The proposed use will not be in violation of any county, state, and federal laws.
4. The applicant is the landowner.
5. The applicant has demonstrated that it possesses the requisite skills and experience to ensure that the particular use will be conducted in a safe and orderly manner.
6. The use will not adversely affect, in a significant manner, the public health, safety and welfare.
7. The length and size of the proposed structures are larger than those typically found in the zone district, but Staff feels their size is a reasonable trade off for minimizing the disturbance and visual impacts associated with standard uses in the zone.

#### **CONDITIONS**

1. The applicant shall comply with all requirements of the North Summit Fire District.
2. The applicant shall comply with all requirements of the State Department of Natural Resources, Summit County Fire Warden.

**EXHIBIT C**

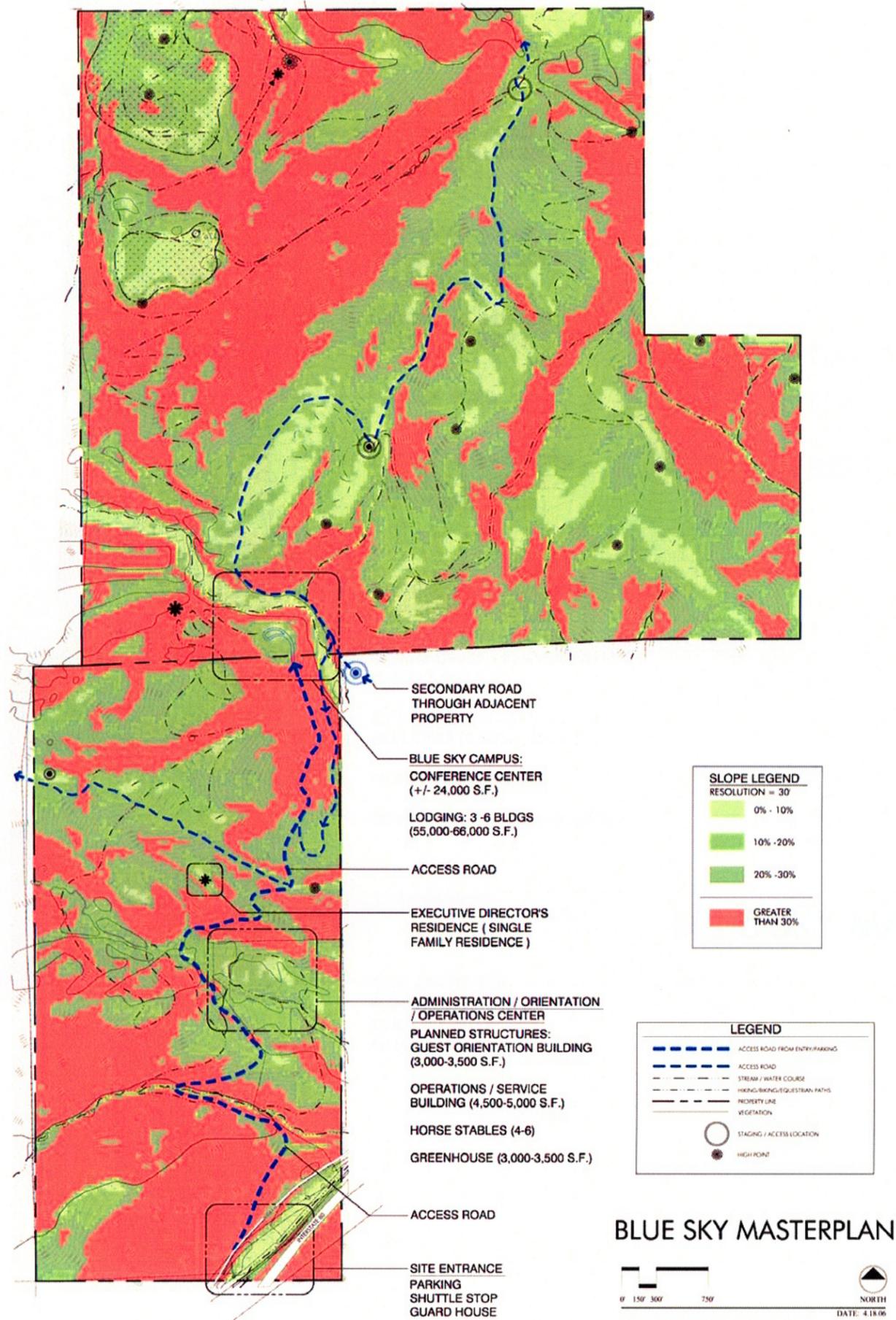
3. Prior to any development activity occurring on site, the applicant shall comply with all requirements of the Summit County Engineering Department.
4. The applicant shall comply with all requirements of the Summit County Health Department and the State Division of Water Quality.
5. Prior to building permit issuance, the applicant shall provide a letter from the State Department of Wildlife Resources for review by Staff. The applicant shall be required to comply with any recommendations from their Department.
6. Prior to any development activity occurring on site, including construction of roads, the applicant shall be required to obtain a variance from the Summit County Board of Adjustment in reference to specific road standards. If the Board of Adjustment denies the request, the applicant shall be required to submit revised drawings for the road that comply with the infrastructure standards described in the Code, to be reviewed and approved by the Summit County Engineer, Planning Staff and possibly the Planning Commission if they require substantial changes to the site plan and impacts associated with road construction.
7. Prior to construction of any structures, the applicant shall be required to obtain a Summit County Building Permit.
8. The buildings shall be located as shown on the approved site plan.
9. The buildings shall be constructed as shown on the approved elevations.
10. Native vegetation shall be planted in the setback area between the retaining walls in order to help screen the walls and minimize the visual impact. Prior to planting any materials, a landscape plan shall be submitted to and reviewed by Staff.
11. Prior to any development activity occurring on site, the applicant shall be required to submit a final site plan for the base parking lot, for review and approval by Staff.
12. Prior to stream restoration commencing, the applicant shall provide a letter from the State Division of Water Rights indicating their approval.
13. All disturbed areas shall be reseeded with a vegetation mix that will benefit wildlife.
14. If any fences are constructed, they should permit wildlife crossing and be less than 42" tall.
15. Prior to placement of any wind turbines on the property, the applicant shall contact the Division of Wildlife Resources for site specific recommendations.
16. If any future development is proposed, all development activity would need to be in close proximity to the existing uses and would need to meet similar standards with respect to sensitive land areas. An amendment to this Conditional Use Permit would need to be obtained.
17. All signage must meet the requirements set forth in the Development Code in affect at the time of its proposal.
18. The applicant shall be required to obtain a Summit County Business License prior to operating the facility.
19. Unless there is substantial action under this Conditional Use Permit within a maximum period of one (1) year from the date of approval, said permit shall be null and void.
20. If the aforementioned conditions are not met, this permit is subject to revocation.

If you should have any questions or concerns, please feel free to contact me at (435) 615-3152, or by e-mail, [jstrader@co.summit.ut.us](mailto:jstrader@co.summit.ut.us).

Sincerely,

Jennifer Strader  
County Planner

Cc: file



### The Master Plan

The purpose of the Site Master Plan is to set guidelines for present and future activities on the Blue Sky property. It is intended to be a long-range planning document that addresses the site needs of the Blue Sky Corporate Ranch and PECO University programs and activities. The Master Plan identifies current and proposed land uses and establishes an environmental framework of existing conditions. The property encompasses 1,100 acres of previously undeveloped land at the base of the Wasatch Mountain Range. The terrain is predominantly defined by steep foothills rising over 1,200 feet in elevation and creek valleys filled with trees and shrubs such as box elder, willow, scrub oak, maple and choke cherry. Like most areas along the Wasatch Front, it is grassland at the lowest elevations, is forested at its upper end, and has a perennial creek. Development within the 1,100 acre site, including roads, buildings, service areas, trails and off-campus activity areas, will be 5% of the total area. The remaining 95% of the land will be undisturbed.

Commissioner Brown asked if for 4½ months the basement is fine as is. Commissioner Boyer commented that amending condition 5 should bring it into compliance.

**Commissioner Powell made a motion to forward a positive recommendation to the Community Development Director for the Flying Diamond Minor Subdivision with the conditions in the Staff Report, the amendment to Condition 5, and with the understanding that approval will be delayed until the rental agreement is vacated.**

**Conditions:**

- 1. Building pads shall be shown on the lots to ensure clustering of development, adequate access, and agricultural preservation. These pad locations shall be submitted to Staff for review and approval prior to plat recordation.**
- 2. The Democrat Alley Right of Way shall be restored to the plat prior to recordation.**
- 3. All service provider requirements shall be met prior to recordation.**
- 4. The lots may not be further subdivided through the minor subdivision process.**
- 5. The applicant shall come into compliance with Eastern Summit County Development Code Requirements concerning accessory dwellings, which entails permanently removing the unit for the basement, prior to plat recordation.**
- 6. All development on the newly created lots shall comply with the Development Code in place at the time of building permit.**

Commissioner Houston seconded the motion and it passed unanimously, 5-0.

**5. Public Hearing/Possible Recommendation: Conditional Use Permit for Blue Sky Corporate Retreat, Parcels NS-86 and NS-82, 2 miles southwest of Wanship; Mike Phillips—Jennifer Strader**

County Planner Jennifer Strader presented the Staff Report. The project is proposed to be developed on approximately 1,000 acres in the AP-40 and AG-100 zones. The applicant has submitted renderings of the proposed retaining walls. A traffic study was prepared and it indicates that the level of service will remain at an "A" on South Wanship Road. There will be shuttles and car pool incentives to further minimize traffic impact. The North Summit Fire District and the Summit County Fire Warden have sent letters stating that they are comfortable with the proposal. The Division of Wildlife Resources sent a letter with recommendations for the applicant to consider. The applicant has agreed to maintain grazing on the property. Two wells are proposed. Currently 8 acre feet of water are owned and 16 more are in the process of

being obtained. A portion of one building will encroach on the 30% slope. The applicants are in the process of returning the stream to its original position. The current Code doesn't identify setbacks from streams. Staff recommends a public hearing and approval of the Conditional Use Permit with the findings and conditions in the report.

Mike Phillips stated that they have taken the concerns and information gathered in the work sessions and tried to work with them. He is eager to hear the public comments.

Commissioner Boyer asked if Condition # 2 refers to more requirements that have not been addressed. Planner Strader stated that the condition has been met. Commissioner Boyer asked if the letter referred to in Condition #5 was received. She responded that it was.

Commissioner Houston asked if Condition #2 should include State Water Quality. Planner Strader responded that it should.

Chair Blazzard noted that the Code prohibits development on 30% slopes. Principal Planner Don Sargent stated that the Code specifies that small incremental areas on the edge are a judgment call. Planner Strader read from the Code that "no development shall be permitted on natural grade slope in excess of 30%."

Chair Blazzard commented that he would like to get away from the slope and the streambed. Korey Walker, P.E., noted that the building will act as retention. He also pointed out that the slope used to be flatter, before the erosion occurred.

Chair Blazzard opened the public hearing.

Charlotte Bates, adjoining property owner, commented that the property belonged to her uncle and she was anxious about the changes. Mr. Phillips met with her and showed concern for the neighbors. There has been continued communication. She doesn't see a hidden agenda. She believes the company has integrity.

Brian Zwalen, manager of property to the north, commented that he is comfortable with the proposal. He is concerned about the entrance road, but he believes that the applicants will do it well. He does not believe the proposal will be an eyesore.

Rex Scoggin, a resident living down Wanship Road, commented that the traffic issue is not an issue. He said that Blue Sage has similar uses and there are no traffic jams. The proposal will be good for Wanship and the economy.

Jimmy Smith asked for information. He recently purchased land in the area and is concerned about the ditch and reservoir, as he owns some water rights. Mr. Walker stated that a well would be drilled about 1,300 feet down and would not affect the

surface water. They are including a wastewater treatment plant. Mr. Phillips stated that nothing is planned to be built near the creek or reservoir. Mr. Smith asked if it would be possible to ride horses on this property. Mr. Phillips responded that this is not a public facility; however, for neighbors they can meet and make arrangements.

Matt Bates doesn't have concerns about the project. He is concerned about the future plans for development in the area. He asked if there is a secondary access and if the stream realignment will affect the road. Mr. Phillips responded that a secondary access is planned and that the road will not be affected. Mr. Bates expressed concern that future developments receive the same treatment as this proposal.

Chair Blazzard closed the public hearing.

Commissioner Brown asked where the two wells would be. Mr. Walker stated that the primary well will be near the existing tank and that it will be deep enough to meet the project's needs. The second well will be drilled only if supplemental water is needed. Commissioner Brown commented that he has studied this project, and he applauded the applicant on being proactive and being in compliance with the Code.

Commissioner Boyer reviewed his concerns and conclusions. Responding to Mr. Bates' concern, other applications will be given the same consideration. Regarding the relative location of the stream and the building, any problems down the road would have to be corrected by the applicant. Water rights must be obtained before wells are drilled, and once obtained, the rights are the same for everyone. His impression is that the applicants have worked with the neighbors and are dealing with the issues well. He is comfortable that weed control on the areas of disturbance will occur. The view of the parking from I-80 will be minimal. Wildlife and Preservation are protected in the conditions and will enhance the proposal. He doesn't have issues with the road. He appreciates the fact that grazing idle acreage is a fire hazard if not cared for. He views the project as an entrepreneurial venture. He appreciates the spirit of cooperation. He complimented the applicants on their work, vision, and teamwork.

Commissioner Houston thanked the public for coming. She found it refreshing to see supporters rather than detractors. She asked about the area of disturbance of the 30 percent slope. Mr. Walker responded that it is at the point, at an elevation of about 10-15 feet, with a surface area of about half of 20x40. Commissioner Houston stated that as it is a small area, it is acceptable.

Commissioner Powell commented that this is a responsible project and has many benefits to Summit County and to the local economy.

Chair Blazzard appreciates the professional job done on this project. He likes this project better than the 10-15 "starter castles" on the hills. He understands that there will be no encroachments on others' surface water rights. Mr. Walker noted that with

the stream alteration the flow will be slowed; however, he said that no ponds would be formed. Chair Blazzard asked about fencing. Mr. Phillips responded that the east side of the property is not fenced. Some of the property is fenced, and fences are being fixed. Chair Blazzard stated that there is a fence ordinance in the County. He asked for a timeline for the roadwork. Mr. Phillips responded that the infrastructure is planned for next spring.

Chair Blazzard asked if rental for weddings is commercial use. Planner Strader responded that the primary use is a guest ranch/lodge, so weddings are an auxiliary use and don't require a separate permit. Planner Sargent noted that all conditions would be enforced for all activities. Chair Blazzard asked Counsel if the Planning Commission has purview to approve development on a 30% slope or whether the Commission should forward that to the Board of Adjustment. Deputy County Attorney Spooner responded that the Commission could determine what development is. The Commission cannot grant a variance. Commissioner Houston suggested that since the full development is not on the 30% slope and only encroaches slightly, it is not development, therefore it is allowed. Chair Blazzard is concerned about setting a precedent on this issue. Ms. Spooner stated that the Commission must be consistent in application. Chair Blazzard feels that it is development, as it is part of a building. Commissioner Houston feels that it is only partial development.

Commissioner Boyer asked if Planner Strader and Planner Sargent are comfortable with this. Planner Strader responded positively. Planner Sargent stated that this is determined on a case-by-case basis depending on how the slope is disturbed, placement of the building, and existing topography. This use is not abusing the slope.

Commissioner Brown asked if a low impact permit approach would work. Planner Sargent commented that the sensitivity of the applicants plays into the big picture for this project. The site visit was valuable to get a feel for the project. They have tried to make it less intrusive.

Chair Blazzard asked if this permit restricts houses. Planner Strader responded that Condition #16 would require the applicants to return for an amendment to the Conditional Use Permit. Chair Blazzard noted that as financial positions change, so do plans. Planner Sargent commented that it allows the Planning Commission to see it again.

**Commissioner Houston made a motion to approve the Conditional Use Permit for Blue Sky Corporate Retreat located southwest of Wanship with the realization that there is a small disturbance to the 30% slope, that the unique situation was known, that the location it is acceptable, and also that Condition #4 adds the words "State Water Quality," and all other conditions and findings in the report.**

**Findings:**

- 1. The proposed use is appropriate in its particular location, taking into account the nature of the use, its relationship to surrounding land uses, and its impact on the natural environment.**
- 2. The proposed use is in general compliance with the Development Evaluation Standards described in Chapter 2 of the Code.**
- 3. The proposed use will not be in violation of any county, state, and federal laws.**
- 4. The applicant is the landowner.**
- 5. The applicant has demonstrated that it possesses the requisite skills and experience to ensure that the particular use will be conducted in a safe and orderly manner.**
- 6. The use will not adversely affect, in a significant manner, the public health, safety, and welfare.**
- 7. The length and size of the proposed structures are larger than those typically found in the zone district, but Staff feels their size is a reasonable tradeoff for minimizing the disturbance and visual impacts associated with standard uses in the zone.**

**Conditions**

- 1. The applicant shall comply with all requirements of the North Summit Fire District.**
- 2. The applicant shall comply with all requirements of the State Department of Natural Resources, Summit County Fire Warden.**
- 3. Prior to any development activity occurring on site, the applicant shall comply with all requirements of the Summit County Engineering Department.**
- 4. The applicant shall comply with all requirements of the Summit County Health Department *and State Water Quality*.**
- 5. Prior to building permit issuance, the applicant shall provide a letter from the State Department of Wildlife Resources for review by Staff. The applicant shall be required to comply with any recommendations from their Department.**
- 6. Prior to any development activity occurring on site, including construction of roads, the applicant shall be required to obtain a variance from the Summit County Board of Adjustment in reference to specific road standards. If the Board of Adjustment denies the request, the applicant shall be required to submit revised drawings for the road that comply with the infrastructure standards described in the Code, to be reviewed and approved by the Summit County Engineer, Planning Staff,**

- and possibly the Planning Commission if they require substantial changes to the site plan and impacts associated with road construction.
7. Prior to construction of any structures, the applicant shall be required to obtain a Summit County Building Permit.
  8. The buildings shall be located as shown on the approved site plan.
  9. The buildings shall be constructed as shown on the approved elevations.
  10. Native vegetation shall be planted in the setback area between the retaining walls in order to help screen the walls and minimize the visual impact. Prior to planting any materials, a landscape plan shall be submitted to and reviewed by Staff.
  11. Prior to any development activity occurring on site, the applicant shall be required to submit a final site plan for the base parking lot, for review and approval by Staff.
  12. Prior to stream restoration commencing, the applicant shall provide a letter from the State Division of Water Rights indicating their approval.
  13. All disturbed areas shall be reseeded with a vegetation mix that will benefit wildlife.
  14. If any fences are constructed, they should permit wildlife crossing and be less than 42" tall.
  15. Prior to placement of any wind turbines on the property, the applicant shall contact the Division of Wildlife Resources for site-specific recommendations.
  16. If any future development is proposed, all development activity would need to be in close proximity to the existing uses and would need to meet similar standards with respect to sensitive land areas. An amendment to this Conditional Use Permit would need to be obtained.
  17. All signage shall meet the requirements set forth in the Development Code in effect at the time of its proposal.
  18. The applicant shall be required to obtain a Summit County Business License prior to operating the facility.
  19. Unless there is substantial action under this Conditional Use Permit within a maximum period of one (1) year from the date of approval, said permit shall be null and void.
  20. If the aforementioned conditions are not met, this permit is subject to revocation.

Commissioner Powell seconded the motion and it passed unanimously, 5-0.

Mr. Phillips acknowledged Planner Strader for her work and prompt responses.

6. Continued review and discussion of proposed Development Code amendments – Don Sargent

## Eastern Summit County Development Code: Section 11-4-12 Conditional Use Permits

### G. Amendments to Conditional Use Permits:

1. Minor Amendment: A minor amendment is defined as an amendment that does not increase the square footage, density, or intensity of a previously approved Conditional Use Permit, which may be approved administratively. A minor amendment may be commenced by filing a Low Impact Permit application and paying the fee for the review thereof. Refer to Section 11-4-8 of the Title for detailed submission requirements.
2. Major Amendment: A major amendment is defined as an amendment that increases square footage, density, and/or intensity of a previously approved Conditional Use Permit. A major amendment may be commenced by filing a Conditional Use Permit application and paying the fee for the review thereof.

***Findings:***

- 1. The public will not be materially injured by the amendment.***
- 2. There will be no increase in density.***

***Condition:***

- 1. A lot line adjustment, to record the boundary changes to the amended lot (CD-379-A), must be recorded concurrently with the Plat Amendment. All voted in favor.***

- **MOTION CARRIED (6 - 0)**

**WORK SESSION**

**1. Blue Sky CUP- High West Distillery Discussion – Jennifer Strader, County Planner**

Planner Jennifer Strader said the applicant, Mike Phillips, has applied for a low impact permit (LIP) to amend an existing conditional use permit (CUP) that was granted in 2006. She said she would like to turn the time over to the developer to give him the opportunity to present the proposed updates to the original plan. She introduced Dan Weatherbie and Mike Phillips.

Planner Strader said the original approval was for a corporate retreat. This included lodging, a conference center, a wellness center, along with food and beverage services. She said that weddings along with other special events may also be held.

Planner Strader said when the business owner applied for a LIP, he stated the square footage of the overall project is being decreased by about half of what was originally approved. She said Staff views the distillery as an incidental use to the overall use permit. Because food and beverage was approved as part of the original permit, Staff believes the low impact permit is the appropriate process to go through in order to amend the permit. This is because it doesn't increase their density or the square footage.

Chair Tom Clyde said he started getting phone calls on this project after the ground breaking of the distillery. He received calls from members of the public along with County Council members. He said neither a restaurant nor a distillery fits the use table in the zone that this is located in. He said the explanation that the building is smaller; therefore, the impact is smaller doesn't really satisfy him. The issue as he sees it, is the changing the use of the CUP that was granted. He spoke with County Manager Bob Jasper concerning if this proposed amendment should be processed as an administrative act, or if it falls under the jurisdiction of the Planning Commission.

Commissioner Mike Brown said what is being proposed isn't the issue. He questions how a LIP can be used to amend a CUP that was put in place following a public hearing. The process doesn't seem clean. Planner Strader answered this can happen because the Code allows for it. She said a few years ago, the Commission approved a Code amendment that

allows a LIP to amend a CUP if density and square footage is not being increased. If density and square footage were to be increased, the business owner would have to go through another CUP process. Commissioner Brown said this proposal doesn't fit with the original intent of the CUP. He said he doesn't think a distillery would have been approved. Community Development Director Don Sargent suggested they listen to the business owner's presentation.

Mike Phillips said he purchased the property to provide a place where he could establish a conference facility for his company, Phillips, Edison and Company. He already went through the public process. He would like to present the following:

1. A review of the project's history.
2. What the original CUP provided for.
3. The differences between the current and the original development plan.
4. The economic impact to the community.
5. A review of what was originally approved and what is currently being proposed.

Chair Tom Clyde asked Mr. Phillips to orient them as to where the project is located. Mr. Phillips did so. He explained he purchased the land in 2004 from the Bates family. He has a master lease with several families to manage their land. His company manages most of the land north of the Old Lincoln highway; however, the CUP is for the 1,075 acres that he owns.

Mr. Phillips said before he purchased the property, it was used as a sheep ranch and for general recreation. The goal was to have a conference center facility. He said the entire property is for conference facility use. In October 2006, a CUP was granted by the Planning Commission.

Mr. Phillips said the property will also be used for conferences, weddings, and other special events. According to the CUP, there are a number of conditions that must be met prior to being granted a building permit. These conditions revolved around environmental concerns, fire, and health and safety concerns. The original proposal was approved for 171 rooms and up to 200 guests. The total size of the complex was to be approximately 220,000 square feet.

Mr. Phillips said approximately two miles of access roads and retaining walls have been constructed. An internal shuttle system will help to minimize the onsite traffic. The majority of the CUP's conditions have been met. Any conditions that have not been met will be prior to issuance of the building permit.

Mr. Phillips said the current program has been downsized given the state of the economy. He described the changes. There will be less parking available. The 8,000 square-foot ballroom, break-out rooms, and the five story building have been eliminated or redesigned. Smaller cabins have been designed to take the place of the five story building. He learned that corporations prefer smaller facilities because they don't have to worry about their trade secrets being revealed. The current proposal is for a 120,000 square foot complex with 60

rooms that can accommodate 120 guests. He pointed out the location of the wellness center and equestrian center. The support building (for laundry and food preparation) was also demonstrated.

The site map was used to show where the buildings were originally to be located, and the current proposed locations. Mr. Phillips said the distillery site is comprised of the restaurant and the needed areas for the distillery. He said he decided to be connected with High West Distillery because of their success in group sales, entertainment, and conferencing.

Mr. Phillips said the corporate entities will come for a western experience. They will participate in working the cows and roping. He said he is trying to get a Buck Brannaman clinic scheduled. He said although whiskey will be distilled, this is mostly an entertainment venue with a restaurant and beverage component.

Mr. Phillips said the entry will be a gated area with a reception house. Commissioner Ure asked if there will be vehicles going up the road, or if it will be strictly shuttle. Mr. Phillips answered there will be some vehicles allowed to drive into the complex. This will be determined by the person in the gatehouse. He said that 70% of the business that come to the complex will be corporations. They will either arrive in shuttle buses or they will be picked up in personal vehicles. He said this will help eliminate a lot of traffic.

Mr. Phillips said there will be accommodations, western adventures, and team building. He said all of this comes together to make something that can't be found elsewhere in the Rocky Mountains. This will be very attractive to the customer they originally sought to attract.

Commissioner Wharton said one thing that stands out to him is that the original CUP didn't include an accessory commercial enterprise, such as this. Commissioner Ure said he learned about the possibility of a joint venture with High West Distillery a few months ago. He thinks the CUP needs to be revised so that High West is part of it. There will be a lot of increased traffic because of the number of employees from High West. He believes a public hearing should be held.

Mr. Phillips responded that accessory enterprises have been incorporated into the CUP. There is an outside company that will manage the hospitality venue. The gift shop may be leased to an outside company. These are accessory uses and he believes the distillery is another accessory use. Commissioner Wharton said the distillery is a different type of industry than has been approved. There is a difference between an industrial business and a commercial business.

Chair Tom Clyde added this is different than a normal food and beverage venture found in a town because there are trucks hauling barrels and grain. Mr. Phillips responded that a traffic study was conducted in 2006 and the level of service will not change at SR 32 and the Old Lincoln Highway. He said the original proposal had double the number of rooms than the current proposal. He said that individual guest rooms will generate a lot more traffic than the

distillery would. Commissioner Doug Clyde said he sees this as a subsidiary of the restaurant.

Chair Tom Clyde said the economic impact seems to be significant as it could provide employment. If it works, it would be important to this area. He is trying to figure out how to fit this into the Code. He said perhaps this is where the specially planned area (SPA) comes into play.

Mr. Phillips said in 2004 there was a feeling among the residents that this area was going to be subdivided for large mansions. There was an extensive sit down with the people of the area to explain their plan. He said they have become a part of the community. He said the immediate area is dependent upon them. The area needs some kind of economic activity to generate jobs. As a result, the community is in support of the project.

Commissioner Ure responded a public hearing should be held so the public can express their feelings. Mr. Phillips said he isn't against having another public hearing, but there are deadlines he is trying to meet. To go through that process again would be a serious delay.

Commissioner Henrie asked if the whiskey will be exported, or stay on the property. Mr. Phillips answered both will occur. Commissioner Henrie asked if the State of Utah has any legal requirements for a distillery that must be met. Mr. Phillips described some of the licenses that would be required.

Commissioner Doug Clyde said there doesn't seem to be anything in the Code that defines a guest ranch, other than what is outlined in the use table. He said it is obvious that food would be involved for an extended stay of a guest. To him, there is a question if the distillery is an independent separate use or if it is an accessory use to the restaurant. He believes the distillery should not be allowed to operate independently of the ranch. He said the guest ranch must be the main use.

Mr. Phillips said the ranch will offer the opportunity of being a cowboy for a day. They will put 20 cows in a corral and will demonstrate how to sort and rope cows. All types of suggestions have been received on how to make this an enjoyable western experience of a working ranch.

Commissioner Ure said Mr. Phillips is proposing to manufacture whiskey. There is a difference between sales and manufacturing. Commissioner Brown added that selling a tangible good was not part of the original CUP. Commissioner Henrie said as long as the activities remains under the umbrella of corporate "*invitees*", he thinks this aligns with the original intent. Commissioner Doug Clyde said this is a manufacturing facility and the finding could be made that this is an essential part of their food service facility.

Commissioner Brown said Blue Sky has been good neighbors. He believes most of the public would be in favor of the project; however, this proposal alters the original intent. A

manufacturing process is being requested. Wholesale activities would take place with the final product and that is a huge difference. He would like to see the CUP be amended. That would be the cleanest and fairest way to go.

Commissioner Doug Clyde said the Commission needs to realize that the manufacturing facility is an accessory to the overall use. Chair Tom Clyde said he doesn't see how the Commission can make that a finding. There isn't anything on the use table that would allow the manufacturing and selling of whiskey. A commercial/industrial use is not something that fits in an agricultural zone.

Commissioner Ure said he doesn't have a problem with the manufacturing of alcohol if it is consumed at this location. His concern is that it will leave the premises. He said High West is a big distillery. Commissioner Brown said from the years he has been on the Commission, something like this has never been processed as a low impact permit (LIP). It seems abnormal from their standard protocol. He said an addition of a porch or rebuilding a lean-to was much more complicated than this is proposed to be.

Commissioner Brown said there are people in the community talking about this. He thinks the best thing is to hold a public hearing. He doesn't think the SPA process is necessary. He thinks they can find the language to support this within the CUP.

Chair Tom Clyde said he thinks they have to go back to the use table in the Code to find where this would fit. He can only see it fitting through the SPA, or having the property rezoned as light industrial. Commissioner Doug Clyde added that another way would be to find it as an accessory use to the principal project.

Director Sargent said if it can be said that this type of use is customary to a guest ranch, it should be considered. He said when Mr. Phillips came in, Staff looked at this as a reduction to the overall impact. He said if they look at the distillery alone, it is a problem. If they look at the overall project, it isn't. He said Staff has reviewed this on its own merits and is looking to the Planning Commission for direction.

Chair Tom Clyde said it seems the Commission is supportive of the project and would like to see this happen. The benefits to the community are substantial; however, if he came to Planning Department and requested to build a restaurant and distillery on his property, he would be denied. He said the perception to the public is that this wouldn't seem fair.

County Attorney Strachan said the Community Development Director (CDD) is the person that makes the interpretations of the Code. She said the decision has already been made to process this as a LIP. This meeting was more for education than anything else. Director Sargent said he respects the Commission and would like their feedback. He said based on what he has heard at this meeting, he is leaning towards following the provision in the LIP process that allows for a public hearing to be held before the Planning Commission where additional comment may be received. He said that following the public hearing, the Planning

Commission makes a recommendation to the CDD of denial, approval, or approval with conditions.

Commissioner Henrie said if there are more conditions that should be made, it would be worthwhile to hold another public hearing. Commissioner Ure said one of his concerns is the available water. Where is the water for a distillery going to come from? Will another well be drilled? What about sewer?

Mr. Phillips said these questions were considered before the CUP was granted. Commissioner Ure said a distillery will require a lot more water. He said this proposal creates additional concerns beyond the original project. He has questions about storage and truck accessibility. Mr. Phillips repeated these concerns were already addressed by the conditions of the CUP. Commissioner Ure said the impacts of the distillery were not considered. Mr. Phillips said the Code allows for the distillery to be created under the LIP. He already went through the expense of meeting the bulk of these outlined conditions.

Commissioner Brown responded if the distillery had been a part of the original discussion, there may have been other questions or concerns they may have wanted answered. There may have been a concern from a member of the public that the Commission may not have thought of. He said as the CDD has been given the authority to make the decision, they should put this into his hands.

Director Sargent said he hasn't heard from any citizens. He has only received comment from two members of the County Council and from members of the Planning Commission. Commissioner Ure said the concern he found is in warehousing and commercial storage. Commissioner Doug Clyde said this is a commercial enterprise, but commercial zoning hasn't been granted. Storage was not previously approved. Director Sargent said these items might be classified as an amendment to the CUP. Commissioner Henrie added there may be additional truck traffic that wasn't planned for.

*Commissioner Wharton made a motion to bring this for a public hearing before the Planning Commission to consider the warehousing and storage of whiskey as an amendment to the CUP. Commissioner Henrie seconded the motion. All voted in favor. The Commission said this should come before them no later than January.*

- **MOTION CARRIED (6 - 0)**
- 2. **Eastern Summit County Development Code Re-write Strategy Discussion – Don Sargent, Community Development Director**

Community Director Don Sargent said the Planning Department is understaffed and there is no available funding to hire an outside consultant to assist with the rewrite of the Development Code. He would like to discuss with the Planning Commission how to tackle this important effort. He has broken this down into five key areas:

# MINUTES

## EASTERN SUMMIT COUNTY PLANNING COMMISSION

REGULAR MEETING  
WEDNESDAY, DECEMBER 19, 2012  
SUMMIT COUNTY COURTHOUSE  
COUNCIL CHAMBERS  
60 NORTH MAIN  
COALVILLE, UTAH

DRAFT

### COMMISSIONERS PRESENT:

Tom Clyde – *Chair*  
Michael Brown  
Douglas Clyde

Ken Henrie  
Chris Ure  
Sean Wharton

**Regrets:** Tonja Hanson

### STAFF PRESENT:

Molly Orgill – *Assistant Planner*  
Don Sargent - *Community Development Director*  
Helen Strachan – *County Attorney*

Jennifer Strader – *County Planner*  
Kathy Lewis – *Recording Secretary*

**5. Public Hearing and possible approval regarding a Low Impact Permit to amend the Blue Sky Ranch Conditional Use Permit, Parcels NS-86 & NS-82, Wanship; Mike Phillips, applicant - Jennifer Strader, County Planner**

Commissioner Chris Ure said he would like to make clarification from the past meeting. He disclosed he has been feeding the by-product from the High West Distillery to his cattle. He does not have a business nor a personal relationship with High West Distillery. He has had conversations with them in the past. He wants to assure all that there is no conflict of interest.

Chair Tom Clyde explained they had a long work session on this proposal at their last meeting. He said there seems to be confusion on the process. He asked Planner Jennifer Strader to present the Staff Report. Planner Strader responded that Staff requests the Planning Commission to forward a positive recommendation to the Community Development Director (CDD) for a low impact permit (LIP) for the proposed changes to the original conditional use permit (CUP) for Blue Sky Ranch.

A graphic was displayed that demonstrated the changes that were made. Planner Strader said the original approval was given in 2006 for a corporate retreat. The applicants have amended their density to half of what was originally approved. The original proposal had approximately 220,000 square feet of approved density. This included a conference center,

**EXHIBIT H**

lodging, and a fitness center among other items. The applicants propose to decrease the square footage of the project by about half.

Planner Strader said the conference building was intended to be used for traditional conferences, weddings, and special events. Food and beverage services would be offered at this building. She said these uses have remained consistent. This was part of the original approval and is included in the current proposal.

Planner Strader said there is a section of the Code that allows the CUP to be amended through the LIP, if the square footage density and the intensity of the impact is reduced. She said the applicant applied for the LIP in September 2012. After a review of the application, Staff came to the conclusion that the LIP process was the correct process because the density was decreased and the intensity seemed to be reduced from the previously approved use.

Planner Strader said in November 2012, the Planning Commission reviewed the requested amendment and they requested a public hearing to be scheduled. She clarified the Commission is discussing the addition of the distillery only. Other parts of the CUP were previously approved. She said the items of concern that were raised at the work session were the following:

**1. TRAFFIC**

The majority of the guests will be transported to the site by passenger van; otherwise, most of the patrons will park at the parking lot located at the base of the ranch and be transported to the site via a shuttle bus. Planner Strader said that during the original application process the applicants conducted a traffic study and discovered the traffic is at a level of service (LOS) A. She said LOS C is the minimum standard set for rural areas. It was determined (that at the originally proposed density of the project) the Wanship Road will remain at a LOS A. With the addition of the High West Distillery, there will be approximately an additional nine trucks per month to deliver grain. The Engineering Department has reviewed this amendment and felt that the LOS would not be affected. It would remain at a LOS A.

**2. WATER**

Planner Strader stated the applicants have 24 acre feet of water. They will be putting in a 400,000 gallon water tank, which is larger than the original proposed water tank.

**3. FIRE PROTECTION**

The applicants have worked closely with the Summit County Fire Warden Bryce Boyer. They are implementing all requirements of the Fire District. All standards are being met such as water storage and road standards. Fire Warden Boyer has stated there are no new concerns with the addition of a distillery.

**4. ODORS**

Planner Strader noted there is a potential of ethanol odors, but these would be contained in the distillery itself. There is also the potential of a spillage smell. That may occur two to three times a week for about a half hour.

#### **5. SOLID WASTE REMOVAL**

Solid Waste would be recycled as much as possible at the site. The waste from the restaurant will be put in a dumpster and taken to the landfill approximately two to three times per week.

Planner Strader displayed the site plan of the project. She pointed out the access, the well, the water storage, and the different structures, including the location of High West Distillery. She said Staff recommends the Planning Commission conduct a public hearing, taking into account the public comments, and move to grant a positive recommendation to the Community Development Director based on the findings located on page four of the Staff Report.

#### **COMMISSION QUESTIONS AND COMMENTS**

Commissioner Ken Henrie asked what will happen to High West if Blue Sky fails. Because they are tied together, if Blue Sky goes out of business, does High West also go out of business? The applicant, Mike Phillips, responded that the restaurant and the distillery could continue to operate. He said this would be a landlord/tenant situation.

Commissioner Mike Brown said he doesn't have an issue with what is being proposed, but he can't endorse it based on the Code; however, he wants to hear what the public has to say. He said he cannot find justification on how a use that has not been identified on the Use Chart can be permitted through the LIP.

Commissioner Brown said the basis for the original proposal was for a recreational use. He believes if the proposed use is not in the Use Chart, the application should seek to amend the General Plan. If the use is added to the Use Chart, then application could be made for a rezone through the CUP process. He said this is what the Code requires and what others in the County have been required to do.

Commissioner Brown said he doesn't believe this is a minor amendment. The density and the use are two different things. The original development came from a recreational point of view. He said the Commission shouldn't go forward with this proposal because it isn't listed on the Use Chart. He added the Code does not allow for a use to be granted through a low impact process. He said that a few meetings ago he was directed very strongly that if something isn't in the Use Chart, it cannot be granted through the CUP process. If that is true, how could a use be granted through a lower level of action?

Commissioner Ure said he agrees with Commissioner Henrie about Blue Sky Ranch and High West Distillery being tied together. If Blue Sky does something to violate their CUP, High West is automatically out of business, and vice versa. He said there are two different

tax id numbers on the two different businesses. They should be treated separately. He said he is in full support of what is being proposed, but the Code doesn't support it.

Commissioner Hanson asked Attorney Strachan if that is correct. Attorney Strachan responded it is not. It is simply a landlord/tenant relationship. It would be the same as any other landlord/tenant relationship with a land use permit. Chair Tom Clyde said he thinks the point that Commissioner Henrie and Commissioner Ure are trying to make is that it would be an uncomfortable position if another party could do something that would cause the applicants to be in violation of the CUP, even though they thought they were compliant.

Commissioner Henrie asked if the High West Distillery could continue their operation if the Blue Sky Ranch business failed. Attorney Strachan answered they could not continue to operate. If the CUP goes away, so does High West.

Commissioner Doug Clyde said he agrees with 95% of what Commissioner Brown has said. However, Staff is recommending the Commission to make a finding that the brewery is an accessory use to the principal use. He said this may be a stretch, but he is willing to accept this argument. The applicants have invested a lot of money and they have been through the process. He believes if Staff had addressed this properly, the applicants would have a permit by now. Because of this, he is willing to accept the fact that this is an accessory use.

Commissioner Henrie asked if the original approval gave them the right to serve alcoholic beverages at a restaurant. Attorney Strachan responded that a restaurant is not an allowed use in that zone. It is an accessory use to the guest ranch. Commissioner Ure said the applicants have already been approved for a CUP, the only thing they are coming back for is for the addition of a distillery. In all reality, the Commission is not delaying any part of their business, except the distillery. Commissioner Doug Clyde said that is true, but that may be holding up the entire business plan.

Commissioner Brown said he has reviewed the minutes of the meeting when the CUP was originally approved. The purpose behind the restaurant was to feed those who came for training. He said if the distillery was to serve only those who were coming in to participate in the previously approved function, this could be acceptable. However, what they are proposing is to sell their product off the premises. He said they are also proposing to have a warehousing facility (whether small or big), to warehouse the product. He said he feels sorry for the applicants, but he has felt sorry for many of the citizens of Summit County. He said the applicants were given wrong information up front, but the end doesn't justify the means.

Commissioner Doug Clyde said he comes from a background where everything is an accessory use to the principal use, such as with a ski resort. But he can make the stretch to tie the distillery to the restaurant. He said he concurs with Commissioner Browns concerns, but to him, this seems to be a reasonable use.

Commissioner Henrie asked if the High West Distillery came to the Planning Commission on their own to apply for a distillery in the AG 100, would it be approved. Commissioner Doug

Clyde responded that it wouldn't. He said he believes if Blue Sky Ranch goes bust, High West must cease distilling because they are an accessory to Blue Sky Ranch. He said that is the way the CUP was written.

Attorney Strachan said Staff has submitted recommended findings to the Planning Commission. If the Commission needs to find that the distillery is an accessory use to the principal use, that can be done. Commissioner Doug Clyde said that must have been the case in the earlier proposal in order to put a restaurant on site.

Commissioner Brown disagreed. He said the main use was for a retreat for corporate entities. In order to utilize the buildings on a year-round basis, the Commission agreed to allow weddings and similar activities to be held on site. He said this was seen as almost a community benefit. It could be a place where the community could hold special functions; however, he said he doesn't remember the Commission defining what an accessory use would be.

Commissioner Hanson asked if the distillery could be considered under the use of "manufacturing light". Commissioner Ure said that might be a possibility if the product weren't being sold off premises. Chair Tom Clyde said he agrees there are issues with the Use Chart. He said there are procedures under the Code (such as the SPA provision) that could have gotten the applicant to this point. He said if this was going through the SPA provision, there would be no procedural problems.

Chair Tom Clyde said if this application had been filed differently, the procedures would have been the same and they would have ended up with the same public hearing. He has a hard time saying this is the applicant's problem. Attorney Strachan said the path this application took was made at the Staff level. It was the decision of the CDD to process this as a low impact permit. The Planning Commission's function is to look at the criteria for the LIP and evaluate if the application meets that criteria. She said the decision of which way it was processed was already made at the Staff level.

Commissioner Brown said the low impact permit only applies to a previously approved use. This is not a previously approved use; it is a new use. He said as part of the approving Planning Commission, he believes the Commission didn't want to have changes made to this application on the administrative level. They wanted it be through a public hearing. He said they specified that any changes would have to go through the CUP. Commissioner Ure said essentially the CDD is violating the CUP for these business owners.

Commissioner Doug Clyde said when he first heard of this application, he didn't believe there was any way the CDD would be able to allow something of this magnitude. When he read through the low impact permit, he had two things that came to his mind. The first one was that the CDD is allowed to make such a change, and the second idea was that this needs to be changed immediately.

*Chair Tom Clyde opened the public hearing.*

Ben Bates said he is speaking in his capacity as a landowner. He said the property has been in his family for generations. The Bates family still owns 2,000 acres surrounding this property. He said he has been designated as the Bates family representative to work with Blue Sky Ranch. He communicates regularly with them.

Mr. Bates said the Bates family is in support of this action. He said these people are stewards of the land. They are creating jobs for people. He doesn't see this as a departure from the original application. He said it seems to him that this is a landlord/tenant relationship. He said that listening to the debate, it doesn't sound like it is clear cut and that there is room for interpretation.

Dave Bates said he has a hard time understanding Commissioner Brown's reasoning. The original intent of the project was to have a facility to take care of people. As such, one of the things that needs to be done is to have a place for them to eat. He believes the distillery has been blown out of proportion. This is a restaurant that also happens to have a distillery in it. To him, it is acceptable.

Mr. Bates said he doesn't think this is a departure from the original application. Originally it was approved as a recreational facility, with the need for food and beverage. He said these business owners do things well. The County would be well served to accommodate what they are proposing.

Cliff Reid said he has lived in the County for about 40 years. He said what was approved earlier by the County was commercial uses. Horseback riding, mountain bike riding, hiking, rock climbing, horse drawn sleighs, and serving food can all be considered a commercial use. He would like to see the High West Distillery be allowed. It creates jobs for this end of the County which is needed. He hopes the Commission will make a positive recommendation.

Greg Clark said he is in support of this project. He said the point that Commissioner Brown is making is very narrow. He asked Attorney Strachan to provide some legal background of the project.

Attorney Strachan said this was an interpretation of Don Sargent, the Community Development Director. She said this was discussed at the Staff level and she was comfortable with the interpretation. She stated that Director Sargent's interpretation of the Code is appealable to the County Council.

Attorney Strachan added that in November the Planning Commission said they would be more comfortable hearing what the public had to say before they made a recommendation. As stated earlier, she doesn't believe the Commission should be concerned with the process, but if this application meets the criteria of the Code. Commissioner Doug Clyde asked if she supports the conclusion of the Staff Report. Attorney Strachan said that she does. If she had any questions, they would have already been addressed. She recommends that the Planning Commission look beyond the process and just at the criteria of the Code.

*The public hearing was closed.*

Chair Tom Clyde said that his overall sense is that there is no public opposition to this proposal. He said if someone wants to invest this kind of money in Wanship, the County should find a way to make it happen. Their procedural problems shouldn't become the applicant's problem. They shouldn't be delayed indefinitely while the County tries to figure out a procedure that basically goes through the same hoops that they have now gone through. While he doesn't like how they are getting there and he is very queasy about calling this an accessory use when he thinks it is a separate manufacturing type use, he thinks he can go along with it.

Commissioner Henrie said that everyone seems to feel the proposal is a good thing for the County, but there is a question about the procedure. He said he would like to find a way to approve this without violating their Code. Commissioner Doug Clyde said he read the Staff Report and he believes the manufacturing use is an accessory use. Commissioner Ure said they are being hypocritical because they made another applicant go through the CUP process when the use wasn't changing. Why wasn't that processed as a LIP?

Commissioner Doug Clyde added that the County has approved a lot of commercial type uses for this project that are accessory uses to the principal use of the property. He said this was granted as a guest ranch. He said the definition of a guest ranch hasn't been well defined in the Code. He thinks they can make the stretch that a manufacturing facility is an accessory use to the principal use. The principal use is to provide food and service to the ranch.

Commissioner Doug Clyde said as has been stated by Attorney Strachan, the question is if the Commission can read the Code and the Staff Report and come to the conclusion that this low impact permit is appropriate under the Code and that the Code allows the CDD to make that approval. Commissioner Doug Clyde said he thinks the LIP does allow the CDD that prerogative. Commissioner Henrie said this is the whole crux of the matter. If the CDD has the right to approve the amendment, the Planning Commission has the right to make a recommendation. Commissioner Brown asked where this right is extended to the CDD in the LIP. Attorney Strachan said she thinks this is found in 11-4-12G that discusses minor amendments.

***Commissioner Henrie made a motion to forward a positive recommendation to the Community Development Director based on the following:***

- ***The findings in the Staff Report***
- ***That a distillery is an accessory use to the principal use***
- ***All accessory uses are tied to the principal use***

***Commissioner Doug Clyde seconded the motion.***

Commissioner Brown had an additional comment about warehousing and storage. It is listed as a "C" on the Use Chart. Chair Tom Clyde said they are finding that warehousing is also an accessory use.

Commissioner Brown said he is in favor of the project, but not the process. He would hate to think of the business owners spending millions of dollars on a project like this and it is contingent on the approval of a LIP. He said there is a better way to secure the future of this project than what they are doing. He has sat in meetings where there was no public opposition, but the Commission was directed by Staff and the legal department to live the letter of the law.

*A vote on the motion was called for. Those voting "for" were:*

*Commissioner Henrie  
Commissioner Hanson  
Commissioner Doug Clyde  
Chair Tom Clyde*

*Those voting "against" were:*

*Commissioner Brown  
Commissioner Ure*

• **MOTION CARRIED (5 - 2)**

Chair Tom Clyde said while he is very sympathetic to the views that have been expressed, he thinks the same purpose would have been accomplished by going through a different process.

A five minute break was declared.

## MANAGER'S REPORT

January 30, 2013

To: Council Members

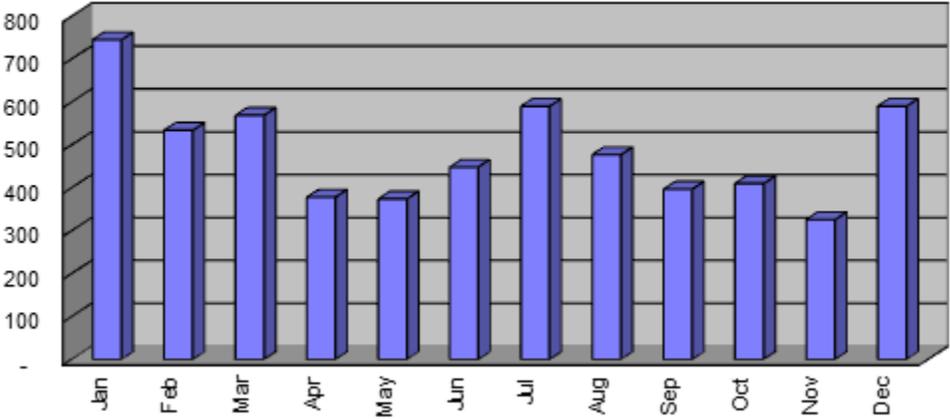
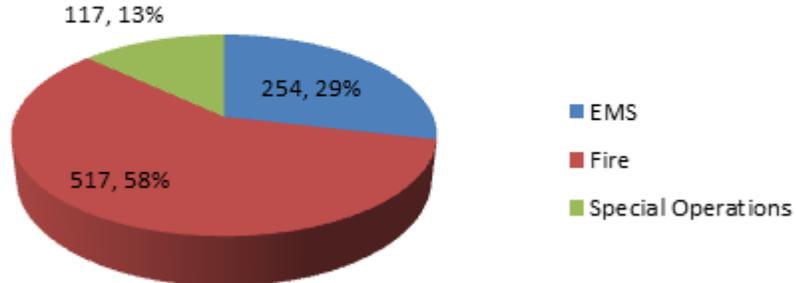
From: Robert Jasper

Department	Description of Updates																
Administration	<p>Submitted by Robert Jasper, County Manager:</p> <p>◆ Documents and transactions are listed on the Manager Approval list dated 1/24/13, posted on the website at: <a href="http://www.summitcounty.org/manager/index.php">http://www.summitcounty.org/manager/index.php</a></p>																
Auditor																	
Assessor																	
Attorney																	
Clerk																	
Community Development	<p>Submitted by Don Sargent, Community Development Director:</p> <p><b>Snyderville Basin</b></p> <p>A public hearing was conducted on Phase I of the General Plan Update on Tuesday, January 22<sup>nd</sup>. The Planning Commission continued the public hearing to February 12<sup>th</sup> to address the input received from the public in finalizing the document for a recommendation to the County Council. A work session on the Neighborhood Plans will also be held on that same date to clarify edits made by the Planning Commission in preparation for a public hearing on February 26<sup>th</sup>.</p> <p><b>Eastern Summit County</b></p> <p>The development code rewrite Planning Commission sub-committee is meeting in preparation to present the working copy of the draft outline to the entire Commission for review and discussion on February 7<sup>th</sup>.</p> <p><b>Department Administrative Items</b></p> <ul style="list-style-type: none"> <li>• Both Planning Commissions are scheduled to meet in joint session at the Richins Building on January 31<sup>st</sup> at 6:00 PM to discuss regional planning issues.</li> <li>• The department received 4 new planning applications and 4 new building applications this past week as follows:</li> </ul> <p style="text-align: center;">New Planning Applications Submitted January 16-23, 2013</p> <p style="text-align: center;">Snyderville Basin</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 10%;">Project #</th> <th style="width: 55%;">Project Name</th> <th style="width: 15%;">Submittal Date</th> <th style="width: 20%;">Planner</th> </tr> </thead> <tbody> <tr> <td>13-499</td> <td>Soaring Wings Sign Bruce King Sign 4290 Hwy 224, Park City PP-102-F</td> <td>Jan 22, 13</td> <td>Tiffanie</td> </tr> <tr> <td>13-500</td> <td>Futch Quarry Mountain Ranch PA Costantino Grandjacquet Plat Amendment 3564 Quarry Mountain Road</td> <td>Jan 18, 13</td> <td>Kimber</td> </tr> <tr> <td>13-502</td> <td>Pearl Izumi Tanger Outlet Sign Rob Shepherd/Hightech Sign Sign 6699 North Landmark Dr. K150</td> <td>Jan 23, 13</td> <td>AC</td> </tr> </tbody> </table>	Project #	Project Name	Submittal Date	Planner	13-499	Soaring Wings Sign Bruce King Sign 4290 Hwy 224, Park City PP-102-F	Jan 22, 13	Tiffanie	13-500	Futch Quarry Mountain Ranch PA Costantino Grandjacquet Plat Amendment 3564 Quarry Mountain Road	Jan 18, 13	Kimber	13-502	Pearl Izumi Tanger Outlet Sign Rob Shepherd/Hightech Sign Sign 6699 North Landmark Dr. K150	Jan 23, 13	AC
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Department	Description of Updates			
	Eastern Summit County			
	13-501	James Pine Meadows PA Kristy James Plat Amendment 1070 W. Alexander Canyon Rd PI-D-20, 21	Jan 23, 13	Kimber
	New Building Applications Submitted January 16-23, 2013  Snyderville Basin			
	Project #	Project Name	Submittal Date	
	13-796	Doug Knight Single Family Dwelling Parleys Way, Park City, UT	New 8783	Jan 17, 13
	13-797	Lisa Wray Installation Spring Dr. Park City, UT	Hot Tub 4865 Silver	Jan 17, 13
	13-798	Jim Conway Box Shell Space Creek Rd. Park City, UT	Vanilla 7132 Silver	Jan 17, 13
	13-799	Charlene Nestel Replacement Crescent Dr. Park City, UT	Furnace 1286 E	Jan 17, 13
Engineering	<p><u>Submitted by Derrick Radke, Engineer:</u></p> <ul style="list-style-type: none"> <li>• Submitted Urban Cluster &amp; Road Classification Up-Date to UDOT</li> <li>• Road Inventory Review</li> <li>• 5 Subdivision Plat reviews</li> <li>• Blue Sky CUP/ECP Review &amp; Comment</li> <li>• Traffic Model Update</li> <li>• Corridor Preservation Application Acceptance/Review</li> <li>• Traffic Report 2012</li> <li>• Village at Kimball Junction Misc.</li> <li>• Eastern Summit County Transportation Master Plan</li> <li>• Echo Henefer Historic Loop Trail</li> <li>• Lower Village Road Design/Coordination</li> <li>• Overlay Project Development</li> <li>• Seal Coat Project Development</li> <li>• Summit Park Design</li> <li>• Residential Permit Activity <ul style="list-style-type: none"> <li>○ 1 over the counter</li> </ul> </li> </ul>			

Department	Description of Updates
	<ul style="list-style-type: none"> <li>○ 2 plans reviewed</li> <li>○ 4 driveway inspections</li> <li>○ 1 erosion control inspections</li> <li>● Right-of-Way Permit Activity <ul style="list-style-type: none"> <li>○ 4 new applications</li> <li>○ 3 site inspection</li> </ul> </li> <li>● Development Site Inspections <ul style="list-style-type: none"> <li>○ 7 Development Site Inspections</li> <li>○ Various routine inspections</li> </ul> </li> </ul>
Facilities	
Health Department	<p><u>Submitted by Rich Bullough, Health Department Director:</u></p> <ul style="list-style-type: none"> <li>● <u><i>Clinical Quality Improvement Partnership in Eastern Summit County:</i></u> Summit County Health Department is partnering with the clinics of Drs. Allen and Iverson in Coalville and Kamas, and with HealthInsight, to improve the delivery of clinical services related to diabetes and high blood pressure.</li> </ul> <p>This project includes working with electronic medical records to assure patients are compliant with their medications and achieving clinical goals. The SCHD is offering educational and behavior modification support and helping establish a blood pressure home monitoring program.</p> <p>A significantly higher rate of uncontrolled high blood pressure in the communities in eastern Summit County and higher rates of diabetes than the rest of the county allowed us to successfully compete for a grant to fund this project.</p> <ul style="list-style-type: none"> <li>● <u><i>Targeting Improved Mental Health and Substance Abuse Services:</i></u> As noted previously, SCHD is working closely with other County agencies and Valley Mental Health to define quality indicators of the services delivered by VMH. These indicators will be used to assure resources are being utilized effectively to meet priorities. Performance data have been provided by VMH and a new annual service plan has been developed to more effectively target the chronically ill who place increased demands on the justice system of Summit County.</li> </ul>
I.T.	<p><u>Submitted by Ron Boyer, Director of IT:</u></p> <p>We have been working with UEN on changing our web filtering for the library system. Along with that, we ordered new wireless routers to improve the wireless capabilities at the Richins Building, installation should occur in the next two weeks.</p> <p>Attended meeting with those applying for grants from the county. The new form was presented and suggestions were considered in what type of form the applicants would like to use and how to submit the form.</p> <p>Coordinated with Interim Sustainability Coordinator to put Expedited Photovoltaic Permit on website, permit is on GovPartner permitting site as well as general information on Building page <a href="http://www.summitcounty.org/building">www.summitcounty.org/building</a>. We also met with Building department to discuss use of GovPartner site for scheduling and tracking of inspections.</p> <p>Updated cell phone booster for AT&amp;T phones on South East side of Courthouse</p> <p>Support tickets for period Jan. 14 – Jan. 20: 91 Opened, 89 Closed.</p>
Justice Court	
Library	<p><u>Submitted by Dan Compton, Library Director:</u></p> <p>The new Bookmobile was delivered last Friday. We moved the collection over at Public Works and the old vehicle was driven back to Ohio. Lee and I met with Martin Marek on Monday for a few hours to receive some training and go over the paperwork. We do need to take it in and have a leaf added to the rear springs because it is riding a bit low in the back. Martin said he has seen this has</p>

Department	Description of Updates
	<p>happen a few times before with other Ford vehicles they've sold. It will all be covered under the warranty.</p> <p>All of the students at North Summit High School have received iPads. I will be going to the High School next Tuesday to teach 40 students how to take advantage of the Library's OverDrive e-book collection. These 40 students are considered "trainers" and they will train the other students in the school to get free e-books from the library if they wish.</p> <p>Our "Dogdance" activity last Friday with Stetson was a nice success. We've posted some pictures on our Facebook page.</p>
Mountain Regional Water	
Park City Fire District	<p><u>Submitted by Paul Hewitt, Park City Fire Chief:</u></p> <ul style="list-style-type: none"> <li>➤ District-wide fire training for December consisted of an update and refresher on incident management. The focus was on the arrival report and size-up. This concept has been developed by the Valley Training Alliance over the past year and has been universally approved by all associated agencies. The purpose is to standardize and simplify the size-up process while emphasizing and enhancing the important pieces of the incident management puzzle.</li> <li>➤ Additional fire training focused on salvage and overhaul. The training was a mixture of classroom and hands on. Crews practiced using salvage covers to catch and divert water. The focus of these drills is to enhance skills so that water damage is reduced during flooding and fire incidents. Typically January is our coldest month and we have a lot of frozen pipes and flooding calls.</li> <li>➤ Medical training in the last month focused on cardiology. The instruction included a review of cardiac anatomy and physiology and 12-lead application and interpretation. The class dove-tailed nicely with the monthly Medical Control Meeting, which also emphasized 12-lead interpretation and cardiac emergency treatment. Twenty-two individuals attended the MC Meeting.</li> <li>➤ PCFD participated with Deer Valley Ski Patrol on their annual preseason Mass Casualty Incident Drill. This year's incident simulated an out of control snow cat running over 17 people. The drill was held at the Silver Lake Lodge patio area (The Beach).</li> <li>➤ Stations 33, 36, and 38 practiced lifting, moving, cribbing, and shoring techniques at the training tower. The evolutions involved moving a heavy piece of concrete, lifting/cribbing the Conex boxes, building window and door support shores, and building other specialty shores used to stabilize an at-risk structure.</li> <li>➤ All PCFD stations attended water/ice rescue awareness training. The training involved primarily classroom lecture with some hand-on techniques involving reaching a patient with an inflated fire hose. The training is the first in a series of awareness level training special operations classes designed to ensure PCFD is compliant with NFPA 1670 standards. Similar training sessions involving rope rescue, collapse rescue, trench rescue, and confined space rescue are planned for 2013. The 2013 training sessions/tests will be offered online to crews so they can complete the training in their own station/area; thereby minimizing resource usage and better covering emergency response needs.</li> <li>➤ PCFD's 44 Hazardous Materials Technicians met the requirements for recertification through the Utah Certification Council and are now current through 2016. Additionally, our seven newest FF's completed the requirements for Apparatus Driver Operator/Pumper, passed a written and practical exam, and are now certified to drive fire engines.</li> <li>➤ In December More than 200 students toured station #35 from Ecker Hill Middle School. The tour focused on education and occupational opportunities.</li> </ul>

Department	Description of Updates
	<p>➤ December 20 crews responded on a motor vehicle accident on Kearns and Snowcreek. A passenger vehicle was “T-boned”, pinning 2 occupants inside. The occupants required extrication using hydraulic rescue tools and were ultimately transported to Primary Children’s hospital as Trauma II patients.</p> <p style="text-align: center;">Monthly Calls - 2012</p>  <p style="text-align: center;"><b>Total Training Hours by Category - December 2012</b> Park City Fire District</p>  <p>Please see our 2012 Annual Report, which can be downloaded at: <a href="http://www.pcf.org/news/">http://www.pcf.org/news/</a></p>
Personnel	<p><u>Submitted by Brian Bellamy, Personnel Director:</u></p> <ol style="list-style-type: none"> <li>1. Met with the Sheriff’s Office and PCFD regarding emergency management.</li> <li>2. Pulled more information for lawsuit.</li> <li>3. Set up AFLAC for online bill payment.</li> <li>4. Responding to a number of health insurance questions and issues.</li> <li>5. Sent out PIO and Fair Administrator advertisements.</li> <li>6. More KRONOS training.</li> </ol> <p>Animal Control</p> <ol style="list-style-type: none"> <li>1. 6 dogs are in the shelter along with 9 cats b. 0 new animals were received by Animal Control this week c. 3 dogs were claimed d. 6 cats were transferred</li> <li>2. Officers ran 50 details for the week.</li> </ol>
Public Works	<p><u>Submitted by Kevin Callahan, Public Works Director:</u></p> <p><b>Waste Disposal</b></p>

<u>Department</u>	<u>Description of Updates</u>
	<p>Signed up 8 staff members for a rural landfill training to be held on February 7 and 8 in Davis County</p> <p>Signed off on an evaluation Cliff Blonquist did for Joe Tatton</p> <p>Met with Issa Hamud on draft Landfill Enterprise Fund Assessment</p> <p>Reviewed 2012 landfill tonnage numbers in preparation of Annual report to DEQ</p> <p><b>Fleet Management</b></p> <p>Presented draft fleet management strategy to County Council</p> <p>Assembled department data on all new vehicle requests</p> <p>Contacted Utah State Fleet manager for details on how they downsize new vehicles</p> <p>Contacted Paul Hydok and directed him to begin CUP process for his fueling station</p> <p><b>Emergency Management</b></p> <p>Completed an online course for a FEMA certificate in Emergency Planning</p> <p>Drafted a initial press release noting that I had been selected as County Emergency Manager</p> <p><b>Road Operations</b></p> <p>Finalized decision to accept Tech Center Drive as a county road</p> <p>Completed an analysis of new brine operations for pretreatment of roads prior to storms</p>
Recorder	
Treasurer	
Sheriff	
Snyderville Basin Recreation	
USU Extension	

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# MINUTES

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**SUMMIT COUNTY**  
BOARD OF COUNTY COUNCIL  
WEDNESDAY, DECEMBER 10, 2012  
SHELDON RICHINS BUILDING  
PARK CITY, UTAH

**PRESENT:**

**David Ure**, *Council Chair*

**Claudia McMullin**, *Council Vice Chair*

**Sally Elliott**, *Council Member*

**John Hanrahan**, *Council Member*

**Chris Robinson**, *Council Member*

**Robert Jasper**, *Manager*

**Anita Lewis**, *Assistant Manager*

**Kent Jones**, *Clerk*

**Karen McLaws**, *Secretary*

**WORK SESSION**

Chair Ure called the work session to order at 8:05 a.m.

• **Discussion regarding proposed 2013 budget**

Chair Ure noted that the Auditor's Office has provided a combined list of comments from the Council Members regarding the budget for discussion at today's meeting.

Council Member Hanrahan recalled that when he served on the Recreation District Board, they paid a lot for legal advice, and he believed the service districts should pay the County Attorney's Office when they provide legal advice. He questioned why the County Attorney's Office should provide free legal advice when other service districts pay for outside legal counsel. Council Member Robinson suggested that they talk to the districts and see if they would prefer to have outside counsel. He did not believe the County Attorney would want to charge the service districts market rate. Chair Ure suggested that they discuss this with the Attorney's Office.

Council Member Hanrahan suggested that the Sheriff work out a contract with the municipalities and Wasatch County for the Sheriff's patrol in those entities. He asked if there are areas in the municipal fund that can be funded out of the RAP, TRT, or other taxes. Matt Leavitt with the County Auditor's Office explained that the County can keep about 1.5% of the RAP tax for administration.

Council Member Hanrahan discussed the Council travel budget and recalled that there was some thought of reducing the leadership tour component. Mr. Leavitt suggested that they cut the Council travel budget and then determine what they want to use the funds for. Council Member Hanrahan suggested that they cut the Council's travel and training budget from \$8,000 to \$6,000.

Council Member Hanrahan noted that another suggestion was to cut the economic development budget. Assistant Manager Anita Lewis stated that budget could be cut by \$10,000 and not hurt anything. She clarified that the \$75,000 reduction in the sustainability budget is to account for a grant that will not be received. Council Member Hanrahan noted that it was suggested that they put \$8,000 back into the sustainability budget for the solar power grant, and the Council Members agreed to do that. Chair Ure recalled that County Manager Bob Jasper suggested that money come from another fund, not out of the municipal fund. Council Member Hanrahan commented that sustainability functions are generally County-wide, and he believed they could move a component of that budget into the general fund. Council Member Elliott stated that she does not like moving things from the municipal fund to the general fund, because they are kicking the can down the road and not being responsible about asking people who receive the services to pay for them. After further discussion, the Council Members agreed that the sustainability budget should be split 50/50 between the municipal and general funds.

The Council Members discussed the request from the Attorney's Office for an additional prosecutor for Mondays. Mr. Leavitt noted that the Manager did not want to add positions when he has positions that have been frozen. His recommendation was to add \$50,000 for a contract prosecutor, not an employee.

Council Member Hanrahan noted that it was suggested that they evaluate the Recorder's travel budget. County Auditor Blake Frazier explained that the Recorder has a lot of travel requirements, including the legislature, summer workshop, and UAC.

Council Member Hanrahan verified with the Council Members that four of them do not want to cut Planning positions. Mr. Leavitt verified with the Council Members that they are talking about the two additional planners, not the frozen position. Council Member Hanrahan asked about putting money in the budget to hire a consultant to help with regional planning. Council Member Elliott stated that, if they do not do that, they will not get a General Plan update. Chair Ure recalled that Mr. Jasper suggested they put at least \$100,000 in a contingency fund, and he wanted to do that. He does not care where the money comes from for the planning consultant, but he wants money set aside for that. Council Member Hanrahan suggested that they do it within the planning budget, not from a contingency budget. Council Member McMullin stated that she would like to add \$50,000 to the planning budget and cut \$50,000 elsewhere. Chair Ure asked if they would have control of the contract if they put it in the planning budget. Council Member McMullin stated that she believes it should go in the Manager's budget and be combined with the sustainability position.

The Council Members discussed the budget for 9-1-1 services. Mr. Frazier explained that those funds are restricted and must be used for that purpose. The Council Members discussed reducing the public safety budget by \$250,000 out of the municipal fund.

Council Member Elliott asked if they are cutting the budget to get a clear understanding of what will happen if they do not approve a tax increase. Council Member Hanrahan stated that he believes they need to cut the budget for next year regardless of whether they receive a tax increase or not. Council Member Elliott verified with the other Council Members that they have not yet decided whether to propose a tax increase for 2013.

The Council Members requested that the Auditor's Office provide a list of the cuts they have discussed, where those cuts are proposed, and perhaps where they might be able to add some things back in order to balance the budget. Council Member Hanrahan stated that he would be willing to change the splits back, but if they are making cuts they need to make, he did not see a reason to add items back in. The Council Members discussed the advisability of raising taxes in Service Area 6 and the municipal fund in 2013. Council Member Elliott stated that she is not willing to postpone that and is not willing to leave office without at least doing what she can to keep those two funds sustainable.

Council Member Robinson stated that the issue for him in determining the splits is what percent of the services benefits the whole County and what percent benefits only the unincorporated areas. That is irrespective of revenue, whether they have a boom year or a bust year; it is what percent of the expenditures benefit the County as a whole or just the unincorporated areas. He believed they need to come up with a rational split between general, municipal, and assessing and collecting, and stick with it, unless they radically change the delivery of services from year to year. Council Member Hanrahan stated that the reality is different, because they made a change in the splits a year or two ago to address a deficit in the general fund and increased taxes, but those taxes were blocked. They either need to cut the municipal fund by \$1.4 million or change the splits, and he is not interested in cutting \$1.4 million out of the budget. Council Member Robinson stated that he agrees with changing the splits, but they swung the pendulum one direction last year, and he did not want to swing it the other direction this year. He wanted to find the equilibrium in the middle and leave it there. Chair Ure stated that he is not so worried about the splits, because they will change based on the personalities of the people who sit on the Council at any given time. Council Member Elliott stated that the split should be justifiable, and she did not believe there is any justification for an 80/20 or a 90/10 split. She believed they should be able to define the amount and stick to it, regardless of personalities. Council Member McMullin stated that they would be lucky if they have that set of circumstances. For the last few years they have had unforeseen circumstances and have had to make adjustments, and the flexibility to deal with that is in the splits. When they become sustainable and do not have to deal with unusual circumstances every year, they can have that philosophical discussion about the percentage of services provided from each fund. Right now they are in a bind, and moving the splits is a way to get out of that bind.

Council Member Hanrahan stated that the next thing on the list is the interfund loan for facility improvements and reducing utilities. One thought was to borrow money from the tax stability fund and make those changes next year. Mr. Frazier explained that the Council has the right to direct or request where investments go, but the County Treasurer has the legal authority to do all the investments and make the ultimate decisions. Council Member Hanrahan clarified that a request was made from sustainability to fund \$350,000 in improvements in the courthouse building in Coalville and the justice court that they feel would reduce utilities by \$50,000 a year, so they could pay off the investment in seven years. The Council could do nothing, fund the improvements, or fund them through a loan from the tax stability fund that would be paid back. Council Member Robinson commented that they could use that same argument for a lot of other things. Mr. Jasper noted that any other project would have to have a payback revenue source. Council Member Robinson stated that he is in favor of any investment the County can make that has a seven-year payback. Council Member Hanrahan verified with Mr. Jasper that he could determine a rate of interest for paying back the interfund loan.

Council Member Hanrahan asked about the library interfund loan. Mr. Leavitt explained that is the \$10,500 the County pays the Park City Library every year. Council Member Elliott stated that they agreed to eliminate that, and the Council Members agreed.

- **Discussion with County Fair Advisory Board and Populous, the firm hired to conduct the feasibility study on the existing Summit County Fairgrounds**

Assistant Manager Anita Lewis explained that the County is doing a feasibility study of the current fairgrounds looking into the future to determine whether the current fairgrounds meet the County's needs or if it is time to possibly relocate the fairgrounds elsewhere in the County. She introduced members of the Fair Board and representatives of the consultant, Populous. Charlie Smith introduced his team and explained that this team is also doing a master plan for the Utah State Fair. Ms. Lewis explained that Populous will meet with various special interest groups in the County until 8:00 p.m. tomorrow evening, and they will hold three public information meetings to allow residents to voice their views on the fair.

David Forkner, principal planner, explained that he will do a site analysis to determine exactly what they have on the site. Once they find out what people want, he will draw out those components and how they can put the facilities on the grounds the County has. Then they will refine that and provide more definition and present it to the County.

Chair Ure stated that he did not want the consultant to consider only the ground that is presently available in the North Summit area, and that is not his intention. He wants something that can be used County wide that will facilitate the buildings and infrastructure the entire County can use and have access to. Council Member Elliott stated that she thought the study was going to be comprehensive. Ms. Lewis confirmed that the study is comprehensive. However, the consultants first need to look at the current facility to see whether it will work into the future before making a decision about whether they need to relocate to another area in the County. Council Member Elliott stated that they all know the current location is insufficient, and she did not think they should even bother to talk about it. She wanted to talk about where they need to go, what they need, and what they need to be looking at as the future. Fair Board Chair Dirk Rockhill agreed that the current site does not work, but they need to first look at what they have and whether it is worth fixing. Council Member Elliott confirmed with Mr. Rockhill that this contract with the consultant will take them to a final decision.

Mr. Smith explained that one study they will do relates to expansion capability, and they have not asked that question yet. He believed there are a number of options on the existing site that they will bring to the Council for consideration. In the end, the Council will decide what they want. He asked if there are specific items the Council or the Fair Board want to have the consultants consider and explained that what they come up with will be tailored to this community and this fair.

Council Member Hanrahan asked if there is an economic analysis component to the study. Mr. Smith replied that there is not, but they can add that if the County wants. He asked if they use any of the facilities on a year-round basis. Mr. Rockhill replied that they do not currently, but he hoped when this analysis is done, the County facility could be used for functions other than the fair. For instance, he would hope they could facilitate everything from a softball tournament in the summer to a structure where they can hold an awards dinner and other year-round uses. Mr.

Smith explained that they talk about fairgrounds now as exposition parks, meaning year-round usage. He stated that the trend in the industry is for year-round multi-purpose usage, and fairgrounds can be significant economic generators.

Mr. Smith asked if there are any hot-button issues the special interest groups might be looking for. Mr. Rockhill stated that he believed one hot-button issue is keeping this facility close to the County seat in Coalville, and he hoped the existing facility could be modified to meet their needs. Mr. Smith asked if other sites have been considered for relocation. Council Member Hanrahan replied that one thought has been to look at the facilities existing in Oakley or other open land in the County.

Council Member Elliott commented that a County Fair located in Coalville serves a very small part of the County's population, and there are great needs all around the County for other kinds of facilities than the traditional old-school thinking that the County Fair has come to embody. That is completely out of date and something she is not willing to support, and she is also not willing to support the construction of fairgrounds in Coalville where it serves a very small percentage of the population. She would like them to open their minds to a location that is more central to the larger population and more open to considering emerging needs. She did not believe a large portion of the population believes rodeo is an ethical practice, and they cannot assume that rodeo needs to continue or that any significant portion of the population supports building a new fairground in North Summit, because it is not supported by economics. She would like them to keep their minds open to new and creative ideas.

Chair Ure stated that he believes accessibility is a key issue, and if they can find a location within 15 or 20 minutes of Park City and Kamas and within 10 minutes of Coalville, and people do not have to line up for a half hour to find a place to park, that would be important. With that kind of location, they would have a building or facility that could be used for 40 weeks of the year. If they try to put it in a residential area and use it more than four or five weeks of the year, the neighbors will feel like the public is intruding on their privacy. He wants something that is economically viable, which means it needs to be used more than three or four times a year.

Ken Kresser, a member of the Fair Board, stated that the site needs to be accessible to the interstate and have infrastructure. If they had an indoor arena, they could have indoor barrel racing in the winter, and they definitely need parking, because that is one of the biggest headaches. If they charge for events, they need to also charge for parking like the State Fair does. They need a PA system to announce when events are coming up and an office for ticket sales, information, and first aid, a maintenance facility, and RV parking for people who bring in their animals for show or for competition. Mr. Kresser believed they could attract a lot of organizations once they have the facility. He believed they need a smaller warm-up arena for both the indoor and outdoor arenas and better food vendor facilities. He commented that a 4-H and home arts building could be used for multiple purposes, such as dinners, performances, and meetings. They need a place for performers and a place for playing fields and playgrounds.

Mr. Smith noted that the County's document, under the category of outdoor arena, grandstand, and covered bleachers, says seating for 5,000. He asked what is driving that, whether it is rodeo or outdoor entertainment or other events. Mr. Kresser replied that he believed it would be entertainment.

Sterling Banks, a member of the Fair Board, acknowledged that the Council is struggling with some financial issues and commented that starting from the ground up with a new fairground would cost millions of dollars. He asked what the philosophy would be as they consider the recommendations and whether the Council would be willing to invest in a multi-purpose facility. Chair Ure stated that he would be willing to bond and use the revenue from the restaurant and TRT taxes to build a facility. He did not believe they could build it all at once, but they could build in stages. He would be willing to spend more money to get a viable facility than spend less and get something that does not function well. Mr. Banks stated that he did not want to go through all this and find that there is no money to build the facilities. Council Member Hanrahan explained that there is a few million dollars in the TRT fund right now to get started, and they could bond against projected revenues. He did not believe they would purchase any ground without a financial plan in place.

Chair Ure asked if it would be possible for the Council Members to submit alternate locations at this time for the consultants to consider. Mr. Smith replied that their schedule is very full just looking at the existing site and suggested that they wait until Wednesday and get the Council's direction at that time. Ms. Lewis explained that they will meet with all the County and city planners today, and she believed that would be discussed with them. Council Member Hanrahan commented that the North Summit Recreation District would probably be interested in talking about any plans in the North Summit area, and the Snyderville Basin Recreation District and school districts also might be interested in meeting with them.

- **Discussion regarding proposed 2013 budget – (Continued)**

The next issue for discussion was cutting the Manager's contingency budget. Council Member Hanrahan asked what was spent out of the contingency fund this year. Mr. Jasper explained that, once the new Council is in place, he will talk to them about strategic planning and will probably need a facilitator for that. He would also like to do another citizen survey. Council Member Hanrahan stated that he would prefer to not put a lot of money into contingency funds and would like to cut this item to \$75,000 or even \$50,000. They can also use the Council contingency fund, and he believes there will be savings in each department that could be transferred to other expenses as they come up. Council Member McMullin agreed that she would like to know what was spent out of the Manager's contingency fund in 2012.

The Council Members discussed options for employee salary increases and reviewed what has been done with regard to salary increases in the last several years and the increased costs associated with the health insurance plan in 2013. Council Member Elliott did not want the County's salary scale to lag behind other jurisdictions and was in favor of a 2% salary increase across the board. Mr. Jasper commented that they consider what it costs to recruit and retain a qualified work force. Council Member Hanrahan suggested that they include a 1% salary increase, see how that affects the budget, and adjust that later if necessary.

- **Non-Profit Grant Applicant Christian Center of Park City; Rob Harter, Executive Director**

Mr. Leavitt explained that the Christian Center of Park City has requested \$30,000, and it has historically received \$10,000 per year. Mr. Jasper noted that in the past this money was awarded as a grant, but the County is moving toward contracts for services.

Rob Harter with the Christian Center of Park City provided an overview of their services and recalled that they have always asked for help with their food pantry. He explained that the need for services continues to grow and described the collaborative partnerships they are building with other organizations. He stated that the needs of the community continue to increase, their budget keeps going up, and he is asking the Council to consider increasing the amount they give to the Christian Center.

Council Member Elliott asked if Wasatch County contributes to the Christian Center's budget. Mr. Harter replied that they do not. Council Member Elliott suggested that Mr. Harter tell Wasatch County that Summit County's contribution is contingent on Wasatch County providing a matching amount. She asked what the Christian Center is able to do if the County gives them \$10,000 and what services would be added if they were to receive \$20,000 or \$30,000. She asked if the Christian Center is willing to enter into a contract for service with the County. Mr. Harter explained that they would like to expand their storage capacity and add refrigerators and freezers, and they would need at least \$10,000 just for refrigeration. Mr. Jasper stated that he does not want to donate toward ownership in physical facilities and would rather know how many people they could feed for \$10,000. With each contract he will look at the quantity of services that will be provided in return for the County's money.

Chair Ure noted that food collected in South Summit goes to the food bank in Kamas and asked how the County knows that the food banks are not playing off one against the other. Ms. Lewis asked whether the Community Action food banks in Kamas and Coalville, the Utah Food Bank, and the Christian Center work together on giving out food and how much. Mr. Harter explained that the Christian Center is a Utah Food Bank representative, and when they see the Utah Food Bank truck in the community, that is really the Christian Center. The Utah Food Bank provides the truck, and the Christian Center provides the volunteers and serves the food. They also promote the Community Action food banks in Kamas and Coalville, which are only open once a week. Those food banks also pick up food from the Christian Center to help supply their shelves. They are funded from a different source, and the Utah Food Bank does not give the Christian Center money, but it does give them food, provides the truck for the mobile food pantry, and provides snacks for the after-school snack program. He also explained that they cooperate with Workforce Services to promote the food stamp program.

- **Discussion regarding proposed 2013 budget – (Continued)**

The Council Members discussed the Recycle Utah contract. Council Member Hanrahan asked what additional services the County will receive now that the contract has increased from \$48,000 in 2012 to \$80,000 in 2013. Mr. Jasper explained that Recycle Utah comes in every year and says they want to hold a recycling event, so the County always gives them more than the budgeted amount. Therefore, he added money beyond what was budgeted in the past. He explained that this is part of the County's overall refuse collection system, and the County has realized significant savings with the new waste collection contract. He noted that the main service Recycle Utah provides is education in the schools. They also take hazardous waste, which the County does not want in the landfill.

Council Member Elliott commented that Recycle Utah has continued to expand its educational service to all the schools in Summit County, and the children are learning all kinds of sustainable practices in school. In the past they have come to the County for additional funding for a household hazardous waste and drug drop off, which has been helpful in keeping undesirable materials out of the landfill. They have also provided significant recycling services in the County, plus the amount of glass they are collecting is a benefit by keeping it out of the landfill. She believes Recycle Utah is providing more services than ever before and would like them to not have to beg for money from the County for their household hazardous waste collection twice a year. She believed \$80,000 is an appropriate amount. Mr. Frazier confirmed that this is paid out of the waste collection budget.

Council Member Hanrahan noted that the next item for discussion is the new application from Habitat for Humanity for \$20,000, whether that is an effective use, and overall whether they want to reduce funding across the board. Chair Ure commented that he would not be interested in expanding funding for Habitat for Humanity. He stated that other non-profits help dozens if not hundreds of people, and that is where he would rather spend the money. Council Member Hanrahan stated that he has worked on habitat homes in a number of places, but he does not see it as being cost effective. The County is already providing for affordable housing in the amount of \$50,000 and making zoning and planning decisions to provide for affordable housing. He expressed concern that every year the Council is placed in the position of choosing between a number of valuable non-profits in the community, which is difficult to do, if not impossible. He believed a better system would be to remove the non-profit support entirely in 2013 and do everything by contract. Council Member McMullin commented that the Council does not know what the requests are for, what they represent, and what services are being provided. Ms. Lewis offered to provide copies of the narratives from the non-profit applications to the Council Members. Council Member McMullin suggested that they not cut this item, because the amount would not be very impactful to the budget. She did not believe it would be worth it to save a small amount of money and potentially impact a number of organizations. They could look at them individually, but they do not have the basis on which to make a decision, because they do not know what the requests are for. Council Member Elliott noted that, if they take \$20,000 from Habitat for Humanity and \$8,000 from Summit Land Conservancy, that would be a 28% cut in the overall non-profit budget, which is significant.

Council Member Hanrahan asked about the \$50,000 for open space maintenance and where those funds would come from. Council Member Elliott commented that, if they cannot afford this out of the fund it is supposed to come from on a sustained basis year after year, it is not appropriate to take it out of acquisition funds. If they cannot afford to maintain the open space they already have, they should not be acquiring more. Council Member Hanrahan stated that he believes they can afford to do this on a one-year basis. Council Member Elliott stated that she believes it is more appropriate to take it out of general ongoing revenues and expect it year after year. Council Member McMullin agreed with Council Member Elliott.

The Council Members discussed the fleet lease budget. Chair Ure suggested that the life of the trucks could be extended. Mr. Frazier agreed that it could, but he did not believe they should reduce payments to the fleet lease fund more than what they have already done. He explained that there is currently about \$1.6 million in the fund, which is about what the County spends in one year. Council Member Elliott commented that the cost of new equipment is rising, which would indicate that they should not reduce payments to fleet lease, but generally speaking,

vehicles last longer now. She felt there is a case to be made on both sides. County Engineer Derrick Radke explained that they might get another year or two out of the trucks, but if they put off buying new ones, they need to incrementally increase the amount that goes into the maintenance budget, because it will cost more to maintain those vehicles. Mr. Frazier explained that if they do not buy trucks this year that will show up as a non-increased payment the next 10 years. Council Member Hanrahan stated that he does not have the expertise to say which vehicles should be purchased, but they need to make the vehicles last longer and reduce expenditures out of this fund, and that can be controlled by budgeting less in the fund. Mr. Frazier explained that the Auditor's office provides a check and balance by monitoring any vehicles a department wants to trade or replace. This is not a department decision; it is a purchasing decision, and both he and the Manager review any purchases over \$10,000. Chair Ure stated that he would like to find someone who can advise the Manager and the Auditor, because he feels that they are lacking expertise in this area.

The next topic for discussion is whether to release the seed money for the self-insured health insurance fund back into the general fund. Mr. Bellamy stated that they have had \$2.45 million in receipts as of December 7 and \$2.2 million in claims. Mr. Leavitt reported that the starting balance in that fund was \$336,000. Council Member Hanrahan stated that clearly indicates to him that they should not take anything out of that fund.

Council Member Hanrahan noted that they have not addressed the shortfall in Service Area 6. Mr. Jasper explained that they are about \$130,000 short this year in Service Area 6, and Mr. Frazier has proposed that they draw money out of the gas tax funds for this year to get rid of the deficit in Service Area 6. Council Member Hanrahan recalled that the Council has already discussed that and agrees with that. He asked about how to deal with the 2013 budget. Mr. Jasper explained that he has proposed cuts in road workers. Mr. Radke recalled that they also discussed cutting projects in Service Area 6. Council Member McMullin recalled that the Council was leaning toward reducing projects and keeping staff. Council Member Hanrahan agreed that they should reduce the projects in 2013 and maintain staff. Mr. Jasper suggested that they bid the projects and be prepared to do them in the event they are able to get a tax increase in 2013. His recommendation for 2013 would be to maintain the roads they have at the expense of service levels.

Council Member Elliott stated that she does not believe they will get public support for a tax increase unless the public sees a difference in service levels, and she believed the public information message is the most important thing in this debate. If they maintain service levels and cut maintenance, they will not get complaints until the roads are in terrible disrepair. The problem is now, not next summer, and she would prefer to keep the projects and decrease the service levels. Council Member McMullin stated that they need to educate the public about the decisions the Council is facing and that the tax increase was not frivolous and is needed. Chair Ure stated that he did not believe they should reduce services in any way. He noted that Service Area 6 includes Summit Park, and they cannot turn a blind eye on that. Council Members Hanrahan and McMullin agreed. Mr. Radke commented that they need to maintain what they have and look towards the future. He believed they should proceed with the tax increase, and if it goes through, the projects can be done late in the season or first thing the following year. If they defer the tax increase for a couple of years, they could pay much more for the roads.

The Council Members and Mr. Jasper discussed the likelihood of another petition if a tax increase is proposed for 2013 and the possibility of changes at the legislature that might allow them to move forward with a tax increase.

Chair Ure asked staff to prepare a presentation and handouts for the hearing on Wednesday and be here to explain the details so it will be very clear to everyone who attends what kinds of decisions the Council is facing. Council Member McMullin suggested that they finalize their budget decisions in work session prior to the public hearing on Wednesday. Council Member Hanrahan suggested that they remove the two projects from Service Area 6 for the presentation to the public on Wednesday, and the Council can get input on that at the public hearings. He believed it would be good to break out the Service Area 6 discussion and public input separate from the municipal fund discussion and public input, because addressing them together is very confusing for people. Council Member McMullin stated that she would like a thorough presentation on each so people understand what Service Area 6 is, what services are provided, and the effect of not having a tax increase in Service Area 6, and do the same thing for the municipal fund.

Mr. Frazier requested that the Council make as many decisions today as possible so staff can prepare for the presentation on Wednesday. The Council Members reviewed the changes that have been discussed today and the impact they would have on the budget. Chair Ure suggested that they present the budget as amended today at the December 12 public hearing, and they would have a week to make any adjustments that might be needed before the final public hearing on December 19. The Council Members agreed that \$20,000 should go into the public defenders budget. County Clerk Kent Jones commented that, if there is money for drug court, some of that could be shifted to cover some public defender costs. Chair Ure suggested that they put \$30,000 into that budget and use it for drug court and the increase they need in the public defenders budget. Mr. Jones explained that the public defenders are talking about adding a third public defender, with all three sharing the load instead of two of them doing everything. With a third public defender, they could reduce the contract for the two existing public defenders and accommodate three people with the additional funding. He believed \$20,000 would be short unless he can reduce costs in psychological evaluations and other areas. Council Member Hanrahan suggested that they increase the budget by \$30,000 with the understanding that Mr. Jones does not have to spend it all and will try to negotiate the best deal he can.

Council Member Hanrahan noted that the Children's Justice Center is in the non-profit budget, and he had understood that would be included in the County Attorney's budget. Mr. Frazier explained that the only funding requested for the Children's Justice Center is in the non-profit requests. Council Member McMullin explained that they would not have a non-profit grant as part of the County Attorney's budget for a separate 501(c)3 non-profit.

Council Member Hanrahan summarized that they are down \$286,000 in the general fund and now up \$194,683 in the municipal fund. The municipal fund is the one where the tax was stopped, and he would prefer to draw down the municipal fund, not the general fund, because they just climbed out of a hole in the general fund, and he did not want to reduce the general fund. Chair Ure suggested that the Auditor's Office work that out and present options to the Council on Wednesday. Council Member McMullin agreed.

Mr. Leavitt reported on the amount spent from the contingency budgets. The 2011 Council contingency spent \$90,782, and the Manager's contingency spent \$151, 742. The 2012 Council contingency expenditures were \$63,233, and the Manager's contingency expenditures were \$68,058. Chair Ure asked how accurate they have been with sales taxes this year. Mr. Frazier replied that it is basically exactly what was projected. Council Member Hanrahan noted that there are some distinct tradeoffs they could do with the money if they do not budget so much in the contingency fund. Mr. Jasper explained that they need to hold some amount in a contingency fund, because things will come up that they do not anticipate. He suggested that they could have a combined contingency fund rather than a separate one for the Council and the Manager, because that is essentially how it is working anyway. Council Member Hanrahan suggested that they have a single contingency fund in the amount of \$125,000.

The Council Members discussed a salary increase of 1% for County employees. Council Member Hanrahan summarized that the two outstanding issues to be addressed on Wednesday are compensation and whether to change the split to address the fact that they are down in the general fund and up in the municipal fund.

### **CLOSED SESSION**

**Council Member Elliott made a motion to convene in closed session for the purpose of discussing personnel and litigation. The motion was seconded by Council Member Hanrahan and passed unanimously, 4 to 0. Council Member Robinson was not present for the vote.**

The Summit County Council met in closed session from 11:55 a.m. to 12:10 p.m. to discuss personnel and litigation. Those in attendance were:

**David Ure, Council Chair**  
**Claudia McMullin, Council Vice Chair**  
**Sally Elliott, Council Member**  
**John Hanrahan, Council Member**

**Council Member Hanrahan made a motion to dismiss from closed session and to adjourn. The motion was seconded by Council Member Elliott and passed unanimously, 4 to 0. Council Member Robinson was not present for the vote.**

The County Council work session adjourned at 12:10 p.m.

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*Council Chair, David Ure*

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*County Clerk, Kent Jones*